

HESS RECREATION AREA FIELD USAGE AND MAINTENANCE AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 2018, by and between the **Montour Area Recreation Commission (MARC)**, a Pennsylvania non-profit (non-stock) corporation, hereinafter referred to as (“**OPERATOR**”), and **Danville Lady Rainers**, a 501(c)(3) non-profit organization, hereinafter referred to as (“**USER**”).

WHEREAS, OPERATOR is responsible for the maintenance, operation and scheduling of the various sports fields and amenities at the Hess Recreation Area; and

WHEREAS, OPERATOR must abide by the terms of an agreement dated March 25, 2002, as amended April 8, 2010, by and between THE BOROUGH OF DANVILLE, a municipal corporation organized under the laws of the Commonwealth of Pennsylvania, and the MONTOUR COUNTY RECREATION AUTHORITY, a Municipal Recreation Authority organized and existing under the Laws of the Commonwealth of Pennsylvania; and

WHEREAS, USER desires to use two ballfields, as well as related amenities, at the Hess Recreation Area for practices, games and tournament play; and

WHEREAS, in return for a long-term agreement for the use of such facilities and in lieu of payment for such use, USER desires to perform certain maintenance tasks as desired by OPERATOR; and

WHEREAS, OPERATOR desires to enter into such an agreement.

NOW THEREFORE, OPERATOR and USER, with the consent of the BOROUGH OF DANVILLE, hereto agree as follows:

1. USER and OPERATOR agree to a three (3) year term of agreement, to commence on the effective date of this agreement.
2. At all times during the term of this agreement, USER shall maintain general public liability insurance in an amount of not less than one million dollars (\$1,000,000), naming the Montour Area Recreation Commission as an additional insured party.
3. USER shall provide all materials and labor as may be required to restore to good, safe condition and maintain for the duration of this agreement, the dirt infields, backstop / infield fencing and dugouts for the two Hess Recreation Area ballfields, as identified in Exhibit A.
4. USER shall provide bases and all equipment as might be required for the conduct of their activities.

5. If so desired, USER may place spectator bleachers at one or both ballfields. If so placed, USER shall be responsible for the maintenance of such bleachers in good, safe condition. At the conclusion of the agreement and any extensions thereof, USER shall remove such bleachers if so desired by OPERATOR.
6. USER shall inspect the Hess Recreation Area – including the sports fields, dugouts, restrooms, pavilion and parking lot – after each use and shall leave the property in good, clean condition. Any excess trash shall be placed in the site's dumpster. Restrooms and pavilion shall be swept if needed. USER shall immediately notify OPERATOR of any maintenance problems which are discovered requiring OPERATOR attention.
7. USER shall in no way interfere with the use of the Hess Recreation Area by other visitors, even during times of use by USER. This agreement shall allow USER the exclusive use of only the ballfield(s) and/or pavilion as scheduled by mutual agreement with OPERATOR.
8. OPERATOR shall make space available in a shed at the site for USER to store materials as may be desired. OPERATOR and USER shall both have copies of the key needed to access the shed. OPERATOR makes no guarantee of the security of materials left in the shed. USER accepts all risks of material storage at the site. OPERATOR makes no guarantee of sufficient space for all equipment of USER.
9. OPERATOR, or contractors working on behalf of OPERATOR, shall perform all other regular maintenance of the site, including, but not limited to: parking lot maintenance, restroom cleaning and stocking, grass mowing, trash removal, entrance road maintenance and provision of electrical and water utility service. Mowing shall generally be done once each week during the April through November season on Mondays through Fridays between the hours of 7:00am and 3:00pm. Mowing shall be done at other times only as deemed necessary by OPERATOR.
10. All scheduling of facilities at the Hess Recreation Area, and any usage fees thereby generated, shall remain the responsibility of OPERATOR. OPERATOR shall make all reasonable effort to accommodate the scheduling requests of USER. However, USER shall understand that OPERATOR reserves the right to schedule fields and park facilities for other groups and special events during those times not reserved for USER.
11. In the event OPERATOR or USER believes the other party is failing to meet its obligations as set forth in this agreement, they shall provide their concerns, in writing, to the other party and shall allow ten (10) business days for resolution of said concerns. If concerns are not remedied within this period of time, a second written notice shall be sent, allowing an additional five (5) business days for resolution of said concerns. If OPERATOR or USER believes concerns remain unresolved after the required two (2) written notices, OPERATOR or USER may provide thirty (30) day written notice of their intent to terminate this agreement.

12. At the conclusion of this agreement, whether by expiration or termination, all property of OPERATOR or BOROUGH OF DANVILLE, including fencing, dugouts and other ballfield fixtures, shall remain the property of OPERATOR or BOROUGH OF DANVILLE. All property of USER shall remain the property of USER. USER shall have ten (10) business days after conclusion of this agreement to remove all materials from the Hess Recreation Area. Any USER materials remaining at the Hess Recreation Area after the aforementioned period shall become the property of OPERATOR, to be used or disposed of as OPERATOR deems necessary.
13. Upon the successful conclusion of the initial three (3) year term of this agreement, this agreement shall automatically renew for a one (1) year term each year unless otherwise terminated by either OPERATOR or USER.

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

MONTOUR AREA RECREATION COMMISSION

By: _____
Robert T. Stoudt, Director

Attest:

Michael B. Mills, Chairperson

DANVILLE LADY RAILERS

By: _____
Jason Jones, President

Attest:

On behalf of the Borough of Danville, I hereby confirm that this agreement is in accordance with the agreement dated March 25, 2002, as amended April 8, 2010, by and between THE BOROUGH OF DANVILLE and the MONTOUR COUNTY RECREATION AUTHORITY (attached as Exhibit B) and the Borough of Danville consents to this agreement.

By: _____
Scott Richardson, President, Danville Borough Council

Attest:

EXHIBIT A

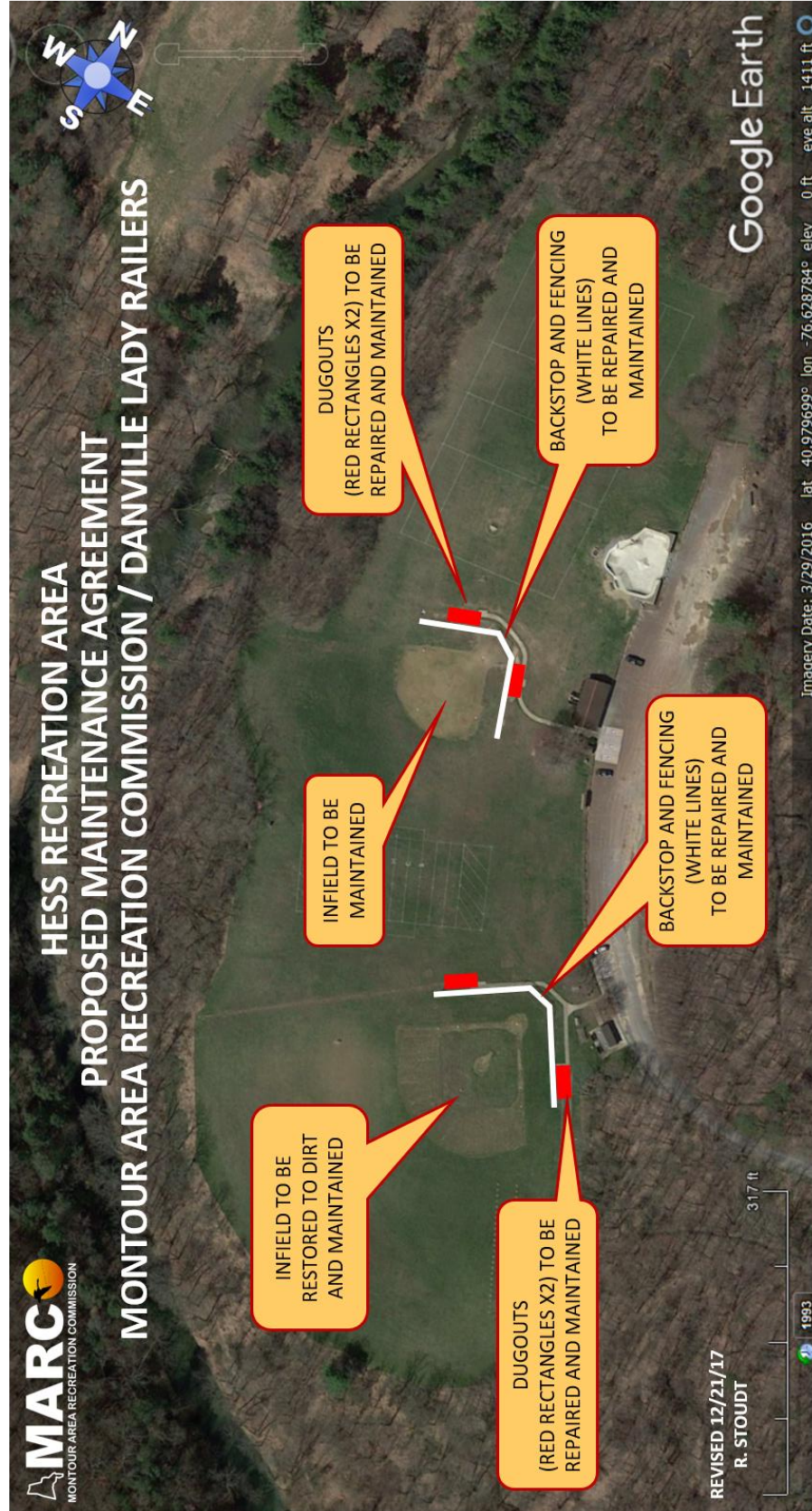


EXHIBIT B

ADDENDUM

ADDENDUM TO AGREEMENT dated March 25, 2002, by and between THE BOROUGH OF DANVILLE, a municipal corporation organized under the laws of the Commonwealth of Pennsylvania, hereinafter called "LESSOR", party of the first part,

-AND-

MONTOUR COUNTY RECREATION AUTHORITY, a Municipal Recreational Authority organized and existing under the Laws of the Commonwealth of Pennsylvania, with its principal office at the Montour County Courthouse, 29 Mill Street, Danville, Montour County, Pennsylvania, hereinafter called "LESSEE", party of the second part.

WHEREAS, the parties hereto have theretofore entered into a Lease Agreement dated March 25, 2002; and,

WHEREAS, it is the desire of the parties to amend the Lease Agreement between them dated March 25, 2002.

NOW, THEREFORE, the parties hereto agree as follows:

1. The Agreement hereinabove referred to shall be extended for a period of thirty-three (33) years from March 25, 2002, and therefore shall expire on March 24, 2035, unless extended pursuant to the March 25, 2002 Agreement.
2. It is expressly understood and agreed that all of the provisions of the prior agreement entered into the 25th day of March, 2002, between the hereinabove parties except as amended by this Amendment are hereby ratified and affirmed.

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

BOROUGH OF DANVILLE

By: Richard L. Blossky
Richard Blossky
Council President

Attest: [Signature]
Secretary

MONTOUR COUNTY RECREATION

AUTHORITY

By: [Signature]
Title

Attest: [Signature]
Secretary

LEASE AGREEMENT

THIS AGREEMENT MADE AND ENTERED INTO, this 25 day of March, 2002, by and between

THE BOROUGH OF DANVILLE, a municipal corporation organized under the laws of the Commonwealth of Pennsylvania, hereinafter called "LESSOR", party of the first part,

- AND -

MONTOUR COUNTY RECREATION AUTHORITY, a Municipal Recreational Authority organized and existing under the Laws of the Commonwealth of Pennsylvania, with its principal office at the Montour County Courthouse, 29 Mill Street, Danville, Montour County, Pennsylvania, hereinafter called "LESSEE", party of the second part.

WHEREAS, LESSOR is the owner of the three (3) certain premises situate partly in Mahoning Township, partly in Valley Township, and partly in the Borough of Danville, Montour County, Pennsylvania, known as the Hess Recreation Area, the Old Reading Railroad bed and an area situate in the Borough of Danville from Montour Street to the beginning of the Robbins Trust ground; and,

WHEREAS, LESSOR is desirous of leasing the same to LESSEE; and,

WHEREAS, LESSEE is desirous of leasing the same for recreational purposes; and,

WHEREAS, LESSEE, also intends to create a walking/biking trail utilizing the old railroad bed and what is commonly known as the "bike path"; and,

WHEREAS, LESSEE would be responsible for the operation and maintenance of said recreation area.

WITNESSETH: That the Lessor does hereby let, lease and demise unto the LESSEE, the above described premises in consideration of the following mutual covenants, agreements, terms and conditions, hereby agreed to by and between the LESSOR and LESSEE, to wit:

1. The term of this Lease shall be for a period of five (5) years, beginning the 26 day of March, 2002, and terminating the 25 day of March, 2007, and shall automatically be renewed at the same terms and conditions for additional terms of one (1) year unless either party elects to terminate or alter the Agreement. In the event either party desires to alter or terminate the Agreement, the said party must give written notice one hundred twenty (120) days prior to the alteration or termination date. Failure to give notice of alteration or termination with the specified time shall imply concurrence with the provisions set forth in this Agreement and shall constitute renewal of the agreement for an additional one (1) year term.

2. LESSEE agrees to pay to the LESSOR the sum of One Dollar (\$1.00) per annum, payable annually in advance.

3. LESSEE agrees to repair all damage caused by its guests or patrons.

4. MAINTENANCE AND UPKEEP: Lessee agrees to be responsible for all maintenance and upkeep as it relates to the Hess Recreation Area, the old railroad bed and all of the J. Manley Robbins trail.

5. LESSEE also agrees to keep the said premises in as good repair and condition as at present and at the expiration of this Lease, or any renewal of it, to surrender up same in like repair and condition, natural wear and damage by the elements excepted; to permit no

unlawful business to be carried on upon said premises; not to permit anything to be done which is contrary to the conditions of the policies of insurance now on the said premises or which may be placed thereon during the term of this Lease or any renewal thereof, whereby the hazard might be increased or the insurance invalidated; not to underlet the said premises, nor assign this Lease or any interest therein to any person or persons, without first obtaining the written consent of the LESSOR, the same not to be unreasonably withheld; and not to remove from the said premises during the term of this Lease or any renewal thereof.

6. The said LESSEE hereby waives any notice to quit and agrees to surrender the said premises at the expiration of the said term, or the termination of this Lease or any renewal thereof, without any notice whatever, and also waives the benefit of all appraisement, stay and exemption laws, the right of inquisition on real estate, demand for payment of rent in arrear, and all bankrupt or insolvent laws now in force or which may hereafter be passed, upon any proceeding instituted for the recovery of the said rent, either by distress or otherwise.

7. The premises to be leased includes the following: Premises situate partly in Mahoning Township and partly in Valley Township, Montour County, Pennsylvania, known as the Hess Recreation Area, the Old Reading Railroad bed from Continental Boulevard to S.R. 0642 being 1.37 miles in length, the Trail from Montour Street to the beginning of the Robbins Trust ground.

8. LESSEE may place a sign on the property but prior to installation of same, LESSEE must be within zoning regulations and said sign must also be approved by LESSOR.

9. LESSEE agrees to pay for all utilities.

10. Any and all insurance, to include but not be limited to fire and liability shall be the responsibility of the LESSEE.

11. In the event the LESSEE shall fail to perform any of the covenants and agreements of this Lease, the performance of which is hereby required of the LESSEE, then the LESSOR shall have the right to demand the remedying of said default or defaults by serving written notice on the LESSEE at the demised premises, and, if, at the expiration of fifteen (15) days from the receipt of said notice, the LESSEE has not remedied said default or defaults, then the LESSOR shall have the right to re-enter the demised premises, repossess said premises, evict the LESSEE and/or others therein, remove the property of LESSEE and others therein, and in the discretion of the LESSOR re-let the demised premises. Repossession made by the LESSOR as provided in this paragraph shall not relieve the LESSEE from the payment of rent during the unexpired portion of any renewal.


12. It is envisioned that LESSEE through its Authority would apply for various grants to add amenities to the area, including but not limited to, a covered bridge across Mahoning Creek, restrooms, outdoor showers, primitive camping areas, and general beautification to the area involved. Lessor will certainly cooperate with any and all grant applications on behalf of the Lessee.


13. The covenants, agreements, terms, conditions and warranties of this Lease shall be binding upon and inure to the benefit of the LESSOR and LESSEE, their respective heirs, executors, administrators, successors and assigns.

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

BOROUGH OF DANVILLE


Attest:

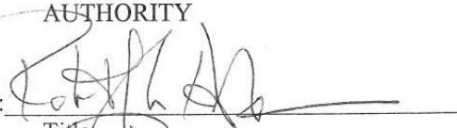

Secretary

By: 
Collins Stump,
President of Council

MONTOUR COUNTY RECREATION
AUTHORITY

Attest:


Secretary

By: 
Title: 