



CITY OF DETROIT
LAW DEPARTMENT

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September 20, 2011

Paul E. Opsommer
Michigan House of Representatives
State Capitol
P.O. Box 30014
Lansing, MI 48909-7514

**Re: Federal and State Legal Restrictions on Sale of Riverside Park to Detroit
International Bridge Company**

Dear Representative Opsommer:

This letter is sent in response to your written request, dated August 16, 2011, for further information concerning legal impediments to any transfer of the City of Detroit's Riverside Park to the Detroit International Bridge Company.

The Land and Water Conservation Fund Act

The Land and Water Conservation Fund Act, ("LWCFA"), 16 U.S.C. 4601-1, et seq, was enacted to provide funds to assist in the development and preservation of outdoor recreational resources. (See 16 U.S.C. 4601-4.) The LWCFA is administered by the National Park Service.

The LWCFA provides that where property is acquired or improved with LWCFA funds, it may not be converted to non-recreational use. Instead, such lands are to be used in perpetuity for public recreational purposes. See, generally, L & WCF Grants Manual, §660.3, Attachment B, Part IIB.

Under very narrow circumstances, the National Park Service may authorize the conversion of LWCFA parkland to non-recreational uses. To request such a conversion, the grantee must substitute land of equivalent fair market value and "reasonably equivalent usefulness and location." 16 U.S.C. §4601-8 (6)(3).

According to LWCFA regulations, NPS will only consider approval of a conversion if all of the following prerequisites are met:

- (1) All practical alternatives to the proposed conversion have been evaluated.
- (2) The fair market value of the property to be converted has been established and the



property proposed for substitution is of at least equal fair market value

- (3) The property proposed for replacement is of reasonably equivalent usefulness and location as that being converted. . . .
- (4) The property proposed for substitution meets the eligibility requirements for L&WCF assisted acquisition. The replacement property must constitute or be part of a viable recreation area. . . .
- (5) In the case of assisted sites which are partially rather than wholly converted . . . the unconverted area must remain recreationally viable or be replaced as well.
- (6) All necessary coordination with other Federal agencies has been satisfactorily accomplished
- (7) The guidelines for environmental evaluation have been satisfactorily completed and considered by NPS during its review of the proposed 6(f)(3) action. . . .
- (8) State intergovernmental clearinghouse review procedures have been adhered to
- (9) The proposed conversion and substitution are in accord with the Statewide Comprehensive Outdoor Recreation Plan (SCORP) and/or equivalent recreation plans. See 36 C.F.R. § 59.3(b)

The National Park Service possesses broad authority to seek coercive remedies against LWCF grantees who violate the act. See L & WCF Grants Manual, §660.3, Attachment B, Part IIC and §675.

Michigan Natural Resources Trust Fund Act

Like the Land and Water Conservation Fund Act, the Michigan Natural Resources Trust Fund Act ("MNRTFA"), codified at MCL 324.1901, et seq., was enacted to acquire land or rights in land for public recreational purposes and to develop public recreation facilities. See MCL 324.1903 (1).



The MNRTFA is administered by the Michigan Natural Resources Trust Fund Board of Trustees ("the Board"), and the Grants Management Office of the Department of Natural Resources ("DNR"). The Board has promulgated written policies relating to the MNRTFA. Board Policy 94.1 provides:

"Property acquired or developed with Michigan Natural Resources Trust Fund (MNTRF) assistance, including both State and local projects, shall be retained and preserved in its natural state including development needed to provide for outdoor public recreation use as set forth in the MNTRF application. Property acquired or developed with MNTRF assistance shall not be wholly or partially converted to other than public outdoor recreation use without the approval of the Department of Natural Resources (DNR) and MNTRF Board and the implementation of mitigation measures approved by the DNR and the Board. The Board shall adopt procedures that further define and delineate the implementation of this policy."

The Board has adopted Policy Implementation Procedures for Board Policy 94.1, which are attached. Prohibited conversions include the following:

- "Leasing or otherwise granting control of all or a portion of the MNRTF-assisted project area to another entity;"
- "The sale or transfer (including trading, giving away or granting permanent easements) to lands or rights in land within the MNRTF-assisted project area to another entity.
- "Permanently closing all of a portion of the MNRTF-assisted project area to the public."

Policy Implementation Procedures for Board Policy 94.1 also provides that "For project areas that have also received grant assistance under other programs, such as the Land and Water Conservation Fund, . . . the most stringent of the program requirements will govern any proposed conversion."

Application of Land and Water Conservation Fund Act and Michigan Natural Resources Trust Fund Act to Riverside Park.

Riverside Park was acquired and improved with funds provided under both the Land and Water Conservation Fund Act and Michigan Natural Resources Trust Fund Act. Therefore, the City cannot sell the park to another entity, such as the Detroit International Bridge Company, or allow the park to be used for purposes other than public recreation, such as the erection of a privately-owned bridge. If the City were to sell Riverside Park or permit it to be used for the construction of a privately-owned bridge, this would expose the City to potential sanctions by



both the federal government and the State of Michigan.

Under certain circumstances, a grantee of LWCFA or MNRTFA funds may request approval from state and federal authorities to convert property to non-recreational purposes. However, this would be problematic in the present case for several reasons:

- First, as noted above, the grantee must substitute land of equivalent fair market value and “reasonably equivalent usefulness and location.” Riverside Park, is, as its name indicates, located on the Detroit River, which greatly increases its market value. Few - if any - riverfront parcels exist of reasonably equivalent size and value, having reasonably equivalent usefulness, which are located in the same general area.
- Second, under LWCFA regulations, the National Park Service will only consider approval of a conversion if “All practical alternatives to the proposed conversion have been evaluated.” Arguably, there are practical alternatives to the use of Riverside Park to construct an additional bridge to Canada, because another potential site, the New International Trade Crossing (“NITC”) site, has been identified to serve this purpose.
- Third, conversion of LWCFA/ MNRTFA parkland must be consistent with the Statewide Comprehensive Outdoor Recreation Plan (“SCORP”). Michigan’s SCORP (which is available on-line) evidences a strong commitment to not only maintaining the amount of LWCFA/ MNRTFA parkland, but increasing public outdoor opportunities in the state. In particular, Michigan’s SCORP recognizes that maintaining outdoor public recreation opportunities for residents of urban communities, such as Detroit, is an important priority. Michigan’s SCORP notes:
 - **“Urban Opportunities**
An important case for targeted action is restoring or enhancing impaired outdoor recreation resources in urban environments. Urban residents often have borne the burden of pollution, and nearby potential recreational environments such as urban waterfronts have been less than desirable recreation sites. The growing movement for greenways, walkable communities and restoration of degraded **urban natural resources** to provide quality outdoor recreation opportunities represents a priority resource conservation issue in Michigan’s SCORP.”
(Michigan SCORP, 2008 2012, page 71, emphasis added.)
 - “The conservation of natural resources was rated as the most important of all the priorities of the 2003-2007 SCORP by voters and local park and recreation agency administrators in our statewide surveys for the 2008-



2012 SCORP. Natural resource based recreation brings all into close contact with nature and provides a compelling rationale and commitment to conservation. **These opportunities need to be expanded and given priority in urban areas.**"

(Michigan SCORP, 2008 2012, page 81, emphasis added.)

- "The supply of recreational lands and facilities is not always readily accessible for much of the state's population and visitors, with the majority of public land in the northern two thirds of the state where 15 percent of the population reside. However, restoration of *urban environments* coupled with development/ renovation of outdoor recreation facilities in or near population centers is feasible and can provide significant outdoor recreation opportunities for the majority of the state's population. Land acquisition by local and state agencies in and near urban areas also provides increasingly valued islands of green space." (Michigan SCORP, 2008 2012, page 9, emphasis added.)

- Fourth, requests for conversion of LWCF/ MNRTFA parkland are committed to the discretion of state and federal authorities. The Michigan Department of Natural Resources (MDNR) has already indicated its desire that Riverside Park continue to be used for public recreation purposes. In a 2009 letter to the City (see attached), MDNR noted that Riverside Park was acquired and maintained with LWCF/ MNRTFA funds, and that as a condition of receiving these grants, the City committed to "keeping Riverside Park open and available for outdoor public recreation." The letter went on to acknowledge that a conversion request could be filed, but that:

"The Department would prefer the City to operate and maintain the facilities for the purpose for which these grant opportunities provided assistance for the development of Riverside Park."

The letter's author concluded by stating:

"I look forward to seeing Riverside Park available for the public recreation uses that it was originally intended to provide."

- Fifth, the transfer of Riverside Park to DIBC for the construction of a privately-owned bridge would be contrary to the City's Master Plan of Policies ("the Master Plan"). The City's Master Plan shows Riverside Park as "PRC" - Recreation, and expressly includes the following in its "City-wide Policies for Parks, Recreation and Open Space:



GOAL 4: Protect and utilize the riverfront as an open space and recreational area.

Policy 4.1: Require development projects to include public access along the riverfront.

Policy 4.2: Protect and maintain existing parks and other public spaces along the riverfront. (Emphasis added.)

A formal amendment to the City's Master Plan would be necessary for any change in land use. The Municipal Planning Act (P.A. 285 of 1931) spells out the steps for master plan amendments, which include public hearings, and require municipalities to notify and seek comments from neighboring jurisdictions, the county, the region, and any registered public utility company, railroad, or other government entities regarding the municipality's proposed amendment of revision of an existing master plan.

- Sixth, only the grant recipient, the City of Detroit, may request conversion of Riverside Park to non-recreational uses, and this decision would be within the discretion of the Mayor's office, based on an analysis of multiple considerations relating to the best interests of the citizens of the City and other public policy factors. While the City's position could change at some point in the future, at the present time, there is no plan by the City to initiate this process. (Moreover, even if the conversion of Riverside Park were initiated and approved by state and local authorities, the actual transfer of Riverside Park would have to be approved by the Detroit City Council. There is no evidence that the Detroit City Council supports the transfer of the Park to DIBC at this time.)
- Seventh, even if the both the Mayor's office and the Detroit City Council were to determine that it was in the best interests of its residents and consistent with broader public policy to transfer Riverside Park to DIBC to construct a privately-owned bridge, and that all of the requirements for such a conversion existed, this is a multi-year process. It would be improper to make decisions related to the NITC Project based on the assumption that Riverside Park can be transferred to the Detroit International Bridge Company unless and until this process has been initiated and completed.

In summary, both the Land and Water Conservation Fund Act and Michigan Natural Resources Trust Fund Act would prohibit the City of Detroit from transferring Riverside Park to the Detroit International Bridge Company or allowing the park to be used for the construction of



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a privately-owned bridge at this time. The City could request approval of such a conversion from state and local authorities, but the City has no plan at this time to initiate this process, and the conversion process and approval of the transfer would be problematic for multiple reasons in this instance in any event.

Please contact me if you have any other questions regarding this matter.

Sincerely,

A handwritten signature in cursive script that reads "Eric B. Gaabo".

Eric B. Gaabo
Senior Assistant Corporation Counsel
Direct Dial: (313) 237-3052
E-mail: gaabe@detroitmi.gov

POLICY IMPLEMENTATION PROCEDURES FOR BOARD POLICY 94.1

PROCEDURES FOR BOARD POLICY 94.1 CONVERSIONS OF THE MNRTF PROJECT AREA

94.1 Property acquired or developed with Michigan Natural Resources Trust Fund (MNRTF) assistance, including both State and local projects, shall be retained and preserved in its natural state including development needed to provide for outdoor public recreation use as set forth in the MNRTF application. Property acquired or developed with MNRTF assistance shall not be wholly or partially converted to other than public outdoor recreation use without the approval of the Department of Natural Resources (DNR) and MNRTF Board and the implementation of mitigation measures approved by the DNR and the Board. The Board shall adopt procedures that further define and delineate the implementation of this policy. (10-19-94; amended 11/12/97, 5/24/00 and 2/22/06)

1) Definition of Conversion

Conversions include all of the following:

1. The addition of any public or private facilities other than outdoor recreation facilities and facilities to support outdoor recreation within the Michigan Natural Resources Trust Fund (MNRTF) project area. This includes the addition of cellular towers, libraries, community centers, township/village halls, and indoor recreation facilities.
2. Making use of an existing structure in the project area for purposes other than public outdoor recreation. Short-term uses (generally less than one year) are not considered a conversion, but are considered a project change requiring prior Department of Natural Resources (DNR) approval pursuant to Board Policy 00-1.
3. Leasing or otherwise granting control of all or a portion of the MNRTF-assisted project area to another entity.
 - a) Short-term leases (generally under one year) that have minimal negative impact on the recreational or resource protection values of the project area and facilities are not considered a conversion, but are always considered a project change requiring prior DNR approval pursuant to Board Policy 00-1.
 - b) Leases of the project area or facilities for the purpose having an entity operate the project area or facilities on behalf of the funding recipient for outdoor recreation purposes are not considered a conversion, however, funding recipients should make the DNR aware of operational leases and provide a copy to DNR Grants Management to be included in the project file.
4. The sale or transfer (including trading, giving away or granting permanent easements) to lands or rights in land within the MNRTF-assisted project area to another entity.
5. Permanently closing all or a portion of the MNRTF-assisted project area to the public. Non-permanent closures are considered a project change and are covered by Board Policy 00-1.
6. Loss of public access to or usefulness of all or a portion of the project area or MNRTF-assisted facilities as a result of mineral exploration or development activities may represent a project change (per Board Policy 00-1) or a conversion. While the grant recipient may not be able to control mineral activity when mineral rights are owned by someone other than the grant recipient, they are required to mitigate any negative impact on the public outdoor recreation opportunities provided by MNRTF assistance.
7. Loss of the property via eminent domain.

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2) Mitigation Requirements

A. Conversion of an Acquisition Project Area

8. Conversions of properties acquired with MNRTF assistance shall be mitigated with the addition of new recreation property that was not in public ownership at the time of the conversion.
 - a) The Board may also, at its discretion and on a case-by-case basis, consider and approve other forms of mitigation, including cash repayment to the MNRTF, when it has been demonstrated to the Board's satisfaction that no viable replacement property can be found.
 - b) Alternative forms of mitigation, including cash repayment, shall be based on the DNR-approved appraised value of the property at the time of conversion or the original award amount, whichever is greater.

B. Conversion of a Development Project Area

9. The preferred method of mitigating conversions of properties developed with MNRTF assistance is the addition of new recreation property.
 - a) The replacement property can consist of property that is already in public ownership but is not currently dedicated to recreation.
 - b) The Board may also, at its discretion and on a case-by-case basis, consider and approve other forms of mitigation, the dollar value of which will usually be based on the DNR-approved appraised value of the property at the time of conversion or the original award amount, whichever is greater.
 - c) Conversion of land within the project area that is controlled via lease, easement, or use agreement within the 20-year period following project completion must be mitigated. After the first 20 years, mitigation shall be required at the Board's discretion.

3) Impact on MNRTF-Assisted Facilities

10. When conversions of the project area have negative impacts on MNRTF-assisted facilities, any reduction or loss in usefulness in a facility must be mitigated to the Board's satisfaction. Mitigation of facilities may include relocation or replacement with facilities of similar monetary value and recreation usefulness taking into consideration the age of the facilities and their current use. Loss of public access to or usefulness of MNRTF facilities that does not also include a conversion of the project area is considered a project change and is covered by Board Policy 00-1.

4) Exemptions to Mitigation Requirements

11. The Board may, at its sole discretion, consider and approve exemption requests as part of a conversion proposal, when requested and approved by the Board prior to the conversion. Upon approval of an exemption, the Board may waive the mitigation requirement or approve alternative methods of mitigation. Exemptions may fall within one of the following categories:
 - a) The addition of underground utility easements when it has been demonstrated to the satisfaction of DNR Grants Management that there will be no significant impacts on the recreational or resource protection values of the project area. DNR Grants Management may approve these types of exemptions on the Board's behalf.

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- b) The addition of public facilities, including indoor recreation facilities, when it has been demonstrated to the satisfaction of DNR Grants Management and/or the Board that the addition will result in an overall gain or increased benefit to public recreation or resource protection. DNR Grants Management may approve exemptions for the placement of indoor recreation facilities on the Board's behalf if the placement of these facilities does not impact the existing uses of the site. The Board must approve exemptions for the placement of other public facilities.
- c) Sale or transfer of a small percentage of the project area to another unit of government for public purposes when it can be demonstrated to the Board's satisfaction that the impact on the recreational and/or resource protection values of the project area is negligible and when any proceeds will be dedicated to maintenance or development of the project area.
- d) Sale or transfer of a portion of the project area that only received MNRTF development assistance, for older projects (generally over 20 years) and/or smaller projects (generally under \$50,000), when it can be demonstrated to the Board's satisfaction that the impact on the current recreational and/or resource protection values of the project area is minimal and when any proceeds will be dedicated to maintenance or development of the project area.
- e) Easements granted for the purpose of crossing MNRTF-assisted trails, when the funding recipient has written guidelines in place for evaluating requests for trail crossings and minimizing their impacts on trail use.
- f) Lease agreements that can be demonstrated to the Board's satisfaction to have minimal impact on the recreation and/or resource protection values of the project area and when any proceeds will be dedicated to maintenance or development of the project area.
- g) Sale or transfer of the project area to another eligible MNRTF grant recipient that will assume all of the current grant agreement obligations.

5) Requirements for Replacement Property

- 12. To be approved, a replacement property must generally be:
 - a) of reasonably equivalent or superior location and offer reasonably equivalent or superior recreation and/or natural resources value;
 - b) within the grant recipient's service area;
 - c) consistent with MNRTF goals and meet all current application requirements for new MNRTF acquisition applications;
 - d) provide for or be part of a viable recreation area; and
 - e) meet all current environmental standards and be demonstrated as safe for recreational use.
- 13. The value of the replacement property must be of equal or greater to the fair market value (FMV) of the property to be converted, based on the DNR-approved appraisal(s) of the converted and substituted parcels completed at the time of conversion. If the current FMV of the property to be converted is less than the FMV at the time MNRTF assistance was provided, the substitute parcel must have a dollar value at least equal to the original FMV.
- 14. If only a portion of the project area is proposed for conversion, it is within the Board's discretion to determine the size of the parcel that will be converted, based on the impact of the conversion on overall project area and the land remaining in public outdoor recreation. If MNRTF-assistance was used to acquire property that was an addition to an existing park or recreation area, the Board may also consider the impact of the

POLICY IMPLEMENTATION PROCEDURES FOR BOARD POLICY 94.1

conversion on the overall park or recreation area in determining the acreage that will be converted.

15. Approved replacement parcels shall be encumbered by the same obligations and conditions as specified in the Project Agreement for the converted parcel, as amended.

6) Unapproved/Unresolved Conversions

16. Recipients of MNRTF assistance that convert any portion of the project area without approval of the Board are in violation of their Project Agreement. The DNR and the Board may take corrective actions called for in the Agreement. Upon discovery of an unapproved conversion, if a grant recipient does not implement Board-approved mitigation measures within a time frame established by the Board, the recipient may, at the Board's discretion, be considered ineligible for MNRTF assistance for a period determined by the Board.

7) Additional Requirements

17. It is the responsibility of the grant recipient to address issues of local concern prior to forwarding a conversion to DNR Grants Management.
18. For project areas that have also received grant assistance under other programs, such as the Land and Water Conservation Fund, the 1988 Recreation Bond Fund or the CML-Recreation Bond Fund, the most stringent of the program requirements will govern any proposed conversion.
19. It is the responsibility of local grantees and the DNR land managing divisions to know the boundaries of MNRTF-assisted areas and to ensure these areas remain dedicated to public outdoor recreation.

8) Steps to Request and Review Conversion Proposals

a) Prior to initiating a request to convert property acquired or developed with MNRTF assistance, grant recipients are encouraged to contact DNR Grants Management to discuss their situation and receive assistance on how to proceed.

b) Prior to submitting a conversion request to DNR Grants Management, a grant recipient must provide the public a well-publicized opportunity of at least 30 days to review the proposed site conversion and mitigation proposals. Publication of the opportunity for public review must include all of the channels normally used by the community to publicize its official actions, including publication in a newspaper of general circulation. A Notice of Intent for both the conversion and the proposed mitigation must be submitted to the Regional Planning Agency.

c) If the encumbered site or facilities are regional in nature and/or is supported by multiple jurisdictions, for example, a linear park, the public comment opportunity must be publicized to all residents of all of the affected communities.

d) The grant recipient's governing body must hold a well-publicized public meeting to discuss the proposed conversion and mitigation and pass a resolution supporting the request to convert an MNRTF-assisted site. The notice for this meeting should include the same channels as the notice for the public review period, including publication in a newspaper of general circulation in the affected areas at least 7 days prior to the meeting. The notice must also clearly state that the conversion issue is on the agenda and formal

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action is expected to be taken at this meeting. The meeting must be held and the resolution dated after the public's opportunity to review the proposal.

20. Conversion requests must be submitted in writing to DNR Grants Management prior to the conversion taking place. Requests will be considered for mitigation of a conversion that has taken place; however, undertaking a conversion without prior approval represents a violation of this policy and subjects the grant recipient to corrective action. Initial requests should include the following information, subject to minor modification on a case-by case basis by DNR Grants Management staff:
 - a. Brief history of the project and site (grant number, approval and completion dates, grant amount, local match amount, historic and current uses of the project area and facilities, current map and site plan of the project area).
 - b. A description of the proposed conversion and mitigation sites, including location and size of parcel to be converted, entity to which parcel will be sold or transferred to, and proposed uses of the converted parcel.
 - c. Reasons for the proposed conversion and a demonstration that the grant recipient has reviewed and exhausted all reasonable alternatives before proposing a conversion.
 - d. If less than the entire project area will be converted, a description of the impact of the conversion on the land within the project area that will remain in public outdoor recreation use.
 - e. Description of the proposed replacement parcel, including: (1) current ownership, (2) property uses and site conditions, proposed uses once acquired by the grant recipient, (4) description of how the parcel is equal or superior in recreational value and/or resource protection values of the parcel to be converted, and (5) estimated FMV of the parcel proposed for conversion and the parcel proposed for substitution.

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- f. If the grant recipient is requesting an alternative form of mitigation, or to be exempted from mitigation:
 - i. Description of the proposed mitigation or a request for all mitigation to be waived.
 - ii. Rationale for the request, including an explanation of why replacement is not feasible.
 - g. A description of the impact on the conversion on facilities constructed with MNRTF assistance and an explanation of how these impacts will be mitigated.
 - h. A commitment to acquire the replacement property within 90 days of the conversion taking place or for conversions that have already taken place, within 90 days of the mitigation being approved.
 - i. Demonstration that the proposed replacement is consistent with the community recreation plan.
 - j. A current copy of the fee schedule for the site and/or facility, and the proposed fees that would be charged if the conversion is approved.
- 21. Initial requests will be reviewed and evaluated by DNR Grants Management. Based on this review, Grants Management staff may request additional information, conduct a site visit, deny the request (in writing) with reasons why, or instruct the grant recipient to submit a final request for Board review.
 - 22. Grant recipients may request Board review of denials by DNR Grants Management staff.
 - 23. Final requests must include all the information in Section 8 above in addition to one or more current appraisals of the property to be converted and the replacement property, and any additional information requested by DNR Grants Management staff.
 - 24. Final requests will be submitted by DNR Grants Management staff to the Board in writing with a staff recommendation. Grant recipients will be provided a copy of the staff write-up and recommendation prior to the request being considered by the Board and will be notified of the date, time and place of the meeting at which the Board will consider the request.
 - 25. The Board may deny or accept the request as proposed or request modifications.
 - 26. Project Agreement amendments will be executed to finalize all approved conversions and to incorporate any conditions imposed by the MNRTF Board as part of the mitigation approval.
 - 27. The grant recipient will be required to provide documentation of compliance with the required mitigation to DNR Grants Management within the timeframes established at the time of the final conversion approval.

9) DNR-Managed Lands

- 28. For DNR-managed lands acquired with MNRTF assistance, the Board acknowledges the following:
 - a. Individuals, local governments and businesses routinely approach the DNR to acquire, trade or seek easements across State property and the DNR is obligated to consider these requests.
 - b. State law authorizes the DNR to exchange or sell land for parcels of greater natural resource, recreation or other public benefit and to grant easements or leases where appropriate.

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- c. Any conveyance of land is approved by the DNR only after a substantial series of steps to ensure the transaction is in the overall public interest. The DNR has a formal process to review requests to exchange or sell land and grant easements, include review by the DNR's Land Exchange Review Committee (LERC), public comment opportunity, and Director's approval.
- d. To be recommended for approval, proposed sales or exchanges cannot reduce or impair the resource protection or recreational values of adjacent or nearby State land, as determined by LERC or the Director.



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN

DEPARTMENT OF NATURAL RESOURCES

LANSING



REBECCA A. HUMPHRIES
DIRECTOR

October 23, 2009

Ms. Marti Alston
Grant Writer
City of Detroit
18100 Meyers
Detroit, MI 48235

Dear Ms. Alston:

SUBJECT: 26-00700, Riverside Park Extension

The Department of Natural Resources (Department) is pleased with the recent 36th District Court decision requiring that the Detroit International Bridge Company vacate the portions of Riverside Park that were closed off from public use. We are aware that the DIBC has decided against an appeal of the decision, and, according to news reports, has decided to negotiate with the city on use of the site.

As is noted in previous correspondence, the city has received grant assistance to both acquire and develop this site from the federal Land and Water Conservation Fund (LWCF), the Michigan Natural Resources Trust Fund (MNRTF) and the state Waterways fund. As a condition of receiving these grants, the city has committed to keeping Riverside Park open and available to public outdoor recreation. No portion of this site may be used for any other purpose. Furthermore, the closure of an access site without proper consent with the Department is considered a violation of the terms of your Waterways agreement with state. A copy of the boundary map outlining the area committed to these uses is enclosed, along with copies of the Waterways agreements.

If the city determines that they wish to convert any portion of this property to another use, or convey rights in the property to another agency, they must first request a conversion of use from the Department. Under federal rules, the only acceptable form of mitigation for a conversion of MNRTF or LWCF-assisted property is the replacement of the lost property with land of equal size, monetary and recreation value. This may also require the Department to exercise our option within the Waterways agreement to seek financial relief on the appraised value of the constructed facilities.

The Department would prefer the city to operate and maintain the facilities for which these grant opportunities provided assistance for the development of Riverside Park. I have enclosed the post-completion compliance rules from the LWCF manual, as well as a copy of MNRTF Board Policy 94.1. Both of these documents outline the conversion and mitigation responsibilities. The conversion process may run concurrently and the same parcel of replacement land may be used to satisfy the mitigation requirements.

NATURAL RESOURCES COMMISSION

Keith J. Charters, Chair • Mary Brown • Hurley J. Coleman, Jr. • John Madigan • Timothy L. Nichols • J. R. Richardson • Frank Wheatlake

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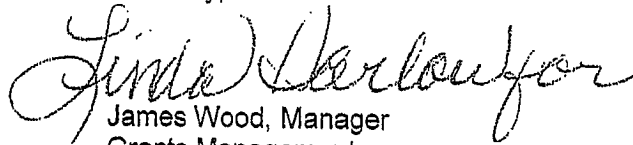
Great Lakes, Great Times, Great Outdoors!

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If you have any questions regarding the LWCF or MNRTF long-term commitments, please contact me at the telephone number or email address listed below. If you would like to discuss the terms and responsibilities related to the Waterways program, please contact Mr. Jason Fleming in our Parks and Recreation Division. His phone number is 517-241-2054 and email address is flemingj@michigan.gov. If you wish to contact me in writing, my mailing address is: **Grants Management, Department of Natural Resources, P.O. Box 30425, Lansing, MI 48909-7925.**

I look forward to seeing Riverside Park available for the public recreation uses that it was originally intended to provide.

Sincerely,



James Wood, Manager
Grants Management
517-373-9125
woodj@michigan.gov

JW:lh

Enclosures

cc: Ms. Deborah Apostol, DNR
Mr. Jason Fleming, DNR
Ms. Lisa McTiernan, DNR

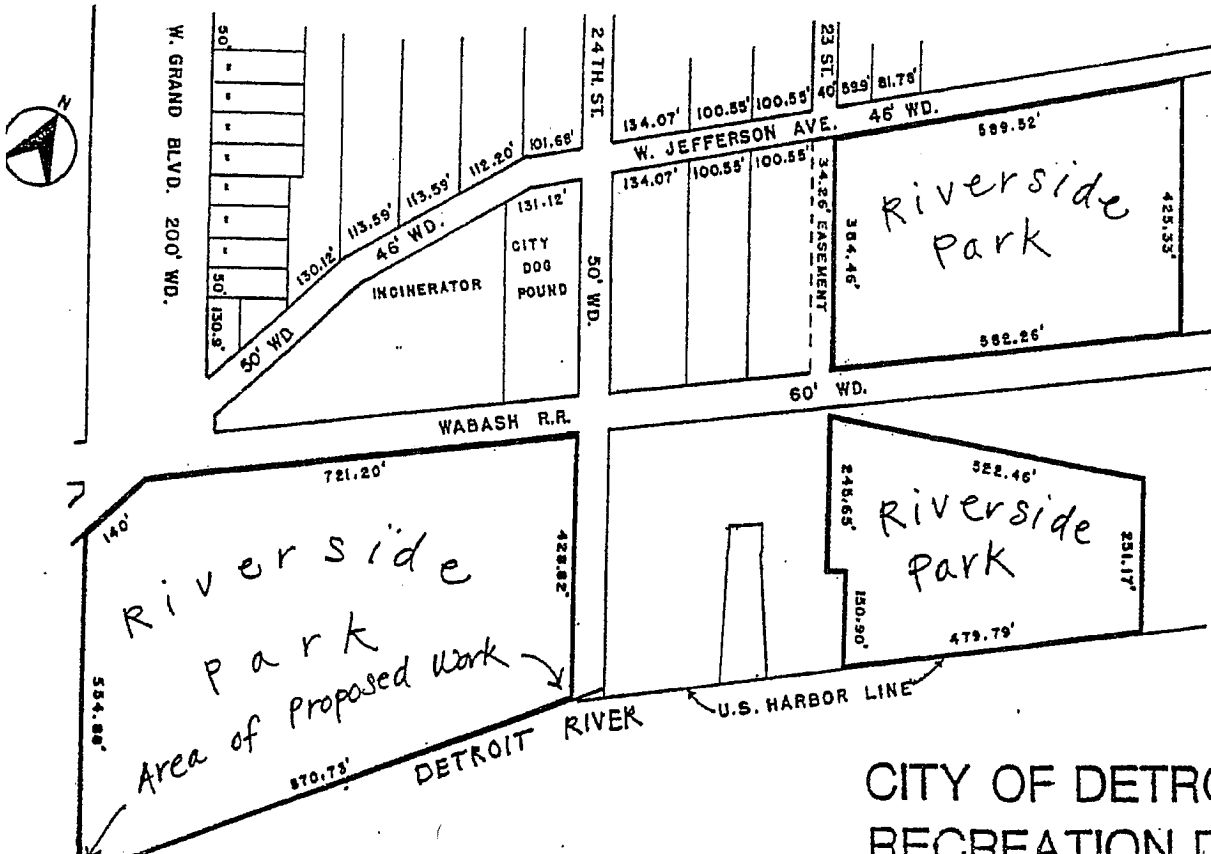
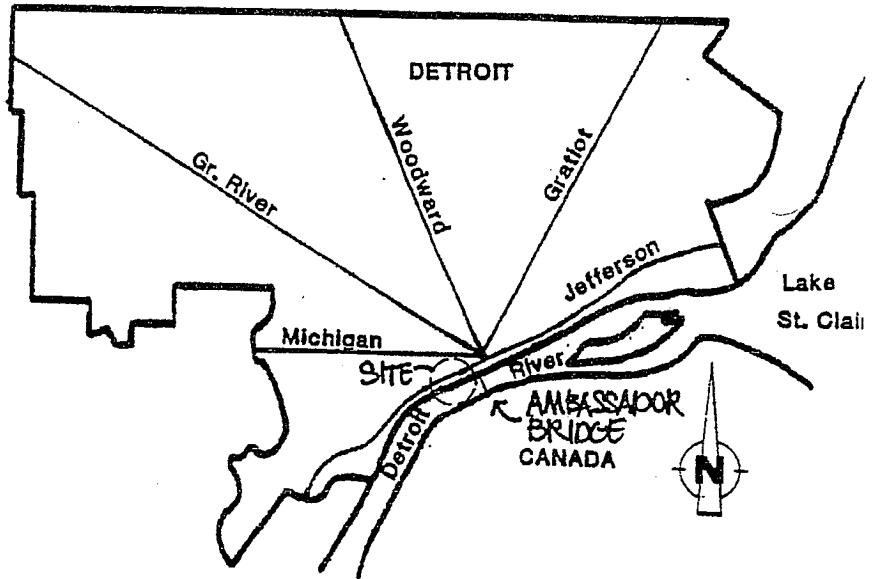


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WAYNE COUNTY - CITY OF DETROIT

LWCF & MNRTF LOCATION MAP

& Boundary Map
Riverside Park



CITY OF DETROIT
RECREATION DEPARTMENT