

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF DORAL
AND
MIND&MELODY, INC.
FOR
SENIORS AND SPECIAL NEEDS MUSIC CLASSES**

THIS AGREEMENT (hereinafter referred to as the “Agreement”) is entered into and made between **MIND&MELODY, INC.** an active, Florida Not For Profit Corporation (hereinafter the “Provider”), having its principal office at 12905 SW 132nd Street, #6, Miami, Florida 33186, and the **CITY OF DORAL, FLORIDA**, a Florida municipal corporation, having its principal office at 8401 NW 53rd Terrace Doral Florida 33166 (hereinafter the “City”).

RECITALS

WHEREAS, pursuant Resolution No. 19-278, the City awarded Request for Proposals #2019-34 “Seniors and Special Needs Recreational Programs” (the “RFP”), to multiple firms, including the Provider, and authorized the City Manager to enter into an agreement with Provider; and

WHEREAS, on August 20, 2020, pursuant to the above authority, the City entered into an agreement with the Provider for the provision of Seniors and Special Needs Music Classes (“Services”) for an initial term expiring August 31, 2023, with the option to renew for two (2) additional one (1) year periods; and

WHEREAS, the aforementioned agreement expired on the above listed date, however, the City being satisfied with the Services of the Provider, wishes to continue engage the Provider for the Services for the initial time frames contemplated in the aforementioned agreement and RFP, which permitted for two (2) additional one (1) year periods; and

WHEREAS, the Parties further wish to revise the compensation structure from a revenue split, to an hourly rate as more particularly set forth herein; and

NOW, THEREFORE, in consideration of the aforementioned recitals, which are incorporated herein and made a part hereof by this reference, the mutual covenants and conditions contained herein, and other good and valuable consideration, the sufficiency of which is acknowledged by the Parties, the Provider, and the City agree as follows.

1. Scope of Services/Deliverables.

- 1.1 The Provider shall furnish professional services in the form of Special Needs and Seniors Classes to the City as more particularly described in the Scope of Services attached hereto and incorporated herein as Exhibit “A” (“Services”), and pursuant to the terms and conditions contained in RFP 2019-34, which is incorporated herein by reference.

1.2 The Services shall be performed by Provider to the full satisfaction of the City. Provider agrees to furnish all labor in a professional manner to perform Services. Provider will require its employees to perform their work in a manner befitting the type and scope of work to be performed.

2. **Term/Commencement Date.**

2.1 This Agreement shall become effective upon proper execution by both parties and shall remain in effect through August 31, 2024, unless earlier terminated in accordance with Paragraph 8. The City shall have the option to renew this Agreement for one (1) additional one (1) year term.

2.2 Provider agrees that time is of the essence and Provider shall complete each deliverable for the Project within the timeframes set forth in the Project Schedule, unless extended by the City Manager.

3. **Compensation and Payment.**

3.1 In consideration of the releases and indemnities contained herein and of the Provider's Services in connection with the Special Needs or Seniors classes, programs, and activities, described herein, the City shall compensate Provider at a rate of \$175.00 per hour for Drum Circle Classes, and \$150.00 per hour for Music Classes.

3.2 The City shall be responsible for the registration process and collection of all registration fees from the program participants.

3.3 Provider shall submit invoices to the City on a monthly basis in a form approved by the City. The invoices shall show or include a description of the task(s) and number of hours performed. The City shall pay the Provider in accordance with the Florida Prompt Payment Act.

3.4 It is the responsibility of the Provider to pay all applicable local, state, and federal taxes associated with payments made to Provider under this Agreement, and to acquire and pay for all necessary permits, licenses, and insurance required for the execution of this Agreement.

3.5 Provider shall not pledge the City's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The Provider further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

4. **Sub-providers.**

- 4.1 The Provider shall be responsible for all payments to any sub-providers and shall maintain responsibility for all work related to the Project.
- 4.2 Any sub-providers used on the Project must have prior written approval of the City Manager or his designee.

5. **City's Responsibilities.**

- 5.1 Arrange for access to and make all provisions for Provider to enter upon real property as required for Provider to perform services as may be requested in writing by the Provider (if applicable).
- 5.2 Assist the Provider in marketing the program to garner participation.
- 5.3 The City will approve any rates, or the manner for setting such rates charged by the Provider.

6. **Provider's Responsibilities.**

- 6.1 The Provider shall exercise the same degree of care, skill, and diligence in the performance of the Services as is ordinarily provided by a professional under similar circumstances.
- 6.2 If at any time during the term of this Agreement or within one year from completion or termination of this Agreement, it is determined that the Provider's deliverables are incorrect, inaccurate, defective or fail to conform with the terms and conditions of this Agreement, upon written notification by the City, the Provider shall at Provider's sole expense, immediately correct any deficiency as determined by the City.
- 6.3 Provider and its employees/sub-contractors give permission for any photograph, video tape, or any other form of audio-visual record of the Provider and/or its employees/sub-contractors participation in any programming or activity related to the Services to be used by the City of Doral for publicity purposes.

7. **Conflict of Interest.**

- 7.1 To avoid any conflict of interest or any appearance thereof, Provider shall not, for the term of this Agreement, represent any private sector entities

(developers, corporations, real estate investors, etc.), with regard to any City related matter.

8. Termination.

- 8.1 The City Manager may terminate this Agreement for convenience (without cause) upon thirty (30) days written notice to the Provider.
- 8.2 If the City Manager determines that there is just cause to terminate this agreement, including, but not limited to, a breach of the terms and conditions of this Agreement, the Agreement may be terminated immediately upon written notice to Provider.
- 8.3 Upon receipt of the City's written notice of termination for cause, the Provider shall cease providing Services under this Agreement. In the event that the Agreement is terminated for convenience, the Provider shall not perform any additional services on the 30th day from receipt of the Notice of Termination.
- 8.4 In the event of termination by the City, the Provider shall be paid for all work accepted by the City Manager up to the date of termination, provided that the Provider has first complied with the provisions of Paragraph 8.5.
- 8.5 The Provider shall transfer all books, records, reports, working drafts, documents, maps, and data pertaining to the Project to the City, in a hard copy and/or electronic format specified by the City within 14 days from the date of the written notice of termination or the date of expiration of this Agreement.

9. Insurance.

- 9.1 The Provider shall secure and maintain throughout the duration of this Agreement insurance of such type and in such amounts as required by Exhibit "E". The insurance carrier shall be qualified to do business in the State of Florida and have agents upon whom service of process may be made in the State of Florida.
- 9.2 Certificates of Insurance shall be provided to the City at the time of execution of this Agreement and certified copies provided if requested. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the City before any policy or coverage is cancelled or restricted, or in accordance with policy provisions. The City further reserves the right to solicit additional

coverage, or require higher limits of liability as needed, and depending on the nature of scope, or level of exposure.

- 9.3 Insurance required of the Provider shall be primary to, and not contribute with, any insurance or self-insurance maintained by the City. Such insurance shall not diminish Provider's indemnification and obligations hereunder. The insurance policy shall be issued by companies authorized to do business under the laws of the State of Florida and acceptable to the City with a minimum A.M. Best rating of A-Excellent. **Except as otherwise provided herein, before any work under this Agreement is performed, and at any time upon request, Provider shall furnish to the City certificates of insurance evidencing the minimum required coverage and shall be appropriately endorsed for contractual liability, with the City named as additional insured.** The Provider shall not be required to name the City as an additional insured for Workers Compensation and Professional Liability Insurance policies. All policies shall contain a waiver of subrogation endorsement. All policies and certificates shall be in forms and issued by insurance companies acceptable to the City Manager or his designee. All insurance policies and certificates of insurance shall provide that the policies may not be canceled or altered without thirty (30) days prior written notice to the City. The City reserves the right from time to time to change the insurance coverage and limits of liability required to be maintained by Provider hereunder. Provider shall also require and ensure that each of its sub-Providers providing services hereunder (if any) procures and maintains, until the completion of the services, insurance of the types and to the limits specified herein. **ANY EXCEPTIONS TO THE INSURANCE REQUIREMENTS IN THIS SECTION MUST BE APPROVED IN WRITING BY THE CITY.**

10. **Nondiscrimination.**

- 10.1 During the term of this Agreement, the Provider shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, gender identity or gender expression or national origin and agrees to abide by all Federal and State laws regarding nondiscrimination.

11. **Attorneys' Fees and Waiver of Jury Trial.**

- 11.1 In the event of any litigation arising out of this Agreement, each party shall be responsible for their attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.

11.2 In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily, and intentionally waives its right to trial by jury.

12. Indemnification.

12.1 Provider shall defend, indemnify, and hold harmless the City, its officers, agents, employees, and volunteers from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising out of, related to, or any way connected with the Provider's performance or non-performance of any provision of this Agreement including, but not limited to, liabilities arising from Agreements between the Provider and third parties made pursuant to this Agreement. The Provider shall reimburse the City for all its expenses including reasonable attorneys' fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising out of, related to, or in any way connected with the Provider's performance or non-performance of this Agreement, inclusive of all costs relating to a trial and any subsequent appeals. However, nothing contained in this Agreement is intended to or shall be construed as a waiver of the City's rights, immunities, limitations, or privileges as defined in Section 768.28, Florida Statutes.

12.2 The provisions of this section shall survive termination of this Agreement.

13. Notices/Authorized Representatives.

13.1 Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the following addresses:

For the City: Barbara Hernandez
City Manager
City of Doral, Florida
8401 NW 53rd Terrace
Doral, Florida 33166

With a Copy to: City Attorney
City of Doral, Florida

8401 NW 53rd Terrace
Doral, FL 33166

For The Provider: Cristina Rodriguez
President & Co-Founder
Mind&Melody
12905 SW 132nd Street, #6
Miami, Florida 33186

14. **Governing Law.**

14.1 This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Exclusive venue for any litigation arising out of this Agreement shall be in Miami-Dade County, Florida, or the Southern District of Florida.

15. **Entire Agreement/Modification/Amendment.**

15.1 This writing contains the entire Agreement of the parties and supersedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

15.2 No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this document.

16. **Ownership and Access to Records and Audits.**

16.1 All records, books, documents, maps, data, deliverables, papers, and financial information (the "Records") that result from the Provider providing services to the City under this Agreement shall be the property of the City.

16.2 The City Manager or designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any Records of the Provider involving transactions related to this Agreement.

16.3 The City may cancel this Agreement for refusal by the Provider to allow access by the City Manager or designee to any Records pertaining to work performed under this Agreement that are subject to the provisions of Chapter 119, Florida Statutes.

16.4 The Provider may also be subject to monthly audits by the City of Doral or their designee. The audit will specifically include a comprehensive review of the following service quality, attentiveness, courteousness, etc.

17. **Public Records.**

17.1 In addition to other contract requirements provided by law, the Provider shall comply with public records laws, specifically to:

- (a) Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service;
- (b) Provide the public with access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law;
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and
- (d) Meet all requirements for retaining public records and transfer, at no cost, to the City all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

IF THE PROVIDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PROVIDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT 305-593-6730, CITYCLERK@CITYOFDORAL.COM, 8401 NW 53RD TERRACE, DORAL, FLORIDA 33166.

18. **No Assignability.**

18.1 This Agreement shall not be assignable by the Provider unless such assignment is first approved by the City Manager. The City is relying upon the apparent qualifications and personal expertise of the Provider, and such firm's familiarity with the City's area, circumstances, and desires.

19. **Severability.**

19.1 If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

20. **Independent Contractor.**

20.1 The Provider and its employees, volunteers, and agents shall be and remain independent contractors and not agents or employees of the City with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise, or venture between the parties.

21. **Representations and Warranties of the Provider.**

21.1 The Provider hereby warrants and represents, at all times during the Term of this Agreement, inclusive of any renewals thereof, that:

- (a) The Provider, and its employees, and/or subcontractors, shall maintain in good standing all required licenses, certifications and permits required under federal, state, and local laws necessary to perform the Services hereunder;
- (b) The Provider is a corporation duly organized, validly existing and in good standing under the laws of the State of Florida and duly registered, validly doing business and in good standing under the laws of the State of Florida;
- (c) The execution, delivery and performance of this Agreement by the Provider has been duly authorized and no consent of any other person or entity to such execution, delivery and performance is required to render this Agreement a valid and binding instrument enforceable against the Provider in accordance with its terms; and
- (d) The Provider has the required knowledge, expertise, and experience to perform the Services and carry out its obligations under this Agreement in a professional and first-class manner.

22. **Compliance with Laws.**

22.1 The Provider shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities relating to the services.

22.2 The Provider shall not commit nor permit any violations of applicable federal, state, county and municipal laws, ordinances, resolutions and governmental rules, regulations, and orders, as may be in effect now or at any time during the term of this Agreement, all as may be amended, which are applicable to the City and the Provider.

23. **Waiver**

23.1 The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach, or wrongful conduct.

24. **Survival of Provisions**

24.1 Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

25. **Prohibition of Contingency Fees.**

25.1 The Provider warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Provider, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Provider, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

26. **Counterparts**

26.1 This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterpart shall constitute one and the same instrument.

27. **Interpretation.**

27.1 The language of this Agreement has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a Section or Article of this Agreement, such reference is to the Section or Article as a whole, including all of the subsections of such Section, unless the reference is made to a particular subsection or subparagraph of such Section or Article.

27.2 Preparation of this Agreement has been a joint effort of the City and the Provider and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

28. **Discretion of City Manager.**

28.1 Any matter not expressly provided for herein dealing with the City or decisions of the City shall be within the exercise of the reasonable professional discretion of the City Manager.

29. **Removal of Unsatisfactory Personnel.**

29.1 If the City make written request to Provider for the prompt removal and replacement of any personnel employed or retained by Provider or a sub-provider, the Provider shall respond to the City within fourteen (14) days of receipt of such request with either the removal and replacement of such personnel or with a justification as to why the personnel were not removed. Said request shall solely relate to said employees or sub-providers providing Services under this Agreement.

29.2. In the event the City Manager disagrees with the justification offered by the Provider, the City Manager's decision to remove the employee or sub-provider shall be final.

30. **Third Party Beneficiary**

30.1 The Provider and the City agree that it is not intended that any provision of this Agreement establishes a third-party beneficiary giving or allowing any claim or right of action whatsoever by any third party under this Agreement.

31. **No Estoppel**

31.1 Neither the City's review, approval and/or acceptance of, or payment for Services performed under this Agreement shall be construed to operate as a waiver of any rights under this Agreement of any cause of action arising out of the performance of this Agreement, and the Provider shall be and remain liable to the City in accordance with applicable laws for all damages to the City caused by the Provider's negligent performance of any of the services under this Agreement. The rights and remedies provided for under this Agreement are in addition to any other rights and remedies provided by law.

32. **E-Verify.**

32.1 The Provider must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the United States and 48 CFR 52.222-54 (as amended) is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the Provider must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the employment eligibility of all new hires working in the United States; (3) use E-Verify to verify the employment eligibility of all employees assigned to the Agreement; and (4) include this requirement in certain subcontracts, such as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

32.2 The Provider shall also comply with Florida Statute 448.095, which directs all public employers, including municipal governments, and private employers with 25 or more employees to verify the employment eligibility of all new employees through the U.S. Department of Homeland Security's E-Verify System, and further provides that a public entity may not enter into a contract unless each party to the contract registers with and uses the E-Verify system. Florida Statute 448.095 further provides that if the Provider enters into a contract with a sub-provider, the sub-provider must provide the Contractor with an affidavit stating that the sub-provider does not employ, contract with, or subcontract with an unauthorized alien. In accordance with Florida Statute 448.095, Provider, if it employs more than 25 employees, is required to verify employee eligibility using the E-Verify

system for all existing and new employees hired by Provider during the contract term. Further, Provider must also require and maintain the statutorily required affidavit of its sub-providers. It is the responsibility of Provider to ensure compliance with E-Verify requirements (as applicable). To enroll in E-Verify, employers should visit the E-Verify website (<https://www.e-verify.gov/employers/enrolling-in-e-verify>) and follow the instructions. Provider must retain the I-9 Forms for inspection, and provide an executed E-Verify Affidavit, which is attached hereto as Exhibit "F".

33. Scrutinized Companies.

- 33.1 Provider certifies that it and its sub-providers are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the Provider or its subcontractors are found to have submitted a false certification; or if the Provider, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
- 33.2 If this Agreement is for more than one million dollars, the Provider certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the Provider, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Provider, its affiliates, or its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
- 33.3 The Provider agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

IN WITNESS WHEREOF, the parties execute this Agreement on the respective dates under each signature: The City, signing by and through its City Manager, attested to by its City Clerk, duly authorized to execute same and by the Provider by and through its Principal, whose representative has been duly authorized to execute same.

CITY OF DORAL

Attest:

Connie Diaz
Connie Diaz, City Clerk

By: Barbara Hernandez
Barbara Hernandez, City Manager

Date: 12/21/2023

Approved As To Form and Legal Sufficiency for the Use
And Reliance of the City of Doral Only:

Valerie Vincente
Valerie Vincente
NABORS, GIBLIN & NICKERSON, P.A.
City Attorney

MIND&MELODY, INC.

Witnesses:

[Signature]
Witness Signature

Nerea Recalde
Witness Print Name

[Signature]
Witness Signature

Erin Sullivan
Witness Print Name

DocuSigned by:

By: Cristina Rodriguez
Cristina Rodriguez, President

Date: 12/8/2023

Exhibit "A"
Scope of Services

EXHIBIT A

SCOPE OF SERVICES

- A. The Provider shall provide Seniors and Special Needs Music Classes, and other interactive/social components.
- B. The City shall designate the location where the services will be performed.
- C. The Provider and The Director of the Parks & Recreation Department or his/her designee, hereinafter referred to as the "Department", will agree upon class schedules. ***Provider agrees to submit a Program Request Form (Exhibit D) to the Department for all camps, specialty camps, clinics and/or extended care programs no less than four (4) weeks prior to the beginning of each session.*** All such forms shall be deemed to form a part of this Agreement.
- D. Provider must meet minimum student enrollment (5 participants). The Provider agrees to take daily attendance of all students registered for the camp/clinic.
- E. The fee charged to each participant will be determined in the City's sole discretion. Provider may not charge participants for Services.
- F. The Provider warrants to City that it is not insolvent, it is not in bankruptcy proceedings or receivership, nor is it engaged in or threatened with any litigation or other legal or administrative proceedings or investigations of any kind which would have an adverse effect on its ability to perform its obligations under this Agreement.
- G. The Provider agrees that they shall be solely responsible for all costs and/or expenses associated with, or as a result of its operation under this Agreement including but not limited to uniforms, equipment, marketing tools, field trip / rental fees, permits, certifications, background screenings, etc. Provider will also assume the cost of any damages to City property.
- H. The Provider shall stipulate and certify that he/she, as well as all staff members, is qualified to teach the course he/she is hired to teach, maintains the education and required licenses or permits necessary to teach the class and shall continue to maintain such licenses or permits during the tenure of this Agreement. All members

of the Provider's staff who have the responsibility of instructing, facilitating or operating under this Agreement must be 18 or older as well as be listed in the Provider's proposal. All staff under the age of 18 shall not be solely responsible for the supervision of children or overall operation of the Services or its components.

- I. This Agreement is considered a non-exclusive Agreement between the Parties. The City shall have the right to purchase the same kind of services to be provided by the Provider from other sources during the term of this Agreement. The Provider is not precluded from providing the same or similar services for other parties so long as such other engagements do not interfere with the Provider's provision of services to the City.
- J. Department approval is required for any promotional material, flyers, and posters advertising the program prior to its release. **The Provider shall also comply with the City's Ordinance No. 2006-02 entitled "Littering" in reference to Section #2-Handbills.**
- K. The Provider shall not promote any privately owned business in a City park/facility or solicit any participant in a City park/facility for any privately owned business. The Provider may not use said facilities to conduct personal business including workshops, clinics, seminars, camps, or any other activities that are outside the scope of service described in Program Request Form for such class. It is further understood that such action(s) may result in immediate termination of the Agreement and the forfeiture of all compensation due to the Provider. Additionally, the Provider may not sublet or otherwise rent out any City facility/amenity. The Provider may not partner with any other group or organization without the written consent of the City. Fundraisers and sponsorships must also be approved by the City prior to conducting any business.
- L. The Provider shall abide by the rules and regulations of the Department as promulgated from time to time. **Provider understands and agrees that the Department shall have first priority for use of said facilities, notwithstanding any other provisions of this Agreement.** The City reserves the right to cancel scheduled camp or clinic sessions for City sanctioned activities or events and agrees to notify the Provider of said cancellations in writing.
- M. All assistants, substitutes, and additional instructors utilized by the Provider must have prior written approval of the Department.

- N. Provider shall provide necessary supervisory personnel to ensure that the participants of the program obey all Department Rules and Regulations. All personnel must be in full uniform and maintain a professional appearance at all times.
- O. The Department or City may require that the Provider not be permitted to utilize specific assistants, substitutes, or additional instructors who have failed to follow the Department rules or who are in breach of this Agreement.
- P. Although the City shall not control the instructor's techniques, methods, procedures, or sequence of instruction, the Provider will endeavor to comply with the City's and Department's policies and procedures so as not to interfere with their operation, harm or damage the equipment or facilities afforded to Provider for his/her class or to otherwise disrupt the other on-site activities being offered at such public facilities.
- Q. Designated camp areas must be kept clean and sanitary throughout the duration of the day. A final, thorough cleaning must be conducted at the conclusion of each day of camp.
- R. The Provider also acknowledges that he or she is primarily responsible for the conduct and safety of the participants in all camps/clinics under his or her charge. Additionally, the Provider will be responsible for assuring that all campers a parent/guardian or an individual designated by a parent/guardian by checking photo identification prior to the departure of the camp for the day.
- S. If the Provider will be providing Services directly with minor children without parental supervision, the Provider shall, prior to commencing Services under this Agreement, comply with state laws regarding criminal background screening in accordance with Chapter 435, Florida Statutes, Level II screening standards. The City will furnish the Provider with instructions on how to conduct a background screening with the Florida Department of Children and Families for all the provider's counselors, coaches, volunteers, instructors, employees or any individual that will in the presence of children. The Provider agrees that they shall be solely responsible for all costs and/or expenses associated with conducting background screenings. Additionally, the Provider must adopt and enforce a signed "code of conduct" for all

coaches, staff, counselors, and volunteers. *If the Provider has recently had a background screening conducted by another agency (Ex: Florida Department of Children & Families), the City, at its sole discretion, may accept that background screening and waive the requirement of a new background screening.* Provider and its employees must also execute a Background Release Form (**Exhibit B**).

T. The City shall require all participants in the programs to sign a Waiver and Release of Liability located on the Registration Form, a copy of which is attached hereto as **Exhibit C**.

U. The Provider shall be compensated in the following manner:

In consideration of the releases and indemnities contained herein and of the Provider's Services in connection with the classes, programs, and activities, described herein, the Provider shall be compensated at a rate of \$175.00 per hour for Drum Circle Classes, and \$150.00 per hour for Music Classes.

The City will be responsible for the registration process and collection of all registration fees from the participants.

It is the responsibility of the Provider to pay all applicable local, state, and federal taxes associated with this Agreement, and to acquire and pay for all necessary permits, licenses, and insurance required for the execution of this Agreement.

V. The Provider agrees that it shall not discriminate against any person because of their race, color, religion, gender, national origin, physical ability or sexual orientation and agrees to abide by all Federal and State laws regarding nondiscrimination.

W. The Provider agrees that it shall not make, or permit to be made, and structural changes or improvements to any City facility/amenity unless otherwise approved by the City. Any changes or improvements made upon the approval by the City shall remain as part of the facility at the end of the term of this Agreement.

X. The City reserves the right to set a maximum capacity at its discretion. Capacities may also be increased or decreased at the City's sole discretion in order to provide the best service possible.

Exhibit "B"
Background Release Form



EXHIBIT "B"

**Parks and Recreation
BACKGROUND CHECK RELEASE FORM**

VOLUNTEER CONTRACTUAL EMPLOYEE

BY SIGNING THIS FORM, I AUTHORIZE THE CITY OF DORAL TO CONDUCT A CRIMINAL BACKGROUND CHECK UNDER THE CITY OF DORAL'S VOLUNTEER/EMPLOYMENT POLICY. I UNDERSTAND THAT SOUTHEASTERN SECURITY CONSULTANTS, INC., HAS BEEN SOLICITED BY THE CITY OF DORAL TO CONDUCT CRIMINAL BACKGROUND CHECKS FOR ALL CITY EMPLOYEES/VOLUNTEERS.

I ALSO UNDERSTAND THAT THE RESULT OF THE BACKGROUND CHECK WILL BE CONSIDERED, ALONG WITH ALL OTHER INFORMATION SUBMITTED, IN MAKING A DECISION REGARDING MY SUITABILITY AS AN EMPLOYEE/VOLUNTEER FOR THE CITY OF DORAL.

NOTICE OF COLLECTION OF SOCIAL SECURITY NUMBER

Please be advised that, consistent with Section 119.071(5), Florida Statutes, the City of Doral collects social security numbers on its employment and volunteer applications. The purpose and need for the collection of social security numbers is to conduct a criminal background and credit history check, if applicable, on the candidate applying as an employee or volunteer. The social security numbers collected by the City of Doral will not be used for any purpose other than to conduct a criminal background and credit history check. The City of Doral will not release the social security number to any individual or agency unless required by court order or state law.

CURRENT PERSONAL DATA

NAME _____

SOCIAL SECURITY NUMBER _____ DATE OF BIRTH _____

PRESENT ADDRESS _____

CITY _____ STATE _____ ZIP _____

I HEREBY CONSENT TO A CRIMINAL BACKGROUND CHECK AND RELEASE THE CITY OF DORAL, ITS AFFILIATES, ASSOCIATES, AND ANYONE ACTING ON THEIR BEHALF FROM ANY AND ALL CLAIMS OR LIABILITIES OF ANY NATURE ARISING FROM OR RELATED TO THE PREPARATION OF THE INFORMATION CONTAINED IN THE CRIMINAL BACKGROUND REPORT AND THE DISCLOSURE OF SUCH INFORMATION FOR EMPLOYMENT/VOLUNTEER PURPOSES.

SIGNATURE

DATE

Office Use Only: The above applicant's information is to be used to conduct the following background screening:

Criminal background records/information

National Sex Offender Registry check

Credit History Check

Signature of person making this request _____ Title _____

5-13-2009

Exhibit "C"
City of Doral Waiver and Release of Liability/Medical Treatment Consent

TO THE CITY OF DORAL: in consideration of the opportunity afforded to me or my minor child/ward to participate in all City of Doral Parks & Recreation related activities and events at all City Facilities.

I, the undersigned, on behalf of myself or my child/ward named in the Registration form, do freely agree to make the following contractual representations and agreements.

I, on behalf of myself or my child/ward named in the Registration Form, acknowledge and understand that participation in the activity involves the risk of serious injury, including permanent disability and/or death and severe social and economic losses.

I, on behalf of myself or my child/ward named in the Registration Form, do hereby knowingly; freely, and voluntarily assume all liability for any damage or injury which may occur as a result of me or my child/ward's participation in such activity and will indemnify and hold harmless from any and all liability to release, waive, discharge, and covenant not to sue the City of Doral, its officers, agents, employees, and volunteers from any and all, liability or claims which may be sustained by me, my minor child/ward, or a third party directly or indirectly in conjunction with, or arising out of participation in the activity described herein, whether caused in whole or in part by the negligence of the City of Doral or otherwise.

I, on behalf of myself or my child/ward named in the Registration Form, grant permission to transport the participant to and from events, activities, programs, etc. when required and hold harmless those who transport.

I, on behalf of myself or my child/ward named in the Registration Form, also agree to allow transportation of the participant to the nearest physician or hospital for medical treatment and agree for immediate first aid to injured person when deemed necessary.

PHOTO RELEASE

I give permission for any photograph, video tape, or any other form of audio-visual record of myself or my child's participation in any programming or activity with the City of Doral Parks and Recreation Department to be used by the City of Doral for publicity purposes.

I, on behalf of myself or my child/ward, have read the above provision, fully understand its terms, and understand that I, on behalf of myself or my child/ward, have given up substantial rights by signing this waiver and I acknowledge that I signed it freely and without any inducement or assurance of any nature and intend it to be a complete and unconditional release of any and all liability to the greatest extent allowed by law and I agree that, if any portion of this Registration Form is held to be invalid, the balance, notwithstanding, shall continue in full force and effect.

Participant Name: _____
Name of Parent/Guardian: _____ Date: _____
Signature (Parent/Guardian if participant is a Minor): _____

Exhibit "D"
Program Request Form

EXHIBIT "D"

PROGRAM REQUEST FORM

Individuals interested in proposing their programs and services must complete and return this form attached to the Request for Proposal. All program fees are subject to military discounts of 25% per child (50% per sibling) off of the registration cost. Discount only applies to Doral residents and with proper military ID. This information will be used for consideration of program proposals. Use one form per program.

Name of Program: _____

Participant Ages: from _____ to _____

Day(s) of the week program is offered: _____

Time of Program: from _____ to _____

Program Dates: from _____ to _____

Program Fee: _____

Program Enrollment: Minimum _____ Maximum _____

Materials to be supplied by participants: _____

Materials to be supplied by Provider: _____

Materials to be supplied by the City: _____

Additional Program Requirements: _____

Point of Contact: _____

Address: _____

City/State/Zip Code: _____

Phone Number: _____ Fax: _____

E-mail: _____

Exhibit "E"
Insurance Requirements

I. Commercial General Liability

A. Limits of Liability

Bodily Injury & Property Damage Liability, including coverage for sporting activities	
Each Occurrence	\$1,000,000
Policy Aggregate	\$2,000,000
Personal & Advertising Injury	\$1,000,000
Products & Comp. Ops (If Applicable)	\$1,000,000
Sexual Abuse & Molestation	\$1,000,000

B. Endorsements Required:

- City of Doral listed as an Additional Insured
- Primary Insurance Clause Endorsement
- Contingent Liability
- Premises and Operations Liability
- Waiver of Subrogation in favor of the City

II. Workers Compensation (Coverage A)

Statutory limits as required - State of Florida

Employer's Liability (Coverage B)

- \$100,000 for bodily injury caused by an accident, each accident
- \$100,000 for bodily injury caused by disease, each employee
- \$500,000 for bodily injury caused by disease, policy limit

Workers' Compensation insurance is required for all persons fulfilling the obligations and services defined in this Agreement, whether employed, contracted, temporary or subcontracted by the Provider.

Waiver of Subrogation in favor of the City.

III. Professional Liability/Error's & Omissions (If Applicable)

A. Limits of Liability

Each Claim:	\$1,000,000
Policy Aggregate	\$1,000,000
"Retro Date" coverage included	

All above coverages must remain in force and a Certificate of Insurance on file with City without interruption for the duration of this agreement. Policies shall provide the City of Doral with thirty (30) days written notice of cancellation or material change from the insurer. If coverage will not be replaced within 10 days with no lapse in coverage, instructor is required to notify City directly.

All insurance will be provided by companies authorized to do business in the State of Florida. Companies must be AM Best rated no less than "A-", "Class VI" as to financial strength, by the latest edition of AM Best's Insurance Guide, or its equivalent.

Coverage and Certificates of Insurance are subject to review and verification by the City's Risk Management. City reserves the right but not the obligation to reject any insurer providing coverage due to poor or deteriorating financial condition. The City reserves the right to amend insurance requirements in order to sufficiently address the scope of services. These insurance requirements shall not limit the liability of the Provider. The City does not represent these types or amounts of insurance to be sufficient or adequate to protect the Provider's interests or liabilities but are merely minimum standards.

Exhibit "F"
E-Verify

Florida Statute 448.095 directs all public employers, including municipal governments, to verify the employment eligibility of all new public employees through the U.S. Department of Homeland Security's E-Verify System, and further provides that a public employer may not enter into a contract unless *each* party to the contract registers with and uses the E-Verify system.

Florida Statute 448.095 further provides that if a contractor enters into a contract with a subcontractor, the subcontractor must provide the contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien.

In accordance with Florida Statute 448.095, all contractors doing business with the City of Doral, Florida, are required to verify employee eligibility using the E-Verify system for all existing and new employees hired by the contractor during the contract term. Further, the contractor must also require and maintain the statutorily required affidavit of its subcontractors. It is the responsibility of the awarded vendor to ensure compliance with E-Verify requirements (as applicable). To enroll in E-Verify, employers should visit the E-Verify website (<https://www.e-verify.gov/employers/enrolling-in-e-verify>) and follow the instructions. The contractor must, as usual, retain the I-9 Forms for inspection.

By affixing your signature below, you hereby affirm that you will comply with E-Verify requirements.

Company Name

Offeror Signature

Date

Print Name

Title

Federal Employer Identification Number (FEIN)

Notary Public Information

Sworn to and subscribed before me on this this ____ day of _____, 2023.

By: _____

Is personally known to me or

Has produced identification (type of identification produced): _____

Signature of Notary Public

Print or Stamp of Notary Public Expiration Date

RESOLUTION No. 23-209

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING AGREEMENTS WITH MIND & MELODY, INC., AND DOJO OF EXCEPTIONAL WELLNESS, INC. FOR SENIORS AND SPECIAL NEEDS RECREATIONAL PROGRAMS FOR AN INITIAL TERM TO EXPIRE AUGUST 31, 2024, AND JANUARY 31, 2024, RESPECTIVELY, WITH THE OPTION TO RENEW FOR ONE (1) ADDITIONAL ONE (1) YEAR RENEWAL TERM IN AN AMOUNT NOT TO EXCEED \$22,000.00 AND \$20,000.00 PER FISCAL YEAR; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENTS AND TO DO ALL THINGS NECESSARY TO EFFECTUATE THIS RESOLUTION; PROVIDING FOR IMPLEMENTATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, pursuant Resolution No. 19-278, the City of Doral (“City”) awarded Request for Proposals #2019-34 “Seniors and Special Needs Recreational Programs” (the “RFP”), to three (3) firms: Colormotion Art Studio LLC., Mind & Melody, Inc., and DOJO of Exceptional Wellness, Inc; and

WHEREAS, Resolution No. 19-278 specifically authorized the City Manager to enter into agreements with the aforementioned firms for an initial period of three (3) years with the option to renew for two (2) one (1) year terms, for a total of five (5) years, and further provided that the compensation to said firms will be based upon registrations, and the City agreeing to allow the provider to retain 80% to 70% of the fees collected, and the City to be paid in the range of 20% to 30% of the fees collected; and

WHEREAS, on February 5, 2020, pursuant to the above authority, the City entered into an agreement with DOJO of Exceptional Wellness, Inc, for the provision of Special Needs Wellness and Martial Arts Classes for an initial term expiring January 31, 2023, with the option to renew for two (2) additional one (1) year periods; and

WHEREAS, on August 20, 2020, pursuant to the above authority, the City entered into an agreement with Mind & Melody, Inc., for the provision of Seniors and Special

Needs Music Classes for an initial term expiring August 31, 2023, with the option to renew for two (2) additional one (1) year periods; and

WHEREAS, in 2021, Colormotion Art Studio LLC., cancelled their agreement with the City and is no longer providing services to the City; and

WHEREAS, the agreements with DOJO of Exceptional Wellness, Inc and Mind & Melody, Inc., expired on the above listed dates, however, the City being satisfied with the Services of the Provider, wishes to continue engage the firms for the Services for the initial time frames contemplated in the aforementioned agreement and RFP, which permitted for two (2) additional one (1) year periods; and

WHEREAS, the City further wishes to revise the compensation structure from a revenue split, to an hourly rate; and

WHEREAS, the City Manager recommends that the Mayor and City Council approve agreements with DOJO of Exceptional Wellness, Inc., and Mind & Melody, Inc., in substantially the form attached hereto as Exhibit "A" and Exhibit "B", respectively, and authorize the expenditure of funds in the amount of \$20,000.00 per fiscal year for DOJO of Exceptional Wellness, Inc. and \$22,000.00 per fiscal year for Mind & Melody, Inc.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, 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 agreements between the City of Doral and DOJO of Exceptional Wellness, Inc., and Mind & Melody, Inc., in substantially the form attached hereto as Exhibit "A" and Exhibit "B", respectively, are hereby approved.

Section 3. Authorization. The City Manager is hereby authorized to enter into agreements on behalf of the City of Doral with DOJO of Exceptional Wellness, Inc., and Mind & Melody, Inc., in substantially the form attached hereto as Exhibit “A” and Exhibit “B”, respectively, in the amount of \$20,000.00 per fiscal year for DOJO of Exceptional Wellness, Inc. and \$22,000.00 per fiscal year for Mind & Melody, Inc.

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 the 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 Cabral 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 6 day of December, 2023.

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:

VALERIE VICENTE, ESQ. for
NABORS, GIBLIN & NICKERSON, P.A.
CITY ATTORNEY