

RESOLUTION No. 17-42

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AUTHORIZING THE CITY MANAGER TO ENTER INTO A PARTNERSHIP AGREEMENT WITH BAPTIST HEALTH SOUTH FLORIDA FOR THE JOINT DEVELOPMENT OF HEALTH AND WELLNESS ACTIVITIES, EVENTS, AND PROGRAMMING AT DORAL LEGACY PARK, INCLUSIVE OF AN ANNUAL COMMITMENT OF \$12,500.00 FROM BAPTIST TO THE CITY, FOR A TERM OF ONE (1) YEAR WITH THE OPTION TO RENEW FOR TWO (2) ADDITIONAL ONE (1) YEAR RENEWALS; AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH BAPTIST HEALTH SOUTH FLORIDA AND TO RECEIVE SPONSORED FUNDS IN FURTHERANCE HEREOF; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Doral (the “City”) operates that certain recreational facility known as Doral Legacy Park (“Legacy Park”), which will provide a variety of services in Legacy Park’s Community Center (the “Center”) to eligible individuals;

WHEREAS, the City and Baptist Health South Florida (“Baptist”) offer programming and facilities for improving the health and wellness of members of the community;

WHEREAS, the City and Baptist desire to collaborate on opportunities to leverage their respective resources to promote and increase access to health and wellness; and

WHEREAS, Baptist will support the City as it enhances wellness for the community through the commitment of resources, including a \$12,500 annual commitment for up to three years related to the walking track and wellness at the Center, up to \$8,400 in additional underwriting support to provide free exercise classes to the community, and additional in-kind resources as described herein.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND 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 of Services. The public/private partnership between the City of Doral and Baptist Health South Florida for the commitment of resources for programs and services, including a \$12,500 annual commitment for up to three years related to the walking track and wellness at the Center, up to \$8,400 in additional underwriting support to provide free exercise classes to the community, and additional in-kind resources, is hereby approved.

Section 3. Authorization to Procure Services. The City Manager is hereby authorized to enter into a partnership agreement with Baptist Health South Florida, in substantially the form attached hereto in Exhibit "B", for a period of one (1) year with an option for two (2) additional one (1) year renewals for a total of three (3) years.

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

Section 5. Effective Date. This resolution shall take effect immediately upon adoption.

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

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Pete Cabrera	Yes
Councilwoman Christi Fraga	Absent/Excused
Councilwoman Claudia Mariaca	Yes
Councilwoman Ana Maria Rodriguez	Yes

PASSED AND ADOPTED this 8 day of March, 2017.



JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



CONNIE DIAZ, CMG
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE SOLE USE
OF THE City OF DORAL



WEISS, SEROTA, HELFMAN, COLE, & BIERMAN, PL
CITY ATTORNEY

EXHIBIT “A”

**DRAFT – SUBJECT TO CHANGE
FOR DISCUSSION PURPOSES ONLY**

AGREEMENT

Between

THE CITY OF DORAL

And

BAPTIST HEALTH SOUTH FLORIDA, INC.

This Agreement is made and entered into as of the date executed by both parties (the “Effective Date”) by the City of Doral, a municipal corporation organized and operating under the laws of the State of Florida, with a business address of, 8401 NW 53 Terrace, Doral, FL 33166, hereinafter referred to as “CITY”, and Baptist Health South Florida, Inc., a not for profit corporation organized and authorized to conduct business in the State of Florida with a business address of 6588 Red Road, Coral Gables, Florida, 33143, hereinafter referred to as “Baptist”. The CITY and Baptist are sometimes hereinafter referred to collectively as the “Parties” and individually as a “Party”.

WHEREAS, the CITY operates the Doral Legacy Park, located at 11400 NW 82 St. Doral, FL 33178 (hereinafter referred to as the “CENTER”), and provides services to those eligible individuals served by the CENTER;

WHEREAS, each of the Parties offers programming and facilities for improving the health and wellness of members of the community;

WHEREAS, the Parties desire to collaborate on opportunities to leverage their respective resources to promote and increase access to health and wellness; and

WHEREAS, Baptist will support the CITY as it enhances wellness for the community through the commitment of resources, including a \$12,500 annual commitment for up to three years for the walking track and wellness at the CENTER, up to \$8,400 in additional underwriting support to provide free exercise classes to the community, and additional in-kind resources as described herein.

NOW THEREFORE, in consideration of the mutual covenants and provisions herein contained, the Parties agree as follows:

1. General Collaboration. The Parties agree to meet as needed at mutually convenient times and places to discuss opportunities for each Party to participate in the special health and wellness events, programs, and communications sponsored and/or promoted by the other Party. Subject to the Parties’ agreement to hold health screenings, exercise classes and educational programs, the CITY agrees to use its best efforts to promote the activities being offered by Baptist at the CENTER for its community. Baptist acknowledges that the CITY provides other programs and events at the CENTER, and Baptist’s ability to use the CENTER for its events and programs shall be subject to availability of the CENTER, as determined by the CITY, with such use being free of any rental, facility, permitting, utilization or other fees or costs related to using the CENTER or any CITY property to provide health and wellness programs and activities.

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2. Doral Legacy Park. The City hereby grants to Baptist the sole and exclusive naming rights with respect to the walking track at the CENTER (“Track”). The City further agrees to include the Baptist name and mark(s) on and/or within the Center and in promotions and communications involving the Center and/or the Track. As the naming sponsor, the City agrees that Baptist shall be the sole and exclusive Naming sponsor, as well as the only health care provider sponsor, and that no other healthcare provider or system, hospital or hospital system be designated as a sponsor of the walking track and programs provided by Baptist. The Parties agree to the naming and marketing benefits set forth on Exhibit “A” attached hereto and incorporated herein. To the extent the Baptist name or mark(s) will be included in any signage, promotional materials or communications, Baptist will provide the applicable art and mark(s) and CITY will produce and install such signs or promotional materials. Before CITY can use the Baptist name and/or mark(s) in any manner, Baptist must approve such use(s) in writing. In exchange for the foregoing, Baptist agrees to pay to CITY Twelve Thousand Five Hundred and No/100 dollars (\$12,500.00) per year for up to three (3) years provided that this Agreement is still in effect, as follows:
 - a. Six Thousand Two Hundred Fifty and No/100 Dollars (\$6,250.00) shall be paid within thirty (30) days of the Effective Date;
 - b. Six Thousand Two Hundred Fifty and No/100 Dollars (\$6,250.00) shall be paid within thirty (30) days of CITY’s written notice to Baptist that the CENTER is open to the public; and
 - c. Twelve Thousand Five Hundred and No/100 Dollars (\$12,500.00) shall be paid upon the one year or two year anniversary of the Effective Date, as applicable.

3. Health Fairs and Health Screenings. The Parties desire to make available to the community no more than two (2) health fairs and up to four (4) additional health screening opportunities per year. Such screening opportunities may screen for cholesterol, glucose, blood pressure, body composition, osteoporosis, and Baptist may engage in other community-based screenings at its sole discretion (collectively, the “Screenings”).
 - a. Health Fairs. Baptist and CITY will collaborate to provide no more than two (2) free, community health fairs at the CENTER or other CITY location. CITY will be the lead organization responsible for providing and managing the venue, promoting the health fair to the community, and providing access to CITY services and relevant partners. Baptist will provide health and wellness focused activities including Screenings, health education, nutrition education, and other health resources.
 - b. Screenings. CITY will provide reasonable space for Baptist to provide Screenings at the CENTER for participants for a minimum of four (4) times per year. In furtherance thereof, Baptist will make available, at no charge to CITY, qualified professionals to perform such Screenings. Both Parties understand and agree that (1) Baptist shall not bill the CITY or any

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third party payor for any Screenings provided at such Screening events; (2) participating in any of the Screenings is not conditioned on the use or purchase of any other goods or services from Baptist; (3) no additional medical services or screenings shall be offered free of charge or at a discount; and (4) if any Screenings indicate “abnormal” findings, the participant will be directed to his/her own health care professional for follow up. If he/she does not have a health care professional, Baptist may provide him/her with information on Baptist’s physician referral service.

4. Exercise Classes. The Parties desire to make available to the community weekly exercise classes at no cost to the community. Accordingly, upon a mutually agreed upon schedule, Baptist will underwrite the expense for the CITY to retain an appropriately certified group exercise instructor to offer classes weekly, not to exceed \$42 per class, per instructor in order for the CITY to provide free exercise classes to the community at the CENTER for a minimum average of 20 community participants per class. Baptist and CITY will agree to offer up to four (4) classes. City will be required to provide to Baptist the following:
 - a. Weekly attendance reports for each class
 - b. Access to signed liability waivers as requested
 - c. Invoice for up to four (4) classes using the schedule below, total not to exceed \$8,400 in a 52-week period, quarterly amount not to exceed \$2,300.
 - i. First Invoice of \$42 per class, per instructor upon execution of this Agreement.
 - ii. Second Invoice at 3-months after execution of this Agreement.
 - iii. Third Invoice at 6-months after execution of this Agreement.
 - iv. Fourth Invoice at 9-months after execution of this Agreement.
5. Educational Programs. The Parties desire to make available to the community educational programs. Accordingly, upon a mutually agreed upon schedule, the CITY will provide reasonable space at the CENTER for Baptist to provide educational programs for a minimum of 10 community participants per program. In furtherance thereof, Baptist will make available, at no charge to CITY, qualified professionals to provide such classes. Baptist shall consider suggestions regarding topics for the educational programs, but Baptist, in its sole discretion, shall have the final say regarding the topic of each educational program.
6. Health Promotion. The CITY will request messages, communication or promotional information from Baptist to place in the CENTER and in CITY communications to the community. Within a commercially reasonable time after such request, Baptist will provide appropriate health and wellness information at no cost to the CITY to promote healthy lifestyles.
7. Marketing. The CITY agrees to use its best efforts to promote classes, educational programs and screening events taking place at the CENTER or at the Baptist Medical

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Plaza in Doral (if mutually agreed to by the Parties), via its marketing vehicles including, but not limited to, its monthly calendar, city channel, city newspaper, and housing newsletter.

8. Participation in Other CITY Events. CITY will notify Baptist of relevant opportunities to participate in future events sponsored by the CITY. If Baptist desires to participate in any such future event(s), then Baptist must follow the applicable protocols, rules and regulations to participate in such event(s).
9. Representatives. Each Party designates a primary representative for purposes of this Agreement. Initially, the CITY’s primary contact will be [REDACTED] and Baptist’s primary representative will be [REDACTED].
10. Term. The term of this Agreement shall be for one (1) year from the Effective Date (the “Term”). The parties may agree to extend this Agreement for additional one-year periods upon the execution of a written amendment to this Agreement to provide for the additional Agreement period, and any revisions to terms and conditions. Either Party may terminate this Agreement at any time, for any reason, upon thirty (30) days advance written notice to the other Party.
11. Notices. Any notices required or permitted to be given pursuant to this Agreement shall be sufficient, if in writing and hand delivered (in person or by courier) or sent postage prepaid by certified or registered mail, return receipt requested, or by reputable overnight courier with tracking capabilities, to a Party’s business address as set forth below or sent by facsimile to the facsimile number set forth below or by e-mail to the e-mail address set forth below. A notice shall be deemed given hereunder upon hand delivery or upon transmission by facsimile or e-mail (subject, in the case of facsimile transmission, to confirmation from sender’s facsimile machine or, in the case of e-mail transmission, to no automatic receipt by the sender of notice that such e-mail is undeliverable and provided, in each case, that such notice is separately sent by any one of the other methods outlined above other than facsimile or e-mail) or three (3) business days after depositing in the U.S. mail if sent by certified or registered mail or one (1) business day if by a reputable overnight courier with tracking capabilities. The address or facsimile number or e-mail address for sending any notice may be changed by a Party by giving written notice to the other Party as provided in this Section. For the present, Baptist and the CITY designate the following as the respective places for giving of notice:

CITY: [REDACTED]

COPY TO: [REDACTED]

COPY TO: [REDACTED]

BAPTIST: [REDACTED]

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COPY TO: Baptist Health South Florida
Office of the General Counsel
6855 Red Road, Suite 500
Coral Gables, Florida 33143
Telephone 786.662.7022
Facsimile Number 786.662.7332

12. Indemnification. Each Party shall defend, indemnify, and hold harmless the other Party, and its respective officers, agents and employees, 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 such Party's negligent actions or omissions, willful misconduct or violation of applicable laws, rules or regulations; provided, however, that such Party's indemnification obligations shall be reduced to the extent that the other party's negligent actions or omissions, willful misconduct or violation of applicable laws, rules or regulations caused or resulted in the demand, claim, loss, suit, liability, cause of action, judgment or damage. The indemnifying Party shall reimburse the indemnified Party for 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 foregoing. This section shall be interpreted and construed in a manner to comply with any applicable Florida Statutes, including without limitation Sections 725.06 and 725.08, Fla. Stat., if applicable. The provisions of this section shall survive termination of this Agreement. **THE PARTIES ACKNOWLEDGE AND AGREE THAT IN NO EVENT SHALL BAPTIST BE RESPONSIBLE OR LIABLE FOR THE ACTIONS OR INACTIONS OF ANY EXERCISE INSTRUCTORS RETAINED PURSUANT TO THIS AGREEMENT.**
13. Intellectual Property. Neither Party shall use any trademark, service mark, trade name, or logo of the other party (or any of its affiliates), including any portions thereof, including without limitation any office or unofficial name, or any fictitious name of the other Party, without the prior written consent of the other Party. Neither Party shall infringe any trademarks, copyrights or any other intellectually property rights of the other Party or any of its affiliates.
14. Insurance. Baptist agrees to maintain (through a self-insurance program or otherwise) during the term of this Agreement such insurance coverage as set forth on Exhibit B attached hereto. City agrees to provide to Baptist, on or before the date of this Agreement, a copy of its certificate of insurance, and to immediately notify Baptist of any cancellation or material changes to such coverage occurring during the term of this Agreement.
15. Independent Contractors. The Parties acknowledge and agree that they are independent contractors and not employees, partners, joint venturers, franchisors or franchisees. Neither Party shall have the authority to bind the other Party, or make representations, promises, guarantees, warranties, covenants, contracts, agreements, or otherwise act, on behalf of the other Party.

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16. Compliance With Laws. Baptist and CITY shall comply with the requirements of all applicable federal, state and local laws, rules and regulations. Baptist and CITY each expressly represent, warrant and covenant that no remuneration shall be made at any time, directly or indirectly, by either party to any person or entity as an inducement or remuneration for the referral or admission of a patient to Baptist or any of its affiliates, and neither party shall take any action in violation of any applicable healthcare fraud and abuse laws. To the extent applicable, both Parties agree to comply with the Health Insurance Portability and Accountability Act of 1996 and associated regulations.
17. Federal Access. In the event CITY shall be deemed to be a subcontractor subject to the disclosure requirements of 42 U.S.C. § 1395x(v)(1)(I), or amendments thereto, until the expiration of four (4) years following the completion of furnishing services under this Agreement, upon written request of Baptist, CITY shall make available to the Secretary of the Department of Health and Human Services, or to the Controller General, or any duly authorized representatives thereof, a copy of this Agreement and such books, documents, and records of CITY that are necessary to certify the nature and extent of the costs to Baptist of the services provided pursuant to this Agreement. If CITY carries out its duties of this Agreement through a subcontract with a related organization involving a value or cost of \$10,000.00 or more over a twelve-month period, CITY shall cause such subcontract to contain a clause to the effect that until the expiration of four (4) years after furnishing of such services pursuant to such subcontract, upon written request of Baptist, the subcontractor shall make available to the Secretary, or to the Comptroller General, or any of their duly authorized representatives, the subcontract, and books, documents, and records of the subcontractor that are necessary to verify the nature and extent of costs incurred by CITY for such services.
18. Amendments. It is further agreed that no modification, amendment, or alteration in the terms or conditions contained here shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.
19. Binding Authority. Each person signing this Agreement on behalf of either Party individually warrants that he or she has full legal power to execute this Agreement on behalf of the Party for whom he or she is signing, and to bind and obligate such Party with respect to all provisions contained in this Agreement.
20. Headings. Headings herein are for convenience of reference only and shall not be considered on any interpretation of this Agreement.
21. Exhibits. Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The exhibits, if not physically attached, should be treated as part of this Agreement and are incorporated herein by reference.

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22. Severability. If any provision of this Agreement or application thereof to any person or situation shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.
23. Legal Representation. It is acknowledged that each Party to this Agreement had the opportunity to be represented by legal counsel in the preparation of this Agreement and, accordingly, the rule that a contract shall be interpreted strictly against the Party preparing the same shall not apply herein due to the joint contributions of both Parties.
24. Governing Law. This Agreement shall be governed by the laws of the State of Florida, without regard to conflicts of law provisions providing otherwise. Venue shall be in Miami-Dade County, Florida.
25. Change in Law. This Agreement is intended to comply with existing federal, state and local laws, rules and regulations. However, the Parties acknowledge that the existing law and regulations may change and that the courts, or federal or state agencies with appropriate jurisdiction, may change their interpretation of existing law. Upon the enactment or amendment of any federal, state or local law or regulation, or upon the issuance of any judicial or interpretive ruling of any existing federal, state or local law or regulation, that renders this Agreement illegal or materially changes the obligations of the Parties, either party may notify the other party of such event. The Parties shall use their best efforts during a fifteen (15) day period after such notice is sent to mutually agree to such amendments to this Agreement as to permit its valid and legal continuation. If after such fifteen (15) day period, the Parties are unable to agree to amend this Agreement, this Agreement shall automatically terminate.
26. Adverse Impact on Tax Status. Nothing in this Agreement shall be construed to require Baptist to take any action or omit to take any action which, in the reasonable opinion of Baptist tax or bond counsel, may have an adverse impact on the tax exempt status of Baptist or result in the imposition of intermediate sanctions under Section 4958 of the Internal Revenue Code of 1986, as amended (“Sanctions”), on Baptist or its officers or directors. In the event implementation of any provisions of this Agreement presents in the reasonable opinion of counsel for Baptist a material risk of loss of Baptist tax exempt status or the imposition of Sanctions, or if any provision of this Agreement is held invalid, illegal or unenforceable, Baptist and CITY shall promptly negotiate in good faith a lawful, valid and enforceable provision that is an similar in terms to such invalid or possibly invalid provision as may be possible while giving effect to then future benefits and burdens accruing to the parties hereunder, and which removes the risk, if any, of loss of Baptist tax exempt status and/or the imposition of Sanctions, and the remaining provisions of this Agreement shall remain binding on the parties hereto.

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27. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.
28. Extent of Agreement. This Agreement represents the entire and integrated agreement between the CITY and Baptist with respect to the subject matter described herein, and supersedes all prior negotiations, representations or agreements regarding this subject matter, either written or oral.
29. Assignment. Neither Party may assign, delegate or otherwise transfer any of its rights, duties or obligations under this Agreement without the prior written consent of the other party; provided, however, that this Agreement may be assigned by Baptist to a wholly owned affiliate of Baptist without the consent of CITY. Any purported transfer shall be null and void and of no force and effect and may be grounds for immediate termination of this Agreement.

[SIGNATURES APPEAR ON FOLLOWING PAGE.]

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IN WITNESS WHEREOF, the undersigned have duly executed and delivered this Agreement as of the Effective Date first above written.

City of Doral

By: _____
_____, City Manager

Date: _____

ATTEST:

_____, City Clerk

Approved as to Form:

Office of the City Attorney

Baptist Health South Florida, Inc.

By: _____

Print Name: _____

Title: _____

Date: _____, 2017

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**Exhibit “A”
Naming and Marketing Benefits**

**EXHIBIT “B”
INSURANCE REQUIREMENTS**

I. Commercial General Liability

a. Limits of Liability

Bodily Injury & Property Damage Liability
Each Occurrence \$1,000,000
Policy Aggregate \$1,000,000
Personal & Advertising Injury \$1,000,000 Products & Comp. Ops (**If Applicable**) \$1,000,000
Sexual Abuse & Molestation \$100,000

b. Endorsements Required:

City of Doral listed as an Additional Insured
8401 NW 53rd Terrace, Doral, FL 33166

Contingent Liability
Premises and Operations Liability

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

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

a. Limits of Liability

Each Claim \$250,000
Policy Aggregate \$250,000 “Retro Date” coverage included

All above coverage must remain in force and Certificate of Insurance on file with City without interruption for the duration of this Agreement.

Policies shall provide the CITY written notice of cancellation or material change from the insurer in accordance to policy provisions. If coverage will not be replaced within 10 days with no lapse in coverage, instructor is required to notify CITY directly.

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~~All insurance will be provided by companies authorized to do business in the State of Florida, or provided through a self-insurance program. Companies must be AM Best rated no less than “A-”, “Class VI”.~~

Baptist Health South Florida reserves the right to self-insure any or all of the requirements set forth in Exhibit B.

Requirements herein are minimums. Coverages, limits, policies and certificates of insurance are subject to review, verification, and amendment by Risk Management.