



**City of Coral Gables
CITY COMMISSION MEETING
March 9, 2021**

ITEM TITLE:

Resolution. A Resolution of the City Commission authorizing a Fourth 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, for the early exercise of the last remaining ten (10)-year renewal option, granting the addition of one additional ten (10)-year renewal option, and amending Section 3 and Section 6.6 of the Agreement.

DEPARTMENT HEAD RECOMMENDATION:

Approval.

BRIEF HISTORY:

Pursuant to Resolution No. 28739, the City of Coral Gables (the "Landlord") entered into a Management Agreement/Lease, dated April 13, 1995, with Actors' Playhouse Productions, Inc. (the "Tenant") for the city-owned premises at 280 Miracle Mile, Coral Gables, Florida, commonly referred to as the "Miracle Theater." The 1995 Management Agreement/Lease included an original twenty (20)-year term and two (2), ten (10)-year renewal options.

On September 13, 2011, pursuant to Resolution No. 2011-215, Landlord and Tenant entered into an Amended and Restated Agreement (the "Agreement"), which increased the original twenty (20)-year term by an additional five (5) years until April 12, 2020, with the tenant retaining the two ten (10)-year renewal options that were provided in the 1995 Management Agreement.

The Agreement was amended on February 5, 2013, pursuant to Resolution No. 2013-18, establishing a 7.5% yearly cap on insurance pass-through charges. The Agreement was further amended on January 28, 2015, pursuant to Resolution No. 2015-06, establishing Landlord responsibility for the repair and maintenance of standard electric, plumbing, and HVAC systems as well as for the replacement of chiller and all air handler units.

The Agreement was further amended on October 27, 2015, pursuant to Resolution 2015-258, authorizing the early exercise of one of the renewal options available to the Tenant thus extending the term of the Agreement through April 12, 2030.

On February 25, 2021, the Tenant notified the Landlord of its desire to exercise its second renewal option early in order to extend the term of the Agreement to April 12, 2040. The Tenant also requested that the Landlord grant an additional ten (10)-year renewal option. In exchange, the Landlord desires to amend Section 3 and Section 6.6 of the Agreement.

This resolution approves the Fourth Amendment to Amended and Restated Agreement as follows:

1. The Tenant is permitted to exercise its second ten (10) year renewal option on the date the resolution is effective, extending the term of the Agreement to April 12, 2040.
2. This early exercise of the Tenant's option does not set any precedent as to the procedure for exercising future renewal options, which can only be exercised in the manner and at the time set forth in this Fourth Amendment and Restated Agreement.
3. Landlord agrees to grant the Tenant an additional ten (10) year renewal option. The Renewal Term option shall be exercised by Tenant by giving Landlord written notice of its desire to renew not less than one (1) year prior to the then Termination Date but no earlier than ninety (90) days prior to April 12, 2039. Upon receipt of Tenant's written notice, the Landlord shall have ninety (90) days to issue a notice of intention not to renew. Should the Landlord issue a notice of intention not to renew, the Renewal Term shall not be granted.
4. The Tenant agrees that the language in Section 6.6 of the Agreement with the Landlord's obligations to conduct repairs to roof, foundation, sidewalks, structural walls, plumbing piping system, and electrical system shall be subject to the City's allocation of funds for the performance of such work in the ordinary course of the City's budgetary process, which takes into account the policies and priorities of the City's management and governing body.
5. The Tenant further agrees to release Landlord from any and all claims, actions, causes of action, damages or demands, arising from the Agreement or any of its Amendments, since the initial agreement in 1995.

LEGISLATIVE ACTION:

Date.	Resolution/Ordinance No.	Comments
November 22, 1994	Resolution No. 28660	Authorization to purchase property and lease cinema space
March 14, 1995	Resolution No. 28739	Authorization of Agreement with Actors' Playhouse Productions, Inc.
August 23, 2011	Resolution No. 2011-215	Authorization of Amended and Restated Agreement
February 5, 2013	Resolution No. 2013-18	Amendment to Amended and Restated Agreement
January 28, 2015	Resolution No. 2015-06	Second Amendment to Amended and Restated Agreement
October 27, 2015	Resolution No. 2015-258	Third Amendment to Amended and Restated Agreement

ATTACHMENT(S):

1. Draft Resolution
2. Draft Fourth Amendment to Amended and Restated Agreement