

Memorandum



Date: October 12, 2010

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Coconut Grove Playhouse: Recommended Course of Action

Agenda Item No. 11(C)(1)
April 4, 2011

On June 3, 2010, the Board of County Commissioners adopted Resolution No. R-627-10, requesting a recommended course of action for the reconstruction, management and operation of the Coconut Grove Playhouse (the "Playhouse"). This resolution acknowledges the fact that a recovery plan for the Playhouse has been developed by the Department of Cultural Affairs and distributed to and supported by the Board. This memorandum will recap the objectives of this recovery plan and outline action steps for its implementation.

A Recovery Plan for the Coconut Grove Playhouse

As a result of significant accumulated operational debt and the severely deteriorated physical structure of the building, Coconut Grove Playhouse, Inc. ceased operating in June 2006, after completing its 50th season of theater activity. The closing of the Playhouse created a major gap in our cultural landscape and in the economic infrastructure of Coconut Grove.

It is essential to emphasize that the goal of the recovery plan for the Playhouse continues to be to return great regional theater to Coconut Grove. The following cultural and economic benefits are the objectives of achieving this goal:

- strengthening the overall cultural infrastructure of Miami-Dade County (cosmopolitan cities that are international cultural centers have at least one major regional theater);
- presenting full-time, year-round theater of the highest caliber that ranges from classics to new works;
- providing educational programs for families and children;
- contributing to the "ecosystem" of theater offerings in our community;
- developing a critical mass of jobs for local theater professionals so they can thrive in Miami-Dade County;
- preserving the history of one of the oldest and best-known theaters in Miami-Dade County;
- strengthening the local business community in Coconut Grove, whose restaurants, retail shops and vendors depend on the theater-goers; and
- contributing to the image of our community for tourism and business development.

To accomplish this goal, Coconut Grove Playhouse, Inc. and the Department of Cultural Affairs have worked closely together to develop a recovery plan with key elements that have been reported to the Board. These include:

- Developing an agreement to designate GableStage, one of our community's most celebrated theater companies, to serve as the successor institution to manage and operate the new facility at the Playhouse site;
- Implementing the site master plan in order to build a new 300-seat theater, address historic preservation issues, provide parking for the theater and surrounding restaurants, retail and educational neighbors, leave a "footprint" for an additional, larger theater that could be developed at a later date, and anticipate future, complementary and appropriately-scaled development that also could be accommodated on the site to help support the non-profit theater operations; and
- Utilizing County capital funding to build a new, 300-seat theater on the site for GableStage to present great regional theater, a variety of complementary performing arts activities (e.g., film, musical performances, etc.) and education and outreach programs.

Action Steps Necessary and Recommended for the Implementation of the Recovery Plan

Conveyance of the Real Property

The Coconut Grove Playhouse, LLC is the owner of the real property on which the Playhouse is located. Coconut Grove Playhouse, LLC has offered to convey title to the property to Miami-Dade County (see Attachment 1 – letter from the Coconut Grove Playhouse). The parcels being offered are all of those owned by the Coconut Grove Playhouse, LLC (i.e., folio numbers 01-4121-045-0140 and 01-4121-056-003), except for the parcel known as the "bicycle shop" (i.e., folio number 01-4121-012-0700).

There are a number of key factors to be noted regarding the property to be transferred to the County:

- The property is subject to certain encumbrances. First, the deed conveying title from the State of Florida to Coconut Grove Playhouse, LLC contains a restriction requiring that the property be used solely for theater, theatrical productions, theatrical education or related arts uses and uses supporting these activities (i.e., the "State reverter clause") (see Attachment 2 – Copy of the Coconut Grove Playhouse deed);
- The property is subject to a mortgage in the approximate amount of \$600,000. A portion of the property (the parking spaces) is also leased by Coconut Grove Playhouse, LLC to the mortgagee; however, it is our understanding that the lessee is in default of its obligations under the lease. Coconut Grove Playhouse, LLC is in discussions with the holder of the mortgage regarding a comprehensive resolution of the business relationships between the parties, including release of the mortgage;
- In connection with the conveyance, the board of directors of Coconut Grove Playhouse, Inc. (the former Playhouse operator) is requesting that the County accept the terms and conditions of the Management and Operating Agreement with GableStage, establishing this non-profit corporation as the manager and operator of the new Playhouse to be built on the site (see Attachment 3 – Management and Operating Agreement with GableStage).

It should be noted that the bicycle shop property is the parcel encumbered by a mortgage lien in favor of GH Mortgage, LLC, and the Playhouse's lease agreement to manage the parking lot operations on the site is with Paradise Parking Systems, LLC.

It is important to emphasize that we must conduct thorough "due diligence" to ensure that the transfer of title to the property can and should occur. The proposal has the advantage of unifying the Playhouse property with the entity that can provide the resources, expertise and accountability to accomplish the stated cultural goal: Miami-Dade County. It places this community asset in the stewardship of County government and firmly aligns the future of this site with the hard work that our Department of Cultural Affairs has accomplished to develop a viable recovery plan to return great regional theater to Coconut Grove. It ensures that there will be strict accountability and direct oversight in the utilization of both County capital and operational funding for the new Playhouse. In considering this offer, we also will evaluate the option of recommending that the County serve as interim owner of the property; this would involve the County's accepting the transfer offer, developing the theater project and then, conveying title to the property to GableStage, the manager and operator of the new facility. The boards of both the Playhouse and GableStage consider this to be a viable option.

Action Steps: Review the referenced documents and work with the board of directors of Coconut Grove Playhouse, Inc. to ensure that the County does not have any exposure in regard to the property's encumbrances and to support their efforts to resolve the outstanding property issues. Assess other issues involved with the County's acceptance of the property conveyance. Draft a comprehensive agenda item for the Board regarding the transfer of title to the property, recommend an appropriate long-term ownership strategy, and designate GableStage as its manager and operator.

Resolution of Debt and Encumbrances

It is the stated intention of the Coconut Grove Playhouse, Inc. to maintain its corporate status until it is able to resolve the remaining debt and encumbrances for which it is responsible. The Coconut Grove Playhouse, Inc.'s board of directors will have no relationship to or responsibility for the development of a new theater or for the operations of theater on the site once the property is transferred to the County. In addition, as noted above, the County does not intend to accept responsibility for the Playhouse's debt and encumbrances and is committed to working cooperatively with board of directors of Coconut Grove Playhouse, Inc. to support their efforts to resolve these issues.

There are a number of key factors to be noted regarding the Playhouse's resolution of the debt:

- In order to create clear separation between the Coconut Grove Playhouse, Inc. (the former operator) and Coconut Grove Playhouse, LLC (the property owner), the board of directors of the Coconut Grove Playhouse, Inc. will appoint an independent manager for Coconut Grove Playhouse, LLC and delegate to this manager the exclusive authority to implement the transactions described in this memorandum and to resolve the encumbrances on the property;

- Key elements of Coconut Grove Playhouse Inc.'s debt already have been resolved (e.g., payment was made to former employees of the non-profit organization for wages, substantiated out-of-pocket expenses, outstanding severance and accumulated sick/vacation leave owed; the Florida Department of State was repaid \$125,000 of Cultural Facilities grant funds that had been misused by the previous management team; etc.); and
- The bicycle shop parcel is being retained by the Coconut Grove Playhouse, LLC, since it has the outstanding mortgage of approximately \$600,000 with GH Mortgage, LLC and is being utilized to resolve a prior debt of \$350,000 with Strategic Properties Group (Henry Pino).

Action Step: Review the strategy being suggested for the Playhouse to resolve encumbrances to the property and debt and work cooperatively with the Coconut Grove Playhouse, LLC on its plan to address these issues and to ensure that the property can be conveyed to and developed by the County.

The City of Miami

The City of Miami has raised a number of issues with the plan of action for the Playhouse. Among the most detrimental to progress is the City's recently instituted practice of citing the Playhouse for code violations. This is in spite of the fact that rather than "fight" the City's citations, the Coconut Grove Playhouse, Inc.'s board of directors had filed a motion for mediation, which the City opposed. Repeatedly, the City has chosen to litigate until ultimately, the Third District Court of Appeal rejected the City's argument and entered an order denying the City's petition for certiorari on May 13, 2010. The City has continued to issue code citations, and the Playhouse's volunteer board is continuing to work to the best of its ability to address the building's issues and appeal the City's actions. On September 8, 2010, we had a preliminary meeting with representatives of City staff to review issues regarding the building's condition and they have expressed a willingness to work cooperatively with us on this matter.

There are a number of other opportunities available to work cooperatively with the City of Miami on this recovery plan. These include, but are not limited to the following:

- Preliminary discussions between County and City representatives already have occurred regarding the potential of developing a parking garage on the Playhouse site in cooperation with the Coconut Grove Business Improvement District and City of Miami parking representatives;
- Pending the resolution of issues with Paradise Parking Systems, performing arts activities on an outdoor stage designed to occupy part of the Playhouse's parking lot can be launched with funding support set aside by the Department of Cultural Affairs and with the assistance of GableStage. In addition, a funding proposal to help support these activities, entitled "Coconut Groove Live!" and submitted by GableStage, has been selected as a finalist for a Knight Arts Challenge grant;
- Educational partnerships with area schools and with a major university can continue to be pursued as a key component of the future programming at the Coconut Grove Playhouse. Preliminary conversations have occurred with the University of Miami and Florida

International University regarding student internships and professional theatrical opportunities for faculty; and

- Private-sector leaders can be recruited as volunteers to continue to expand the board of directors of GableStage and/or to help raise funds to build a complementary, larger theater and appropriately-scaled development to help support the non-profit cultural activities.

Action Steps: Meet with City representatives to work cooperatively to resolve outstanding issues and to identify areas pro-actively for joint City-County pursuit.

Implementation of the Capital Project and Returning Great Theater to Coconut Grove

Once the property is conveyed to the County and subject to the Coconut Grove Playhouse, LLC's resolution of property encumbrances, work can begin on implementing the capital project for the Playhouse. These action steps include:

- Selecting an architect to design the new 300-seat theater in coordination with confirming the overall master plan for the site;
- Commencing with the design process, utilizing a portion of the \$5 million in Convention Development Tax (CDT) bond proceeds already issued and available for this purpose;
- Ensuring that the County capital funds available for the Playhouse are sufficient to complete the project;
- Coordinating these activities with GableStage to ensure that the resulting facility can serve as its new home for producing great regional theater, presenting complementary performing arts activities and offering educational and outreach programs;
- Constructing the new Playhouse using the balance of CDT bond proceeds and the \$15 million in Building Better Communities bond funds; and
- Launching the new regional theater led by GableStage.

It is our intention that the Department of Cultural Affairs with the support of our Office of Capital Improvements will manage the implementation of the capital project.

In tandem with these action steps, the following other initiatives will be pursued:

- The feasibility of developing a parking garage as part of this phase 1 project (i.e., construction of the new 300-seat theater) will be explored with the Coconut Grove Business Improvement District and the City of Miami parking representatives; and
- The Coconut Grove Playhouse, Inc.'s board of directors will work to resolve any remaining obligations to creditors and, upon completing this task, cease operations, while the manager of Coconut Grove Playhouse, LLC will work to resolve the encumbrances on the property.

Action Steps: Initiate the selection process for architectural and engineering services for the capital project; and determine actions necessary by the Board of County Commissioners to direct and make available CDT and GOB funding for the capital project.

GableStage and the Future of Theater in Coconut Grove

It is important to note that a public process was conducted in 2009 to identify and select a partner to manage and program the new 300-seat theater proposed for the Playhouse site. GableStage was selected and, pursuant to the terms of a management and operating agreement (see Attachment 3), this distinguished theater company would manage and operate the new Playhouse, providing professional regional theater, complementary performing arts activities and theater education programs for the community. This arrangement offers the following benefits:

- GableStage is one of our community's most celebrated theater companies. Over the past 12 seasons, GableStage has been nominated for 148 Carbonell Awards and won 38, including either Best Production or Best Musical Production every year since 2004. Producing Artistic Director Joseph Adler has been nominated for 20 Carbonells (13 at GableStage) and has won seven Best Director and two Best Director of a Musical awards. This company has demonstrated its capacity to develop into a major regional theater;
- GableStage continues to exercise strong cultural leadership, regularly giving its entire house to not-for-profit organizations with all ticket proceeds going entirely to these community groups. Among the groups that have benefitted from this policy are the Human Services Coalition (seven times), Family Counseling Services, The Miller Center for Contemporary Judaic Studies and, New World School of the Arts High School Jazz Band, among others. GableStage also has helped to support and nurture some of our community's most promising young theater companies, including Ground Up and Rising, Mad Cat, Promethean Theatre, Alliance Theatre Project and, State Theatre Project;
- GableStage is currently located in a leased space, generously made available by the Biltmore Hotel. The partnership with the Coconut Grove Playhouse would provide this valued cultural institution with a permanent home in which to grow and to serve our community;
- In the current economic environment, the most prudent course of action in selecting a theater partner is to work collaboratively with an existing, successful cultural organization rather than creating a new operating company for the Playhouse. GableStage has a strong, long-established track record for financial stability and operational excellence. It has demonstrated the potential to grow and its board of directors is committed to making the necessary transition to Coconut Grove; and
- The selection of GableStage to manage and program the new Playhouse can serve as a catalyst to help GableStage continue to develop and expand its board with civic leaders who are committed to helping this talented company grow and dedicated to establishing a major regional theater in Coconut Grove.

Our Department of Cultural Affairs will work with the board of directors and staff of GableStage to develop a pro forma for the operations and programming of the new Playhouse and on a planning process to ensure that GableStage can build upon its current fundraising success to raise the additional revenue that will be required for the new Playhouse. In addition, while the capital project is being implemented, the Department of Cultural Affairs will work with GableStage to assess its capacity to assume ownership of the property and contingent upon its readiness, develop a transition plan to transfer the property to this non-profit organization. It

is understood by GableStage that County support for the operations and programming of the new Playhouse is available only through the Department of Cultural Affairs' competitive grants programs, which are subject to annual budget appropriations by the Board.

Action Steps: Review the management and operating agreement with GableStage and adapt this document, as necessary, to serve as the operating management agreement between Miami-Dade County and GableStage. Redirect annual grant funding formerly designated for Playhouse programming to GableStage, subject to the annual budget process, and have our Department of Cultural Affairs work with GableStage to: present performing arts activities on the Playhouse site in order to activate this important area of Coconut Grove during the design phase; invest in professional management services to develop an operating pro forma and business plan that will enable it to make the transition from its current facility to the new, 300-seat theater; involve GableStage in providing essential input on the development of that theater; and work to assess and develop a plan to transfer title of the property to GableStage.

This recovery plan and the recommended course of action constitute a comprehensive strategy for returning great regional theater for our entire community. It is acknowledged that this will be challenging to achieve, especially in light of the current economic climate and the overall pressures on County programs and services. It is important to underscore that we must perform thorough "due diligence" to ensure that the transfer of title to the property can and should occur. It also is important to emphasize that this plan has the benefit of involving a strong theater partner, GableStage, that will be responsible for the operations, programming and fundraising - and potentially, ownership - for the new complex. If we act quickly, it also has the advantage of our being able to take advantage of one of the most favorable financial environments in years for capital projects. Most importantly, the plan as outlined unifies ownership of the Coconut Grove Playhouse property with the entity that can provide the resources, expertise and accountability to accomplish this recovery plan: Miami-Dade County.

If you have any additional questions, please contact Michael Spring, Director of the Department of Cultural Affairs, at 305-375-5022, or me directly.

Attachments: 1 - Letter from Coconut Grove Playhouse
2 - Copy of the Coconut Grove Playhouse Deed
3 - Management and Operating Agreement with GableStage

c: Honorable Carlos Alvarez, Mayor
Robert A. Cuevas, Jr., County Attorney
Alex Muñoz, Assistant County Manager
Michael Spring, Director, Department of Cultural Affairs
George Navarrete, Director, Office of Capital Improvements
Charles Anderson, Commission Auditor



September 9, 2010

Honorable Mayor Carlos Alvarez;
Honorable Chairman Dennis C. Moss and
Members of the Board of County Commissioners;
Miami Dade County
111 NW First Street
Miami, FL 33128

On behalf of the Coconut Grove Playhouse Board of Directors please accept our appreciation for all of the support the County has provided as we have pursued diligent efforts to reactivate the Coconut Grove Playhouse as the center for great regional, professional theater in South Florida. Over the past few years we have made several important progress steps, which have been enumerated to you in published reports and public presentations, and which include:

- Compensating former employees, providing subscribers with free tickets to area theaters and resolving State of Florida grant issues;
- Engaging nationally known consultants to advise on the appropriate size, scale and operating model for a successful flagship regional theater in our community;
- Engaging the University of Miami to conduct a public charrette process to engage key stakeholders including artists and other members of the cultural community, area merchants, the historic preservation community, churches, schools, and residents regarding the future development on the Playhouse site; and
- Selecting GableStage as our theater partner to advance the development of a 300-seat theatre on the site and to present outstanding theater and arts education programming in Coconut Grove for years to come.

These steps, taken in careful consideration of the County's economic and cultural policy goals, all stem from our shared definition of success which continues to be:

- to present full-time, year-round theater that ranges from classics to new works;
- to provide educational programs for families and children;
- to develop a critical mass of jobs for local theater professionals so they can remain and make a living in Miami-Dade County;
- to preserve the history of one of the oldest and best-known theaters in Miami-Dade County;



- to strengthen the local business community in Coconut Grove ,whose restaurants, retail shops and vendors depend on the theater-goers;
- to complete the overall cultural infrastructure of Miami-Dade County (cosmopolitan cities that are international cultural centers have at least one major regional theater) and to improve the image of our community for tourism and business development.

It is with these shared goals in mind that we publicly pledged our full cooperation to determine the best course of action in order to restore theatre to Coconut Grove in the context of County Commission resolution 11A3 adopted on June 3, 2010 requesting that the Mayor or his designee consider and recommend a course of action for reconstruction, management and operation of the Coconut Grove Playhouse.

We have weighed options and carefully considered potential outcomes, and at this point respectfully request that the County accept a conveyance of the Coconut Grove Playhouse property. The property transfer, which could take place as soon as is practicable, would be subject to funding of the approximate \$20 million dollars in existing designated funds for the development of a theater with approximately 250 to 300 seats; assuming the Operating Agreement currently in place with GableStage; and maintaining the use restriction on the property currently in place.

Given internal struggles and conflicts within the Playhouse board of directors, the City's continued and repeated efforts to distract and derail our efforts and the lack of resources available due to the default of our developer and parking lot partner, we believe this is the best course of action to guarantee the successful redevelopment of theater in Coconut Grove.

We remain available to answer any questions you may have.

Sincerely,

Shelly Spivack

Shelly Spivack
Chair

Coconut Grove Playhouse
Shellyspivack@aol.com
(954) 849-8759



- c: George M. Burgess, County Manager, Miami-Dade County
- Alex Muñoz, Assistant County Manager, Miami-Dade County
- Adolfo Henriques, Chair and Members, Miami-Dade County Cultural Affairs Council
- Michael Spring, Director, Miami-Dade County Department of Cultural Affairs

Coconut Grove Playhouse Board of Directors:

- Emily Cardenas, The Children's Trust
- Lilia Garcia, Lilia Garcia and Associates
- Commissioner Carlos A. Gimenez, Miami-Dade County Board of County Commissioners
- Sandra Gonzalez-Levy, Florida International University
- Betsy Kaplan, former member, Miami-Dade County Public School Board
- Jorge Luis Lopez, Esq., Jorge Luis Lopez Law Firm, LLC
- Representative Carlos Lopez-Cantera, Florida State House of Representatives
- Frank Nero, President, The Beacon Council
- Vincent Post, VPJ Enterprises, Inc
- Manny Rodriguez, FP&L
- Martin G. Zilber, Esq,

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT
TRUST FUND OF THE STATE OF FLORIDA

QUITCLAIM DEED

Deed Number 31175

KNOW ALL MEN BY THESE PRESENTS: That WHEREAS, the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA is by Section 253.03, Florida Statutes, authorized and empowered to convey certain lands under the terms and conditions set forth herein; and,

NOW, THEREFORE, the undersigned BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA, as "GRANTOR", pursuant to Chapter 2003-394, Section 7, Laws of Florida (2003), and under authority of Section 253.03, Florida Statutes, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable considerations, to it in hand paid by COCONUT GROVE PLAYHOUSE, LLC, a Florida limited liability company, as "GRANTEE," has remised, released, conveyed and quitclaimed, and by these presents does remise, release, convey and quitclaim unto GRANTEE, its successors and assigns forever, all the right, title, interest, claim and demand which GRANTOR may have in and to the following described lands in Miami-Dade County, Florida, a portion of which is identified as the "Playhouse Property" in Exhibit "A" and a portion of which is described as the "Bike Shop Property" in Exhibit "A", to-wit:

(See Exhibit "A" attached)

This quitclaim deed is granted subject to the following, viz:

1. This conveyance is subject to the terms of that sublease entered into on January 27, 1982, by and between the State of Florida, Department of State, as Landlord, and The Coconut Grove Playhouse, Inc., a Florida not for profit corporation, formerly known as Players State Theatre, Inc., as Tenant, recorded in Official Records Book 14493, at Page 161 of the Public Records of Miami-Dade County, Florida, as amended by Modification of Sublease

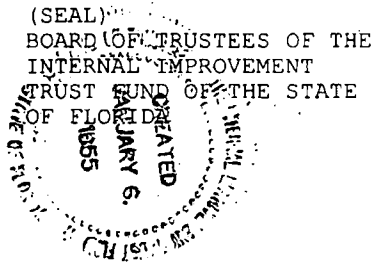
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dated July 24, 1985 and recorded in Official Records Book 14493, at Page 179 of the Public Records of Miami-Dade County, Florida; and as amended by Second Modification to Lease Agreement dated December 8, 1989 and recorded in Official Records Book 14493, at Page 147 of the Public Records of Miami-Dade County, Florida (the "Playhouse Sublease").

2. Pursuant to the Memorandum of Understanding dated March 21, 2003, by and between The Coconut Grove Playhouse, Inc., a Florida not-for-profit corporation, and the State of Florida Department of State, a copy of which is attached hereto as Exhibit "B" and by reference made a part hereof, the Playhouse Property shall only be utilized for theatre, theatrical productions, theatrical education or related arts uses and uses supporting same as currently permitted under the Playhouse Sublease (the "Restriction"). If the Playhouse Property is used for any other purpose in violation of the Restriction, which violation is not cured within thirty (30) days after written notice from GRANTOR to GRANTEE, or such longer period of time if violation, by virtue of its nature, cannot reasonably be cured within such thirty (30) day period, provided GRANTEE commences the curative action within the thirty (30) day period and diligently pursues the cure until completion, then, in such event, the Playhouse Property shall automatically and immediately revert to GRANTOR, its successors and assigns without further notice to GRANTEE or its successors and assigns, and GRANTEE, its successors and assigns shall forfeit all right, title and interest in and to the Playhouse Property. It is specifically acknowledged that the Restriction and reverter provisions of this deed do not affect the Bike Shop Property.

TO HAVE AND TO HOLD the above-described lands subject to all outstanding easements, reservations and other interests.

IN TESTIMONY WHEREOF, the members of the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA have hereunto subscribed their names and have caused the official seal of said BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA to be hereunto affixed in the City of Tallahassee, Florida, on this 28th day of June, A.D. 2004.



Jeb Bush

JEB BUSH
GOVERNOR

Charlie Crist

CHARLIE CRIST
ATTORNEY GENERAL

Tom Gallagher

TOM GALLAGHER
CHIEF FINANCIAL OFFICER

Charles H. Bronson

CHARLES H. BRONSON
COMMISSIONER OF AGRICULTURE

As and Constituting the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA

APPROVED AS TO FORM AND LEGALITY

By: Gary L. Hill
DEP Attorney

EXHIBIT "A"

LEGAL DESCRIPTION

PLAYHOUSE PROPERTY

PARCEL I. Lots 1 and 2 of Engle Subdivision according to the Plat thereof recorded in Plat Book 64 at Page 43 of the Public Records of Dade County, Florida.

PARCEL II. Beginning at the intersection of the agreed Westerly line of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 21, Township 54 South, Range 41 East, with the Northerly right of way line of Charles Avenue (formerly Evangelist Street) according to the Plat of Frow Homestead as recorded in Plat Book B at Page 106 of the Public Records of Dade County, Florida; thence South 89 degrees 56 minutes 00 seconds East along said right of way line for 150.76 feet to its intersection with the Northwesterly right of way line of Main Highway; thence North 28 degrees 49 minutes 45 seconds East along said right of way line for 83.04 feet to a point on the Southwesterly right of way line of a former 14.12 foot alley lying Southwesterly of and adjacent to Lots 75 through 80 of the DeHedouville Subdivision according to the Plat thereof as recorded in Plat Book B at Page 150 of the Public Records of Dade County, Florida; thence North 45 degrees 01 minutes 30 seconds West along said right of way line of 12.519 feet to the most Southerly corner of Engle Subdivision according to the Plat thereof recorded in Plat Book 64 at Page 43 of the Public Records of Dade County, Florida; thence North 28 degrees 49 minutes 45 seconds East along the Southerly boundary of the said Engle Subdivision being also the Northerly right of way line of Main Highway for 2.65 feet to a point of curvature of a circular curve concave to the South and having a radius of 745 feet; thence Easterly along said curve through a central angle of 0 degrees 17 minutes 00 seconds for 3.68 feet to the center line of the aforementioned alley; thence North 45 degrees 01 minutes 30 seconds West along the center line of said alley for 124.21 feet to the intersection of said center line with the Northwesterly boundary line of Tract B of said Engle Subdivision; thence South 44 degrees 58 minutes 30 seconds West for 7.06 feet to a point on the Southwesterly boundary of Lot 2 of said Engle Subdivision; thence North 45 degrees 01 minutes 30 seconds West along the said Southwesterly boundary of said Lot 2 for 101.05 feet to a point on the arc of a circle having a radius of 25 feet and a central angle of 40 degrees 23 minutes 20 seconds and having a center which bears North 40 degrees 44 minutes 00 seconds West from said point; thence Southwesterly along said arc for 17.62 feet; thence South 89 degrees 39 minutes 20 seconds West for 5.20 feet; thence South along the agreed Westerly boundary of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 21, Township 54 South, range 41 East for 235.78 feet to the Point of Beginning, lying and being in Dade County, Florida.

PARCEL III. The East One Hundred Forty (140) feet of the North One Hundred Seventeen (117) feet and the East Fifty-two and One-Half (52.5') of Block Twenty-Nine (29), Less the North One Hundred Seventeen (117) feet of Frow Homestead according to the Plat thereof recorded in Plat Book B at Page 106 of the Public Records of Dade County, Florida.

Also Described As:

The North 117 feet of the East 140 feet AND the East 52.5 feet, LESS the North 117 feet thereof, of those certain un-numbered Lots in Block 29 as the same is shown on the amended Plat of Frow Homestead according to the Plat thereof recorded in Plat Book B at Page 106 of the Public Records of Dade County, Florida.

PARCEL IV. That part of Lots 75, 76 and 77 DeHedouville's Subdivision according to the Plat thereof recorded in Plat Book B at Page 150 of the Public Records of Dade County, Florida; described as follows: Beginning at the most Southerly corner of the aforesaid Lot 75; thence run Northeasterly along the Southeasterly boundary line of said Lot 75, 43.36 feet; thence run Northeasterly parallel to the Southwesterly boundary lines of the aforesaid Lots 75, 76 and 77 to a point in the Northwestérly boundary line of said Lot 77; thence Southwesterly to the Southwest corner of said Lot 77; thence along Southwesterly line of said Lot 77, 76 and 75, to the Point of Beginning. Less a portion of said Lot 75, released for Public Highway purposes AND all that part of the alley adjacent to Lots 75, 76 and 77 as shown on Plat of DeHedouville's Subdivision as recorded in Plat Book B at Page 150 of the Public Records of Dade County, Florida.

Being the same land as conveyed by Official Record Book 9843, Page 896, and Deed Book 1566, Page 190, as recorded in the Public Records of Dade County, Florida, and in Official Records Book 10909, at Page 2755 of the Public Records of Miami-Dade County, Florida.

Exhibit "A"

BIKE SHOP PROPERTY

All, except the South or Southwest 53 feet 10-½ inches of Lots 73 and 74 of DeHedouville's Subdivision, according to the plat thereof recorded in Plat Book "B" at page 150 of the Public Records of Dade County, Florida.

It is the intent of this instrument to convey the North or Northeast 32 feet, more or less of said Lots 73 and 74;

Less and except all that property described in Deed Book 1288, Page 197, Public Records of Dade County, Florida.

Coconut Grove Playhouse Addition, City of Miami Donation, Bike Shop, Miami-Dade County

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made as of this 21st day of March 2003, by and between THE COCONUT GROVE PLAYHOUSE, INC., a not-for-profit Florida corporation (the "Playhouse") and the State of Florida Department of State, an agency of the State of Florida (the "Department of State").

RECITALS

A. In 1981 the Players State Theater, a not-for-profit Florida corporation, now known as the Coconut Grove Playhouse, Inc., conveyed the property described on Exhibit "A" attached hereto and made a part hereof (the "Playhouse Property") to the State of Florida.

B. The Board of Trustees of the Internal Improvement Fund of the State of Florida ("TIIF") leased the Playhouse Property to the Department of State (the "Department of State Lease") in April of 1981 for use as part of the Florida State Theatre Program of the State of Florida (the "State Theatre Program").

C. The Department of State subleased a portion of the Playhouse Property to the Playhouse (the "Playhouse Sublease") for the operation of the Coconut Grove Playhouse as part of the Florida State Theatre Program.

D. The Playhouse desires to become independent from the Department of State as a result of the termination of the State Theatre Program and to continue with its mission of operating a nationally known regional theatre for live performances.

NOW THEREFORE, in consideration of the foregoing, the Playhouse and the Department of State agree as follows:

1. Transfer of Title. The Department of State shall declare the Playhouse Property to be surplus to its needs and recommend to the TIIF the transfer of good and marketable fee simple title to the Playhouse Property and the adjacent bike shop property, described on Exhibit "B" attached hereto and made a part hereof, to the Playhouse (or such other not-for-profit entity designated by the Playhouse), subject to the terms of the Playhouse Sublease. The Department of State Lease will be terminated simultaneously with the transfer.

2. Reverter Provision. In recognition of the State of Florida's substantial monetary contributions of more than \$20,000,000 in appropriations since 1980, the deed shall contain a restrictive covenant requiring that the Playhouse Property only be utilized for theatre, theatrical

productions, theatrical education or related arts uses and uses supporting same as currently permitted under the Playhouse Sublease or title to the Playhouse Property would revert to the State of Florida.

3. Release of Maintenance Obligation. Simultaneously with the conveyance of the Playhouse Property, the Playhouse and the Department of State will exchange mutual releases for all matters relating to the Playhouse Sublease, including without limitation the release of the Department of State, and the State of Florida from any liability under the Playhouse Sublease relating to the maintenance of the building and improvements on the Playhouse Property (but not their successors or assigns).

4. Competitive Grants Programs. The Department of State acknowledges that the Playhouse is currently not eligible for certain competitive grants programs such as the Cultural Institutions Program funded by the Division of Cultural Affairs based upon Section 1T-1.001(5)(h), Florida Administrative Code, which states: "[a] person or entity funded by the Legislature outside the review of the [Florida Arts] Council or Secretary of State shall not be eligible to receive grant support for its activities from the Division within the same fiscal year in which legislative funding is made available." Beginning with the 2003 grant application deadline, the Playhouse may apply for available competitive grants for which it is eligible such as Level 1 and Level 2 Cultural Support Grants. The next deadline for Level 3 institutions is anticipated for 2005.

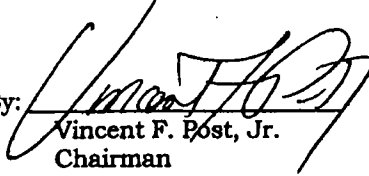
5. Pending Litigation. The Department of State, and the State of Florida shall continue to fund and diligently defend the pending litigation styled Playhouse Associates, L.C. vs. Katherine Harris, as Secretary of State for the State of Florida, the State of Florida and The Coconut Grove Playhouse, Inc., Case No. 02-03029 CA-01 pending in the 11th Judicial Circuit in and for Miami-Dade County, Florida (the "Pending Litigation") until the Pending Litigation is satisfactorily resolved. The Playhouse agrees to continue to fund and diligently defend the Playhouse in the Pending Litigation until the Pending Litigation is satisfactorily resolved.

6. Approval. The parties acknowledge that the transaction contemplated by this MOU is subject to approval by the Florida Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida and all applicable statutes and rules governing the TIF.

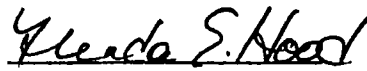
7. Consummation of Transaction. The Department of State and the Playhouse agree to diligently proceed to seek to obtain all approvals required and execute any documents necessary to consummate the transaction contemplated by this MOU and transfer the Playhouse Property and the adjacent bike shop property to the Playhouse, as expeditiously as reasonably possible.

IN WITNESS THEREOF the parties have executed this MOU as of the date first above written.

**THE COCONUT GROVE
PLAYHOUSE, INC.**

By: 
Vincent F. Post, Jr.
Chairman

**THE STATE OF FLORIDA
DEPARTMENT OF STATE**

By: 

MIA1 #1212116 v3

EXHIBIT "A"

The East One Hundred Forty (140) feet of the North One Hundred Seventeen (117) feet and the East Fifty-Two and One-Half (52.50) feet of Block Twenty-Nine (29) LESS the North One Hundred Seventeen (117) feet of FROM HOMESTEAD, according to the plat thereof recorded in Plat Book "B", at Page 106, of the Public Records of Dade County, Florida.

Also described are:

The North 117 feet of the East 140 feet AND the east 52.5 feet, LESS the North 117 feet thereof, of those certain un-numbered Lots Block 29 as the same is shown on the AMENDED PLAT OF FROM HOMESTEAD, according to the plat thereof recorded in Plat Book "B" at Page 106 of the Public Records of Dade County, Florida.

AND

A portion of Lot Ten (10) of MUNROE'S SUBDIVISION as per the plat thereof recorded in Plat Book "D", at Page 253 of the Public Records of Dade County, Florida, lying Northwest of Ingraham Highway (now known as Main Highway).

AND

A portion of Lot 2 of ENGLE SUBDIVISION, according to the plat thereof recorded in Plat Book 64 at Page 43 of the Public Records of Dade County, Florida.

All of the foregoing being more particularly described as follows:

COMMENCE at the most Northerly corner of Lot Ten (10) of MUNROE'S SUBDIVISION, as per the plat thereof recorded in Plat Book "D" at Page 253 of the Public Records of Dade County, Florida; thence run South 00°01'06" West along the West boundary of said Lot Ten (10) for a distance of 30.00 feet to the point of intersection with the South Right-of-Way boundary of Williams Avenue, said point being the POINT OF BEGINNING of the parcel of land

hereinafter to be described; thence run South 89°56' 36" East for a distance of 4.96 feet to the point of curvature of a curve, concave to the Northwest, having a radius of 25.00 feet; thence run Southeasterly, Easterly and Northeasterly along the arc of said curve, through its central angle of 40°57' 38", for a distance of 17.83 feet to the point of intersection with the Northwest boundary of said Lot Ten (10), said point bearing South 40°54' 34" East from the center of said curve; thence run South 45°03' 30" East along the Northeasterly boundary of said Lot Ten (10) for a distance of 6.30 feet to a point; thence run North 39°33' 12" East for a distance of 21.44 feet to a point; thence run South 43°01' 30" East along a line that is parallel to the Northeasterly boundary of said Lot Ten (10) for a distance of 60.40 feet to a point; thence run South 39°04' 36" West for a distance of 21.39 feet to the point of intersection with the Northeasterly boundary of said Lot Ten (10); thence run South 45°01' 30" East along the last described line for a distance of 172.64 feet to the point of intersection with a line that is parallel to, and 10 feet Northwest of, the City Monument Line on Ingraham Highway (now known as Main Highway); thence run South 28°49' 45" West along the last described line for a distance of 83.04 feet to the point of intersection with the North Right-of-Way boundary of Charles Avenue, (formerly known as Evangelist Street); thence run North 89°50' 01" West along the last described line for a distance of 150.85 feet to a point of deflection; thence continuing along the North Right-of-Way boundary of said Charles Avenue, run North 89°43' 03" West for a distance of 51.41 feet to a point; thence run North 00°01' 09" East for a distance of 117.90 feet to a point; thence run North 49°44' 22" West for a distance of 87.30 feet to a point; thence run North 00°03' 01" West for a distance of 117.04 feet to the point of intersection with the South Right-of-Way boundary of Williams Avenue; thence run South 89°56' 36" East along the last described line for a distance of 140.05 feet to the POINT OF BEGINNING containing 56,108 square feet, more or less or 1.242 Acres, more or less;

AND

All of Lot 1 and a portion of Lot 2 and Tract "D" of ENGLE SUB-DIVISION, according to the plat thereof recorded in Plat Book 64 at Page 43 of the Public Records of Dade County, Florida, being more particularly described as follows:

BEGIN at the most Westerly corner of Lot 2 of ENGLE SUBDIVISION, according to the plat thereof recorded in Plat Book 64 at Page 43 of the Public Records of Dade County, Florida, said corner being on the arc of a curve, concave to the Northwest, having a radius of 25.00 feet, said corner bearing South 40°54' 36" East from the center of said curve; thence run Northeasterly and Northerly along the arc of said curve, through a central angle of 49°05' 26" for a distance 21.42 feet to a point of tangency on the Northwesterly boundary of said Lot 2; thence run NORTH along the Northwesterly boundary of Lots 1 and 2 of said ENGLE SUBDIVISION for a distance of 175.01 feet to the point of curvature of a curve, concave to the Southeast, having a radius of 25.00 feet; thence run Northerly, Northeasterly, Easterly and Southeasterly along the arc of said curve, through a central angle 135°02' 00" for a distance of 58.92 feet to a point of tangency on the North-easterly boundary of said Lot 1; thence run South 44°58' 00" East along the last described line for a distance of 224.20 feet to a point, said point being at a distance of 36.83 feet from the most Easterly corner of said Lot 2; thence run South 40°02' 00" West for a distance of 93.00 feet to a point of deflection; thence run south 32°13' 32.75" West for a distance of 95.40 feet to a point of intersection with the Southwesterly boundary of said Tract "B", said boundary being coincident with the Northeasterly bound-ary of Tract Ten (10) of MUNROE'S SUBDIVISION, according to the plat thereof recorded in Plat Book "D" at Page 253 of the Public Records of Dade County, Florida; thence run North 45°01' 30" West along the last described line and the Southwesterly boundary of said Lot 2 for a distance of 73.12 feet to a point; thence run North 59°06' 56" East for a distance of 21.39 feet to a point; thence run North 45°01' 30" West for a distance of 60.40 feet to a point; thence run South 59°35' 12" West for a distance of 21.44 feet to the point of intersection with the Northeasterly boundary of said Tract Ten (10); thence run North 45°01' 30" West for a distance of 6.30 feet to the POINT OF BEGINNING, containing an area of 35,766 square feet, more or less, or 0.821 Acres, more or less;

AND

PAGE A-3

A portion of Lot 2 and Tract "B" of ENGLE SUBDIVISION, according to the plat thereof as recorded in Plat Book 64 at Page 43 of the Public Records of Dade County, Florida; AND all except the South or Southeast 53 feet 10 1/2 inches of Lots 73 and 74 De HEDOUVILLE'S SUBDIVISION, according to the plat thereof as recorded in Plat Book "B" at Page 150 of the Public Records of Dade County, Florida; AND a portion of Lot Ten (10) of MUNROE'S SUBDIVISION according to the plat thereof as recorded in Plat Book "D" at Page 253 of the Public Records of Dade County, Florida, lying Northwesterly of Ingraham Highway (now known as Main Highway), being more particularly described as follows:

Begin at the point of intersection of the Northeasterly boundary of Lot Ten (10) of MUNROE'S SUBDIVISION, as per the Plat thereof, recorded in Plat Book "D", at Page 253 of the Public Records of Dade County, Florida, with the Northwesterly Right-Of-Way boundary of Ingraham Highway (Main Highway), said point of intersection being the most Southerly corner of Tract "B", ENGLE SUBDIVISION, according to the plat thereof recorded in Plat Book 64 at Page 43 of the Public Records of Dade County, Florida; Thence North 28°44'45" East along the last described line for a distance of 2.90 feet to the point of curvature of a curve, concave to the Southeast, having a radius of 745.00 feet; thence Northeasterly along the arc of said curve, being along the Northwesterly Right-Of-Way boundary of said Main Highway, being coincident with the Southeasterly boundary of said Tract "B", Lot 2 and the portion of said De HEDOUVILLE'S SUBDIVISION, through a central angle of 14°16'37", for a distance of 185.64 feet to the most Easterly corner of the said De HEDOUVILLE'S SUBDIVISION parcel, said point bearing North 46°58'38" West from the center of said curve; thence North 44°58'00" West for a distance of 86.00 feet to a point; thence South 40°02'00" West for a distance of 91.00 feet to a point of deflection; thence South 32°13'32.75" West for a distance of 95.40 feet to the point of intersection with South westerly boundary of said Tract "B", said boundary being coincident with the Northeasterly boundary of Tract Ten (10) of MUNROE'S SUBDIVISION, according to the plat thereof recorded in Plat Book "D" at Page 253 of the Public Records of Dade County, Florida; Thence South 32°13'33" West for a distance of 2.29 feet thence South 28°41'19" East for a distance of 49.14 feet; thence South 30°06'27" East for a distance of 15.67 feet; thence South 28°43'39" West for a distance of 22.68 feet; thence South 59°19'35" West for a distance of 16.38 feet; thence South 30°37'34" East for a distance of 30.13 feet; thence North 59°03'43" East for a distance of 5.65 feet; thence North 89°21'58" East for a distance of 8.06 feet; thence North 28°30'24" East for a distance of 44.16 feet; thence North 35°59'42" East for a distance of 11.60 feet to the point of beginning, containing an area of 18,391 square feet, more or less, lying within the City of Miami, Dade County, Florida;

LESS

LEGAL DESCRIPTION
OF

D.O.S.P. ADDITIONAL PARCEL

A portion of Lots 73 and 74 De HEDOUVILLE'S SUBDIVISION, according to the plat thereof as recorded in Plat Book "B" at Page 150 of the Public Records of Dade County, Florida, being more particularly described as follows:

Commence at the most Southerly corner of Tract "B" of ENGLE SUBDIVISION, according to the plat thereof as recorded in Plat Book 64 at Page 43 of the Public Records of Dade County, Florida, said corner being on the Northwesterly Right-Of-Way boundary of Main Highway; thence North 28°44'45" East, along the last described line; for a distance of 2.90 feet to the Point of Curvature of a curve concave to the Southeast, having a radius of 745.00 feet; thence Northeasterly along the arc of said curve being along the Northwesterly Right-Of-Way boundary of said Main Highway through a central angle of 11°48'43" for an arc distance of 153.61 feet to the Point of Beginning of the following described parcel (said point bearing North 49°26'32" West from the center of said curve); thence North 44°58'00" West parallel with the Southwesterly Right-Of-Way line of Thomas Avenue (alley) for a distance of 50.93 feet; thence North 45°02'00" East, along the Northwesterly boundary of said Lot 73, for a distance of 32.00 feet to a point, said point being on the Southwesterly Right-Of-Way line of Thomas Avenue (alley) also being the Northeasterly boundary of said Lot 73; thence South 44°58'00" East, along the Southwesterly Right-Of-Way line of Thomas Avenue (alley), for a distance of 49.17 feet to a point on the next described curve, said point bearing North 46°58'38" West from the center of said curve, thence Southwesterly, along a circular curve to the left having a radius of 745.00 feet and a central angle of 227°5" (said curve also being along the Northwesterly Right-Of-Way boundary of Main Highway) for an arc distance of 32.05 feet to the Point of Beginning, containing 1,683 square feet more or less or 3.63 acres more or less, lying within the City of Miami, Dade County, Florida.

EXHIBIT "B"

BIKE SHOP PARCEL

A portion of Lots 73 and 74 De HEDOUVILLE'S SUBDIVISION, according to the plat thereof as recorded in Plat Book "B" at Page 150 of the Public Records of Dade County, Florida, being more particularly described as follows:

Commence at the most Southerly corner of Tract "B" of ENGLE SUBDIVISION, according to the plat thereof as recorded in Plat Book 64 at Page 43 of the Public Records of Dade County, Florida, said corner being on the Northwesterly Right-Of-Way boundary of Main Highway; thence North 28°44'45" East, along the last described line; for a distance of 2.90 feet to the Point of Curvature of a curve concave to the Southeast, having a radius of 745.00 feet; thence Northeasterly along the arc of said curve being along the Northwesterly Right-Of-Way boundary of said Main Highway through a central angle of 11°48'43" for an arc distance of 153.61 feet to the Point of Beginning of the following described parcel (said point bearing North 49°26'32" West from the center of said curve); thence North 44°58'00" West parallel with the Southwesterly Right-Of-Way line of Thomas Avenue (alley) for a distance of 50.93 feet; thence North 45°02'00" East, along the Northwesterly boundary of said Lot 73, for a distance of 32.00 feet to a point, said point being on the Southwesterly Right-Of-Way line of Thomas Avenue (alley) also being the Northeasterly boundary of said Lot 73; thence South 44°58'00" East, along the Southwesterly Right-Of-Way line of Thomas Avenue (alley), for a distance of 49.17 to a point on the next described curve, said point bearing North 46°58'38", West from the center of said curve, thence Southwesterly, along a circular curve to the left having a radius of 745.00 feet and a central angle of 2 27'54" (said curve also being along the Northwesterly Right-Of-Way boundary of Main Highway) for an arc distance of 32.03 feet to the Point of Beginning. Containing 1,603 square feet more or less or 0.037 acres more or less. Lying within the City of Miami, Dade County, Florida.

RECORDERS NOTE:

The legibility of writing, typing or printing
unsatisfactory in this document when received.



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MIAMI-DADE COUNTY, FLORIDA

Prepared by and return to:

William R. Bloom, Esq.
Holland & Knight LLP
701 Brickell Avenue
Suite 3000
Miami, Florida 33131
(305) 789-7712

QUITCLAIM DEED

by

Board of Trustees of the Internal Improvement Trust Fund of the State of Florida,

to

Coconut Grove Playhouse, LLC

24

DRAFT

MANAGEMENT AND OPERATING AGREEMENT

BETWEEN

COCONUT GROVE PLAYHOUSE LLC

and

GABLESTAGE, INC.

DATED _____, 2010

**MANAGEMENT AND OPERATING
AGREEMENT**

THIS MANAGEMENT AND OPERATING AGREEMENT (the “Agreement”) is made and entered into this ____ day of _____, 2010 (the “Effective Date”) by and among the **COCONUT GROVE PLAYHOUSE LLC**, a Florida Limited Liability Corporation (“Playhouse”) and **GABLESTAGE, INC.**, a Florida Not-For-Profit Corporation (“GableStage”), the Playhouse and GableStage being hereinafter referred to individually as a “Party” and collectively as the “Parties”.

RECITALS:

WHEREAS Playhouse is the fee simple owner of the property described on the attached Exhibit A (the “Entire Property”);

WHEREAS the development of a Theater can be accommodated on a portion of the Entire Property (the “Playhouse Property”) and other supporting development can occur on the balance of the Entire Property (the “Adjacent Property”) (the Playhouse Property, and the Adjacent Property are collectively referred to as the “Entire Property”). The Playhouse Property and Adjacent Property are subject to a deed restriction set out in Exhibit B (the Deed Restriction);

WHEREAS Miami-Dade County has available approximately \$20,000,000 in capital improvement funds for the benefit of Playhouse Property subject to the development of a satisfactory capital and operating plan for the theater project and the execution of County grant agreements required to access these capital funds;

WHEREAS Playhouse intends to redevelop all or a portion of the Playhouse Property consistent with a master site plan for the Entire Property, to feature, among other components, a theater and supporting facilities to accommodate quality professional regional theater (the “Theater”). The balance of the property development will include parking and such additional uses as are determined to complement, support and enhance the Theater;

WHEREAS to access the \$20,000,000 of available funding, a qualified non-for-profit theater producer must develop an operating plan to (i) produce professional regional theater in the Theater on a regular schedule and (ii) engage in a regular program of community arts and education activities in the Theater;

WHEREAS GableStage is a 501(c)(3) not-for-profit organization whose mission is to provide the South Florida community with classical, contemporary and new theatrical productions of artistic excellence. GableStage is committed to meeting the needs of the Miami-Dade diverse community, the enrichment of local theatre professionals, and the development of young audiences through significant educational programs;

WHEREAS COCONUT GROVE PLAYHOUSE, INC., a Florida Not-For-Profit Corporation (“Inc.”), operated the Coconut Grove Theater on the Playhouse Property, leasing a portion of the Playhouse Property, which is located at 3500 Main Highway, Miami, Florida from Playhouse on which the Coconut Grove Theater building is located;

WHEREAS Playhouse and Inc. engaged in a formal ‘Request for Proposal’ process to enter into a long-term, exclusive, agreement with a theatre partner to provide quality regional theatre and theatre education programs at the site of the Coconut Grove Playhouse;

WHEREAS Playhouse and Inc., in its formal ‘Request for Proposal’ process established certain criteria for a successful theater operator attached herein as Exhibit C;

WHEREAS Playhouse and Inc. identified GableStage and its Producing Artistic Director Joseph Adler (Adler) to operate the Theater and produce professional theater therein;

WHEREAS the Playhouse and GableStage desire to enter into a business relationship relating to the future operation of the Theater and production of regional theater and education programs for the community;

WHEREAS in November, 2009, Playhouse, GableStage and Inc. entered into a MEMORANDUM OF UNDERSTANDING to investigate the feasibility and economic viability for GableStage to produce regional theater and education programs at the Theater and to complete a long-term agreement (“the “Management and Operating Agreement”) to manage, operate, protect and enhance the Theater by providing professional regional theater and education programs pursuant to the terms and conditions set forth therein (the “MOU”);

WHEREAS in June, 2010, Playhouse, GableStage and Inc. entered into an Amendment to the Memorandum of Understanding to provide for an extension of time to conduct due diligence and execute a Management and Operating Agreement (“MOU Amendment”).

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, each of the Playhouse and GableStage agrees as follows:

**SECTION ONE
PRELIMINARY PROVISIONS**

1.1 Recitals. The parties represent and warranty that the recitals set forth hereinabove are true and correct and are hereby incorporated by reference and made a part hereof.

1.2. Term. The term of this Agreement shall be ninety-nine (99) years commencing on the Effective Date.

1.3. Purpose. The purpose of this Agreement is to set forth the terms and conditions for GableStage’s operation and maintenance of the Theater, to take into consideration the needs of Miami-Dade County, and other stakeholders including but not limited to the Coconut Grove community at large and others as may be appropriate.

**SECTION TWO
DEFINITIONS**

2.1. Definitions. The following terms shall be defined and have the meaning set forth herein;

“Agreement” shall mean this Management and Operating Agreement, including schedules and exhibits, as may be amended in writing from time to time.

“Commercial Development” means any commercial development located on the Site, which may include, but not be limited to parking, residential, retail, hotel and office development.

“Construction Schedule” means the construction schedule set forth in the Construction Contract Documents.

“County” means Miami-Dade County, Florida, as represented by the Department of Cultural Affairs.

“County Grant” shall mean that certain grant or grants authorized by the County in an amount not less than Twenty Million dollars (\$20,000,000.00) in the aggregate for the redevelopment of the Playhouse Theater.

“Department of Cultural Affairs” means the Miami-Dade County Department of Cultural Affairs.

“Development Agreement” means the agreement by and among 3247 Charles, LLC (“Charles Owner”), Aries Playhouse Development, LLC (“Project Manager”), and Coconut Grove Playhouse, LLC (“Playhouse Owner”) dated September 3, 2008.

“Effective Date” shall have the meaning set forth in the introductory paragraph.

“Final Completion” shall mean the level of completion of the Work occurring after Substantial Completion wherein all Punchlist Items have been completed and accepted by the Owner and final completion of the Theater Project has been certified by the appropriate Design Professional.

“Final Completion Date” means the date upon which Owners have been issued one (1) or more certificates of occupancy (temporary or permanent) including final

Certificate of Occupancy as necessary to allow for use and occupancy of improvement to the Theater Project.

“Force Majeure Event” shall have the meaning set forth in Section 13.1.

“Governmental Authorities” shall mean, as to the Entire Property, the United States, and each state or commonwealth, County, parish, City, political subdivision, quasi-governmental authority and owners’ association in which the Entire Property is located or which exercises jurisdiction over the Property or the construction, use, operation or maintenance thereof, and any court administrator, agency, department, omission, board, bureau or instrumentality of any of them which exercises jurisdiction over the Entire Property or the construction, use, operation or maintenance thereof.

“Master Site Plan” shall mean the plans for the development of the Entire Property as described in the Coconut Grove Playhouse Charrette completed by the University of Miami Center for Urban and Community Design which is intended to serve as a basis for the development of the Entire Property and anticipated to be updated by the subsequent architectural and engineering work necessary to design the Theater.

“Notice” shall refer to communications as set forth in Section 10.1

“Operating Phase” shall have the meaning set forth in Section 6.1.

“Operating Standards” shall have the meaning set forth in Section 6.1.

“Owner” and/or “Owners” shall mean Coconut Grove Playhouse LLC.

“Quality Theater Standard” shall have the meaning set forth in Section 5.1.

“Recovery Plan” shall have the meaning set forth in Section 5.2.

“Representative” means individuals or authorized committees to serve as respective representatives of the Parties to facilitate direct communication with each other.

“Target Opening Date” means the anticipated opening date of the Theater.

“Theater” shall mean a newly constructed theater of approximately 300-seats suitable for a professional, producing regional theater company of Lort B or higher.

“Theater Covenants” refer to the Theater Grant conditions established by the County as to the issuance and effectiveness of the Theater Grant and the drawing of funds thereunder, and to agreements, land use covenants or other stipulations required by the County, the City, the State of Florida or other regulatory authorities, including permit conditions, or

otherwise agreed to between or among the Parties as to be reflected in the Leases or other Project Documents.

“Theater Operator” shall mean GableStage.

“Theater Project” shall mean that portion of the Master Site Plan that includes development of a Theater of approximately 300 seats appropriate to the needs and uses of a professional, producing theater company.

SECTION THREE SITE ISSUES

3.1. Description of Parcels within the Site. The Site is made up of the following parcels, which are described and defined as follows:

3.1.1. “Theater Property” means the portion of the property dedicated for a theatre of approximately 300 seats so as to be determined through a Master Site Plan.

3.1.2. “Theater Footprint” means the parcel of land within the Site reserved for a theater development of approximately 600 seats so as to be determined through a Master Site Plan.

3.1.3. “Ancillary Property” means the remaining parcel of land intended for mixed use development to include parking and other compatible uses as defined in section 2.1.3 above.

3.2. Commercial Development. The Owner shall accomplish the development of the Commercial Development pursuant to a Development Agreement in place. Playhouse and GableStage recognize at the time of signing of this agreement, Playhouse asserts that 3247 Charles LLC and Aries Playhouse Development LLC are in default of its obligations under the Development Agreement. Playhouse shall continue to use its best efforts to resolve this issue. Should, after six months of the signing of this agreement the matter remain unresolved, GableStage can terminate its rights under this agreement with no further remedy. Should either party to that agreement exercise its right under that agreement to terminate, Theater Operator and Owner agree to work together to identify and negotiate with a new developer. The Parties shall use their best efforts to expedite the process to the extent reasonable in order to allow the Commercial Development to be developed in a timeframe that will result in the timely use of proceeds from the Commercial Development for the operation of the Theater. Selection criteria will include, but not be limited to, factors such as timing, quality of design, compatibility of intended use and consistency with the Theater Property design. Any sale, lease or other transfer of the Commercial Development, or any portion thereof, from the Owner to a developer, shall be subject to approval of Theater Operator as well as such covenants, conditions and restrictions, including Theater Covenants and covenants running with the land, as necessary to carry out the purpose of such development. All net profits earned by Playhouse from the Development or otherwise shall be accounted for to GableStage.

3.2.1 Selection Process. Theater Operator shall participate in any evaluation and recommendation process adopted by the Owner for the selection of a developer for the Commercial Development, or any portion thereof, as follows:

a) One or more Theater Operator representatives shall participate as voting member(s) in the evaluation and recommendation process, and shall participate in drafting any RFP, RFQ, or other form of solicitation document; and

b) Theater Operator shall create design and development guidelines for review by the Owner to be incorporated into any future development agreements.

3.3 Existing Facilities and Equipment. The Owner shall allow the Theater Operator use any and all existing theatrical and non-theatrical equipment, tools, supplies, which are currently stored in the Playhouse Building.

3.3.1 Business Planning Documents. The Owner shall provide Theater Operator access to all data applicable to the previous Coconut Grove Playhouse organization, without limitation, including previous plans, drawings, site studies and agreements; operating budgets and plans, vendor records, performance contracts and all historic records and archives.

SECTION FOUR FUNDING

4.1. Funding. Subject to the availability of the funds set forth herein, Theater Operator shall fund the operation and maintenance of the Theater as set forth herein.

4.2 Ancillary Development Funds. All proceeds and revenues received by Owner or Theater Operator from the Ancillary Development, including revenue from any rents and leases, assessments, and proceeds from the sale of land or air rights shall be dedicated to the Theater Project or deposited into a restricted account in support of Theater operations.

SECTION FIVE DESIGN AND CONSTRUCTION PHASE

5.1. Quality Theater Standard. The standard of quality of design and construction of the Theater Project shall be substantially equivalent, taken as a whole, to the standard of quality used in the design and construction of typical theater housing resident, professional, producing theater companies of LORT B or higher. It is anticipated that the Theater Project will consist of a theater of approximately 300 seats, as well as all complementary spaces typical of a theater that houses a resident, professional, producing theater company of LORT B or higher, subject to the terms of the County Grant as set forth herein. The theaters will provide appropriate sight lines and accessibility to meet Americans with Disabilities Act requirements. The Theater Project design will comply with any and all applicable conditions of permits and land development approvals sufficient to obtain a C.O. All of the foregoing standards set forth in this paragraph shall be referred to herein as the "Quality Theater Standard."

5.2 Construction Schedule. The Construction Schedule shall delineate all stages of the Project and set forth a date for completion of each stages in sufficient detail to allow the Owner to monitor progress of the project. The Construction Schedule will be updated monthly to reflect measured job progress. Should, at any time, Owner know of or anticipate slippage in any of the work that is likely to result in a delay in achieving Substantial Completion by the Target Opening Date, a detailed recovery plan showing how (to the extent feasible) the delay shall be overcome, tied to an update of the Construction Schedule, shall be presented to the Theater Operator for review (the "Recovery Plan").

SECTION SIX OPERATING PHASE

6.1. Operation and Maintenance. Upon Final Completion Theater Operator shall have the sole and exclusive right and responsibility to operate the Theater during the Term in a manner that insures that the Theater at all times meets the Quality Theater Standard, normal wear and tear excepted (the "Operating Phase"). The operational standards include the continual operation of the Theater; appropriate maintenance and repair of the Theater, Theater Project Site and FF&E; a minimum number of event nights consistent with the Operating Standards; and operation without operating losses (the "Operating Standards"). The Operating Standards shall include all of those functions typically associated with similarly operated, non-profit, mission driven and comparably sized theaters, and includes, but is not limited to the following:

6.1.1. Theater Mission. The Theater shall be operated by Theater Operator or any nonprofit successor thereto in accordance with the criteria established in Exhibit C ____.

6.1.2. Mission Standards. In order to meet the mission, Theater Operator shall:

- (a) maintain the facilities in a condition at a standard comparable to the Quality Theater Standard;
- (b) provide a high quality, professional, theatre company, and endeavor to become Miami-Dade's flagship professional theater, capitalizing on the long established brand of the Coconut Grove Playhouse. Some hallmark traits of a flagship professional theater include:
 - i. A focus on quality
 - ii. Ability to cultivate and sustain of resident theater professionals
 - iii. A reputation for contributing to the development of theatrical literature
 - iv. Collaboration and partnerships
 - v. Significant programs in education, training and community engagement
 - vi. Successfully producing programming reflective of Miami's diversity
- (c) operate a sufficient number of events (days or nights) to accommodate the foregoing with a goal of year-round activity;
- (d) operate in such a manner as to qualify for the Miami-Dade County Department of Cultural Affairs Major Cultural Institutions Grant

6.1.3 Marketing. Theater Operator shall prepare and implement an annual marketing plan, which addresses promotional and advertising activities to be conducted prior to and after the Theater opening date. Theater Operator will continue to promote and protect the Coconut Grove Playhouse history and brand.

6.1.4. Programming. Theater Operator shall prepare and implement an annual programming plan, which addresses education, community programming and presenting performances on a year-round basis.

6.1.5. Scheduling and Booking. Theater Operator shall schedule and book outside events for the Theater as possible without compromising its ability to fulfill the Mission Standards indicated above. Theater Operator shall have sole discretion regarding theater rental rates including use of the facility free of charge to fulfill education or community outreach goals.

6.1.6. Staffing. Theater Operator shall recruit, train and employ the staff required to operate the Theater within the Quality Theater Standard. Such staff shall be employees of Theater Operator.

6.1.7. Contracts. Theater Operator shall negotiate and execute all contracts, leases or licenses required for the management and operation of the Theater and Ancillary Spaces.

6.1.8. Licenses and Permits. Theater Operator shall identify, obtain and maintain all licenses and permits required in connection with the management and operation of the Theater.

6.1.9. Annual Fundraising. Theater Operator shall undertake an annual fundraising program in support of programs and theater operations. These funds shall be utilized as operating revenues of the Theater Operator. Additional funds may also be raised by Theater Operator for endowment, capital improvements or other purposes relating to the Theater.

6.1.10. Facilities Security and Maintenance. Theater Operator shall be responsible for the security, maintenance and repair of the Theater in a manner that insures that the Theater at all times meets the Quality Theater Standard, normal wear and tear excepted, and provides a safe environment for patrons, performers, vendors, tenants, licensees and other users of the Theater. The Owner may conduct semi-annual inspections of the Theater and Theater Site to insure that it is being properly maintained and repaired, and will notify Theater Operator in writing of any maintenance or repair items that it reasonably believes should be addressed by Theater Operator in order to properly maintain the Theater. Theater Operator shall correct any maintenance and repair items in a reasonable time and manner, subject to the existence of sufficient funds, or other available funding, to undertake such repairs.

6.1.11. Standards. In addition to any other requirements contained herein, Theater Operator shall manage and operate the Theater in accordance with the Operating Standards.

6.1.12. Annual Budget. Theater Operator shall submit an annual operating budget to the Owner for informational purposes.

6.1.13. Administrative and Production Offices. Theater Operator shall have the year-round, exclusive use of their administrative and production offices at the Theater.

6.1.14. Accounting and Reporting. Theater Operator shall maintain books and records for the Operation Phase revenues and expenses and shall make such books and records available to the Owner upon reasonable notice.

6.1.15. Insurance. At the time of occupancy of the site Theater Operator shall acquire and maintain in force and shall furnish to Playhouse Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

a) Worker's Compensation Insurance for all employees of the Theater Operator as required by Florida Statute 440.

b) Public Liability Insurance on a comprehensive basis including products liability and host liquor liability in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage. Playhouse must be shown as an additional insured with respect to this coverage.

c) Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the work, in an amount not less than \$500,000 combined single limit per occurrence for bodily injury and property damage.

The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of the Theater Operator.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The Company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength, by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of Playhouse, OR

The Company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida" issued by the State of Florida Department of Insurance and be members of the Florida Guaranty Fund.

Certificates will indicate that no modification or change in insurance shall be made without thirty (30) days written advance notice to the certificate holder.

The Theater Operator shall require that all users of the facility provide proof of insurance as agreed upon in advance by the Playhouse and the Theater Operator. The Theater Operator will be responsible for obtaining the required certificates of insurance from the user and insuring that all required coverages are maintained throughout the term of the agreement.

The Theater Operator shall also require all users of the facility to execute an indemnification agreement containing an obligation to pay and to defend claims, running in favor of both the Theater Operator and the Playhouse, on a form acceptable to the Playhouse.

6.2 Board Membership. The Owner shall appoint one representative to serve as ex officio member of the GableStage board of directors throughout the term of this Agreement.

**SECTION SEVEN
OWNERSHIP AND NAMING RIGHTS**

7.1. Ownership of Theater. The Playhouse at all times shall be the owner of all improvements constructed upon the Site.

7.2. Naming Rights. GableStage shall have the authority to establish and grant naming rights in appreciation for donations to the Theater, as part of any philanthropic fund raising efforts. Funds generated from the grant of such naming rights shall be retained by GableStage for use in connection with the Theater.

**SECTION EIGHT
REPRESENTATIVES**

8.1. GableStage Representative. GableStage will select one (1) person (hereinafter referred to as the “GableStage Representative”) who will serve as a representative of GableStage for the Theater and will be the point of contact for communications between the Playhouse and GableStage. The GableStage representative shall be responsible for keeping the Playhouse informed of the progress of GableStage in the operations of the Theater.

8.2. Playhouse Representative. The Playhouse will select one (1) person (hereinafter referred to as the “Playhouse Representative”) who will serve as a representative of Playhouse for the Theater and will be the point of contact for communications between the Playhouse and GableStage.

**SECTION NINE
DEFAULT AND REMEDIES**

9.1. 180 Day Out Clause. Within 180 days of signing of this agreement, GableStage or Playhouse may, at its sole discretion, demand modification of this agreement. Upon receipt of such demand, the other party will respond within 30 days, to either (a) agree to the requested modification, (b) propose an alternate modification, or (c) terminate the agreement. In the case of (b), parties agree to negotiate in good faith for not longer than 60 days, at which time the agreement is to be modified or terminated.

9.1.1 In the event of a transfer of the property to Miami-Dade County or another entity mutually acceptable to Playhouse and GableStage, GableStage agrees to enter into negotiations in good faith to negotiate terms mutually acceptable to the new owner and GableStage Inc.

9.2 Default by GableStage. The happening of any one of the following events shall constitute a default by GableStage:

9.2.1. GableStage's failure to operate, maintain and repair the Theater within the available budget in accordance with Operating Standards for a period of more than thirty (30) days after its receipt of a Notice of GableStage Default, provided, however, that if the nature of the default is such that it cannot reasonably be cured within such 30 day period, then GableStage shall have a reasonable period of time to cure such default provided that it diligently undertakes and pursues such cure to the Owner's reasonable satisfaction, and GableStage provides the Owner with documentation evidencing that GableStage is diligently undertaking and pursuing such cure, but in any event, GableStage shall not have more than one hundred twenty (120) days from its receipt of the Notice of GableStage Default to cure such default except as provided in Section 9.2.5;

9.2.2. The loss of GableStage's 501(c) 3 status for a period of more than thirty (30) days after its receipt of a Notice of GableStage Default, provided, however, that if it is not commercially reasonable to reinstate or obtain a new 501(c)3 status within such 30 day period, then GableStage shall have a commercially reasonable period of time to cure such default provided that it diligently undertakes and pursues such cure to the Owner's reasonable satisfaction, and GableStage provides the Owner with documentation evidencing that GableStage is diligently undertaking and pursuing such cure, but in any event, GableStage shall not have more than one hundred twenty (120) days from its receipt of the Notice of Default to cure such default;

9.2.3. GableStage's default in the performance of any material term or covenant of this Agreement not otherwise specifically provided for in this section for a period of more than thirty (30) days after its receipt of a Notice of GableStage Default, provided, however, that if the nature of the default is such that it cannot reasonably be cured within such 30 day period, then GableStage shall have a reasonable period of time to cure such default provided that it diligently undertakes and pursues such cure to the Owner's reasonable satisfaction, and GableStage provides the Owner with documentation evidencing that GableStage is diligently undertaking and pursuing such cure, but in any event, GableStage shall not have more than one hundred twenty (120) days from its receipt of the Notice of GableStage Default to cure such default;

9.2.4. The appointment of a receiver or trustee for GableStage or the making of an assignment for the benefit of creditors, of the filing of any action or proceeding, voluntary or involuntary, by or against GableStage under, or otherwise seeking the benefit of, any bankruptcy, reorganization or insolvency law; or

9.2.5. GableStage vacating or abandoning the Theater Property.

9.3. Playhouse Remedies. In the event of a default by GableStage pursuant to Section 9.2 above, the Playhouse, at its option, may exercise any one or more of the following remedies:

9.3.1. Declare this Agreement terminated, whereupon all rights and interests of GableStage under this Agreement shall immediately end. Upon such termination, the Playhouse may take over GableStage's rights, duties and obligations under this Agreement or assign them to another entity. Said entity shall be a non-profit entity and shall have a mission consistent with that set forth in Article 6.1.2. GableStage specifically agrees that upon such termination, GableStage shall assign its rights under any contract to which GableStage is a party as necessary in order for the Owner to complete GableStage's rights, duties and obligations hereunder but only upon terms which are financially reasonable to GableStage and in no event shall the customer lists or donors or business or identity or trade names or registered fictitious names of GableStage be utilized by the Playhouse or by any other entity selected by Playhouse pursuant to this provision; or

9.3.2. Exercise any and all remedies available at law and in equity.

9.4. Default by Playhouse. The following shall constitute a default by the Playhouse:

9.4.1. Playhouse's failure to achieve Final Completion of the Theater in material compliance with the Quality Theater Standard for a period of more than thirty (30) days after its receipt of a Notice of Playhouse Default, provided, however, that if the nature of the default is such that it cannot reasonably be cured within such 30 day period, then Playhouse shall have a reasonable period of time to cure such default provided that it diligently undertakes and pursues such cure to GableStage's reasonable satisfaction, and Playhouse provides GableStage with documentation evidencing that Playhouse is diligently undertaking and pursuing such cure;

9.4.2. Playhouse's continued default in the performance of a material term of this Agreement, in accordance with the requirements of this Agreement, for a period of more than thirty (30) days from its receipt of written notice of such default from GableStage (the "Notice of Playhouse Default"), provided, however, that if the nature of the default is such that it cannot reasonably be cured within such 30 day period, then Playhouse shall have a reasonable period of time to cure such default provided that it diligently undertakes and pursues such cure to the GableStage's reasonable satisfaction, and Playhouse provides the GableStage with documentation evidencing that Playhouse is diligently undertaking and pursuing such cure, but in any event, the Playhouse shall not have more than one hundred twenty (120) days from its receipt of the Notice of Playhouse Default to cure such default.

9.4.3 The appointment of a receiver or trustee for Playhouse or the making of an assignment for the benefit of creditors, or the filing of any action or proceeding, voluntary or involuntary, by or against Playhouse under, or otherwise seeking the benefit of, any bankruptcy, reorganization or insolvency law;

9.4.4. A breach, whether intentional or unintentional, of any of Playhouse's warranties or representations contained in this agreement.

9.4.5. In the event any claim exists or is made against Playhouse which poses a risk of interference with GableStage's tenancy or right to possession of the property or ability to operate the premises for the term of this Agreement and in accordance with this Agreement.

9.5. GableStage's Remedies. In the event of a default by the Playhouse pursuant to Section 9.3 above, then GableStage, at its option, may exercise any one or more of the following remedies:

9.5.1. Declare this Agreement terminated, whereupon all rights and interests of the Parties under this Agreement shall immediately end; or

9.5.2. Exercise any and all remedies available at law and in equity.

SECTION TEN NOTICES

10.1. Addresses. All notices and communications under this Agreement shall be in writing and shall be given by: (i) hand delivery; (ii) certified mail, return receipt requested (postage prepaid); (iii) reliable overnight commercial courier (charges prepaid); or (iv) facsimile (with confirmation of transmission) to each of the Parties as follows:

If to Playhouse:

Coconut Grove Playhouse LLC
Rachelle Spivack
131 Maderia Avenue
Coral Gables, FL 33134

With a copy to:

Gabriel Nieto
Rasco Klock et al
283 Catalonia Avenue, 2nd Floor
Coral Gables, FL 33134

If to GableStage:

Joseph Adler
Producing Artistic Director
1200 Anastasia Avenue
Coral Gables, FL 33134

With a copy to:
Steven M. Weinger
Kurzban Kurzban Weinger and Tetzeli, P.A.
Plaza 2650 Second Floor
2650 S.W. 27th Avenue
Miami, FL 33133

**SECTION ELEVEN
INDEMNIFICATION**

11.1. GableStage's Indemnification of Playhouse. GableStage shall indemnify, defend and hold harmless the Playhouse from and against any and all liability, damages, actions, claims, costs and expenses (including reasonable attorneys' fees and costs at trial and all appellate levels) in contract or in tort arising out of the performance of GableStage's obligations under this Agreement by GableStage, its employees, agents, contractors, consultants, and anyone for whom GableStage may be liable; provided, however, that GableStage does not indemnify, defend and hold harmless the Playhouse from and against any liability, damages, actions, claims, costs and expenses which exist, whether asserted or not, prior to the date of execution of this Agreement.

11.2. Playhouse's Indemnification of GableStage. Playhouse shall indemnify, defend and hold harmless GableStage from and against any and all liability, damages, actions, claims, costs and expenses (including reasonable attorneys' fees and costs at trial and all appellate levels) in contract or in tort arising out of the performance of Playhouse's obligations under this Agreement by Playhouse, its employees, agents, contractors, consultants, and anyone for whom the Playhouse may be liable.

**SECTION TWELVE
MISCELLANEOUS**

12.1. Exhibits. The exhibits attached hereto and referred to herein are by such attachment and reference made a part of this Agreement for all purposes.

12.2. Paragraph Headings. The paragraph headings herein contained are inserted for convenience of reference only and shall not be deemed to be apart of this Agreement; the paragraph headings shall be ignored in construing and interpreting this Agreement.

12.3. Singular and Plural Usages. Whenever used herein, the singular number includes the plural, the plural the singular, and the use of any gender includes all genders.

12.4. Construction of Agreement. The fact that one of the Parties may be deemed to have drafted or structured any provision of this Agreement shall not be considered in construing

or interpreting any particular provision of this Agreement, either in favor of or against such Party.

12.5. Assignment. GableStage shall not assign this Agreement without the prior, written consent of the Playhouse.

12.6. Unlawful Discrimination. GableStage covenants and agrees that no person shall be unlawfully discriminated against in the use and operation of the Theater pursuant to this Agreement.

12.7. No Partnership or Joint Venture. Nothing contained in this Agreement shall constitute or be construed to be or create a partnership or joint venture between the Playhouse and GableStage.

12.8. Governing Law/Venue. This Agreement shall be construed in accordance with the laws of the State of Florida. The location for the settlement of any disputes arising out of this Agreement shall be Miami-Dade County, Florida.

12.9. Waiver. The waiver by any Party of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. No covenant, term or condition of this Agreement shall be deemed to have been waived by a Party, unless such waiver is in writing signed by such Party.

12.10. Amendment/Termination. This Agreement may be amended, modified or terminated at any time during the term of the Agreement by the mutual, written agreement of the Parties.

12.11. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

12.12. Public Presentations. GableStage will assist the Playhouse with communicating information regarding the Theater to the public including, but not limited to, presentations to community groups and participating in business forums.

12.13. 501(c)3 Status. GableStage has received a determination from the Internal Revenue Service that it meets the requirements of Section 501(c)(3) of the United States Internal Revenue Code, and GableStage is in material compliance with the terms of such determination and will maintain its 501(c)3 status during the term of this Agreement

12.14. Severability. If any term or provision of this Agreement, or the application thereof to any Party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provision, to the Parties or any circumstances other than those as to which it is held invalid or unenforceable, shall not be

affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

12.15. Entire Agreement. The Parties agree that this Agreement sets forth the entire agreement and understanding between the Parties with regard to the specific matters addressed herein and supersedes all prior negotiations, representations, understandings or agreements, whether oral or written, between the Parties or made by third parties to either Party, and there are no promises, covenants, agreements, representations, warranties or understandings between the Parties other than those stated herein or in any of the other agreements contemplated hereby, whether such other agreements are executed simultaneously herewith or at a future date.

12.16. Attorney's Fees. In the event that any Party finds it necessary to employ an attorney to enforce any provision of this Agreement or institute any legal action arising out of this Agreement or related to the subject matter hereof, the predominantly prevailing Party will be entitled to recover from the other Party or Parties its reasonable attorneys' fees and costs incurred in connection therewith (including costs of collection), at both trial and appellate levels; including bankruptcy proceedings, in addition to any other remedies to which such Party may be entitled. The requirement to pay the predominantly prevailing Party's reasonable attorneys' fees and costs will survive any termination of this Agreement.

12.17. No Third-Party Beneficiary Rights. The Parties do not intend by this Agreement to create or establish any enforceable third-party beneficiary rights or to intentionally benefit any third party, and therefore this agreement does not establish any other intended beneficiaries to any rights or obligations hereunder.

12.18. Compliance With Laws. GableStage shall be responsible for compliance, and shall comply with all applicable present and future federal, state and local laws, ordinances, rules and regulations relating to the operation and maintenance of the Theater pursuant to this Agreement.

12.19. Assignment. This Agreement may not be assigned by either party without the written consent of the other parties to this Agreement. Notwithstanding the foregoing, GableStage may freely and in its sole discretion assign this Agreement to a wholly owned subsidiary (including any business entity of which GableStage is the sole member or shareholder) or to an independent entity so long as over fifty percent (50%) of the members or directors of the new entity are the same as the members or directors of GableStage at the time of the assignment

SECTION THIRTEEN FORCE MAJEURE

13.1. Force Majeure Event. "Force Majeure Event" shall mean an event causing delay occasioned by a cause or causes beyond the control of the party whose performance is so delayed, including, without limitation: adverse weather conditions; earthquake; acts of God; war; war-like operations; civil commotion; riots; sabotage; terrorism; governmental or judicial action/inaction, regulation, legislation, or controls; third party lawsuits; moratoria; labor disturbances; or material shortages, availability, or fabrication. The parties acknowledge and

agree that a party's incompetence or failure to deploy reasonable resources to meet its obligations under any agreement shall not be deemed to constitute a Force Majeure Event as to such party.

13.2. Excuse of Performance. The failure of any party to perform an obligation under this Agreement due to the occurrence of a Force Majeure Event shall not constitute an event of default or a breach of any such obligation. In addition, the Parties shall not be liable to each other, or their successors or assigns, for damages, costs, attorney's fees (including costs or attorney's fees on appeal) for breach of contract, or otherwise for failure, suspension, or diminution of performance due to a Force Majeure Event.

13.3. Mitigation. The Parties shall be obligated to (i) use all reasonable efforts to mitigate the adverse effect and duration of any Force Majeure Event which affects such Party and (ii) to perform all of their other obligations hereunder that are not affected by Force Majeure Event.

SIGNATURES APPEAR ON FOLLOWING PAGES

IN WITNESS WHEREOF, the parties hereto have caused this Management and Operating Agreement to be duly executed as of the day and year first above written.

WITNESSES:

Print Name

Print Name

PLAYHOUSE:

COCONUT PLAYHOUSE LLC

By: _____

Name: _____

Title: _____

GABLESTAGE

By: _____

Name: _____

Title: _____

EXHIBIT A PROPERTY DESCRIPTION

EXHIBIT "A"

LEGAL DESCRIPTION

PLAYHOUSE PROPERTY

PARCEL I. Lots 1 and 2 of Engle Subdivision according to the Plat thereof recorded in Plat Book 64 at Page 43 of the Public Records of Dade County, Florida.

PARCEL II. Beginning at the intersection of the agreed westerly line of the NW¹/₄ of the SE¹/₄ of Section 21, Township 54 South, Range 41 East, with the northerly right of way line of Charles Avenue (formerly Evangelist Street) according to the Plat of Frow Homestead as recorded in Plat Book B at Page 106 of the Public Records of Dade County, Florida; thence South 89 degrees 56 minutes 00 seconds East along said right of way line for 150.76 feet to its intersection with the northwesterly right of way line of Main Highway; thence North 28 degrees 49 minutes 45 seconds East along said right of way line for 83.04 feet to a point on the southwesterly right of way line of a former 14.12 foot alley lying southwesterly of and adjacent to Lots 75 through 80 of the DeHadouville subdivision according to the Plat thereof as recorded in Plat Book B at Page 150 of the Public Records of Dade County, Florida; thence North 45 degrees 01 minutes 30 seconds West along said right of way line of 12.519 feet to the most southerly corner of Engle Subdivision according to the Plat thereof recorded in Plat Book 64 at Page 43 of the Public Records of Dade County, Florida; thence North 28 degrees 49 minutes 45 seconds East along the southerly boundary of the said Engle Subdivision being also the northerly right of way line of Main Highway for 2.65 feet to a point of curvature of a circular curve concave to the South, and having a radius of 745 feet; thence Easterly along said curve through a central angle of 0 degrees 17 minutes 00 seconds for 3.68 feet to the center line of the aforementioned alley; thence North 45 degrees 01 minutes 30 seconds West along the center line of said alley for 124.21 feet to the intersection of said center line with the northwesterly boundary line of Tract B of said Engle Subdivision; thence South 44 degrees 58 minutes 30 seconds West for 7.06 feet to a point on the southwesterly boundary of Lot 2 of said Engle Subdivision; thence North 45 degrees 01 minutes 30 seconds West along the said southwesterly boundary of said Lot 2 for 101.05 feet to a point on the arc of a circle having a radius of 25 feet and a central angle of 40 degrees 23 minutes 20 seconds and having a center which bears North 40 degrees 44 minutes 00 seconds West from said point; thence Southwesterly along said arc for 17.62 feet; thence South 89 degrees 39 minutes 20 seconds West for 5.20 feet; thence South along the agreed westerly boundary of the NW¹/₄ of the SE¹/₄ of Section 21, Township 54 South, range 41 East for 235.78 feet to the Point of Beginning, lying and being in Dade County, Florida.

PARCEL III. The East One Hundred Forty (140) feet of the North One Hundred Seventeen (117) feet and the East Fifty-two and One-Half (52.5') of Block Twenty-Nine (29), Less the North One Hundred Seventeen (117) feet of Frow Homestead according to the Plat thereof recorded in Plat Book B at Page 106 of the Public Records of Dade County, Florida.

Also Described As:

The North 117 feet of the East 140 feet AND the East 52.5 feet, LESS the North 117 feet thereof, of those certain un-numbered Lots in Block 29 as the same is shown on the amended Plat of Frow Homestead according to the Plat thereof recorded in Plat Book B at Page 106 of the Public Records of Dade County, Florida.

PARCEL IV. That part of Lots 75, 76 and 77 DeHedouville's Subdivision according to the Plat thereof recorded in Plat Book B at Page 150 of the Public Records of Dade County, Florida, described as follows: Beginning at the most Southerly corner of the aforesaid Lot 75; thence run Northeasterly along the Southeasterly boundary line of said Lot 75, 43.36 feet; thence run Northeasterly parallel to the Southwesterly boundary lines of the aforesaid Lots 75, 76 and 77 to a point in the Northwesterly boundary line of said Lot 77; thence Southwesterly to the Southwest corner of said Lot 77; thence along Southwesterly line of said Lot 77, 76 and 75, to the Point of Beginning. Less a portion of said Lot 75, released for Public Highway purposes AND all that part of the alley adjacent to Lots 75, 76 and 77 as shown on Plat of DeHedouville's Subdivision as recorded in Plat Book B at Page 150 of the Public Records of Dade County, Florida.

Being the same land as conveyed by Official Record Book 9843, Page 896, and Deed Book 1566, Page 190, as recorded in the Public Records of Dade County, Florida, and in Official Records Book 10909, at Page 2755 of the Public Records of Miami-Dade County, Florida.

EXHIBIT B DEED RESTRICTION

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT
TRUST FUND OF THE STATE OF FLORIDA

QUITCLAIM DEED

Deed Number 31175

KNOW ALL MEN BY THESE PRESENTS: That WHEREAS, the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA is by Section 253.03, Florida Statutes, authorized and empowered to convey certain lands under the terms and conditions set forth herein; and,

NOW, THEREFORE, the undersigned BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA, as "GRANTOR", pursuant to Chapter 2003-394, Section 7, Laws of Florida (2003), and under authority of Section 253.03, Florida Statutes, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable considerations, to it in hand paid by COCONUT GROVE PLAYHOUSE, LLC, a Florida limited liability company, as "GRANTEE," has remised, released, conveyed and quitclaimed, and by these presents does remise, release, convey and quitclaim unto GRANTEE, its successors and assigns forever, all the right, title, interest, claim and demand which GRANTOR may have in and to the following described lands in Miami-Dade County, Florida, a portion of which is identified as the "Playhouse Property" in Exhibit "A" and a portion of which is described as the "Bike Shop Property" in Exhibit "A", to-wit:

(See Exhibit "A" attached)

This quitclaim deed is granted subject to the following, viz:

1. This conveyance is subject to the terms of that sublease entered into on January 27, 1982, by and between the State of Florida, Department of State, as Landlord, and The Coconut Grove Playhouse, Inc., a Florida not for profit corporation, formerly known as Players State Theatre, Inc., as Tenant, recorded in Official Records Book 14493, at Page 161 of the Public Records of Miami-Dade County, Florida, as amended by Modification of Sublease

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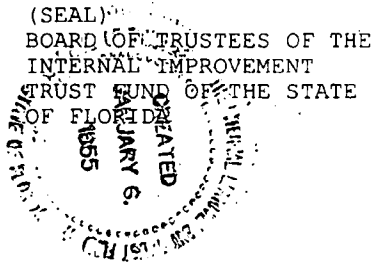
dated July 24, 1985 and recorded in Official Records Book 14493, at Page 179 of the Public Records of Miami-Dade County, Florida; and as amended by Second Modification to Lease Agreement dated December 8, 1989 and recorded in Official Records Book 14493, at Page 147 of the Public Records of Miami-Dade County, Florida (the "Playhouse Sublease").

2. Pursuant to the Memorandum of Understanding dated March 21, 2003, by and between The Coconut Grove Playhouse, Inc., a Florida not-for-profit corporation, and the State of Florida Department of State, a copy of which is attached hereto as Exhibit "B" and by reference made a part hereof, the Playhouse Property shall only be utilized for theatre, theatrical productions, theatrical education or related arts uses and uses supporting same as currently permitted under the Playhouse Sublease (the "Restriction"). If the Playhouse Property is used for any other purpose in violation of the Restriction, which violation is not cured within thirty (30) days after written notice from GRANTOR to GRANTEE, or such longer period of time if violation, by virtue of its nature, cannot reasonably be cured within such thirty (30) day period, provided GRANTEE commences the curative action within the thirty (30) day period and diligently pursues the cure until completion, then, in such event, the Playhouse Property shall automatically and immediately revert to GRANTOR, its successors and assigns without further notice to GRANTEE or its successors and assigns, and GRANTEE, its successors and assigns shall forfeit all right, title and interest in and to the Playhouse Property. It is specifically acknowledged that the Restriction and reverter provisions of this deed do not affect the Bike Shop Property.

TO HAVE AND TO HOLD the above-described lands subject to all outstanding easements, reservations and other interests.

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IN TESTIMONY WHEREOF, the members of the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA have hereunto subscribed their names and have caused the official seal of said BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA to be hereunto affixed in the City of Tallahassee, Florida, on this 28th day of June, A.D. 2004.



Jeb Bush

JEB BUSH
GOVERNOR

Charlie Crist

CHARLIE CRIST
ATTORNEY GENERAL

TOM GALLAGHER
CHIEF FINANCIAL OFFICER

Charles H. Bronson

CHARLES H. BRONSON
COMMISSIONER OF AGRICULTURE

As and Constituting the BOARD
OF TRUSTEES OF THE INTERNAL
IMPROVEMENT TRUST FUND OF THE
STATE OF FLORIDA

APPROVED AS TO FORM
AND LEGALITY

By: Dary L. Hill
DEP Attorney

EXHIBIT C

Coconut Grove Playhouse
Criteria for Theatre Partner
November 12, 2008

I. Desired Outcome

Coconut Grove Playhouse a private, not for profit 501 c-3 organization that seeks to enter into a long-term, exclusive, agreement with a theatre partner to provide quality regional theatre and theatre education programs at the site of the Coconut Grove Playhouse.

II. Models

There are three possible models under consideration:

- educational partner
- existing producing theater company
- existing non-profit cultural organization

III. Criteria for selection

1. The successful Theatre Partner will have a demonstrated and sustained track record of success producing regional quality professional theatre, garnering critical acclaim and community support, and meeting financial budgets.
2. The Theatre Partner will have demonstrated experience presenting and educating audiences regarding the best of the theatrical lexicon and a reputation for developing and showcasing new work.
3. The successful Theatre Partner will provide a high quality, professional, theatre company. The theatre operator will endeavor to become Miami-Dade's flagship professional theater, capitalizing on the long established brand of the Coconut Grove Playhouse. Some hallmark traits of this theatre partner will include:
 - A focus on quality
 - Experience cultivating and sustaining resident theater professionals
 - A reputation for contributing to the development of theatrical literature
 - A history of collaboration and partnership
 - A track record of education and training
 - A reputation for community engagement
 - A history of successfully producing programming reflective of Miami's diversity
 - Proven ability to leverage private sector support
4. The successful Theatre Partner will develop and invest in superior educational efforts as a part of its core mission and deliver substantial programs to the community.

Significant relationships with local area public and private K-12 schools and collaborations with local area colleges and universities are expected.

5. The Theatre Partner will have the knowledge base to describe its physical requirements, and assist in developing an acceptable Phase I development plan that can be successfully executed within the available \$20 million bond allocation from Miami-Dade County. The Theatre Partner will be expected to actively participate in the planning and on-going development of the capital project.
6. The Theatre Partner will work with the Coconut Grove Playhouse Inc. in immediate business planning efforts in order to manage the impact on operations, and demonstrate sustainability of the proposed operation, once the facility is developed.
7. The successful Theatre Partner will create a board development plan to ensure strong internal leadership commitment to grow and support the institution and its service to the community. It will be led by a professional staff, and develop financial plans and accountability.
8. The successful Theatre Partner must have a demonstrated competence in achieving transparency and public engagement.
9. The successful Theatre Partner will bring theater back to the Grove as soon as possible. Even before the theater building is available, efforts will be made to build audiences through innovative programs in the community.
10. The successful Theatre Partner will meet standards which afford it eligibility for the Miami-Dade County Department of Cultural Affairs annual funding by committing to devote sufficient resources to:
 - Achieve national visibility & reputation
 - Strive to develop the theater system in the community, working to advance existing product.
 - Provide programming that engages the broad diversity reflected in Miami.
 - Produce a full season with on-going year-round programming
 - Maintain an emphasis on artistic quality
 - Serve as a hub for retaining, attracting and employing theater artists and artisans in the community
 - Provide a leadership presence in arts community
 - Engage in strong community partnerships, collaborate with community cultural organizations and conduct high profile community engagement activities
 - Leverage on-going private sector support
 - Establish high operational standards and “Best in Class” financial stability and controls
 - Prepare and update a long-term growth strategy
 - Re-establish the local and national brand

Memorandum



Date:

To: Honorable Chairman Dennis C. Moss
And Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Coconut Grove Playhouse



During the November 8, 2010 Recreation, Culture and Tourism Committee meeting, the attached report was handed out as a reference to the Oral Report listed on the agenda on the Coconut Grove Playhouse. As a follow-up action, the Committee requested that the report be forwarded to the Board of County Commissioners.

In addition, the following items are being addressed in response to the Committee's request:

- Code Violations Being Issued by the City of Miami on the Playhouse Property

At a meeting with the City Manager and Commissioner Marc Sarnoff on November 15, 2010, City officials agreed to cease issuing building citations to the Coconut Grove Playhouse. Representatives of the Coconut Grove Playhouse are continuing to appeal the citations previously issued by the City. Subject to the Board's review of the attached memorandum, we will review the issues of building citations and pending litigation as part of the due diligence necessary for the conveyance of the property.

- State of Florida Involvement with Ownership of the Playhouse

In a memorandum issued to the Board on June 3, 2010 we reported that the State of Florida Department of Environmental Protection (DEP) rejected a request by the City of Miami Commission to revert the Coconut Grove Playhouse property to the State. DEP referenced the progress being made by Miami-Dade County as evidence that there is a commitment and an active plan underway to re-open the Coconut Grove Playhouse. More recently, DEP officials continued to express support for the County's plan of action, specifically as outlined in the attached memorandum which was sent to DEP by our Department of Cultural Affairs.

Honorable Chairman Dennis C. Moss
And Members, Board of County Commissioners
Page 2

- Creating a Public-Private Partnership to Re-open the Playhouse

In order to return regional theater to Coconut Grove, the attached report recommends a public-private partnership between Miami-Dade County and GableStage, one of our community's most outstanding non-profit cultural organizations. As described more fully in the attached memorandum, the Board of the Coconut Grove Playhouse has worked diligently to identify a successor theater company capable of leading the Playhouse into its next era of producing great theater and cultural activities in Coconut Grove.

Attachments

Assistant County Manager