

ORDINANCE NO. 50 -2013

AUTHORIZING THE MAYOR TO EXECUTE THE FIRST AMENDMENT TO THE LEASE AGREEMENT BETWEEN THE CITY OF READING AND ALVERNIA UNIVERSITY FOR ANGELICA PARK BASEBALL FACILITIES AS ATTACHED

WHEREAS, the City of Reading ("City") is the fee simple owner of a piece of property located in the City of Reading, Berks County, Pennsylvania, known as Angelica Park; and

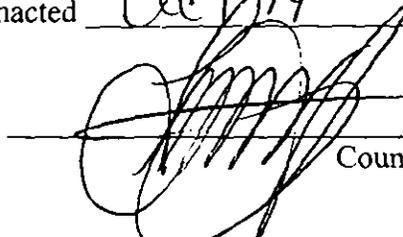
WHEREAS, the City wishes to lease said portions of Angelica Park to Alvernia University; and

WHEREAS, the City and Alvernia University desire to set forth in writing covenants related to the leasing of certain portions of Angelica Park.

NOW, THEREFORE THE COUNCIL OF THE CITY OF READING HERBY ORDAINS AS FOLLOWS:

SECTION 1. That the Mayor is authorized to execute the first amendment to the Lease Agreement between the City of Reading and Alvernia University for the baseball facilities as attached.

SECTION 2. This Ordinance shall become effective in ten (10) days after its adoption and approval by the Mayor in accordance with Section 219 of the City of Reading Home Rule Charter.

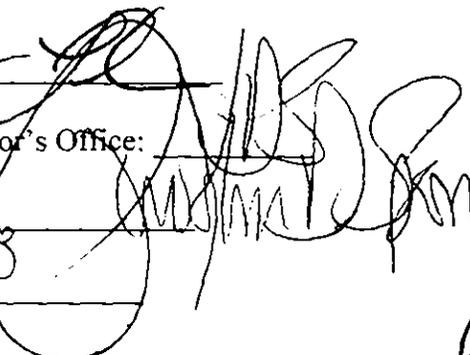
Enacted Oct 14, 2013


Council President

Attest:



City Clerk

Submitted to Mayor: 

Date: 10/15/13

Received by the Mayor's Office:

Date: 10/15/13

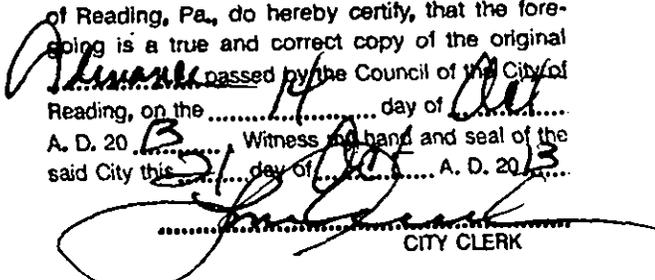
Approved by Mayor:

Date: 10/15/13

Vetoeed by Mayor:

Date: _____

I, LINDA A. KELLEHER, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the original Ordinance passed by the Council of the City of Reading, on the 14 day of Oct A. D. 20 13. Witness my hand and seal of the said City this 15 day of Oct A. D. 20 13.



CITY CLERK

FIRST AMENDMENT TO LEASE AGREEMENT

This FIRST AMENDMENT TO LEASE AGREEMENT is dated to be effective as of the _____ day of October, 2013, by and between CITY OF READING, a third class city of the Commonwealth of Pennsylvania (hereinafter referred to as the "Lessor"), and ALVERNIA UNIVERSITY, a Pennsylvania non-profit corporation (hereinafter referred to as the "Lessee").

BACKGROUND

A. The parties hereto entered into a certain Lease Agreement dated to be effective as of July 1, 2007 (the "Original Lease"), whereby Lessor is leasing to Lessee a portion of Angelica Park known as Zone 4 whereat Lessee has constructed and operates a baseball field, softball field and tennis courts, among other things (the "Premises").

B. The parties now wish to extend the Term of the Original Lease.

NOW, THEREFORE, intending to be legally bound, the parties agree as follows:

1. The Background clauses set forth above are incorporated herein by reference.
2. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Original Lease.
3. Section 1.1 of the Original Lease is hereby amended and restated in its entirety to read as follows:

"Section 1.1 Grant of Lease. Lessor for and in consideration of the terms, covenants, and conditions herein contained, does hereby lease unto the Lessee, and the Lessee does rent and lease from the Lessor the Premises for the uses and purposes as specifically described herein. The existing improvements at the Premises which are being leased to Lessee hereunder include a parking lot, four (4) tennis courts with lights, two (2) existing ball fields, and a grandstand.

TO HAVE AND TO HOLD the Premises for a term of approximately fifty-six (56) years commencing on the Commencement Date and expiring at midnight on _____, 2063 (the "Term")."

4. Section 1.2 of the Original Lease is hereby amended and restated in its entirety to read as follows:

"Section 1.2 Negotiations for New Lease. As of _____, 2053, the parties agree to commence negotiations for renewal of this Lease or a new Lease for the Premises commencing as of the termination date of the within Lease, for a minimum term of ten (10) years at an annual rental not to exceed One Dollar (\$1.00) per year."

5. Section 4.1(c) of the Original Lease is hereby amended and restated in its entirety to read as follows:

“(c) Subject to the Fee Structure for Angelica Park Complex set forth in Exhibit “B” (which is attached hereto and incorporated herein by reference) which may be amended from time to time in future by the Lessee upon prior written notice to the Lessor from the Lessee, the Lessor shall retain the right to use the fields and related facilities for recreational, league and/or tournament play. However, the Lessee shall have priority scheduling of the fields at the Premises during the NCAA prescribed softball and baseball sessions during the Lessee’s Spring Semester.”

6. Section 5.4 of the Original Lease is hereby amended and restated in its entirety to read as follows:

“Section 5.4 Repairs by Lessee. Following the repaving of the parking lots at Premises as to be performed by the Lessor in accordance with Section 3.7 of this Lease, the Lessee shall be responsible for the entire cost of major repairs, improvements, upgrades and/or repaving of the parking lots at Premises.”

7. A new Section 5.5 is hereby added to the Original Lease to read as follows:

“Section 5.5 Taxes. In the event that the Pennsylvania Department of Revenue, the City of Reading, the Reading School District and/or any other governmental authority or taxing body determines that this Agreement is subject to realty transfer tax under the provisions of Pennsylvania Realty Transfer Tax, as amended, and, as a result thereof, imposes or assesses realty transfer tax on the transaction contemplated by this Agreement, the Lessor shall not collect and shall forever waive and exonerate the entire portion of the realty transfer tax (currently 4%) that would otherwise be imposed upon the transaction contemplated by this Agreement. In consideration therefor, the Lessee shall pay the remaining portion of the realty transfer tax imposed upon the transaction contemplated by this Agreement that is due to the Pennsylvania Department of Revenue but not otherwise exempt or excluded because of the status of the Lessor as a political subdivision under the Pennsylvania Realty Transfer Tax, as amended, and its applicable regulations.

8. The Original Lease is hereby amended and supplemented to include an Exhibit “B” in the form and substance of the document attached hereto and set forth at Exhibit “B” which is hereby incorporated into the Original Lease by reference.

9. All other provisions of the Original Lease not amended hereunder are hereby ratified and confirmed and shall remain in full force and effect.

IN WITNESS WHEREOF, and intending to be legally bound, the parties hereto have set their hands and seals on the day and year first above written.

WITNESS:

LESSEE:

ALVERNIA UNIVERSITY

By: _____

Name: Douglas F. Smith
Title: Vice President

LESSOR:

CITY OF READING

Attest: _____

Chief Clerk

By: _____

Name: _____
Title: Mayor _____

EXHIBIT "B"

FEE STRUCTURE - ANGELICA PARK COMPLEX

ALVERNIA UNIVERSITY - CONFERENCE SERVICES

FEE STRUCTURE, ANGELICA PARK COMPLEX

Package A: Basic Package

\$60 per game

Package includes: University will prepare Complex and Field(s) to Game Ready Conditions, including, but not limited to: unlocked Field access gates, mowed field(s), clean dugout(s) and an unlocked Field lock box containing bases, lining machine and lime

University Public Safety will make periodic rounds through Complex.

University will verify field condition following game, verify equipment has been returned to Field Lock Box and secure.

Contractor takes responsibility to line field and place bases themselves.
Bases and lining machine placed back in lock box following game.

Package B: Mid-Level Package

\$100 per game

Package includes: In addition to Package A plus University will line field(s) and place bases. Contractor shall place bases back in lock box following game.

Package C: Enhanced Package

\$150 per game

Package includes: In addition to Package B plus University staff to operate the scoreboard, sound system and provide game day supervision.

Package D: Tournament Package

\$ 300 per day

Up to 4 games per day permitted.

Package includes: Multi-day Package including package C

Note: Fees may be waived for City youth sports organizations and non-profit agencies.

Scheduling

Alvernia will provide at least 3 spring Saturdays each spring and 3 weekends (Sat. & Sun.) in the fall to the City for scheduling.

Alvernia will turn the fields over to the City 15 days after the University's final baseball game of the season, including any playoff games (Commonwealth Conference, NCAA or ECAC). This will be no later than June 15. (This 15-day period is for field maintenance and restoration.)