

## Section IV

### Standard Conditions and Next Steps

When the Board approves its final award for a project, it does so subject to the requirement that the project meet all Standard Conditions. The Board may also assign additional special conditions to a project but, if it does, those special conditions will be identified in the final award letter.

Unless specifically waived by LMF, a project will only be ready for closing when all Standard Conditions (and any special conditions) are satisfied. Please be aware that additional follow-up actions may be required to resolve issues identified during due diligence phase to ensure that the project will accomplish the purposes of LMF funding.

#### Standard Conditions

##### Continuing Requirements

- The proposal **must remain in** compliance with all Board Policies and Threshold Criteria in Section I of this Workbook to the satisfaction of the LMF Board and LMF staff.
- The applicant is responsible for obtaining documentation required by LMF Counsel, in their sole discretion, to ensure that LMF and State interests are protected upon the transfer of State funds. These may include (but are not limited to), documents required to clear title or verify public access, documentation of authority to acquire the land and encumber it with an LMF project agreement, and documentation to verify that LMF maintains priority of title upon closing.

##### Due Diligence Requirements

- An acceptable boundary survey, with all property corners monumented, suitable for recording. The surveyor should also provide a metes-and-bounds legal description of the property, provide a surveyor's affidavit to applicant's counsel specifying that the property is free of encroachments, and provide LMF with a GIS-compatible electronic version of survey (so called "Shape" or ".SHP" files). If possible, the survey should be complete **before** the appraisal.
- An appraisal to current USPAP and LMF standards to determine fair market value. See appraisal standards in [Appendix E](#). All appraisals must be reviewed and accepted by the Appraisal Oversight Committee prior to submission to the LMF Board. If a review appraisal is required by other funders, this review should be submitted to LMF with the appraisal.

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- A Purchase and Sales Contract with all appurtenant conditions and extensions (if applicable). This is required for all (including pre-acquired) properties.
- Documentation of good title. Provide a title commitment for appraised value (not purchase price) identifying all existing encumbrances on the property, including those that will be removed at or prior to closing. Source documents for all encumbrances and exceptions identified in the commitment, as well as deeds showing current ownership, must also be provided. NOTE: Most title commitments include an exception for matters that could be determined by a survey (such as boundary encroachments). LMF requires that this “survey exception” be removed or a same-as-survey endorsement be included. NOTE: Unless waived by the LMF Board, all projects acquired with LMF Conservation & Recreation or Water Access Funds must also demonstrate a guaranteed legal right of public access. The LMF Board’s Public Access Policy for Conservation & Recreation and Water Access lands is included in [Appendix H](#).
- A Phase I Environmental Site Assessment (ESA) meeting the requirements of the then-current applicable ASTM standard. The ESA should be scheduled so that it is no more than 1 year old at the time of release of LMF funds. ESA reports older than one year will need an update. NOTE: For properties acquired for State of Maine ownership (fee & easement), an ESA may not be necessary. Contact LMF staff with questions.
- A letter of approval from elected officials if the project represents more than 1% of a municipality’s state valuation or a letter of approval from County Commissioners if the project constitutes more than 1% of the state valuation of unorganized territory within the county. The letter of approval should acknowledge that the project represents >1% of relevant valuation.
- Documentation of matching funds. If a stewardship endowment has been included as match, this documentation must include a letter from the applicant’s governing body that this commitment has been fulfilled.
- An executed LMF Project Agreement developed by LMF staff, the applicant and the DSA representative. NOTE: The Project Agreement will include an agreement on signage acknowledging LMF support. LMF Staff will supply you with a silk-screened metal sign. If you plan to incorporate a digital copy of the LMF sign into your own signage instead, please be in touch with your project manager for guidance.

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### Next Steps: Closing Requirements, and Post-Closing Responsibilities

When the above Standard Conditions have been satisfied, an applicant will be ready to prepare for the closing process.

#### Closing Requirements

- The applicant may choose their own or LMF's counsel to serve as the closing attorney. Any attorney wishing to serve as a closing attorney for an LMF transaction must first be qualified to conduct a real estate closing and be willing to sign the State of Maine's LMF service contract. The service contract contains LMF's escrow instructions and governs the conduct of the closing attorney from the receipt of funds through their post-closing obligations.
- Attorneys wishing to serve as closers must **also** be entered in the State of Maine system as a vendor. LMF staff will provide the necessary forms upon request.
- The applicant is responsible for all closing costs and closing attorney's fees, whether the closing is performed by applicant's or LMF's counsel.
- Applicant's counsel is responsible for preparing a closing agenda, closing statement, and closing materials for approval by LMF. In addition to conveyancing documents to be recorded and other typical closing documents, the applicant will be asked to provide, at a minimum:
  - Certificate of corporate good standing (for non-governmental applicants)
  - Certificate of corporate authority or documentation of municipal authority to acquire and encumber the land (this may be documentation of a town vote if a town vote was required)
  - Confirmation that property taxes are paid in full
  - Final title insurance commitment for appraised value (not purchase price)

Obtaining some of these documents may require advance planning, others may "expire" if they're not within the required number of days of closing. Consult your counsel and your project manager for guidance.

- Funds will be placed in escrow with the closing attorney according to the escrow instructions in the closing attorney's service contract with the State of Maine.

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- Prior to disbursing LMF funds, the closing attorney must follow all requirements identified in the service contract, including the requirement to update title to the time of recording, confirm that all closing documents are recorded correctly, and that the recording has been verified by the applicable registry of deeds. The time it takes for the registry to verify its recordings varies from registry to registry and can take more than 24 hours to resolve. Please prepare for this delay.

### Post-Closing Responsibilities

- If the applicant prepares a press release, it should be provided to LMF for review and approval prior to publication
- A final title insurance policy matching the final title commitment in all its material terms is due within 30 days of closing.
- The closing attorney should return the original recorded Project Agreement to LMF and all other original documents to the applicant as provided in the service contract.
- Within 30 days of closing, the closing attorney provides LMF with the final closing package including all executed and recorded documents
- LMF will provide signs to be displayed at public access points on the property
- LMF will arrange for ecological and/or archaeological surveys to assess any features of the property that may require special management
- LMF will provide information about applying for [Access Improvement Grants](#)
- The applicant is responsible for crediting LMF in future maps, brochures, websites, and other communications about the property
- If there is a Project Agreement, the applicant is responsible for providing annual reports to LMF and to the Designated State Agency.
- If there is a Project Agreement, a management plan for the property must be submitted to the DSA for review within 18 months of closing.