

Appendix F

Model Project Agreements

These Model Project Agreements are provided as a representation of what a successful applicant can expect. The first project agreement is for fee acquisitions and the second is for easement acquisitions. The project agreement for your project will vary from these models.

LAND FOR MAINE'S FUTURE TRUST FUND PROJECT AGREEMENT

(Pursuant to P.L. 2021, c. 398, Part FFFF)

[Fee Version]

Cooperating Entity:

Project Name:

Location:

Designated State Agency:

Premises Covered by this Agreement:

Fee-Owned Parcels.

The * Parcels, being * acres of fee ownership lands in the Town of *, * County, Maine, as more fully set forth in Exhibit A-1 and depicted on Exhibit B-1, both being attached hereto. For source of title, reference is made to the * Deed from *, to *, dated * and recorded in the * County Registry of Deeds in Book *, Page * on *. See also plan by *, dated * and recorded in said Registry on * in Plan Book *, Page * as document number *.

Match Lands.

*, being * acres of fee ownership lands in the Town of *, * County, Maine, as more fully set forth in Exhibit A-2 and depicted on Exhibit B-2, both being attached hereto. For source of title, reference is made to the * Deed from *, to *, dated * and recorded in the * County Registry of Deeds in Book *, Page * on *.

All of the foregoing hereinafter referred to as “the Premises”.

Scope (Description of Project):

The premises consist of * acres of land in the Town of * in the County of *. * (the “Cooperating Entity” or “*”) will acquire the Premises in fee and will receive funding from the Land for Maine’s Future (“LMF”) in accordance with Title 5, Maine Revised Statutes section 6200, et seq., for the primary purpose of protecting natural communities, wildlife and their habitat.

Additional purposes include protecting public access to recreational lands for traditional recreational pursuits including hunting, trapping, fishing, and hiking, public access to areas of scenic interest and prime physical features, and other purposes identified in the Project Application.

The purpose of this Agreement is to support and preserve the multiple resource values for which this Project was chosen. All of the foregoing values and priorities are referred to herein as the “Conservation Purposes,” all of which are subject to applicable state, local, and federal laws and regulations.

Project Cost:

LMF Contribution to Cooperating Entity:	\$
Cooperating Entity:	\$
TOTAL COST:	\$

The following are hereby incorporated into this Agreement:

1. Project Agreement General Provisions attached hereto provided, however, that the portion of the “Premises” designated as the Match Lands above is subject to the management restrictions and covenants of this Project Agreement but is not subject to the Project Agreement General Provisions Part II, Section H subsection (iv).
2. Project Application and Attachments by reference
3. Exhibits A-1, A-2, B-1, and B-2 attached hereto

The Land for Maine’s Future Board, represented by its Chair (hereinafter “LMFB”), and the State of Maine, Department of *, represented by its Commissioner, as the Designated State Agency (hereinafter “DSA”), and the Cooperating Entity, mutually agree to perform this Agreement in accordance with Title 5, Maine Revised Statutes, Section 6200 et seq., as amended, and augmented by P.L. 2021, c. 398, Part FFFF, and with the terms, promises, conditions, plans, specifications, estimates, procedures, project proposals, maps, assurances, and certifications incorporated herein by reference and hereby made a part hereof.

Subject to the terms hereof and to the availability of funds for this purpose, LMFB hereby agrees, in consideration of the agreements made by the Cooperating Entity herein, to obligate to the Cooperating Entity the amount of money referred to above, and to tender to the Cooperating Entity that portion of the obligation which is required to pay the LMFB’s share of the costs of the

above-described project. The Cooperating Entity hereby agrees, in consideration of the agreements made by the LMFB herein, to provide the matching funds, and lands, if applicable, and to implement the project described above in accordance with the terms of this Agreement.

The following special project terms and conditions are added to this Agreement:

1. No Subdivision.

The Premises, including any structures located thereon, must remain in their current configuration, under unified ownership, and may not be further divided into parcels or lots except for boundary adjustments to resolve bona fide boundary disputes, subject to the approval of the DSA, or as may be approved under General Provisions, Part II, section H subsection (i) of this Agreement. In order to grant any such approval under this provision, the DSA and LMFB must find that the proposed division of the Premises furthers the conservation purpose and objectives of the project as defined in this Agreement and its attachments.

2. Hunting, Fishing, Trapping.

The Cooperating Entity shall not prohibit hunting, fishing, or trapping on the Premises, except to the extent of applicable state, local, or federal laws and regulations.

3. Public Access.

The Cooperating Entity shall ensure that the Premises are available for access by the general public for daytime low-impact outdoor recreation, nature observation and study; provided, however, that such access may be limited or controlled on a temporary basis under terms identified in the Management Plan as provided in paragraph 6 of this section, and then only for the purposes of public safety, wildlife management, or resource protection to assure that access is limited for specific reasons and specific time periods and conditions. The Cooperating Entity shall not prohibit, limit, or control public access to the Premises except as described in this paragraph.

4. Permitted Fees and Charges.

The Cooperating Entity agrees that any fees or charges imposed for public access to or use of the Premises shall be reasonable and comparable to those charged in Maine for similar facilities, and any such fees must be approved in advance and in writing by the DSA.

5. Limits on Transfer.

The Premises or any interest therein may not be sold or transferred without prior written approval of the DSA and LMFB as provided under General Provisions, Part II, section H subsection (i) of this Agreement, and then only to a federal, state, or local government agency or a non-profit conservation organization which is a "qualified organization" under Section 170(h) of the United States Internal Revenue Code, and a "holder" under Title 33, Maine Revised Statutes, Section 476(2), subject to the condition that the qualified organization expressly agrees to assume the rights and obligations of the Cooperating Entity provided for by this Agreement.

6. Permitted Uses and Management.

The Cooperating Entity will hold and manage the Premises for the multiple resource values and Conservation Purposes (as defined in "Scope", above) for which the Premises were chosen, with the greatest emphasis placed on the protection of vital ecological functions and values.

Management Plan. All permitted uses and management of the Premises shall be in accordance with a Management Plan that is developed by the Cooperating Entity and submitted to the DSA

for review within 18 months of the recording of this Agreement. Thereafter, the Plan shall be updated by the Cooperating Entity at least every ten years and submitted to the DSA for review. The plan shall identify 1) the property's conservation values, 2) the vision and overall management goals, 3) activities to achieve those goals and to reduce risks or threats to the conservation values, 4) appropriate uses, 5) plans for public access and associated facilities, 6) plans for forest management, if applicable, and 7) management strategies for climate adaptation. Any major revisions to the Management Plan affecting public access, recreational use, wildlife habitat conditions, or vegetation conditions shall be submitted to the DSA for review.

7. Structures or Improvements.

As of the date of this Agreement, there are the following structures on the Premises:

i. _____,

There are no other structures on the Premises.

The following structures or improvements associated with permitted uses shall be allowed on the Premises subject to receipt of all state and local permits prior to the commencement of construction:

- i. minor structures and improvements associated with permitted outdoor activities, such as unlighted signs, information kiosks, benches, picnic tables, viewing platforms, fishing platforms, and/or blinds for wildlife observation;
- ii. pervious surface trails;
- iii. trail improvements such as ramps and/or stairs to accommodate steep grades;
- iv. barriers necessary for discouraging unauthorized access to adjacent lands; and
- v. boundary markers.

The placement and use of other structures intended to enhance permitted uses of the Premises may be allowed after written approval from the DSA based upon a written proposal, including a site plan, and receipt of all state, federal and local permits. Only those structures, alterations, improvements, or other development that enhance permitted uses of the Premises shall be permitted.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the * day of 20** by their duly authorized representatives.

THE LAND FOR MAINE’S FUTURE BOARD

By: _____
*, Its Chair

STATE OF MAINE

Department of *

By: _____
*, Its Commissioner

COOPERATING ENTITY

By: _____, [Authorized Signer]

STATE OF MAINE
County of *

Date: *

Then personally appeared the above-named *, duly authorized * of the * and acknowledged the foregoing to be his free act and deed in his capacity and the free act and deed of said *.

Before me,

Notary Public
Print Name: _____
My Commission Expires:
Seal:

**LAND FOR MAINE'S FUTURE TRUST FUND
PROJECT AGREEMENT GENERAL PROVISIONS**

Part I – DEFINITIONS

1. The term “DSA” or “Agency” as used herein means the Designated State Agency as shown on Page 1 of the Project Agreement.
2. The term “Director” as used herein means the Commissioner or agency head of the DSA or any representative lawfully delegated the authority to act for such Director.
3. The term “Premises” as used herein means the lot or parcel or parcels of land as described and shown on Page 1 of the Project Agreement.
4. The term “Project” as used herein means a single project, a consolidated grant, a project element of a consolidated grant, or project stage which is subject to the Project Agreement, and as described on Page 1 of the Project Agreement.
5. The term “Cooperating Entity” as used herein means a political subdivision or instrumentality of the State of Maine or a non-profit conservation corporation which will implement the Project as provided in this Agreement.

Part II – CONTINUING ASSURANCES

The Cooperating Entity specifically recognizes that Land for Maine's Future Trust Fund project assistance creates an obligation to acquire, use and maintain the property described in the Project Agreement consistent with Title 5, M.R.S., Section 6200 et seq., as amended, and augmented by P.L. 2021, c. 398, Part FFFF, and the following requirements:

A. LEGAL AUTHORITY:

The Cooperating Entity warrants and represents that it possesses the legal authority to apply for the grant and to otherwise carry out the project in accordance with the terms of this Agreement and has either marketable title to the Premises or a binding Agreement to acquire the same. A resolution or similar action has been duly adopted by the governing body of the Cooperating Entity authorizing the filing of the application and implementation of the Project, including all understandings and assurances contained herein, and directing and authorizing the person identified as the official representative of the Cooperating Entity to act in connection with the application and to provide such additional information as may be required by the LMFB or the DSA and to enter into this Agreement.

B. FINANCIAL ABILITY:

The Cooperating Entity warrants and represents that it has the funds and the commitment to finance the cost share of acquisition together with all other costs of the Project, including for monitoring and management, except the Land for Maine's Future Trust Fund share stated on the cover page of this Agreement.

C. USE OF FUNDS:

The Cooperating Entity shall use moneys granted by LMFB only for the purposes of acquisition/access improvement of the Project as approved by LMFB and provided for herein.

D. USE AND MAINTENANCE OF PREMISES:

The Cooperating Entity shall assure that the Premises shall be forever used, operated and maintained as prescribed in this Agreement and in compliance with all applicable laws, including without limitation Title 5, M.R.S. Section 6200 et seq., as amended and augmented by P.L. 2021, c. 398, Part FFFF. Permits and licenses necessary for the implementation of this Agreement or use of the Premises shall be obtained and complied with by the Cooperating Entity. All costs of acquisition or implementation of the Project and ownership and management of the Premises shall be paid by the Cooperating Entity, except as to the cost share to be provided by LMFB as specified herein. The Cooperating Entity shall ensure that appropriate signage is established and maintained on the Premises in a prominent location to acknowledge the support of the Lands for Maine's Future Program.

E. RETENTION AND CUSTODIAL REQUIREMENTS FOR RECORDS:

The Cooperating Entity shall keep a permanent record in the Cooperating Entity's property records, available for public inspection, to clearly document that the property described in this Project Agreement, and the signed and dated Project boundary map made part of this Agreement has been acquired with Land for Maine's Future Trust Fund assistance and that it cannot be converted to uses other than those specifically provided by this Agreement without the prior written approval of the LMFB and the Director of the DSA.

Financial records, supporting documents, statistical records, monitoring records and all other records pertinent to this grant and the Project shall be retained by the Cooperating Entity and may be inspected by representatives of LMFB and the DSA during normal business hours.

F. ANNUAL REPORTING REQUIREMENTS:

On each anniversary of this Agreement, the Cooperating Entity shall report on an annual basis on a monitoring form as approved by LMFB. The form shall be sent to: 1) the Director of the DSA; and (2) the Director of LMFB. For the purposes of this Agreement, the anniversary date for reporting purposes shall be the date of recording of this instrument in the applicable registry of deeds.

G. RIGHT OF ENTRY:

The DSA or LMFB, its employees, agents and representatives, shall have the right to enter the Premises at all times and in any manner without prior notice to assure compliance with the terms of this Agreement and any applicable laws.

H. PROVISIONS IN THE EVENT OF TRANSFER:**i. PRIOR NOTICE AND APPROVAL:**

In the event of any intended sale or transfer, in whole or in part, of the Premises or any interest therein, the Cooperating Entity shall provide at least sixty (60) days prior written notice of the same to the DSA and LMFB and shall obtain written consent from the same prior to such transfer.

ii. DISSOLUTION:

In the event of dissolution of the Cooperating Entity, at least sixty (60) days prior written notice of such shall be provided to: (1) the Director, DSA; and (2) Director, LMFB. Prior written consent to the transfer and disposal of the Premises shall be obtained from LMFB as with a conveyance of the Premises under Subsection H(i) unless the DSA requires that the Cooperating Entity transfer title to the Premises to the DSA or a successor designated by the DSA under Subsection I(d).

iii. SUCCESSORS AND ASSIGNS:

Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. The Cooperating Entity shall incorporate the terms of this Agreement by reference in any deed or other instrument by which the Cooperating Entity sells or transfers any interest (including leasehold interest) in all or a portion of the Premises. In the event that the LMFB or the DSA ceases to exist, the rights and responsibilities of that party shall automatically be vested in any successor agency designated by the Legislature. Failing legislative designation, the successor agency shall be as determined by the Governor.

iv. SHARE IN PROCEEDS:

In the event of any sale, transfer, or condemnation of any or all of the Premises or disposal of the Premises pursuant to dissolution (hereinafter "transfer"), the Cooperating Entity shall pay to the Land for Maine's Future Trust Fund, or to another fund designated by the LMFB, a share of the proceeds of the transfer. For the purposes of this Agreement, this share is defined as the product of:

- (a) the ratio of the value of the LMF's contribution to the value of the Premises as a whole as of the date of this Agreement, hereby established as *%, multiplied by
- (b) the appraised value of the transferred Premises or portion thereof at the time of the transfer, unencumbered by this Agreement or other encumbrances recorded after the date of this Agreement (excluding value attributable to authorized improvements to the Premises made after the date of this grant and not paid for by the State).

The LMFB may waive receipt of any proceeds, provided that the said funds are applied to conservation of a substitute property as approved by the LMFB. This payment to the fund shall not relieve the transferee of the continuing obligations to hold, manage and use the Premises under the terms of this Agreement.

The State's share of proceeds shall be paid to the LMF at the time of the transfer, sale, condemnation, or dissolution.

I. ENFORCEMENT ALTERNATIVES:

In the event that the Cooperating Entity does not meet one or more of its obligations under this Agreement or the deed restrictions and covenants by which it holds title to the Premises, or in the event of dissolution of the Cooperating Entity, the DSA may exercise, in its sole discretion, any of the following remedies following written notice and thirty (30) days opportunity for the Cooperating Entity to cure the default:

- (a) any of the remedies or rights set forth in the Cooperating Entity's deed to the Premises;
- (b) the right to require specific performance on the part of the Cooperating Entity;
- (c) the right to a return of the State's share of proceeds as defined in Section H(iv); and
- (d) any other rights or remedies available at law or in equity including, but not limited to, the right to require that the Cooperating Entity perform remedial work and transfer title to the Premises to the

DSA or a successor designated by the DSA under such terms and conditions as the court may require. In the event that the DSA exercises any of the rights available to it upon default of the Cooperating Entity, the Cooperating Entity shall reimburse the DSA for its costs of enforcement and collection, including reasonable attorneys' fees.

In addition to the foregoing remedies, it is understood and agreed that the Project creates a public charitable TRUST entitled to all the protections thereof under state law.

J. AMENDMENT:

This Agreement may not be amended, in whole or in part, except with the written consent of all of the parties hereto.

K. NOTICES:

Any notices or requests for approval required by this Agreement shall be in writing and shall be personally delivered or sent registered or certified mail, return receipt requested, or by other courier providing reliable proof of delivery, to the Cooperating Entity, the DSA and the LMFB at the following addresses, unless one has been notified by the others of a change of address:

To Cooperating Entity:

To DSA: Department of *
*
Augusta, ME 04333-0022

To LMFB: c/o Land for Maine's Future Program
22 State House Station
Augusta, Maine 04333-0022

NOTE: For the purposes of notice provisions under this Section K, the DSA and the LMFB shall be referred to collectively as the "State", and when being sent, notices shall be sent to both entities.

(a) In the event that notice mailed to the Cooperating Entity at the last address on file with the State is returned as undeliverable, the State shall send notice by certified mail, return receipt requested, or by such commercial carrier as requires a receipt, and by regular mail to the Cooperating Entity's last known address on file with the **tax assessment records of the** municipality of *, *, and with the Bureau of Corporations, Secretary of the State of Maine, **if applicable** and the mailing of such notice shall be deemed compliance with the notice provisions of this Agreement. The Cooperating Entity's notices must include sufficient information to enable the State to determine whether Cooperating Entity's plans are consistent with the terms of this Agreement and the Conservation Purposes hereof.

(b) When the Cooperating Entity is required to obtain the State's prior written consent and approval, the Cooperating Entity's request shall be in the form of a written application and shall include sufficient details and specifications for the State to adequately review and analyze the same.

Within 60 days of receipt of a complete application, the State shall provide a written decision which shall grant, grant with conditions, withhold approval, or, with consent of the Cooperating Entity, extend the time within which to complete analysis of the application. The parties agree that the application and review process shall be completed as expeditiously as possible.

(c) The State shall not give written consent and approval unless the Cooperating Entity demonstrates to the satisfaction of the State that the proposed use or facilities is consistent with the terms, conditions, and purposes of this Agreement and will not diminish or impair the natural resources and scenic values of the Protected Property.

(d) In the event that the Protected Property is owned by more than one Cooperating Entity, the Cooperating Entity or its successor owners shall designate an agent responsible for the seeking of approvals from the State, and for the receipt of notices from the State. In the event that no single entity or agent is so designated, the approval of or notice to any executive officer of the Cooperating Entity shall be deemed the approval of or notice to all such owners.

**LAND FOR MAINE'S FUTURE TRUST FUND
PROJECT AGREEMENT**

(Pursuant to P.L. 2021, c. 398, Part FFFF)

[Conservation Easement Version]

Cooperating Entity:

Project Name:

Location:

Designated State Agency:

Premises Covered by this Agreement:

Conservation Easement Parcels.

The * Parcels, being * acres of lands in the Town of *, * County, Maine, as more fully set forth in Exhibit A-1 and depicted on Exhibit B-1, both being attached hereto. For source of title, reference is made to the * Deed from *, to *, dated * and recorded in the * County Registry of Deeds in Book *, Page * on *. See also plan by *, dated * and recorded in said Registry on * in Plan Book *, Page * as document number *.

Match Lands.

*, being * acres of fee ownership lands in the Town of *, * County, Maine, as more fully set forth in Exhibit A-2 and depicted on Exhibit B-2, both being attached hereto. For source of title, reference is made to the * Deed from *, to *, dated * and recorded in the * County Registry of Deeds in Book *, Page * on *.

All of the foregoing hereinafter referred to as “the Premises”.

Scope (Description of Project):

The premises consist of * acres of land in the Town of * in the County of *. (the “Cooperating Entity” or “*”) will acquire a conservation easement (the “Conservation Easement”) on the Premises to further the Conservation Purposes identified in Section * of the Conservation Easement, and will receive funding from the Land for Maine’s Future (“LMF”) in accordance with Title 5, Maine Revised Statutes section 6200, et seq.

Project Cost:

LMF Contribution to Cooperating Entity:	\$
Cooperating Entity:	\$
TOTAL COST:	\$

The following are hereby incorporated into this Agreement:

1. Project Agreement General Provisions attached hereto provided, however, that the portion of the “Premises” designated as the Match Lands above is subject to the management restrictions and covenants of this Project Agreement but is not subject to the Project Agreement General Provisions Part II, Section H subsection (iv).
2. Conservation easement on the Premises
3. Project Application and Attachments by reference
4. Exhibits A-1, A-2, B-1, and B-2 attached hereto

The Land for Maine’s Future Board, represented by its Chair (hereinafter “LMFB”), and the State of Maine, Department of *, represented by its Commissioner, as the Designated State Agency (hereinafter “DSA”), and the Cooperating Entity, mutually agree to perform this Agreement in accordance with Title 5, Maine Revised Statutes, Section 6200 et seq., as amended, and augmented by P.L. 2021, c. 398, Part FFFF, and with the terms, promises, conditions, plans, specifications, estimates, procedures, project proposals, maps, assurances, and certifications incorporated herein by reference and hereby made a part hereof.

Subject to the terms hereof and to the availability of funds for this purpose, LMFB hereby agrees, in consideration of the agreements made by the Cooperating Entity herein, to obligate to the Cooperating Entity the amount of money referred to above, and to tender to the Cooperating Entity that portion of the obligation which is required to pay the LMFB’s share of the costs of the above-described project. The Cooperating Entity hereby agrees, in consideration of the agreements made by the LMFB herein, to provide the matching funds, and lands, if applicable, and to implement the project described above in accordance with the terms of this Agreement.

The following special project terms and conditions are added to this Agreement:

1. Public Access. To the extent that the Conservation Easement allows the Cooperating Entity to control public access to the Premises, the Cooperating Entity shall not prohibit, discourage, or charge a fee for public access, hunting, fishing, or trapping on the Premises, except to the extent of applicable state, local, or federal laws and regulations.

2. Transfer and Assignment. The Conservation Easement or any interest therein may not be transferred or assigned without prior written approval of the DSA and LMFB as provided under Part II, section H subsection (i) of this Agreement, and then only to a federal, state, or local government agency or a non-profit conservation organization which is a "qualified organization" under Section 170(h) of the United States Internal Revenue Code, and a "qualified holder" under Title 33, Maine Revised Statutes, Section 476(2), subject to the condition that the qualified organization expressly agrees to assume the rights and obligations of the Cooperating Entity provided for by this Agreement.

3. Enforcement. The Cooperating Entity will enforce the terms of the Easement to ensure that use of the Protected Property is consistent with the Purpose and terms of the Easement and this Project Agreement and does not harm the Conservation Values of the Protected Property. In enforcing the Easement, the Cooperating Entity will:

- a) Upon receiving a request for approval from the landowner for any matter described in the Conservation Easement as requiring the review or approval of the DSA, provide a copy to the DSA and consult with the DSA prior to granting or withholding approval;
- b) Provide the DSA with copies of all correspondence or agreements related to actual, threatened, or suspected violations of the Easement, including but not limited to Notices of Violation pursuant to Section * of the Easement, third-party contracts to correct violations, or agreements intended to prevent or resolve a violation;
- c) Consult with the DSA during discussions to resolve violations and, if appropriate, invite the DSA to participate;
- d) Provide notice to the DSA prior to initiating any proceeding in law or equity to resolve a violation, and provide the DSA with copies of all court filings in such a proceeding prior to the filing thereof;
- e) In the case of emergency enforcement pursuant to Section * of the Easement, provide the DSA with notice of the enforcement action within thirty (30) days; and
- f) Consult with the DSA before granting any discretionary approval pursuant to Section * of the Easement. Such consultation shall not preclude the DSA from exercising its rights under Part II, Section I of this Agreement if the DSA determines that discretionary approval is not warranted.
- g) Consult with the DSA and the Land for Maine's Future program regarding any proposed amendment of the Conservation Easement. The Conservation Easement may not be amended without prior written approval of the DSA and LMFB.

4. Annual Reporting. The annual report described in Part II, Section F of this Agreement shall include the following:

- a) the stewardship monitoring report of the Protected Property,
- b) A written summary of any notices or requests for approval the Cooperating Entity received from the owner of the Protected Property and the Cooperating Entity's response. Upon request,

the Cooperating Entity will provide the DSA with copies of notices and requests for approval from the landowner and the responses sent to the landowner by the Cooperating Entity;

c) The Agricultural Conservation Plan, Forest Management Plan, or any stewardship management plan for the Protected Property that has been developed pursuant to the Easement, if such plan has changed since a previous report;

d) Any amendments, updates, or addenda to the Baseline Documentation Report.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the * day of 20** by their duly authorized representatives.

THE LAND FOR MAINE’S FUTURE BOARD

By: _____
*, Its Chair

STATE OF MAINE

Department of *

By: _____
*, Its Commissioner

COOPERATING ENTITY

By: _____, [Authorized Signer]

STATE OF MAINE

County of *

Date: *

Then personally appeared the above-named *, duly authorized * of the * and acknowledged the foregoing to be his free act and deed in his capacity and the free act and deed of said *.

Before me,

Notary Public
Print Name: _____
My Commission Expires:
Seal:

LAND FOR MAINE’S FUTURE FUND PROJECT AGREEMENT GENERAL PROVISIONS

Part I – DEFINITIONS

1. The term “DSA” or “Agency” as used herein means the Designated State Agency as shown on Page 1 of the Project Agreement.
2. The term “Director” as used herein means the Commissioner or agency head of the DSA or any representative lawfully delegated the authority to act for such Director.
3. The term “Premises” as used herein means the lot or parcel or parcels of land as described and shown on Page 1 of the Project Agreement.
4. The term “Project” as used herein means a single project, a consolidated grant, a project element of a consolidated grant, or project stage which is subject to the Project Agreement, and as described on Page 1 of the Project Agreement.
5. The term “Cooperating Entity” as used herein means a political subdivision or instrumentality of the State of Maine or a non-profit conservation corporation which will implement the Project as provided in this Agreement.

Part II – CONTINUING ASSURANCES

The Cooperating Entity specifically recognizes that Land for Maine’s Future Fund project assistance creates an obligation to hold and enforce the conservation easement described in the Project Agreement consistent with Title 5, M.R.S., Section 6200 et seq., as amended, and augmented by P.L. 2021, c. 398, Part FFFF, and the following requirements:

A. LEGAL AUTHORITY:

The Cooperating Entity warrants and represents that it possesses the legal authority to apply for the grant and to otherwise carry out the project in accordance with the terms of this Agreement and has either a valid and enforceable conservation easement on the Premises or a binding Agreement to acquire the same. A resolution or similar action has been duly adopted by the governing body of the Cooperating Entity authorizing the filing of the application and implementation of the Project, including all understandings and assurances contained herein, and directing and authorizing the person identified as the official representative of the Cooperating Entity to act in connection with the application and to provide such additional information as may be required by the LMFB or the DSA and to enter into this Agreement.

B. FINANCIAL ABILITY:

The Cooperating Entity warrants and represents that it has the funds and the commitment to finance the cost share of acquisition together with all other costs of the Project, including for monitoring and enforcement, except the Land for Maine’s Future Fund share stated on the cover page of this Agreement.

C. USE OF FUNDS:

The Cooperating Entity shall use moneys granted by LMFB only for the purposes of acquisition/access improvement of the Project as approved by LMFB and provided for herein.

D. USE AND MAINTENANCE OF PREMISES:

The Cooperating Entity shall forever hold and enforce the Conservation Easement as prescribed in this Agreement and in compliance with all applicable laws, including without limitation Title 5, M.R.S. Section 6200 et seq., as amended and augmented by P.L. 2021, c. 398, Part FFFF. All costs of acquisition or implementation of the Project and holding and enforcing the Conservation Easement shall be paid by the Cooperating Entity, except as to the cost share to be provided by LMFB as specified herein. The Cooperating Entity shall ensure that appropriate signage is established and maintained on the Premises in a prominent location to acknowledge the support of the Lands for Maine's Future Program.

E. RETENTION AND CUSTODIAL REQUIREMENTS FOR RECORDS:

The Cooperating Entity shall keep a permanent record in the Cooperating Entity's property records, available for public inspection, to clearly document that the property interest described in this Project Agreement, and the signed and dated Project boundary map made part of this Agreement has been acquired with Land for Maine's Future Fund assistance and that it cannot be converted to uses other than those specifically provided by this Agreement without the prior written approval of the LMFB and the Director of the DSA.

Financial records, supporting documents, statistical records, monitoring records and all other records pertinent to this grant and the Project shall be retained by the Cooperating Entity and may be inspected by representatives of LMFB and the DSA during normal business hours.

F. ANNUAL REPORTING REQUIREMENTS:

On each anniversary of this Agreement, or annually on another date agreed to in writing by the parties, the Cooperating Entity shall report on an annual basis on a monitoring form as approved by LMFB. The form shall be sent to: 1) the Director of the DSA; and (2) the Director of LMFB. For the purposes of this Agreement, the anniversary date for reporting purposes shall be the date of recording of this instrument in the applicable registry of deeds.

G. RIGHT OF ENTRY:

The DSA or LMFB, its employees, agents and representatives, shall have the right to enter the Premises as provided for in Section * of the Conservation Easement to assure compliance with the terms of this Agreement, the Conservation Easement, and any applicable laws.

H. PROVISIONS IN THE EVENT OF TRANSFER:

i. PRIOR NOTICE AND APPROVAL:

In the event of any intended assignment or transfer, in whole or in part, of the Conservation Easement or any interest therein, the Cooperating Entity shall provide at least sixty (60) days prior written notice of the same to the DSA and LMFB and shall obtain written consent from the same prior to such transfer.

ii. DISSOLUTION:

In the event of dissolution of the Cooperating Entity, at least sixty (60) days prior written notice of such shall be provided to: (1) the Director, DSA; and (2) Director, LMFB. Prior written consent to the assignment and transfer of the Conservation Easement shall be obtained from LMFB as with a conveyance of the Premises under Subsection H(i) unless the DSA requires that the Cooperating Entity assign the Conservation Easement to the DSA or a successor designated by the DSA under Subsection I(d).

iii. SUCCESSORS AND ASSIGNS:

Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. The Cooperating Entity shall incorporate the terms of this Agreement by reference in any deed or other instrument by which the Cooperating Entity assigns or transfers any interest in all or a portion of the Conservation Easement. In the event that the LMFB or the DSA ceases to exist, the rights and responsibilities of that party shall automatically be vested in any successor agency designated by the Legislature. Failing legislative designation, the successor agency shall be as determined by the Governor.

iv. SHARE IN PROCEEDS:

In the event of any sale, transfer, termination or condemnation of any or all of the Conservation Easement or disposal of the Conservation Easement pursuant to dissolution (hereinafter “transfer”), the Cooperating Entity shall pay to the Land for Maine’s Future Fund, or to another fund designated by the LMFB, a share of the proceeds of the transfer. For the purposes of this Agreement, this share is defined as the product of:

(c) the ratio of the value of the LMF’s contribution to the value of the Conservation Easement as a whole as of the date of this Agreement, hereby established as 50%, multiplied by

(d) the appraised value of the Conservation Easement, or portion thereof, which value shall be determined as the amount by which the fair market appraisal value of the Protected Property unrestricted by this Conservation Easement is reduced by the terms and conditions imposed by this Conservation Easement as of the date of transfer.

The LMFB may waive receipt of any proceeds, provided that the said funds are applied to conservation of a substitute property as approved by the LMFB. This payment to the fund shall not relieve the transferee of the continuing obligations to hold, manage and use the Premises under the terms of this Agreement.

The State’s share of proceeds shall be paid to the LMF at the time of the transfer, sale, condemnation, or dissolution.

I. ENFORCEMENT ALTERNATIVES:

In the event that the Cooperating Entity does not meet one or more of its obligations under this Agreement or the Conservation Easement, or in the event of dissolution of the Cooperating Entity, the DSA may exercise, in its sole discretion, any of the following remedies following written notice and thirty (30) days opportunity for the Cooperating Entity to cure the default:

- (a) any of the remedies or rights set forth in the Conservation Easement;
- (b) the right to require specific performance on the part of the Cooperating Entity;
- (c) the right to a return of the State’s share of proceeds as defined in Section H(iv); and
- (d) any other rights or remedies available at law or in equity including, but not limited to, the right to require that the Cooperating Entity perform remedial work and transfer the Conservation

Easement to the DSA or a successor designated by the DSA under such terms and conditions as the court may require. In the event that the DSA exercises any of the rights available to it upon default of the Cooperating Entity, the Cooperating Entity shall reimburse the DSA for its costs of enforcement and collection, including reasonable attorneys' fees.

In addition to the foregoing remedies, it is understood and agreed that the Project creates a public charitable TRUST entitled to all the protections thereof under state law.

J. AMENDMENT:

This Agreement may not be amended, in whole or in part, except with the written consent of all of the parties hereto.

K. NOTICES:

Any notices or requests for approval required by this Agreement shall be in writing and shall be personally delivered or sent registered or certified mail, return receipt requested, or by other courier providing reliable proof of delivery, to the Cooperating Entity, the DSA and the LMFB at the following addresses, unless one has been notified by the others of a change of address:

To Cooperating Entity:

To DSA: Department of *
*
Augusta, ME 04333-0022

To LMFB: c/o Land for Maine's Future Program
22 State House Station
Augusta, Maine 04333-0022

NOTE: For the purposes of notice provisions under this Section K, the DSA and the LMFB shall be referred to collectively as the "State", and when being sent, notices shall be sent to both entities.

(a) In the event that notice mailed to the Cooperating Entity at the last address on file with the State is returned as undeliverable, the State shall send notice by certified mail, return receipt requested, or by such commercial carrier as requires a receipt, and by regular mail to the Cooperating Entity's last known address on file with the Bureau of Corporations, Secretary of the State of Maine, **if applicable** and the mailing of such notice shall be deemed compliance with the notice provisions of this Agreement. The Cooperating Entity's notices must include sufficient information to enable the State to determine whether Cooperating Entity's plans are consistent with the terms of this Agreement and the Conservation Purposes hereof.

(b) When the Cooperating Entity is required to obtain the State's prior written consent and approval, the Cooperating Entity's request shall be in the form of a written application and shall include sufficient details and specifications for the State to adequately review and analyze the same.

Within 60 days of receipt of a complete application, the State shall provide a written decision which shall grant, grant with conditions, withhold approval, or, with consent of the Cooperating Entity, extend the time within which to complete analysis of the application. The parties agree that the application and review process shall be completed as expeditiously as possible.

(c) The State shall not give written consent and approval unless the Cooperating Entity demonstrates to the satisfaction of the State that the proposed use or facilities is consistent with the terms, conditions, and purposes of this Agreement and will not diminish or impair the natural resources and scenic values of the Premises.

(d) In the event that more than one Cooperating Entity holds an interest in the Premises, the Cooperating Entity or its successor owners shall designate an agent responsible for the seeking of approvals from the State, and for the receipt of notices from the State. In the event that no single entity or agent is so designated, the approval of or notice to any executive officer of the Cooperating Entity shall be deemed the approval of or notice to all such owners.