

INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE CITY OF ARVADA
ON BEHALF OF THE ARVADA CENTER FOR THE ARTS AND HUMANITIES AND THE
CITY OF LONE TREE TO FORMALIZE A PARTNERSHIP FOR THE PRESENTATION OF
THE ARVADA CENTER PERFORMING ARTS PRODUCTION OF DIRTY ROTTEN
SCOUNDRELS.

THIS INTERGOVERNMENTAL AGREEMENT entered into this 4th day of September, 2012, by the City of Arvada on behalf of the Arvada Center for the Arts and Humanities, a Colorado home rule municipal corporation, whose mailing address is 8101 Ralston Road, P.O. Box 8101, Arvada, Colorado 80001 ("Arvada") and the City of Lone Tree, a Colorado home rule municipal corporation whose mailing address is 9220 Kimmer Drive, Suite 100, Lone Tree, Colorado 80124 ("Lone Tree") collectively referred to as ("the Parties").

WHEREAS, intergovernmental agreements ("IGAs") between political subdivisions of the State of Colorado are authorized by C.R.S. § 29-1-203; and

WHEREAS, Lone Tree wishes to host a performing arts production at the Lone Tree Arts Center; and

WHEREAS, Arvada has one production they wish to have hosted at the Lone Tree Arts Center; and

WHEREAS, Arvada and Lone Tree entered into an Intergovernmental Agreement in 2011 to formalize a partnership for the presentation of two productions at the Lone Tree Arts Center during the 2011-2012 season; and

WHEREAS, Lone Tree and Arvada wish to enter into a second partnership for the presentation of one Arvada Center production for the 2012-2013 season to be held at the Lone Tree Arts Center.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements herein contained, the parties hereby agree as follows:

1.0 SCOPE OF WORK.

- 1.1 Arvada shall grant Lone Tree the rights to present the Arvada Center Production entitled "Dirty Rotten Scoundrels" at the Lone Tree Arts Center during the 2012-2013 theater season.
- 1.2 Arvada will ensure that it has secured all necessary rights to perform the production at the Lone Tree Arts Center.
- 1.3 Arvada will ensure that the production will have substantially similar personnel and production values as when it is staged in Arvada. Any material changes shall be approved in advance by the Lone Tree Arts Center.

- 1.4** The production shall have a runtime of two (2) weeks. For the purpose of this Agreement, runtime shall include load-in/set-up, technical preparation and rehearsal as needed. Attached as Exhibit ‘A’ to this agreement is a schedule of all performances to be performed at the Lone Tree Arts Center.
- 1.5** Arvada will provide all the actors, understudies, musicians, staging, sets, costumes and crew necessary to fulfill the terms of the Agreement.
- 1.5.1** Arvada is responsible for the sound design of the production in Arvada and will oversee the transfer of that design and any necessary equipment used in Arvada to Lone Tree. Arvada’s Sound Designer will make best efforts to recreate the original design within the parameters of Lone Tree’s house and in-house system. Lone Tree will engage and pay for a Sound Engineer to work alongside the Sound Designer and Arvada production staff during load-in and technical rehearsals to implement any sound design modification or mix for all Lone Tree performances. Arvada will engage and pay for a Sound Board Operator to mix each performance. The signal routing and overall level of sound mix for each of those performances in Lone Tree will be at the sole discretion of Lone Tree production personnel.
- 1.6** Arvada will meet payroll, insurance, pension, and any other statutory obligations for the cast and crew who are either under contract with the City of Arvada or employees of the City of Arvada.
- 1.7** Lone Tree shall supply all house management and ushers necessary to present the production.
- 1.8** Lone Tree shall keep an accurate weekly accounting of gate receipts for the production and provide that data to Arvada for the purposes of satisfying the license and royalty agreement.
- 1.9** Published single ticket pricing for the production of “Dirty Rotten Scoundrels” at Lone Tree is mutually agreed upon and shown below. Lone Tree reserves the right to establish and offer its own discount programs for Lone Tree performances just as Arvada reserves the same right for its performances. Neither Arvada nor Lone Tree shall be required to consult with the other in creating and implementing their respective discount programs.

Agreed upon published single ticket pricing at Lone Tree

Premium - WE	\$ 62.00
Select - WE	\$ 58.00
Standard - WE	\$ 55.00
Premium - WD	\$ 58.00
Select - WD	\$ 54.00
Standard - WD	\$ 42.00

1.10 Lone Tree shall provide up to fifteen (15) tickets to the City of Arvada for the Arvada production in Lone Tree.

2.0 TERM

2.1 Arvada shall provide the production of "Dirty Rotten Scoundrels" to be performed at the Lone Tree Arts Center during the two week period of October 1, 2012 through October 14, 2012. The Parties agree that the actual scheduling of load in, rehearsal, performance, and load out within this timeframe may be determined by a separate Addendum to this Agreement and hereby designate Lisa Rigsby Peterson, Executive Director of the Lone Tree Arts Center, and Clark Johnson, Chief Operating Officer of the Arvada Center for the Arts Humanities, as those persons authorized to determine those dates and execute that Addendum.

3.0 PAYMENT

3.1 Lone Tree shall pay Arvada an all-inclusive fee of One Hundred Eighty Thousand Dollars and No Cents (\$180,000.00), for the right to present "Dirty Rotten Scoundrels" at the Lone Tree Arts Center. Under this Agreement and in exchange for this fee, Lone Tree will receive a fully-staged and fully-rehearsed production ready for immediate performances after sufficient load-in and technical rehearsal. This fee includes all transfer, load-in, set-up, strike and load-out costs; all designer, director, choreographer, actor, musician and crew salaries or fees; equipment rentals if applicable; housing and transportation for all cast and crew who are either under contract with the City of Arvada or employees of the City of Arvada; and any and all other costs that are necessary or incidental to the presentation of the production incurred during those weeks in which they are being presented at the Lone Tree Arts Center. The only expense not included in this fee is royalty payments based on ticket sales due from Lone Tree to Arvada, which will be billed separately as in Paragraph 3.6.

3.2 The fee for the production of "Dirty Rotten Scoundrels" shall be payable to the City of Arvada in two (2) equal payments.

3.2.1 Payment One (1) shall be due no later than October 1, 2012 in the amount of \$90,000.00.

3.2.2 Payment Two (2) shall be due no later than November 15, 2012 in the amount of \$90,000.00.

3.3 If the production in Lone Tree is cancelled by Arvada for any reason other than force majeure, Arvada shall refund to Lone Tree the full amount paid as a fee hereunder, such payment to be made within fifteen (15) days of cancellation.

- 3.4** In the event that Arvada cancels a performance for any reason, it will deduct a pro-rated portion of the fee equal to one-thirteenth (1/13) of the full fee paid.
- 3.5** In the event that Lone Tree cancels a performance for any reason, the fee due to Arvada will not change and no pro-rated deductions will be allowed.
- 3.6** For the Production, Lone Tree shall pay to the Arvada Center the weekly total of a minimum of Two Thousand Dollars and No Cents (\$2,000) against eleven percent (11%) of the weekly adjusted gross box office receipts, whichever is greater, for the production while it is in performance at the Lone Tree Arts Center to satisfy the requirements of Arvada's royalty agreement. Further, in accordance with Arvada's royalty agreement, Lone Tree shall provide all necessary information to Arvada within the required time, as further described in Exhibit "B".
- 3.7** The Parties agree that certain marketing/promotional costs for the above-referenced productions hosted by the Lone Tree Arts Center may be divided between the Parties. The Parties further agree that the actual sharing of these marketing/promotional costs will be determined by a separate Addendum to this Agreement and hereby designate Lisa Rigsby Peterson, Executive Director of the Lone Tree Arts Center, and Clark Johnson, Chief Operating Officer of the Arvada Center for the Arts Humanities, as those persons authorized to determine those costs and execute that Addendum.

4.0 LIABILITY, INSURANCE AND GOVERNMENTAL IMMUNITY.

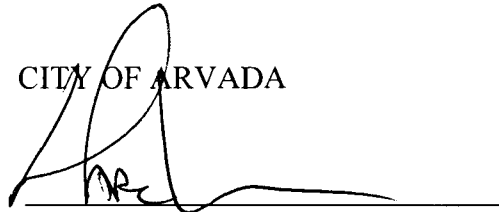
- 4.1** Arvada and Lone Tree, as governmental entities of the State of Colorado, are entitled to certain immunities under Colorado law, including the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*, and are self-insured for \$150,000.00 per person and \$600,000.00 per occurrence as more fully set forth in Risk Management laws, C.R.S. §§ 24-30-1501, *et seq.* The parties agree that such insurance shall satisfy all insurance requirements of this Agreement except as otherwise specified herein.
- 4.2** Lone Tree agrees that it will maintain appropriate levels of insurance for hosting a performing arts event.
- 4.3** The Colorado Constitution prohibits Arvada and Lone Tree from agreeing to indemnify any other party, public or private. In addition, the Colorado Governmental Immunity Act limits the tort liability of public entities and their employees and authorized volunteers acting in the course of authorized governmental undertakings. Any provision of this Agreement, whether or not incorporated herein by reference, shall be controlled, limited and otherwise so modified by statute. Parties to this Agreement should seek liability protection through their own insurance or otherwise.

- 4.4** Arvada agrees that its production, including Arvada employees and contractors working on the production in Lone Tree, will comply with all local laws and safety regulations, and Arvada agrees to modify its production to comply with local laws and safety regulations upon notification of violation.
- 5.0 TERMINATION.** This Agreement may be terminated as follows:
- 5.1 For Convenience.** Either party may terminate this Agreement for any reason by providing ninety (90) days written notice to the other party of its intention to terminate.
- 5.2 For Default.** A party will be considered in default of its obligations under this Agreement if such party should fail to observe, to comply with, or to perform any term, condition, or covenant contained in this Contract and such failure continues for ten (10) days after the non-defaulting party gives the defaulting party written notice thereof. In the event of default, the non-defaulting party, upon written notice to the defaulting party, may terminate this Contract as of the date specified in the notice, and may seek such other and further relief as may be provided by law.
- 6.0 FORCE MAJEURE.** Any delays in or failure of performance by any party of his or its obligations under this Agreement shall be excused if such delays or failure are a result of acts of God, fires, floods, strikes, labor disputes, accidents, regulations or orders of civil or military authorities, shortages of labor or materials, or other causes, similar or dissimilar, which are beyond the control of such party.
- 7.0 NO THIRD PARTY BENEFICIARIES.** It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement shall be strictly reserved to the parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person. It is the express intention of the parties that any person other than a party to this Agreement receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.
- 8.0 JURISDICTION AND VENUE.** This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in the appropriate state or federal court.
- 9.0 ASSIGNMENT.** No assignment of this Agreement or the rights and obligations hereunder shall be valid without the prior written approval of the parties.
- 10.0 WAIVER.** The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach of the same or other provision hereof.

- 11.0 ANTI-DISCRIMINATION.** The parties agree that in the performance of this Agreement, there will be no discrimination against students, employees, or other persons related to race, color, sex, religion, creed, age, national origin, sexual orientation, or disability.
- 12.0 AMENDMENT.** Any amendment to this Agreement must be in writing and must be signed by the parties.
- 13.0 SEVERABILITY.** In the event that any provision of this Agreement is held unenforceable for any reason, the remaining provisions of this Agreement shall remain in full force and effect.
- 14.0 ENTIRE UNDERSTANDING.** This Agreement represents the entire understanding of the parties and may be amended only upon written agreement of the Parties.
- 15.0 NOTICES.** All notices given under this Agreement must be in writing and delivered personally or by certified mail, return receipt requested and postage prepaid, to all parties at the addresses written at the end of this Agreement. Notice shall be deemed given as the date and delivery in the case of personal notice; in the case of mailing by certified mail, notice shall be deemed given on the date of mailing.


APPROVED AND ADOPTED THIS 4th day of September, 2012.

CITY OF ARVADA



Marc Williams, Mayor
8101 Ralston Road
P.O. Box 8101
Arvada, Colorado 80001-8101

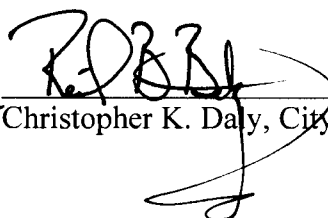
ATTEST:

Deputy


Kristen R. Rush
City Clerk

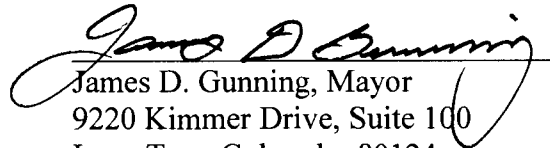


APPROVED AS TO FORM:



For Christopher K. Daly, City Attorney

CITY OF LONE TREE


James D. Gunning, Mayor
9220 Kimmer Drive, Suite 100
Lone Tree, Colorado 80124

ATTEST:
Jennifer Pettinger, CMC.


City Clerk



EXHIBIT B
Royalty Agreement
Dirty Rotten Scoundrels
(following page)

CONTRACT RIDER
COMPLETE THIS COPY AND RETURN TO MTI

Your MTI Rep: MATT BOETHIN
Your MTI Account Number: 0351070
Contract No: 0578323 Printed On: 03/13/12

PROFESSIONAL LICENSE RIDER

NAME OF SHOW: DIRTY ROTTEN SCOUNDRELS

Contract dated 03/13/12 between Music Theatre International (MTI") and ARVADA CENTER THEATRE COMPANY ("You")

ROYALTY

- A. Royalty: You agree to pay Music Theatre International a royalty of Two Thousand (\$2,000) dollars against Eleven percent (11%) of the of the weekly gross box office receipts, whichever is greater, of the Play hereunder.
- B. You further agree to deliver to MTI, not later than Ten (10) business days following the final performance of each week of the engagement, complete box office statements for each performance, certified by the box office treasurer and/or other responsible officer and accompanied by any and all sums shown to be due to MTI thereby and per the terms above. In the event that box office statements and applicable royalty payment are not received by MTI within Ten (10) business days following the final performance of each week, You shall be assessed a penalty of ten (10%) of the royalties payable to MTI that are attributable to that week.
- C. For the purpose of this license, Gross Box Office Receipts shall mean the total receipts, after the deduction of only the following: (i) Federal, State, and local admission taxes actually paid; (ii) restoration fees or surcharges for which you have furnished MTI appropriate governmental substantiation or documentation (iii) theatre party or benefit discounts, and/or group sales commissions not to exceed 10%; (iv) commissions actually paid to credit card companies, not to exceed 5% in total; (v) commissions actually paid in connection with automated ticket distribution or remote box offices, such as TicketMaster, agencies, or telephone charge systems such as Chargit or Telecharge not to exceed 7%; (vii) ticket subscription charges of net subscription sales not to exceed 12%. No ticket shall be subject to more than one of the ticketing commissions set forth above (e.g. credit card commissions shall not be taken on any ticket sale on which group sale, phone sale, remote box office or subscription commission is taken).
- D. Time shall be of the essence in all of the obligations in this rider and if not fulfilled by the Producer, the within license shall automatically terminate in accordance with the provisions of Section II, Paragraph 7 hereunder.

ACCEPTANCE

By signing below, you agree that you have read and that you understand the terms and conditions set forth in this Contract Rider and the accompanying Performance License and agree to abide by terms and conditions contained therein. A copy of MTI's Performance License can be found online at www.MTIShows.com/PerfLicense

YOUR NAME Clark Johnson TITLE Chief Operating Officer
 AUTHORIZED SIGNATURE [Signature] DATE 3/27/2012
 HOME TELEPHONE 720.898.7212 EMAIL Cjohnson@arvadacenter.org

YOU MUST COMPLETE AND RETURN THIS PAGE WITH PAYMENT

Approved as to form [Signature] for City Attorney