

AGREEMENT

THIS AGREEMENT, made this 15th day of February, 1993 by and between COLFAX AT THE PARK, a Colorado non-profit neighborhood organization (hereinafter "CAP"), SOUTH CITY PARK NEIGHBORHOOD ASSOCIATION (hereinafter "SCPNA"), CONGRESS PARK NEIGHBORS, INC (hereinafter "CONGRESS PARK"), and CAPITOL HILL UNITED NEIGHBORHOODS, INC., a Colorado non-profit neighborhood organization (hereinafter "CHUN"), (hereinafter jointly referred to as "THE NEIGHBORS") and Swanick Management, Inc. A Colorado Corporation (hereinafter "BLUEBIRD").

RECITALS

- A. THE NEIGHBORS are registered neighborhood organizations in Denver, Colorado, whose neighborhoods either contain or are adjacent to that building commonly known as the Bluebird Theater, located at 3315 East Colfax Avenue, Denver, Colorado (the "Theater").
- B. BLUEBIRD wishes to purchase, redevelop and operate the Theater.
- C. BLUEBIRD wishes to obtain a liquor license for service of liquor only during planned performances at the Theater; and wishes to obtain a dance cabaret license for the purpose of limited incidental dancing associated with certain musical performances.
- D. BLUEBIRD wishes to obtain the support of THE NEIGHBORS for its planned or pending applications for a liquor license and dance cabaret license or, at a minimum to obtain a commitment from THE NEIGHBORS that they will not oppose such applications.
- E. THE NEIGHBORS wish to obtain certain enforceable agreements from BLUEBIRD prior to agreeing to support, or agreeing not to oppose, as the case may be, BLUEBIRD's pending application.

IN CONSIDERATION OF the mutual promises and covenants contained herein, the adequacy of which are hereby admitted, THE UNDERSIGNED PARTIES HEREBY AGREE as follows:

1. NOISE. The theater will be operated with all doors and windows closed at all times during any performance. BLUEBIRD agrees that in the event appreciable sound due to events within the Theater is audible outside the Theater and of sufficient level to disturb nearby residents or businesses, or noise from patrons similarly disturbs nearby residents or businesses, it will take immediate steps to mitigate the problem. If any steps taken to mitigate the problem by BLUEBIRD are not satisfactory to any of THE NEIGHBORS or the residents or owners they represent, then the dispute will be resolved through arbitration as set forth in paragraph 11.(c) herein.

2. PARKING. BLUEBIRD agrees to use best efforts to furnish "off-street" parking for its patrons. THE NEIGHBORS expect and acknowledge that BLUEBIRD will make use of the on-street parking (estimated to be an average of 45 available spaces within a block on either side of The Theater) on Colfax for its customers. BLUEBIRD agrees it will initiate and make every reasonable effort, and assist in efforts by THE NEIGHBORS, to prevent use of the streets in front of surrounding residences by Theater patrons for Theater event parking.

BLUEBIRD shall pursue a total of two hundred (200) "off-street" parking spaces. BLUEBIRD has secured preliminary commitments from neighborhood businesses for use of their property as "off-street" evening Theater event parking -- including the Paradise Cleaners (approximately fifty (50) parking spaces); and Mercy Hospital (hopefully the balance). Valet parking will be provided by BLUEBIRD for the "off-street" parking of its patrons which is not within a block of the Theater. Valet parking personnel shall not diminish the number of individuals agreed to provide security. BLUEBIRD will continue to investigate additional possibilities to acquire other "off-street" parking including reasonable negotiations for leasing parking spaces located on the property of nearby businesses.

3. SECURITY. BLUEBIRD agrees to furnish adequate security for each event to which the general public is invited, with the exception of the meetings of civic, business and religious groups. This security will be present no later than one (1) hour before

show times and until the patrons are fully dispersed after a show. BLUEBIRD will utilize a private bonded security company, with extensive experience in the industry, or an appropriate substitute.

A minimum of three (3) security people will be present for each musical event. For musical events characterized as "young adult," "college oriented" or "alternative" or reasonable characterized as within the rock-and-roll "genre", BLUEBIRD will supplement the security by having at least one Police Officer (or reasonably equivalent personnel by virtue of training and ability to use similar force in pursuit of security and safety) present at each such event.

Security services will be provided both inside the Theater and around the exterior as well. Once patrons enter the Theater for a performance they will not be permitted to leave and reenter the Theater. Following each event, security officers will encourage patrons to disperse and quietly leave the area. Loitering will not be permitted to the extent of BLUEBIRD's legal ability to control it.

4. TRASH. BLUEBIRD agrees to clear the immediately surrounding area of trash after each event. Bluebird will also provide adequate trash receptacles for use by its patrons when departing the Theater.

5. PROGRAMMING. BLUEBIRD agrees that the use and programming at the Theater will be consistent with the representations made to THE NEIGHBORS and other concerned citizens as set forth by BLUEBIRD in its promotional literature, a copy of which is attached hereto and incorporated herein, with the additional possibility of ethnic and cultural music, dance performances and opera. No programming of a pornographic nature or in which the primary overwhelming appeal is to the prurient interest of spectators or clientele shall be permitted.

6. DANCING. The only dancing permitted at the Theater shall be incidental to a musical performance and limited to a clearly designated area of 200 square feet not to include the stage or aisles. No stage diving or unsafe or violent form of dancing shall be permitted.

7. TICKET SALES. Ticket sales will be handled on an advance ticket sale basis, as well as walk-up sales. BLUEBIRD will encourage advance ticket sales.

8. LICENSES. THE NEIGHBORS agree that in the event of the execution of this Agreement by THE BLUEBIRD they will not protest either the granting or the renewal of a liquor license or dance cabaret license, now or hereafter applied for, with respect to the Theater and the use approved herein, unless there is a breach of this Agreement by THE BLUEBIRD.

BLUEBIRD agrees that in the event of a future sale of the business, BLUEBIRD will not transfer the liquor license or cabaret license it hopes to be granted, or any renewals or extensions of such licenses, to any third party who is not of good moral character. That would include a person with a criminal record or one who would not be willing to honor the provisions set forth in this Agreement, or a reasonable substitute agreed to by THE NEIGHBORS. THE BLUEBIRD will give forty (40) days advance notice to THE NEIGHBORS of any proposed transfer.

9. COMMUNITY CONCERNS. BLUEBIRD agrees to make its manager or member/owner representative available to any private citizen or community group upon two (2) days' advance notice to discuss concerns regarding the BLUEBIRD's business. The BLUEBIRD will join THE NEIGHBORS, as a member of the neighborhood organizations, and will remain accessible by telephone to members thereof.

10. RENOVATION. BLUEBIRD agrees to use its best efforts to renovate the Theater in a historically sensitive manner and in accord with all legal requirements. BLUEBIRD agrees, in good faith, to apply for designation on national and state registers of historical places and Denver historical landmark designation for the Theater. BLUEBIRD will provide for lighting in the alley adjacent to the Theater for public safety purposes. Within three (3) years, BLUEBIRD will accomplish street-scaping, with trees and lampposts which shall conform in lay-out and design with the street-scaping efforts begun by CAP, of the public right of way in front of the Theater.

11. ENFORCEMENT. (a) With respect to any breach of this Agreement, the party not in breach may notify the other of a breach. Upon the receipt of such notice, the party receiving the notice shall have fifteen (15) calendar days within which to

effect a cure of the alleged breach, or such longer time as may be reasonably required in the circumstances, provided that the party having received notice of breach shall make all reasonable continuous efforts to cure such alleged breach. These covenants shall be binding with respect to any event produced at the Theater. Copies of the applicable provisions of this Agreement shall be provided to any independent producers.

(b) In the event the alleged breach is not cured, within the required time period, then, and in that event, THE NEIGHBORS may enforce this Agreement, through specific performance or injunctive relief, in the appropriate county or district court in and for the City and County of Denver, State of Colorado.

(c) Any disputes which the parties to this Agreement have herein agreed to submit to arbitration, or disputes subsequently agreed, in writing, to be resolved through arbitration shall be arbitrated by a panel of three arbitrators chosen from among the membership, residents, or owners of residences encompassed within the boundaries of THE NEIGHBORS. One arbitrator shall be chosen by THE NEIGHBORS on behalf of the resident, residential property owner, business, or neighborhood association that has a dispute with the BLUEBIRD. A second mediator shall be chosen by BLUEBIRD. The third mediator shall be chosen by the mutual agreement of the two previously chosen mediators. BLUEBIRD and THE NEIGHBORS agree that the decision of the arbitrators shall be binding, except for any right of appeal as provided by Colorado law. Any costs incurred as a result of the arbitration shall be borne by the parties who incurred them, unless the arbitrators find the claims or defenses of either party to the arbitration were frivolously maintained (attorney's fees specifically excluded).

12. ENTIRE AGREEMENT. This Agreement incorporates any and all previous agreements, understandings, and discussions between the parties pertaining to the subject matter hereof and is the entire agreement between the parties.

13. AMENDMENTS AND WAIVERS. No provision of this Agreement may be altered, amended or modified without the written consent of the parties, nor shall any waiver of any of the provisions of this Agreement be valid or enforceable unless in writing and signed by all parties or by the party against whom enforcement is sought. The failure of any party to this Agreement to insist upon the Performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of

this Agreement, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

14. Time is of the essence in this Agreement.

15. BINDING AGREEMENT. This Agreement shall be binding upon the assignees, heirs, successors, and personal representatives of the parties hereto.

16. APPLICABLE LAW. This Agreement shall be construed according to the laws of the State of Colorado and may be enforced only in any court of competent jurisdiction in the City and County of Denver, Colorado.

17. NOTICES. Except for any notice required by law to be given in another manner, all notices provided for in this Agreement, unless otherwise specified, shall be in writing and shall be served by personal service, or by registered or certified mail, return receipt requested. Notices by mail shall be addressed to each party at the address set forth in this Agreement. Any party may notify the other party in writing of a different address to which notices shall be sent. Notices given by personal service shall be deemed given at the time they are so served. Notices given by mail shall be deemed given at the earlier of three (3) days after the date of mailing or the date actually received.

Addresses for notice shall be:

A. Colfax at the Park (CAP)
1521 Adams
Denver, CO 80206

B. South City Park Neighborhood Assoc.
1531 Steele Street
Denver, CO 80206

C. Congress Park Neighbors
~~588 Contract Station, #2~~ -> PO Box 588
Denver, CO 80206-0588 1200 Madison St

D. Capitol Hill United Neighborhoods, Inc. (CHUN)
1490 Lafayette Street
Denver, CO 80218

E. BLUEBIRD
3315 E. Colfax Ave.
Denver, CO 80206

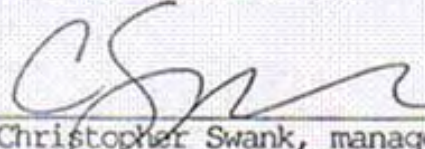
19. COUNTERPARTS. This Agreement may be executed in two or more counterparts, each part shall be equally binding as though all signatures appeared on the same page and each part shall be deemed an original, but all of the parts together shall constitute one and the same document.

20. CAPTIONS. The captions are for the convenience of the parties, only, and shall not be considered in construing the meaning of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

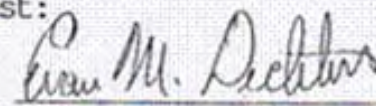
APPROVED, ACCEPTED AND AGREED :

SWANK MANAGEMENT, Inc.
a Colorado Corporation
dba The Bluebird Theater



Christopher Swank, manager

Attest:

By: 
EVAN M. DECHMAN, Secretary
(Print Name)

COLFAX AT THE PARK, INC.

Julie Davis Bell
Title: President

Maie Bacon
Witness

SOUTH CITY PARK NEIGHBORHOOD ASSOC.

[Signature]
Title: President

[Signature]
Witness THOMAS W. NAIR

CAPITOL HILL UNITED NEIGHBORHOODS, INC.

Bradley W. Cameron
Title: President

[Signature]
Witness

CONGRESS PARK NEIGHBORS, INC.

DeQuine Turner
Title: President

[Signature]
Witness