

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY'S FINANCE AND ECONOMIC RESILIENCY COMMITTEE, AND APPROVING AN AMENDMENT TO THE MANAGEMENT AGREEMENT BETWEEN THE CITY OF MIAMI BEACH AND LIVE NATION WORLDWIDE, INC., FOR THE OPERATION AND MANAGEMENT OF THE FILLMORE MIAMI BEACH AT THE JACKIE GLEASON THEATER, TO ACCOUNT FOR THE SIGNIFICANT ADVERSE OPERATIONAL IMPACTS ASSOCIATED WITH THE CLOSURE OF THE FACILITY SINCE MARCH, 2020 DUE TO THE COVID-19 PANDEMIC; WITH SAID AMENDMENT INCLUDING: (1) THE SUSPENSION OF LIVE NATION'S PAYMENT OBLIGATIONS UNTIL 120 DAYS AFTER THE FACILITY IS PERMITTED TO HOST EVENTS AT FULL CAPACITY; (2) A CREDIT IN THE AMOUNT OF \$900,000, REPRESENTING THE AMOUNTS PRE-PAID BY LIVE NATION THAT ARE APPLICABLE TO THE PERIOD THE FACILITY WAS CLOSED DURING THE 2019-20 FISCAL YEAR; AND (3) THE TERMS RELATING TO THE COMPLETION OF REQUIRED ESCALATOR REPAIRS AT THE FACILITY, IN THE AMOUNT OF APPROXIMATELY \$162,219.46; AND FURTHER, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER TO EXTEND THE CURRENT RENEWAL TERM OF THE AGREEMENT, WITH THE EXTENSION OF THE TERM TO CORRESPOND WITH THE PERIOD DURING WHICH THE FACILITY HAS BEEN CLOSED AND UNABLE TO HOST EVENTS DUE TO THE COVID-19 PANDEMIC; AND AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO TAKE THE NECESSARY AND APPROPRIATE STEPS TO FINALIZE THE AMENDMENT; AND FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE AMENDMENT UPON FORM APPROVAL BY THE CITY ATTORNEY.

WHEREAS, on June 22, 2007, the City entered into a management agreement ("Agreement") with Live Nation Worldwide, Inc. ("Live Nation") to manage the Jackie Gleason Theater of the Performing Arts (now named and known as the Fillmore Miami Beach at the Jackie Gleason Theater) (the "Fillmore" or "Venue"); and

WHEREAS, the Agreement provides for an initial term of ten (10) years, commencing on June 22, 2007, and ending on August 31, 2017 (the "Initial Term"); and

WHEREAS, the Agreement also provides for two 5-year renewal options: the initial 5-year renewal option is at the discretion of Live Nation ("First Renewal Term"); and the second 5-year renewal option may be exercised upon mutual agreement of the parties ("Second Renewal Term"); and

WHEREAS, at the end of the Initial Term, in November 2016, Live Nation exercised the First Renewal Term pursuant to Section 3.2 (i) of the Agreement, commencing on September 1, 2017 and expiring on August 31, 2022; and

WHEREAS, on December 9, 2009, the Mayor and City Commission adopted Resolution No. 2009- 27278, approving Amendment No. 1 to the Agreement, to authorize Live Nation to extend its hours of operation and sell alcohol at the Venue for a trial period, subject to specified conditions; and

WHEREAS, on April 13, 2011, the Mayor and City Commission adopted Resolution No. 2011-27640, approving Amendment No. 2 to the Agreement, to permanently approve the extension of hours of operation and liquor sales at the Venue; and

WHEREAS, on April 13, 2016, the Mayor and City Commission adopted Resolution No. 2016-29368, approving Amendment No. 3 to the Agreement, which established the terms on which the City may remove the "Rehearsal Hall" from the Management Agreement, should the City continue to pursue development of the Miami Beach Convention Center Hotel Project; and

WHEREAS, Amendment No. 3 also established financial and operational adjustments related to Live Nation's operation of the Venue, including establishing the Required City Distribution to be paid by Live Nation during the First Renewal Term; and

WHEREAS, on January 2020, Live Nation paid the Required City Distribution of \$1,106,901; and

WHEREAS, in March 2020, the COVID-19 pandemic forced Live Nation to close the doors of the Fillmore and Live Nation has not been able to operate the Facility as contemplated in the Agreement, and has lost 5/6 of the benefit of its \$1,106,901 up front payment to the City for 2020, while continuing to carry maintenance costs required by the Agreement, with such fixed costs estimated at approximately \$100,000 per month; and

WHEREAS, on December 18, 2020, the Finance and Economic Resiliency Committee ("FERC") discussed an amendment to the Agreement to account for the considerable operational impacts associated with closure of the facility, and FERC recommended in favor of approving an amendment to the Agreement based upon the following essential terms:

1. the suspension of Live Nation's payment obligations to the City, including the Required City Distribution, until 120 days after the facility is permitted to host events at full capacity;
2. a credit in favor of Live Nation in the amount of \$900,000, representing the portion of the Required City Distribution pre-paid by Live Nation that is applicable to the period the facility was closed during the 2019-2020 fiscal year;
3. the terms relating to the completion of the required escalator repairs at the facility, in the amount of approximately \$162,219.46, which funds have already been appropriated; and

WHEREAS, in addition to the above terms recommended by FERC on December 18, 2020, Live Nation has request an extension of the First Renewal Term (the current renewal term) to correspond with the period during which the facility has been closed and unable to host events, to permit Live Nation additional time to recoup the fixed facility costs of approximately \$100,000 per month that Live Nation has incurred, and will continue to incur, until such time as the live performance industry recovers and stabilizes; and

WHEREAS, the City Manager recommends accepting the recommendation of FERC and approving the extension of the First Renewal Term requested by Live Nation.

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, accept the recommendation of the City's Finance and Economic Resiliency Committee and of the City Manager, to approve an amendment to the Management Agreement between the City of Miami Beach and Live Nation Worldwide, Inc., for the management and operation of the Fillmore Miami Beach at the Jackie Gleason Theater, to account for significant adverse operational impacts associated with the closure of the facility since March, 2020 due to the COVID-19 pandemic; with said Amendment including: (1) suspension of Live Nation's payment obligations until 120 days after the facility is permitted to host events at full capacity; (2) a credit in the amount of \$900,000, representing the amounts pre-paid by Live Nation that are applicable to the period the facility was closed during the 2019-20 fiscal year; and (3) the terms relating to the completion of required escalator repairs that the facility in the amount of approximately \$162,219.46; and further, accept the recommendation of the City Manager to extend the current renewal term of the Agreement, with the extension of the term to correspond with the period during which the facility has been closed and unable to host events due to the COVID-19 pandemic; and authorizing the City Manager and City Attorney to take the necessary and appropriate steps to finalize the amendment; and further authorizing the Mayor and City Clerk to execute the Amendment upon form approval by the City Attorney.

PASSED and **ADOPTED** this ____ day of _____ 2021.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

City Attorney

ff _____
Date

1-8-21