

EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS

Matthew A. Beaton, Secretary
Grant Announcement



BID ENV 16 DCS 07
Dated: November 20, 2015

Land and Water Conservation Fund Grant Program
FY 16

1. GRANT OPPORTUNITY SUMMARY:

A. PROPOSALS SOUGHT FOR: The Massachusetts Executive Office of Energy and Environmental Affairs (EEA) Secretary Matthew A. Beaton announces the availability of grant funds for municipalities and certain state agencies through the federal Land and Water Conservation Fund (LWCF) Grant Program.

B. OVERVIEW AND GOALS: The LWCF is administered by Massachusetts on behalf of the National Park Service (NPS), an agency of the Department of the Interior. The LWCF program provides grants to states and local governments for the acquisition and development of public outdoor recreation areas and facilities. The program is intended to create and maintain a nationwide legacy of high quality recreation areas and facilities and to stimulate non-federal investments in the protection and maintenance of recreation resources across the United States. LWCF grants reimburse a community 50% of the total project cost, up to a grant maximum of \$250,000.

C. ELIGIBLE PROJECTS: Eligible projects are those for the acquisition of parkland, development of a new park, renovation of an existing park, development of trails in an existing conservation area, or the acquisition of conservation land. (See further detail on eligible projects in section 2B.)

D. ELIGIBLE APPLICANTS: Applications will be accepted from municipalities that have Open Space and Recreation Plans that are approved or currently under review (see further detail on eligible applicants in section 2A). Also eligible are the Departments of Conservation and Recreation and Fish and Game.

E. APPLICATION DEADLINE: Thursday, February 11, 2016 at 3:00 pm. (See further detail on deadlines and grant program calendar in section 4.)

F. FUNDING AVAILABILITY: The recent expiration of the LWCF program does not affect this grant opportunity as it is being funded through previously appropriated funds. LWCF funding is provided to the Commonwealth of Massachusetts by the NPS and is administered by EEA's Division of Conservation Services (DCS). The maximum grant award is \$250,000 (see further detail on Funding Availability in section 2C).

G. BUDGET REQUIREMENT: Since the LWCF is a reimbursement program, municipal applicants selected to receive grant funding must have a successful City Council or Town Meeting vote that appropriates 100% of the total project cost. The land must **not** be purchased or park development or renovation must **not** be started until the selected Applicant has executed a contract with the

Commonwealth. All projects must provide appropriate public access. (See further detail on budget requirement in section 2D.)

H. TOTAL ANTICIPATED DURATION OF CONTRACT(S): The contract period will begin on the date that the Secretary signs the contract. Contracts issued pursuant to this BID must expend 100% of costs associated with the approved project on or before June 30, 2018, depending on the specific project, in order to be eligible for reimbursement (see further detail on anticipated duration of contract(s) in section 2F).

I. REGULATIONS, STATUTES, OR AUTHORIZATION GOVERNING THIS GRANT PROGRAM: This BID is issued according to legislation referenced as the Land and Water Conservation Fund, P.L. 88-578, 78 Stat 897. All applicants are responsible for compliance with all applicable LWCF rules and regulations. More information on the grant's procedures can be found at www.nps.gov/lwcf. All properties for which grant assistance is provided must be open to the general public (not residents only) for appropriate passive or active recreational use and will become protected open space under Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, dedicated to conservation use in accordance with M.G.L. Chapter 40, §8C or recreation use in accordance with M.G.L. Chapter 45, §3 or 14 (see further detail in Attachment E).

The Applicant must also be aware of the LWCF Post-Completion Compliance and Stewardship rules. Post-completion compliance responsibilities apply to each area or facility for which LWCF assistance is obtained, regardless of the extent of program participation in the assisted area or facility and consistent with the contractual agreement between the NPS and the state. The state is responsible for compliance and enforcement of these provisions for both state and locally sponsored projects. Responsibilities cited in Title 36, Part 59 in the U.S. Code of Federal Regulations apply to the area described on the 6(f)(3) boundary map and/or as described in other project documentation submitted by the Applicant and approved by the Department of the Interior.

Pursuant to Title VI of the 1964 Civil Rights Act property acquired or developed with LWCF assistance shall be open to entry and use by all persons regardless of race, color, or national origin, who are otherwise eligible. Section 6(f)(8) of the LWCF Act provides, with respect to property acquired and/or developed with LWCF assistance, discrimination on the basis of residence, including preferential reservation, membership, or annual permit systems is prohibited except to the extent reasonable differences in admission and other fees may be maintained on the basis of residence. Section 504 of the Rehabilitation Act of 1973 requires no qualified person shall, on the basis of disability, be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance. The Americans with Disabilities Act of 1990 (P.L. 100-336) simply references and reinforces these requirements for federally-assisted programs.

J. CONTACT INFORMATION: Melissa Cryan
Executive Office of Energy and Environmental Affairs
100 Cambridge Street – Suite 900
Boston, MA 02114
(617) 626-1171
melissa.cryan@state.ma.us

2. Performance and Contract Specifications

A. ELIGIBLE APPLICANTS: This BID is open to

- Municipalities
Community requirements: Communities must have an approved Open Space and Recreation Plan (OSRP) on file with DCS by the application deadline. A draft OSRP may be filed with the application by the deadline as well. A community submitting a draft plan must have completed its public participation process. See the attached application packet for details. A list of a community's OSRP status can be found through the link at the bottom of this website: <http://www.mass.gov/eea/grants-and-tech-assistance/grants-and-loans/dcs/grant-round-process-dcs.html>.
- Commonwealth of Massachusetts Departments
Department of Conservation and Recreation, Department of Fish and Game

Multiple Applications: Multiple applications will be accepted from the same entity. Projects involving renovations of the same theme in multiple parks, such as resurfacing playgrounds, may be packaged into one application. Unrelated renovations must be submitted as individual applications. Landholdings that are in a single, contiguous tract may be packaged in the same application. Unrelated, separate landholdings must be submitted as individual applications. Given the high volume of applications in recent grant rounds, EEA reserves the right to limit awards to one per applicant; however, each applicant is welcome to submit multiple applications.

B. ELIGIBLE PROJECT(S)/SCOPE(S) OF WORK: EEA seeks to provide recreational opportunities and further the protection of suitable conservation and recreation land within the Commonwealth. The LWCF Grant Program contributes to this goal through the acquisition of parkland, development of a new park, renovation of an existing park, development of trails in an existing conservation area, or the acquisition of conservation land

Eligibility – communities must:

1. Have an approved OSRP on file with DCS by the application deadline. A draft plan is also acceptable provided that it was submitted to DCS no more than 12 months prior to the grant application deadline and the Applicant has completed a rigorous public participation process. A condition of final payment will be to obtain DCS approval on the final OSRP.
2. Submit an application prior to acquisition of the subject property (land already owned by the community is not eligible). Property that is purchased before receiving an executed contract from DCS **will not** be eligible for reimbursement. Development or renovation on a site before receiving an executed contract from DCS **will not** be eligible for reimbursement.
3. Have no unresolved protected open space conversion issues with the Executive Office of Energy and Environmental Affairs (see EEA Article 97 Disposition Policy at: <http://www.mass.gov/eea/agencies/mepa/about-mepa/eea-policies/eea-article-97-land-disposition-policy.html>).
4. Acquisition Projects – Submit the appropriate appraisal(s) (all LWCF applications must include appraisals done to Yellow Book standards. For more information, see <http://www.justice.gov/enrd/land-ack/Uniform-Appraisal-Standards.pdf>).

5. Development & Renovation Projects – site development plans and cost estimates. The site plans must be detailed enough that an accurate cost estimate may be developed. Services of a professional design firm are recommended for renovation and development projects. Costs incurred prior to the signing of a state standard contract are NOT eligible for reimbursement.

Program Regulation Reminder. Any property acquired with LWCF grant assistance is protected open space under Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts and subject to Section 6(f)(3) of the LWCF Act, dedicated to recreation use in accordance with M.G.L. Chapter 45, §3 or 14 or conservation use in accordance with M.G.L. Chapter 40, §8c. All properties for which grant assistance is provided must be open to all residents of the Commonwealth (not only residents of a particular community) for appropriate passive or active recreational use according to Section 6(f)(8) of the LWCF Act. No significant alteration of this property, or changes in the proposed uses, can take place without the prior approval of the Secretary of the Executive Office of Energy and Environmental Affairs and the NPS.

C. FUNDING AVAILABILITY, BUDGETING GUIDELINES & ALLOWABLE EXPENDITURES: LWCF funding is made available by the NPS and is administered for the Commonwealth of Massachusetts by the Division of Conservation Services. As the NPS does not set a specific maximum grant award DCS has set the maximum reimbursement at \$250,000. The NPS does not set a specific maximum grant award. Exceptions may be made at the Secretary's discretion. Applicants must submit the type of appraisal appropriate for their project (see section 3B) (if applicable), the estimated total project cost, and a specific grant request as part of the application package.

Costs eligible for reimbursement include all approved project costs incurred on or after a selected Applicant's contract execution date and on or before June 30, 2018, such as engineering, design, construction, construction supervision, and acquisition. Ineligible project costs include, but are not limited to, costs associated with the preparation and submission of an application in response to this BID, staff salaries, equipment, or supplies. For more on eligible and ineligible costs, see Chapter 5 of the LWCF Manual at www.nps.gov/lwcf. Please note that the LWCF Manual acts as a guideline. It is up to Massachusetts to specifically determine what costs are eligible or ineligible.

All contracts shall be subject to available funding, whether through the appropriation and authorization of sufficient funds or the receipt of sufficient revenues. If available funding ceases for any reason, a contract shall be deemed under suspension and contract performance must halt. A contractor will not be entitled to compensation for any performance provided during the period of contract suspension. EEA may lift the suspension if available funding is received. In the absence of foreseeable available funding, EEA may terminate the contract.

Products funded with this grant (signs, fencing, landscaping timbers, structures, etc.) must be constructed of wood products grown and manufactured in Massachusetts unless the grantee can demonstrate that wood is not a suitable material or that Massachusetts grown and manufactured products are not available or will cost more than 10% more than equivalent products (MGL Chapter 30B Section 20). Where possible, Applicants should use firms that have signed agreements with the Department of Agricultural Resources as part of the Commonwealth Quality Program, which verifies their sustainable practices and that the products are grown and manufactured in Massachusetts.

D. BUDGET REQUIREMENT: DCS has set the grant condition that applicants selected to receive grant funding must show the use of funds from non-state sources for the municipality's portion of the program. Non-state funding sources include, but are not limited to, municipal funds, other grants from private or non-profit foundations, and cash contributions from local partners or individuals. As the LWCF program is a **REIMBURSEMENT** grant program, EEA can only reimburse on the total amount spent as shown by canceled municipal or Commonwealth (for DCR and DFG) checks. Any non-state funding sources must be deposited into a municipal (or state) account.

E. PROJECT TERMS: If awarded, all projects will be required to abide by the Standard Commonwealth of Massachusetts Terms and Conditions and the EEA Supplemental Terms and Conditions. In addition, all final contracts are subject to successful negotiation of a Final Scope of Services, as well as approval from the NPS. For more on the LWCF selection process, please see Chapter 6 of the LWCF Manual. Please note that EEA does not guarantee that any contracts may result from this BID or that any particular funding level will be awarded. It is anticipated that projects could commence immediately upon EEA's decision and the NPS approval. The awarded contract(s) will be reviewed during their course and, upon request by the Applicant, may be extended or otherwise amended at the sole discretion of EEA. Any extensions granted will not necessarily change, or increase, the monetary value of the contract.

F. ANTICIPATED DURATION OF CONTRACTS: The anticipated end date of contracts awarded through this BID is June 30, 2018. Extension of the contract is at the discretion of the Secretary and the NPS. All land must be purchased on or before June 30, 2018 and all construction work must be completed on or before June 30, 2018 to be eligible for reimbursement. Timelines for each project will be included in the State Standard Contract and may be different than these dates.

G. DELIVERABLES, OWNERSHIP, AND CREDIT DUE: Acquisitions resulting from this BID must be held by the municipality or the department, depending on the Applicant. EEA staff must be invited to any public event scheduled regarding the project. A LWCF acknowledgement sign shall remain displayed at the project site in perpetuity. See page 7-6 of the LWCF Manual for more information.

H. REPORTING: Quarterly reports are required to be filed with the grant manager.

I. INVOICING: The LWCF program is a **reimbursement** program. Applicants selected to receive grant funding will be required to submit a LWCF Project Agreement, State Standard Contract, and billing forms, as well as additional forms as required by the NPS, which will be sent to Applicants with their award letter. See the full application packet for more information. Land must not be purchased and design and construction work must not be started until **after** the participant has an executed contract from EEA. Only approved expenses incurred during the period of contract are eligible for reimbursement.

3. Instructions for Application Submission

A. EVALUATION CRITERIA: Each Application will be scored using the following measures (see the full application in Attachment A for more detailed description of the evaluation criteria):

- An evaluation of the project's consistency with current EEA and NPS priorities
- An evaluation of the project's quality

Projects are solicited according to Massachusetts' approved Open Project Selection System. A project Selection Committee composed of members of the EEA staff will review all applications. After completing preliminary review, site visits, and ratings, the Selection Committee will submit all comments and draft recommendations to the Secretary of the EEA for final approval. The Secretary's recommendations will be sent to the Governor for review. The NPS will also review and approve recommendations. Chapter 6 of the LWCF Manual describes the NPS approval process in more detail.

B. APPLICATION SUBMISSION INSTRUCTIONS: Applications must be received by 3:00 pm, Thursday, February 11, 2016. Any application received after the deadline will be rejected. A postmark will not be accepted for verification of date of submission. Applications will **not** be accepted by fax machine or electronic mail. The outside of the package should be marked BID ENV 16 DCS 07. Applications should be **double sided**, except for maps and graphics. One **original held together with a binder clip** (clearly identified as such) and **two paper copies** of the application package shall be submitted to:

Melissa Cryan
 RE: ENV 16 DCS 07
 Executive Office of Energy and Environmental Affairs
 100 Cambridge Street – Suite 900
 Boston, MA 02114

Project proposals must include the following:

- Application Form that must be signed by an authorized signatory for the applicant organization
- Municipalities – Open Space and Recreation Plan (if not already on file with DCS)
- Acquisition projects – appraisal report(s)

Failure to provide any of the materials listed above may result in the disqualification of the application.

See the Application Form (provided in Attachment A of this document) for more detail on required and recommended documents.

C. ADDITIONAL REQUIRED DOCUMENTATION: If selected, the Applicant will be required to submit the following forms to complete a contract or provide the information needed for the forms' completion:

- Commonwealth Standard Contract Form, filled out and signed by the Respondent
- Project Scope and Budget Page(s) created by EEA
- Contractor Authorized Signatory Listing
- LWCF Project Description/Environmental Screening Form
- Federal Standard Form 424
- LWCF Project Agreement

- LWCF Description and Notification Form

Respondents are encouraged to review the Commonwealth Standard Contract Form, Commonwealth Scope and Budget Form, and Contractor Authorized Signatory Listing prior to submission of a Response. They are available at <http://www.mass.gov/osd>, click on the “OSD Forms” link. The LWCF Project Agreement can be found at www.nps.gov/lwcf under the “publications, logos, and forms” link.

D. APPLICATION STEPS AND PROCEDURES:

1. **Fill out application:** Municipality or Department (the “Applicant”) downloads an application package from the Division of Conservation Services’ website (www.mass.gov/envir/dcs-grants) before purchasing land, for an acquisition project, or before final design and/or construction begins, for a renovation or development project. Confirm deadline for applications.
2. **Apply:** Applicant files one original and two copies of the complete application bound with a binder clip, clearly marking the original. No electronic filings will be accepted. Projects involving renovations of the same theme in multiple parks, such as resurfacing playgrounds, may be packaged into one application. Unrelated projects by the same applicant must be submitted as individual applications. Landholdings that are in a single, contiguous tract may be packaged in the same application. Unrelated, separate landholdings must be submitted as individual applications.
3. **Municipal vote:** Participant submits draft warrant article or Council order to the Division for review before Town Meeting or City Council vote. Municipal counsel should be consulted in drafting the warrant article, order of taking, or city council order. The draft municipal vote must cite the particular parcel to be acquired or developed/renovated and contain authorization to seek funding and to enter into any contracts for the project, dedicate the site for park purposes as under M.G.L. Chapter 45, §3 or conservation purposes as under M.G.L. Chapter 40, §8c, as well as permit the conveyance of a conservation restriction if a CR is applicable to the project. The municipal vote can occur before or after the submission of the grant application. **All votes must be approved by DCS staff.** A contract will not be signed with the Applicant until the vote occurs. See Attachment D for sample vote language.
Department of Conservation and Recreation Lands Committee vote: For acquisition projects, Applicant provides vote from the Lands Committee to demonstrate departmental support of the proposed project. For development or renovation projects, applicant provides a financial commitment from the Commissioner.
Department of Fish and Game/Division of Fisheries and Wildlife Lands Committee vote: Applicant provides vote from the Lands Committee to demonstrate departmental support of the proposed project.
4. Participant will be contacted by DCS to schedule a **site inspection**.
5. **Scoring:** Projects evaluated using LWCF rating system. Preliminary merit point rating assigned by Division of Conservation Services. See Attachment C for rating system.
6. Draft recommendations are subject to further review, including by EEA senior management and by the Secretary of EEA, prior to final approval at the Governor’s office.

7. Recommendations are reviewed and approved or rejected by the National Park Service.
8. **Awards announced:** Project approval letter, LWCF Project Agreement, State Standard Contract, Contractor Authorized Signatory Listing, and billing forms for approved projects are sent to Participant by DCS. State funds are then obligated by the Commonwealth upon execution of contract documents for approved projects.
9. **Conservation Restriction review:** Projects that involve a Conservation Restriction must have a draft CR reviewed by DCS. Draft CRs, along with a CR review application form (available on the DCS website: www.mass.gov/eea/dcs), should be sent to:
 - Division of Conservation Services
 - Executive Office of Energy & Environmental Affairs
 - 100 Cambridge St., Suite 900
 - Boston, MA 02114
10. **Municipal/Departmental funding secured:**
 - a. Municipality votes to appropriate, expend from available funds, or borrow an amount equal to the **total project cost** stated in the application. A municipality may vote to borrow funds in anticipation of state reimbursement prior to receiving agreement for reimbursement (M.G.L. Chapter 44, §8C), but the borrowing cannot actually take place until final state approval has been received. Municipal vote for the total project cost may take place prior to Step 1 in the application process, but the municipality must ensure proper compliance with the LWCF application procedures. Approval may be withdrawn if municipality's vote fails or if municipality exhibits lack of progress in obtaining this vote or in meeting time schedules established as part of approval conditions.
 - b. Exclusive of borrowing situations, and if the community wishes, reimbursements may be re-appropriated back into the participant's Conservation Fund or dedicated fund. Said authorization may be voted in the original article or submitted in subsequent Town Meeting or City Council votes; otherwise, reimbursements must be deposited into the General Fund as per Massachusetts General Law. Communities utilizing accounts funded by the Cape Cod Land Bank Act, other local land bank acts, or the Community Preservation Act, should consult with the Department of Revenue, Division of Local Services for guidelines.
 - c. Department provides itemized ANF approved capital plan.
11. **Permits and construction documents:** Participant files all required permits, final construction plans, and specifications for park development or renovation projects for DCS approval. EEA reserves the right to alter or rescind an award based on permit findings and construction plans and specifications.
12. **State Procurement Law:** Acquisition projects must adhere to the state's procurement laws, M.G.L. Chapter 30B. Work with your municipal procurement officer to ensure that your project conforms to the procurement law that will include advertising in the Central Register 30 days prior to closing. State procurement law also prohibits EEA from reimbursing for any costs, including design, incurred prior to the starting date on the state standard contract. Do not incur any costs for which you plan to submit a reimbursement request until you have a fully executed state standard contract.

13. **Begin project:** Applicant makes land purchase or begins park development *only after* having received an affirmative Town Meeting or City Council Vote **and** an executed state standard contract from the Secretary of Energy and Environmental Affairs.
14. **Finalize required documentation for final reimbursement request:** Along with receiving final approval on Participant's Open Space and Recreation Plan (if applicable), communities that have passed the Community Preservation Act must have all conservation restrictions required by Section 12 of Chapter 44B approved by the Secretary of Energy and Environmental Affairs and recorded. Communities that have received LWCF assistance in the past must complete site inspection forms on all project sites.
15. **File reimbursement billing form:** Participant files billing forms with the Division, along with required documentation. Partial payments may be requested for development or renovation projects. A LWCF acknowledgement sign must be in place at the main access point before final payment will be made. Billing form and documents must be reviewed by the Division for any changes from the project application. For conservation acquisition projects that involve the acquisition of a fee interest, a land use and management plan must be submitted and approved by DCS before final reimbursement. For conservation acquisition projects that involve the acquisition of a conservation restriction, a baseline documentation report must be submitted and approved by DCS before final reimbursement. An amendment to the project agreement will be executed and returned for signing and recording by the Applicant if the project has changed. (A final inspection of the project is conducted prior to final payment.)
16. DCS prepares invoice and submits for payment to EEA's fiscal staff.
17. **Reimbursement payment:** Applicant receives reimbursement, via electronic transfer.
18. **Post completion requirements:** Participants should review DCS and NPS Post Completion requirements regarding fees, user limitations, and prohibitions against converting the conservation land or parkland to any other use or transfer of ownership.

4. Deadlines and Procurement Calendar

A. RELEASE OF BID: November 20, 2015

B. INFORMATION SESSION: Two information sessions and "how-to" grant workshops will be held. The first will be on Wednesday, January 6, 2016 at 11:00 am in Amherst at the Department of Agricultural Resources office at 101 University Drive, Suite C4. The second will be on Thursday, January 7, 2016 at 11:00 am in the 2nd floor conference room C, 100 Cambridge Street, Boston. The workshop presentation and answers to any questions received in writing by Friday, January 29, 2016 will be posted on the DCS website. While not required, it is strongly recommended that applicants attend the workshop. Please RSVP for the workshop at (617) 626-1171 or melissa.cryan@state.ma.us.

C. APPLICATION DUE DATE: Thursday, February 11, 2016 at 3:00 pm.

D. ESTIMATED AWARD DATE: The Commonwealth of Massachusetts' decisions are estimated to

be announced on or about 100 days after grant application deadline. Please note that the NPS approval takes place after the state's and may take a significant amount of time.

E. ESTIMATED CONTRACT START DATE: Notwithstanding any verbal representations by the parties, or an earlier start date listed in the Standard Contract Form, and only after an award is issued and a final scope of services has been negotiated, the effective start date of a contract shall be the latest of the following dates: the date the Standard Contract Form has been executed by an authorized signatory of the contractor and the procuring department; the date of secretariat or other approval(s) required by law or regulation; or a later date specified in the Standard Contract Form. The estimated start date for contracts resulting from this BID is September 15, 2016.

5. Miscellaneous

A. TYPE OF PROCUREMENT: Grant

B. USE OF THIS PROCUREMENT BY SINGLE OR MULTIPLE DEPARTMENTS: This BID is a single department procurement. All contracts awarded under this BID will be utilized solely by EEA.

C. REQUEST FOR SINGLE OR MULTIPLE CONTRACTORS: This BID will result in multiple contracts.

D. BID DISTRIBUTION METHOD: This BID has been distributed electronically using the COMMBUYS system. It is the responsibility of every Applicant to check COMMBUYS for any addenda or modifications to a BID to which they intend to respond. The Commonwealth of Massachusetts and its subdivisions accept no liability and will provide no accommodations to Applicants who fail to check for amended BIDs and submit inadequate or incorrect responses. Potential Applicants are advised to check the "last change" field on the summary page of BIDs for which they intend to submit a response to ensure they have the most recent BID files. The application and answers to questions will also be posted on the DCS website at www.mass.gov/eea/dcs-grants.

Respondents may not alter BID language or any BID component files. Those submitting a proposal must respond in accordance to the BID directions and complete only those sections that prompt a Respondent for a response. Modifications to the body of this BID, specifications, terms and conditions, or which change the intent of this BID are prohibited. Any unauthorized alterations will disqualify response.

E. LIST OF ATTACHMENTS:

- A. Application Form
- B. Boundary Map Guidelines
- C. LWCF Project Selection System
- D. Sample Municipal Vote
- E. Sample Budget

The EEA Supplemental Terms and Conditions can be found online at
<http://www.mass.gov/anf/budget-taxes-and-procurement/oversight-agencies/osd/osd-forms.html>

The EEA Supplemental Terms and Conditions are found under the Forms and Terms tab of this Comm-PASS posting.

**FEDERAL LAND AND WATER CONSERVATION FUND
APPLICATION FORM**

Please do not reformat this form – use the fillable pdf form

Please print double-sided

Please fasten application package with a binder clip, no three-ring or plastic binders!

1. **Municipality or State Agency Department Name:** _____

2. **Project Name:** _____

Project Address: _____

GPS Coordinates at Main Entrance: _____ Congressional District: _____

Project Acreage: _____

Type of Project: Acquisition Acquisition and Development New Development Renovation

If an acquisition, interest to be acquired: Fee Conservation Restriction

Has this site received previous LWCF assistance? Yes No

3. **Contact Person:** _____

Agency: _____

Address: _____

_____ Zip _____

Telephone (_____) _____ Fax (_____) _____

Email: _____

Please note: Attach authorization from the Chief Executive Officer identifying the individual named above who will act as the official representative of the community in connection with this application. This is most often not the Chief Executive Officer, but the staff person from the appropriate agency.

4. **Briefly describe the project on TWO attached pages.** Use the LWCF Rating System as an outline for the description, including (but not limited to) what is listed below, to ensure the maximum score possible for your project.

- Relevance to the Statewide Comprehensive Outdoor Recreation Plan and (for municipalities) local Open Space and Recreation Plan or (for departments) agency acquisition plan
- Public process undertaken on project, including enhanced outreach completed in Environmental Justice neighborhoods, attendance at public meetings, and written support for project, i.e., support letters and articles
- Ability to increase availability of recreational opportunities for residents through programming, by providing new types of recreational opportunities, through projects that provide opportunities for multiple ages, genders, and abilities, and sites that provide recreational opportunities for people with disabilities
- Ability to reach project site by alternative means of transportation, such as walking, cycling, or public transit
- Creation of new trails or expansion or connection of existing trail(s)
- How quickly the public will be able to enjoy the property through a timely commitment to trail development or park development (for acquisitions)
- Water-based recreation (include linear footage of water resource and what types of recreation will be provided, including wildlife viewing)
- Commitment to creating useful signage to locate conservation area/park or way finding on trails

5. Proposed Funding:

The LWCF program is a **reimbursement** program. Grant recipients are reimbursed after invoices have been paid. **The total project cost must be raised or appropriated by the municipality or department shortly after project approval if it has not already been appropriated.** Costs incurred prior to grant approval and contract execution are not eligible for reimbursement, **including appraisal and/or design costs.** Force account labor is also ineligible, as are donations and volunteer hours. Mention any *previous, pending, or anticipated* financial assistance on this project. Refer to the LWCF Manual Chapter 5 for eligible cost details: <http://www.nps.gov/ncrc/programs/lwcf/pub.htm>. Sample budget can be found in Attachment E.

Total Eligible Project Cost: _____

LWCF Request: _____
(50% of total project cost, maximum of \$250,000)

Municipal Share: _____
(Community Development Block Grant, Community Preservation Act, etc., please specify in narrative)

Other: (i.e. private donation to community, fund raising, etc.) _____

Attach a one page description of the proposed project budget including:

- The source of all local funding including donations and Community Preservation Act (CPA) funds.
- Description of the details of any donation, if applicable (be sure these funds are gifted to the community or department and earmarked for the project).
- Description of any other sources of funding including federal, state, municipal, or nonprofit organizations. List these partners and describe their contribution.

6. Leases, Rights, and Restrictions

Describe outstanding leases, restrictions or other rights or interests held by others in the project site and enclose copy of the same (for file records only).

7. Structures (for Acquisition Projects Only)

Are there currently any buildings or structures on the property? Yes No

If yes, list each one, including the estimated value and current use, as well as its intended use if this project is funded. If this is an application for a conservation land acquisition, the grant is intended to preserve the undeveloped land, not to purchase buildings. The type of structure could impact the grant award. Acceptable structures include, but are not limited to, storage sheds, information kiosks, or barns that hold environmental education workshops.

8. Permanent Protection

If the applicant already owns the land, is the property permanently dedicated for park, playground, or recreation purposes (MGL Chapter 45, Section 3 or 14) or conservation purposes (MGL Chapter 40, Section 8C)? If not, please submit draft dedication language for DCS review.

Yes No

9. Fees

Are fees currently charged or proposed for this site? If yes, please attach a copy of the fee system. Charging fees is allowed subject to DCS approval. If applicant is awarded a grant, the site cannot be restricted to municipal residents only. If fees are charged based on residency, fees for nonresidents are subject to Chapter 8 of the LWCF Manual. If a site's fee structure is not compatible with EEA and NPS policy, a grant award may be rescinded.

Yes (copy attached) No

10. Community Preservation Act

Has your community passed the Community Preservation Act?

Yes No

If "yes", please note that successful grant applicants that have purchased real property interests for open space or recreational purposes using money from the Community Preservation Fund must have all conservation restrictions required by Section 12 of Chapter 44B approved by the Secretary of Energy and Environmental Affairs and recorded prior to receipt of final project reimbursement from the Executive Office of Energy and Environmental Affairs (for file records only).

11. Check the following if applicable to project (for file records only):
- Yes No Prime agricultural lands (see Ex. Order #193)
 - Yes No Scenic River designation
 - Yes No Wetland designation
 - Yes No 100 year floodplain
 - Yes No Environmental intrusion, i.e. overhead power lines (**must be buried**), safety hazards
 - Yes No Brownfield – 2IE evaluation
 - Yes No Environmental Justice community/neighborhood
 - Yes No Acquisition involving relocation of residents, tenants, or businesses
 - Yes No Negotiated sale

If an acquisition project:

Do you have a purchase and sales agreement or agreed price? Yes No

If yes, amount: \$ _____

Is clear title available? Yes No

If no, is an eminent domain taking anticipated? Yes No

Note that if clear title is not available, the community may decide to acquire the property by a friendly taking (eminent domain) process to clear the title. It is best to know if there is a potential title problem as soon as possible since this can complicate the acquisition process.

Appraisal Report

Valuation: \$ _____

Appraiser: _____

Valuation Date: _____

Please note: the appraisal must be submitted using federal appraisal standards (“Yellow Book”) found at www.usdoj.gov/enrd/land-ack/yb2001.pdf.

12. Check if the following permits are required (for file records only):
- Yes No U.S. Army Corps of Engineers (404 or Rivers and Waterways)
 - Yes No MA DEP Division of Wetlands & Waterways (617) 292-5518
 - Yes No U.S. Coast Guard
 - Yes No U.S. Dept. of Agriculture (Zoos)
 - Yes No C. 131 s. 40 Wetlands (municipal conservation commission)
 - Yes No MEPA Review (301 CMR 11.00: MEPA Regulations) (617) 626-1020

IMPORTANT NOTICE

If any of the above permits are required, the permit or application for the permit must be submitted. Should the project be selected for funding, the permit will be required as part of the final application.

13. Attach certification of applicant community's legal authority to apply for the grant and to finance and construct the proposed facilities (see Sample Municipal Vote), and the **Chief Executive Officer's legal authorization to execute contracts**. This is a resolution, motion, or similar action that has been duly adopted or passed as an official act of the community's governing body that authorizes the filing of the applications, including all understandings and assurances contained therein.

Date

Signature of Chief Municipal Officer

Name and Title (Typed)

Duration of Term

Mailing Address: _____

Telephone: () _____

PLEASE LABEL ALL ATTACHMENTS

REQUIRED ATTACHMENTS (applications that are missing these items will not be accepted)

1. **Municipal Open Space and Recreation Plan**, if not already approved and on file at DCS. Plans are approved by DCS for up to seven years of eligibility in DCS grant programs. Community is not eligible to apply without an approved plan, or submission of a draft plan. (If we have it on file, don't send another copy.)
2. **Acquisition Projects – Appraisal report** as required by DCS. Note that the appraisal(s) must be done to federal appraisal standards (“Yellow Book”) found at www.usdoj.gov/enrd/land-ack/yb2001.pdf.

RECOMMENDED ATTACHMENTS

(provides details to information requested and assists in project evaluation)

1. **Project boundary map** showing the project boundary, see Attachment B. The project area must be shown in enough detail to be legally sufficient to identify the lands to be protected. A registered survey plan with deed references or assessor’s map with block and lot number are acceptable.*
2. **USGS Locus Map** showing project site, any adjacent or nearby public or quasi-public park or conservation land, nearby public transportation route(s), bike paths, trails, and EJ populations in project site area.
3. **Massachusetts Historical Commission comments**: Send the MHC a PNF (<http://www.sec.state.ma.us/mhc/mhcpdf/pnf.pdf>) with a photocopy of the USGS locus map with the property boundaries clearly indicated, smaller-scale property maps if available, and a cover letter to include information about any known historic or archaeological sites. See these webpages for any questions: <http://www.sec.state.ma.us/mhc/mhcpdf/pnfguide.pdf> and <http://www.sec.state.ma.us/mhc/mhcrevcom/revcomidx.htm>.
4. **Massachusetts Natural Heritage and Endangered Species Program comments**: All applicants must request comments from the Massachusetts Natural Heritage & Endangered Species Program (NHESP) on the presence or absence of rare species listed under the Massachusetts Endangered Species Act (MESA) on or near the proposed land acquisition or park project. To request comments, please send a letter or email to Lynn Harper, Habitat Protection Specialist, Natural Heritage & Endangered Species Program, DFW, 1 Rabbit Hill Road, Westborough, MA 01581, or to Lynn.Harper@state.ma.us. The letter or email should include a brief description of the acquisition or project, and a map of the acquisition or project location. There is no charge for this comment letter.
5. **Project description and budget details**, including a breakdown of how much is needed for design costs and construction costs, if proposing a development or renovation project, as well as any donations from partners. The project description should be written with the LWCF Rating System in mind so that the project can be awarded the most points available. (This fulfills questions 4 and 5 from application form.)
6. **Evidence of public meeting on proposed project** (copy of announcement and a list of where it was posted or actual newspaper ad and attendance sheets). Concentrate on local neighborhood participation by posting notices with tenants associations, in local grocery stores, or with Community Development Corporations. Pay special attention to Environmental Justice neighborhoods in the community. Please look at EEA’s Environmental Justice Policy online at <http://www.mass.gov/eea/grants-and-tech-assistance/environmental-justice-policy.html> to ensure proper outreach procedures in EJ neighborhoods, which includes, but is not limited to, advertising the public meeting in the language spoken in the neighborhood and having translation services available.
7. **Evidence of public support for the project**. Include copies of letters of support from the community’s residents and/or newspaper articles (maximum of three for each) on the project.
8. Preliminary park designs or plans for walking paths and trails that demonstrate the site’s **accessibility for people with disabilities**.
9. Certified copies of the **municipal vote** (or draft warrant article or city council order, as necessary) authorizing application; raising, borrowing, or appropriating the total project cost (application item #5); and dedicating land to park, playground, or recreation purposes (application item #8). Refer to the Sample Municipal Vote, which is included in the application package, for guidance.
10. Copy of property **deed** confirming municipal ownership and dedication to conservation, park, playground, or recreation purposes for development and/or renovation projects.
11. **Project schedule** that demonstrates how quickly the public will be able to use the site.

ATTACH SUPPLEMENTARY DOCUMENTS IF APPLICABLE TO THE PROJECT

1. Copies of current leases, restrictions, or other rights or interests held by others in the property.
2. Fee schedule.
3. Any necessary permits or applications for permits.

If selected, the respondent will be required to execute the following forms in order to complete a contract:

- Commonwealth Standard Contract
- Commonwealth Standard Terms & Conditions
- Contractor Authorized Signatory Listing
- Commonwealth Project Agreement

Applicants are encouraged to review these forms prior to submission of an application. With the exception of the Project Agreement, all other forms are available at: www.mass.gov/osd.

* LWCF Requirement – must receive before application is submitted for NPS approval, if not supplied by grant application deadline.

LAND AND WATER CONSERVATION FUND 6(f) PROJECT BOUNDARY MAP

The Executive Office of Energy and Environmental Affairs and the National Park Service require a dated project boundary map that clearly delineates the permanently protected park, recreation, or conservation land protected under Section 6(f)(3) of the Land and Water Conservation Fund Act. The map must be submitted prior to project approval, and may be changed prior to final financial drawdown without triggering a conversion.

Project area – at a minimum must show:

1. The entire area acquired for an acquisition project.
2. The entire park that was renovated or developed with LWCF assistance.

Ensure that the recreational usefulness and attraction of the new 6(f) area is viable on its own and independent of the surrounding or adjacent areas. If it is dependent upon other areas or resources, those areas should also be included in the 6(f) area. This area must be a viable public outdoor recreation area that is capable of being self-sustaining (and accessible) without reliance upon adjoining or additional areas not identified in the scope of the project.

A formal surveyed boundary plan showing metes and bounds is best, but not necessarily required.

The project area must be shown in enough detail to be legally sufficient to identify the protected area. Include a narrative description of the 6(f) boundary and its rationale, especially in cases where the 6(f) area is significantly larger than the LWCF project area or smaller than the existing park and recreation area. These methods can be used in lieu of a survey plan:

- Assessors map with deed references
- Adjoining ownerships
- Adjoining easements of record
- Adjoining water bodies or other natural landmarks
- Government survey

Boundary Map Requirements:

1. Official park/site name, location, and LWCF project number.
2. Sufficient detail so as to legally identify the lands to be afforded protection under Section 6(f)(3) of the LWCF Act. The following methods of identification are acceptable: deed references; adjoining ownerships; adjoining easements and rights-of-way; public streets; adjoining water bodies or other natural landmarks; metes and bounds; and surveys. Where one or more of the above methods are not readily suited for identifying the area, measurements from permanent locators may be used. A formal survey is not required.
3. All known outstanding rights and interests in the area held by others. Known easements, deed/lease restrictions, reversionary interests, etc. are to be documented, including any area(s) under lease, name(s) of lessor and lessee, and term remaining on the lease(s). When at the time of project application it is known that outstanding property rights held by others are or will be exercised in the foreseeable future and impact only a portion of the area to be protected under Section 6(f), the impacted area must be clearly excluded from the Section 6(f) map and accompanied by an explanation of why it is not intended to be under the Section 6(f) provision. The remaining project area must meet all LWCF program criteria for eligibility and be a viable public outdoor recreation area.
4. Approximate total acreage of the 6(f) area.
5. North arrow.
6. Up to 11 inch x 17 inch format highly preferred for future administrative use such as copying and scanning. Avoid use of color as the only means to delineate areas.

Attachment C

LWCF RATING SYSTEM

Conservation Projects		Recreation Projects	
Relevance to Statewide Comprehensive Outdoor Recreation Plan – how well does the project fit into the four goals of the SCORP? Points awarded on the number of goals met by the proposed project.	8 for 4 goals 6 for 3 goals 4 for 2 goals 2 for 1 goal (partial points may be awarded)	Relevance to Statewide Comprehensive Outdoor Recreation Plan – how well does the project fit into the four goals of the SCORP? Points awarded on the number of goals met by the proposed project.	8 for 4 goals 6 for 3 goals 4 for 2 goals 2 for 1 goal (partial points may be awarded)
Relevance to Open Space and Recreation Plan (for municipalities only) – how well does the project fit into the goals and objectives of the community’s OSRP. Points awarded on the specificity of project reference in the plan.	5 for specific reference to project 2 for indirect reference to project	Relevance to Open Space and Recreation Plan (for municipalities) – how well does the project fit into the goals and objectives of the community’s OSRP. Points awarded on the specificity of project reference in the plan.	5 for specific reference to project 2 for indirect reference to project
Relevance to agency’s land acquisition or recreation capital plan (for state agencies only) – how well does the project fit into the agency’s land acquisition plan.	5 for specific reference to project 2 for indirect reference to project	Relevance to agency’s land acquisition or recreation capital plan (for state agencies) – how well does the project fit into the agency’s land acquisition plan.	5 for specific reference to project 2 for indirect reference to project
Public participation – do the community’s residents or agency’s constituent base support this project? Points awarded on (1) the number of well advertised meetings (not solely advertised in a paper’s legal notices) ; (2) advertising the meeting in Environmental Justice neighborhoods; (3) the attendance at the meetings and/or public comment letters received; (4) the number of support letters (maximum of 5), newspaper articles, and petitions for the project.	1 point for public meeting advertisement 2 points for EJ public meeting advertisement 2 points for meeting attendance 1 point for letters/articles on project	Public participation – do the community’s residents or agency’s constituent base support this project? Points awarded on (1) the number of well advertised meetings (not solely advertised in a paper’s legal notices) ; (2) advertising the meeting in Environmental Justice neighborhoods; (3) the attendance at the meetings and/or public comment letters received; (4) the number of support letters (maximum of 5), newspaper articles, and petitions for the project.	1 point for public meeting advertisement 2 points for EJ public meeting advertisement 2 points for meeting attendance 1 points for letters/articles on project
Increasing available recreational opportunities – does the project expand the number of recreational opportunities available to residents, including those communities with less than 2000 residents? Points awarded on how well the project increases the availability of recreation to residents through programming.	5 points for significant increase in recreational opportunities available locally 3 points for expansion of opportunities currently available 3 points for providing programming that will expand opportunities	Increasing available recreational opportunities – does the project expand the number of recreational opportunities available to residents, including those communities with less than 2000 residents? Points awarded on how well the project increases the availability of recreation to residents through programming.	5 points for significant increase in recreational opportunities available locally 3 points for expansion of opportunities currently available 3 points for providing programming that will expand opportunities
Project accessibility – does the project provide access for multiple types of users throughout the year? Points awarded based on the number of user groups able to utilize the space and for how long.	1 point per season site is available 5 points for significant unscheduled space for all ages, genders, abilities	Project accessibility – does the project provide access for multiple types of users throughout the year? Points awarded based on the number of user groups able to utilize the space and for how long.	1 point per season site is available 5 points for significant unscheduled space for all ages, genders, abilities

Preference will be given to sites that are available for all people, year round.	3 points for both sexes, limited age groups	Preference will be given to sites that are available for all people, year round.	3 points for both sexes, limited age groups
Environmental Justice – does the project provide access to Environmental Justice populations?	3 points per EJ criteria within project location’s Census block group	Environmental Justice – does the project provide access to Environmental Justice populations?	3 points per EJ criteria within project location’s Census block group
Small communities – will the project benefit isolated rural villages with less than 2,000 in population	5 points for these projects	Small communities – will the project benefit isolated rural villages with less than 2,000 in population	5 points for these projects
Alternative transportation options – is the project accessible by modes of transportation other than a car? Points awarded based on the number of non-automobile transit options users have.	2 points for each of the following: public transit within a ½ mile, walking facilitated by sidewalks, cycling facilitated by bike lanes and bike racks, signage directing users to the site	Alternative transportation options – is the project accessible by modes of transportation other than a car? Points awarded based on the number of non-automobile transit options users have.	2 points for each of the following: public transit within a ½ mile, walking facilitated by sidewalks, cycling facilitated by bike lanes and bike racks, signage directing users to the site
Access for people with disabilities – does the project provide access for the people with disabilities? Points awarded based on how well thought out access plans are for people with disabilities.	Up to 5 points for plans that go above and beyond requirements (ie, Braille trails)	Access for people with disabilities – does the project provide access for the people with disabilities? Points awarded based on how well thought out access plans are for people with disabilities.	Up to 5 points for plans that go above and beyond requirements (ie, Boundless Playgrounds)
Trails – does the project increase the trail network in the community and/or region? Points awarded based on the amount available trails are increased in the community.	6 points for land acquisition that will connect existing trail networks 3 points for land acquisition that will contain an isolated trail	Trails – does the project increase the trail network in the community and/or region? Points awarded based on the amount available trails are increased in the community.	6 points for trail development on land previously purchased 3 points for trail on newly purchased land
Water access – does the project provide access to or protect a water resource?	4 points for the ability to recreate in the water 3 points for shore fishing opportunities 2 points for viewing water resource	Water access – does the project provide access to a water resource?	4 points for the ability to recreate in the water 3 points for shore fishing opportunities 2 points for viewing water resource
Wildlife management and recreation – does the project allow for wildlife viewing, hunting, or fishing?	3 points for hunting and fishing 2 points for wildlife viewing	Wildlife management and recreation – does the project allow for wildlife viewing?	3 points for wildlife viewing 2 points for signage about wildlife habitat
Application quality – how thorough is the application? Points awarded based on how well organized and complete the BID response is.	3 points for organization 2 points for thoroughness (partial points may be awarded)	Application quality – how thorough is the application? Points awarded based on how well organized and complete the BID response is.	3 points for organization 2 points for thoroughness (partial points may be awarded)
Project quality – how well does the proposed project meet the goals of the Land and Water Conservation Fund?	Up to 20 points	Project quality – how well does the proposed project meet the goals of the Land and Water Conservation Fund?	Up to 20 points

Attachment D

SAMPLE MUNICIPAL VOTE

Each community should draft its warrant article or city council order with the guidance of municipal counsel. The form will vary with the type of project, source of funding, etc. All should include the following elements:

- I. Authorization to expend an amount equal to the full acquisition and/or development cost of the project. LWCF is a *reimbursement* program, not a match program; therefore, the total project cost must be raised or appropriated through current tax levy or borrowed; project bills paid by the municipality and then a reimbursement request is made to DCS for 50% of approved project costs up to the grant award amount.
- II. Indication of the source of funding (Conservation Fund, Community Preservation Act Fund, general fund, borrowing, etc.). M.G.L. Chapter 44, sections 7, 8C, and 12(a) on Municipal Indebtedness, allows cities and towns to borrow in anticipation of reimbursement. It is strongly recommended that the warrant article or city council order is prepared with the advice of city/town counsel, treasurer, and accountant to ensure that the appropriate section is noted in the warrant article. These sections permit the municipality to borrow in anticipation of a grant and require that a grant agreement be executed before the treasurer actually obtains the borrowed amount. This assures DCS that the municipality has 100% of the total project cost in hand, and assures the municipality that the project need not be completed if the proposal does not receive grant assistance. For further advice, please contact the Department of Revenue, Division of Local Services at (617) 626-2300.
- III. Acquisition projects: indicate that land is being acquired either for conservation and passive outdoor recreation purposes (Chapter 40, Section 8c) or for active recreation purposes (Chapter 45, Section 3) and will be in the care and control of the appropriate commission or department.
- IV. Authorization for the conservation commission or recreation department to seek reimbursement under the LWCF Act and enter any necessary contracts thereto.
Land and Water Conservation Fund Act: P.L. 88-578, 78 Stat 897
- IV. If a taking is involved in an acquisition project, the conservation commission or recreation commission must, in writing, request the selectmen or city council to take the property via eminent domain.
- V. Communities may also consider language permitting a lease or license agreement to manage the property consistent with the LWCF program for maintenance, etc.

The following is a sample vote authorizing the acquisition of conservation land. This is intended only as a point of reference. **Municipal Counsel should always be consulted when drafting Town Meeting warrant articles or City Council orders.** The draft article or order must be submitted to DCS for review prior to the Town Meeting or City Council vote

Sample for LWCF Conservation Acquisition Project – Town Meeting Warrant Article/City Council Resolution

To see if the CITY/TOWN will vote to appropriate, and authorize the Treasurer with the approval of the Selectmen [describe method of appropriation and/or borrowing according to M.G.L. Chapter 44, note particularly Section 8C], to borrow the sum of \$TOTAL PROJECT COST, for the purpose of purchasing for conservation and passive recreation purposes, by eminent domain or negotiated purchase or otherwise, a certain property together with buildings thereon, known as the PROPERTY NAME consisting of XXX acres, more or less, as shown on a plan entitled "Plan of Land in MUNICIPALITY made by SURVEYING FIRM dated XX/XX/XX"; that said land be conveyed to said CITY/TOWN under the provisions of Massachusetts General Laws, Chapter 40, Section 8c, and as it may hereafter be amended and other Massachusetts statutes relating to Conservation, to be managed and controlled by the Conservation Commission of MUNICIPALITY, and the Conservation Commission or be authorized to file on behalf of MUNICIPALITY any and all applications deemed necessary for grants and /or reimbursements from the Commonwealth of Massachusetts deemed necessary under the Land and Water Conservation Fund Act (P.L. 88-578, 78 Stat 897) and/or any others in any way connected with the scope of this Article, and the CITY/TOWN and the Conservation Commission be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of MUNICIPALITY to affect said purchase.

Sample for LWCF Park Development Project – City Council Resolution

(For purposes of this example, the park project will be a City Common.)

A RESOLUTION TO FILE AND ACCEPT GRANTS WITH AND FROM THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS FOR THE LAND AND WATER CONSERVATION FUND GRANT PROGRAM FOR IMPROVEMENTS TO THE COMMON

- Whereas: The City Common is by far a community-wide asset and the preservation and improvements to this facility are a City priority as evidenced in the most recent Open Space and Recreation Plan; and
- Whereas: The City Common is dedicated to park and recreation purposes under M.G.L. Chapter 45, Section 3; and
- Whereas: The City Common's ultimate restoration, guided in principal by the Master Plan, will greatly enhance this facility with improved infrastructure, path systems, site lighting, universal access, etc.; and
- Whereas: The main focus of the Plan is to increase the available space on the Common to adequately host major events and activities. This overall cost and fiscal budget constraints prevented the City from proceeding forward with implementation as one project; and
- Whereas: The project was instead viewed as a series of phases, to be implemented over time, by priority as fiscal resources were available, with the intention of securing grant funding, when and if available, to assist in this effort; and
- Whereas: The Executive Office of Energy and Environmental Affairs (EEA) is offering reimbursable grants to cities and towns to support the preservation and restoration of urban parks through the Land and Water Conservation Fund Act (P.L. 88-578, 78 Stat 897); and
- Whereas: Phase I of the Common Restoration Project will cost a total of \$400,000 (Four Hundred Thousand Dollars) and the City has allocated \$400,000 in Community Development Block Grant funds for Phase I of the Common Restoration Project.

NOW, THEREFORE, BE IT

1. That the City Manager be and is hereby authorized to file and accept grants from the Executive Office of Energy and Environmental Affairs; and
2. That the City Manager be and is hereby authorized to take such other actions as are necessary to carry out the terms, purposes, and conditions of this grant to be administered by the Parks and Recreation Department; and
3. That this resolution shall take effect upon passage.

Sample for LWCF Park Acquisition Project – Town Meeting Warrant Article/City Council Resolution

To see if the CITY/TOWN will vote to appropriate, and authorize the Treasurer with the approval of the Selectmen [describe method of appropriation and/or borrowing according to M.G.L. Chapter 44, note particularly Section 8C], to borrow the sum of \$TOTAL PROJECT COST, for the purpose of purchasing for public parks and playgrounds purposes, by eminent domain or negotiated purchase or otherwise, a certain property together with buildings thereon, known as the PROPERTY NAME consisting of XXX acres, more or less, as shown on a plan entitled "Plan of Land in MUNICIPALITY made by SURVEYING FIRM dated XX/XX/XX"; that said land be conveyed to said CITY/TOWN under the provisions of Massachusetts General Laws, Chapter 45, Section 3, and as it may hereafter be amended and other Massachusetts statutes relating to public parks and playgrounds, to be managed and controlled by the Park Commission of MUNICIPALITY, and the Park Commission be authorized to file on behalf of MUNICIPALITY any and all applications deemed necessary for grants and /or reimbursements from the Commonwealth of Massachusetts deemed necessary under the Land and Water Conservation Fund Act (P.L. 88-578, 78 Stat 897) and/or any others in any way connected with the scope of this Article, and the CITY/TOWN and the Park Commission be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of MUNICIPALITY to affect said purchase.

Requirements for acquisition projects funded through the Community Preservation Act (CPA)

The Community Preservation Act (CPA) states that land acquired with these funds is to be bound by a permanent restriction. Property acquired with the help of the LWCF grant program is protected Article 97 conservation or recreation land, however, this does not supersede the requirements of the Community Preservation Act. The CPA requires that, for fee acquisitions, the municipality convey a Ch. 184 CR to a qualified 501(c)(3) organization whose purpose is land and/or water conservation or recreation (e.g., land trusts). It may not be an internal deed restriction.

Fulfillment of the CPA is the responsibility of the municipality; while it is desirable that all transactions related to a project be completed by the end of the fiscal year, conveyance of a CR to a qualified entity is not a requirement for reimbursement under this grant program.

Conveying a conservation restriction over “parkland” normally would trigger the formal “Article 97” disposition process requiring a 2/3 vote of the legislature. However, for guidance, EEA refers municipalities to the opinion of the Massachusetts Land Trust Coalition Attorney Referral Panel that states: “If a municipality acquires property under the CPA statute, it is required to impose a restriction on the property as a matter of law and thus the imposition of the restriction should be considered part of an integrated plan for dealing with the property. Therefore, the imposition of the restriction should not be considered a “disposition” of an interest in the property within the meaning of Article 97.”^[1] All municipalities should seek final advice on this issue from its town counsel or its city solicitor.

Points to remember when conveying a Conservation Restriction:

1. At the same time that it votes to acquire the property, the municipality should vote to authorize the grant of the CR and also indicate that the purchase of the property and conveyance of the CR be a simultaneous closing.
2. The deed to the municipality should indicate that the municipality may grant a CR to the specific entity identified to hold it or to an entity authorized to hold a CR under M.G.L. Ch. 184.
3. As long as a restriction is recorded **after** the recording of the deed of acquisition (even if immediately after), the unrestricted value (and therefore higher value) of the property is used for funding determinations in DCS grant programs.
4. The fact that the funding statute *requires* the restriction may mean that a party seeking a charitable contribution deduction in connection with a bargain sale of property may not be able to use the unrestricted value of the property in calculating the tax benefit.
5. The “proceeds” clause of the conservation restriction, if conveyed at no cost to the grantee, must provide that the municipality (as the fee owner) receives all of the proceeds of an extinguishment or taking, and the grantee receives none of such proceeds. In the event that the land ever is converted to non-conservation use, the municipality would still be responsible for replacing the converted property with land of equal or greater monetary value and conservation use and described in the Program Regulations, as though the land were owned in fee simple. Applicants should consult with DCS for guidance on drafting conservation restrictions for the appropriate language.

Sample Vote Language for Community Preservation Act Projects

To see if the Town [or City] will vote to raise, borrow and/or appropriate \$Total Project Cost for the acquisition by gift, negotiated purchase or eminent domain of a parcel of land of approximately ___ +/-acres owned by OWNER as described on Assessors Map ___, Parcel ___, to be managed and controlled by the Conservation Commission of the Town [or City] of XXX in accordance with Chapter 40, Section 8C for conservation and passive recreation purposes, and to meet said appropriate with funds transferred and/or borrowed in accordance with M.G.L. Chapter 293, the Community Preservation Act and to authorize the Treasurer, with the approval of the Board of Selectmen, to issue any bonds or notes that may be necessary for that purpose, as authorized by M.G.L. Chapter 44, or any other enabling authority, and that the Town Manager [or Board of Selectmen or City Council or Mayor] be authorized to file on behalf of the Town [or City] of XXX any and all applications deemed necessary under the LAND Act (M.G.L. Chapter 132A, Section 11) [or LWCF or PARC] or any other applications for funds in any way connected with the scope of this acquisition, and the Town Manager and the Board of Selectmen [or Mayor and the City Council] and the Conservation Commission be authorized, as they deem appropriate, to enter into all agreements and execute any and all instruments including the conveyance of a perpetual conservation restriction in accordance with M.G.L. Chapter 184 as required by Section 12(a) of Chapter 44B or Chapter 293 Section 10 of the Acts of 1998 as amended, as may be necessary on behalf of the Town [or City] of XXX to affect said purchase. Said conservation restriction may be granted to the [Name of Grantee] or any other organization qualified and willing to hold such a restriction.

^[1] Attorney Greg Bialecki and the Attorney Referral Panel of the Massachusetts Land Trust Coalition – Visit the Massachusetts Land Trust Coalition website at www.massland.org, or <http://www.massland.org/pages/resources/legaladvisory3.html> for this legal advisory.

SAMPLE LWCF BUDGET

Example: A \$500,000 project

Question 5 from application

Total Eligible Project Cost:	<u>\$500,000</u>
LWCF Request: (50% of total project cost, maximum of \$250,000)	<u>\$250,000</u>
Municipal Share: (Community Development Block Grant, Community Preservation Act, etc., please specify in narrative)	<u>\$250,000</u>
Other: (i.e. private donation to community, fund raising, etc. – this number is a subset of the municipal share line)	<u>\$100,000</u>

One page proposed budget narrative

Project Element	Cost
Design/Construction Administration	\$25,000
Design Subtotal	\$25,000
Demolition/Site Preparation	\$40,000
Pulverize Existing Pavement	\$40,000
Earthwork (excavation and backfill)	\$30,000
New Pedestrian Pathways	\$115,000
Storm Drainage Improvements	\$20,000
Site Furnishings (benches, picnic tables)	\$30,000
Interpretive Signage	\$10,000
Electrical Services	\$70,000
Lawn Seeding/Turf Establishment	\$45,000
Tree Planting	\$50,000
Fencing and Rails	\$25,000
Construction Subtotal	\$475,000
Total Project Budget	\$500,000

\$250,000 City Share Breakdown

\$150,000 from Community Preservation Act Funds
 \$100,000 donation from City Sports Leagues, Inc.