

EXHIBIT E

OPTION TO PURCHASE AGREEMENT

STATE OF NORTH CAROLINA

OPTION TO PURCHASE

COUNTY OF HALIFAX

THIS OPTION TO PURCHASE AGREEMENT (the "*Option to Purchase Agreement*") is made and entered into this 30 day of June, 2005, by and between MOONLIGHT BANDIT PRODUCTIONS, LLC, a North Carolina limited liability company (the "*Company*") and B&C ROANOKE, LLC, a North Carolina limited liability company, (the "*Developer*") (collectively, the "*Parties*");

RECITALS:

WHEREAS, contemporaneous with the execution of this Option to Purchase Agreement, the Parties entered into an Economic Development Agreement (the "*Agreement*") in connection with the development, construction and operation of entertainment facilities in and around the City of Roanoke Rapids, North Carolina (the "*City*") and Halifax County, North Carolina, such facilities to include music and entertainment theaters, restaurants, hotels, retail stores, etc. (the "*Project*").

WHEREAS, Developer, for one dollar (\$1.00) and other good and valuable consideration paid by Company, receipt of which is hereby acknowledged, does hereby give and grant to Company, its assigns, successors, nominees or representatives, the exclusive option (the "*Option*") to purchase under the terms hereof all of the Theater Land, together with the Theater and all improvements located thereon (the "*Property*").

1. **Property Description.** The Property is described at Attachment A, which is made a part hereof by reference.
2. **Term.** The term of this Agreement (the "*Option Term*") shall be for so long as the Sublease Agreement shall remain in full force and effect, or until Company gives notice in writing to Developer that it no longer desires to exercise this Option, whichever first occurs.
3. **Purchase Price.** The purchase price for said Property upon the exercise of the Option to purchase during the Option Term shall be ONE DOLLAR (\$1.00), plus the balance of Real Property Debt, including prepayment penalties, if any, and other costs associated with early retirement of the Real Property Debt (the "*Purchase Price*"). The amount paid for this Option shall be credited against the Purchase Price if this Option is exercised. If this option is not exercised, then the Developer shall retain the amount paid for this option.

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4. **Exercise of Option.** The Company may exercise this Option by delivery of written notice to Developer within the Option Term (the "**Notice to Purchase**"), which notice shall indicate the intent of the Company to exercise this option to purchase on the terms and conditions set forth herein, and which will state the requested date of closing of this transaction. The Company may include with its Notice to Purchase a proposed contract for the purchase of the Property.

5. **Closing Date.** If the Company elects to purchase the Property pursuant to the Option, the purchase and conveyance of the Property shall be completed within ninety (90) days following the date upon which the Notice to Purchase is given by the Company, unless such time limit is extended or renewed by mutual agreement of the parties hereto.

6. **Developer's Warranties.** The Developer represents and warrants to the Company as follows, which representations and warranties shall survive until Closing and/or through termination of this Option to Purchase Agreement, as applicable:

6.1 The Developer has received no written notice of, nor does it have any actual knowledge of any uncured violation of any municipal, county, state or federal law, ordinance, regulation or code which would affect the Property or any improvement thereon. If the Developer is notified of any such violation subsequent to the date hereof, the Developer will notify Company, and Developer may, in its sole discretion, elect to remove this violation at its sole cost and expense, or if Developer should elect not to remove this violation, the Company may: (i) elect to close the transaction contemplated hereby with knowledge of the violation; or (ii) elect to terminate this Option to Purchase Agreement.

6.2 Developer has received no notice of any actions, suits, litigation proceedings or investigations pending and, to the Developer's knowledge, there are none threatened against or affecting the Project, or Developer, and the Developer knows of no pending or threatened condemnation proceedings which would affect the Project or the legality, validity or propriety of the transactions contemplated by this Option to Purchase Agreement.

6.3 Developer has no actual knowledge of any claims or actions threatened or pending, which can or may result or ripen into liens by statute or rule of law.

6.4 Developer has all necessary power and authority to enter into this Option to Purchase Agreement and to carry out the transactions contemplated by this Option to Purchase Agreement.

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6.5 This Option to Purchase Agreement is the valid and binding obligation of the Developer and is enforceable in accordance with its terms. The Developer has obtained all necessary approvals essential to the validity and enforceability of this Option to Purchase Agreement.

6.6 The execution of this Option to Purchase Agreement and the consummation of the transactions described in this Option to Purchase Agreement will not violate any contract, order, indenture or agreement by which the Developer is bound.

6.7 In the event Company elects to exercise this Option, Property shall be sold/transferred to the Company "as is" with the Developer making no warranties either expressed or implied as to the structures, systems, equipment or fixtures on the Property; provided, however that all warranties given to or available to the Developer from third parties shall specifically be assigned to the Company upon transfer of the Property.

7. Offer to Purchase by Third Parties. During the Option Term, the Developer agrees not to accept or entertain third-party offers for the purchase/sale of the Property. After the Option Term or in the event the Company shall give notice in writing to Developer that it no longer desires to exercise this Option, then Developer shall have full right and authority to accept or entertain offers for the purchase of the Property by third parties.

8. Title to Property. Upon the exercise of this Option, Developer shall execute and deliver to Company at closing a special warranty deed conveying marketable fee simple title to the Property free and clear of all encumbrances except zoning regulations, restrictive covenants, easements of record, and ad valorem taxes for the year in which the Property is conveyed. Ad valorem taxes are to be prorated between the parties hereto as of the date of closing. The inability to deliver marketable fee simple title at closing, with the exception of the encumbrances listed above, or other encumbrances determined to be acceptable to Company in its sole discretion, shall be a basis at the Company's sole discretion to withdraw from and refuse to exercise the option.

9. Representation as to Brokerage Commissions. The Parties represent to each other that the sale contemplated by this Option was not brought about by any broker. Each Party indemnifies and agrees to save the other Party harmless from any cost, liability expense or other obligation resulting from any obligation or liability incurred by the indemnifying party to pay any brokerage commission, fee, expense or other form of compensation by reason of the sale and purchase of the Property pursuant to this Option.



10. **Notices.** Any notice required or permitted by this Agreement shall be given in accordance with the terms of the Agreement.

11. **Time is of the Essence.** Developer and Company understand and agree that in the performance of all obligations, acts and responsibilities set forth in this agreement, time is and shall be of the essence. Each party will take all necessary actions to expedite the performance of all obligations, acts and responsibilities.

12. **Assignment.** The Company may not assign this Option to Purchase Agreement without the prior approval and written consent of the Developer, which consent shall not be unreasonably withheld.

13. **Entire Agreement.** This Agreement sets forth the entire agreement and understanding of the parties with respect to the Agreement and the purchase and sale of the Property. It shall not be modified except in writing signed by the parties hereto.

14. **Construction.** This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina.

15. **Representations and Warranties Survive.** The representations and warranties of the Developer in this Agreement shall survive the closing.

16. **Expenses.** Whether or not the transactions contemplated hereby are completed, each party shall pay their own expenses with regard to the negotiation, preparation, execution and performance of this Agreement.

17. **Binding Effect.** This Option shall inure to the benefit and be an obligation of the Developer's successors and assignees and the Company's successors and assignees. In addition to the foregoing, in the event the City shall acquire rights to the Property during the Option Term, then the City shall assume all rights and responsibilities of the Developer hereunder, and the Company shall exercise this Option with the City.

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[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Option to Purchase Agreement to be executed in their corporate names by their duly authorized officers, all as of the date first above written.

MOONLIGHT BANDIT PRODUCTIONS, LLC

By: Randy H. Parton
Name: Randy H. Parton
Title: Member/Manager

B&C ROANOKE, LLC

By: Mark Senn
Name: Mark Senn
Title: Managing member

Executed by the City solely for the purpose of acknowledging rights to the Property that may arise as described in Paragraph 17.

[SEAL]

**CITY OF ROANOKE RAPIDS,
NORTH CAROLINA**

By: Drewery N. Beale
Drewery N. Beale, Mayor

ATTEST:

Lisa B. Vincent
Lisa B. Vincent, City Clerk

ATTACHMENT A

Description of Property

That certain tract or parcel of land lying and being situate in the City of Roanoke Rapids, Weldon Township, Halifax County, North Carolina, located at or near the intersection of the eastern boundary of the right of way for Interstate Highway 95, and the northern boundary of the right of way for N. C. Highway 125, to contain 15 acres, more or less, with the exact acreage, boundaries and location of the property to be determined by mutual agreement of the Parties to this Economic Development Agreement at a later time, but nonetheless to be located in the general area shown on that certain plan of "Roanoke Rapids Entertainment Park" dated March 9, 2005, done by DesignWorks, LC, a copy of which has been received by each of the Parties. The Parties agree that this Exhibit shall be amended at such time as a legal description with the exact acreage and boundaries have been determined and agreed to.

EXHIBIT F

ECONOMIC DEVELOPMENT INCENTIVE GRANT PROGRAM

**CITY OF ROANOKE RAPIDS
ECONOMIC DEVELOPMENT INCENTIVE GRANT PROGRAM**

PREAMBLE

The City of Roanoke Rapids (the "City") City Council (the "Council"), has determined that the general welfare of the residents of the City is directly benefited by fiduciarly sound economic development policies which promote the growth and diversity of the tax base and result in the creation of more high quality, well paying jobs. Pursuant to its ruling in Maready v. The City of Winston-Salem, et. al, the North Carolina Supreme Court has made clear that the expenditure of public funds to promote economic development is deemed to be for these legitimate public purposes.

The current competitive environment among states which regularly compete with North Carolina and cities which regularly compete with the City in business and industrial development projects, dictates that the City must adopt an Economic Development Incentive Grant Program ("EDI"), which is conservative and fiduciarly sound, in order to remain competitive in recruiting new business and industry and retaining expansions of existing businesses and industries currently located in the City. For these reasons, the Council hereby establishes EDI guidelines to encourage new businesses and industries to locate and existing businesses and industries to expand within the City. These guidelines are guidelines only. Each new or expansion project will be considered on a project-by-project basis. The Council takes this action in adopting these guidelines pursuant to authority granted by N.C. General Statutes §158-7.1, as interpreted by the North Carolina Supreme Court in Maready.

POLICY PRINCIPLES

These EDI guidelines are based upon, and any EDI arrangement with a new or existing company must be in compliance with fiduciarly sound public policy principles, which at a minimum include:

- Any EDI grants must provide the City a high return on investment, taking into account tax revenues of the business or industrial project over a ten year period from the date of the start-up of the project. N.C. General Statutes §158-7.1(d2).
- Any EDI grant must be preceded by an agreement with the company involved, binding it to minimum levels of capital investment and quality job creation, and providing for penalties and/or reductions in amounts of forward funded grants, in the event that it fails to meet these minimum required levels. N.C. General Statutes §158-7.1(d2)(2).
- Investments of City funds by way of EDI grants shall be in items which leave value in the City in the event of a curtailment or closure of the operations within the business or

industrial facility, such as site acquisition, site preparation, internal infrastructure, job training, etc.

It must be competitively necessary in the judgment of the City Council to provide such incentives in order to induce that project to locate or expand in the City.

The bedrock of the City's economy are the businesses and industries already located in the City. Consequently, the terms and application of the EDI policy are to result in existing businesses and industries receiving consideration for grants that are on terms equal to or better than those available to a company considering locating its first facility in the City.

EDI PROGRAM PARAMETERS

Each project will be considered on a project-by-project basis, using these guidelines established by the Council. These guidelines shall be subject to periodic review and may be modified, amended or terminated, due to changed economic conditions or competitive consideration. In the event of any modification, amendment or termination, EDI grants to which the City previously committed will not be affected.

In determining whether to make an EDI grant to a project, and if so, the amount of such grant, the Council will consider, among other relevant factors, the following matters:

- The total capital investment in the project including site acquisition, site improvement, building cost and equipment.
- The number, type and quality of jobs created.
- Wage levels for jobs created by the project.
- The potential for future expansions and increased employment.
- Site specific issues that impact on public infrastructure expansions which will stimulate development in areas of the City, which will benefit overall community development.
- Other factors deemed relevant by the Council in its discretion.

MINIMUM PROJECT QUALIFICATIONS

In order to qualify for consideration of an EDI grant from the City, the project must meet certain minimum threshold requirements. Meeting these threshold requirements does not indicate that the project will necessarily receive an EDI grant, and if so, the amount of such grant, inasmuch as the Council reserves sole discretion in this regard on a project-by-project basis. The minimum project qualifications are as follows:

- The minimum levels of capital investments are \$2,000,000 for a project on behalf of a

company which is a new project in the City, and capital expenditures for expansion of plant and/or equipment (which is not a planned replacement) that results in the addition of \$1,000,000 of assessed value on the tax rolls for a facility existing in the City.

For new projects, at least 25 new jobs must be created in the City over a period of 3 years. Expansion by companies already present in the City may either create or retain employment.

The wage levels of the jobs created must represent a competitive improvement for citizens of the City, in relation to the current prevailing wage levels in the Halifax County at the time.

For a project to be considered by the Council for an EDI incentive grant, it must meet all of the above minimum project qualifications. Additional qualifications may be required by the Council in its discretion on a project-by-project basis.

EXCLUSIONARY FACTORS

Even though a project might meet all of the above minimum project qualifications, it will not be considered by the Council for an EDI incentive grant if any of the following factors apply:

The expansion project would, for any reason, result in a new reduction of the ad valorem property tax valuation of all facilities in the City owned by the company, or its parent, subsidiary or affiliated companies.

An EDI Incentive grant will not be made if that company, or a parent, subsidiary or affiliated company, is not current in all ad valorem tax payments to the City.

No prior commitment to an EDI incentive grant shall be binding if the company originally receiving the grant assigns it to another company, unless the Council has consented to such assignment in writing.

The financial condition of the company receiving the grant must not be such that the ability of the company to meet its obligation is in doubt.

USE OF GRANT FUNDS

EDI incentive grants under these guidelines may be made at the time of the announcement that the project is locating in the City, or in installments to be paid in the future. Such grants may be used for one or more of the following purposes, depending upon the terms approved by the Council:

- Site acquisition.
- Site preparation.
- Internal site infrastructure.
- Other improvements to the site.
- Job training costs not otherwise reimbursed by grants from the Community College system or tax credits pursuant to the state statute.
- Other purposes which leave value in the community as determined by the Council on a project-by-project basis.

PROCEDURE FOR GRANT CONSIDERATION

The following procedure will be utilized in considering a project for an EDI incentive grant:

- The company will negotiate the terms of such grant agreement with the City Manager. Such discussions are negotiations only, inasmuch as the Council has the sole discretion and authority to finally agree to such grants.
- At a time agreeable to the company, given its confidentiality concerns, a public notice and a public hearing regarding the proposed grant will be given/held in accordance with the requirements of N.C. General Statutes §158-7.1.
- The Council will make a decision as to whether to approve the terms of the grant agreement.
- An EDI incentive grant agreement will be executed which contractually binds the City to make the grants, and the company to meet the capital investment, job creation and wage level requirements, to which they mutually agreed.
- The company will provide periodic verification of its compliance with the requirements to which it has agreed.

CONCLUSION

All EDI incentive grants will be considered on a project-by-project basis and by adopting these guidelines, the Council is not obligated to make any grants. In considering whether to provide EDI incentive grants for a project and if so how much, the Council will take into account grants made by any private sector economic development entity which serves within the City. These guidelines are not retroactive to any project which has been announced prior to the adoption of these guidelines. These guidelines are effective as of March 28, 2000.

EXHIBIT G

CONSTRUCTION ESTIMATES

Roanoke Rapids Entertainment
Phase I Theater

Land Cost

15 acres \$3,500,000

Theater Cost

Gross Area 35,610 sq. ft.
Audience Seating 1,400 seats

Concrete	265,177
Masonry	48,919
Metals	464,821
Carpentry	201,004
Thermal/Moisture Protection	85,332
Doors & Windows	126,704
Finishes	673,415
Specialties	1,365,000
State Rigging & Curtains	225,000
Audio	490,000
Video	125,000
Theatrical Lighting	450,000
Acoustic Treatment & Consultant	75,000
Equipment	6,500
Furnishings (theater seats)	189,000
Pre-Engineered Building	450,000
Mechanical	550,000
Electrical	375,000

Subtotal	4,800,872
General Conditions	201,235
Overhead	201,235
Contractor Fee	100,617
Base Construction Cost	5,303,959

Tap and Impact Fees	37,500
Soil Borings / Environmental / Civil	30,000
Property Survey	8,000
A / E Fees	276,698

Total Theater Cost \$5,656,157

Site Cost

15 acres at \$95,000/acre \$1,425,000

Streetscape

Landscaping, Lighting, Walkway,
Benches and other improvements

\$5,000,000 Total

130 acres Total

15 acres Theater

11.5% of Total

\$575,000

Soft Cost

Civil Engineering

50,000

Survey

20,000

Planning and Design

30,000

Construction Interest

280,000

Appraisal

10,000

Legal

40,000

Construction Management Fee

210,000

Development Fee

284,000

Contingency

210,000

Total Soft Cost

\$1,134,000

Total Cost

\$12,290,157