

**AMENDMENT NUMBER TWO
TO OPERATING SERVICES AGREEMENT
WITH
MAJOR LEAGUE SOFTBALL, INC.**

This Amendment Number Two ("Amendment") is made and entered into this 26th day of August, 2018 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and MAJOR LEAGUE SOFTBALL, INC., a California corporation ("Provider").

WHEREAS, City and Provider entered into an Operating Services Agreement, effective August 27, 2015, for Provider to organize and manage the City's Adult Softball Program (the "Agreement"); and

WHEREAS, the Agreement provides for a term of one (1) year, with the option to extend the Agreement for four (4) additional one (1) year periods; and

WHEREAS, City and Provider extended the term of the Agreement through August 26, 2017 through Purchase Order No. 1799-1543; and

WHEREAS, City and Provider extended the term of the Agreement through August 26, 2018 through Amendment Number One; and

WHEREAS, City and Provider now desire to extend the term for one (1) year, through August 26, 2019.

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

1. The term of the Agreement shall be extended through August 26, 2019.
2. All terms not defined herein shall have the same meaning and use as set forth in the Agreement.
3. All other terms, conditions, and provisions of the Agreement not in conflict with this Amendment shall remain in full force and effect.

[Signatures appear on following page.]

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

CITY OF COSTA MESA

Thomas R. Hates
City Manager

Date: 9/12/18

PROVIDER

m.v. j.
Signature

Date: 8/28/18

DAVID R. JOHNSON, PRESIDENT
Name and Title

ATTEST:

Brenda Green 9/14/18
City Clerk



APPROVED AS TO FORM:

[Signature]
City Attorney

Date: 09/12/18

APPROVED AS TO INSURANCE:

[Signature]
Risk Management

Date: 9/10/18

APPROVED AS TO CONTENT:

[Signature]
Project Manager

Date: 9/10/18


DEPARTMENTAL APPROVAL:



Parks and Community Services Director

Date: 

APPROVED AS TO PURCHASING:



Finance Director

Date: 

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

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. Cost Mesa, CA 92626
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

- (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 December 11, 2017.

Policy No.:	18LB1592		
Name:	Major League Softball Inc.		
Policy Effective Date:	12/11/2017	Expiration:	12/11/2018

All other terms and conditions of the Policy remain unchanged

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

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.
Cost Mesa, CA 92626

(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.