

August 11, 2015

The City of Chandler City Council met for a regular scheduled meeting Tuesday, August 11, 2015 at Chandler City Hall. Meeting was called to order at 6:00 p.m. by Libby Fulgham, Mayor.

Members Present: Libby Fulgham
Gene Giger
Kari Bersano
Marshall Crawford, Jr.
Janeice Lunsford
Don Daniell

Citizens Forum: The following citizens spoke in open forum; Tony Reeves, Tracy Young, and Don McCurley.

REGULAR SESSION:

Item 1. Gene Giger made a motion to approve the 2015/2016 Economic Development Corporations annual budget in the amount of \$104,700.00. Janeice Lunsford seconded the motion. Motion carried unanimously.

Item 2. Kari Bersano made a motion to approve the BMC Agreement with the changes that are in red and blue on the attached exhibit. Motion also included changing item B.1.r to read No outside food or coolers are permitted during any organized league play or tournaments. This does not include coolers brought in by coaches. Marshall Crawford, Jr. seconded the motion. Gene Giger voted against. Don Daniell abstained. Motion carried.

Item 3. Marshall Crawford, Jr. made a motion to approve the Proposed Tax Rate of .545603 per \$100, and setting the Public Hearings for August 25, 2015 and September 1, 2015. Gene Giger seconded the motion. Kari Bersano, Janeice Lunsford, and Don Daniell voted for. Motion carried.

Item 4. Gene Giger made a motion to appoint Janeice Lunsford as Mayor Pro Tem for the 2015/2016 Fiscal year. Kari Bersano seconded the motion. Motion carried unanimously.

Item 5. Janeice Lunsford made a motion to accept the Engagement Letter from Gollob Morgan Peddy for the September 30, 2015 year end audit. Kari Bersano seconded the motion. Motion carried unanimously.

Item 6. Gene Giger made a motion to approve the amended curb side limb chipping policy (attached). Marshall Crawford, Jr. seconded the motion. Motion carried unanimously.

Item 7. Janeice Lunsford made a motion to approve the Finance Package for CopSync/STW. Gene Giger seconded the motion. Motion carried unanimously.

Item 8. Kari Bersano made a motion to approve Option 2 Finance Package (which includes material and labor) for HD Waterworks in the amount of \$329,175. Janeice Lunsford seconded the motion. Motion carried unanimously.

Item 9. Gene Giger made a motion to approve the consent agenda as presented. Marshall Crawford Jr. seconded the motion. Motion carried unanimously.

Meeting adjourned at 7:07pm

Libby Fulgham, Mayor

Shirley Parmer, City Secretary

LEASE AGREEMENT

**CITY OF CHANDLER, TEXAS
(LANDLORD)**

AND

**BMC YOUTH BASEBALL AND SOFTBALL LEAGUE
(TENANT)**

LANDLORD: City of Chandler, Texas, a general law municipality

LANDLORD'S ADDRESS: City of Chandler
811 Highway 31 East
Chandler, Texas 75758

TENANT: BMC Youth ~~Baseball And Softball League~~ Foundation,
a Texas nonprofit corporation

TENANT'S ADDRESS: BMC Youth ~~Baseball And Softball League~~ Foundation
P. O. Box 1795
Chandler, TX 75758

LEASED PROPERTY DESCRIPTION: Five (5) baseball/softball fields and adjacent parking, at Winchester Park located on Highway 315, Chandler, Texas, 3/4 miles south of Highway 31 (the "Leased Premises" or "Premises"). However, when charging for parking during a tournament accommodations must be made for free parking for park patrons not attending the baseball tournaments,

INITIAL TERM: September 1, 2015 to November 12, 2015 unless otherwise terminated or extended in accordance with the terms and conditions set forth in this Lease Agreement.

COMMENCEMENT DATE: September 1, 2015

TERMINATION DATE: November 12, 2015

BASE RENT:

To help offset a portion of the expenses of electricity and maintenance for the Spring season of any applicable year Tenant shall pay Landlord \$75.00 per league team and \$50.00 for each non-league team, which use Chandler/Winchester Park as their home fields, on or before May 1st of each year. For the Fall season Tenant shall pay Landlord \$50.00 per team each year on or before October 1st of each year.

SECURITY DEPOSIT: \$0.

PERMITTED USE OF LEASED PREMISES:

Tenant shall have the right to use and occupy the Leased Premises subject of this Lease during the youth Fall and Spring baseball/softball seasons. The "Fall Season" is September 1st to November 12th. The Spring season is April 1st to 5 days after the last regular season league game or the day after the end of State or District tournament held in Chandler. Tenant agrees that the Leased Premises will not be used prior to 12:00 PM. the second weekend of October (Pow Wow). When the Leased Premises is not scheduled for games or scheduled practices any other activity by Tenant, ~~and Tenant confirms date is open,~~ Landlord may use, lease, or sublease the Leased Premises as it desires.

INDEPENDENT TOURNAMENTS:

The City of Chandler Parks Board or Landlord will have first right to act as organizer of any Select/Elite or independent tournaments. Scheduling and operations of such tournaments will be at the sole discretion of the Landlord and Tenant will not have any rights to such tournaments. Landlord or the City of Chandler Parks Board may schedule up to ~~three-two~~ weekends during the Fall Season and three weekends during the Spring Season (Spring season dates are subject to approval of Spring season agreement) for special events or tournaments if dates are identified to Tenant 60 days prior to the start of a lease period **Except for the dates for the 2015 Fall season which were provided prior to this agreement.**

LEASED PREMISES INSURANCE:

(a) **LANDLORD** shall, at its own expense, during the term of this Lease keep all buildings and improvements on the Leased Premises insured or self-insured against loss or damage by fire or theft, with extended coverage at a price not less than eighty percent (80%) of the fair market value of the Leased Premises to be insured per year, to include direct loss by windstorm, hail, explosion, riot or riot attending a strike, civil commotion, aircraft, vehicles and smoke, in the aggregate amounts of not less than the full fair insurable value of the buildings and improvements.

(b) **TENANT** will be solely responsible for securing insurance at its own expense for the Personal Property contained on the Leased Premises

INSURANCE:

~~Landlord hereby advises Tenant that it should at all times during the Term, at Tenant's sole expense, maintain one or more policies of insurance with "all risk" coverage insuring all Tenant's alterations, additions and improvements in or on the Premises, together with all furniture, equipment and other personal property owned or leased by Tenant and located in the Premises.~~ Tenant hereby acknowledges and agrees that Landlord has no liability or responsibility whatsoever for the repair or replacement of any of Tenant's alterations, additions and improvements in or on the Premises that have not been accepted by the Landlord as belonging to the Landlord. Tenant hereby acknowledges and agrees that Landlord also has no liability or responsibility whatsoever for the repair or replacement of any furniture, equipment and other personal property owned or leased by Tenant and located in the Premises in the event of any fire or other casualty on the

Premises or otherwise.

Tenant will, at all times during the Term, at Tenant's sole expense, maintain a policy of comprehensive general liability coverage with limits of not less than \$1,000,000 combined single limit for bodily injury ~~and property damage~~ insuring against all liability of Tenant and its agents, employees, and contractors, ~~invitees and visitors~~ arising out of or in connection with their use or occupancy of the Premises or any part thereof.

All insurance required to be provided by Tenant under this Lease will (i) be issued by an insurance company authorized to do business in Texas, (ii) be primary and non-contributing with any insurance carried by Landlord, and (iii) contain an endorsement requiring at least thirty (30) days' prior written notice of cancellation to Landlord before cancellation or change in coverage, scope or limit of any policy. Tenant will deliver a certificate of insurance or a copy of the policy to landlord within thirty (30) days after the execution of the Lease and will provide evidence of renewed insurance coverage at the earlier to occur of (a) each anniversary of the Commencement Date or (ii) the expiration of the currently-effective insurance policy.

A. DEFINITIONS

A.1. "Agent" means agents, contractors, employees, licensees, and, to the extent under the control of the principal, invitees.

A.2. "Essential Services" means utility connections reasonably necessary for use of the Premises for the Permitted Use.

A.3. "Injury" means (1) harm to or impairment or loss of property or its use, (2) harm to or death of a person, or (3) "personal and advertising injury" as defined in the form of liability insurance Tenant is required to maintain.

A.4. "Lienholder" means the holder of a deed of trust, if any, covering the Premises.

A.5. "Rent" means Base Rent plus any other amounts of money payable by Tenant to Landlord.

CLAUSES AND COVENANTS

B. TENANT'S OBLIGATIONS

B1. Tenant agrees to:

B.1.a. Lease the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date.

B.1.b. Accept the Premises in their present condition "AS IS," the Premises being currently suitable for the Permitted Use. Tenant shall walk the property with the Landlord prior to the lease agreement to document any existing damages to the Premises.

B.1.c. Obey (a) all laws relating to Tenant's use, maintenance of the condition, and occupancy of the Premises and Tenant's use of any common areas and (b) any requirements imposed by utility companies serving or insurance companies covering the Premises.

B.1.d. Pay monthly, on or before October 1st (for the Fall Season) and on or before May 1st (for the Spring Season), the Base Rent to Landlord at Landlord's Address.

B.1.e. Pay a late charge of 5 percent of any Rent not received by Landlord by the tenth day after it is due.

B.1.f. Intentionally left blank.

B.1.g. Allow Landlord to enter the Premises to perform Landlord's obligations, inspect the Premises.

B.1.h. Repair, replace, and maintain any part of the Premises that Landlord is not obligated to repair, replace, or maintain, normal wear expected.

B.1.i. Submit in writing to Landlord any request for repairs, replacement, and maintenance that are the obligations of Landlord.

B.1.j. Intentionally left blank.

B.1.k. Tenant shall:

- (i) Drag the fields (~~pre-game drag prior to~~ and during league play which shall be done after pulling the bases if time permits);
- (ii) Chalk the fields (prior to and during league play. Field chalk responsibility of Tenant.);
- (iii) Game preparation of the fields;
- (iv) any other maintenance that Tenant desires to be performed shall only be done with prior written consent of the City of Chandler Public Works Director, and if such consent is obtained, will be done on a voluntary basis; and
- (v) Tenant may use Landlord's field equipment but shall be responsible for any damages outside of normal wear and tear. Tenant may use its own field equipment to supplement Landlord's if so desired, if it is well marked as belonging to the Tenant. Tenant must use its own scoreboard controllers for all BMC league and BMC tournament play and be responsible for such equipment.

B.1.l. Vacate the Premises on the last day of the Term. Tenant will have 10 days from the last day of the term to remove all equipment belonging to tenant. As long as the tenant is in good standing with the Landlord Tenant's equipment may be stored in designated storage buildings and storage closet during off season.

B.1.m. INDEMNIFY, DEFEND, AND HOLD LANDLORD AND LIENHOLDER, AND THEIR RESPECTIVE AGENTS, HARMLESS FROM ANY INJURY (AND ANY RESULTING OR RELATED CLAIM, ACTION, LOSS, LIABILITY, OR REASONABLE EXPENSE, INCLUDING ATTORNEY'S FEES AND OTHER FEES AND COURT AND OTHER COSTS) OCCURRING IN ANY PORTION OF THE PREMISES. **THE INDEMNITY CONTAINED IN THIS PARAGRAPH**

- (i) **IS INDEPENDENT OF TENANT'S INSURANCE;**
- (ii) **WILL NOT BE LIMITED BY COMPARATIVE NEGLIGENCE STATUTES OR DAMAGES PAID UNDER THE WORKERS' COMPENSATION ACT OR SIMILAR EMPLOYEE BENEFIT ACTS;**
- (iii) **WILL SURVIVE THE END OF THE TERM; AND**
- (iv) **WILL APPLY EVEN IF AN INJURY IS CAUSED IN WHOLE OR IN PART BY THE ORDINARY NEGLIGENCE OR STRICT LIABILITY OF LANDLORD BUT WILL NOT APPLY TO THE EXTENT AN INJURY IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LANDLORD AND LIENHOLDER AND THEIR RESPECTIVE AGENTS.**

B.1.n. Maintenance Tenant shall repair at the expense of Tenant any damage to the Leased Premises caused directly or indirectly by the acts or omissions of the Tenant or any other person therein or thereon by the consent, invitation, or sufferance of the Tenant. Repairs shall be completed by a reasonable date of completion, which will be set by the City Administrator.

B.1.o. Sponsor Signage: Tenant has the right to sell annual 4x8 sponsor signs and in exchange for that right the Landlord will receive annually \$25.00 per sign sold. Since any existing signs have to be resold each year this includes existing sponsor signs. Signs must be 4 x 8 and be a firm weather resistant material (no banner materials. Payments are due one week prior to the end of the lease period.

B.1.p. Non-Profit: Tenant shall conform to all the State and Federal rules and laws associated with non-profit status and will provide Landlord upon execution of this Lease and annually on the Commencement Anniversary Date, proof of such status.

B.1.q. Field Issues: Tenant shall:

- (i) Help maintain the grounds, parking areas and playing area litter free of paper and debris accruing from its members' activities;
- (ii) Abide by the decision of the City of Chandler as to playability of the fields and any resulting decision to close fields unless Tenant has been authorized to make the fields playable by the Public Works Director; and
- (iii) Restrict any member or any other person from adding material to the playing fields, performing any maintenance on the fields or altering the fields in any way.

B.1.r. Concessions: Tenant shall not interfere in the concession, concession equipment, and concession labor. The Landlord has the right to operate the concession as it sees fit including

the right to lease out the concessions to a 3rd party vendor. No outside food ~~or is~~ coolers are permitted during any organized league play or tournaments. Ice from the tenant's ice machine located in the tenant's storage area at the small concession stand will be used for all Tenant ice needs. Water will be provided to umpires. Ice bags will be provided for injuries at all open concession stands located on the Leased Premises. Coaches will be responsible for providing water and ice for players during practices. Hours of operation of 5:30 pm. to 9:45 pm. (if games are in session) shall be posted on the outside of the concession stands. It is understood that during Tournaments the Concession will remain open till games are over.

*B.1.s. **Tournaments:*** BMC Pre-season and Post-season Tournaments will be scheduled by Tenant and all ~~proceeds-gate fees~~ of such tournaments will benefit the Tenant (excluding concessions). All other tournament scheduling shall be the responsibility of Parks Board and the Landlord. The Landlord will work with the Chandler Chamber of Commerce in scheduling tournament events due to the fact the Chandler Chamber of Commerce will be responsible for operating concessions at those events. The Chandler Chamber of Commerce shall receive all concession revenues and pay all concession expenses associated with tournament activities, in accordance with a separate agreement between Landlord and the Chandler Chamber of Commerce. The Parks Board and the Landlord will enter into all agreements relating to tournament activities with the tournament organization. If any Tenant equipment is needed for a non-Tenant sponsored tournament, the Landlord will receive pre-approval for use from Tenant and will be responsible for any damage or loss of such equipment.

B.1.t. Intentionally left blank.

*B.1.u. **Severe Weather:*** The Landlord cooperates with the Chandler Fire Department and Chandler Police Department on issues of severe weather. If severe weather is approaching, the City of Chandler shall have authority to call games/practices and evacuate the Leased Premises in an expeditious manner. It will be the Tenant's responsibility to clear the fields if the lightning detector identifies any lightning in the area.

*B.1.v. **Field Playability:*** Landlord will work with the Tenant and tournament directors when making decisions on field conditions and the playability of fields at the Leased Premises. Fields will be closed if Landlord determines that they are too wet for play, or if other issues arise that would compromise patron safety. If after the Landlord closes the fields the Tenant may, after receiving permission from the Public Works Director, work to get the fields in a playable condition. However, if damage to the field's shall result from the usage after they have been deemed closed (designated by a lock on the field gates), the organization-Tenant is responsible for the damage shall be solely accountable for the repair of the fields.

B2. Tenant agrees not to:

B.2.a. Use the Premises for any purpose other than the Permitted Use.

B.2.b. Create a nuisance.

B.2.c. Permit ~~any~~ littering where possible.

B.2.d. Use the Premises in any way that would increase insurance premiums or void insurance on the Premises.

B.2.e. Change Landlord's lock system.

B.2.f. Alter the Premises.

B.2.g. Allow a lien to be placed on the Premises.

B.2.h. Assign this Lease or sublease any portion of the Premises without Landlord's written consent.

C. LANDLORD'S OBLIGATIONS:

C.1. Landlord agrees to:

C.1.a. Lease to Tenant the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date, unless otherwise extended or terminated sooner.

C.1.b. Obey all laws relating to Landlord's operation of the Premises.

C.1.c. Provide the Essential Services.

*C.1.d. **Field Lighting:*** Field lighting will be used only during the regular season with the exception of pre-season tournaments [and postseason tournaments](#) and for practice sixty (60) days prior to the first day of the season. Lights for practice are for league team use only and will be from dusk until nine thirty (9:30 P.M.). During practice failure to have lights off by nine forty (9:40 P.M.) will result in a fine to Tenant of \$35.00, payable upon ten (10) days of invoice. If the problem is persistent (after the third time) the use of the lights shall be discontinued. (Note that any pre-lease period practice will be secondary to any scheduled tournament play.)

C.1.e. Landlord has sole authority as to the overall maintenance and operation of the Leased Premises, which will occur Monday – Friday and includes maintaining, cleaning or repairing the following:

- (i) commons areas;
- (ii) landscaping;
- (iii) parking areas;
- (iv) sewer, potable and irrigating water systems;
- (v) permanent fencing;
- (vi) trash collection;
- (vii) winterization of all water systems; and
- (viii) restroom facilities.

C.1.f. Landlord will

- (i) mow grass areas;
- (ii) string trim grass areas that are not mowed;
- (iii) fertilize grass;
- (iv) aerate grass;
- (v) dethatch / sod grass areas;
- (vi) apply pesticides to grass area; and
- (vii) infield maintenance.

C.2. Landlord agrees not to:

C.2.a. Interfere with Tenant's possession of the Premises as long as Tenant is not in default.

D. GENERAL PROVISIONS

Landlord and Tenant agree to the following:

D.1. **Alterations.** Tenant may not paint or make any improvements or place any fixtures on/in the Leased Premises without prior written consent of Landlord. Any physical additions, improvements or fixtures to the Leased Premises made by Tenant will become the property of Landlord. Any appliances, equipment or improvements contained in the small concession stand on the Leased Premises upon the execution of this Agreement shall be deemed a fixture. Excluding the ice machine which will be moved to the Tenant access area of the small concession for Tenant use. The Landlord may require that Tenant, at the end of the initial Term or any Extended Term and at Tenant's expense, remove any physical additions, improvements, or fixtures, repair any alterations, and restore the Premises to the condition existing at the Commencement Date, normal wear excepted.

~~As an express condition precedent to entering this Lease Agreement, the scoreboard controllers (5) for the five (5) scoreboards must be returned to the Landlord in working order with the understanding that they are part of the scoreboards, otherwise, this Agreement shall be null and void ab initio.~~

D.2. **Abatement.** Tenant's covenant to pay Rent and Landlord's covenants are independent. Except as otherwise provided, Tenant will not be entitled to abate Rent for any reason.

D.3. **Insurance.** Tenant and Landlord will maintain the respective insurance coverages described on pages 2 and 3, above.

D.4. **Release of Claims/Subrogation.** Landlord and Tenant release each other and lienholder, and their respective agents, from all claims or liabilities for damage to the premises, damage to or loss of personal property within the premises, and loss of business or revenues that are covered by the releasing party's Leased Property Insurance or that would have been covered by the required insurance if the party fails to maintain the Leased Property Insurance coverages

required by this Lease. The party incurring the damage or loss will be responsible for any deductible or self-insured retention under its Leased Property Insurance. Landlord and Tenant will notify the issuing Leased Property Insurance companies of the release set forth in this paragraph and will have the Leased Property Insurance policies endorsed, if necessary, to prevent invalidation of coverage. This release will not apply if it invalidates the Leased Property Insurance coverage of the releasing party. **The release in this paragraph will apply even if the damage or loss is caused in whole or in part by the ordinary negligence or strict liability of the released party or its agents but will not apply to the extent the damage or loss is caused by the gross negligence or willful misconduct of the released party or its agents.**

D.5. Intentionally left blank.

D.6. **Default by Landlord/Events.** Defaults by Landlord are failing to comply with any provision of this Lease within thirty days after written notice and failing to provide Essential Services to Tenant within ten days after written notice.

D.7. **Default by Landlord/Tenant's Remedies.** Tenant's remedies for Landlord's default are to sue for damages and, if Landlord does not provide an Essential Service for thirty days after default, terminate this Lease.

D.8. **Default by Tenant/Events.** Defaults by Tenant are:

- a. Failing to pay timely Rent or any other amount required to be paid under this Lease and/or violating Section D.9.a. herein;
- b. Abandoning or vacating a substantial portion of the Premises;
- c. Tenant shall become insolvent, make a transfer in fraud of creditors or make an assignment for the benefit of creditors;
- d. Tenant shall file a petition under any section or chapter of the U.S. Bankruptcy Code, as amended, or under any similar law or statute of the United States or any state thereof; or Tenant shall be adjudged bankrupt or insolvent in proceedings filed against Tenant thereunder;
- e. A receiver or trustee shall be appointed for all or substantially all of the assets of Tenant;
- f. The leasehold estate created by this Lease is taken, or an attempt is made to take such Leasehold estate by execution or other process of law in any action against Tenant;
- g. Tenant or its agents, employees, contractors, invitees, or visitors use or attempt to use, the Premises or any part thereof for any purpose not permitted under this Lease; and
- h. Failing to comply within ten (10) days after written notice with any provision of this Lease other than the defaults set forth in (a), (b), (d), (e), (f), (g) and (h).

D.9. Landlord may terminate this Lease, in which event Tenant must immediately surrender the Leased Premises to Landlord. If Tenant fails to do so, Landlord may, without prejudice to any other remedy that it may have for possession or arrearages in Rent, enter on and take possession and expel or remove Tenant and any other person occupying the Premises or any part of them, by any lawful means without being liable for prosecution or any claim of damages for the entrance and expulsion or removal.

*D.9.a. **Disparaging Remarks.*** As a critical part of this Agreement, the parties hereby agree that neither party shall make nor shall be a party, its officer's, or directors cause to be made, directly or indirectly, any disparaging, negative or other similar remarks, in writing, or on social media, or orally regarding the other party, its current or former employees, representatives or, its organization to any third person. A violation of this provision shall be grounds for immediate termination of this Lease. It is understood that Facebook is the tenant's main avenue of communicating with it's members and will be used as such.

*D.9.b. **Communications:*** During any lease term ~~representatives two (2) members~~ of Tenant's board will meet monthly at a regularly scheduled time with the City of Chandler administrator, public works director, and parks board director and at least one council member and no more than two council members unless legal posting requirements are followed.

D.9.c. In the event a party has complaints or issues with the other party, then such party will avail its self to attempting to resolve the issue in a professional manner in a good faith attempt to resolve any controversy, dispute, or disagreement arising out of or relating to this Agreement, by negotiation, and failing that, pursuant to mediation and/or litigation as set forth in Section *D.14*.

*D.10. **Default by Tenant/Landlord's Remedies.*** Landlord's remedies for Tenant's default are to (a) Landlord may terminate this Lease, in which event Tenant must immediately surrender the Premises to Landlord and has 10 days to remove all of the Tenant's equipment from the Premise. If Tenant fails to do so, Landlord may, without prejudice to any other remedy that it may have for possession or arrearages in Rent, enter on and take possession and expel or remove Tenant and any other person occupying the Premises or any part of them, by any lawful means without being liable for prosecution or any claim of damages for the entrance and expulsion or removal; (b) enter and take possession of the Premises, after which Landlord may relet the Premises on behalf of Tenant and receive the rent directly by reason of the reletting, and Tenant agrees to reimburse Landlord for any expenditures made in order to relet; (c) enter the Premises and perform Tenant's obligations; and (d) terminate this Lease by written notice and sue for damages. Landlord may enter and take possession of the Premises by self-help, by picking or changing locks if necessary, and may lock out Tenant or any other person who may be occupying the Premises, until the default is cured, without being liable for damages.

*D.11. **Default/Waiver/Mitigation.*** It is not a waiver of default if the non-defaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this Lease does not preclude pursuit of other remedies in this Lease or provided by applicable law. Landlord and Tenant have a duty to mitigate damages.

D.12. Intentionally left blank.

*D.13. **Holdover.*** If Tenant does not vacate the Premises following termination of this Lease, Tenant will become a Tenant at will and must vacate the Premises on receipt of notice from Landlord. No holding over by Tenant, whether with or without the consent of Landlord, will extend the Term.

D.14. **Alternative Dispute Resolution.** Landlord and Tenant agree to mediate in good faith before filing a suit for damages.

D.15. **Attorney's Fees.** If either party retains an attorney to enforce this Lease, the party prevailing in litigation is entitled to recover reasonable attorney's fees and other fees and court and other costs.

D.16. **Venue.** Exclusive venue is in the county in which the Premises are located.

D.17. **Entire Agreement.** This Lease is the entire agreement of the parties concerning the lease of the Premises by Landlord to Tenant, and supersedes any prior lease agreements entered into by and between Landlord and Tenant. There are no representations, warranties, agreements, or promises pertaining to the Premises or the lease of the Premises by Landlord to Tenant, and Tenant is not relying on any statements or representations of any agent of Landlord, that are not in this Lease.

D.18. **Amendment of Lease.** This Lease may be amended only by an instrument in writing signed by Landlord and Tenant.

D.19. **Limitation of Warranties.** THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE EXPRESSLY STATED IN THIS LEASE.

D.20. **Notices.** Any notice required or permitted under this Lease must be in writing. Any notice required by this Lease will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Lease. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

~~D.21. **Abandoned Property.** Landlord may retain, destroy, or dispose of any property left on the Premises at the end of the Term.~~

D.22. **Conduct.** The City of Chandler reserves the right to remove any individual or team from the Premises for inappropriate conduct. "Inappropriate conduct" shall be the judgment call of the City of Chandler. The City of Chandler shall have the authority to restrict individuals or teams from access to the Leased Premises and/or set terms that must be met for their return to the Leased Premises.

City of Chandler, Texas,
a general law municipality

Libby Fulgham, Mayor, City of Chandler

BMC Youth Baseball And Softball League,
a Texas nonprofit corporation,

Damon Massey, President

CHANDLER ATTEST:

Shirley Parmer, City Secretary

Curb side limb chipping program

Edited 8/11/15

REGULAR PICK UP DAY:

First Monday of the month (weather permitting, if delayed due to weather or for other reasons limbs will be picked up later that week).
Limbs should not be stacked for pick up for more than 10 days prior to pick-up.

WHAT WILL BE PICKED UP:

Tree limbs and between 2 and 10 feet in length, limbs must not be larger than 6" in diameter.

LOCATION:

Limbs should be stacked as neatly as possible at the curb. Stacks of limbs should not be taller than 5 feet or longer or wider than 10 feet. Limbs will not be collected if not at the street.

HOW TO REQUEST SERVICE:

Requests for service must be called into the city at 903-849-6853 by the Friday before one week prior to the First Monday.

LIMITATIONS:

This service is only for the pick-up of tree limbs which fall due to weather or limbs trimmed by the property owner. It is not intended to be used by commercial tree care companies. Leaves and grass clippings will continue to be picked-up by the regular trash service following their restrictions of leaf bags not weighing more than 45 pounds or more than 10 bags per trash pick-up.