

THIS LICENSE AGREEMENT made this ^{24th} day of ^{February}, 2021 ²

by and between:

THE COUNTY OF WESTCHESTER, a municipal corporation of the State of New York, having an office and place of business in the Michaelian Office Building, 148 Martine Avenue, White Plains, New York 10601 (hereinafter referred to as the "County"),

and

THE TOWN OF CORTLANDT, a municipal corporation of the State of New York, having an office at 1 Heady Street, Cortlandt Manor, New York 10567 (hereinafter referred to as the "Licensee").

WITNESSETH:


WHEREAS, the County and the Licensee entered into an Agreement dated July 13, 1995 whereby the County leased to the Licensee approximately 10 acres of Oscawana Park in the Town of Cortlandt; and

WHEREAS, the County and the Licensee entered into a License Agreement for the operation and maintenance of the Park dated August 9, 2000 which increased the acreage to approximately 161 acres and which included the former McAndrews Estate, and which took effect as of June 1, 2000 and expired on May 31, 2005; and

WHEREAS, the County and the Licensee entered into a License for a five-year period commencing June 1, 2005 through May 31, 2010; and

WHEREAS, the County and the Licensee entered into a License for a five-year period commencing June 1, 2010 through May 31, 2015; and

WHEREAS, the County's Board of Acquisition and Contract by resolution dated April 4, 2021, approved the within License.

WHEREAS, the Town Board of the Town of Cortlandt by resolution dated 10/5/21  approved the within License.

NOW, THEREFORE, in connection with the terms, conditions and covenants hereinafter set forth, the parties agree as follows:

1. The County hereby grants to the Licensee and the Licensee hereby accepts from the County a License to operate and maintain a certain approximately ten (10) acre portion of the vacant parkland commonly known as Oscawana Park and approximately one hundred fifty-one (151) acres of the former McAndrews Estate, located in the Town of Cortlandt (hereinafter "Licensed Premises"). The Licensed Premises, comprising approximately one hundred sixty-one (161) acres, are more fully described on the map annexed hereto and made a part hereof as Exhibit "A". The Licensed Premises shall be operated and maintained by the Licensee for use solely and exclusively for municipal recreational purposes, open for the use and benefit of all residents of the County of Westchester, and subject to all the terms, conditions and covenants herein.

2. The term of this License shall be for five (5) years commencing on June 1, 2015, with one (1) automatic renewal term of an additional five (5) years commencing on June 1, 2020 and terminating on May 31, 2025, unless terminated sooner as hereinafter provided.

3. For the privilege of operating this License, the Licensee shall pay to the County an annual License fee of TWO HUNDRED (\$200.00) DOLLARS on the commencement date of this License and on each anniversary date thereof at the address herein provided for the delivery of notices.

4. Any capital improvements, attentions or modifications proposed to be made to the Licensed Premised are subject to the prior written approval of the Commissioner of Parks, Recreation and Conservation of the County of Westchester (hereinafter the "Commissioner"). Any and all materials used shall be of good quality and all construction shall be carried out in a good, professional and workmanlike manner. The completed work undertaken by the

Licensee shall be subject to final approval of the Commissioner. Any improvements, alterations, including, but not limited to, repair of buildings and installation of permanent fixtures, shall be made at Licensee's sole cost and expense and shall immediately upon installation, shall be deemed affixed to the Licensed Premises and shall become the property of the County.

While the Licensed Premises are presently exempt from real property taxes and other special assessments under the Real Property Tax Law, in the event that such law is changed, or in the event that the Licensed Premises become subject to taxation under the cited or any other federal, state or local law, the Licensee, as an additional License fee, shall pay and discharge (when due and payable) any and all real estate taxes, assessments, water meter (including any expenses incident to the installation, repair or replacement of any water meter) and sewer rents and all other such charges, taxes, assessments, rents, license fees, levies and sums of every kind, nature and description, which may become due and payable with respect to the Licensed Premises during the leased term.

5. The Licensee accepts all buildings, roads, trails and other park areas, provided under the terms of this License, "as is" in their present existing condition. The Licensee shall, at its own cost and expense, make repairs or improvements necessary to utilize the Licensed Premises.

6. The Licensee shall not assign this Lease or sublet the Licensed Premises or any part thereof without the prior written consent of the County.

7. The Licensee shall provide access to the entire Licensed Premises and to all improvements required hereunder to all residents of the County of Westchester. However, the roadway into the Licensed Premises shall only be used for maintenance purposes by the Licensee, and shall be gated, locked and secured from the use of the general public by vehicles of any kind.

8. The Licensee shall promptly comply with all statutes, ordinances, rules, orders, regulations, codes and requirements of the Federal, State, County and municipal governments and of the Westchester County Department of Parks, Recreation and Conservation and of all their departments and bureaus applicable to the said premises for the prevention and abatement of nuisance and other grievances in or upon or connected with the Licensed Premises, and shall also comply with all sanitary rules and regulations of the State and County Health Departments and shall also comply with the State Environmental Quality Review Act, recognizing that Oscawana Park is designated a Critical Environmental Area.

9. The Licensee shall not sell, offer for sale nor permit the sale of any food, commodity, ware or merchandise of any kind, nature or description on the Licensed Premises or charge a fee for parking without the prior written consent of the Commissioner.

10. The Licensee shall not charge, impose or collect any fees for entrance into or for use of the Licensed Premises without the prior written consent of the Commissioner. In the event that fees or a reservation system are implemented no preference may be granted to residents of the Town of Cortlandt as the Licensed Premises are open to all residents of Westchester County. The County shall have a right to inspect any of the Licensee's records concerning such reservations and fees to insure compliance with this provision of the Agreement during regular business hours and upon reasonable notice to the Licensee.

11. The Licensee shall neither erect nor allow the erection of any structures of any kind, nor shall the Licensee permit any advertising signs in or on the Licensed Premises, nor perform nor allow to be performed any improvement, change or alteration to the Licensed Premises, without obtaining the prior written approval of the Commissioner. Title to any approved alterations, improvements or fixtures shall immediately, upon installation, vest in the County.

12. The Licensee shall, continuously throughout the leased term, provide reasonable and adequate security to the Licensed Premises through the Licensee's police Department or other agency designated to provide police services. The Westchester County Police Department shall have criminal jurisdiction within the boundaries of the Licensed Premises which shall include investigation and police work related to any crimes occurring or alleged to have occurred in the Licensed Premises.

13. The Licensee at its sole cost and expense shall maintain and properly supervise the Licensed Premises, it being understood and agreed that such maintenance and supervision shall be performed by the Licensee to the complete satisfaction of, and as directed by the Commissioner, which shall include but not be limited to, maintenance and upkeep of all improvements to the Licensed Premises. It is expressly understood and agreed that there shall be no clearing of any undergrowth, small trees or large trees without the express prior written consent of the Commissioner.

14. The Licensee agrees that the County, its officers, employees or agents, shall have the right to enter into and upon the Licensed Premises, or any part thereof, at any and all times for any and all purposes.

15. (a) In the event that the Licensee defaults in the performance of any term, condition or covenant herein contained, the County, at its option and in addition to any other remedy it may have to seek damages, judicial enforcement or any other lawful remedy, may terminate this License upon ten (10) days notice to the Licensee; provided, however, that the Licensee may defeat such notice by curing the default complained of

within such notice period, or, if any such default is not curable within such notice period by promptly commencing to cure the default and diligently pursuing all necessary and appropriate action to effect such cure. Upon a second default by the Licensee, the County, at its option and in addition to any other remedy it may have to seek damage, judicial enforcement or any other lawful remedy, may terminate this License upon written notice to the Licensee, such notice to be effective immediately upon delivery thereon.

(b) In the event that the County desires to enter upon the premises herein for the purpose of construction, park or municipal purposes, or in the event that said premises are conveyed to the People of the State of New York, or sold to a bona fide purchaser, this License shall be terminated and become null and void upon thirty (30) days notice, in writing, to the Licensee who shall vacate said premises and in the event of such termination the County shall have no liability to the Licensee whatsoever.

(c) The County reserves the right to terminate this License upon sixty (60) days prior written notice, when it deems such termination to be in its best interests.

16. The Licensee shall keep the grass on the Licensed Premises mowed and maintain the grounds in a neat and tidy condition, allowing no papers or refuse to remain thereon, all of which shall be done in a manner satisfactory to the Commissioner. The Licensee shall, at its own cost and expense, keep any and all refuse in containers and remove and dispose of same as required.

17. All notices of any nature referred to in this License shall be in writing and sent by registered or certified mail postage pre-paid, to the respective addresses set forth below or to such other addresses as the respective parties hereto may designate in writing:

To the County:

Commissioner
Department of Parks, Recreation and Conservation
450 Saw Mill River Road
Ardsley, New York 10502

with a copy to:

County Attorney
Michaelian Office Building, Room 600
148 Martine Avenue
White Plains, New York 10601

To the Licensee:

Town Supervisor
Town of Cortlandt
1 Heady Street
Cortlandt Manor, New York 10511

To the Licensee:

Town of Cortlandt
Office of the Town Attorney
153 Albany Post Road
Buchanan, New York 10511

18. In addition to, and not in limitation of, the insurance requirements contained in Schedule "B" entitled "Insurance Provisions", attached hereto and made a part hereof, the Licensee agrees:

The Licensee agrees to procure and maintain insurance naming the County as additional insured, as provided and described in Schedule "B", 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 "B", the Licensee agrees:

(a) that except for the amount, if any, of damage contributed to, caused by, or resulting from the sole negligence of the County, the Licensee shall indemnify and hold harmless the County, its officers, employees, agents, and elected officials 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 the Licensee or third parties under the direction or control of the Licensee;
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; and

(c) In the event the Licensee does not provide the above defense and indemnification to the County, and such refusal or denial to provide the above defense and indemnification is found to be in breach of this provision, then the Licensee shall reimburse the County's reasonable attorney's fees incurred in connection with the defense of any action, and in connection with enforcing this provision of the Agreement.

19. It is expressly understood and agreed that no building, structure, space or area is leased to the Licensee hereunder, and that the Licensee's privilege to use and occupy the Licensed Premises shall continue so long as the Licensee shall comply with the terms of this License.

20. The Licensee shall surrender possession of the Licensed Premises to the County at the expiration of the License in good condition, normal wear and tear excepted.

21. The County may, at its option, audit and examine all relevant books, records, documents or electronic data of the Licensee that are reasonably pertinent to this Agreement and the Licensee's use and operation of the Licensed Premises.

22. At least once annually, during the term of this Agreement, the Licensee shall provide a written report to the County regarding the Licensee's use of the Licensed Premises that shall include, at minimum, all reservations and uses of the Licensed Premises over and above the Licensee's own use.

23. The failure of the County to insist upon strict performance of any term, condition or covenant herein shall not be deemed a waiver of any rights or remedies that the County may have and shall not be deemed a waiver of any subsequent breach or default in the terms, conditions or covenants herein.

24. It is mutually understood and agreed that the terms, covenants , conditions and agreements herein contained shall be binding upon the parties hereto and upon their respective successors, legal representatives and assigns.

25. This License and its attachments constitute the entire agreement between the parties hereto with respect to the subject matter hereof and shall supersede all previous negotiations, comments and writings. The License shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties, and approved by the Office of the County Attorney.

26. This Agreement shall be enforced and construed in accordance with the Laws of New York State. This License shall not be enforceable until signed by all parties and approved by the Office of the County Attorney.

[NO FURTHER TEXT ON THIS PAGE. SIGNATURE PAGE FOLLOWS].

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

THE COUNTY OF WESTCHESTER

By: 

Kathleen M. O'Connor
Commissioner of Parks, Recreation &
Conservation

TOWN OF CORTLANDT

APPROVED
TOWN ATTORNEY
Date: 6/24/21


By: 

Name:
Title: Town Supervisor

Authorized by the Board of Acquisition and Contract of the County of Westchester
on the 4th day of April, 2021.

Approved as to form and manner of execution:



Sr. Assistant County Attorney
The County of Westchester
k/jpi/prc/Cortlandt Oscawana Park License 3.1.21

MUNICIPALITY'S ACKNOWLEDGMENT

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

On this 22nd day of June 2021, before me, the undersigned,
personally appeared Linda Puglisi, 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 is the
Supervisor of The Town of Cortlandt
_____, the municipal corporation described in
and which executed the within instrument, who being by me duly sworn did depose and say
that he/she executed the same in his/her capacity, and that by his/her signature(s) on the
instrument, the municipal corporation executed the instrument.

Tina M. Toback

Notary Public County
TINA M. TOBACK
Notary Public, State of New York
No. 01T06393553
Qualified in Westchester County
Commission Expires 6/17/2023

CERTIFICATE OF AUTHORITY

(Municipality)

I, LARONE ROSE SHATZKIN,
(Officer other than officer signing contract)

certify that I am the TOWN CLERK of the
(Title)

TOWN OF CORTLANDT
(Name of Municipality)

(the "Municipality"), a corporation duly organized and in good standing under the

TOWN LAW / GENERAL MUNICIPAL LAW,
(Law under which organized, e.g., the New York Village Law, Town Law, General
Municipal Law)

named in the foregoing agreement; that LINDA PUGLISI,
(Person executing agreement)

who signed said agreement on behalf of the Municipality was, at the time of execution

SUPERVISOR of the Municipality, and that said
(Title of such person),

agreement was duly signed for and on behalf of said Municipality by authority of its

TOWN BOARD, thereunto duly authorized and
(Town Board, Village Board, City Council)

that such authority is in full force and effect at the date hereof.

[Signature]
(Signature)

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

On this 22nd day of June 2021, before me, the undersigned, personally
appeared Larone Shatzkin, personally known to me or proved to me on the
basis of satisfactory evidence to be the individual whose name is subscribed to the above
certificate and acknowledged to me that he/she executed the above certificate in his/her capacity
as Town Clerk of Town of Cortlandt
(Title) (Municipality)

the municipal corporation described in and which executed the within instrument.

Tina M. Toback
Notary Public County
TINA M. TOBACK
Notary Public, State of New York
No. 01T06393553
Qualified in Westchester County
Commission Expires 6/17/2023

SCHEDULE "B"

STANDARD INSURANCE PROVISIONS **(Municipality)**

1. Prior to commencing work, and throughout the term of the Agreement, the Municipality shall obtain at its own cost and expense the required insurance as delineated below from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better. Municipality shall provide evidence of such insurance to the County of Westchester ("County"), either by providing a copy of policies and/or certificates as may be required and approved by the Director of Risk Management of the County ("Director"). The policies or certificates thereof shall provide that ten (10) days prior to cancellation or material change in the policy, notices of same shall be given to the Director either by overnight mail or personal delivery for all of the following stated insurance policies. All notices shall name the Municipality and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the Director, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Director, the Municipality shall upon notice to that effect from the County, promptly obtain a new policy, and submit the policy or the certificate as requested by the Director to the Office of Risk Management of the County for approval by the Director. Upon failure of the Municipality 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 Municipality to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Municipality from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Municipality concerning indemnification.

All property losses shall be made payable to the "County of Westchester" and adjusted with the appropriate County personnel.

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 Municipality's negligent acts or omissions under the Agreement or by virtue of the provisions of the labor law or other statute or any other reason, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Municipality until such time as the Municipality shall furnish such additional security covering such claims in form satisfactory to the Director.

In the event of any loss, if the Municipality maintains broader coverage and/or higher limits than the minimums identified herein, the County shall be entitled to the broader coverage and/or higher limits maintained by the Municipality. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

2 The Municipality shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the Agreement):

- a) Workers' Compensation and Employer's Liability. 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. 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, the employer must complete NYS form CE-200, available to download at: <http://www.wcb.ny.gov>.

If the employer is self-insured for Workers' Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either SI-12, Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance).

- b) Commercial General Liability Insurance with a combined single limit of \$1,000,000 (c.s.l) per occurrence and a \$2,000,000 aggregate limit naming the "County of Westchester" as an additional insured on a primary and non-contributory basis. 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.
- c) Commercial Umbrella/Excess Insurance: \$2,000,000 each Occurrence and Aggregate naming the "County of Westchester" as additional insured, written on a "follow the form" basis.

NOTE: Additional insured status shall be provided by standard or other endorsement that extends coverage to the County of Westchester for both on-going and completed operations.

- 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 and name the "County of Westchester" as additional insured:
 - (i) Owned automobiles.
 - (ii) Hired automobiles.
 - (iii) Non-owned automobiles.

3. All policies of the Municipality shall be endorsed to contain the following clauses:

(a) Insurers shall have no right to recovery or subrogation against the County (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 is named as an insured, shall not apply to the County.

(c) The insurance companies issuing the policy or policies shall have no recourse against the County (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 Municipality.

RESOLUTION

NUMBER 156-21

RE: (AUTHORIZE A RENEWAL LICENSE AGREEMENT WITH THE COUNTY OF WESTCHESTER FOR THE AREA KNOWN AS OSCAWANA PARK)

BE IT RESOLVED, that the Town Board of the Town of Cortlandt does hereby authorize a Renewal License Agreement with the County of Westchester for the area known as Oscawana Park, to operate and maintain 165 acres of County Parkland..

BE IT FURTHER RESOLVED, said agreement will expire on May 31, 2025.

**BY ORDER OF THE TOWN BOARD
OF THE TOWN OF CORTLANDT
LAROUÉ ROSE SHATZKIN
TOWN CLERK**

**Adopted June 15, 2021
At a Regular Meeting
Held at Town Hall**

Certified Copy
10/05/21 **Date**
JR Shatzkin
Town Clerk and Registrar