

**CITY OF CORAL GABLES, FLORIDA**

**RESOLUTION NO. 2023-50**

A RESOLUTION OF THE CITY COMMISSION AUTHORIZING A FIFTH AMENDMENT TO THE AMENDED AND RESTATED AGREEMENT WITH ACTOR'S PLAYHOUSE PRODUCTIONS, INC., REGARDING THE CITY-OWNED PROPERTY AT 280 MIRACLE MILE, CORAL GABLES, FL, PERMITTING THE PORTION OF THE MIRACLE THEATER DESIGNATED AS APARTMENT ON THE APPROVED PHASE III MIRACLE THEATER RENOVATIONS ARCHITECTURAL PLANS BE USED AS SLEEPING QUARTERS BY ONE ACTOR'S PLAYHOUSE PRODUCTIONS, INC. SERVICE EMPLOYEE TO RESIDE AS REQUIRED IN CONNECTION WITH THE MAINTENANCE, OPERATIONS AND/OR SERVICE OF THE MIRACLE THEATER.

**WHEREAS**, the City of Coral Gables ( the "Landlord") and Actor's Playhouse Productions, Inc. (the "Tenant") are parties to that certain Amended and Restated Agreement dated as of September 13, 2011, as amended by that certain Amendment to Amended and Restated Agreement dated as of February 5, 2013, that certain Second Amendment to Amended and Restated Agreement dated January 28, 2015, that certain Third Amendment to Amended and Agreement dated as of March 11, 2016 and that certain Fourth Amendment to Amended and Restated Agreement dated as of March 29, 2021 (collectively, the "Original Lease"), concerning the real property located at 280 Miracle Mile, Coral Gables, Florida (the "Miracle Theater"); and

**WHEREAS**, in the Phase III Architectural Plans for Actors Playhouse Miracle Theater Renovations prepared by Fullerton Diaz Architects Inc., dated September 15, 1997, last revised September 26, 2000, bearing Job No. 9415 (the "Final Architectural Plans"), a portion of the Theater was designated as an apartment (the "Sleeping Quarters") solely for the limited purpose of allowing one (1) Tenant employee responsible for maintenance, operations and/or service of the Theater ("Service Employee") to reside in such Sleeping Quarters; and

**WHEREAS**, Tenant represents that the Service Employee residing in the Sleeping Quarters is required in connection with the business operations of the Miracle Theater; and

**WHEREAS**, the Service Employee residing in the Sleeping Quarters will be responsible for maintenance, operations and/or service of the Miracle Theater; and

**WHEREAS**, use of the Sleeping Quarters shall be for non-profit purposes only, and in no event shall Tenant be permitted to charge rent or impose any payment obligations for the use of the Sleeping Quarters; and

**WHEREAS**, in the event that any person, other than one (1) Service Employee, resides or sleeps in the Sleeping Quarters or in the event that Tenant charges rent or receives profit from the use of the Sleeping Quarters, Tenant shall be in default of the Lease;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF CORAL GABLES:**

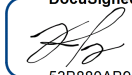
**SECTION 1.** That the foregoing “**WHEREAS**” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon the adoption hereof.

**SECTION 2.** That the City Commission does hereby authorize the City Manager to execute the Fifth Amendment to Amended and Restated Agreement, approved in substantially the form attached as Exhibit A, with the City Manager and City Attorney having the authority to make such modifications as may be necessary to implement the intent of this Resolution.

**SECTION 3.** That this Resolution shall become effective immediately upon the date of its passage and adoption herein.

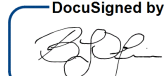
PASSED AND ADOPTED THIS FOURTEENTH DAY OF MARCH, A.D., 2023.  
(Moved: Mena / Seconded: Cason)  
(Unanimous Voice Vote)  
(Agenda Item: E-1)

APPROVED:

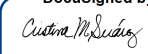
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VINCE LAGO  
MAYOR

ATTEST:

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BILLY Y. URQUIA  
CITY CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

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CRISTINA M. SUÁREZ  
CITY ATTORNEY

## EXHIBIT A

### **FIFTH AMENDMENT TO AMENDED AND RESTATED AGREEMENT**

BETWEEN

THE CITY OF CORAL GABLES AND ACTOR'S PLAYHOUSE PRODUCTIONS, INC.

This Fifth Amendment to Amended and Restated Agreement ("**Amendment**") is made and entered into as of this \_\_\_ day of \_\_\_\_\_, 2023 (the "**Amendment Effective Date**"), by and between the CITY OF CORAL GABLES, a municipal corporation of the State of Florida (the "**City**"), as landlord and ACTOR'S PLAYHOUSE PRODUCTIONS, INC., a Florida Not For Profit Corporation (the "**Tenant**"), as tenant.

### RECITALS

A. City and Tenant are parties to that certain Amended and Restated Agreement dated as of September 13, 2011, as amended by that certain Amendment to Amended and Restated Agreement dated as of February 5, 2013, that certain Second Amendment to Amended and Restated Agreement dated January 28, 2015, that certain Third Amendment to Amended and Restated Agreement dated as of March 11, 2016 and that certain Fourth Amendment to Amended and Restated Agreement dated as of March 29, 2021 (collectively, the "**Original Lease**"), concerning the real property located at 280 Miracle Mile, Coral Gables, Florida.

B. Landlord and Tenant desire to amend the Original Lease in accordance with the terms and conditions set forth below.

**NOW, THEREFORE**, for and in consideration of the mutual covenants contained herein, and other good and valuable consideration, paid by the parties hereto to one another, the receipt and sufficiency of which are acknowledged by the parties hereto, each of Landlord and Tenant hereby acknowledges and agrees, effective as of the date of this Amendment, the Lease is modified as follows:

### AGREEMENT

1. **Defined Terms.** All capitalized terms used herein but not specifically defined in this Amendment shall have the meanings ascribed thereto in the Original Lease. The term "**Lease**" where used in the Original Lease and this Amendment shall hereafter refer to the Original Lease, as amended by this Amendment.

2. **Permitted Use.** Notwithstanding anything contained in the Original Lease to the contrary, Tenant shall be permitted to use that portion of the Theater designated as "apartment" (the "**Sleeping Quarters**") on the approved Final Architectural Plans solely for the limited purpose of allowing one (1) employee of Tenant that is responsible for maintenance, operations and/or service of the Theater ("**Service Employee**") to reside in such Sleeping Quarters; provided, however, that any such use of the Sleeping Quarters shall be for non-profit purposes only, and in no event shall Tenant be permitted to charge rent or impose any payment obligations for the use of the Sleeping Quarters. In the event that any person, other than one (1) Service Employee, resides or sleeps in the Sleeping Quarters or in the event that Tenant charges rent or receives profit from the use of the Sleeping Quarters, Tenant shall be in default of the Lease. The foregoing use of the

Theater is being permitted by the City, as Tenant represents that the Service Employee residing in the Sleeping Quarters is required in connection with the business operations of the Theater. For purposes of this Amendment, "**Final Architectural Plans**" shall mean the Phase III Architectural Plans for Actors Playhouse Miracle Theater Renovations prepared by Fullerton Diaz Architects Inc., dated September 15, 1997, last revised September 26, 2000, bearing Job No. 9415.

3. **Original Lease in Full Force.** Except as modified, amended and supplemented by this Amendment, the terms and provisions of the Original Lease shall continue in full force and effect in accordance with their terms and are hereby ratified and confirmed. In the event of any conflict between the terms and provisions of this Amendment and the terms and provisions of the Original Lease the terms and provisions of this Amendment shall supersede and control.

4. **PDF; Counterparts.** Each party hereto, and their respective successors and assigns shall be authorized to rely upon the signatures of all of the parties hereto on this Amendment which are delivered by PDF as constituting a duly authorized, irrevocable, actual, current delivery of this Amendment with original ink signatures of each person and entity. This Amendment may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute a single agreement.

5. **Entire Agreement.** This Amendment constitutes the entire agreement among the parties hereto with respect to the matters stated herein and may not be amended or modified unless such amendment or modification shall be in writing and signed by the party against whom enforcement is sought.

6. **Binding Effect.** This Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the date set forth above.

**CITY:**


CITY OF CORAL GABLES,  
a municipal corporation of the State of Florida

By:

\_\_\_\_\_  
Name: ..... Title: .....

**TENANT:**

ACTOR'S PLAYHOUSE PRODUCTIONS, INC.,  
a Florida Not For Profit Corporation

By:   
Name: Barbara S. Stein  
Title: Executive Director