

**AMENDMENT NO. 3 TO THE MANAGEMENT AGREEMENT
BETWEEN
CITY OF MIAMI BEACH
AND
MIAMI NEW DRAMA, INC.
FOR THE MANAGEMENT OF THE COLONY THEATRE**

APR 18 2022

This **AMENDMENT NO. 3** ("Amendment") to the Management Agreement (the "Agreement"), dated October 4, 2016, is made and entered into this _____ day of January, 2022, by and between the **CITY OF MIAMI BEACH, FLORIDA**, a municipal corporation ("City"), having its principal office at 1700 Convention Center Drive, Miami Beach, Florida, 33139, and **MIAMI NEW DRAMA, INC.**, a Florida not-for-profit corporation ("MIND"), whose principal address is 1040 Lincoln Road, Miami Beach, FL 33139, and hereby amends the Agreement, as amended by Amendment No. 1 and Amendment No. 2 to the Agreement, (collectively, the "Agreement") as follows:

RECITALS

WHEREAS, MIND is a not-for-profit 501(c)3 presenting and producing organization committed to theatrical excellence and theater-making as a means of social engagement, cultural conversation and human interaction; and

WHEREAS, MIND's productions include an eclectic mix of original plays, musicals, classics and world premieres, including work commissioned specifically for Miami New Drama. These productions utilize a mix of the best local, national and international talent to incubate work from scratch; and

WHEREAS, on September 14, 2016, the Mayor and the City Commission adopted Resolution No. 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 entered into a Management Agreement, which provided for an annual City contribution to MIND, in the amount of \$170,000, 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., and as such, any references in the Agreement to MIND shall refer to Miami New Drama, Inc. without a reference to a fictitious name; and

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

WHEREAS, on July 20, 2018, the Finance and Citywide Projects Committee recommended increasing the City's contribution by \$330,000, for a total annual contribution of \$500,000 (including an annual City utility contribution, in the amount not to exceed \$80,000) to MIND, 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, dated October 4, 2016, with Miami New Drama, Inc. for the operation, management, maintenance, and promotion of the Colony Theatre; said Amendment containing the following essential terms: (I) increasing the City's contribution to MiND for the operation of the Theatre for FY 2018-2019 to the total annual sum not to exceed \$500,000, inclusive of an annual utility contribution, in the amount not to exceed \$80,000, and, thereafter, contingent upon funding approval of the City's contribution during the City's budgetary process for each subsequent fiscal year; (II) updating MiND's name to reflect Miami New Drama, Inc; (III) updating the legal description of the facility to reflect Unit 3 of the Colony Theatre Condominium; (IV) approving the first renewal term, for five (5) years, commencing October 1, 2018 and ending September 30, 2023; (V) 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; and (VI) requiring MiND to acknowledge the City as an instrumental benefactor of the Theatre during each performance and in all marketing materials; and

WHEREAS, in 2018 the parties exercised the first renewal term, for five years, commencing on October 1, 2018 and ending September 30, 2023; and

WHEREAS, on October 27, 2021, the Mayor and 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"); and

WHEREAS, the City and MIND wish to extend the term of this Colony Theater Management Agreement for a period to run co-terminous with the term of the Collins Park Lease; and

WHEREAS, this Amendment is subject to and contingent upon an appropriation of funds by the City Commission, at its sole discretion, in the amount of \$4,750,000.00 for the buildout of the Collins Park Cultural Arts Facility, pursuant to the Collins Park Lease.

NOW, THEREFORE, the City and MIND hereby agree to amend the Management Agreement as follows:

1. **ABOVE RECITALS.**

The above recitals are true and correct and are incorporated as part of this Amendment.

2. **MODIFICATIONS.**

The Agreement is hereby modified (deleted items ~~struck through~~ and inserted items underlined) as follows:

- a. The following term is hereby added as a defined term pursuant to Section 1:

“Collins Park Lease” That certain 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, adopted pursuant to Resolution No. 2021-31914.

- b. Section 2 of the Agreement is hereby amended to add the following new subsection 2.4:

2.4 Subject to and contingent upon an appropriation of funds by the City Commission, at its sole discretion, in the amount of \$4,750,000.00 as contemplated in the Collins Park Lease, the Term of this Agreement shall be automatically extended for a period to run co-terminous with the term of the Collins Park Lease. Notwithstanding the foregoing, in the event that the Collins Park Lease is terminated for any reason other than an Event of Default (as such term is defined in Section 10.1 of the Collins Park Lease) under the Collins Park Lease, then the Term of this Agreement shall continue until the expiration of the first Renewal Term (i.e., until September 30, 2023), subject to the exercise of any remaining Renewal Term.

- c. Section 29 of the Agreement is hereby amended to add the following new subsection 29.9:

29.9 Any uncured Event of Default under the Collins Park Lease (as such term is defined in Section 10.1 of the Collins Park Lease) shall constitute an Event of Default under this Agreement. Any uncured Event of Default under this Agreement (as such term is defined under Section 29 of this Agreement) shall constitute an Event of Default under the Collins Park Lease.

3. **RATIFICATION.**

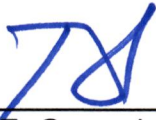
Except as provided in this Amendment, the Agreement remains unmodified and in full force and effect. In the event there is a conflict between the provisions of this Amendment and the Agreement, the provisions of this Amendment shall govern. All references to the Agreement, in the Agreement, or in any other document referencing the Agreement shall be deemed to refer to the Agreement as amended hereby.

(REMAINDER OF PAGE LEFT INTENTIONALLY BLANK)

IN WITNESS WHEREOF, this Amendment No. 2 to Management Agreement has been duly executed by the parties hereto as of the day and year first written above.

Attest:

CITY OF MIAMI BEACH, FLORIDA



Rafael E. Granado, City Clerk

APR 18 2022

Date

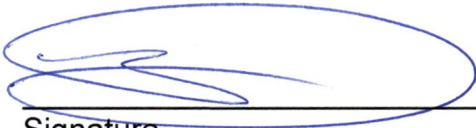


Dan Gelber, Mayor

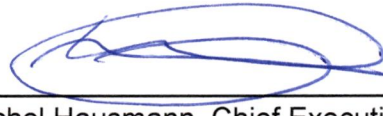


Attest:

MIAMI NEW DRAMA, INC.



Signature



Michel Hausmann, Chief Executive Officer

NICHOLAS RICHBERG

Print Name

12/07/21

Date

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

PAZ

12-20-21

Date