

This Donation Agreement was entered into on this 29<sup>th</sup> day of December, 2014 by and between Balboaa Land Development having its office at 4 West Fulton Street, Gloversville NY 12078 (Donor) and the Town of Caroga (Town) having its principal office at 1840 State Highway 10, Caroga Lake NY 12032.

WITNESSETH

**WHEREAS, the DONOR acquired the former Sherman's Amusement Park property in 1989 to protect and preserve an important landmark in the TOWN, and**

**WHEREAS, the DONOR have [has] invested significant funds into rehabilitating and restoring the Sherman's Amusement Park property to protect and preserve an important piece of the history of the TOWN, and**

**WHEREAS, the DONOR desire [s] to donate the Sherman's Amusement Park property to the TOWN for the TOWN to continue to protect and preserve, in perpetuity, this landmark, and**

**WHEREAS, the DONOR have [has] maintained this property with great pride and desires the TOWN to continue to maintain this property with the same pride and**

**WHEREAS, the TOWN graciously accepts from the DONOR its donation of the Sherman's Amusement Park property and assures the DONOR that the TOWN shall forever maintain the buildings and grounds to the same high standards the DONOR have maintained this property.**

NOW, the DONOR and TOWN do hereby mutually agree as follows:

**1. PROPERTY:**

- A. The DONOR agrees to donate to the TOWN, at no cost, the following parcels of land located in the Town of Caroga on the south side of NYS Route 10 as identified on the Attached Exhibit 1:

68.18-1-23

68.18-1-22

83.6-1-1 (portion north of Bath Avenue)

83.6-1-4

- B. The Donor agrees to donate to the TOWN, at no cost, that portion of Parcel 83.6-1-1 located in the Town of Caroga between Bath Avenue and Grove Avenue as shown on Exhibit 1.
- C. The DONOR agrees to donate to the TOWN, at no cost, that portion of Parcel 68.-1-46.1 located in the Town of Caroga on the North side of NYS Route 10 as shown on Exhibit 1.

- D. The DONOR agrees to provide a 20' right-of-way across parcel 68.18-1-21 as shown on Exhibit 1 for the wastewater line that crosses this parcel going to the Wastewater Treatment System on the north side of NYS Route 10.
- E. The DONOR shall retain ownership of approximately 20' of beach along West Caroga Lake as shown on Exhibit 1.
- F. The DONOR agrees that the following items located on these parcels shall also be donated to the TOWN:
- All buildings and building contents
  - Ferris Wheel
  - Carousel
  - Beach (except for 20')
  - Groundwater Well and piping
  - Wastewater Collection, Pumping and Treatment System
- G. The DONOR agrees to execute a Bill of Sale with the TOWN for each of items listed in E above.

**2. DONATION**

- A. The appraised value of the Property to be donated by the DONOR to the TOWN is ~~\$1,700,000~~: [2,200,000] (stated at the meeting the appraisal is \$3,105,000.)

**3. POSSESSION:**

- A. The DONOR shall deliver possession and occupancy of the Property at the time of closing of the donation.

**4. DONORS' CONDITIONS:**

- A. The TOWN agrees and stipulates to the following DONORS' conditions to the donation:
1. The TOWN shall never sell the Property.
  2. The TOWN shall at all time, maintain the Property to the highest of standards.
  3. The TOWN may lease the Property in accordance with all applicable laws.
  4. The TOWN shall, to the best of its ability, open to and make available to the public the beach along West Caroga Lake on Parcel 68.18-1-23 as shown on Exhibit 1 and to maintain the Beach within accordance with NYS Department of Health and all other applicable local and State rules and regulations.
  5. The TOWN shall provide access to West Caroga Lake from the properties on the North side of NYS Route 10 identified on Exhibit 1 as parcels:  
  
68.-1-46.1  
68.18-1-16.1
  6. The DONOR reserves the right to use the two (2) parcels identified in Paragraph 5 above for a ~~Recreational Vehicle Camp/Park~~ [any and all law full uses including but not limited to] and all other uses allowed by the Town of Caroga's Zoning ordinance

and the Adirondack Park Agency.

7. The DONOR reserves the right to have access to and use of the Wastewater Treatment System the DONOR is donating to the TOWN. The TOWN shall make capacity available in the System to any future use of the two (2) parcels identified in Paragraph 5 above subject to the approvals of the Town of Caroga, NYS Department of Health, NYS Department of Environmental Conservation and the Adirondack Park Agency.
8. The DONOR reserves the right to use the existing groundwater well and electrical system located in the Blue Building on the north side of NYS Route 10 for any future development of the parcels identified in Paragraph 5 above.
9. The TOWN shall maintain, to the best of its abilities, the existing windows in the Pavilion and Carousel Buildings.

**5. TOWN'S CONDITIONS:**

- A. The DONOR agrees and stipulates that it shall transfer over to the TOWN, at the Closing, all permits and approvals issued by local, New York State or federal agencies, departments or jurisdictions the DONORS possess to operate the Groundwater Well and Wastewater Collection, Pumping and Treatment System.

**6. ADJUSTMENTS:**

- A. DONOR agrees that all taxes, water and sewerage bills, if any, against the Property have been or will be paid at date of closing.
- B. Such bills shall be apportioned between DONOR and TOWN as of date of Closing, unless agreed otherwise.

**7. PROPERTY LINE SURVEY:**

- A. The Town shall prepare a property line survey, prepared by a New York State licensed land surveyor of the Property to be donated to the TOWN.

**8. TITLE PROVISIONS:**

- A. On closing, the DONOR shall furnish a 5 – year tax search, an Abstract and a Warranty Deed of marketable title, which shall be free of liens or encumbrances, except for utility easements and existing deed restrictions.

**9. EXISTING CONDITIONS:**

- A. The Donor shall donate the Property as is.
- B. The DONOR shall donate the Property subject to all covenants, conditions, restrictions, and easements of record; zoning and environmental protections laws; and unpaid installments of street and improvements assessments payable after the date of transfer of title to the premises.
- C.

**10. DONOR'S REPRESENTATIONS:**

- A. The DONOR represents and warrants to the TOWN that the DONOR is the sole owner of the Property and has the full right, power and authority to donate the Property in accordance with the terms of this Donation Agreement.
- B. Except as otherwise expressly set forth in this Donation Agreement, none of DONATORS' covenants, representations, warranties or other obligations contained in this Donation Agreement shall survive closing.

**11. BINDING AGREEMENT:**

- A. The TOWN and DONOR agree that they, their heirs, legal representatives, successors and/or assigns will be bound under this Donation Agreement.
- B. This Donation Agreement cannot be assigned without the written consent of DONOR.

**12. ENTIRE AGREEMENT:**

- A. This donation Agreement may only be modified by a written instrument signed by both parties.

**13. CLOSING:**

- A. The closing shall be held at Abdella Office on or before 45 days after the acceptance of this Donation Agreement.

**DONOR: Balboaa Land Development**

The document was signed by:  
George Abdella, President  
Ralph Ottuso Town Supervisor  
David Jung, Town Attorney (as to Form)

[ ] shows changes made to the document initialed by George Abdella