

STATE OF MICHIGAN



JOHN ENGLER, Governor

DEPARTMENT OF NATURAL RESOURCES

ROLAND HARMES, Director

NATURAL RESOURCES COMMISSION

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JAMES P. HILL
DAVID HOLLI
O. STEWART MYERS
JOEY M. SPANO

October 27, 1992

Mr. John A. Berst
Project Coordinator
Torch Lake Township
Old Park Road, Box 426
Eastport, Michigan 49627

Dear Mr. Berst:

RE: TF 91-340, Torch Bay Day Use

Enclosed is your completed Michigan Natural Resources Trust Fund (MNRTF) Project Agreement. If you find it necessary to make changes in this project which will require changing the Project Agreement, it would be best to notify us 90 days in advance. This will give us sufficient time to review your proposal and, if we support your request, amend the Project Agreement.

From this point forward, please refer to your copy of "Acquisition Procedures". This will help you understand how to comply with Public Law 91-646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and Michigan Act 227, Public Acts of 1972. It is important that this supplement be used during acquisition. Attached to the booklet is a copy of our "Appraisal Report Standards" (Exhibit D). The appraiser should thoroughly review this material before preparing the appraisal report. We ask that you provide this office with two copies of the appraisal and a signed copy of the "Standards". Especially note the requirements for a ten-year history of conveyance.

The project will expire on the date given in the Project Agreement. Every effort should be made to complete your project by that date.

It is extremely important that the entire Project Agreement be read and retained in your files. The acceptance of MNRTF funds to purchase property requires that it remain open for public outdoor recreation in perpetuity. There is also an important requirement that provides for transfer to the State of a portion of any mineral rights acquired.

Please do not hesitate to contact us if you have any questions or if we can be of assistance.

Sincerely,

A handwritten signature in cursive script, reading "Jeanne L. Powers".

Jeanne L. Powers, Grants Coordinator
Grants Management Branch
Recreation Division
517-335-3039

JLP:lh
Enclosure



Project Number: TF 91-340

Project Title: Torch Lake Day Park

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES

Michigan Natural Resources Trust Fund
Land Acquisition Project Agreement

THIS AGREEMENT, made this 1st day of July, 1992, between the Michigan Department of Natural Resources, for and on behalf of the State of Michigan, hereinafter referred to as the "DEPARTMENT" and the TOWNSHIP OF TORCH LAKE, a General Law Township, hereinafter referred to as the "GRANT RECIPIENT".

WITNESSETH:

WHEREAS, P.A. 101 of 1985, provides for the establishment of the Michigan Natural Resources Trust Fund; and

WHEREAS, P.A. 101 of 1985, provides moneys deposited in said fund and the interest thereto accruing shall be used exclusively for the purchase and development of land for recreational purposes included but not limited to hunting, fishing, camping, hiking, picnicking and swimming; and

WHEREAS, P.A. 85 of 1992, appropriates funds from the Michigan Natural Resources Trust Fund to the DEPARTMENT for a grant in aid to the GRANT RECIPIENT, for acquisition by said GRANT RECIPIENT of title in fee to lands to be utilized solely for recreation purposes; and

WHEREAS, the DEPARTMENT and the GRANT RECIPIENT, in fulfillment of the purposes of P.A. 101 of 1985 and P.A. 85 of 1992 have negotiated the within Agreement; and

WHEREAS, P.A. 227 of 1972 outlines the procedures and requirements for the acquisition of property by the State or with funds provided by the State;

NOW THEREFORE, the DEPARTMENT and the GRANT RECIPIENT hereinbefore named, in consideration of the terms, promises, conditions, and assurances hereinafter set forth, mutually agree to perform the terms and conditions of this Agreement in accordance with the Michigan Natural Resources Trust Fund P.A. 101 of 1985, P.A. 85 of 1992, and P.A. 227 of 1972.

1. It is agreed by and between the DEPARTMENT and the GRANT RECIPIENT that this Agreement shall be administered on behalf of the DEPARTMENT through its Recreation Division. All reports, documents, or actions required of the GRANT RECIPIENT shall be submitted to the Michigan Natural Resources Trust Fund, Michigan Department of Natural Resources, Recreation Division, P.O. Box 30257, Lansing, Michigan 48909.

2. The DEPARTMENT hereby promises:

(a) To grant to the GRANT RECIPIENT a sum of money equal to Seventy-Five (75%) percent of the total cost of acquisition of fee simple title free of all liens and encumbrances to the lands hereinafter described, but which grant shall not in any event exceed the sum of One Hundred Seventy-Six Thousand One Hundred (\$176,100.00) Dollars.

(b) To include in the total cost of acquisition those costs authorized by P.A. 227 of 1972, and paid in accordance therewith by the GRANT RECIPIENT; and to include reasonable and appropriate costs for recording fees, title insurance, and contract appraisal costs provided said costs are incurred and paid by the GRANT RECIPIENT after the effective date of this Agreement. Contract appraisal costs will be accepted if performed no more than 6 months prior to the effective date of this Agreement or otherwise approved by the State.

(c) To pay the amount of money promised under subsection (a) above or the portion thereof necessary to satisfy provisions of this Agreement, to the GRANT RECIPIENT after (1) acquisition of fee simple title free of all liens and encumbrances has been completed, (2) proof of acquisition of marketable record title is submitted to the DEPARTMENT and approved by the Attorney General, said proof to be in the form of a policy of title insurance insuring the GRANT RECIPIENT is possessed of marketable record title in fee simple free of all liens and encumbrances to the lands hereinafter described, and said policy to insure the GRANT RECIPIENT against loss or damage at least equal to the purchase price of the subject lands, (3) the costs of acquisition has been verified by DEPARTMENT audit, (4) the GRANT RECIPIENT has made proper conveyance to the State of Michigan of all mineral rights to which the State is entitled under this Agreement, and (5) the GRANT RECIPIENT has erected a plaque as required under this Agreement.

(d) Payments will be made on a reimbursement basis: up to 90% of the maximum reimbursement allowable under the grant will be disbursed upon receipt of the documents and fulfillment of the requirements in Section 2c. The final payment of ten percent (10%) will be released pending satisfactory audit by the DEPARTMENT.

3. The GRANT RECIPIENT agrees that the grant herein provided is for the acquisition by GRANT RECIPIENT of fee simple title free of all liens and encumbrances to lands situate and being in the Township of Torch Lake, Antrim County, State of Michigan, more particularly described as (legal description):

Part of Government Lots 1 and 4, Section 24, Town 31 North, Range 9 West, described as beginning at the North quarter corner of said Section 24; thence North 88 degrees 57 minutes 00 seconds East 325.99 feet; thence South 00 degrees 08 minutes 00 seconds East 1,062.67 feet; thence South 88 degrees 49 minutes 00 seconds East 345.12 feet to the Southeast corner of Block 8 of the recorded Plat of VILLAGE OF TORCH LAKE; thence North 89 degrees 52 minutes 52 seconds East 66 feet to the Southwest corner of Block 7 of said recorded plat, being the point of beginning; thence East along the South line of said Block 7 a distance of 356.87 feet; thence South parallel with Prospect Street 179.93 feet to the center line of a County Road; thence South 82 degrees 18 minutes 30 seconds East along said center line 11.23 feet; thence South 33.30 feet to the South line of said road; thence South 82 degrees 18 minutes 30 seconds East along the South line of said road 280.50 feet to the shore of Torch Lake; thence South 24 degrees 54 minutes 00 seconds West along said shore 195.94 feet to a point 200 feet South of the North line of said Government Lot 4; thence West 563.47 feet to the East line of Prospect Street in said Plat of the VILLAGE OF TORCH LAKE; thence North along said road 430.00 feet to the point of beginning. Subject to the right of way of the County Road, 3.58 acres more or less, situated in Torch Lake Township, Antrim County, Michigan.

and said property shall be used for active and passive recreation.

4. The GRANT RECIPIENT further agrees:

(a) To appropriate the sums sufficient to acquire fee simple title to the lands above described.

(b) To complete an appraisal of the property to determine the fair market value thereof, said appraisal to be conducted in accordance with standards established by the DEPARTMENT. Failure to complete the appraisal in this manner shall make the cost of said appraisal an ineligible expense under this Agreement. No written offer to purchase the premises shall be transmitted by the GRANT RECIPIENT until after the appraisal has been submitted to and approved in writing by the DEPARTMENT. Failure to comply with this requirement shall, at the option of the DEPARTMENT, make the cost of the property an ineligible expense under this Agreement.

(c) To perform, or to contract for the performance of, all appraisals, appraisal reviews, title review and closing, actual acquisition of said lands, and the relocation of tenants, owners, and/or businesses in accordance with and consistent with provisions of P.A. 227 of 1972, *§supra*, and the terms of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (PL 91-646) 94 Stat 1894 (1970).

(d) To execute, acknowledge and deliver to the DEPARTMENT a deed conveying to the State of Michigan an undivided Seventy-Five (75%) percent interest in and to all of the interests acquired by the GRANT RECIPIENT in coal, oil, gas, sand, gravel or any other minerals in, on or under the lands above described.

(e) To complete acquisition of said lands before December 31, 1993, and to provide to the DEPARTMENT the documents and information required to comply with Paragraph 2(c) of the Agreement within sixty (60) days after the actual acquisition of said property. Failure to acquire the property and submit the required documents and information for review before March 1, 1994, shall render this Agreement null and void and of no effect whatsoever.

(f) To maintain satisfactory financial accounts, records, and documents and to make them available to the DEPARTMENT for auditing at reasonable times. Such accounts, records, and documents shall be retained by the GRANT RECIPIENT for not less than three years following acquisition of the property.

(g) To erect and maintain a plaque at a prominent location on the property, which designates this project as one having been constructed with the assistance of the Michigan Natural Resources Trust Fund. The size, color, and design of this plaque shall be in accordance with Department specifications.

(h) To make the property and any future facilities provided thereon available for public recreation in perpetuity and in accordance with uses described in the land acquisition proposal and associated documents, and to regulate the use thereof and to provide for the maintenance thereof to the satisfaction of the DEPARTMENT, and to appropriate such moneys and/or provide such services as shall be necessary to provide such adequate maintenance.

(i) To provide to the DEPARTMENT for approval, a complete tariff schedule containing all charges to be assessed against the public utilizing the property and/or any facilities constructed thereon, and to provide to the DEPARTMENT for approval, all amendments thereto prior to the effective date of such amendments. Any tariff schedule proposed shall provide solely for sufficient revenues to cover the costs of operating, maintaining and/or developing the premises and/or any facilities provided thereon.

(j) To furnish the DEPARTMENT, upon request, detailed statements covering the annual operation of said property and/or facilities, including income and expenses and such other information the DEPARTMENT might reasonably require.

(k) To adopt such ordinances and/or resolutions as shall be required to effectuate the provisions of this Agreement; certified copies of all such ordinances and/or resolutions adopted for such purposes shall be forwarded to the DEPARTMENT prior to the effective date thereof.

(l) To maintain the premises in such condition as to comply with all federal, state, and local laws which may be applicable and to make any and all payments required to pay any and all taxes, fees, or assessments legally imposed against the said property.

(m) To keep the said property and any facilities located thereon and the land and access ways to the said property open to the public at all times on equal and reasonable terms and to deny no individual ingress or egress thereto or the use thereof on the basis of race, color, religion, national origin, creed, sex, residence, or citizenship.

5. Title, Use and Control.

(a) The GRANT RECIPIENT agrees that the property described above, and in the dated project boundary map made part of this Agreement pursuant to Paragraph 8, is being acquired or expanded with Michigan Natural Resources Trust Fund assistance and that without the approval of the Commission of Natural Resources (hereinafter referred to as the "COMMISSION") it shall not be converted to other than public recreation use but shall be maintained for public recreation use in perpetuity. The COMMISSION shall approve such conversion only upon such conditions as it deems necessary to assure the substitution by GRANT RECIPIENT of other recreation properties of at least fair market value and of reasonably equivalent usefulness and location. Such substituted, i.e. "replacement" land shall be subject to all the provisions of Paragraph 5. The approval of conversion shall be at the sole discretion of the COMMISSION.

(b) It is agreed by and between the parties hereto that the said property and any facilities located thereon shall not be wholly or partially conveyed, either in fee or otherwise or leased for a term of years or for any other period, nor shall there be any whole or partial transfer of title, ownership, or right of ownership or control without the written approval and consent of the COMMISSION.

(c) It is expressly understood and agreed by and between the parties hereto that the GRANT RECIPIENT shall acquire fee simple title, free of all liens and encumbrances, to the lands described above. The fee simple title acquired shall not be subject (1) to any possibility of reverter or right of entry for condition broken or any other executory limitation which may result in defeasance of title or (2) to any reservations or prior conveyance of coal, oil, gas, sand, gravel or any other mineral interests.

(d) Should title to the above described lands or any portion thereof be acquired from the GRANT RECIPIENT by any other entity through exercise of the power of eminent domain, the GRANT RECIPIENT agrees that the proceeds awarded to the GRANT RECIPIENT shall be used to replace the lands affected with

recreation lands of at least equal fair market value, and of reasonably equivalent usefulness and locality. The COMMISSION shall approve such replacement only upon such conditions as it deems necessary to assure the substitution of GRANT RECIPIENT of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location. Such replacement land shall be subject to all the provisions of paragraph 5 hereof.

(e) The GRANT RECIPIENT hereby represents that it will defend any suit brought against either party which involves title, ownership, or any other rights, whether specific or general, including any appurtenant rights, to and in the said property.

6. The GRANT RECIPIENT acknowledges that it has examined the property and that it has found the property to be safe for public use or that action can and will be taken by the GRANT RECIPIENT to assure safe use of the property by the public; that the GRANT RECIPIENT is solely responsible for development, operation, and maintenance of the property, and that responsibility for actions taken to develop, operate, or maintain the property is solely that of the GRANT RECIPIENT; that the responsibility for deciding whether or not to carry public liability insurance, the amounts, coverage, and all other particulars with respect thereto is solely that of the GRANT RECIPIENT; and that the DEPARTMENT's involvement in the premises is limited solely to the making of a grant to assist the GRANT RECIPIENT in acquiring same.

7. It is expressly understood and agreed by and between the parties hereto that neither this Agreement, nor any section, paragraph, provision, or portion hereof shall be in any way construed to impose any obligation of whatsoever nature, financial or otherwise, upon the DEPARTMENT as regards the subsequent operation and/or maintenance of the said premises and/or any facilities provided thereon.

8. It is expressly understood by and between the parties hereto that the land acquisition proposal form bearing the project number from Page 1 and associated documents, including a dated project boundary map, are by this reference made part of this Agreement.

9. The GRANT RECIPIENT agrees that the benefit to be derived by the State of Michigan from the full compliance by the GRANT RECIPIENT with the terms of this Agreement is the preservation, protection and the net increase in the quality of public recreation facilities and resources which are available to the people of the State and of the United States and such benefit exceeds to an immeasurable and unascertainable extent the amount of money furnished by the State of Michigan by way of assistance under the terms of this Agreement. The GRANT RECIPIENT agrees that payment by the GRANT RECIPIENT to the State of Michigan of an amount equal to the amount of assistance extended under this Agreement by the State of Michigan would be inadequate compensation to the State for any breach of this Agreement. The GRANT RECIPIENT further agrees therefore, that the appropriate remedy in the event of a breach by the GRANT RECIPIENT of this Agreement shall be the specific performance of this AGREEMENT.

TF 91-340

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IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals, the day and date first above written.

Approved by resolution (true copy attached) of the

October 13, 1992, regular meeting
(date) (special or regular)
of the Township of Torch Lake
(approving body)

LOCAL UNIT OF GOVERNMENT

SIGNED:

By: Josephine Brokaw
Josephine Brokaw
Title: Supervisor

WITNESSED BY:

Arlene Fardig
Arlene Fardig
Elva Cowell
Elva Cowell

MICHIGAN DEPARTMENT OF NATURAL RESOURCES

SIGNED:

By: O. J. Scherschligt
O. J. Scherschligt
Title: Chief, Recreation Division
Date: 10/26/92

WITNESSED BY:

James L. Power
Robert L. Boush

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RESOLUTION

Upon motion made by Ivan Foerster and seconded by Rochelle Smedley, the following Resolution was adopted:

WHEREAS Public Act 101 of 1985 establishes the Michigan Natural Resources Trust Fund which provides for acquisition and development of lands for public recreational purposes.

AND WHEREAS the Township of Torch Lake desires to acquire lands for public recreational purposes.

AND WHEREAS the aforementioned unit of government agrees to be solely responsible for the operation and maintenance of the property as set forth in said Agreement.

THEREFORE BE IT RESOLVED, that the Township of Torch Lake is authorized to enter into the Project Agreement with the Michigan Department of Natural Resources and agrees to perform the terms and conditions of said Agreement.

The following aye votes were recorded: 5

The following nay votes were recorded: 0

State of Michigan)
) ss
County of Antrim)

I, Elva Cowell Clerk of the Township of Torch Lake Eastport, Michigan, do hereby certify that the above is a true and correct copy of the Resolution relative to the Agreement with the Michigan Department of Natural Resources which Resolution was adopted by the Township of Torch Lake at a regular (regular or special) meeting held October 13, 1992.

Elva Cowell
Signature Elva Cowell
Clerk
Title
Dated: 10/15/92

TORCH LAKE TOWNSHIP
REGULAR MEETING
OCTOBER 13, 1992 - 7:30 PM
TOWNSHIP HALL - EASTPORT

Present: Brokaw - Cowell - Smedley - Foerster - Bretz Audience: 20

1. Minutes of 9/8/92 meeting were approved as published.
2. Township Checks #7918 - 7965 totalling \$47,389.51 and Fire District Checks 2187 - 2207 totalling \$2,952.01 were approved and filed for audit.
3. No correspondence.
4. a) Constable submitted a written report which mentioned break-ins on the west side of the county. He requested we all watch for strange vehicles or people, and contact him at 599-2286 to report anything unusual happening in the area.
- b) Chief Dawson reported they have had 2 fire runs this month. They have had an extrication exercise in Bellaire and also Elk Rapids. The Chief has met with Reg Bird and they want to work on re-establishing the Firemen's Field Day if possible. The Fire Budget Hearing was held 9/22/92. The millage requested this year will be .9540. Motion by Foerster, supported by Bretz, the Fire District Budget for 4/1/93 - 3/31/94 be approved as submitted. Carried by a unanimous roll call vote.
- c) Foerster reported the last stage of the Zoning Ordinance will be edited and sent to the county for their approval by 9/20/92. Supervisor Brokaw stated she would remind the Planning Comm. they should take some action on the Master Plan.
- d) ZBA did not have any hearings last month. J. Norris mentioned the Zoning Map needed to be defined.
- e) Zoning Administrator has issued 10 permits 8/12 - 10/13/92. This report is available in the Township Office for interested parties.
5. a) L.Tomlinson submitted a Gypsy Moth Report which is available in the office. He did comment the male gypsy moth catch has increased in Torch Lake Township. Also, if anyone knows of areas with a lot of egg masses please advise of locations. There is a video on the Gypsy Moth available in the Township Office for anyone interested.

There is also a video tape on Planning.

- b) Planning & Zoning Workshop - 11/4/92 - Cadillac and 11/5 - Gaylord.
- c) Site Plan Review Workshop - 11/10 - Grand Rapids.
- d) Lakewide Management Plan - 10/13 -Grand Haven; 10/15 - Traverse City.
6. A letter was read from "Up North Publications" which contained some of their distribution figures. Motion by Foerster, supported by Cowell the notices be published in the Antrim County News and Town Meeting and minutes be published in the Lake Country Gazette. Carried.
A lengthy discussion ensued and this resulted in a motion by Cowell, supported by Smedley to publish the minutes in the Antrim County News and accept the package to include the Torch and Town Meeting. Carried.

Minutes

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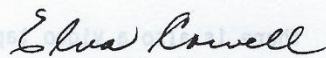
10/13/92

J. Tarrant (owner of the Antrim County News - Torch Publishing - and Town Meeting made an offer to publish notices and minutes in the latter two papers at a considerable lower rate. The minutes are available at Eastport Foods and the Eastport Post Office. If anyone wants them mailed please furnish self addressed stamped envelopes and the clerk will mail them to you.

7. Motion by Foerster, supported by Cowell the Alden Bank be used for an additional depository of funds if necessary. Carried.
8. A letter was read from W. Good with regard to individuals paying for the street signs when the 911 system is completed. After a brief discussion, motion by Brokaw supported by Foerster the Township pay for all the signs that will be erected because of the 911 system being put into effect. Carried.
9. The following Resolution was passed on motion by Foerster, supported by Smedley: Be it resolved that the Township of Torch Lake is authorized to enter into the Project Agreement with the Michigan Department of Natural Resources and agrees to perform the terms and conditions of said Agreement. Carried by unanimous roll call vote.
10. Motion by Cowell, supported by Foerster the request from Slainte, Inc. (Molly Malone's) for a new Entertainment Permit, without dressing rooms to be held in conjunction with 1992 12 months Resort Class C licensed business with Dance Permit, located at 12115 Scenic, Eastport, MI 49627, Torch Lake Township, Antrim County. Carried by unanimous roll call vote.
10. Motion by Foerster, supported by Smedley the ZBA members terms be extended for another 30 days to permit the committee to interview volunteers applying for these vacancies. Carried. Please call 599-2306 (Office) or J. Brokaw, 599-2301 if you are interested in fillin a vacancy on the Board of Appeals.
12. No concerns of public at this time.

Meeting adjourned at 8:45 PM!!!!!!!!!!!!!!

DON'T FORGET TO VOTE.


Elva Cowell, Clerk