

RESOLUTION No. 24-151

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH LOUD AND LIVE, INC. PURSUANT TO REQUEST FOR PROPOSALS #2024-03 FOR “DORAL CENTRAL PARK AMPHITHEATER MANAGEMENT SERVICES”; AUTHORIZING THE CITY MANAGER TO EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Doral (“City”) voters authorized a \$150 million General Obligation Bond in November 2018 to develop various parks throughout the community, including Doral Central Park, which will include an open-air Amphitheater for community and large-scale events; and

WHEREAS, staff has worked diligently to research and procure the services of a qualified and experienced firm to manage and promote the Amphitheater as the City of Doral’s premier outdoor entertainment venue; and

WHEREAS, on February 7, 2024, the City of Doral issued Request for Proposals No. 2024-03 (“RFP”) for Doral Central Park Amphitheater Management Services and conducted a competitive procurement process; and

WHEREAS, on May 10, 2024 pursuant to Resolution No. 24-107, the City Council authorized an award of RFP No. 2024-03 to Loud And Live, Inc. (“Loud and Live”), a Doral-based entertainment company with notable experience in event management and production; and

WHEREAS, the City Manager has substantially negotiated the Memorandum of Understanding attached as Exhibit A with Loud and Live for Amphitheater Management

Services at Doral Central Park (“MOU”).

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL AS FOLLOWS:

Section 1. Recitals. The above recitals are confirmed, adopted, and incorporated herein and made a part hereof by this reference.

Section 2. Approval. The MOU attached as Exhibit A is hereby approved. This approval shall not vest any rights in Loud and Live unless and until the City Manager finalizes negotiations and executes a duly authorized agreement on behalf of the City.

Section 3. Authorization. The City Manager is authorized to finalize negotiations and execute an agreement with Loud and Live in a form acceptable to the City Attorney.

Section 4. Implementation. The City Manager and the City Attorney are hereby authorized to take such further action as may be necessary to implement the purpose and provisions of this Resolution.

Section 5. Effective Date. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution was offered by Vice Mayor Puig-Corve who moved its adoption. The motion was seconded by Councilmember Pineyro and upon being put to a vote, the vote was as follows:

Mayor Christi Fraga	Yes
Vice Mayor Oscar Puig-Corve	Yes
Councilwoman Digna Cabral	Yes
Councilman Rafael Pineyro	Yes
Councilwoman Maureen Porras	Yes

PASSED AND ADOPTED this 12 day of June, 2024.



CHRISTI FRAGA, MAYOR

ATTEST:



CONNIE DIAZ, MMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:



GASTESI, LOPEZ & MESTRE, PLLC
CITY ATTORNEY
Lorenzo Cabelli

EXHIBIT “A”

**DORAL AMPHITHEATER MANAGEMENT SERVICES
DRAFT MEMORANDUM OF UNDERSTANDING**

Parties	<p>The City of Doral (the “City”); and</p> <p>Loud And Live, Inc. (“L&L”)</p>
Scope	<p>The City agrees to engage L&L to operate, manage, promote, and market the Doral Amphitheater (the “Facility”) during the Term, upon the terms and conditions set forth in RFP No. 2024-03 for Doral Central Park Amphitheater Management Services (the “Solicitation”), except to the extent explicitly clarified or revised below or as may otherwise be negotiated by the City Manager and set forth in a long form agreement between the Parties (the “Agreement”).</p> <p>The City will maintain control of the Facility and oversee its functions to ensure the Facility always remains for a public purpose. L&L will manage the facility on the City’s behalf and subject to the City’s oversight pursuant to booking policies and other operational reports and plans approved by the City. Additionally, the Facility shall always be available for use by the general public pursuant to the policies and regulations approved by the City.</p> <p>L&L shall pay all costs and expenses related to operating expenses (to be defined in the longform agreement).</p> <p>L&L shall establish and maintain one or more operating, payroll and other bank accounts solely for the operation and management of the Facility. All operating revenues collected by L&L from the operation of the Facility shall be deposited into the accounts and all operating expenses shall be paid by L&L as agent for the City from the accounts.</p> <p>L&L shall keep full and accurate accounting books and records relating to all operating revenues and operating expenses in accordance with generally accepted accounting principles. L&L shall give the City's authorized representatives access to such books and records during reasonable business hours and upon reasonable advance notice, pursuant to industry-standard audit provisions to be fully set forth in the Agreement.</p>
Manager of the Facility	<p>Subject to the terms of the Agreement, L&L shall be, as agent for the City, the sole and exclusive manager of the City to operate, manage, promote, and market the Facility during the Term. In such capacity, except as otherwise expressly reserved under the Agreement to the City, and/ or except for such matters as are subject to the approval of the City or City Manager, L&L shall have exclusive authority over the management and operation of the Facility.</p>

<p>Term</p>	<p>The initial term of the Agreement shall be for a period of <i>Five (5)</i> years (the “Initial Term”).</p> <p>The Parties shall have the option to extend the Initial Term of the Agreement for <i>Two (2)</i> additional <i>Five (5)</i> year periods (each a “Renewal Term”) by giving written notice not less than ninety (90) days prior to the expiration of the Initial Term or an exercised Renewal Term; provided that the Parties consent, in writing, to the extension of the Term. The Initial Term and any successive Renewal Terms may collectively be referred to as the “Term”.</p> <p>Notwithstanding the foregoing, the City reserves the right to terminate for convenience at its sole and absolute discretion with 120 days prior written notice at any time after the second full year of the Term; provided, however, if terminated by the City for convenience during the Term, the City will pay L&L immediately upon such termination, as specifically agreed upon and set forth in the Agreement, for: (a) the agreed-upon unamortized costs for Upgrades actually incurred by L&L, subject to deductions for depreciation as of the effective date of the Agreement; (b) the portion of the Minimum Guarantee, if any, which has been prepaid for the remainder of the Fiscal Year; (c) existing non-cancellable and verifiable payment obligations, including, but not limited to, equipment leases, or any cost of cancellation related to the same; and (d) any existing wages obligations.</p>
<p>Booking Policies</p>	<p>L&L shall enact a standard booking policy, similar to those used at other comparable facilities, maintaining the Facility as an “Open Venue” as the term is generally understood in the venue industry. Booking policies shall be prepared by L&L but subject to City review and approval.</p> <p>L&L shall have the authority to approve the scheduling of any event at the Facility pursuant to the City-approved booking policies, and subject to the exceptions noted in the Solicitation including scheduling and reporting.</p> <p>L&L shall enact a standard booking policy providing for published rental rates for the Facility to community and charitable groups, to be approved by the City.</p> <p>Booking policies shall also include the means by which the Parties will address coordination with Park activities.</p>
<p>Concessions</p>	<p>L&L shall have the exclusive right to the operation of all concessions and other operations within the Facility including, without limitation, food and beverage concessions and sales, including alcoholic beverages and all proceeds of sales and concession operations shall be operating revenue. City shall retain all rights to all operations beyond the boundaries of the Facility and the proceeds from the same, including without limitation, parking, sales, and</p>

	<p>concessions, and further including the right to engage a third party to manage all or a portion of such operations.</p> <p>Notwithstanding the foregoing:</p> <ul style="list-style-type: none">• To the extent that the parking operations are related to a particular event taking place at the Facility, the parties will coordinate in good faith provided such coordination shall not be at an additional cost to the City; and• The City shall not operate concessions that directly compete with Facility concessions during scheduled events within a specified boundary agreed-upon by the City which will be immediately adjacent to and surrounding the facility.
Management Fee	<p>As consideration to L&L for providing the services specified in the Agreement during the Term, L&L shall receive an annual management fee for each Fiscal Year (prorated for partial fiscal years) in the amount of Thirty Thousand US Dollars (USD \$30,000.00), plus the remaining Operating Profit for each Fiscal Year after disbursement of the City Revenue Share defined above (the “Management Fee”).</p> <p>L&L’s right to receive the Management Fee is subject and subordinate to City’s rights to receive all City distribution amounts and L&L shall not receive any payments for the Management Fee unless City has first received such distributions.</p> <p>L&L shall have the right, but not the obligation, to transact business with affiliated entities of L&L. Any transaction entered into by L&L with any of its affiliated entities concerning the provision of management services in connection with this Agreement shall be on fair and reasonable terms that are substantially as favorable or more favorable to L&L as would reasonably be obtainable by L&L from a third-party provider; provided that the foregoing restriction shall not apply to transactions with affiliated entities that are approved by the City, such approval not to be unreasonably withheld, conditioned or delayed. G</p> <p>The City shall have the right at any time, and from time to time, to cause independent auditors or the City’s own accountants or auditors to audit all of the books of L&L relating to the operating revenues, operating expenses, and tickets relating to the operation of the Facility. No costs incurred by the City in conducting such audit shall be considered an operating expense.</p> <p>If any audit under this Section reveals a L&L’s underpayment or overpayment of any amount due under this Agreement for the applicable calendar year, then the party owing such amount (L&L in the case of an underpayment and the City in the case of an overpayment) must correct the underpayment or overpayment in full</p>

	<p>within [10] business days after receiving a written auditor report. To the extent any audit for a calendar year concludes that the City was underpaid during such calendar year by greater than 5% of the total amount that should have been paid to the City for such calendar year, then L&L shall pay 100% of the cost and expense for such audit.</p>
<p>Operating Revenue/Profit Distribution to the City</p>	<p>For each particular Fiscal Year, the City will retain a portion of the Operating Profit, each Fiscal Year (but prorated for partial Fiscal Years), equal to: (a) Sixty-Thousand US Dollars (USD \$60,000.00) (“Minimum Guarantee”); plus (b) Two US Dollars (USD \$2.00) per “Paid Ticket” in excess of 25,000 tickets sold, to events in the Facility (the “Per Ticket Revenue Share”) (collectively, the “Annual City Revenue Share”) (for example, if there are 30,000 Paid Tickets, the amount would be \$10,000).</p>
<p>Rights Reserved to the City</p>	<p><u>Rights of Entry.</u> Representatives, contractors and employees of the City shall have the right to enter all portions of the Facility to inspect same, to observe the performance of L&L of its obligations under the Agreement, to install, remove, adjust, repair, replace or otherwise handle any equipment, utility lines, or other matters in, on, or about the Facility, or to do any act or thing which the City may be obligated or have the right to do under the Agreement. Nothing contained in this subparagraph is intended or shall be construed to limit any other rights of the City under the Agreement. The City shall not unreasonably interfere with the activities of L&L hereunder, and the City's actions shall be conducted such that disruption of L&L work shall be kept to a minimum and there shall be no disruption of any event by City (the City's actions in its proprietary capacity of the foregoing, shall not diminish any rights of City in its governmental capacity). In no event shall the City's operation of Doral Central Park in the normal course of City of Doral park operations consistent with the park's facilities and intended uses be considered a disruption.</p> <p><u>Naming Rights.</u> The City retains all rights to name the Facility. The Parties may negotiate a separate contractual arrangement regarding the identification of a naming sponsor.</p>
<p>Taxes</p>	<p>L&L shall be responsible for any and all sales, tangible property, real property, and all other applicable taxes, fees and assessments that may be imposed upon the Facility, by reason of the Agreement or by reason of any use(s) and/or activity(ies) of L&L upon or in connection with the Facility. The Parties acknowledge that L&L's operation and use of the Facility is for public purposes, and anticipate and enter into the Agreement with the expectation and belief that no governmental body shall impose any ad valorem taxes upon the Facility.</p> <p>The Agreement shall set forth a process by which the parties will address circumstances whereby taxes are assessed on the Facility</p>

	<p>by any governmental body, including a potential right to terminate the Agreement by either party by providing 90 days' notice. ,</p> <p>In the event of early termination by the City or by L&L pursuant to this provision, any such tax obligations shall be completely netted out against any required City distributions and L&L shall not be liable or obligated for any insufficiency.</p> <p>If terminated pursuant to this provision during the Term, the City will pay L&L, as specifically agreed upon and set forth in the Agreement, for: (a) the agreed-upon unamortized costs for Upgrades actually incurred by L&L, subject to deductions for depreciation as of the effective date of the Agreement; (b) the portion of the Minimum Guarantee, if any, which has been prepaid for the remainder of the Fiscal Year; (c) existing non-cancellable and verifiable payment obligations, including, but not limited to, equipment leases, or any cost of cancellation related to the same; and (d) any existing wages obligations.</p> <p>The Agreement shall set forth a process by which the applicable remaining funds and resources will be distributed.</p>
<p>Upgrades</p>	<p>The Parties shall mutually identify and agree as to the improvements and upgrades necessary for the efficient, profitable, and safe operation of the Facility (e.g.; fencing, seating) ("Upgrades"), with such Upgrades to be completed by L&L during the course of the Agreement. The Agreement's Term may be extended, with the consent of both Parties, in order to account for the amortization of the Upgrades' costs or the allocation of the Upgrades' costs to be netted out against City distributions.</p> <p>L&L shall not make any Upgrades, additions, improvements, or alterations to the Facility without City Manager's prior written consent.</p>
<p>City Use</p>	<p>The City has asked L&L to operate the Facility for use by the Public. However, the City shall be entitled on a minimum of ten (10) guaranteed occasions in each full Fiscal Year during the Term to make use of the Facility for hosting an event or to blackout use of the Facility for events taking place at Doral Central Park (each such instance of use by the City shall be referred to as a "City Use"). The City shall have the right to additional City Use dates, subject to availability. Each City Use shall be available without payment of a fee, rent or other payment strictly for the right to the City Use.</p> <p>Although City will not owe a fee, rent, or other payment strictly for the right to the City Use: (a) City shall reimburse L&L for all standard and pre-established expenses and costs actually incurred by L&L to facilitate the City Use directly necessitated by the occurrence of such City Use (L&L will ensure that expenses and costs shall not</p>

	<p>exceed the normal expenses and costs incurred at other events at the Facility); (b) L&L shall retain exclusive rights to the operation of all concessions and other operations within the Facility during the City Use; and (c) all City Use events shall be scheduled in accordance with the standard scheduling procedures of the Facility so as to not conflict or impair L&L's ability to maintain its anticipated schedule of events.</p> <p>The City anticipates and reserves each year, all of the following dates (and equivalent date each subsequent year), subject to change by the City as needed, within the City Use dates specified above:</p> <ul style="list-style-type: none"> - December 7, 2024: Holiday Bazaar - December 13, 2024: Holiday Celebration at the Park - January 2025: Doral Central Park Phase 4 Grand Opening - February 7, 2025: Camping Under the Stars - February 22, 2025: Miami Symphony Orchestra at the Park - April 5, 2025: Eggstravaganza - May 3, 2025: Mother's Day Artisan Market - July 4, 2025: Independence Day Celebration - August 12, 2025: National Night Out & Back to School Event
Permits & Licenses	<p>L&L shall obtain and maintain all permits and licenses that are required or necessary for the management, use and operation of the Facility, as may be reasonably necessary in obtaining such permits and licenses.</p>
Sponsorship / Signage	<p>With the exception of naming rights, L&L shall be entitled to all temporary signage related to the Facility and the events that take place therein, and all revenue derived therefrom; provided, however, that the sponsorship names thereon are subject to the City's approval which shall not unreasonably be withheld, conditioned, or delayed.</p> <p>Additionally, L&L will retain rights to all food and beverage sponsorships, ensuring compatibility with Facility's potential naming sponsor.</p>
Maintenance	<p>L&L will be responsible for day-to-day operational maintenance of the Facility, including without limitation all costs and expenditures necessary for such operations and maintenance.</p> <p>The City will be responsible for all major capital repairs and replacement for the Facility, with the exception of Upgrades, as agreed upon by the Parties. The City shall retain all right and discretion to determine the appropriate capital repairs and shall not be obligated to complete the same.</p>

Insurance	L&L will obtain general liability insurance and other policies as set forth in the Solicitation. The City will be responsible for property insurance.
City Staff and Support	To the extent City determines it is necessary for City staff to keep the park opened for Facility patrons, L&L will be required to reimburse the City for the hourly rates of the City's employees.
Security and Traffic	L&L shall be responsible for security and traffic at its sole cost and expense, including but not limited to compliance with any County requirements to obtain a traffic plan for large scale events. The Parties will mutually agree upon a security and traffic plan.
Parking & Transportation	The Parties will mutually agree upon a parking and transportation plan.
Ownership of Assets	<p>The ownership of the Facility and all buildings and real estate, all existing (and replacements thereof) technical and office equipment and facilities, furniture, displays, fixtures, vehicles, and similar tangible property located at the Facility at the time of the commencement of the Agreement shall remain with the City. L&L shall maintain an inventory of all assets as per the Solicitation.</p> <p>For the avoidance of doubt, while the City shall maintain ownership of fixed assets located at the Facility and purchased with operating revenues, L&L may use such fixed assets in the performance of services under the Agreement.</p> <p>L&L shall maintain sole ownership of all movable assets, excluding fixtures or any assets considered to be real property, that are purchased by L&L and utilized at the Facility.</p> <p>Ownership of and title to all intellectual property rights of whatsoever value held in the City's name shall remain in the name of the City.</p>

THIS MEMORANDUM OF UNDERSTANDING ("MOU") IS FOR THE PURPOSES OF NEGOTIATION. AS FURTHER LEGAL, FINANCIAL AND OTHER DETAILS ARE SUBJECT TO AGREEMENT, THIS MOU IS NOT BINDING UPON EITHER PARTY UNTIL A LONG FORM AGREEMENT INCORPORATING THE TERMS HEREOF HAS BEEN SIGNED BY BOTH PARTIES. ANY COMMUNICATIONS AND/OR NEGOTIATIONS REGARDING THIS PROPOSAL ARE DEEMED FOR DISCUSSION PURPOSES ONLY AND SHALL LIKEWISE NOT BE BINDING.