

**CITY OF COSTA MESA
OPERATING SERVICES AGREEMENT
WITH
MAJOR LEAGUE SOFTBALL, INC.**

THIS OPERATING SERVICES AGREEMENT is made and entered into as of April 1, 2021, by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and MAJOR LEAGUE SOFTBALL, INC., a California corporation ("Provider").

WITNESSETH:

WHEREAS, City seeks to utilize the services of Provider as an independent contractor to organize and manage the City's Adult Softball Program; and

WHEREAS, Provider represents and warrants that Provider has the requisite experience and expertise to provide such services; and

WHEREAS, City and Provider desire to set forth their respective obligations in connection with Provider's provision of the services.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1.0 DEFINITIONS

As used in this Agreement, the following words and phrases shall have the following meanings:

- (a) "City" means the City of Costa Mesa, a municipal corporation.
- (b) "City Staff" refers to City's City Manager, Assistant City Manager, Parks and Community Services Director, Recreation Manager, and/or their authorized representatives.
- (c) "League Director" means the individual assigned by Provider to oversee daily supervision of the services provided by Provider.
- (d) "Program" means the City of Costa Mesa Adult Softball Program.
- (e) "Provider" means Major League Softball, Inc. ("MLS"), a California corporation, including all employees and agents of MLS.
- (f) "Scope of Services" shall mean to services provided by Provider, as set forth in Section 3.0 of this Agreement and as further described in Provider's proposal attached hereto as Exhibit "A".
- (g) "Softball Fields" and "Fields" means only the play-in areas of the subject ball fields. "Softball Fields" and "Fields" does not mean any out-of-play areas, bleachers, buildings or structures of any kind, sidewalks, streets, driveways, parking areas, playgrounds, or school yard areas.

2.0 TERM

The term of this Agreement shall be for a period of three (3) years, commencing April 1, 2021 and ending March 31, 2024. Thereafter, this Agreement shall automatically extend for one (1) additional two (2) year period, unless City or Provider provides written notice to the other party of its intent not to extend the Agreement at least thirty (30) days prior to the end of the initial term.

3.0 SCOPE OF SERVICES

Provider shall provide the services set forth in Exhibit "A," attached hereto and incorporated herein. Provider's services include, without limitation:

- (a) Program Administration. Provider shall provide administration of the Program as described in Section 6.2 of this Agreement.
- (b) Officiating Services. Provider shall recruit, train, supervise, and evaluate softball umpires. Provider shall schedule and assign the approved number of Southern California Municipal Athletic Federation (SCMAF) certified umpires to all games.
- (c) Scorekeeping Services. Provider shall provide scorekeeping services. Provider shall:
 - (i) recruit, train, supervise and evaluate all scorekeepers;
 - (ii) assign league scorekeepers to all games; and
 - (iii) provide computerized scoring of all league softball games and generate and provide to each team a report at the conclusion of each game.

City will provide one (1) working 110-volt electrical outlet at each softball field utilizing in connection with this Agreement.

- (d) Equipment. Provider shall provide all essential game equipment, including, but not limited to, one (1) new and one (1) good condition used SCMAF-approved softball for each game, and certified home plate extensions on each field.
- (e) Awards. Provider shall provide fifteen (15) individual awards for the first and second place teams. Awards must consist of shirts, sweatshirts or similar items as approved by City. Provider shall also provide awards for statistical leaders in up to three (3) categories in each league at the end of each season.
- (f) Web Hosting Services. Provider shall maintain all pertinent Program information on its website at www.mlsoftball.com. Such information shall include day of play and seasonal registration information, online team registration forms, league rules, scores/standings, statistics, if optional scorekeeping services are implemented, and customer service contact information. Provider shall make clear on Provider's website that the City of Costa Mesa Adult Softball Program is wholly owned and sponsored by the City.

4.0 STANDARD OF PERFORMANCE

Provider represents and warrants that it has the qualifications and experience necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Provider shall at all times faithfully, competently and to the best of its ability, experience and talent perform all services described herein. In meeting its obligations under this Agreement, Provider shall employ, at a minimum, generally accepted standards and practices utilized by persons and entities engaged in providing services similar to those required of Provider under this Agreement.

5.0 FINANCIAL CONSIDERATIONS

5.1. Registration Fees. The Registration Fee for the Spring, Summer and Fall seasons shall be Three Hundred Sixty Dollars (\$360.00) per team. Provider shall not adjust the Registration Fee without City's prior written approval, which may require approval from the City's Parks, Arts, and Community Services Commission and/or the City Council.

Registration Fees shall be allocated between Provider and City as follows:

- (a) For the period of April 1, 2021 through December 31, 2021, Provider will retain eighty percent (80%) of each team's Registration Fee and shall remit to City twenty percent (20%) of each team's Registration Fee.
- (b) For period of January 1, 2022 through December 31, 2022, Provider will retain seventy percent (70%) of each team's Registration Fee and shall remit to City thirty percent (30%) of each team's Registration Fee.
- (c) Commencing January 1, 2023, Provider will retain sixty percent (60%) of each team's Registration Fee and shall remit to City forty percent (40%) of each team's Registration Fee.

Provider shall remit payments to the City for Registration Fees on or before each January 15, April 15, July 15 and October 15 while this Agreement is in effect. With each payment, Provider shall submit a gross receipts report, on a form provided by City, detailing gross receipts by source of sales and such other information as may be required by City.

5.2. Tournament Registration Fees. The Tournament Registration Fee shall be Three Hundred Dollars (\$300.00) per team. Provider shall not adjust the Tournament Registration Fee without City's prior written approval, which may require approval from the City's Parks, Arts, and Community Services Commission and/or the City Council. Provider will retain eight-five percent (85%) of each team's Tournament Registration Fee. Provider shall remit to City fifteen percent (15%) of each team's Tournament Registration Fees.

Provider shall remit payments to the City for Tournament Registration Fees within thirty (30) days after each tournament event.

5.3. Other Program Fees. Provider may charge Program participants in accordance with the fee schedule set forth in Exhibit "B," attached hereto and incorporated herein. Provider shall not adjust any fees set forth in Exhibit B, or charge any fees not identified in Exhibit B, without

City's prior written approval, which may require approval from the City's Parks, Arts, and Community Services Commission and/or the City Council.

6.0 OPERATING RESPONSIBILITIES OF PROVIDER

6.1. General.

- (a) **Employees.** Provider shall provide any and all employees or independent contractors (collectively, "Employees") as may be required to render good quality services, to the satisfaction of City. Such persons shall be satisfactory to City as to their personal conduct, honesty, courtesy, health, personal appearance and willingness to cooperate with City Staff. In the event an Employee is not satisfactory, as defined herein, City may furnish written notice to Provider to correct the cause of said dissatisfaction. If Provider does not correct said issue to the satisfaction of City within fourteen (14) days after said notice is received, City may furnish a subsequent written notice to Provider requiring that said Employee be excluded from providing further services to City.
- (b) **Operations.** Provider shall provide general supervision of the Softball Fields including the enforcement of safety practices and regulations during periods the Softball Fields are in use in connection with the operation of the Program, in accordance with published game schedules as submitted to and approved by City. Provider shall exclude persons who do not abide by established rules from using the Softball Fields.
- (c) **Safety.** Provider shall correct safety deficiencies and violations of safety practices immediately and shall fully cooperate with City in the investigations of accidents occurring on the Softball Fields. In the event of injury, Provider shall ensure that the injured person receives prompt and qualified medical attention, and, as soon as possible thereafter, Provider shall submit to City a "City Accident Report" form.
- (d) **Conduct.** Provider shall at all times perform its services in a quiet, professional and orderly manner to the satisfaction of City.
- (e) **Disorderly Persons.** Provider shall use its reasonable efforts to prohibit intoxicated persons, profane or indecent language, or boisterous or loud conduct in or about the Softball Fields and shall call upon the aid of peace officers as necessary to assist in maintaining peaceful conditions.
- (f) **Permits and Licenses.** Provider shall obtain at its sole cost and expense any and all permits or licenses that may be required in connection with Provider's operations in connection with this Agreement, including, but not limited to, business licenses, tax permits and health permits.
- (g) **Signs and Advertisements.** No signs of any kind shall be displayed unless approved in writing by City. City reserves the right to require removal or refurbishment of any sign previously approved at any time. Provider shall not permit vendors to display items for sale unless Provider obtains City's written consent, which consent may be revoked at any time.

- (h) Sponsorship. Notwithstanding that Provider is providing to City the operating services contemplated in this Agreement, it is acknowledged and agreed that the City of Costa Mesa Adult Softball Program is sponsored by City, and that Provider is not a sponsor or co-sponsor of the Program.

6.2. Program Administration.

- (a) League Director. The League Director shall oversee the Program on a day-to-day basis. The League Director shall be an experienced umpire/scorekeeper who will work to serve the needs of both City and Program participants.

Provider hereby designates the following individual as the League Director: Shannon Beardsley. Provider shall not change the designated League Director without the express written approval of City.

- (b) League Coordination. The dates designated for and the duration of each league, the registration procedures, and the number of games offered will be determined by City in its sole discretion. Provider shall schedule adult softball league play according to facility schedules as determined by the City in its sole discretion.
- (c) Marketing. Provider shall at all times use its reasonable best efforts to provide for the best possible Program promotion, consistent with the marketing services generally offered by persons engaged in providing services similar to those required of Provider under this Agreement. Marketing services shall include, but not be limited to, press releases, Program flyers, copy for the City's Recreation Guide, letters and forms, mailing lists and a phone "hot line." All such marketing materials and forms must be submitted to City by established deadlines. Provider shall obtain City's written approval before such materials are distributed.
- (d) Pre-Season Services. Provider shall arrange with City mutually agreeable dates, times, and locations within the City of Costa Mesa for team registration. Provider shall collect and deposit league fees into a separate "City of Costa Mesa" checking account. Provider shall be responsible for team classifications and league formation resulting in the most balance and equitable competition possible. Provider shall be responsible for preparing, printing, and distributing game schedules. Provider shall provide to City game schedules prior to the start of each season and within seven (7) days of establishment of the schedule. If there are any changes to the game schedules, Provider shall provide such changes to City within three (3) days of such changes.
- (e) Waiver and Release of Liability. Provider shall ensure that prior to participating in any activity in connection with the Program, each player signs a waiver and release of liability ("Release"), approved as to form by City's legal counsel. Provider shall not permit any player failing or refusing to sign the Release to play. Provider shall maintain original copies of all Releases for a minimum of three (3) years after the termination or expiration of this Agreement.
- (f) Manager's Meeting. Provider shall organize and supervise each pre-season manager's meeting. At such meeting, Provider shall distribute a copy of the league rules.

- (g) Southern California Municipal Athletic Federation (SCMAF). Provider shall complete all SCMAF team registration paperwork for the teams that choose to pay the prevailing registration fee, as required by SCMAF, and pay such registration fees to SCMAF within thirty (30) days of the first scheduled day of the season.
- (h) Player's Medical Benefit Fund. Provider shall collect and deposit the optional Player's Medical Benefit Fund (PMBF) fee for each team that elects to pay such fee.

7.0 SOFTBALL FIELD IMPROVEMENTS

With City's prior written approval, Provider may make improvements to the Softball Fields. In addition, City may, from time to time, make certain improvements to the Softball Fields that it deems to be advantageous or necessary for the protection of public property.

8.0 BUSINESS RECORDS; ANNUAL REPORT

8.1. Provider shall maintain a method of accounting of all receipts in connection with this Agreement, which shall accurately reflect the gross receipts received by Provider relating to this Agreement. The method of accounting, including bank accounts established for operations under this Agreement, shall be separate from the accounting system used by any other business operation of Provider. Such method shall include, but not be limited to, keeping of the following documents:

- (a) Any accounting records that Provider deems reasonably necessary for proper reporting of receipts;
- (b) Any accounting records that City, in its sole discretion, deems necessary for proper reporting of receipts; and
- (c) A log showing the number of teams registered in each league.

8.2. All such documents, books and accounting records shall be open for inspection and reinspection at any reasonable time during the term of this Agreement and for a minimum of four (4) years after the termination or expiration of this Agreement. In addition, City may, from time to time, conduct an audit and re-audit of the books and business conducted by Provider, and observe the operation of the business so that the accuracy of the above records can be confirmed. If the report of gross receipts made by Provider to City is found to be less than the amount of gross receipts disclosed by such audit and observation, Provider shall pay City within thirty (30) days after billing any additional amounts disclosed by such audit. If the discrepancy exceeds two percent (2%) and no reasonable explanation is given for such discrepancy, Provider shall also pay the cost of the audit. All information obtained in connection with City's inspections of records shall be received and maintained in confidence and shall not be disclosed to anyone not directly connected with the official business of the City, to the extent permitted by law.

8.3. On or before February 1 of each year, Provider shall submit an annual report to the City detailing the following information for each season from the prior calendar year: number of teams, percentage of Costa Mesa residents, list of complaints from participants, report of major injuries, list of incidents related to field play, participant feedback, and such other information as may be requested by City. The annual report shall be in substantially the form as set forth in Exhibit "C," or in such other form as may be approved by the City.

9.0 INSURANCE

9.1. Minimum Scope and Limits of Insurance. Provider shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:

- (a) Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.
- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence for bodily injury and property damage.
- (c) Workers' compensation insurance as required by the State of California. Provider agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers arising from work performed by Provider for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

9.2. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Provider pursuant to its contract with the City; products and completed operations of the Provider; premises owned, occupied or used by the Provider; automobiles owned, leased, hired, or borrowed by the Provider."
- (b) Notice: "Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30) days after written notice is given to City."
- (c) Other insurance: "Provider's insurance coverage shall be primary insurance as respects the City of Costa Mesa, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."
- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Costa Mesa, its officers, officials, agents, employees, and volunteers.
- (e) Provider's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

9.3. Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

9.4. Certificates of Insurance. Provider shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement.

9.5. Non-Limiting. Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Provider may be held responsible for payments of damages to persons or property.

10.0 INDEMNIFICATION AND HOLD HARMLESS.

Provider agrees to defend, indemnify, and hold free and harmless City, its elected and appointed officials, officers, agents, employees and volunteers, at Provider's sole expense and with counsel approved by City, from and against any and all claims, actions, suits or other legal proceedings brought against City, its elected and appointed officials, officers, agents, employees and/or volunteers (collectively, "Claims"), to the extent such Claims arise out of, pertain to, or relate to, or are alleged to arise out of, pertain to, or relate to, the negligent, willful or unlawful acts, errors or omissions of Provider, its officers, agents, directors, employees or subcontractors, in the performance of this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by Provider, its officers, agents, directors, employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of Provider, its officers, agents, directors employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents and/or employees based upon the performance of services under this Agreement by the Provider, its officers, agents, directors, employees, and/or authorized subcontractors, whether or not Provider, its officers, agents, directors, employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, Provider shall not be liable for the defense or indemnification of City for Claims arising out of the sole active negligence or willful misconduct of City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Provider's proposal, which shall be of no force and effect.

11.0 DEFAULT AND TERMINATION

11.1. Provider Default. In the event Provider defaults in the performance of any term or condition of this Agreement, or fails to comply with any rules, regulations, directions or instructions provided by City, or fails, neglects or refuses to pay to City any money or part thereof due to City within thirty (30) days after the same becomes due, or becomes unable to fulfill its obligations under this Agreement, City shall have the following options, without further notice or authorization from Provider, and its selection of any option shall in no way waive its rights to select any other option at any time:

- (a) If Provider does not cure a default within thirty (30) days after written notice of default from City, or make reasonable progress to cure said default within said 30-

day period, City may terminate this Agreement, assume the operation of the Program, and exclude Provider; and/or

- (b) City may retain any of Provider's property on the Softball Fields and apply same to payment of any and all amounts which may be due to City; and/or
- (c) City may recover at law any and all amounts which may be due to City; and/or
- (d) City may perform such work as it deems necessary to cure said default and charge Provider for the full cost of labor and materials expended, plus thirty percent (30%) of said cost for administrative overhead. City may exercise this option immediately in the event of a default involving the cleanliness provisions or safety provisions of this Agreement. Otherwise, City may exercise this option ten (10) days after giving Provider written notice of default involving maintenance provisions of this Agreement.

In the event of abandonment or other inability of Provider to conduct the services required herein, City shall have the right to immediately take control of all operations.

The acceptance of all or part of a payment by City for any period after a default shall not be deemed a waiver or any of these options, nor a waiver of the default or any subsequent default of the same or any other term, covenant, or condition. Any waiver by City of a default on the part of Provider shall not be construed as, or constitute a waiver or, any subsequent default of the same or any other term, covenant, or condition.

11.2. City Default. In the event City defaults in the performance of any of the terms or conditions of this Agreement, and if Provider issues a written notice of such default by registered mail and if City fails to cure said default within thirty (30) days of receipt of said notice as evidence by return receipt of registered mail, then Provider may immediately terminate this Agreement and recover at law any and all amounts that may be due. However, if Provider fails to provide City notice of default within sixty (60) days after learning of its occurrence, then Provider shall be deemed to have waived all of its rights pursuant to this section.

11.3. Termination by City. City reserves the right to terminate this agreement at any time, with or without cause, by providing Provider thirty (30) days written notice of termination.

11.4. Requirements Upon Termination. Upon the expiration or earlier termination of this Agreement, Provider shall remove all of Provider's property from the Softball Fields within seven (7) days and shall leave the Softball Fields in a reasonably clean condition and free of debris.

12.0 ASSIGNMENT; BANKRUPTCY

Provider shall not transfer, assign or in any manner convey any of the rights or privileges herein granted without the written consent of City. Neither the Agreement nor the rights herein granted shall be assignable or transferable by any process or proceedings in any court, or by attachment, execution, proceedings in insolvency or bankruptcy either voluntary or involuntary, or receivership proceedings. In the event of insolvency or bankruptcy, City, at its option, may terminate this Agreement, in which event all rights of Provider herein shall cease immediately and Provider shall deliver possession of the Softball Fields to City immediately.

13.0 GENERAL PROVISIONS

13.1. Compliance with All Laws, Rules and Regulations. Provider shall comply with all applicable laws of the United States of America, the State of California, and the City, including, but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. Provider and its employees shall also comply with all applicable City rules, regulations and policies and shall cooperate fully with City Staff and employees in the performance of their duties in connection with this Agreement.

13.2. Right of Entry and Inspection. City and its authorized representatives, agents and employees shall have the right to enter upon the Softball Fields at any time, with or without notice to Provider, for the purpose of inspection and observation of Provider's operations. During such inspections, City and its representatives, agents and employees shall have the right to utilize photographic devices and other instruments for recording conditions and events taking place upon the Softball Fields.

13.3. Representatives. The Parks and Community Services Director or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Provider's League Director shall be the representative for purposes of this Agreement and shall be authorized to issue all consents, approvals, directives and agreements on behalf of Provider called for by this Agreement, except as otherwise expressly provided in this Agreement.

13.4. Non-Discrimination. Provider and its employees and agents shall not discriminate, in any way, against any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military or veteran status.

13.5. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

13.6. Independent Contractor. Provider is and shall be acting at all times as an independent contractor and not as an employee of City. Provider shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Provider or any of Provider's employees, except as set forth in this Agreement. Provider shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City. Provider shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Provider and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Provider shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this

Agreement. Provider further agrees to indemnify and hold City harmless from any failure of Provider to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Provider under this Agreement any amount due to City from Provider as a result of Provider's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

13.7. PERS Eligibility Indemnification. In the event that Provider or any employee, agent, or subcontractor of Provider providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Provider shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Provider or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Provider and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

13.8. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

13.9. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

13.10. Binding Effect. This Agreement binds and benefits the parties and their respective permitted successors and assigns.

13.11. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Provider and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

13.12. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

13.13. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement and have had an adequate opportunity to review each and every provision of the Agreement and submit the same to counsel or other consultants for review and comment. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement,

this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

13.14. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

13.15. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

13.16. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

13.17. Notices. Except for communications relating to the day-to-day facilitation of services under this Agreement, which may be delivered by telephone, email, or in person, any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: (a) at the time of delivery if such communication is sent by personal delivery, and (b) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO PROVIDER:

Major League Softball, Inc.
371 E. River Ave.
Orange, CA 92866
Tel: (714) 289-1983
Attn: David R. Johnson, President

IF TO CITY:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Tel: (714) 754-5052
Attn: Ashley Thomas

Courtesy copy to:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Attn: Finance Dept. | Purchasing

13.18. Counterparts and Electronic Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement. Counterpart written signatures may be

transmitted by facsimile, email or other electronic means and have the same legal effect as if they were original signatures.

13.19. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

13.20. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

PROVIDER

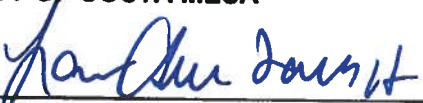

Signature

Date: 5/3/2021

David R. Johnson, President

[Name and Title]

CITY OF COSTA MESA


Lori Ann Farrell Harrison
City Manager

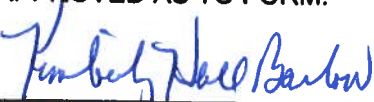
Date: 5/12/21

ATTEST:

 5/18/2021
Brenda Green
City Clerk



APPROVED AS TO FORM:


Kimberly Hall Barlow
City Attorney

Date: 5/13/21

transmitted by facsimile, email or other electronic means and have the same legal effect as if they were original signatures.

13.19. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

13.20. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

PROVIDER

DR. Johnson
Signature

Date: 5/3/2021

David R. Johnson, President
[Name and Title]

CITY OF COSTA MESA

Lori Ann Farrell Harrison
City Manager

Date: _____

ATTEST:

Brenda Green
City Clerk

APPROVED AS TO FORM:

Kimberly Hall Barlow
City Attorney

Date: _____


APPROVED AS TO INSURANCE:



Ruth Wang
Risk Management

Date: 5/14/21

APPROVED AS TO CONTENT:



Ashley Thomas
Project Manager

Date: 5/3/2021


DEPARTMENTAL APPROVAL:



Jason Minter
Parks and Community Services Director

Date: 5/3/2021

APPROVED AS TO PURCHASING:



Carol Molina
Finance Director

Date: May 11, 2021

EXHIBIT A
PROVIDER'S PROPOSAL



MAJOR LEAGUE SOFTBALL
“THE MAJOR LEAGUE ALTERNATIVE TO ADULT SOFTBALL
PROGRAM ADMINISTRATION AND BALL FIELD
MAINTENANCE”

Menu of Services Currently Available

David R. Johnson, President
Major League Softball, Inc.
Corporate Headquarters:
621 East Walnut Avenue
Burbank, California 91501
(818) 559-8787, ext 5
(818) 559-9780 Fax
dj-mls@pacbell.net E-mail

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MAJOR LEAGUE SOFTBALL

I. EXPERIENCE MAKES THE DIFFERENCE

Major League Softball, Inc. (MLS), has assembled a management team of educated and experienced business, marketing and maintenance professionals who all share one love: Softball. Our boundless passion and respect for this game continually motivates us to provide softball programs that offer the best customer service, innovation, and value. After fourteen years of evolution and growth, Major League Softball remains devoted to two very important goals: constantly improving the quality of every one of our programs and continually increasing the enjoyment level of every softball player in these programs.

A Brief Background

Like many successful enterprises, MLS hails from humble beginnings. During the summer of 1986, armed with a single computer system, a personally developed software package and a fervent desire to help organized softball fulfill its enormous potential, MLS founder and president Dave Johnson presented City of Orange recreation manager Rich Kollen with a proposal to provide his city's softball program with a first-of-its-kind computerized scoring service.

A former president of the Southern California Municipal Athletic Federation (SCMAF), Kollen saw a great deal of promise in Johnson's computerized concept, but he believed it lacked certain ingredients necessary to ensure a successful program, specifically Kollen cited the need for certain practical services, including the recruitment, training and supervision of scorekeeping personnel; and various administrative and marketing duties ranging from mailing list maintenance to game scheduling.

Undaunted, Johnson quickly developed a recruiting and training program that prepared a 15-person crew to accurately input the results of every play every evening at six fields (the number of fields utilized by the City of Orange). In addition to providing a trained

scorer for each field, Johnson also created the supervisory position of Community Director (CD), an on-site league coordinator who managed the day-to-day operation of the program.

Johnson selected a Community Director who was a certified scorekeeper and outfitted him with a telecommunications pager so that no problem or situation would ever be left unattended. The CD's duties also included ensuring that equipment and supplies were available to scorekeeping staff and that high standards of service were maintained by scorers, umpiring officials, and field maintenance personnel. A much-needed innovation, the Community Director would soon become the backbone of every softball program served by MLS.



Impressed, City of Orange Recreation Manager Kollen gave Major League Softball its first job in 1987: managing the City of Orange's softball program. And when play began in the spring of that year, the softball players quickly noticed the improvements wrought by MLS. As they came to bat, players smiled as their names were announced; and there was a great deal of intrigue at the end of each half-inning when a dot matrix printer was heard recording the previous inning's results.

Reaction to Major League Softball's instantaneous statistical reports, weekly newsletter and other innovations was immediate and virtually unanimous—and in that spring season of 1987, Major League Softball, Inc., had indeed become a reality.

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The (Soft)ball Starts Rolling

Word spread quickly, and later in that year, MLS was asked to join the City of Fullerton's softball administrative team. As he had done for the City of Orange, Johnson created: custom game scheduling software, a proprietary mailing list data base, an automated team classification system, and state-of-the-art graphics capabilities to design and publish program marketing materials. Not only did these enhancements provide the City of Fullerton with a much-improved program, but MLS used them to supply future clients with a comprehensive solution to marketing and administering their softball programs. Pleased with Major League Softball's administrative capabilities, the City of Fullerton asked MLS in 1988 to manage another aspect of its program: supervision of umpiring assignments. MLS president Johnson responded by creating the position Director of Umpiring Operations, and then set about creating and implementing the MLS Umpire Training Program that is currently endorsed by SCMAF.



The Good Word Spreads

In 1989, the City of Anaheim joined the list of agencies using the full spectrum of MLS's contract services. And in every situation, the entity using Major League Softball's services enjoyed substantial

increases in team registration and revenue soon after entering into a contractual relationship with MLS. Moreover, with the added marketing and administrative assistance provided by MLS, every agency's program was expanded to include a fourth, or "Winter," season—and as a result, team registrations and resulting revenues reached new plateaus.

State-of-the-Art Improvements

To successfully service a substantially larger number of clients, teams and responsibilities, MLS continued to develop new ideas and services. For example, 24-hour telephone "hotlines" providing scores and field conditions were originated; and a uniform "team acceptance policy" was instituted to deal with an ever-growing problem—greater demand than available field space. And, MLS proved that with the use of computing it could form more competitive leagues. Specifically, after comparing scores from over 20,000 softball games between 1988 and 1990, MLS devised an automated Team Classification System—a method able to effect a reduction of the average run differential between each game's winner and loser by more than 40 percent!

The Survey Says . . .

As one might imagine, Major League Softball, Inc., learned a great deal from administering several different programs on a year-round basis—including the fact that each softball program has its own unique characteristics and personality. Thus, the practice of surveying team managers prior to initiating service became an invaluable tool.

Incisive questionnaires were developed and distributed to returning participants to ensure that the most popular rules and features of individual leagues were preserved. MLS management was quick to discover that a successful program is much more predictable when its participants' input is actively solicited.

MAJOR LEAGUE SOFTBALL

Keeping Ahead of the Game

As early as 1988, Major League Softball's rapid growth brought about some difficult decisions. Several opportunities to expand the business into new geographic areas were intentionally passed up because of MLS's desire to maintain high standards of quality and service—even if it meant turning down additional income.



Assuming the City of Anaheim's umpiring chores in 1990 dictated a reorganization of Major League Softball's management structure. President Dave Johnson realized that MLS had grown in such size and scope that the Community Director position would have to be redefined.

Specifically, Johnson believed that the scope of the CD's duties was too narrow—that the day had arrived when the on-site manager would have to be both an experienced scorekeeper and a knowledgeable umpire.

Only when this occurred would the League Directors (LDs), as they are now called, be fully qualified to evaluate both types of contractor.

League Directors

The newly created League Directors were given the authority to take disciplinary action, levy service charges and reward scorers and umpires for providing outstanding service. Johnson would further expand the LD's scope to include responsibility for the daily scheduling of their designated scorekeeping crew, a task heretofore handled at corporate headquarters. This significant shift in responsibility was gratefully received by scorekeeping contractors, because it gave them access to their scheduling contact right on the field, six nights a week.

LDs: The Missing Links

Just like the original CD's, League Directors carry telecommunications pagers, which among other benefits, allows them to take over whenever a scoring or umpiring contractor is tardy or absent. The LD's also perform the following functions:

- participate in the scheduling and evaluation of umpiring contractors,
- attend all preseason managers' meetings,
- correct all scorekeeping errors,
- disseminate written materials to team managers, and
- respond to all questions, problems and complaints either by telephone or in person on the field.

Although the time, effort, and cost necessary to successfully integrate the concept of a League Director into the Major League Softball format was considerable, the results have been extraordinary for all parties concerned. In fact, MLS points with pride to the fact that in the first four years of the League Director Program, an umpire and scorer were present at every scheduled game—encompassing more than 50,000 games! An amazing streak which is due in large measure to the outstanding performance of the League Directors.

Students who score well at the clinic must then pass a rigorous 6-game on-field examination under the watchful eyes of MLS's Senior Umpiring Instructors.

THE MAJOR LEAGUE ALTERNATIVE

SCMAF-certified officials are not scheduled to work MLS-administered games until they have successfully passed the classroom, the on-field clinic, and the on-the-job exams.

R & D: Recruitment and Development

As was MLS President Johnson's intent, the concept of the League Director enabled him to concentrate on devising an effective system for the large-scale recruitment and training of umpiring, scoring, and supervisory staff. After two years of trial and error, during which several methods of recruitment were attempted, Major League Softball has successfully formulated a recruitment program that presently yields, on average, 22 scoits per month.

In fact in many instances, the recruitment program has been so effective that the number of interested contractors far exceeds Major League Softball's need for scorekeepers, umpires, and League Directors. The surplus of well-trained, certified contract scorers and umpires has enabled MLS to utilize the services of only the most competent contractors; thus, MLS has put itself in the enviable position of scheduling game officials based solely on the twin criteria of reliability and merit.

Area Administrative Directors

Because virtually every softball program MLS serviced was thriving, the need for full-time training professionals became increasingly evident. In response, MLS's Johnson created the position of Area Director of Scorekeeping Operations (D.S.O.), whose chief responsibilities are to oversee League Directors in their region and to supply them with highly qualified scorekeeping contractors.

Presently, Jason Straub is available to each client on a day to day basis as the Orange County Area Director of Scorekeeping Operations and Catherine Johnson serves the Los Angeles County Area as D.S.O. Both Directors are supplied with classroom facilities, dedicated training equipment and the day to day responsibility of executing MLS recruiting, testing and quality control procedures for all Official Scorers and League Directors in their districts.

Drill the Umpire(s)



Umpiring contractors are selected and trained by a tandem of Directors of Umpiring Operations (D.U.O.) who, like their D.S.O. counterparts, are responsible for managing the day to day operations in specific geographic areas. Under the supervision of President Johnson, Rex Davidson oversees the operations in the Orange County Area and Rod Arrant serves MLS's clients

in the Los Angeles County Area. The D.U.O.s' primary responsibility is to direct the MLS umpire training and evaluation program. Because of an intense dedication and the thoroughness of its training program, MLS has consistently graduated the finest softball umpiring officials in Southern California.

Specifically, after eight hours of instruction in an MLS classroom, prospective umpiring contractors must then attend a day long on-field clinic that is conducted by the Director and his staff. Each umpiring student is evaluated in 20 different categories and then depending on their overall score and their potential, the Director of Umpiring Operations will direct them to a senior Umpiring Instructor or require the student to return to a classroom and/or an on-field session for more instruction.

Students who score well at the clinic must then pass a rigorous 6-game on-field examination under the watchful eyes of MLS's Senior Umpiring Instructors. SCMAF-certified officials are not scheduled to work MLS-administered games until they have successfully passed the classroom, the on-field clinic, and the on-the-job exams.

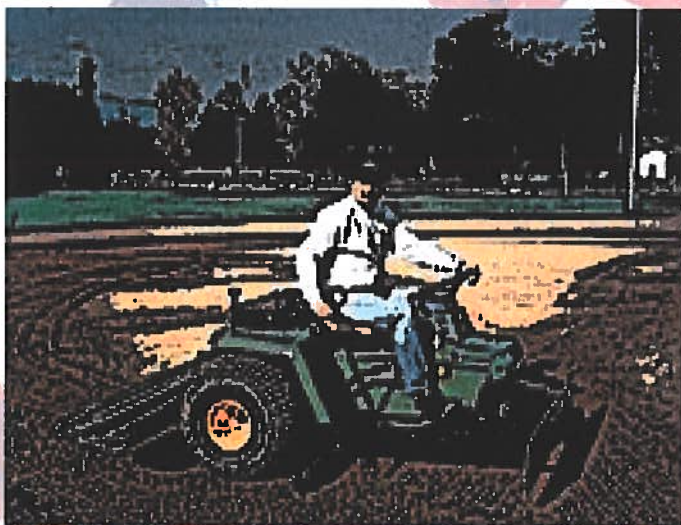
MAJOR LEAGUE SOFTBALL

One More Giant Step

By late 1991, MLS management was convinced it had developed and fine-tuned every conceivable aspect required to ensure a successful softball program. However, Rich Kollen, who gave Major League Softball its first job back in 1987 for the City of Orange, pointed out that MLS would not be a "complete program contractor" until it could provide field maintenance services commensurate with the scope and quality of its administrative, scorekeeping and umpiring services.

As was the case back in 1987, Kollen had identified a pivotal need that, if addressed, would not only result in a major cost reduction tool for each agency—but this time would elevate Major League Softball, Inc., into a class by itself.

After months of research, MLS president Johnson was convinced that providing a state-of-the-art field maintenance service was both necessary and viable. It



was then necessary to find the right man to direct daily field maintenance operations. Johnson was delighted to discover that Jeff Kadis, one of Johnson's former

student-athletes, had spent a great deal of time both studying and working the specialized art of ball field maintenance at College of the Canyons in Valencia, California. Johnson's ten years of maintaining his own baseball fields as a High School and College baseball coach coupled with Kadis' technical knowledge provided exactly what MLS needed to form the cornerstone of its newly established "Field Maintenance Division."

The Tractor Factor

One of Johnson's major research projects was to examine all of the latest tools and equipment specifically designed for ball field maintenance. Armed with corporate funds, Johnson selected a John Deere 1200 tractor outfitted with attachments specifically designed for ball field grooming. Though the JD 1200 was far from the least expensive option, it was clearly the superior machine for preparing and maintaining softball fields; thus Johnson did not hesitate to purchase one for MLS, then open a corporate line of credit through John Deere that made it possible to purchase additional JD 1200s.

A Major Test For Major League Softball

Meanwhile, Major League Softball, Inc., signed a contract with the City of Westminster to provide administrative, marketing, scoring and umpiring services for the city's Community Services Department. The City of Westminster enlisted MLS to expand the recently rejuvenated softball program, starting with the 1992 spring season. Specifically, the city wanted to double the size of its program by the end of four seasons of play. MLS was more than equal to the task. After but two seasons under MLS management, the City of Westminster's softball program posted a 54 percent increase in team registrations!

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The Ultimate Challenge

Buoyed by this impressive statistic and by its new "Field Maintenance Division," MLS jumped at the chance to compete for its first shot as the complete provider of a city's softball program—specifically, the City of Pasadena's. And upon concluding a comprehensive selection process, the City of Pasadena chose Major League Softball, Inc., to handle the city's entire softball operation. Thus, on July 21, 1992, with the first pitch of the City of Pasadena's summer season, Rich Kollen's vision had come to fruition: MLS was managing each and every detail necessary to provide a full-service softball program.

If such an accomplishment doesn't seem monumental, consider that the City of Pasadena's program was being conducted on three fields, five nights per week, while accommodating just under 70 teams. Moreover, MLS had to accomplish all of the following:

- create a publicity campaign and advertise the season,
- register the teams and collect fees,
- form leagues and devise schedules,
- assemble and assign the umpiring and scorekeeping staffs,
- obtain the computerized scoring equipment and game balls,
- conduct the preseason managers' meeting, and
- completely renovate all three infields.

What's more, MLS had to fulfill all of the above functions within four weeks of being awarded the contract—and despite the fact the closest MLS program was more than 30 miles from Pasadena!

Instant Success

Major League Softball was confident in its administrative abilities, but was thrilled when the MLS Field Maintenance Division received immediate accolades from both softball participants and the City of Pasadena's public works staff. In fact, Pasadena City College Athletic Director Ernie Romine, after observing the condition of the fields serviced by MLS, proposed a contract for maintenance of both the P.C.C. men's baseball and women's softball fields. And beginning in January 1993, Mr. Kadis' crews maintained the diamond used by the P.C.C. softball team on a contractual basis.

The City of Pasadena's next season, the fall campaign, experienced a marked increase in team registration. A total of 96 teams participated in the fall season, and a significant number of weekday teams were turned away because field space was maximized. This positive response was most gratifying for MLS and Director of Scorekeeping Catherine Johnson, as



increases in softball team registration from summer to fall are rare indeed.

Thus, within six short years, Major League Softball, Inc., was scoring, umpiring, supervising, and marketing programs that, combined, served more than 700 teams each week!

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Welcome to the Menu!

Competition breeds excellence. And in just seven short years, Major League Softball, Inc., became the Number 1 contract service provider of adult softball program related services in the most competitive area in the country. Today, at the conclusion of its twenty-sixth year, MLS now serves 30 governmental agencies with its wide array of services.

In fact, MLS has developed a program that is as unique as it is successful. A program that can operate every aspect of a softball league—from start-up to fee collection to field maintenance to umpire recruitment to all administrative functions.

What's more, Major League Softball, Inc., can provide



this entire range of services at an incredibly competitive cost. Thanks to talented employees, sophisticated software and fully field-tested techniques, we can provide your organization with the very best Softball League—at a very economical price.

Speaking of economy, we realize that words can be cheap. That actions speak louder than

words. And we know our activities of the past twenty years speak for themselves. But if you're still not convinced, ask our satisfied customers—like the cities of Pasadena, Riverside and Cerritos. *After all, in its twenty-six years of existence, MLS has never failed in an attempt to have a contract renewed.*

II DESCRIPTION OF PRESEASON MARKETING SERVICES

Each section describes specific proposed services as they would be performed for your Agency's Adult Softball Program. Examples of work provided to similar adult softball programs are available upon request. Prior to each softball season MLS will provide the following preseason marketing services to ensure that facilities allocated for Adult Softball Program play are fully utilized:

Design and Publication of all Adult Softball Program Forms and related Documents

MLS will produce all forms and marketing materials, related to the Adult Softball Program, including:

League Announcement Flyers, "League" Rules, ("League" rules as referenced herein are adapted rules that deviate from the rules prescribed by the SCMAF rule book), Roster Addition Forms, Protest Forms, Player Ejection Forms and multi-part NCR forms such as the Official Team Roster Form and Lineup Cards. (All design work will be submitted to the appropriate Recreation Department staff member(s) for approval prior to distribution.)

Mailing List Processing/Maintenance and Bulk Mail Handling

Initially, MLS will input and store the Agency's existing mailing list of softball managers. After each mailing, MLS will compare the mailing list to current team rosters and returned mail to ensure that the mailing list is accurate and up-to-date.

MLS will generate zip code-sorted adhesive mailing labels. In addition to printing the mailing labels, MLS will reproduce, collate and assemble the softball program announcement and registration information, which will then be inserted into envelopes and delivered to the U.S. Postal Service with mailing

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labels attached and first-class postage prepaid. Undeliverable mail shall be returned to MLS headquarters and the mailing list updated accordingly.

Press Releases, Public Relations and Program Marketing

Upon execution of the contract, MLS will produce and distribute press releases to various media in order to effectively publicize the Adult Softball Program and the unique services provided by MLS. During the course of each season, MLS will provide local media with current league standings and league leader information to generate additional interest in the Adult Softball Program.

Team Registration Process

MLS will conduct the team registration via its website and online registration system. Team Managers are able to register their team, submit roster changes, access the Free Agent List and pay the Registration Fee from the comfort of their home or workplace 24 hours per day, seven days per week. MLS warrants that Adult Softball Program participants will find team registration to be a simple and convenient process. During the registration process, MLS will require a team roster and a Good Faith Deposit ("GFD") from each team. MLS deposits all receipts into a dedicated trust account in the Agency's name. MLS will pay to the Agency a sum based on agreement, within an established time frame.

Prior to the commencement of the team registration process, MLS will obtain from the Agency's Recreation Department a softball league facility schedule (providing the dates and times reserved for Adult Softball Program play on each softball field).

MLS will analyze the facility schedules and determine the maximum number of teams that can play each day/night. By double-checking facility schedules prior to the registration process, MLS will be able to apprise teams of field availability at the time they register. In the event that a team's first choice of night is filled, it



will be given the opportunity to select an alternative night to play. Naturally, returning teams to the Adult Softball Program and teams with a significant number of local residents will enjoy certain registration advantages.

Team Classification and League Formation Services

MLS has developed a mathematical means for maximizing competition: the MLS Team Classification System (TCS). MLS shall utilize the TCS to determine team classification and league formations after the initial season of the contract. Upon the conclusion of the team registration process, MLS will form leagues based on the caliber of the teams entered.

The TCS, a trade secret and the sole property of Major League Softball, Inc, uses offensive, defensive and pitching data compiled from softball programs throughout Southern California to form leagues consisting of teams with comparable ability. As is the case with all its current programs, MLS ensures that the level of competition will improve markedly after the computerized scoring system has been used for one (1) season and the quantity of statistical information grows.

It must be understood that MLS would not be able to utilize the TCS to establish leagues in the first season of the contract because of the lack of detailed

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performance statistics. However, to improve first season classifications, MLS will use, if available, league standings, game scores and score sheets from previous seasons. This information would be used in conjunction with registering teams' self-ratings to structure league formations for the initial season of the contract.

Game Scheduling Services

After league formation is complete, MLS shall produce all Adult Softball Program game schedules within the parameters of the softball facility schedule. MLS's proprietary scheduling software generates game schedules with equal amounts of early, middle, and late games, as well as an equal number of home/visitor designations for each team. Each team will receive twelve (12) copies of its schedule in their "manager's packet," which will be distributed at the preseason managers' meeting.



Preseason Managers' Meeting

Within five days of the opening day of each season, MLS shall conduct a Managers' Meeting during which team representatives will receive a packet which includes game schedules, league rules, SCMAF rule books, and procedural documentation. Mandatory attendance will be stressed as proper procedure

concerning interaction with MLS scorers will be explained and possible rule changes and updating of Agency policy will be discussed.

All questions or problems related to scheduling or rules will be answered or otherwise resolved at the Managers' Meeting. MLS shall provide no fewer than two representatives at each preseason Managers' Meeting to distribute all necessary materials and answer questions.

III DESCRIPTION OF IN-SEASON SERVICES

During the course of each softball season MLS will provide the following services to ensure that Adult Softball Program participants receive a level of service quality that is unsurpassed:

League Coordination and Support Services

MLS will provide a roving Official known as the League Direction Official (LDO). The LDO will be responsible for managing MLS's day to day operation of the Adult Softball Program. Prior to becoming a candidate for a League Direction position, prospective LDO's must possess two or more years experience as a scorekeeping and/or umpiring contractor providing services to MLS. Because MLS's selection process is based solely on merit and reliability, MLS can ensure that each League Director is an accomplished professional who is extremely familiar with every facet of the MLS system of softball program administration.

MLS offers the Agency the option of being involved in the LDO selection process in the event that a transition occurs during the contract term. The LDO will be on-site each day/evening, readily accessible to Adult Softball Program participants and/or MLS staff. Program participants may also contact the LDO via a dedicated telephone line known as the "MLS Hotline." In his capacity, the LDO will perform a number of

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essential support functions. Specifically, these responsibilities will include: scorekeeping contractor assignments and evaluations, pickup and delivery of computerized scoring equipment, team roster maintenance, and statistical corrections. In addition, the LDO shall record field condition announcements and game score information onto the dedicated MLS Hotline each evening, and will notify all game officials of game cancellations, scheduling changes, or rule updates.

The LDO will coordinate with the City's liaison staff prior to and during the team registration process and will attend each preseason managers' meeting.

The LDO will record and track all game cancellation information during the course of the season. As each season progresses, the LDO will coordinate all play-off and makeup game requests with the appropriate Recreation Division staff member, and approximately two weeks prior to the scheduled end of each season, he will personally distribute makeup game notices to all affected teams. The LDO will then coordinate the scheduling of umpiring and scorekeeping contractors with MLS Administrative staff to ensure that all play-off and/or makeup games take place at their scheduled time(s) without difficulties.

The LDO will also be readily accessible to scorekeeping and umpiring contractors via cellular/mobile telephones. A certified scorekeeping contractor and SCMAF certified umpire, the LDO is capable of substituting in the event of an emergency.

The LDO's chief responsibility is the daily quality control of the services rendered to Adult Softball League participants. Because the LDO's will participate in the scheduling and disciplining of all scorekeeping and umpiring subcontractors, and they have the authority to remove contractors that violate MLS policy by appearing tardy for a shift or being out of uniform, the LDO has the tools necessary to maintain the highest standards of quality.

Certified Scorers and the MLS Computerized Scoring System

MLS will dedicate a crew of certified scorekeeping contractors to service the Adult Softball Program. One of these scorekeeping contractors will be assigned to every game on the Adult Softball Program Schedule. Every scorer supplied by MLS shall be proficient with the scorekeeping rules and procedures as defined by Appendix D of the SCMAF Rule Book.

Each scorekeeper must pass a written examination as well as a proficiency test on the MLS computerized scoring system before achieving certified contractor status. MLS will supply Agency staff with copies of individual test results upon request.

MLS shall notify each scorekeeping contractor of any special Agency "league" rules that have been adopted by the Adult Softball Program. MLS will review proper procedures for filling out Injury Report forms, Player Ejection forms and Game Protest forms with each scorer. Each scorekeeping contractor will be evaluated no fewer than twice per month by the LDO, and each scorekeeping contractor shall receive unannounced visits from a League Director no less than once per evening. Appropriate dress and professional conduct shall be required of the scorekeepers at all times.

The MLS Scoring system consists of a portable computer system, a portable public address system, printer, table, extension cord, continuous form paper and two-part NCR lineup cards—all of which will be



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in place at every softball field each night of scheduled Adult Softball Program play. MLS scorers will input the results of each play into the system and will provide the following reports and publications at each game:

1. Play-by-play Narrative

Upon the conclusion of each game a detailed account (one copy per team) of how the game was scored will be available from the official scorer. (Sample "Narratives" are available upon request). In the event a participant disagrees with any of the data on the statistical summaries, he or she can check the play-by-play detail to resolve any disagreements.

2. Team Summaries

At the conclusion of each game three (3) copies of the single game Team Summary Report and three (3) copies of the cumulative Team Summary Report shall be printed and delivered to each team by the scorekeeper. Among other statistics, these Reports list each player's at-bats; runs; hits; doubles; triples; home runs; and batting, slugging, and fielding percentages. (Sample Team Summary Reports" are available upon request.)

3. *Dugout Dirt* Newsletter

Team managers shall receive a copy of the latest issue of the "Dugout Dirt" publication each week from the scorekeeper. The front page contains current league standings and the Top 10 players in five different statistical categories (Top Batters, RBI, Sluggers, Fielders and E.R.A.). The back page contains a cumulative Team Summary Report for every team in the league, so every manager will have season-to-date information for his own team as well as for every player his team will face.

MLS will supply a proprietary software package titled "Hitech Baseball/Softball" to each computer system. Said software package is a trade secret of Hitech Sports, and may not be copied or reproduced by any person, firm or corporation in whole or in any part without the express written consent of MLS. It is understood that MLS shall reserve all rights to the statistical information captured using said software package.

MLS Umpiring Services

The following set of umpiring-related services will be provided to the Adult Softball Program:

Director of Umpiring Operations

MLS umpiring operations are managed on a day to day basis by a dedicated Director of Umpiring Operations (DUO) (See MLS Organizational Chart.) The DUO is responsible for the recruitment, training, S.C.M.A.F. certification, and the on-going evaluation of all umpiring officials.

The Director maintains a file containing each umpiring official's pertinent information in the event that there is a question or concern related to an umpire's certification and training background, test scores, and evaluation history.

The Director of Umpiring Operations manages MLS's Online Umpiring System (OUS) which is the most advanced and objective method in the industry for evaluating and managing a large crew of umpires.

Moreover, the Director is directly accessible to the Agency's liaison staff members and will provide research, documentation and assistance pertaining to ejections, protests, or requests by either Recreation Division Staff or Adult Softball Program participants. As previously stated, the DUO shall attend preseason Managers' meetings and will be available to attend any or all program organization meetings.

MLS Umpire Training and Certification Program

MLS has been authorized by SCMAF to conduct its own training and certification classes. In fact, umpires from all over Southern California are referred to MLS for certification because of its comprehensive classroom and on-field training program. Though MLS does certify each of its officials with SCMAF, in order to receive game assignments from MLS, each official must successfully complete a comprehensive three-part training process with accompanying examinations administered by the Director of

THE MAJOR LEAGUE ALTERNATIVE

Umpiring Operations and his staff of Senior Umpiring Instructors.

The Director personally conducts each classroom training session and on-field clinic for umpires of all skill and experience levels. In addition to the SCMAF Rule Book and Umpires' Mechanics Guide, The Major League Softball Umpire Training Course is now a published textbook used for beginning, intermediate and advanced umpire instruction. (A copy of the MLS Umpire Training Course can be obtained from MLS by request only. We feel the information contained in the publication is somewhat proprietary and therefore it is not made available to the general public.)

Each beginning umpiring student is placed in simulated game situations prior to umpiring in an actual league game. This way, no umpiring official is allowed to work "for real" until they are truly ready to perform at a high level of competence.

MLS is extremely proud of its intermediate and advanced umpire development programs. MLS strongly believes that it is simply not enough for umpiring contractors to re-certify on a yearly basis. The Director of Umpire Operations dedicates his week

night work schedule to the ongoing evaluation and follow up training of already certified umpiring contractors. It is this feature of the MLS Umpiring Service that sets Major League Softball, Inc., apart from every other umpiring organization in Southern California. Though the recruitment and training of new umpires is an important function, it is our opinion that the constant improvement and education of our existing crew members is of paramount importance, therefore, substantial corporate resources are dedicated to this function.

"Local Crew" of MLS/SCMAF Certified Officials

MLS will accept all umpiring assignments for league games in accordance with Adult Softball Program game schedules. Every umpiring official supplied by MLS shall be MLS/SCMAF certified.

Umpires are scheduled such that they are rotated no less than every two weeks. MLS has found that this method eliminates problems related to issues that can develop between teams and umpires when they become too familiar with one another.

MLS will dedicate a crew of MLS/SCMAF certified umpires to the League Director. The LDO's will communicate with their crew members on a daily basis to ensure that each umpiring official is abreast of all special "Local" Adult Softball Program rules. All new crew members will be given a special examination that tests their knowledge of the Agency's special rule set and upon administering the Exam the respective DUO will review each rule. (Copies of "Local Exams" are available upon request.)

Though LDO's submit detailed performance evaluations for Umpires via the OUS on a daily basis, each umpiring official will be evaluated in writing on one (1) or more occasions per each ten-week season by the Director of Umpiring Operations.

MLS Scheduling and Emergency Backup Support System

MLS's umpire scheduling system provides a multi-tiered emergency backup support system for



MAJOR LEAGUE SOFTBALL

cases where an umpiring official is not present ten (10) minutes prior to game time. The MLS Emergency Backup Support System functions as follows:

- 1) Each umpiring official is required to sign a contract each month which defines his/her umpiring obligations for the month. (Samples of individual umpiring contracts are available upon request.)
- 2) Each program has a dedicated "On Call" official scheduled on every night of league play. Officials accepting "On Call" shifts are required to stay in contact with the DUO throughout the day and evening of the shift.
- 3) In the event that an umpiring contractor is not present ten (10) minutes prior to the scheduled game time, the assigned scorekeeper will contact MLS's dedicated "Quarterback" who mans a specific "Quarterback Hotline" beginning one hour prior to the first scheduled game time. (Scorekeepers are required to arrive no fewer than 30 minutes prior to the first scheduled game time. LDO's check their first field approximately 30 minutes before game time and have made a complete sweep of their fields by the first scheduled game time.)
- 4) Upon receiving the scorekeeper's call, the Quarterback will immediately contact the appropriate LDO (via cellular telephone/pager) and direct the LDO to the field where the assigned umpire is not present. The LDO, a certified umpire, will then conduct the pregame meeting with the team managers and start the first game such that the teams are not inconvenienced in any way.
- 5) Meanwhile, the Quarterback dispatches the assigned "On Call" official to the field where the LDO has started the first game.
- 6) Upon the arrival of the "On Call" official, the LDO will then return to his/her League Directing duties. The LDO will continue to officiate the game until the "On Call" official arrives.

In the unlikely event that more than one (1) "On Call" official is needed, the "Quarterback" will contact the Director of Umpiring Operations and the D.U.O. will dispatch another local official or will personally relieve the LDO himself.

This system provides no fewer than three (3) layers of backup support beyond the originally scheduled official. This plan ensures that every scheduled softball game is played with more than 95 percent of them started "on time".

Game Materials

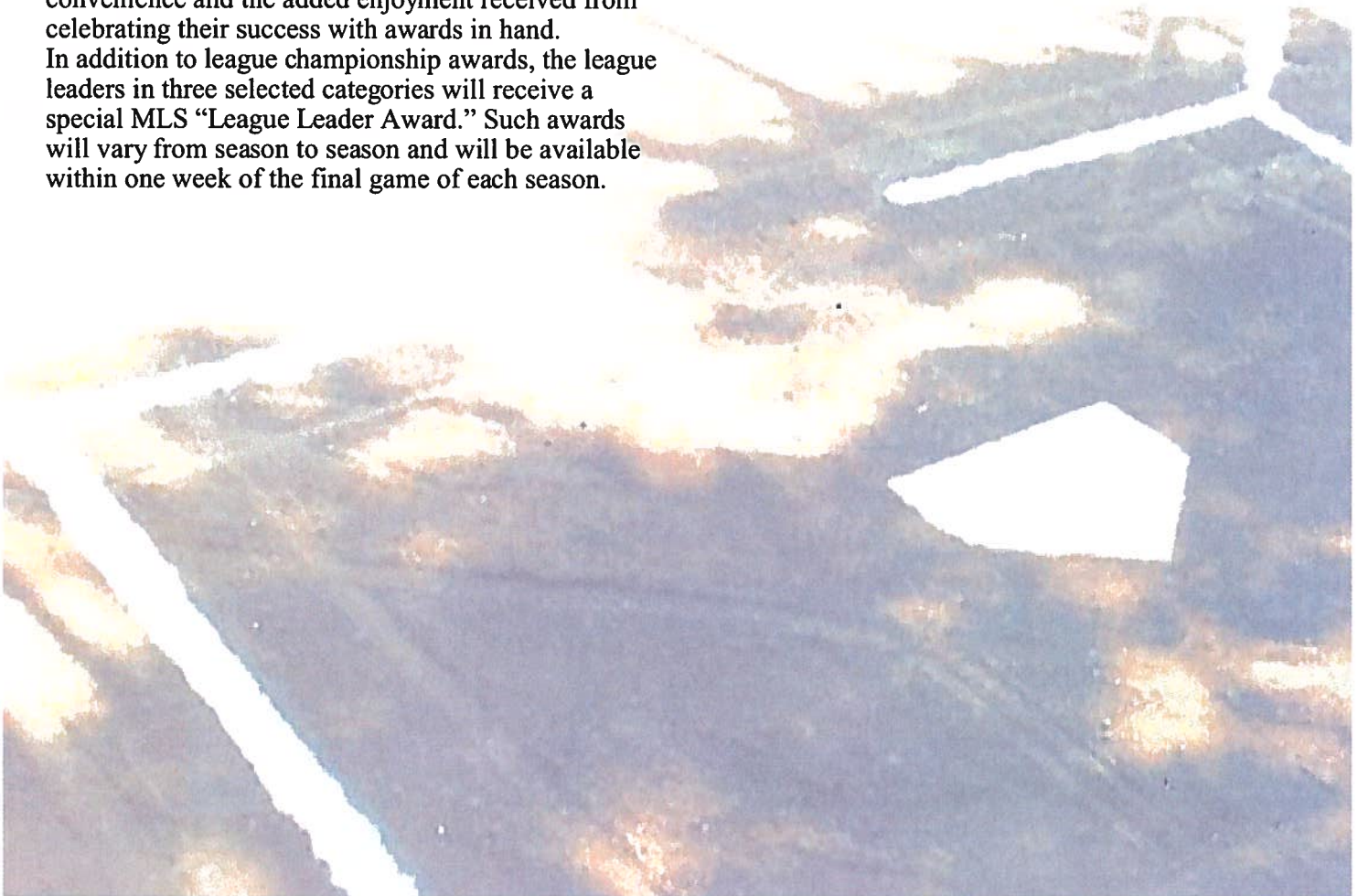
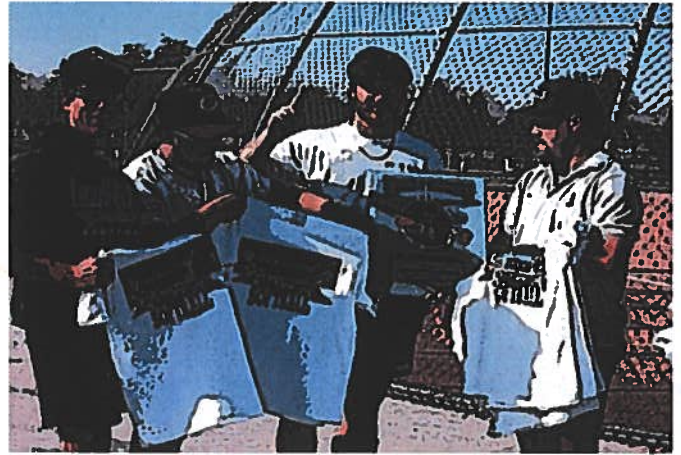
MLS will provide one (1) new game ball and one (1) good used ball for each game. The Agency and MLS shall mutually agree upon acceptable manufacturer(s) and model(s) of game balls to be used in the Adult Softball Program. MLS will supply a set of bases and a SCMAF-approved home plate extension for each field. MLS staff will be responsible for the installation and removal of the bases and home plate extensions each night as well as any manual operation of lighting systems.

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Awards Design, Procurement & Distribution

No later than the fifth week of each season, MLS will submit art work to be approved by the appropriate Agency staff member(s). Upon approval, MLS will order a sponsor/team award for both the first and second place teams, and 15 individual awards for the members of each first place team.

MLS will provide various awards options during each Managers' Meeting and allow team representatives to vote for their preferences. (MLS will provide samples of actual awards designed, manufactured and distributed to teams in similar adult softball programs; popular choices are "mock" turtleneck sweaters, "crew neck" sweatshirts, embroidered hats and bat bags that read "City Champions".) MLS will distribute awards on the fields on the final night of each league's season. MLS has found that softball teams are extremely appreciative of this service because of the convenience and the added enjoyment received from celebrating their success with awards in hand. In addition to league championship awards, the league leaders in three selected categories will receive a special MLS "League Leader Award." Such awards will vary from season to season and will be available within one week of the final game of each season.



MAJOR LEAGUE SOFTBALL

IV BALL FIELD MAINTENANCE SERVICES

Before, during and after each softball season MLS will provide the following services:

The MLS Standard Ball Diamond Maintenance System (SBDMS)

The MLS Field Maintenance Division is managed by MLS's Director of Maintenance Operations, Patrick May (hereafter "DFM") and his staff. The DFM has integrated his own innovative techniques along with proven maintenance procedures to create a comprehensive maintenance system that renders ball field conditions that have proven both safe and enjoyable for program participants.

The most remarkable benefit of the MLS Standard Ball Diamond Maintenance System (SBDMS) is that it affords program administrators the opportunity to resume league play immediately after inclement weather. The SBDMS eliminates the need to wait multiple days for ball fields to dry after a heavy rain; this feature has significantly reduced the number of rained-out games and the resulting rescheduling burden. MLS warrants that the SBDMS will enable it to schedule and complete four (4) softball seasons per year, regardless of the amount of rainfall.

By their very nature, every softball field has a unique set of conditions that requires special attention. Therefore, the Major League Softball SBDMS consists of two distinct elements: Periodic Repair Services and the Daily Maintenance Program.

Periodic Field Repair Services

To the extent that adult softball play impacts the fields allocated for league use, the following repair services will be performed on each field programmed for adult softball:

1) Survey the traction (infield) area each season to evaluate the existing grade and decide which



equipment and grading method should be employed to bring the infield(s) to the proper grade. See Paragraph #3 below for specific details regarding grading equipment and methods.

- 2) After surveying the traction area of each infield, obtain and provide whatever amount of traction material ("Angel Mix", decomposed granite, etc.) is necessary to build up the infield(s) that have suffered significant material displacement—if additional traction material is needed to create a level grade. It must be clearly understood that the SBDMS traction material replacement feature is limited to replacing only those quantities of material that have been lost or displaced due to adult softball use. The SBDMS will not include replacement of traction material when such material loss or displacement is caused by weather and/or athletic uses such as baseball, youth softball, soccer, school programming or any field uses other than adult softball.
- 3) On three (3) occasions per year, grade the traction area of each infield using a skip loader and Gannon" grading box. Traction material will be added where necessary during the grading process. Traction material purchases will be prorated such that MLS will pay for

THE MAJOR LEAGUE ALTERNATIVE

traction material only to the extent of the SBDMS material replacement feature defined in Paragraph 2 above and the City will pay for the portion of each traction material purchase that is needed due to non-adult softball uses and/or weather. To ensure optimal drainage, safety and playability on each infield allocated for adult softball league play, MLS strongly recommends that each infield is laser leveled on one (1) occasion per year. MLS will invoice the City the sum of \$500.00 per infield after rendering laser leveling services.

- 4) On a seasonal basis, survey the outfield (sodded) area to determine which areas are worn or damaged due to adult softball use. It must be clearly understood that this SBDMS sod replacement feature is limited to damage or wear that is specifically caused by adult softball use only. Worn or damaged areas of a softball outfield that have been caused by other activities or athletic uses such as soccer, rugby or football will not be considered part of the outfield area that will be repaired by the SBDMS.
- 5) When necessary, obtain and provide whatever type of sod that is currently used as outfield turf (i.e. bermuda, perennial rye, etc.) MLS will supply enough sod to completely fill those areas which are heavily impacted by softball league play. MLS will use proper sod cutting equipment to remove damaged, worn or diseased sod and replace it with healthy 3' by 1' lengths. During the planting process, MLS will add all necessary amendments (recipe to be mutually agreed upon between the appropriate City staff member(s) and the DFM) to ensure proper mending and growth.
- 6) Measure the distances from home plate, between base anchors, and to the pitcher's plate (rubber) to ensure that they fall within the specifications set forth in the SCMAF rule book. At this time, all base anchors, home plates and pitchers' plates will be thoroughly checked for excessive wear or defects; and a written status report may be submitted to the appropriate city staff member(s).

- 7) Using a light meter, MLS will test the candle foot power (lux) for each infield and outfield. In the event that an existing candle foot reading



does not comply with the State of California's minimum standard for ball field use, a written diagram illustrating the location and quantity of each reading will be provided to the appropriate city staff member(s).

- 8) When necessary, the perimeter border edge (the line where infield traction material meets outfield turf) will receive special attention to eliminate any berm or ridge that develops from frequent use. MLS will de-thatch, scalp and water blast the perimeter edge such that it will remain free of infield mix buildup. It must be clearly understood that this infield perimeter border edge repair feature is limited to repair of damage caused by adult softball use only. The SBDMS will not provide repair of perimeter border edges when such repairs are caused by weather and/or athletic uses such as baseball, youth softball, soccer, school programming or any field uses other than adult softball.

MLS will evaluate the existing conditions on each softball field allocated for adult softball program use prior to commencement of a contract. If the existing

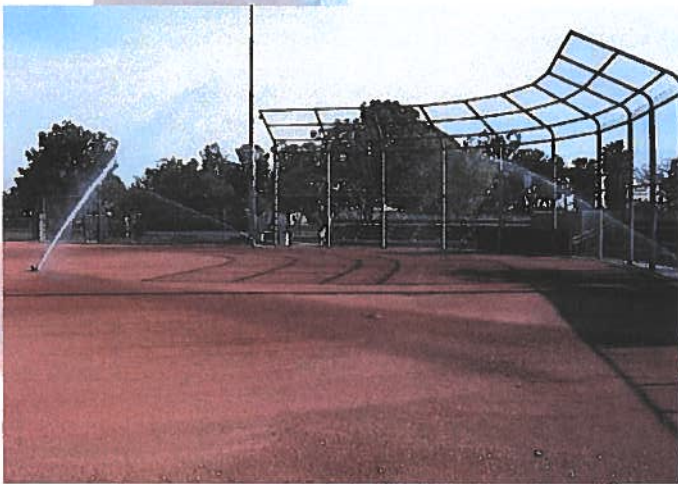
MAJOR LEAGUE SOFTBALL

conditions on each softball field do not meet industry standards then MLS will prepare a written estimate of proposed renovation services with MLS's customary charges for such services. In such situations, the City agrees to either accept MLS's proposal and pay MLS to renovate said softball fields or the City will bear the responsibility for bringing said fields up to industry standards for safety and playability.

Periodic Repair Services are provided to ensure that all playing surfaces are kept available for use. It is mutually understood that the City has its own, separate parks maintenance staff and/or parks maintenance program. The SBDMS is not a parks maintenance program and is not designed to alleviate the City's park maintenance responsibilities.

Infield Treatment Program

After necessary Periodic Repair Services have been completed, each softball field will be ready for the opening day of the season. Beginning on opening day, MLS's Field Maintenance staff will perform an Infield Treatment on each field scheduled for league play.



The Infield Treatment Program takes into account that specific locations (referred to as "high-impact areas") on each softball diamond endure heavy use and thus require special attention. High-impact areas such as batter's boxes, catcher's and umpire's places behind

home plate, the pitcher's mound, the base paths, and the sliding areas around the base anchors will receive additional watering and scarifying on a daily basis; and traction material will be added when needed. A Daily Infield Treatment consists of the following steps that are performed on each day a field is scheduled for league play:

- 1) Large quantities of displaced material from high-impact areas will be back-filled using the front scoop of a John Deere 1200 ball field conditioner.
- 2) The entire traction area will be watered, with additional quantities applied to high-impact areas.
- 3) As needed, the entire traction area will be scarified using a variety of depth settings, depending on the existing condition of the field. MLS staff uses scarifiers that come as standard attachments on John Deere 1200 ball field conditioners. The JD 1200 scarifier is 54 inches wide and can be set to depths ranging from one to six inches. Extra care will be exercised when scarifying next to perimeter edges, base anchors, home plates, pitcher's plates, backstops and chain link fencing. (Experience has shown that this process renders a consistent infield texture that significantly reduces the number of injuries related to bad bounces and sliding on hard or un-level surfaces.)
- 4) The JD 1200 grading/leveling attachment and a "screen" drag will then be employed to evenly distribute traction material over the entire traction area surface of the infield leaving a smooth surface.
- 5) Finally, the field shall be lined as prescribed by the SCMAF rule book. Using a batter's box template and string, MLS staff will set down the batter's boxes, foul lines, coaches' boxes, first base running line, and on-deck circles. Appropriate city staff member(s) will be consulted, so that MLS will use only field marking materials that have been approved by the City's Parks Maintenance Division.

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While the SBDMS is quite comprehensive, it does not include the following landscape and parks maintenance tasks: seeding, aeration, fertilization, mowing, watering of outfield areas, irrigation system repair, or infield mix replacement that becomes necessary due to weather or uses other than adult softball. However, the MLS Field Maintenance Division is capable of providing maintenance services well beyond the scope of the Standard Ball Diamond Maintenance System. If such maintenance services are desired, a separate contract concerning these maintenance services may be negotiated.

City Responsibilities

The City agrees to maintain in safe condition all park fixtures such as: poles, light fixtures, light bulbs, bleachers/seating apparatus, playground equipment, chainlink fencing (including but not limited to "dugout", "backstop", "out of play" and "outfield/home run" fences), base anchors, home plates and pitcher's rubbers. MLS will not be held responsible to defend or indemnify the City against any claims for personal injury, death or property damage that in any way arise from or relate to (i) the condition of said park fixtures, or (ii) the design and/or construction of park facilities allocated by the City for adult softball play, regardless of whether such claims involve program participants, program spectators or members of the general public.

The City agrees to defend and indemnify MLS against all claims and liabilities arising out of or in any way relating to (i) the condition of the aforesaid park fixtures or , (ii) the design and/or construction of park facilities allocated by the City for adult softball play, regardless of whether such claims involve program participants, program spectators or members of the general public.

V STANDARD FINANCIAL STRUCTURES & TERMS

Major League Softball, Inc., will provide any or all of the services described herein on a modular, "the client chooses" basis. Naturally, the scope of services selected will directly affect the fees charged and the manner in which MLS will collect or invoice its fees.

Though MLS will negotiate an "Agreement" that meets the needs of the individual client, MLS's contractual arrangements typically fall into one (1) of three (3) categories:

1) *Operating Service Agreements*

In this type of arrangement, MLS will collect and deposit all adult softball program league fees into a dedicated checking account. MLS will retain a fixed amount of revenue per team as its "Retained Fees" for services. The number of dollars that MLS retains from each team registration is dependent upon the specific set of services selected by the Agency.

"Operating Services Agreements" specify that the Agency must provide written approval for decisions relating to League Fees, ball field allocations and the number of seasons programmed for adult softball league play. Due to the substantial investment required, most Operating Services Agreements are negotiated for terms of two (2) years or more.

2) *Specific Program Service Agreements*

Agencies that wish to utilize a more narrow scope of service may negotiate a contract whereby MLS will invoice on a per game basis for specific selected services. The fee charged per game will vary depending upon the scope of service rendered. MLS will look to invoice for such services on a monthly basis.

MLS offers its program services on a modular basis such that an Agency may select one (1) service or groups of services which are packaged. Specific Program Services Agreements range from one (1) to three (3) years in duration.

3) *Ball Field Maintenance Service Agreements*

Similar to the previously described arrangements, MLS will provide specific ball field maintenance services as selected by the Agency. Routine infield treatment programs are invoiced on a per treatment basis and periodic renovation work is negotiated on a time and materials basis and/or by project. Ongoing maintenance services will be invoiced monthly and the per treatment price will be dependent upon the specific scope of services selected. Specific Ball Field Maintenance Service Agreements range from one (1) to three (3) years in duration.

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VI INSURANCE COVERAGES, INDEMNITY, AND AGENCY RESPONSIBILITIES

Prior to commencement of services, MLS shall provide proof of a comprehensive liability insurance policy with a policy limit of \$2,000,000 naming the Agency, its officials, employees, representatives, and volunteers as additionally insured parties. MLS' current liability insurance policy is renewed in December of each year and has a one (1) year term.

MLS will supply to the persons and/or departments of the Agency's choice, appropriate documentation evidencing this insurance coverage. MLS's coverage extends to program participants as well as spectators and members of the general public.

In addition to its comprehensive liability insurance policy, MLS is backed by a Commercial Crime and Employee Dishonesty policy in the amount of \$25,000. In programs where MLS collects and handles Adult Softball Program monies, the policy will protect the Agency from a loss up to \$25,000.00. The Agency will be named on the policy as the "loss payee" and the Agency will have the sole right to file a claim. MLS is willing to increase the limit of the policy if the sums of money handled warrant such an increase.

MLS utilizes the services of Independent Contractors for umpiring and scorekeeping functions. (Copies of the Service Agreements entered into by MLS and its Scorekeeping and Umpiring Contractors are available upon request.) Independent Contractors are responsible for the reporting and payment of payroll taxes as well as providing their own Workers' Compensation Insurance.

Currently, in each of its programs MLS requires each player to sign a "Release, Hold Harmless and Indemnity Agreement." MLS warrants that such a requirement will be enforced in the Adult Softball Program with a similar legal document that is approved by the Agency's Risk Management Department.

Questions regarding MLS' insurance or bonding should be directed to David R. Johnson at the address and/or telephone numbers printed above.

Limited Scope Of Indemnity

Due to insurance considerations, as well as equitable business principles, it is MLS's policy to indemnify the Agency against, but only against, all claims and liabilities arising from the negligence or intentional misconduct of Major League Softball, Inc., its employees and/or agents. MLS is not in a position to indemnify the Agency against negligence or intentional misconduct of the Agency or its employees or agents, or any other third parties. Accordingly, any definitive contract for services must include the concept of "comparative negligence" (i.e., MLS will indemnify the Agency only "TO THE EXTENT OF" MLS's negligence or misconduct.)

It may be legally permissible for MLS to undertake a broader scope of indemnity. However, inasmuch as this will affect the insurance premiums paid by MLS, the fees payable to MLS will have to be adjusted accordingly. Any such assumption of additional indemnity must be specified and agreed to in writing and signed by a Corporate Officer of Major League Softball, Inc.

Agency Responsibilities

The Agency agrees to maintain in safe condition all park fixtures such as: poles, light fixtures, light bulbs, bleachers/seating apparatus, playground equipment, chainlink fencing (including but not limited to "dugout", "backstop", "out of play" and "outfield/home run" fences), base anchors, home plates and pitcher's rubbers. MLS will not be held responsible to defend or indemnify the Agency against any claims for personal injury, death or property damage that in any way arise from or relate to (i) the condition of said park fixtures, or (ii) the design and/or construction of park facilities allocated by the Agency for adult softball play, regardless of whether such claims involve program participants, program spectators or members of the general public,

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The Agency agrees to defend and indemnify MLS against all claims and liabilities arising out of or in any way relating to (i) the condition of the aforesaid park fixtures or , or (ii) the design and/or construction of park facilities allocated by the Agency for adult softball play, regardless of whether such claims involve program participants, program spectators or members of the general public.



MAJOR LEAGUE SOFTBALL

VII PROFESSIONAL REFERENCES

The following is an alphabetized list of references:

Mitch Assuma, Senior Recreation Supervisor
City of San Bernardino
547 North Sierra Way
San Bernardino, CA 92410
(909) 384-5132

John Banks, Recreation Supervisor
City of Laguna Niguel
29751 Crown Valley Parkway
Laguna Niguel, California 92677
(949) 362-4350

Marc Gutfeld, Adult Sports Supervisor
City of Long Beach
4700 Deukmejian Drive
Long Beach, California 90804
(562) 570-1731

Amy Hall-Mc Grade, Parks and Recreation Director
City of Covina
1250 N. Hollenbeck,
Covina, California 91722
(626) 858-7269

Bonnie Hagan, Leisure Services Superintendent
City of Orange
326 East Almond Avenue
Orange, California 92666
(714) 744-7287

Kevin Ellis, Recreation Supervisor
City of Downey
11111 Brookshire Avenue
Downey, California 90241-7016
(562) 904-7242

Felipe Zambrano, Recreation Services Manager
City of Placentia
401 E. Chapman Avenue
Placentia, California 92870
(714) 993-8227

Dianna Kuka, Recreation Supervisor
City of Westminster
8200 Westminster Boulevard
Westminster, California 92683
(714) 895-5860, Extension 8561

Michael Brandt, Recreation Specialist-Adult Sports
City of Anaheim
200 South Anaheim Boulevard
Anaheim, California 92805
(714) 765-5265

Judy Miller, Community Services Manager
City of Chino
13220 Central Avenue
Chino, California 91710
(909) 591-9834

Carlos Espinosa, Recreation Supervisor
City of Cerritos
18025 Bloomfield
Cerritos, California 90703
(562) 916-1262

Robin Metz, Recreation Superintendent
City of Riverside
3936 Chestnut St.
Riverside, California 91770
(951) 826-2050

Cesar Monsalve, Recreation Supervisor
City of Duarte
1600 East Huntington Drive
Duarte, California 91010
(626) 357-7931

Judy Peterson, Community Services Manager
City of Fullerton
801 West Valencia Avenue
Fullerton, California 92632
(714) 738-6390

Jose Rico, Deputy Director
City of Pico Rivera
6767 Parsons Boulevard
Pico Rivera, California 90660
(562) 801-4439

Irving Montenegro, Recreation Coordinator
City of Corona
815 W. 6th Street
Corona, California 92882
(951) 279-3781

Darrell Walker, Recreation Supervisor
City of Pasadena
2575 Paloma Street
Pasadena, California 91107
(626) 794-4656

EXHIBIT B
FEE SCHEDULE

Fee	Description
\$360	8 Games with Playoffs (Spring, Summer, and Fall Seasons)
\$300	Tournament Fee
\$35	New Team Registration Fee
\$12	SCMAF Team Registration Fee
\$46	Player's Medical Benefit Fund (PMBF) Team Fee
\$24	League Officials and Scorekeeper Fee (per team for each game played)
\$12	Tournament Officials Fee (per team for each game played)

EXHIBIT C
ANNUAL REPORT FORM

MLS Logo

SUBJECT: ANNUAL REPORT FOR COSTA MESA

DATE:

FROM:

FOR FURTHER INFORMATION CONTACT:

BACKGROUND - FOR EXAMPLE

Major League Softball, Inc. ("MLS") has provided the City of Costa Mesa ("City") with an Adult Softball Program on a year round basis since August 10, 2015. Operations include league marketing services, program administration and coordination, officiating services, computerized scoring system as well as individual awards for 1st-Place and 2nd-Place teams.

The Costa Mesa Adult Softball Program will be placed online at www.mlsoftball.com and participants will be able to register their teams, make payments, pick up players, view their game schedules and access League Standings, Individual Statistics and League Leader lists.

The Adult Softball Program is held at the TeWinkle Park Athletic Complex 970 Arlington Dr. Costa Mesa, CA 92626

The adult softball program consists of eight regular league games followed by playoffs. Teams are guaranteed one playoff game. Leagues are available Sunday through Friday nights. Coed nights are Sunday, Monday, Tuesday. Men's nights are Wednesday, Thursday and Friday.

ANALYSIS

At the completion of every season, MLS will provide the City with the following:

- Number of teams
- Percentage of Costa Mesa residents
- List of complaints from participants
- Report of major injuries
- List of Incidents related to field play
- Any other participant feedback

CONCLUSION - FOR EXAMPLE

This season set an all-time high for participation since our partnership began. Customer satisfaction has never been better. A poll of team managers revealed that the most important (and popular) feature of our program is the dedicated League Direction Official who is on-site every day/evening of play to monitor the quality of the services delivered by the game officials and to ensure that teams are classified properly based on the players they actually bring out to play (instead of judging solely by the roster that they submit).

David R. Johnson
MLS President



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/31/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Bene-Marc, Inc. 6301 Southwest Blvd., Suite 101 Fort Worth, TX 76132-1063 (800) 247-1734	CONTACT NAME: PHONE (A/C No. Ext): (800) 247-1734	FAX (A/C No.): (817) 738-1811
	E-MAIL ADDRESS: contact@bene-marc.com	
INSURED Major League Softball Inc, DBA: The Kickball Co. 371 E. River Ave. Orange, CA 92866	INSURER(S) AFFORDING COVERAGE	
	INSURER A : Certain Underwriters at Lloyds	
	INSURER B : HDI Global Specialty SE	
	INSURER C :	
	INSURER D :	
	INSURER E :	
		NAIC # AA-1127861 AA-1120822

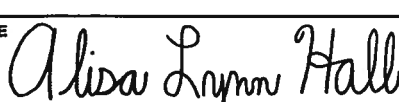
COVERAGES **CERTIFICATE NUMBER: 7797-51402-237416** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY	<input checked="" type="checkbox"/>	19LB2277	3/19/2021	3/1/2022	EACH OCCURRENCE \$ 1,000,000.00
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000.00
	<input checked="" type="checkbox"/> INCLUDES Participant Legal Liability					MED EXP (Any one person) \$ EXCLUDED
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC					PERSONAL & ADV INJURY \$ 1,000,000.00
						GENERAL AGGREGATE \$ 2,000,000.00
						PRODUCTS - COMP/OP AGG \$ 2,000,000.00
						\$
	AUTOMOBILE LIABILITY					COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO					BODILY INJURY (Per person) \$
	<input type="checkbox"/> OWNED AUTOS ONLY					BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS ONLY					PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY					\$
						\$
B	<input type="checkbox"/> UMBRELLA LIAB	<input checked="" type="checkbox"/>	18EX2116	3/19/2021	3/1/2022	EACH OCCURRENCE \$ 1,000,000.00
	<input checked="" type="checkbox"/> EXCESS LIAB					AGGREGATE \$ 1,000,000.00
	<input type="checkbox"/> CLAIMS-MADE					\$
	DED RETENTION \$					\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					PER STATUTE OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/>	N/A			E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below					E.L. DISEASE - EA EMPLOYEE \$
						E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

This policy includes a blanket additional insured endorsement that provides additional insured status to the certificate holder per form CG2026 07/04. Certificate Holder is named as Additional Insured per attached form CG 20 10 10 01. Insurance is considered Primary and Non-Contributory. *10 Days Notice of Cancellation for Non-Payment of Premium.

CERTIFICATE HOLDER 7797-51402-237416 The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers 77 Fair Dr. Costa Mesa, CA 92626	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – SCHEDULED PERSON OR
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

<p>Name of Person or Organization: The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers 77 Fair Dr. Costa Mesa, CA 92626</p>

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

- A. Section II – Who Is An Insured** is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed for that insured.
- B.** With respect to the insurance afforded to these additional insureds, the following exclusion is added:

2. Exclusions

This insurance does not apply to "bodily injury" or "property damage" occurring after:

- (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the site of the covered operations has been completed; or
- (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

- (iii) that is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
 - (iv) if the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I – Coverage A – Bodily Injury And Property Damage Liability.
- (b) any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured by attachment of an endorsement.
- (2) When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

c. Method Of Sharing

In the instance where we are primary, we will be non-contributory. In any other instance, we will contribute as follows:

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

- (1) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:
- (a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
 - (b) The total of all deductible and self-insured amounts under all that other insurance.
- (2) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

This endorsement is to take effect on March 19,2021.

Policy No.: 19LB2277

Name: Major League Softball Inc, DBA: The Kickball Co.

Policy Effective Date: 03/19/2021

Expiration: 03/01/2022

All other terms and conditions of the Policy remain unchanged

This Endorsement changes the Policy. Please read it carefully.

COMMERCIAL GENERAL LIABILITY ENDORSEMENT

PRIMARY AND NON-CONTRIBUTORY AMENDATORY – E1602AJ-1112

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers 77 Fair Dr. Costa Mesa, CA 92626 Policy Number: 19LB2277
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, paragraph 4. **Other Insurance** is hereby deleted and replaced with the following:

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when Paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **c.** below. However, with respect to any other valid and collectible insurance available to a person or organization as scheduled above, this insurance shall be primary to other available sources, except where the liability of such person or organization is caused by his, her, or its own negligence. Nothing herein shall be construed to make this Policy subject to the terms, definitions, conditions and limitation of any other insurance.

b. Excess Insurance

(1) This insurance is excess over:

(a) any of the other insurance, whether primary, excess, contingent or on any other basis:

- (i) that is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
- (ii) that is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;

All other terms and conditions of the Policy remain unchanged