

**OPERATING SERVICES AGREEMENT  
MAJOR LEAGUE SOFTBALL**

THIS OPERATING SERVICES AGREEMENT ("Agreement") made the 10<sup>th</sup> day of August, 2015, by and between the CITY OF COSTA MESA, a California municipal corporation (CITY) and MAJOR LEAGUE SOFTBALL, INC., a California corporation, hereinafter referred to as PROVIDER.

**WITNESSETH:**

In consideration of their mutual covenants and promises, CITY exclusively retains PROVIDER to organize and manage the City of Costa Mesa Adult Softball Program and to do all things necessary to provide the needed services, and to make payments to CITY, in accordance with the terms and conditions contained herein.

**I. DEFINITIONS**

A. For the purpose of this Agreement, the following words and phrases are defined and shall be construed as hereinafter set out:

1. CITY: The City of Costa Mesa, a municipal corporation.
2. PROVIDER: Major League Softball, Inc. ("MLS"), a California corporation, inclusive of all employees and agents of MLS.
3. STAFF: The Chief Executive Officer, Assistant Chief Executive Officer, Recreation Manager, or their authorized representative(s), of CITY.
4. SCOPE OF SERVICES: The services to be provided by PROVIDER, and the responsibilities of PROVIDER, shall include the following functions:
  - A. Program Administration
  - B. Officiating Services
  - C. Optional Scorekeeping Services
  - D. Awards
  - E. Web Hosting Services
5. LEAGUE DIRECTOR: The individual assigned by PROVIDER to oversee daily supervision of the services provided by PROVIDER.
6. SOFTBALL FIELDS: The terms "Softball Fields" and "Fields" as used in this Agreement shall mean only the in-play areas of the subject ball fields, and specifically shall not include any out-of-play areas, bleachers, buildings or structures of any kind, sidewalks, streets, driveways, parking areas, playground or school yard areas.

## **II. FINANCIAL CONSIDERATIONS:**

A. As part of the services provided hereunder, PROVIDER shall collect on behalf of CITY all team registration fees. As consideration for its services under this Agreement, PROVIDER shall be entitled to retain 60% of the gross receipts from team registration fees. PROVIDER shall pay to CITY the other 40% of the gross receipts from team registration fees.

Payments of the 40% share of team registration fees shall be made by PROVIDER to CITY in accordance with the payment schedule provided in Section IV. B. 9 below. PROVIDER shall administer the registration system including, but not limited to registrations, collecting of fees, providing a receipt and keeping of an accounting procedure acceptable to CITY.

B. As part of the services to be provided hereunder, PROVIDER shall collect on behalf of CITY all-tournament team registration fees. As consideration for its services under this Agreement, PROVIDER shall be entitled to retain 85% of the gross receipts for each tournament team registered. PROVIDER shall pay to CITY the other 15% of the gross receipts from tournament team registration fees.

Payments of the 15% share of tournament team registration fees shall be made by PROVIDER to CITY within thirty (30) days after each tournament event. PROVIDER shall administer the tournament registration system including, but not limited to registrations, collecting of tournament fees, providing a receipt and keeping an accounting procedure acceptable to CITY.

## **III. TERM**

The initial term of this Agreement shall become effective upon execution of all signatures, and shall continue for one year from that date, unless otherwise terminated as provided herein. This Agreement may be renewed upon expiration for four (4) additional one (1) year periods, upon mutual agreement of both parties. The City is not obligated to give a reason or notice if it elects not to renew. Renewal amendments may require approval of the City Council or Chief Executive Officer.

## **IV. OPERATING RESPONSIBILITIES OF PROVIDER:**

### **A. GENERAL**

1. Employees: PROVIDER shall provide any and all employees or independent contractors (collectively referred to as "Employees") as may be required to render good quality service, 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 employees. In the event an Employee is not satisfactory, as herein defined, CITY may furnish a written directive to PROVIDER to correct the cause of said dissatisfaction. If PROVIDER does not correct said problem to the satisfaction of CITY within 30 days after said written directive is received, CITY may furnish a subsequent written notice to PROVIDER requiring that said Employee be excluded from providing further services to CITY.

2. 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 Adult Softball/Baseball Program, in accordance with published game schedules as submitted to and approved by CITY. PROVIDER shall exercise the right to exclude persons from using the Fields who do not abide by established rules.

3. Conduct: PROVIDER shall at all times perform its services in a quiet, professional and orderly manner to the satisfaction of CITY.

4. 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 will call upon the aid of peace officers to assist in maintaining peaceful conditions.

5. Permits and Licenses: PROVIDER shall be required to obtain at its sole expense any and all permits or licenses that may be required in connection with PROVIDER's subject operation including, but not limited to tax permits, business licenses and health permits.

6. Signs and Advertisements: No signs of any kind shall be displayed unless approved by CITY. CITY reserves right to require removal or refurbishment of any sign previously approved at any time. PROVIDER shall not permit vendors to display wares unless written permission is secured from CITY and such permission shall be subject to revocation at any time.

7. Sponsorship: Notwithstanding that PROVIDER is providing to CITY the operating services contemplated in this Agreement, it is acknowledged that the City of Costa Mesa Adult Softball Program is sponsored by CITY, and that PROVIDER is not a sponsor or co-sponsor of said Program.

## B. ADMINISTRATION

1. 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.

2. League Coordination: The dates designated for and the duration of each league, registration procedures and the number of games offered will be determined by and within the sole discretion of CITY. PROVIDER shall schedule adult softball league play according to facility schedules as determined by and within the sole discretion of CITY.

3. 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. Services shall include, but may not be limited to, press releases, program flyers, copy for the CITY brochure, letters and forms, mailing lists and a phone "hot line." All such marketing materials and forms must be submitted to CITY by established deadlines. CITY's written approval shall be obtained before such materials are distributed.

4. Pre-Season Services: PROVIDER shall arrange with CITY mutually agreeable dates, times, and location within the City of 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 balanced and equitable competition possible. PROVIDER shall be responsible for preparing, printing and distributing of game schedules. Copies of game schedules shall be provided to CITY prior to the start of each season within seven (7) days of establishment of the schedule. Changes to game schedules will be provided to CITY within three (3) days of their occurrence.

5. Sign In Sheets: PROVIDER shall provide sign-in sheets with hold harmless/release/assumption of risk provisions ("Release"), approved in advance by CITY in writing and ensure that each player signs the Release. Any player failing or refusing to sign the Release shall not be permitted to play by PROVIDER.

6. Manager's Meeting: PROVIDER shall organize and supervise each pre-season manager's meeting. This meeting will include distribution of league rules.

7. Southern California Municipal Athletic Federation (SCMAF): PROVIDER shall complete all SCMAF team registration paperwork for those 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.

8. Player's Medical Benefit Fund: PROVIDER shall collect and deposit the optional PMBF fee for each team that pays such fee.

9. Method of Payment: PROVIDER shall pay to CITY its share of the gross receipts from team registration and in accordance with the following schedule (with each date specified being said date next following the start of the subject League):

Winter League-	on or before April 15
Spring League -	on or before July 15
Summer League-	on or before October 15
Fall League-	on or before January 15

PROVIDER shall transmit with payment, a Gross Receipts Report for the season for which payment is submitted. CITY shall provide a form for this purpose, and the completed form shall include a statement of the gross receipts by source of sales, and such other information as CITY may require. The payment shall be addressed to:

City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626

## C. SERVICES

1. Officiating Services: PROVIDER shall recruit, train, supervise and evaluate softball umpires. PROVIDER shall schedule and assign the approved number of SCMAF certified umpires to all games.

2. Optional Scorekeeping Services: These services shall be provided only if the program participants agree to implement and pay the additional game fees associated with them. If implemented, PROVIDER shall recruit, train, supervise and evaluate all scorekeepers. PROVIDER shall schedule and assign league scorekeepers to all games. PROVIDER shall provide computerized scoring of all league softball games and generate and provide to each team a report at the conclusion of each game. CITY shall provide one (1) working 110-volt electrical outlet at each softball field.

3. Equipment: PROVIDER shall provide all essential game equipment, including, but not necessarily limited to: one (1) new and one (1) good used SCMAF approved softball for each game, certified home plate extensions on each field, and Hollywood Impact or similar City approved quality bases for each field.

4. Awards: PROVIDER shall provide fifteen (15) individual awards for first and second place teams. Awards shall consist of shirts, sweatshirts or similar items as approved by CITY. Awards shall also be provided for statistical leaders in up to three (3) categories in each league at the end of each season.

5. Web Hosting Services: PROVIDER shall maintain all pertinent program information on its website at [www.mlsoftball.com](http://www.mlsoftball.com). Information shall include Day of Play and Seasonal Registration information, online Team Registration Form, League Rules, Scores/Standings, Statistics (if the Optional Scorekeeping Services are implemented), and Customer Service contact information. The CITY logo shall be prominently displayed on the website and shall make clear that the City of Costa Mesa Adult Softball Program is wholly owned and sponsored by the CITY.

## V. SOFTBALL FIELD IMPROVEMENTS:

PROVIDER may make additional field improvements subject to prior written approval of CITY. In addition, CITY may, from time to time, make certain improvements that it deems to be advantageous or necessary for the protection of public property.

## VI. INSURANCE:

1. Minimum Scope and Limits of Insurance. Consultant 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. Consultant 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 Consultant for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

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 Consultant pursuant to its contract with the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant."

(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: "The Consultant'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) The Consultant'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.

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.

4. **Certificates of Insurance.** Consultant shall provide to City certificates of insurance showing the insurance coverage's and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement. The certificates of insurance shall be attached hereto as Attachment 1 and incorporated herein by this reference.

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 Consultant may be held responsible for payments of damages to persons or property.

## **VII. LIABILITY**

1. **Indemnity and Hold Harmless:** PROVIDER agrees to defend, indemnify, hold free and harmless CITY, its elected officials, officers, agents and employees, at PROVIDER'S sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against CITY, its elected officials, officers, agents and employees (collectively, "Claims"), to the extent occurring as a result of or allegedly caused by the negligent, willful or unlawful acts or omissions of PROVIDER, its agents, officers, directors, or employees, committed while performing any of the services under this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by PROVIDER, its 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 employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against CITY, its elected officials, officers, agents and employees based upon the performance of PROVIDER, its employees, and/or authorized subcontractors under this Agreement, whether or not PROVIDER, its 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, actions, complaints or suits to the extent arising out of the sole active negligence or willful acts or omissions of the CITY.

2. **Safety:** With respect to the services being furnished by PROVIDER under this Agreement, PROVIDER shall correct safety deficiencies and violations of safety practices immediately and shall cooperate fully with CITY in the investigation 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, it shall submit a "City Accident Report" form.

## **VIII. DEFAULT AND CANCELLATION:**

In the event PROVIDER defaults in the performance of any of the terms or conditions of this Agreement, or fails to conform to the rules and regulations or any of the directions or instructions that may be properly made by CITY in the exercise of its powers, or fails, neglects, or refuses to pay the CITY money or any part thereof within thirty (30) days after the same shall become due, or becomes

unable through personal incapacity to fulfill its obligations under the Agreement or defaults in the performance of any of the other terms or provisions therein required, CITY shall have the following options without further notice or authorization from PROVIDER, and its choice of any option shall in no way waive its rights to select any other option at any time:

A. If the PROVIDER does not cure said default thirty (30) days after written notice of default (forthwith for a default involving health and safety conditions) or make reasonable progress to cure said default, CITY may terminate the Agreement, assume the operation, and exclude PROVIDER; and/or

B. CITY may retain any of PROVIDER's money on deposit in the "City of Costa Mesa Trust Account" and any of PROVIDER's property on the Softball Fields and apply same to the payment of any and all claims which may be due CITY; and/or

C. CITY may recover at law any and all claims which may be due 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 cleanliness provisions or safety provisions of the Agreement. Otherwise, CITY may exercise this option within ten (10) days after giving PROVIDER written notice of a default involving maintenance provisions of this Agreement.

E. In the event of abandonment or other inability of PROVIDER to conduct the services required herein, CITY shall have the right to take immediate possession of all operations.

F. CITY reserves and has the right of suspending or terminating this Agreement upon sixty (60) days' written notice to PROVIDER, in the event that Newport Mesa School District reduces or eliminates CITY's use of school district fields, whether or not such fields are Softball Fields under this Agreement. CITY's written notice shall specify whether CITY desires to suspend or terminate the Agreement. In the event of a suspension of the Agreement, PROVIDER and CITY shall cooperate to agree on the terms, length, and other details of the suspension.

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

H. In the event CITY defaults in the performance of any of the terms or conditions of the Agreement, and if a written notice of such default is issued to CITY by PROVIDER by registered mail, and if CITY does not cure said default within thirty (30) days of receipt of said notice as evidenced by return receipt of registered mail, then PROVIDER may immediately terminate the Agreement and recover at law any and all claims which may be due. However, if PROVIDER fails to notify CITY of its default within sixty (60) days after learning of its occurrence, then it has automatically waived any all of its rights occurring hereunder.

**IX. 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, either voluntary or involuntary, CITY, at its option, may terminate and cancel this Agreement, in which event all rights of PROVIDER herein shall cease immediately and possession of the Softball Fields shall be delivered to CITY.

**X. BUSINESS RECORDS:**

A. PROVIDER shall be required to maintain a method of accounting of all receipts in connection with the performance of its services hereunder which shall correctly and 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 for any other business operation of PROVIDER. Such method shall include the keeping of the following documents:

1. Any accounting records that CITY in its sole discretion deems necessary for proper reporting of receipts.
2. A log showing the number of teams registered in each league. This log to be considered an accounting record.

B. 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 reasonable period, not to exceed three years, thereafter. 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 accuracy of the above records can be confirmed. If the report of gross receipts made by PROVIDER to CITY shall be 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 discrepancy exceeds two (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 or audits shall be received and maintained in confidence and shall not be disclosed to anyone not directly connected with the official business of CITY, to the extent permitted or required by law.

**XI. REGULATIONS, INSPECTION AND DIRECTIVES:**

C. City Rules: PROVIDER and its employees shall at all times abide by all Rules and Regulations heretofore adopted or that may hereafter be adopted by CITY and cooperate fully with CITY employees in the performance of their duties.

D. Laws and Ordinances: PROVIDER shall conduct its business in accordance with all the

laws, ordinances, rules and regulations applicable to such business as set forth by the City, County, State and Federal government.

E. Permissions: Any permission required by the Agreement shall be secured in writing by PROVIDER from CITY and any errors or omissions therefrom shall not relieve PROVIDER of its obligations to faithfully perform the conditions therein, and without regard to any other basis prohibited by law. PROVIDER shall immediately comply with any written request or order submitted to it by CITY.

F. Right of Inspection: CITY, their authorized representatives, agents and employees shall have the right to enter upon the subject Softball Fields at any and all reasonable times for the purpose of inspection and observation of PROVIDER's operations. During these inspections, they shall have the right to utilize photographic devices and other instruments for recording conditions and events taking place upon the subject Softball Fields. Said inspections may be made by persons identified to PROVIDER as City employees, or may be made by independent contractors engaged by CITY.

G. 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 engaged in providing services similar to those required of PROVIDER under this Agreement.

H. Nondiscrimination: PROVIDER shall not discriminate, in any way, against any person on the basis of race, religious creed, color, national origin, ancestry, sex, age, physical handicap, medical condition or marital status in connection with or related to the performance of this Agreement and shall comply with the provisions of the State Fair Employment Practices Act; the Federal Civil Rights Act of 1964, and all amendments; all administrative rules and regulations issued pursuant to such acts.

I. Unauthorized Aliens: PROVIDER hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. Sections 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should PROVIDER so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, PROVIDER hereby agrees to and shall reimburse CITY for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by CITY in connection therewith.

J. Severability: In case anyone or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and the remainder of the provisions of this Agreement shall continue in full force without impairment.

K. Integration: This Agreement constitutes the entire Agreement of the parties concerning

the subject matter hereof and all prior agreements or understandings, oral or written, are hereby merged herein. This Agreement shall not be amended in any way except by a writing expressly purporting to be such an amendment, signed and acknowledged by both parties hereto.

**XII. AGREEMENT IN TRIPLICATE:**

This Agreement is executed in triplicate, each copy of which shall be deemed as an original.

IN WITNESS WHEREOF, the parties have executed this Agreement the date and year first above written.

**“PROVIDER”**

**“CITY”**

MAJOR LEAGUE SOFTBALL, INC.

CITY OF COSTA MESA

By: **REDACTED**  
Printed Name: EMILIO JOHNSON  
Title: PRESIDENT

By: **REDACTED**  
Chief Executive Officer

\*By: **REDACTED**  
Printed Name: Cherlene Johnson  
Title: Secretary

DATE OF EXECUTION:  
8/27/15

*\* If PROVIDER is a corporation, City requires the following signature(s):*

- *Chairman of the Board or President or Vice-President **and** Secretary or Chief Financial Officer or Assistant of either. If only one corporate officer exists, please so indicate. **Or***
- *Corporate officer named in corporate resolution as authorized to enter into this Agreement (certified copy of resolution provided to City.)*

**APPROVED AS TO FORM:**

**REDACTED**  
8/27/15  
City Attorney                      Date

**ATTEST:**

**REDACTED**  
9-1-15  
City Clerk

**APPROVED AS TO INSURANCE:**

REDACTED

Risk Management

Date:

8/27/15

APPROVED AS TO CONTENT:

REDACTED

Project Manager

Date:

8/26/15

DEPARTMENTAL APPROVAL

REDACTED

Travis Karlén, Recreation Manager

Date:

8/26/15

FINANCE DEPARTMENT

REDACTED

Stephen Dunivent  
Interim Finance Director

Date:

8.28.15

**EXHIBIT A**  
**CONSULTANT'S PROPOSAL**

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April 16, 2015

Travis Karlen, Recreation Manager  
City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92628

Dear Mr. Karlen:

Major League Softball, Inc. ("MLS") would be proud to provide the City of Costa Mesa ("City") with full service Adult Softball Program on a year round basis with an option to include comprehensive Infield Maintenance Services. ~~MLS proposes the following specific contract components that shall be governed under an Operating Services Agreement (sample Agreement attached) with terms, conditions and duration to be mutually negotiated and agreed upon:~~

**Adult Softball Program Features**

MLS will provide all of the services as described in Sections II.-III., of the attached Menu of Services titled "Major League Softball—The Major League Alternative to Adult Softball/Baseball Program Administration and Ball Field Maintenance". MLS proposes to provide league marketing services, program administration and coordination, officiating services, with an option to include the MLS computerized scoring system (see below) as well as individual awards for 1<sup>st</sup>-Place and 2<sup>nd</sup>-Place teams for both programs.

The Costa Mesa Adult Softball Program will be placed online at [www.mlsoftball.com](http://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.

MLS proposes to operate the Adult Softball League program three (3) or four (4) seasons per year depending upon the City's field allocation schedule. MLS will use the City's current seasonal format where each team receives an eight (8) game regular season schedule and is guaranteed a ninth game via a Playoff Berth. Each season will commence in accordance with the facility allocation schedule as determined by the City.

**Proposed Registration Fee/Royalty Structures**

MLS proposes to administer and operate the program four different ways. In all four options, the proposed Registration Fee would be \$360.00 per team for the eight (8) game/guaranteed Playoff Game format. MLS would retain 60 percent and the City's royalty would be 40 percent of the Registration Fee. MLS customarily charges a one-time New Team Fee (hereafter "NTF") of \$35.00 per team which is not subject to Royalty calculations. NTF's are used to pay Officials Fees' when teams forfeit games and do not pay the fees at the game site. (MLS will waive the NTF for all teams that have played in the City of Costa Mesa program within the past three (3) years.)

The other option relates to the scope of Officiating Services provided. Experience taught us that the best method for

compensating Amateur Athletic Officials is to have the program participants pay them at the game site. Not only is this a completely legal and ethical approach (this is settled law in the State of California—see AB 1655) it is the most effective way to attract and retain the most experienced and competent Officials.

MLS proposes to provide a dedicated League Direction Official (“LDO”) with both options. Option 1 would include the LDO and a S.C.M.A.F. Certified Umpiring Official who is evaluated routinely by the LDO. The LDO will provide a number of other Customer Service and Administrative Services as well as fill in on the field when necessary. MLS proposes that the per game Officials’ Fee be set at \$15.00 per team if this option is selected. The overall price paid by each team for the guaranteed nine (9) games would be \$495.00 and those teams that advance and play a tenth game would pay a total of \$510.00 per season. We believe that this price reduction will in fact draw more teams to an extent that will actually increase both entities’ revenue streams. (Bear in mind that every second-place team will receive individual awards—a significant increase in value.)

Option 2 would include MLS’s Computerized Scoring Services in addition to the LDO and Umpire. Each team would pay \$22.00 per game to get what are arguably the most state of the art services in the industry including “League Leader” shirts for each statistical category at each season’s end. The impact on the overall cost of playing would be a modest increase: teams playing nine (9) games would pay a total of \$558.00 (a \$13.00 increase) and those playing ten (10) games would pay \$580.00 (a \$35.00 increase). With programs that do not use an Official Scorer, we find that ~~the best practice is to poll the teams to get their input regarding the implementation of the Computerized Scoring Service.~~ Given the impact on the overall cost to the participants, MLS would provide a detailed presentation and put this option to a vote of all the participants during the integration/implementation phase at the outset.

Attached are a few Pro Formas which provide prospective team participation numbers and Fee/Royalty breakdowns for the various proposed options. Please do not hesitate to contact me should you have questions if you desire additional information regarding this Proposal, the Menu of Services document, or the Pro Formas. We stand ready to meet with you and any others you deem appropriate at your convenience.

Thank you for considering Major League Softball for your adult softball programming needs. Please don’t hesitate to contact me if there is anything I can do to further assist with making this partnership a reality.

Sincerely,

**REDACTED**

David R. Johnson  
President