

RESOLUTION NO. 2024-_____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AMENDMENT NO. 4 TO THE MANAGEMENT AGREEMENT DATED OCTOBER 4, 2016, BETWEEN THE CITY AND MIAMI NEW DRAMA, INC., FOR THE OPERATION, MANAGEMENT, MAINTENANCE, AND PROMOTION OF THE COLONY THEATRE, LOCATED AT 1040 LINCOLN ROAD; SAID AMENDMENT INCREASING THE MANAGEMENT FEE BY \$200,000.00, THEREBY INCREASING THE TOTAL ANNUAL MANAGEMENT FEE FOR EACH FISCAL YEAR FROM \$500,000.00 TO \$700,000.00 (NEW MANAGEMENT FEE), WHICH NEW MANAGEMENT FEE INCLUDES AN ANNUAL UTILITY FEES REIMBURSEMENT AMOUNT NOT TO EXCEED \$80,000.00; SAID NEW MANAGEMENT FEE BEING SUBJECT TO FUNDING APPROPRIATION AND APPROVAL BY THE CITY COMMISSION FROM THE BUDGET FOR FISCAL YEAR 2024-2025, AND THEREAFTER, CONTINGENT UPON FUNDING APPROPRIATION AND APPROVAL BY THE CITY COMMISSION DURING THE CITY'S BUDGETARY PROCESS FOR EACH SUBSEQUENT FISCAL YEAR; AND FURTHER AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE THE AMENDMENT.

WHEREAS, on September 14, 2016, the Mayor and City Commission adopted Resolution Number 2016-29569, approving an Agreement with Miami New Drama for the operation, management, maintenance, and promotion of the Colony Theatre (the "Facility"); and

WHEREAS, on October 4, 2016, the City and Miami Theater Hub, Inc., a Florida not-for-profit corporation, d/b/a Miami New Drama ("MIND"), entered into a Management Agreement, which provided for an annual City contribution to MIND, in the amount of \$170,000.00, subject to funding approval by the City Commission, plus an annual reimbursement for utility bills, in the amount not to exceed \$80,000; and

WHEREAS, on May 17, 2017, the Mayor and City Commission adopted Resolution No. 2017-29858, approving Amendment No. 1 to the Management Agreement to include six parking spaces at Municipal Parking Lot No. P25, located at 17th Street and Lenox Avenue, at no charge to Miami New Drama; and

WHEREAS, on August 29, 2017, Miami Theater Hub, Inc. changed its name to Miami New Drama, Inc. without a reference to a fictitious name; and

WHEREAS, on February 22, 2018, the City submitted the Facility to a condominium form of ownership; and

WHEREAS, on July 20, 2018, the Finance and Citywide Projects Committee recommended increasing the City's contribution to MIND by \$330,000.00, for a total annual contribution of \$500,000.00 (inclusive of an annual City utility reimbursement, in the amount not to exceed \$80,000.00), subject to funding approval during each City fiscal year; and

WHEREAS, on October 17, 2018, the Mayor and City Commission adopted Resolution No. 2018-30567, approving, in substantial form, Amendment No. 2 to the Management Agreement, (1) increasing the City's contribution for the operation of the Facility for FY 2018-2019

to the total annual sum not to exceed \$500,000.00, inclusive of an annual utility reimbursement, in the amount not to exceed \$80,000.00, and thereafter, contingent upon funding approval of the City's contribution during the City's budgetary process for each subsequent fiscal year; (2) updating MIND's name to reflect Miami New Drama, Inc.; (3) updating the legal description of the Facility to reflect Unit 3 of the Colony Theatre Condominium; (4) approving the first renewal term, for five (5) years, commencing October 1, 2018 and ending September 30, 2023; (5) enhancing the performance measures to include an educational division and public outreach, which will include providing free tickets offered annually for senior centers throughout Miami Beach and 1,000 free or discounted tickets for seniors (ages 62 and older) and for youth (ages 13-22) throughout Miami Beach; (6) requiring MIND to acknowledge the City as an instrumental benefactor of the Facility during each performance and in all marketing materials; and (7) providing for the distribution of two (2) tickets to the Mayor and each member of the City Commission for performances at the Facility; and

WHEREAS, on October 27, 2021, the City Commission adopted Resolution No. 2021-31914, approving a separate lease agreement between MIND and the City, for MIND's operation and management of the Collins Park Cultural Arts Facility, to be located at 340 23rd Street (the "Collins Park Lease"), for an initial term of five (5) years, with two (2) additional five year terms at the option of MIND, and the final five (5) year term at the option of the City and by mutual agreement of the parties; said Collins Park Lease being subject to the City Commission appropriating \$4,750,000.00 on or before October 1, 2024; and further, authorizing an amendment to the Management Agreement (Amendment No. 3) to extend the term of the Management Agreement for a period to run co-terminous with the term of the Collins Park Lease, which Lease was executed on April 18, 2022; and

WHEREAS, on April 18, 2022, the City and MIND executed Amendment No. 3 to the Management Agreement; said amendment: (1) providing for an automatic extension of the term of the Management Agreement for a period to run co-terminous with the term of the Collins Park Lease, upon the approval of the appropriation of the \$4,750,000.00 contemplated by the Collins Park Lease, provided that if the Collins Park Lease was terminated for any reason (other than for an uncured default under the Collins Park Lease), the Management Agreement would continue until the expiration of the first renewal term, subject to the exercise of the second renewal term; and (2) including a cross collateralization provision, which provides that an uncured default under the Collins Park Lease shall constitute a default under the Management Agreement and vice versa; and

WHEREAS, on July 26, 2023, the Mayor and City Commission adopted Resolution No. 2023-32713, appropriating \$7,670,000.00 to the Collins Park Cultural Center project from Series 2023B Arts & Culture GOB (Fund 395); and

WHEREAS, since the amount of the appropriation to the project exceeded the required appropriation amount under the Collins Park Lease, the Management Agreement was automatically extended pursuant to Amendment No. 3 to the Management Agreement; and

WHEREAS, on September 13, 2023, the City Commission adopted Resolution No. 2023-32743, extending the term of the Management Agreement for the second and final renewal term under the Management Agreement, for two (2) years and 364 days, commencing October 1, 2023 and ending on September 29, 2026, as further extended pursuant to Resolution No. 2023-32713 and as memorialized in Amendment No. 3 to the Management Agreement, to run co-terminous with the term of the Collins Park Lease, while maintaining the City's contribution to MIND for the operation of the Facility in FY 2023-2024, in the total sum not to exceed \$500,000.00, inclusive

of annual utility reimbursement in the amount not to exceed \$80,000.00, and with the City's contribution each year thereafter being contingent upon funding approval during the City's budgetary process for each subsequent fiscal year; and

WHEREAS, on July 12, 2024, at the Finance and Economic Resiliency Committee (FERC) Budget Workshop, Committee members discussed MIND's request to increase its annual management fee, and recommended that the Administration negotiate the increase in the amount of the management fee and submit the item for approval by the full City Commission during the September 11, 2024 City Commission meeting; and

WHEREAS, the City Administration has negotiated an increase to the annual management fee, in the amount of \$200,000.00, thereby increasing the total amount of the management fee for each fiscal year, commencing during the 2024-2025 fiscal year, from \$500,000.00 to \$700,000.00 annually ("New Management Fee"), inclusive of an annual utility fees reimbursement amount not to exceed \$80,000 per fiscal year; said New Management Fee being subject to funding appropriation and approval by the City Commission from the budget for Fiscal Year 2024-2025, and thereafter, contingent upon funding appropriation and approval by the City Commission during the City's budgetary process for each subsequent fiscal year.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby authorize the City Manager to negotiate Amendment No. 4 to the Management Agreement dated October 4, 2016, between the City and Miami New Drama, Inc., for the operation, management, maintenance, and promotion of the Colony Theatre, located at 1040 Lincoln Road; said amendment increasing the management fee by \$200,000.00, thereby increasing the total annual management fee for each fiscal year from \$500,000.00 to \$700,000.00 (New Management Fee), which New Management Fee includes an annual utility fees reimbursement amount not to exceed \$80,000.00; said New Management Fee being subject to funding appropriation and approval by the City Commission from the budget for Fiscal Year 2024-2025, and thereafter, contingent upon funding appropriation and approval by the City Commission during the City's budgetary process for each subsequent fiscal year; and further authorize the City Manager and City Clerk to execute the amendment.

PASSED and ADOPTED this ____ day of _____, 2024.

ATTEST:

By: _____
Rafael E. Granado, City Clerk

Steven Meiner, Mayor

(Sponsored by Commissioner Tanya K. Bhatt)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

9/9/2024

Date