

COOPERATIVE PARK MANAGEMENT AGREEMENT

COOPERATIVE PARK MANAGEMENT AGREEMENT is entered into this 19th day of February 2003, as follows:

1. Parties

A. **Owner**: The County of Westchester, a public municipality, having offices at the Michaelian Office Building, 148 Martine Avenue, White Plains, New York 10601 ("County").

B. **Cooperative Park Manager**: Teatown Lake Reservation, Inc., a New York not-for-profit corporation, having offices at 1600 Spring Valley Road, Ossining, New York 10562 ("Teatown").

2. Property

The subject of this Agreement is the land as more fully described in **Exhibit A** attached hereto and made a part hereof, together with any improvements and buildings now or hereafter erected on the land and any current or future easements, rights-of-way, privileges and appurtenances, and the rights to the same, if any, belonging to and inuring to the benefit of the land (the "Property").

3. Purposes

The County, pursuant to an Act of the Board of Legislators, which is attached hereto as **Exhibit B**, has agreed to purchase the Property through an assignment agreement with The Trust for Public Land and to dedicate the Property as public parkland to be used for passive recreational purposes only. The acquisition of the Property is conditioned upon the County entering into a long-term management agreement with Teatown to operate, maintain and improve the Property.

The County recognizes and affirms that the public interest in and use of the Property would be best served by engaging the expertise, resources and services of

Teatown for the County in establishing the Property as a County preserve for passive recreational use as well as protection of the Croton Watershed area and further acknowledges that public use of the Property may enhance visitors' experience of the cultural landscape along the Shadow Lake area by enabling cross-visitation between Teatown and County and Municipal parks, nature preserves and trailways.

4. Use of the Property

The Parties covenant and agree that the Property will be operated in perpetuity for passive recreational and environmental education uses and shall be open to the public for passive recreational and environmental education use only. Such use by the public will encompass walking upon designated paths, trails or open areas, including quiet passive activities such as sitting, reading, sketching, painting, photographing, birding, enjoying the views from the Property, and participating in Teatown's educational programs. The County further covenants and agrees that it will not provide, or require Teatown to provide, facilities for more active use, such as, but not limited to, games or organized sports, permanent picnic facilities, food facilities or regular concessions, motorized or wheeled vehicles of any kind (except as required for disabled persons), skateboarding, skiing, sledding, ice skating or snowmobiles, or any other activities incompatible with passive recreational use. The County shall not permit such incompatible uses on the Property. The foregoing covenants shall survive the termination of this Agreement and shall run with the land for as long as Teatown continues to operate as a nature preserve.

5. Term

The term of this Agreement shall commence upon the date of its execution by the County and shall continue for a period of **ninety-nine (99) years** from that date. The parties may renew this Agreement by mutual agreement.

This Agreement may be sooner terminated by the mutual consent of both parties.

Either the County or Teatown may terminate this agreement for cause arising out of a substantial and material failure by the other party to fulfill the duties required of it

under this Agreement. Notice of intent to terminate for cause shall be given in writing to the other party and shall specify the acts or omissions giving rise to the notice. The party receiving such notice shall have a reasonable time from receipt of the notice to cure the alleged default. Either party may invoke the mediation provision of this Agreement if notice of intent to terminate for cause is given.

Either party may also terminate this Agreement, without cause and without any further obligation hereunder, to be effective at any time, upon not less than one (1) year written notice.

6. Property Operation and Maintenance

Teatown agrees to operate and maintain the Property in accordance with the intended uses encompassing walking upon designated paths, trails or open areas, including quiet passive activities such as sitting, reading, sketching, painting, photographing, birding, enjoying the views from the Property, and participating in Teatown's educational programs. Teatown has the authority to construct nature trails consistent with Teatown's existing trail system subject to review and approval of the plans by the County prior to any construction.

7. Access

The Property shall be open to the public, free of charge, year round from 9 a.m. to dusk or such other times as the parties may agree. Subject to the approval of the County, Teatown may install upon the Property such gates, fences and barriers as needed to prevent the public from trespassing upon adjoining property and to regulate improper or unauthorized access to the Property. Primary pedestrian access to the Property shall be from the parking area off of Rt. 134 or from Teatown's main parking lot on Spring Valley Road. Teatown shall have discretion to limit access, in whole or in part, due to bad weather or unsafe conditions within the Property.

8. Parking

Teatown agrees to make parking spaces available to provide access to the Property. Teatown may install and maintain security lighting for the parking area and access roads. Any parking area created and access to it shall be maintained by Teatown in the same condition as Teatown's other parking areas and access roads.

9. Signage

All signage to and within the Property shall be subject to review and approval by the County, which consent shall not be unreasonably withheld. All signs shall be provided by Teatown, at Teatown's sole discretion, and shall be consistent with the signage policies and standards of Teatown.

10. Insurance

Teatown agrees to procure and maintain insurance naming the County as additional insured, as provided and described in Exhibit "C", entitled "Standard Insurance Provisions", which is attached hereto and made a part hereof. In addition to, and not in limitation of the insurance provisions contained in Schedule "C", Teatown agrees:

(a) that except for the amount, if any, of damage contributed to, caused by, or resulting from the negligence or intentional acts of the County, Teatown shall indemnify and hold harmless the County, its officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss arising directly or indirectly out of the performance or failure to perform hereunder by Teatown or third parties under the direction or control of Teatown; and

(b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Agreement and to bear all other costs and expenses related thereto.

The Parties agree to review the limits of liability of the indemnification clause and

the insurance clause not less than every five years and to determine whether such limits should be adjusted in accordance with current insurance and liability conditions. If the Parties are able to agree on the adjustment, a mutually acceptable adjustment shall be implemented. In the event that the Parties are unable to agree on a mutually acceptable adjustment, the Parties agree to submit the issue to mediation pursuant to the provisions of paragraph "13". If resolution of an adjustment cannot be reached after mediation, then the limits of liability shall be increased by an amount equal to the change in the Consumer Price Index for Urban Wage Earners for the New York/Northern New Jersey Region since the date hereof or the previous adjustment. In no event shall the limits of liability be reduced.

A. Teatown's Workers' Compensation. Teatown agrees to maintain Workers' Compensation insurance in accordance with statutory limits.

B. Contractor's Insurance Requirements. Teatown agrees to require contractors performing work on or at the Property to maintain adequate insurance for the type of work being performed but in no event to be less than the limits of liability stated herein:

1. Workers' Compensation

Statutory Limits

2. General Liability

| | |
|-------------------|-------------|
| General Aggregate | \$1,000,000 |
| Per Occurrence | \$1,000,000 |

3. Automobile

\$1,000,000 Combined Single Limit for Bodily Injury and Property Damage.

The contractors shall be required to provide Teatown with a certificate of insurance indicating that such insurance is in force and naming Teatown and County as additional insureds, entitled to notice in the event of a cancellation of the insurance.

D. County Right to Perform Risk Assessments. The County shall have the right at all times to perform risk assessments at the Property.

11. Casualty Loss

In the event of a casualty, disaster or catastrophic loss at the Property, the Parties will meet at their earliest convenience to determine a plan for repairing damage to the Property. The Parties may, by mutual agreement, seek funding from third parties, including state and federal agencies and private entities, to repair any such damage. Teatown shall have no obligation to fund or repair any casualty, disaster or catastrophic loss which exceeds routine repair and maintenance.

12. Assignment

This Agreement shall be non-assignable except under the following terms and conditions:

If the County sells, transfers or assigns its interest in the Property to another governmental agency or to a qualified private or quasi-public not-for-profit entity, then this Agreement may be assigned with the consent of Teatown, which consent shall not be unreasonably withheld, to the County's successor, provided that such successor shall assume all of the County's responsibilities, liabilities and financial commitments under this Agreement.

In the event that Teatown transfers possession of its adjoining property to another entity, Teatown may, with the consent of the County, which consent shall not be unreasonably withheld, assign its rights and obligations in this Agreement to the new entity that assumes possession of such property.

13. Mediation

Prior to initiating legal proceedings, the Parties agree that they will attempt to resolve any and all disputes arising out of this Agreement by mediation. Either party may

demand mediation of a dispute by serving the other party with a written demand identifying the issues which constitute the substance of the dispute and stating the relief requested. Each Party shall select one mediator and those two mediators will select a third mediator, who shall jointly mediate the dispute. The costs of the mediation will be divided one-half (1/2) to the County and to Teatown.

14. Right of First Refusal on Behalf of Teatown

Subject to applicable State and local legislation, if the County decides to sell, transfer or otherwise assign ownership of the Property, it shall first promptly notify Teatown in writing of its proposed decision. Upon receipt of such notice, Teatown shall have the right to acquire the Property from the County. The Property shall be acquired at its then fair market value as public parkland subject to all then existing restrictions and covenants governing its use. Teatown shall have 90 days from receipt of the County's notice in which to advise the County that Teatown intends to invoke the right to acquire the Property. The County and Teatown shall agree upon an appraiser to determine the then fair market value of the Property as public parkland. Upon receipt of the appraiser's final report and valuation, Teatown shall have 90 days to notify the County that it intends to accept the report and proceed with the transfer. The transfer shall be subject to any necessary public approvals and shall be completed within 90 days of the receipt of the final necessary approval.

15. Periodic Review and Amendment

This Agreement shall be subject to a non-binding review by the parties at least every five (5) years. Any amendments shall be by mutual agreement of the parties and shall not be binding unless in writing and approved by the appropriate authorities of the parties and signed.

16. Representations

The County represents and warrants that it has all statutory, legal and legislative authority to enter into this Agreement and to do all acts and fulfill all duties, responsibilities and liabilities provided for herein, and that it is making this representation

in order to induce Teatown to enter into this Agreement.

Teatown represents and warrants that it has the authority and power under its governing charter or articles of incorporation or organization to do all acts and fulfill all duties and responsibilities provided for herein and that this Agreement has been ratified and approved by its governing board a copy of which is attached hereto and made a part hereof as Exhibit "D".

17. Designated Parties All notices of any nature referred to in this Agreement shall be in writing and either sent by registered or certified mail postage pre-paid, or delivered by hand or overnight courier, or sent by facsimile (with acknowledgment received and a copy of the notice sent by registered or certified mail postage pre-paid), as set forth below or to such other addresses as the respective parties hereto may designate in writing. Notice shall be effective on the date of receipt. The designated representatives of the Parties for the purposes of this Agreement are the following:

For the County:

Commissioner of Parks, Recreation and Conservation
25 Moore Avenue
Mount Kisco, New York 10549

With a copy to: County Attorney
Michaelian Office Building, Room 600
148 Martine Avenue
White Plains, New York 10601

Commissioner of Planning
148 Martine Avenue
432 Michaelian Office Building
White Plains, New York 10601

For Teatown: President, Teatown Lake Reservation, Inc.
1600 Spring Valley Road, Ossining, New York 10562

With a copy to: Executive Director, Teatown Lake Reservation, Inc.
1600 Spring Valley Road, Ossining, NY 10562

18. Recordation

Each of the Parties shall have the right to record this Agreement in the land

records of Westchester County, New York.

19. Governing Law

This Agreement is made and shall be governed by the laws of the State of New York and such Federal law as may be applicable.

20. Entire Agreement

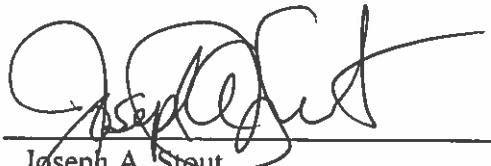
This Agreement constitutes the entire agreement between the Parties and will supersede and replace any and all prior and contemporaneous written and oral agreements, promises, representations, or conditions with respect hereto.

21. Severability

If any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid or void or unenforceable, the remainder of the terms and provisions of this Agreement shall in no way be affected, impaired, or invalidated, and to the extent permitted by applicable law, any such term, or provision shall be restricted in applicability or reformed to the minimum extent required for such to be enforceable. This provision shall be interpreted and enforced to give effect to the original written intent of the parties prior to the determination of such invalidity or unenforceability.


IN WITNESS WHEREOF, The County of Westchester and Teatown have caused this Agreement to be executed.

THE COUNTY OF WESTCHESTER

By: 
Joseph A. Stout
Commissioner of Parks, Recreation and

Conservation

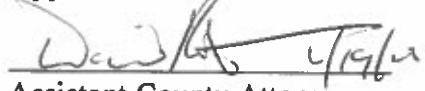
TEATOWN

By: 
Name: GAIL ABRAMS
Title: EXECUTIVE DIRECTOR

Authorized by the Board of Legislators of the County of Westchester on the 7th day of October, 2003.

Authorized by the Board of Acquisition and Contract of the County of Westchester on the 23rd day of October, 2003.

Approved as to form and manner of execution



Assistant County Attorney
County of Westchester
S/DMR/PLN/43597/Management Agreement

ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

On the 11 day of February in the year 2004 before me,
the undersigned, personally appeared Gail Abrams, personally
known to me or proved to me on the basis of satisfactory evidence to be the individual(s)
whose name(s) is (are) subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their
signature(s) on the instrument, the individual(s), or the person upon behalf of which the
individual(s) acted, executed the instrument.

Date: 2/11/04



Notary Public

RPL § 309-a; NY CPLR § 4538

ANNE HARRINGTON
Notary Public, State of New York
No. 4901641
Qualified in Westchester County
Commission Expires Sept. 28, 2007

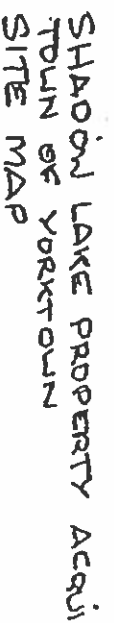


EXHIBIT B

ACT NO. 106 - 2003

An Act authorizing the County of Westchester to acquire property consisting of approximately 50 acres adjacent to the Teatown Lake Reservation located in the Town of Yorktown.

BE IT ENACTED by the Board of Legislators of the County of Westchester by affirmative vote of not less than a majority of the voting strength of the Board as follows:

Section 1. The County of Westchester is hereby authorized to acquire approximately 50 acres of property adjacent to the Teatown Lake Reservation in the Town of Yorktown (the "Property") from Shadow Lake Inc. or the current owner of record, to protect and preserve the property as County parkland and for environmental protection in perpetuity. The cost of the acquisition shall be One Million Three Hundred Seventy Five Thousand (\$1,375,000) Dollars plus the customary and usual closing costs, associated costs of acquisition, cost of acquiring the option, and unforeseen contingencies, all of which are estimated to be no more than One Hundred Twenty Five Thousand (\$125,000) Dollars, for a total amount not to exceed One Million Five Hundred Thousand (\$1,500,000) Dollars.

§2. The County shall enter into an agreement with the Teatown Lake Reservation, Inc. ("Teatown") whereby Teatown shall operate and maintain the Property as part of its existing nature center for a period of ninety-nine years. The long term management agreement with Teatown shall require Teatown to operate and maintain the Property and to make improvements to the Property with the approval of the County. In addition, Teatown will accept all liability and will indemnify the County with respect to the Property. This management agreement will become effective with the transfer of the Property to the County.

§3. The County Executive or his authorized designee is hereby authorized and empowered to execute all instruments and to take all action necessary and appropriate to effectuate the purposes hereof.

§4. This Act shall take effect immediately.

EXHIBIT "C"

STANDARD INSURANCE PROVISIONS
(Contractor)

1. Prior to commencing work, the Contractor shall obtain at its own cost and expense the required insurance from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better, and shall provide evidence of such insurance to the County of Westchester, as may be required and approved by the Director of Risk Management of the County. The policies or certificates thereof shall provide that thirty days prior to cancellation or material change in the policy, notices of same shall be given to the Director of Risk Management of the County of Westchester for all of the following stated insurance policies. All notices shall name the Contractor and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the County, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the County, the Contractor shall upon notice to that effect from the County, promptly obtain a new policy, submit the same to the Department of Risk Management of the County of Westchester for approval and submit a certificate thereof. Upon failure of the Contractor to furnish, deliver and maintain such insurance, the Agreement, at the election of the County, may be declared suspended, discontinued or terminated. Failure of the Contractor to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Contractor from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Contractor concerning indemnification.

In the event that claims, for which the County may be liable, in excess of the insured amounts provided herein are filed by reason of any operations under the Agreement, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Contractor until such time as the Contractor shall furnish such additional security covering such claims in form satisfactory to the County of Westchester.

2. The Contractor shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the "Special Conditions" of the contract specifications):

(a) Workers' Compensation. Certificate form C-105.2 or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Workers' Compensation Law.

Notwithstanding the above, workers' compensation insurance can be on 1 standard certificate of insurance.

Note: Other generally recognized forms/certificates may be substituted for the above at the sole discretion of the Director of Risk Management.

State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Westchester County, New York."

(Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits' Policy, or both, a temporary permit may be issued if the employer completes form C-105.21 in duplicate. A copy of form C-105.21 is sent to the Worker's Compensation Board, Information Unit for investigation and report.)

If the employer is self-insured for Worker's Compensation, he should present a certificate from the New York State Worker's Compensation Board evidencing that fact.

(b) Employer's Liability with minimum limit of \$100,000.

(c) Commercial General Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and \$100,000 for property damage or a combined single limit of \$1,000,000 (c.s.1), naming the County of Westchester as an additional insured. This insurance shall include the following coverages:

- (i) Premises - Operations.
- (ii) Broad Form Contractual.
- (iii) Independent Contractor and Sub-Contractor.
- (iv) Products and Completed Operations.

All Contracts involving the use of explosives and demolition shall provide the above coverage with elimination of the XCU exclusion from the policy, or proof that XCU is covered.

(d) Automobile Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and a minimum limit of \$100,000 per occurrence for property damage or a combined single limit of \$1,000,000 unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages:

- (i) Owned automobiles.
- (ii) Hired automobiles.
- (iii) Non-owned automobiles.

3. All policies of the Contractor shall contain the following clauses:

(a) Except for the amount, if any, of damage contributed to, caused by, or resulting from the negligence or intentional acts of the County Insurers shall have no right to recovery or subrogation against the County of Westchester (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance.

(b) The clause "other insurance provisions" in a policy in which the County of Westchester is named as an insured, shall not apply to the County of Westchester.

(c) The insurance companies issuing the policy or policies shall have no recourse against the County of Westchester (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, the Contractor.