

NORTH CAROLINA

HALIFAX COUNTY

PERFORMANCE AND MANAGEMENT AGREEMENT

THIS PERFORMANCE AND MANAGEMENT AGREEMENT (the "Agreement") is made and entered into effective as of this the 20 day of November, 2007, by and among MOONLIGHT BANDIT PRODUCTIONS, LLC, a North Carolina limited liability company ("MLB"), RANDY PARTON ("Parton"), and THE CITY OF ROANOKE RAPIDS, a public body politic and a political subdivision of the State of North Carolina (the "City").

WITNESSETH:

WHEREAS, MLB and the City, among others, entered into an Economic Development Agreement dated June 30, 2005, as amended by a Supplement to Economic Development Agreement dated September 1, 2006, as further amended by a Second Supplement to Economic Development Agreement dated March 1, 2007, and as finally amended by two Amendments to Economic Development Agreement, both dated August 30, 2007 (collectively, the "EDA"); and

WHEREAS, MLB and the City entered into a lease agreement on the terms set forth in a Memorandum of Lease dated March 6, 2007 and recorded at Book 2179, Page 261, Halifax County Registry, which incorporates a Lease-Purchase Agreement between B&C Roanoke, LLC as Lessor-Seller and the City as Lessee-Buyer dated June 30, 2005, and a Sublease Agreement between the City as Sublessor and MLB as Sublessee dated June 30, 2005 (collectively, the "Lease"); and

WHEREAS, MLB and the City entered into an Option to Purchase Agreement dated March 6, 2007 (the "Option"), in which the City granted MLB an option to purchase the real property leased pursuant to the Lease, and a Memorandum of Option to Purchase Real Estate dated March 6, 2007 and recorded at Book 2179, Page 264, Halifax County Registry; and

WHEREAS, MLB, the City, and B&C Roanoke, LLC entered into a Subordination, Nondisturbance and Attornment Agreement with Bank of America, N.A. dated September 21, 2006, and MLB and the City entered into a Subordination, Nondisturbance and Attornment Agreement with Bank of America, N.A. dated March 6, 2007 (collectively, the "SNDA"); and

WHEREAS, MLB and the City entered into the EDA, the Lease, the Option, the SNDA, and other agreements in connection with the purchase, construction, lease, and operation of the Randy Parton Theatre (the "RPT"), as described in such documents; and

WHEREAS, MLB and the City hereby agree that the operation of the RPT must now enter a new phase of development, necessitating a restructuring of the current relationship between the parties as set forth herein.

NOW, THEREFORE, in consideration of the mutual benefits to be derived hereby, the parties agree as follows:

1. Management and Operation of RPT. MLB and Parton hereby agree that the City shall immediately take over all aspects of management and operation of the RPT, except as otherwise specifically set forth herein. MLB and Parton hereby agree that the City may engage a management company to manage and operate the RPT without any additional consent or approval from them. MLB and Parton hereby assign to, and the City hereby assumes all liability for all contracts or agreements currently in place with MLB or Parton in connection with the management and operation of the RPT and which are specifically listed on Schedule 1 attached hereto (the "Assumed RPT Contracts"). Any property or assets which are pledged as security for any of the Assumed RPT Contracts shall become the property of the City. To the extent allowed by law, the City hereby agrees to indemnify, defend, and hold harmless Parton, MLB, and MLB's members, managers, agents, and employees, from and against any and all damages, claims, liability, costs, and expenses, including attorneys' fees and costs of litigation, arising or in any way connected to the Assumed RPT Contracts or the City's management and operation of the RPT. Under no circumstances does the City assume or become obligated in any way for any income tax liability of MLB or Parton.

Notwithstanding the foregoing, the parties hereby agree that all receipts and expenses arising from or incurred in connection with the reasonable operation of the RPT in the ordinary course will be the property and obligation of the City, regardless of the date such receipts are received or expenses incurred. Further, it is agreed that immediately upon the execution of this agreement by both parties, any cash on hand held by MLB resulting from Revenue as defined in the EDA or resulting from prior disbursements from the Reserve Fund shall be remitted to the Reserve Fund and become the property of the City.

2. Termination of Agreements. In connection with the above-described restructuring of the management and operation of the RPT, MLB, Parton, and the City hereby agree that the EDA, the Lease, the Option, the SNDA, and all other agreements entered into by MLB and/or Parton with the City in connection with the RPT are hereby terminated and cancelled and are of no further force and effect effective as of the date hereof.

3. Mutual Release. Except for the obligations contained in this Agreement, the City, for itself and its successors and assigns, hereby irrevocably and unconditionally releases, remises, acquits, and forever discharges Parton, MLB, and MLB's members, managers, agents and employees, of and from all liability, claims, demands, attorneys' fees, taxable costs, and causes of action of any kind or character, whether known or unknown, accrued or to accrue, which have arisen as of the date hereof, including but not limited to, any obligation on the part of Parton or MLB to repay all or any portion of the Good Faith Deposit, as defined in the EDA, or any other monies or funds to the City.

Except for the obligations contained in this Agreement, MLB and Parton, for themselves and their respective heirs, successors, and assigns, hereby irrevocably and unconditionally release, remise, acquit, and forever discharge the City, its elected officials, officers, agents, and employees, of and from all liability, claims, demands, attorneys' fees, taxable costs, and causes of action of any kind or character, whether known or unknown, accrued or to accrue, which have arisen as of the date hereof, including but not limited to, any obligation on the part of the City to pay MLB all or any portion of the funds remaining in the Reserve Fund, as defined in the EDA.

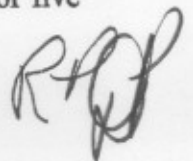
Without limiting the generality of the foregoing, the City hereby agrees to use its best efforts to have Bank of America, N.A. release MLB and its members, managers, agents, and employees of and from any liability arising under the SNDA, and the City hereby agrees to indemnify, defend, and hold harmless Parton, MLB, and MLB's members, managers, agents, and employees, from and against any and all damages, claims, liability, costs, and expenses, including attorneys' fees and costs of litigation, arising from or in any way connected to the SNDA.

4. Performances and Shows. Parton and MLB hereby agree Parton shall continue to perform full-time on the current schedule through December 31, 2007. Thereafter, upon the request of the City, Parton hereby agrees to perform up to four (4) shows on successive nights per month, but no more than thirty-six (36) performances, shows, or appearances per year at the RPT. Likewise, Parton may schedule to perform at the RPT and has the right to perform up to four (4) shows on successive nights per month, but no more than thirty-six (36) performances, shows, or appearances per year at the RPT. Regardless of whether Parton's performances are requested by the City or by Parton, Parton will not perform more than thirty-six (36) shows per year. For each performance, show, or appearance at the RPT, the City and Parton shall give the other sixty (60) days advance written notice so that necessary arrangements can be made. Neither the City nor Parton shall unreasonably refuse to perform or make the RPT available for a performance for which sixty (60) days advance written notice has been given. The City and Parton agree to exercise reasonable efforts to schedule around conflicts the other party may have regarding such performances. For each performance, show, or appearance by Parton at the RPT after January 1, 2007 through January 1, 2012, the City shall pay Parton a \$250.00 per diem to cover his costs and expenses regardless of which party schedules the performance. For each performance, show, or appearance, Parton shall use his best efforts to perform at the professional standard for such artists and the City shall use its best efforts to have the RPT operating at a level to accommodate a professional performance.

MLB and Parton hereby agree that the City may continue to use the current productions of the "Little Bit of Life" and the "Carolina Christmas" shows at the RPT for five (5) years from the date hereof. The City hereby acknowledges that these two productions are the sole property of MLB and Parton, and the City agrees that no changes shall be made to either show without the prior express written consent of Parton. Parton shall have the right to perform all or any portion of either show at other locations. MLB and Parton hereby acknowledge that the City is under no obligation to retain any of the current performers of these two shows, including without limitation Heidi Parton.

5. Parton Name and Image. MLB and Parton hereby agree that for five (5) years from the date hereof the City shall have the right, but shall not be obligated, to continue to use the name "Randy Parton Theatre" for the RPT. MLB and Parton hereby agree that for five (5) years from the date hereof the City may use Parton's image, name, and likeness to promote the RPT and events taking place at the RPT. Each such use of Parton's image, name, or likeness shall be subject to Parton's prior written approval, which shall not be unreasonably withheld.

6. Artist Fee. In consideration for Parton's performances at the RPT, the use of Parton's image, name, and likeness in connection with the RPT, and for the use of the "Little Bit of Life" and the "Carolina Christmas" shows at the RPT, the City hereby agrees to pay Parton the sum of Two Hundred Fifty Thousand Dollars (\$250,000) annually (the "Artist Fee") for five



(5) years from the date hereof. The Artist Fee shall be paid in advance in quarterly installments of Sixty-Two Thousand Five Hundred Dollars (\$62,500), with the first payment to be made on or before January 1, 2008. The City hereby agrees that the payment of the Artist Fee hereunder is guaranteed to Parton and is not in any way tied or subject to the continued operation of or revenues from the RPT, and the City shall remain liable to Parton for payment of the Artist Fee regardless of whether the City no longer requests that Parton perform at the RPT, no longer uses Parton's image, name, or likeness in connection with the RPT, or no longer uses the "Little Bit of Life" and the "Carolina Christmas" shows at the RPT.

7. Concessions; Artist Intellectual Property. For five (5) years from the date hereof, the City shall stock and sell from the Gift Shop at the RPT, Randy Parton and RPT-related merchandise containing or displaying Artist Intellectual Property ("AIP"), as defined in the EDA. This includes, but is not limited to, food and drink sold through the Gift Shop but not consumed at the RPT. The parties hereto agree that the "margin" (defined as the difference between the City's cost for the item, not including overhead, and the sales price of the item, not including sales tax) from all sales of AIP from the RPT Gift Shop shall be divided evenly, with fifty percent (50%) of such margin being paid to Parton on a monthly basis and the other fifty percent (50%) being retained by the City. The City hereby agrees to provide with each monthly payment documentation showing the amount of total AIP sales and the cost of such items. Parton shall be entitled at all reasonable times to review and audit the financial records of the RPT operations to confirm such AIP sales.

8. Option to Purchase. The City hereby gives and grants to MLB and Parton the exclusive option to purchase all of the real and personal property at the RPT for a purchase price that is the greater of (a) the remaining balance of the Real Property Debt, as defined in the EDA, owed on the RPT or (b) the fair market value of the RPT at the time of the exercise of this option (the "Option"). This option may be exercised by MLB and Parton by giving written notice to the City at any time up to five (5) years from the date hereof. Closing on the sale of the real and personal property shall take place no more than ninety (90) days following the giving of written notice of the exercise of this Option. This Option shall expire if written notice of the exercise of this Option is not given within five (5) years of the date hereof. For the purposes of this option, the description of the real property of the RPT shall be that tract or parcel of land described in the Memorandum of Option to Purchase Real Estate dated March 6, 2007 and recorded at Book 2179, Page 264, Halifax County Registry. Upon request, the parties hereto agree to execute an Amended Memorandum of Option to Purchase Real Estate reflecting the terms of this Option to be recorded in the Halifax County Registry. At closing, fee simple marketable title to the real and personal property subject to this Option shall be delivered by the City free and clear by general warranty deed and bill of sale. For five (5) years from the date hereof or until the earlier exercise of this Option, the City agrees not to accept or entertain third-party offers for the purchase and sale of the real and personal property at the RPT.

During the five (5) year period that the Option is exercisable by MLB and Parton, the City shall have the right to refinance the Real Property Debt without any consent by or notice to MLB or Parton, provided such refinancing does not increase the outstanding balance of the Real Property Debt or otherwise impair the exercise of this Option by MLB or Parton. Notwithstanding the foregoing, MLB and Parton agree the amount that may be refinanced may include the City's costs incurred with such refinancing.



9. No Pledge of Faith and Credit. Notwithstanding anything to the contrary in this Agreement, no provision of this Agreement shall be construed or interpreted as creating a pledge of the faith and credit of the City within the meaning of any constitutional or statutory debt limitation. No provision of this Agreement shall be construed or interpreted as creating a delegation of governmental powers nor as a donation by or a lending of the City's credit within the meaning of the constitution or statutes of the State of North Carolina. This Agreement shall not directly, indirectly, or contingently obligate the City to make any payments beyond those appropriated in the sole discretion of the City Council for any fiscal year in which the Agreement is in effect; provided, however, any failure or refusal by the City to appropriate funds, which results in the City's failure to make any payment coming due pursuant to this Agreement, will in no way excuse the City from termination of this Agreement for default resulting from such nonpayment. No deficiency judgment may be sought by any party to this Agreement or rendered against the City in any action for breach of a contractual obligation under this Agreement. The taxing power of the City is not and may not be pledged directly, indirectly, or contingently to secure any monies under this Agreement or any related agreement, contract, or understanding.

10. Notice. Any notice or other communication required or which may be given hereunder shall be in writing and be hand delivered, or mailed to the parties by U.S. Mail, postage prepaid, or delivered by overnight courier, or sent via facsimile transmission or electronic mail, to the any other party at the address listed below, or to such other address or addresses as the parties may designate in writing. Such notice shall be deemed given when hand delivered, when deposited in the U.S. Mail or with an overnight carrier, or when sent by facsimile transmission or electronic mail provided confirmation of receipt is retained.

If to the City: City Manager
1040 Roanoke Avenue
P.O. Box 38
Roanoke Rapids, NC 27870
Fax No.: 252.533.2809

With a copy to: M. Glynn Rollins, Jr., Esq.
Rollins & Rollins
14 East 11th Street
P.O. Box 898
Roanoke Rapids, NC 27870
Fax No.: 252.535.1263

If to MLB or Parton: Randy & Deb Parton, Managers
Moonlight Bandit Productions, LLC
110 Charleston Place
Roanoke Rapids, NC 27870

And: Randy & Deb Parton
3460 Wiley Noland Road
Sevierville, TN 37876

With a copy to:

J. Nicholas Ellis, Esq.
Poyner & Spruill LLP
130 S. Franklin Street (27804)
P.O. Box 353
Rocky Mount, NC 27802-0353
Fax No.: 252.972.7045

11. Modification and Assignment. This Agreement may not be modified, amended, or assigned, in whole or in part, except in writing signed by all of the parties hereto.

12. Binding Effect. Subject to the provisions of paragraph 10 hereof, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and assigns.

13. Entire Agreement. This Agreement shall constitute the entire understanding between the parties, superseding any and all previous understandings, oral or written, pertaining to the subject matter contained herein.

14. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument, binding on all parties to this Agreement, notwithstanding that all parties may not have executed all counterparts or the same counterpart.

15. Further Assurances. From and after the execution of this Agreement, upon the reasonable request of any party hereto, the parties shall execute, acknowledge, and deliver all such documents and assurances, and comply with any other requests, as may be reasonably required or otherwise appropriate and necessary to carry out the transactions contemplated by this Agreement.

16. Governing Law. This Agreement shall be deemed a contract entered into, delivered, and made in the State of North Carolina, and it shall be governed, construed, interpreted, and enforced in accordance with the laws of the State of North Carolina, notwithstanding the principles of conflicts of law.

17. Severability. If any provision of this Agreement, or portion thereof, shall be determined to be void or unenforceable by any court of competent jurisdiction, then such determination shall not affect any other provision of this Agreement, or portion thereof, all of which other provisions and portions thereof shall remain in full force and effect. If any provision of this Agreement, or portion thereof, is capable of two interpretations, one of which would render the provision, or portion thereof, void and the other of which would render the provision, or portion thereof, valid, then the provision, or portion thereof, shall have the meaning which renders it valid.

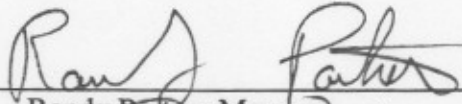
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D. N. Beal
R. J. [Signature]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in the manner provided by law, all to be effective as of the day and year first above written.

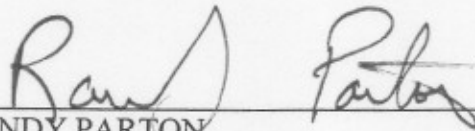
MLB:

MOONLIGHT BANDIT PRODUCTIONS, LLC

By: 
Randy Parton, Manager

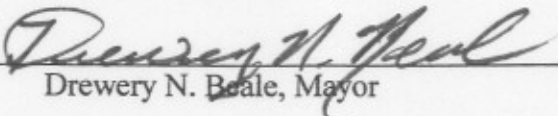
By: 
Deb Parton, Manager

PARTON:

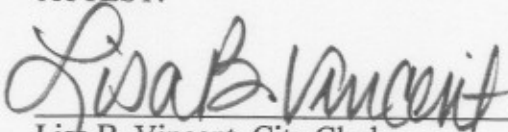

RANDY PARTON

THE CITY:

CITY OF ROANOKE RAPIDS, NORTH CAROLINA

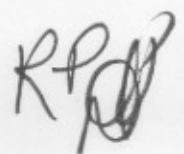
By: 
Drewery N. Beale, Mayor

ATTEST:


Lisa B. Vincent, City Clerk

[SEAL]





Schedule 1

Assumed RPT Contracts

1. All Employment Agreements with all "Performers"
2. Consulting Agreement with Gary Medlin
3. Sponsorship Consulting Contract with Sports & Properties, Inc.
4. Consulting Contract with Janis O'Neill
5. Sponsorship contract with Citizens Community Bank
6. Garner Landscaping & Lawn Care, Inc.
7. Martin Exterminating
8. ASCAP Blanket License Agreement
9. Lighting lease agreement with U.S. Express Leasing, Inc.
10. Contract with French/West/Vaughan
11. Alltemp Mechanical
12. American Waste Systems
13. Blumenthal Associates
14. Dex
15. Tickets.Com
16. Embarq
17. Pitney Bowes
18. RSM Gladrey
19. Xerox

