

**BALL FIELD MAINTENANCE AND ADULT
SOFTBALL PROGRAM SERVICES AGREEMENT**

THIS BALL FIELD MAINTENANCE AND ADULT SOFTBALL PROGRAM SERVICES AGREEMENT (as it may be amended or otherwise modified from time to time, this “Agreement”) is dated as of _____, 2026 (the “Effective Date”) and is entered into by and between the CITY OF ORANGE, a municipal corporation (“City”), and MAJOR LEAGUE SOFTBALL, INC., a California corporation (“MLS”), with reference to the following:

A. For several years, the City has contracted with MLS to maintain certain City- owned and/or operated ball fields (herein referred to as the “Ball Field Maintenance Services”); and

B. The City has also separately contracted with MLS for several years to organize and manage the City's Adult Softball Program (herein referred to as the “Softball Program Services”); and

C. To support the efforts of MLS to organize and manage the Softball Program Services and coordinate the Ball Field Maintenance Services, the City has heretofore leased to MLS certain City-owned real property commonly known as the Old Maintenance Garage, located in Hart Park at 371 River Avenue in the City of Orange, consisting of approximately 738.5 square feet (the “Garage”); and

D. The City and MLS desire to enter into this Agreement to clearly establish the relationships between the City and MLS with respect to the Ball Field Maintenance Services, the Softball Program Services, and the use of the Garage; and

E. It is in the best interests of the City and the public for the City and MLS to enter into this Agreement.

NOW, THEREFORE, for and in consideration of these premises and the terms and conditions herein, the adequacy and legal sufficiency of which are hereby acknowledged, the City and MLS agree as follows:

**ARTICLE 1
DEFINITIONS**

Section 1.1. Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

“**Alterations**” shall mean any modification or alteration of the improvements or personal property at the Garage from that which are provided by the City under the terms of this Agreement, other than Utility Installations or Trade Fixtures, whether by addition or deletion.

“**Applicable Laws**” shall mean all laws, rules, regulations, ordinances, directives, covenants, easements and restrictions of record, permits, the requirements of any applicable fire

insurance underwriter or rating bureau, and the recommendations of the City's engineers and/or consultants, relating in any manner to the City Ball Fields and the Garage now in effect or which may hereafter come into effect, and whether or not reflecting a change in policy from any previously existing policy, including, but not limited to, the Immigration Nationality Act of 1952 (commencing with Section 1101 of Title 8 of the United States Code), and the Immigration Nationality and the Immigration Reform and Control Act of 1986 (commencing with Section I 324a of Title 8 of the United States Code), as amended.

“Authorized Designee” shall mean, unless otherwise provided elsewhere in this Agreement, the City’s Director of Community and Library Services. Unless otherwise provided herein or unless the City Manager otherwise notifies MLS, any matter to be approved (or disapproved) by the City or any action to be taken by the City pursuant to this Agreement, shall be approved (or disapproved) or shall be taken, as the case may be, by the City's Director of Community and Library Services.

“City” shall mean the City of Orange, a municipal corporation, and any assignee of or successor to its rights, powers and responsibilities.

“City Ball Fields” shall mean (a) only the in-play areas of diamonds No. 2 and 3 at Hart Park, 701 S. Glassell Street, 92866 and the in-play areas of the diamond at Shaffer Park, 1930 N. Shaffer Street, 92865 and in-play areas of diamonds No. 1 and 2 at Steve Ambriz Memorial Park, 611 Riverbend, 92865 which shall exclude any out-of-play areas, bleachers, buildings or structures of any kind, sidewalks, streets, driveways, parking areas, playground or school yard areas; and/or (b) the in-play areas of any other ball field diamond or diamonds located at other City-owned parks designated from time to time during the Term of this Agreement by the City's Authorized Designee.

“Default” shall have the meaning given such term in Section 7.2 of this Agreement.

“Expiration Date” shall be June 30, 2031, unless extended pursuant to Section 3.6 of this Agreement.

“Employees” shall mean employees of MLS, and/or employees of any subcontractor retained by MLS to provide a portion of the services or any independent contractors shall all be referred to as “employees”.

“Force Majeure” shall mean acts of God, fire, floods, storms, explosions, accidents, epidemics, war, civil disorder, strikes or other labor difficulties, or any law, rule, regulation, order or other actions adopted or taken by any federal or state government authority, or any other cause not reasonably within a Party's control.

“Ball Field Maintenance Services” shall mean the services to be provided by MLS, and the responsibilities of MLS, under Section 2. 1 of this Agreement, including the Standard Ball Diamond Maintenance System, Infield Treatment Program and Additional Maintenance Services attached hereto as Attachment 1 and incorporated herein by this reference.

“GAAP” shall mean generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principle Board of the American Institute of Certified Public

Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession, which are applicable to the circumstances as of the date of determination.

“**In-Play Area**” shall include all areas within the foul lines of the ball field and those areas outside the foul lines in which a legal play may be made, i.e., a fly ball caught is an out.

“**MLS**” shall mean Major League Softball, Inc., a California corporation, and any assignee of or successor to its rights, powers and responsibilities.

“**Garage**” shall mean that certain real property commonly known as the Old Maintenance Garage located in Hart Park at 371 River Avenue in the City of Orange, County of Orange, State of California, consisting of approximately 738.5 square feet, including adjacent parking, and being a portion of the property more particularly described in Attachment 2, attached hereto and made a part hereof, together with all rights, easements and appurtenances belonging and pertaining thereto.

“**Party**” shall mean either the City or MLS.

“**Registration Fees**” shall mean the gross receipts received by MLS from members of the public registering for the Adult Softball Program. The amount of the Registration Fees payable by members of the general public, and specific groups shall be established and may be revised from time to time during the Term of this Agreement.

“**Signs**” shall mean any signs, emblems, insignia, advertisements, banners, notices or other similar items.

“**Softball Program Services**” shall mean the services to be provided by MLS, and the responsibilities of MLS, under Section 3.3 and Section 3.4 of this Agreement.

“**Standard League Season**” shall mean an adult softball league provided by MLS that is offered to the general public and community, including City of Orange residents.

“**Trade Fixtures**” shall mean MLS’s machinery and equipment that can be removed without doing material damage to the Garage.

“**Utility Installations**” shall mean all carpeting, window coverings, air lines, power panels, electrical distribution, security, fire protection systems, communication systems, lighting fixtures, heating, ventilating, and air conditioning equipment, plumbing, and fencing in, on or about the Garage.

ARTICLE 2 BALL-FIELD MAINTENANCE SERVICES

Section 2.1. Services to be Performed by MLS. MLS agrees to keep the City Ball Fields in good order, condition and repair in accordance with the provisions of the Ball Field Maintenance Services set forth in Attachment 1 attached hereto and incorporated herein by this reference. As a material inducement to the City to enter into this Agreement, MLS represents and

warrants that it has thoroughly investigated and considered the scope of services and fully understands the difficulties and restrictions in performing the Ball Field Maintenance Services. MLS represents and warrants that it is experienced in performing the Ball Field Maintenance Services, that all employees or representatives of MLS engaged in the provision of Ball Field Maintenance Services under this Agreement, including any and all prospective employees hired to perform services for the City under this Agreement and the employees of any subcontractor retained by MLS to perform a portion of services under this Agreement, are and will be authorized to perform the services contemplated by this Agreement in full compliance with all Applicable Laws and will, at all times during the term of this Agreement, follow the highest professional standards in performance of the Ball Field Maintenance Services.

MLS may close any City Ball Field (or portion thereof) and exclude the public for temporary periods of time as may be necessary for the performance of its Ball Field Maintenance Services provided MLS obtains the approval of the Authorized Designee prior to the scheduled temporary closure.

Section 2.2. Remedy for Failure to Perform Required Service. The City may from time to time inspect the Ball Field Maintenance Services (as set forth in Attachment 1 hereto) performed or to be performed by MLS. If the City identifies any deficiencies in the performance of the Ball Field Maintenance Services, it will notify MLS of such deficiencies either telephonically, verbally to the on-site representative of MLS, or in writing, in the City's sole discretion. Upon receipt of such notification, MLS agrees to respond to the location of the deficiencies within two (2) hours, if notification is received during normal business hours, or not later than two (2) hours into the next day's work shift, if the two (2) hour notice period would end after that day's work shift. If MLS fails to timely correct any such deficiencies within forty-eight (48) hours following notice thereof given by the City, the City shall remedy such deficient Ball Field Maintenance Services employing its own personnel at MLS's expense. The City will furnish to MLS a statement showing the actual costs incurred by the City in correcting such deficiencies. MLS will pay to City the costs incurred by the City within ten (10) days after receipt of such statement. Failure of MLS to provide the funds within the time specified above shall constitute a Default subject to the provisions of Article 7 of this Agreement.

Section 2.3. Services and Facilities to be performed by City. The City agrees and shall have full responsibility to provide or arrange for the provision, at the City's sole cost and expense, of all services and facilities set forth in Attachment 1 and described therein as being the responsibility of the City.

Section 2.4. Compensation for Ball Field Maintenance Services. Except for the additional services and charges therefor described in Attachment 1 to this Agreement, the City and MLS agree that the total compensation payable to MLS for the Ball Field Maintenance Services shall be the amount to be retained by MLS from the Registration Fees, as described in subparagraph (E) of Section 3.3 of this Agreement.

ARTICLE 3 SOFTBALL PROGRAM SERVICES

Section 3.1 General. The City agrees during the Term of this Agreement to make available to the community an Adult Softball Program consisting of, but not limited to, men's and co-ed slow pitch leagues and tournaments (herein referred to as the "Softball Program Services")

by publishing in each quarterly issue of Our Orange City brochure the opportunity for residents of the City of Orange and non-residents to register for such recreational programs. MLS agrees to give priority for registration under the Adult Softball Program to teams containing 51 % or more City of Orange residents. MLS agrees during the Term of this Agreement to operate and manage the Adult Softball Program and to provide the Softball Program Services described hereinbelow. As a material inducement to the City to enter into this Agreement, MLS represents and warrants that it has thoroughly investigated and considered the scope of services and fully understands the difficulties and restrictions in performing the Softball Program Services. MLS represents that it is experienced in performing the Softball Program Services and will follow the highest professional standards in performance of the Softball Program Services. All services provided shall conform to all Applicable Laws and to the best professional standards and practices.

Section 3.2. License To Use the City Ball Fields. The City hereby grants to MLS the license to use the City Ball Fields, on a nonexclusive basis (except to the extent provided below) in common with public use of the City Ball Fields, during the Term and upon all the terms, covenants and conditions set forth in this Agreement. At all times during the Term, the City Ball Fields shall be and remain open to the public and MLS shall not exclude, impede, hinder, restrict or alter in any way public access to the City Ball Fields; provided, however, that MLS shall have the right to exclude the public from, and exclusively use (in accordance with all of the terms, covenants and conditions set forth in this Agreement) the City Ball Fields for the Softball Program Services and the Ball Field Maintenance Services during the Term.

Section 3.3. Responsibilities of MLS.

(A) League Director. MLS will appoint one of its employees (the "League Director") to oversee the Softball Program Services on a day-to-day basis. The League Director shall be an experienced umpire/scorekeeper who will work to serve the needs of both the City and the program participants.

(B) Softball Program Services Coordination. The dates designated for and the duration of each Softball Program, registration procedures, and the number of games offered will be determined by and within the sole discretion of the City, upon the advice of MLS. MLS will schedule Softball Program Services according to facility schedules as determined by and within the sole discretion of the City. MLS shall be responsible for team classifications, as well as using its reasonable best efforts to form teams participating in the Adult Softball Program to attempt to achieve a balanced and equitable competition. MLS shall be responsible for preparing, printing and distributing game schedules and tournament brackets. Copies of game schedules shall be provided to the City prior to the start of each season. Changes to game schedules will be provided to the City within three (3) days of their occurrence. Upon the request of the Authorized Designee from time to time, MLS shall provide the City a list or roster, in a form satisfactory to the Authorized Designee, of the names of all persons who will be participating in the Adult Softball Program, together with such other information as the Authorized Designee shall require. Prior to the commencement of each season, MLS will deliver to the Authorized Designee by personal delivery, regular mail or email all game schedules, identifying each registered team, game dates, times, and locations.

(C) Marketing. MLS agrees at all times to use its reasonable best efforts to provide for the best possible promotion of the Adult Softball Program, consistent with the marketing services generally offered by persons engaged in providing services similar to those required of MLS under this Agreement. Softball Program Services shall include, but are not limited to, press releases, program flyers, copy for Our Orange articles, emails, social media, letters and forms, mailing lists and a phone “hot line”. An all-encompassing marketing plan including the aforementioned marketing material items must be submitted to the City's Authorized Designee at least twelve (12) weeks prior to the following open registration date, allowing at least two weeks for review and approval by the Authorized Designee. All MLS print advertising shall be submitted to the Authorized Designee for written approval before such materials are distributed or disseminated to the general public.

(D) Pre-Season Services. MLS agrees to arrange with the City team registration details including times, date, location and payment methods. To that end, the Authorized Designee and MLS will meet and confer from time to time to ascertain and mutually agree upon the amount to be charged as Registration and Officials fees, the timing of each season, and all other information that the Authorized Designee and MLS agree will be necessary for the successful operation and management of the Adult Softball Program. The amount to be charged as Registration and Officials Fees shall be determined by mutual agreement between the Authorized Designee and MLS, subject to the final approval of the City.

(E) Registration Fees. MLS shall have full responsibility to charge and collect Registration Fees on behalf of the City for the Softball Program Services during the Term of this Agreement. MLS agrees to administer the registration system including, but not limited to registrations, collection of Registration Fees, providing receipt and keeping of an accounting procedure acceptable to the City. As consideration for its services under this Agreement relating to the Softball Program Services, MLS shall be entitled to retain seventy-one percent (71 %) of the Registration Fees collected for each standard league season, and eighty-two percent (82%) of the Registration Fees collected for each tournament event. MLS agrees to remit to the City, in lawful money of the United States, at the office of the City specified in Section 9.4 of this Agreement, without any prior demand therefore, twenty-nine percent (29%) of all Registration Fees collected for each standard league season, and eighteen percent (18%) of all tournament events, the amount of Rent due and payable to the City for the immediately preceding calendar quarter, but less the amount of any taxes paid by MLS during that league season as authorized by subparagraph “(A)” of Section 4. 7 of this Agreement. MLS agrees to collect and deposit Registration Fees into a separate “City of Orange” checking account. MLS agrees to pay to the City its share of the Registration Fees for each league season and tournament event in accordance with the following schedule (with each date specified being said date next following the start of the subject league season):

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

MLS agrees to transmit with each payment to the City a statement, in form and substance satisfactory to the City, certifying the charging, collecting and remitting of such Registration Fees for the season and tournament for which payment is submitted.

(F) Audit of Records. In accordance with GAAP consistently applied and consistent with prudent business practices, MLS agrees to keep and maintain full and complete books of records and accounts, in which full and correct entries shall be made of all financial transactions and Registration Fees. The books of record and accounts required to be kept shall not be destroyed for a period of two (2) years following the termination of this Agreement. During the term of this Agreement and for a period of two (2) years after termination of this Agreement, MLS agrees to permit the City, by its representatives, agents or attorneys, (i) to examine books of account, records, reports and other papers of MLS, to make copies and take extracts from any thereof, (ii) to discuss the affairs, finances and accounts of MLS with its accountants (and by this provision MLS hereby authorizes said accountants to discuss with the City the finances and accounts of MLS) and (iii) to visit and inspect, all upon reasonable notice, at reasonable times during normal business hours the location of said books of account, records, reports and other papers of MLS. Each such inspection shall be at the expense of the City. Notwithstanding the foregoing sentence, it is understood and agreed by MLS that all expenses incurred by MLS, any officers and employees thereof and the accountants thereof in connection with any such inspection shall be expenses payable by MLS and shall not be expenses of the City.

(G) Sign-In Sheets. MLS agrees to provide sign-in sheets for all persons registered in the Adult Softball Program with hold harmless/release/assumption of risk provisions (“Release”), approved in advance by the City in writing, and will ensure that each registrant and player signs and delivers his or her individual Release to MLS for safekeeping in its file. Any registrant or player failing or refusing to sign the Release shall not be permitted by MLS to play. MLS shall make all participant waiver and sign-in sheets available to the City within seven (7) business days of such request by the City.

(H) Manager’s Meeting. MLS agrees to organize and supervise each pre-season manager's meeting. This meeting will include distribution of league rules and any other information the City deems necessary and appropriate.

(I) Team Name Policy. MLS agrees to provide the team roster lists each season. Names must be appropriate and in good taste. The City reserves the right to require a team to change it if deemed inappropriate at the City’s sole discretion.

(J) Southern California Municipal Athletic Federation ("SCMAF"). Although not a requirement to participate in the Adult Softball Program, teams registering under the Adult Softball Program may elect to register with SCMAF, which may require the payment of an additional fee. If any team elects to register with SCMAF, MLS agrees to and shall complete all SCMAF team registration paperwork, collect any SCMAF registration fee, as required by SCMAF, and remit said paperwork and registration fees to SCMAF within thirty (30) days of the first scheduled day of the season. The City will be at no expense or risk in connection with the administration by MLS of the paperwork and the collection and remittance of the registration fees for the SCMAF program.

(K) Staffing. MLS agrees to provide any and all employees, employees of any subcontractor retained by MLS to perform a portion of services, or independent contractors (collectively referred to as “employees”) as may be required to render good quality service, to the satisfaction of the City. Such persons shall be satisfactory to the City as to their personal conduct, honesty, courtesy, health, personal appearance and willingness to cooperate with the City and its officers, representatives and employees. In the event an employee of MLS is not satisfactory, as herein defined, the City may furnish a written directive to MLS to correct the cause of its dissatisfaction. If MLS does not correct said problem to the satisfaction of the City within thirty (30) days after said written directive is received, the City may furnish a subsequent written notice to MLS requiring that said employee be excluded from providing further services to the City.

(L) Operations. MLS agrees to provide general supervision of the City Ball Fields, including the enforcement of safety practices and regulations during periods the City Ball Fields are in use in connection with the operation of the Adult Softball Program and in accordance with published game schedules, as submitted to and approved by the City. MLS agrees to exercise the right to exclude persons from using the City Ball Fields who do not abide by established rules.

All MLS vehicles operated by employees or subcontractors of MLS shall be clearly identified as belonging to or contracted by MLS while on City property and conducting maintenance or other program related activities.

(M) Conduct. MLS agrees to at all times perform its services in a professional and orderly manner to the satisfaction of the City.

(N) Disorderly Persons. MLS agrees to use its reasonable best efforts to prohibit intoxicated persons, profane or indecent language, or boisterous or loud conduct in or about the City Ball Fields and will call upon the aid of peace officers to assist in maintaining peaceful conditions.

(O) Permits and Licenses. MLS shall be required to obtain at its sole expense any and all permits or licenses that may be required in connection with MLS's operations under and pursuant to this Agreement including, but not limited to tax permits, business licenses and health permits.

(P) Signs and Advertisements. MLS shall have no right to place, construct or maintain on or about the City Ball Fields any Signs without the prior written consent of the City in each instance. The City reserves the right to place, construct or maintain Signs on or about the City Ball Fields in the City's sole discretion and to retain any revenue derived from such Signs. MLS shall not permit vendors to display wares unless written permission is secured from the Authorized Designee and such permission shall be subject to revocation at any time.

(Q) Concession Sales. MLS shall have no right to sell or permit the sale of (i) food or beverages, (ii) non-food and non-beverage items, merchandise, souvenir or other non-food products, (iii) programs, magazines, and other publications, or (iv) other products, at the City Ball Fields or from vendors roving within the area designated as the City Ball Fields.

(R) Sponsorship. Notwithstanding that MLS is providing to the City the Softball Program Services, it is acknowledged that the Adult Softball Program is owned and sponsored by the City and that MLS is not a sponsor of said program.

(S) Player's Medical Benefit Fund. Although not a requirement for participation in the Adult Softball Program, MLS agrees to collect and deposit with SCMAF the requisite fee for certain medical coverage under the Player's Medical Benefit Fund if a team elects to do so. If any team elects such coverage, MLS agrees to and shall complete all paperwork, collect any fee (as required by SCMAF), and remit said paperwork and fees to SCMAF within thirty (30) days of the first scheduled day of a season. The City will be at no expense or risk in connection with the administration by MLS of the paperwork and the collection and remittance of the registration fees for the SCMAF program.

Section 3.4. Officiating and Scorekeeping Services.

(A) Officiating Service. MLS agrees to recruit, train, supervise and evaluate softball umpires. MLS agrees to schedule and assign the approved number of SCMAF certified umpires to all games. MLS will also make available online umpire evaluation system per the City's request.

(B) Scorekeeping Services. MLS agrees to recruit, train, supervise and evaluate all scorekeepers. MLS agrees to schedule and assign league scorekeepers to all games. MLS agrees to provide computerized scoring of all league softball games and generate and provide to each team a report at the conclusion of each game. The City agrees to provide one (1) working 110-volt electrical outlet at each and all of the City Ball Fields.

(C) Equipment. MLS agrees to 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 of the City Ball Fields, and Hollywood Impact or similar City-approved quality bases for each of the City Ball Fields.

(D) Awards. MLS agrees to provide, at its own sole cost and expense, individual awards for all members of first and second place teams in each league for each season and tournament event during the Term of this Agreement. Furthermore, MLS agrees to provide, at its own sole cost and expense, team awards for the first and second place teams in each league at the end of each season during the Term of this Agreement. Individual awards shall consist of shirts, sweatshirts or similar items as approved by the Authorized Designee. MLS will personally deliver, mail or email to the Authorized Designee all proofs for award "art" prior to purchase or distribution to participants. Awards shall also be provided for statistical leaders in up to three (3) categories in each league at the end of each season.

Section 3.5. Compensation for Softball Program Services. The City and MLS agree that the total compensation payable to MLS for the Softball Program Services shall be the amount to be retained by MLS from the Registration Fees, as described in subparagraph (E) of Section 3.3 of this Agreement.

Section 3.6 Term.

(A) The Initial Term of this Agreement is five (5) years (the “Initial Term”), commencing July 1, 2026, and terminating on June 30, 2031 (the “Expiration Date”); provided, however, that City has the right to extend the term of this Agreement for the following extensions and upon the following terms:

First Extension (the “First Extension Term”) commencing July 1, 2031, and terminating on June 30, 2036 (the “Expiration Date”).

(B) The City Manager is hereby authorized on behalf of City to give written notice to Contractor of City’s intention to exercise each Extension (if at all) no later than thirty (30) days prior to the Expiration Date of the then-current term; provided, however, that City’s notice of its intention to extend the term of this Agreement for each Extension shall be expressly conditioned upon and subject to the approval by the City Council, in its sole and absolute discretion, of an amount sufficient to pay the compensation set forth herein for each Extension as part of its annual budget approval process prior to the beginning of each Extension.

While the parties acknowledge that City is required to give its notice of intention to extend the term of this Agreement not later than thirty (30) days prior to the Expiration Date of the then-current term, it is possible that the City Council’s approval of its annual budget and appropriation of funds for the Extension in question may occur thereafter. Accordingly, if the City Council fails to approve and appropriate funds sufficient to pay the amount of compensation set forth herein for an Extension, this Agreement shall terminate and be of no further force and effect as of the expiration of the then-current term.

Notwithstanding anything in this provision to the contrary, in the event City gives Contractor written notice exercising an Extension and City receives notice that appropriation of funds for the Extension in question are not available after Contractor has performed services under the Extension, City agrees that Contractor will be equitably compensated for all services performed under any portion of an Extension through the date of termination of the Agreement.

Except as specifically set forth herein, the terms and conditions of each Extension will be the same as the Initial Agreement.

(C) Any Extension, if properly exercised, shall be memorialized in the form of an amendment to this Agreement. The City Manager is hereby authorized to approve and execute amendments to this Agreement reflecting the exercise of each Extension and the amount of compensation (including the amount of funds to be made available for additional work or services) payable to Contractor for each respective Extension.

**ARTICLE 4
LICENSE TO USE GARAGE**

Section 4.1. License to Use the Garage. The City hereby grants MLS the license to use the Garage for the Term of this Agreement only for the following uses:

- (a) activities directly related to the Softball Program Services and the Ball Field Maintenance Services;
- (b) administrative offices of MLS;
- (c) other uses approved in writing by the City; and
- (d) upon all of the terms, covenants and conditions set forth in this Agreement.

MLS shall not use or permit the use of the Garage for residential purposes. Nothing in this Section 4.1 shall be interpreted to permit any use of the Garage other than set forth above. Moreover, MLS shall not assign, sublet, license, or otherwise transfer MLS's interest in the Garage without first procuring the written consent of the City, which consent the City may grant or withhold in its sole and absolute discretion.

Section 4.2. Commencement; Term. The term of the license to use the Garage granted to MLS hereunder shall commence on the Effective Date of this Agreement and expire on the Expiration Date unless sooner terminated pursuant to any provision of this Agreement.

Section 4.3. License Fee. Commencing on July 15, 2026 and continuing thereafter on a quarterly basis as specified in Agreement Section 3.3 (E) during the Term of this Agreement, the MLS shall pay to the City, in lawful money of the United States, at the office of the City specified in Section 9.4 of this Agreement, without any prior demand therefore a license fee equal to TWO THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$2,500.00).

Section 4.4. Maintenance and Repair; Capital Improvements. It is intended by the Parties hereto that, during the time MLS has the license to use the Garage, the City shall have no obligation, in any manner whatsoever, to maintain the Garage or the equipment therein, whether structural or non-structural, all of which obligations are intended to be those of MLS. MLS shall have no obligation to repair the Garage but shall exercise and perform good maintenance practices.

The Parties shall jointly consider any change, alteration or improvement that either Party wishes to make to the Garage until the Garage is no longer subject to the provisions of this Agreement.

Section 4.5. Utility Installations; Trade Fixtures. Alterations. MLS shall not make any Alterations or Utility Installations in, on, under or about the Garage without the City's prior written consent to (i) such Alteration or Utility Installation, (ii) the plans and specifications for such Alteration or Utility Installation, and (iii) the contractors, contracts and schedules for such Alteration or Utility Installation.

Section 4.6. Ownership; Removal; Surrender and Restoration.

(A) **Ownership.** Unless otherwise agreed in writing, all Alterations and Utility Installations made to the Garage shall be the property of and owned by the City and shall be considered a part of the Garage.

(B) Removal. Unless otherwise agreed in writing, the City may require that any or all MLS-Owned Alterations or MLS-Owned Utility Installations be removed by the Expiration Date or earlier termination of this Agreement, notwithstanding their installation may have been consented to by the City. The City may require the removal at any time of all or any part of any MLS-Owned Alterations or MLS-Owned Utility Installations made without the required consent of the City.

(C) Surrender/Restoration. MLS shall surrender the Garage by the Expiration Date or the earlier termination of this Agreement with respect to the Garage, with all the improvements, parts and surfaces thereof clean and free of debris and in good operating order, condition and state of repair, and ordinary wear and tear excepted. “**Ordinary wear and tear**” shall not include any damage or deterioration that would have been prevented by good maintenance practice or by MLS performing all its obligations under this Agreement. Except as otherwise agreed or specified in writing by the City, the Garage, as surrendered, shall include the Utility Installations. The obligation of MLS shall include the repair of any damage occasioned by the installation, maintenance or removal of MLS's fixtures, furnishings, equipment, and Alterations and/or Utility Installations. MLS's fixtures, furnishings and equipment shall remain the property of MLS and shall be removed by MLS subject to its obligation to repair and restore the Garage as required by this Agreement.

Section 4.7. Taxes And Utilities.

(A) Taxes. MLS shall pay and hold the City harmless from (i) all general and special real property taxes, general and special assessments and other similar governmental charges levied and assessed against the Garage or in connection with this transaction (including any business taxes or the cost of any business permits imposed on the business of MLS by the City or any governmental authority), (ii) all taxes, assessments, license fees and other charges that are levied or assessed against all personal property of MLS installed or located in the Garage, and (iii) any and all possessory interest taxes levied against MLS by the County Assessor's Office of Orange County, California with respect to the Garage; provided, however, that, except for any business taxes or the cost of any business permits imposed on the business of MLS by the City or any governmental authority, MLS may deduct from the license fee the amount of such taxes paid by MLS. Not less than annually on July 15th, a summary report of all general and special real property taxes, general and special assessments and other similar governmental charges levied and assessed against the Garage paid by MLS shall be provided by MLS to the City.

(B) Utilities. Except for cable and telephone utilities and services for which MLS shall be responsible, City shall, at City's sole cost and expense, furnish and pay for all utilities and services presently existing at the Garage, including, without limitation: (i) electricity; (ii) heat, ventilation and air conditioning; (iii) water and sewer service, (iv) gas, and (v) waste removal.

Section 4.8. City Access. The City and City's agents shall have the right to enter the Garage at any time, in the case of an emergency, and otherwise at reasonable times, for any purpose, including, but not limited to inspection of the Garage, and making such alterations, repairs, improvements, or additions to the Garage as the City may reasonably deem necessary or desirable. All such activities of the City shall be without liability to MLS.

ARTICLES 5
INSURANCE; INDEMNITY

Section 5.1. Payment For Insurance. MLS shall pay for all insurance required under this Article 5.

Section 5.2. Liability Insurance. With respect to the Garage, the Ball Field Maintenance Services and the Soft Ball Program Services, MLS shall obtain and keep in full force and effect during the term of this Agreement a commercial general liability policy of insurance (sometimes known as broad form comprehensive general liability insurance) protecting MLS, the City and its Council members, officers, employees and agents (as additional insureds) against claims for bodily injury, personal injury and property damage based upon, involving or arising out of MLS's use, occupancy or maintenance of the Garage, the City Ball Fields and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than Two Million Dollars (\$2,000,000.00) per occurrence, with an "Additional Insureds" Endorsement. The policy shall not contain any intra-insured exclusions as between insured persons or organizations but shall include coverage for liability assumed under this Agreement as an "insured contract" for the performance of MLS's indemnity obligations under this Agreement. The limits of said insurance required by this Agreement or as carried by MLS shall not, however, limit the liability of MLS nor relieve MLS of any obligation hereunder. All insurance to be carried by MLS shall be primary to and not contributory with any similar insurance carried by the City.

Section 5.3. Automobile Liability Insurance. MLS shall purchase and maintain automobile liability insurance with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence, with and "Additional Insureds" Endorsement, declaring the City and its Council members, officers, agents and employees to be additional insureds under the terms of the policy.

Section 5.4. Building and Improvements- Garage. With respect to the Garage, the City may, but shall not be obligated, through either a self-insurance program or commercial insurance policy, to insure loss or damage to the Garage. MLS shall obtain and keep in force during the term of this Agreement a policy or policies insuring loss or damage to the MLS-Owned Alterations, Trade Fixtures and the MLS-Owned Utility Installations. If such insurance coverage has a deductible clause, MLS shall be liable for such deductible amount in the event of an insured loss. The City shall have no obligation to insure any loss or damage to the MLS-Owned Alterations, Trade Fixtures and the MLS-Owned Utility Installations arising out of or incident to the perils required to be insured against under Article 5.

Section 5.5. Workers' Compensation Insurance. MLS shall obtain and keep in full force and effect during the term of this Agreement Workers' Compensation insurance in the amounts required by Applicable Law, and Employer's Liability Insurance with a limit of not less than One Million Dollars (\$1,000,000.00). The policy shall include a waiver of subrogation endorsement in favor of the City, its Councilmembers, officers, employees and agents.

Section 5.6. Insurance Policies. Insurance required hereunder shall be in companies duly licensed to transact business in the State of California, and maintaining during the policy term a "General Policyholders Rating" of at least B, VIII, or such other rating as may be reasonably

required by the City's Risk Management Officer, as set forth in the most current issue of "Best's Insurance Guide." MLS shall not do or permit anything to be done, which shall invalidate the insurance policies referred to in this Article 5. On or before the Effective Date of this Agreement and from time to time thereafter upon the request of the City, MLS shall cause to be delivered to the City certified copies of policies of such insurance or certificates evidencing the existence and amounts of such insurance with the insureds and loss payable clauses and endorsements as required by this Agreement. Each such policy shall include a provision which requires the insurance carrier to give the City not less than ten (10) days' written notice prior to any cancellation or modification of such coverage. MLS shall at least thirty (30) days prior to the expiration of such policies, furnish the City with evidence of renewals or "insurance binders" evidencing renewal thereof.

Section 5.7. Waiver of Subrogation. Without affecting any other rights or remedies, MLS hereby releases and relieves the City, its Councilmembers, officers, employees and agents, and waives its entire right to recover damages (whether in contract or in tort) against the City, its Councilmembers, officers, employees and agents, for loss of or damage to the MLS-Owned Alterations, Trade Fixtures and the MLS-Owned Utility Installations arising out of or incident to the perils required to be insured against under Article 5. The effect of such releases and waivers of the right to recover damages shall not be limited by the amount of insurance carried or required, or by any deductibles applicable thereto. Any physical damage insurance policies that MLS may carry with respect to its property, fixtures or equipment shall contain a provision that any right of subrogation which the insurance company may have against the City, its Councilmembers, officers, employees or agents, is waived.

Section 5.8. Indemnity. MLS shall indemnify, protect, defend and hold harmless the City and its Councilmembers, officers, employees and agents, for, of and from any and all claims, loss, loss of fees and/or damages, costs, fines, penalties and corrective measures, liens, judgments, penalties, permits, attorney's and consultant's fees, expenses and/or liabilities arising out of, involving, or in dealing with, (i) the occupancy of the Garage by MLS, (ii) the conduct of MLS's business, any wrongful act, omission or neglect of MLS, its agents, contractors, employees or invitees, (iii) MLS's failure to comply with Applicable Laws in connection with the performance of this Agreement, and (iv) out of any Default or breach by MLS in the performance in a timely manner of any obligation on MLS's part to be performed under this Agreement. The foregoing shall include, but not be limited to, the defense or pursuit of any claim or any action or proceeding involved therein, and whether or not (in the case of claims made against the City) litigated and/or reduced to judgment, and whether well founded or not. In case any action or proceeding be brought against the City by reason of any of the foregoing matters, MLS, upon notice from the City, shall defend the same at MLS's expense by counsel reasonably satisfactory to the City and the City shall cooperate with MLS in such defense. The City need not have first paid any such claim in order to be so indemnified.

Section 5.9. Damage. If the Garage is damaged such that MLS is unable to use it for the purposes set forth in this Agreement, unless caused by a negligent or willful act of MLS, its employees, agents, contractors or invitees [in which event MLS shall make the repairs at MLS's expense and this Agreement shall continue in full force and effect, but subject to the City's rights under Article 7 (Default; Remedies)], this Agreement with respect to the Garage shall terminate as of the date thirty (30) days following the giving of such notice.

**ARTICLE 6
CONDITIONS PRECEDENT**

Section 6.1. Covenants of MLS. So long as this Agreement remains in effect, MLS will, unless the City shall otherwise consent in writing:

(a) **Payment of Fees.** Pay all fees due under this Agreement; and

(b) **Compliance with Hazardous Materials Laws.** Not cause any hazardous substances to be generated, produced, brought upon, used, stored, treated or disposed of in or about the City Ball Fields or Garage; and

(c) **Compliance with Applicable Laws.** Comply with all Applicable Laws; and

(d) **Corporate Existence and Status.** Take and fulfill all actions and conditions necessary to preserve and keep in full force and effect its existence, rights and privileges as a corporation and will not liquidate or dissolve.

**ARTICLE 7
DEFAULT; REMEDIES**

Section 7.1. Covenants and Conditions. MLS's performance of each of MLS's obligations under this Agreement is a condition as well as a covenant, and MLS's right to continue use of the Garage is conditioned upon such performance.

Section 7.2. Defaults. MLS shall be in default ("Default") under this Agreement:

(a) If MLS fails to pay any fee or any other charge for a period of ten (10) business days after written notice from the City;

(b) If MLS shall fail to perform or observe any of the covenants found in this Agreement applicable to it and such default shall not have been remedied within ten (10) days of notice from the City of any such default;

(c) If MLS fails to perform any other of MLS's non-monetary obligations under this Agreement for a period of thirty (30) days after written notice from the City; provided that if more than thirty (30) days are required to complete such performance, MLS shall not be in default if MLS commences such performance within the thirty (30) day period and thereafter diligently pursues its completion. The notice required by this Section 7.2 is intended to satisfy any and all notice requirements imposed by law on the City and is not in addition to any such requirement;

(d) (i) If MLS makes a general assignment or general arrangement for the benefit of creditors; (ii) if a petition for adjudication of bankruptcy or for reorganization or rearrangement is filed by or against MLS and is not dismissed within thirty (30) days; (iii) if a trustee or receiver is appointed to take possession of substantially all of MLS's assets located at the Garage or of MLS's interest in this Agreement and possession is not restored

to MLS within thirty (30) days; or (iv) if substantially all of MLS's assets located at the Garage or of MLS's interest in this Agreement is subjected to attachment, execution or other judicial seizure which is not discharged within thirty (30) days; or

(e) If MLS shall fail to perform or observe any of the covenants found in Section 2.2 of this Agreement and such default shall not have been remedied within the time period set forth in said Section 2.2.

Section 7.3. Remedies. On the occurrence of any Default by MLS, the City may pursue any remedy and recover any damages now or hereafter available to the City under the laws or judicial decisions of the State of California, including, but not limited to, termination of this Agreement pursuant to Article 8.

Section 7.4. Cumulative Remedies. The City's exercise of any right or remedy shall not prevent it from exercising any other right or remedy.

ARTICLE 8 TERMINATION

Section 8.1. Termination Without Cause. Either Party shall have the right to terminate the provisions of this Agreement at the end of any calendar year for any reason upon not less than ninety (90) days' written notice.

Section 8.2. Additional City Right to Terminate. At the option of the City, and upon written notice to MLS, the City shall have the right to terminate this Agreement, in whole or in part, for any of the following reasons:

(a) Upon the happening of all the following:

(1) Default by MLS;

(2) the giving of written notice to MLS by the City of such Default; and

(3) failure of MLS to cure such Default within thirty (30) days or such period of time as stated in the declaration of Default, whichever is longer, or, in the case of a Default under Section 2.2, within such period of time specified in said Section 2.2.

(b) Upon such time as MLS becomes insolvent, is declared bankrupt, makes an assignment for benefit of its creditors, elects to wind up and dissolve, or loses its status as a corporation, unless consented to in writing by the City.

(c) To the extent necessary to protect the welfare, health, safety or morals of the people of the City, in the sole discretion of the City.

Section 8.3. Force Majeure. If the performance by any Party under this Agreement is delayed or prevented in whole or in part by a Force Majeure, such Party shall be excused,

discharged and released from performance to the extent such performance or obligation is so delayed or prevented by such occurrence without liability of any kind. Nothing contained herein shall be construed as requiring any party to accede to any demands or to settle disputes with labor or labor unions, suppliers or other parties that such party considers unreasonable.

Section 8.4. Effect of Termination. Nothing in this Agreement shall be held to prevent, limit or otherwise reduce either Party's right to pursue damages against the other. Upon termination, MLS shall, without further notice or action, have no further license or right to use or occupy the Garage and MLS shall immediately vacate and remove any MLS-owned property therefrom or from any of the City Ball Fields (as the case may be).

ARTICLE 9 MISCELLANEOUS

Section 9.1. Consents; Approvals. Except as otherwise provided herein, wherever in this Agreement the consent or approval of a Party is required to any act by or for another, such consent or approval shall be given or withheld in the sole discretion of the Party from whom such consent or approval is required.

Section 9.2. Time is of the Essence. Time is of the essence with respect to the performance of the covenants and agreements contained in this Agreement.

Section 9.3. Governing Law. This Agreement is and shall be deemed to have been made in the State of California, and the validity, construction, interpretation and enforcement of this Agreement and the rights of the Parties hereto shall be determined under, governed by, and construed in accordance with the laws of the State of California.

Section 9.4. Notices. Except as otherwise provided herein, all notices required under this Agreement shall be in writing and delivered personally, by e-mail, or by first class mail, postage prepaid, to each party at the address listed below. Either party may change the notice address by notifying the other party in writing. Notices shall be deemed received upon receipt of same or within 3 days of deposit in the U.S. Mail, whichever is earlier. Notices sent by e-mail shall be deemed received on the date of the e-mail transmission.

“CONTRACTOR”

Major League Softball, Inc.
371 E. River Avenue
Attn.: Orange, California 92866
Attention: Trevor A. Johnson

Telephone: (818) 967-8720
E-Mail: trevorj@mlsoftball.com

“CITY”

City of Orange
300 E. Chapman Avenue
Orange, CA 92866-1591
Attn: Director of Community & Library
Services

Telephone: (714) 744-274
E-Mail: lhady@cityoforange.org

Section 9.5. Assignment. MLS shall not voluntarily or by operation of law assign, transfer or encumber all or any part of MLS's interest in this Agreement without the City's prior written consent.

Section 9.6. No Estate. The rights to use the Garage and/or the City Ball Fields granted to MLS by the City under this Agreement do not give MLS, and MLS shall not claim, any interest (other than the rights to use granted hereunder) or estate of any kind in the Garage and/or the City Ball Fields. Without limiting the generality of the foregoing, this is not a lease and upon the expiration or earlier termination of this Agreement with respect to the Garage and/or the City Ball Fields, MLS shall have no further rights to use or occupy the Garage and/or the City Ball Fields and the City shall not be required to pursue unlawful detainer actions against MLS.

Section 9.7. Entire Agreement. This Agreement shall constitute the entire agreement of the Parties hereto with respect to the subject matter hereof.

Section 9.8. Non-Waiver. The failure of any Party at any time to enforce a provision of this Agreement shall in no way constitute a waiver of the provision, nor in any way affect the validity of this Agreement or any part hereof or the right of such Party thereafter to enforce each and every provision hereof.

Section 9.9. Nondiscrimination. Each of the Parties covenants that it shall not cause or permit discrimination against, or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, ancestry, national origin or physical handicap in the transfer, use, occupancy, tenure or enjoyment of the City Ball Fields and/or the Garage, nor shall any Party establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, sublicensees or vendees in the City Ball Fields and/or the Garage.

Section 9.10. Modification of Agreement. The terms, conditions and requirements of this Agreement or any part hereof, may be amended, modified, revised, supplemented or deleted only by mutual agreement of the Parties hereto expressed in writing and signed by the Parties.

Section 9.11. Successors and Assigns. This Agreement shall be binding upon each of the City and MLS and their respective successors and assigns and shall inure to the benefit of and be enforceable by each of MLS and the City and their respective permitted successors and assigns.

Section 9.12. Severability. If any terms or provisions of this Agreement shall be found to be void or contrary to law, such term or provision shall, but only to the extent necessary to bring this Agreement within the requirements of law, be deemed to be severable from the other terms and provisions hereof, and the remainder of this Agreement shall be given effect as if the parties had not intended the severed term herein.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS of this Agreement, the parties have entered into this Agreement as of the year and day first above written.

“CONTRACTOR”

“CITY”

MAJOR LEAGUE SOFTBALL, INC.,
a California corporation

CITY OF ORANGE, a municipal corporation

*By: _____
Printed Name: _____
Title: _____

By: _____
Daniel R. Slater, Mayor

*By: _____
Printed Name: _____
Title: _____

ATTEST:

Pamela Coleman, City Clerk

APPROVED AS TO FORM:

Connor Hyland
Senior Assistant City Attorney

- *NOTE:** *The City requires the following signature(s) on behalf of the Contractor:*
- *(1) the Chairman of the Board, the President or a Vice-President, AND (2) the Secretary, the Chief Financial Officer, the Treasurer, an Assistant Secretary or an Assistant Treasurer. If only one corporate officer exists or one corporate officer holds more than one corporate office, please so indicate. OR*
 - *The corporate officer named in a corporate resolution as authorized to enter into this Agreement. A copy of the corporate resolution, certified by the Secretary close in time to the execution of the Agreement, must be provided to the City*

√

IN WITNESS of this Agreement, the parties have entered into this Agreement as of the year and day first above written.

"CONTRACTOR"

"CITY"

MAJOR LEAGUE SOFTBALL, INC.,
a California corporation

CITY OF ORANGE, a municipal corporation

*By: *[Signature]*
Printed Name: DAVID R. JOHNSON
Title: PRESIDENT

By: _____
Daniel R. Slater, Mayor

*By: *[Signature]*
Printed Name: Catherine Johnson
Title: Secretary

ATTEST:

Pamela Coleman, City Clerk

APPROVED AS TO FORM:

Connor Hyland
Senior Assistant City Attorney

***NOTE:** *The City requires the following signature(s) on behalf of the Contractor:*
-- *(1) the Chairman of the Board, the President or a Vice-President, AND (2) the Secretary, the Chief Financial Officer, the Treasurer, an Assistant Secretary or an Assistant Treasurer. If only one corporate officer exists or one corporate officer holds more than one corporate office, please so indicate. OR*
-- *The corporate officer named in a corporate resolution as authorized to enter into this Agreement. A copy of the corporate resolution, certified by the Secretary close in time to the execution of the Agreement, must be provided to the City*

√

ATTACHMENT 1

BALL-FIELD MAINTENANCE SERVICES

All repair and maintenance services required under this agreement to be provided by MLS including SBDMS, Periodic Maintenance, Infield Treatment and Additional Maintenance Services, shall be provided by MLS staff. MLS may utilize an approved sub-contractor or sub-consultant to provide said services; however, MLS must notify the City of such sub-contractor or sub-consultant utilization in writing in advance and must receive City's written approval.

Communication and requests for service should be between the City and MLS. Should MLS utilize a qualified and approved subcontractor or agent to fulfill its maintenance obligations under this agreement, the City may communicate maintenance requests under this agreement to the sub-consultant but shall inform MLS of any failure of its subcontractor and/or agent to fulfill contractual obligations. Pursuant to Section 2.2 of the Agreement (Remedy for Failure to Perform Required Service), the City shall notify MLS directly of maintenance deficiencies.

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

A. Standard Ball Diamond Maintenance System (SBDMS)

The MLS Field Maintenance Division is managed by MLS's Director of Maintenance Operations (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 to be both safe and enjoyable for program participants.

The most remarkable benefit of the 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 out after 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 require special attention. Therefore, the SBDMS consists of two distinct elements: Periodic Repair Services and the Daily Treatment Program.

B. 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) Survey the traction area of each infield and report any deficiencies to appropriate City staff. MLS shall obtain and provide a total of 54 tons of infield mix material as specified by the City over the term of this Agreement. Said material shall be added to infields as requested by City Staff. This SBDMS traction material replacement feature is specifically intended to replace only those quantities of infield mix 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 other 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. MLS shall provide notice and receipt of infield grading to the City. MLS shall make every effort to have leveling services occur in tandem with infield mix provision and delivery as described in Attachment 1 Section B.2. Traction material will be added where necessary during the grading process. Traction material purchases will be prorated such that MLS will pay for traction material only to the extent of the SBDMS material replacement responsibility 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 play, MLS strongly recommends that each infield is laser leveled on one (1) occasion per year. If requested laser leveling is approved in writing by the City, not more than once annually per infield, MLS will invoice the City the sum of \$1,200.00 per infield after rendering laser leveling services. Payment for any such invoice for laser leveling shall be paid by the City in the form of a royalty deduction.
- 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 are worn or damaged 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 or worn sod and replace it with health 3' by 1' lengths. During the planting process, MLS will add all necessary amendments (the 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 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 and defects; and a written status report may be submitted to the appropriate City staff member(s). In the event that a base anchor needs to be replaced, the City will procure the necessary field fixture and MLS will perform the replacement at no charge.

- 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 adult softball 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 dethatch, scalp and waterblast the edge such that it will be 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 league play.

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 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 shall either agree to accept MLS's proposal and pay MLS to renovate said softball fields or the City shall bear the responsibility for bringing said fields up to industry standards for safety and playability.

Periodic Repair Services are provided to ensure 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 or intended to alleviate the City's parks maintenance responsibilities.

C. Infield Treatment Program

After necessary Periodic Repair Services have been completed, each softball field will be ready for use on the opening day of each 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 on each softball diamond (referred to as "high-impact areas") endure heavy use and require special attention. High-impact areas such as batters' boxes, catcher's and umpire's places behind home plate, the pitcher's mound, base paths, and the sliding areas around base anchors will receive additional watering, scarifying and back filling during each treatment; 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 infield mix material from high-impact areas will be back-filled using a landscape rake and the leveling unit of a John Deere 1200A ball field groomer.

- 2) Prior to dragging and scarifying, 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 infield. MLS staff uses scarifiers that come as standard implements on John Deere 1200A ball field groomers. The JD 1200A scarifier is 54 inches wide and can be set to depths ranging from one-quarter inch to three 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 unlevel surfaces.)
- 4) The JD 1200A grading/leveling implement 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, polished finish.
- 5) Finally, the field shall be lined as prescribed by the SCMAF Rule Book. Using a batter's box template, string and line marking material, the batter's boxes, foul lines, coaches' boxes, first base running lane and on-deck circles will be set down. The appropriate City staff member(s) will be consulted so that MLS will use field-marking materials that have been approved by the City's Parks Maintenance Division.

While the SBDMS is quite comprehensive, it does not include the following landscape and parks maintenance task: seeding, over-seeding, aeration, fertilization, mowing, watering of outfield areas, turf border edging, irrigation system maintenance and repair, or infield mix replacement due to weather or uses other than adult softball. However, the MLS Field Maintenance Division is capable of providing maintenance services that are well beyond the scope of the Standard Maintenance System. If such additional maintenance services are desired, they must be specifically defined below or a separate contract that includes an additional set of maintenance services may be negotiated.

D. Additional Maintenance Services

The City hereby engages MLS to perform each of the following Additional Maintenance Services at the five (5) ball fields allocated for adult softball league play at Hart, Shaffer and Steve Ambriz Parks:

- 1) Each dugout floor will be kept clean by picking up and disposing of all trash and debris. Any displaced infield mix material will be removed from each dugout floor via a leaf blower, push broom or a high-pressure nozzle. A landscape or leaf rake is not sufficient.
- 2) Each of the infield perimeter edge borders will be "water blasted" using a high-pressure nozzle no fewer than two (2) occasions per month. MLS will provide a Monthly Schedule, which lists the day that each "water blasting" treatment has been performed.
- 3) Using a gas-powered edger, each infield/outfield perimeter border will be trimmed no fewer than two (2) times per month. All clippings will be raked and disposed of after each

edging process. MLS will provide a Monthly schedule, which lists the day that each "border trimming" has been performed.

- 4) Using a spray-paint line marker, a total of four (4) foul lines/out of play lines (which extend a minimum of 200' from home plate) and one (1) "Coed" arc (located 180' from home plate) per SCMAF Rules) will be painted onto each outfield. It is agreed that MLS shall provide the labor, line marker and spray paint used for this task. MLS warrants that each line and arc will be 4" wide and MLS will return to renew each stripe no fewer than one (1) time per week.

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, chain-link fencing (including, but not limited to "dugout", "backstop", "out of play" and "outfield/home run" fences), home plates and pitcher's rubbers. MLS will not be held responsible to defend and indemnify the City against any claims for personal or bodily injury, death or property damage that any way arise from or relate to (i) the condition of said park fixtures, or (ii) the design and/or construction of the 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.

[END OF ATTACHMENT]

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ATTACHMENT 2

LEGAL DESCRIPTION OF GARAGE

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF ORANGE,
COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

A PORTION OF LOT 12 IN BLOCK "D" OF THE A. B. CHAPMAN TRACT, AS SHOWN
ON A MAP RECORDED IN THE RECORDS OF ORANGE COUNTY, CALIFORNIA.

E.