

2010
PORT OF BELLINGHAM & SAMPLE EVENT NAME
EVENT AND SITE USE AGREEMENT

This **EVENT AND SITE USE AGREEMENT** ("Agreement") is made and entered into this _____ day of _____, 2004, by and between the PORT OF BELLINGHAM, a Washington municipal corporation (the "Port"), and **SAMPLE EVENT ORGANIZATION NAME** a non-profit organization (510 (c) 6) (hereinafter the "SAMPLE EVENT ORGANIZATION").

WHEREAS, the SAMPLE EVENT ORGANIZATION desires to conduct the EVENT NAME on the date following mutual execution of this Agreement (herein such SAMPLE EVENT shall be referred to as the "Event"); and

WHEREAS, the SAMPLE EVENT ORGANIZATION desires the Event to be held at NAME OF PORT PROPERTY OR PARK LOCATION; and

WHEREAS, the Port, as the land owner of PORT PROPERTY OR PARK, has an interest in promoting its waterfront commercial activity and the associated tenants and businesses; and

WHEREAS, the Port promotes local economic development; and to increase public awareness and involvement at PORT PROPERTY OR PARK as part of its overall economic development strategy; and

WHEREAS, the Event will increase tourism to Bellingham, Whatcom County and Port properties; and

WHEREAS, the SAMPLE EVENT ORGANIZATION is provider of community events; and

WHEREAS, the SAMPLE EVENT ORGANIZATION has the ability to largely promote the Port's park project through its promotional materials and advertising occurrence of the community event;

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual covenants herein contained, the parties hereto do hereby agree that the SAMPLE EVENT ORGANIZATION will hold the following event at PORT PROPERTY OR PARK and the Port will provide the venues under the following terms and conditions:

1. **Event:** The event will be the "EXAMPLE EVENT" on DATE OF SAMPLE EVENT.
2. **SAMPLE EVENT ORGANIZATION Agreement to Provide:** SAMPLE EVENT ORGANIZATION agrees to provide the following for the Event:
 - 2.1 SAMPLE EVENT ORGANIZATION will promote the Port of Bellingham as a sponsor in its literature and marketing materials, including but not limited to the event brochures, posters, and website, including links to the Port's website and its many links to commercial and industrial activities.

- 2.2 SAMPLE EVENT ORGANIZATION will provide and pay for adequate restroom and hand-washing facilities for Event patrons. These facilities shall remain on Premises at all times during the term of this Agreement and be available for use by members of the public.
- 2.3 SAMPLE EVENT ORGANIZATION will provide, clean up and pay for trash receptacles and disposal for the Event patrons at NAME OF PORT PROPERTY BEING USED.
- 2.4 SAMPLE EVENT ORGANIZATION further agrees to be responsible for the following during the Event:
- To acquire all necessary permits from the City of Bellingham to operate each Event.

3. Port Agreement to Provide: The Port agrees to provide the following:

- The Port will provide the venues.

4. Agreement Purpose: This Agreement covers the Port's involvement in the Event, the use of the Premises, and the responsibilities of the SAMPLE EVENT ORGANIZATION in holding the Event.

5. Use: The Port grants the SAMPLE EVENT ORGANIZATION the right to use NAME OF PORT PROPERTY as indicated on that Site Maps attached hereto as Exhibit "A" and incorporated by this reference (collectively, the "Premises"), for the sole purpose of holding the Event. Permitted use shall be for the event for the general public by the SAMPLE EVENT ORGANIZATION. The SAMPLE EVENT ORGANIZATION shall be responsible for all necessary set up, clean up, enforcement, and other activities reasonably related to the Event.

6. Scope of Port Involvement and Use Fee: The Port's involvement is limited to that of a property owner only. The Port shall bear no financial responsibility for operation of the Event. This Agreement shall not be construed as a partnership or joint venture. The Port shall have no involvement in the selection of vendors or the operation of the Event other than the necessary enforcement of Port rules and regulations.

The Port concludes that it is receiving substantial benefits from this Agreement, including but not limited to public exposure to the parks and surrounding development; marketing of the Port's developments and properties; increase in tourism to Bellingham; and public use of sanitary facilities to be left on site during the term of this Agreement. Therefore, provided that the SAMPLE EVENT ORGANIZATION complies with all of its requirements herein, the Port agrees to waive its total fee of (AMOUNT WILL VARY BASED ON LOCATION) for the use of all the Premises.

7. Term of Agreement: This Agreement shall be in effect on DATE OF EVENT following execution of this Agreement by the Executive Director of the Port of Bellingham until; provided, however, that the SAMPLE EVENT ORGANIZATION or Event staff, pre-approved by the SAMPLE EVENT ORGANIZATION shall only have access to the Premises from TIMES SET FORTH BASED ON ACTUAL EVENT, during the term of this Agreement

7.1 Notwithstanding the foregoing, either party may terminate this Agreement for any reason upon fifteen (15) days' advance written notice to the other.

- 8. No Port Liability For SAMPLE EVENT ORGANIZATION Property Damage:** The SAMPLE EVENT ORGANIZATION waives any and all claims, suits and causes of action against the Port (including its employees, commissioners, officers or agents) for any property loss or damage done to the SAMPLE EVENT ORGANIZATION's property, whether real, personal or mixed, occasioned by reason of any fire, storm, or other casualty whatsoever. It shall be the SAMPLE EVENT ORGANIZATION's responsibility to provide its own protection against casualty losses of whatsoever kind or nature, regardless of whether or not such loss is occasioned by the acts or omissions of the Port, the SAMPLE EVENT ORGANIZATION, a third party, or act of nature.
- 9. Insurance:** The SAMPLE EVENT ORGANIZATION covenants and agrees that it or an entity partnering with the SAMPLE EVENT ORGANIZATION in holding the Event will, at all times during the existence of this Agreement, carry a comprehensive general liability insurance policy naming both parties hereto as insureds, with a bodily injury amount of not less than \$1,000,000 aggregate per person and per accident. The SAMPLE EVENT ORGANIZATION shall provide evidence of such insurance to the Port prior to the first Event held under this Agreement; in the event that the SAMPLE EVENT ORGANIZATION fails to provide evidence of such an insurance policy prior to the Event, then this Agreement shall be null and void. The SAMPLE EVENT ORGANIZATION believes and states that the insurance obligation herein does not exceed that which the SAMPLE EVENT ORGANIZATION would otherwise normally place upon itself in order to undertake the Event in a prudent manner. The SAMPLE EVENT ORGANIZATION covenants and agrees that it will protect, save, and hold the Port forever harmless and indemnified from any damages arising as a result of accidents, injuries, or other occurrences, whether occasioned by the neglect of either the Port, the SAMPLE EVENT ORGANIZATION, vendors at the Event, or those holding under the SAMPLE EVENT ORGANIZATION herein, regardless of who the injured party may be.
- 10. Property Damage – Hold Harmless:** The SAMPLE EVENT ORGANIZATION shall be responsible for all damage caused to Port property which results during, or as a result of, an Event. As part consideration for this Agreement the SAMPLE EVENT ORGANIZATION shall save, defend, and hold harmless the Port, its employees, commissioners, officers and agents from any and all damages to the Premises or other property of the Port occasioned by or arising from the use of the Premises by the SAMPLE EVENT ORGANIZATION or anyone on the Premises in connection with the Event.
- 11. Third Party Liability – Hold Harmless:** The SAMPLE EVENT ORGANIZATION agrees that it will protect, save, defend, hold harmless and indemnify the Port, its employees, commissioners, officers and agents from any and all demands, claims, judgments, or liability for loss or damage arising as a result of accidents, injuries, or other occurrences, occasioned by either the negligent or willful conduct of the SAMPLE EVENT ORGANIZATION, its agents or any person or entity holding under the SAMPLE EVENT ORGANIZATION, or any person or entity on the Premises in connection with this Event.

- 12. Laws and Regulations:** The SAMPLE EVENT ORGANIZATION will conform to and abide by all lawful rules, codes, laws and regulations in connection with the use of said premises and the holding of the Event thereon and not to permit the Premises to be used in violation of any lawful rule, code, law, regulation or other authority. Further the SAMPLE EVENT ORGANIZATION agrees that, in the conduct of activities on the Premises, it will be an equal opportunity employer in accordance with Title VI of the 1964 Civil Rights Act and will comply with all requirements of the Americans With Disabilities Act of 1990.
- 13. Premises "As Is":** The SAMPLE EVENT ORGANIZATION has inspected the Premises described herein and accepts it in its current condition "as is, where is." The Port shall have no obligation to make improvements to the Premises, and the SAMPLE EVENT ORGANIZATION shall not make any improvements or modifications to the Premises.
- 14. Clean Up:** The SAMPLE EVENT ORGANIZATION agrees to return the Premises to the Port at the termination of this Agreement in as good a condition as received. The SAMPLE EVENT ORGANIZATION further agrees that it will clean the Premises after the Event and shall keep the Premises in good, clean condition during the term of this Agreement.
- 15. Default.** If the SAMPLE EVENT ORGANIZATION shall be in default under this Agreement, the SAMPLE EVENT ORGANIZATION shall cure such default within three days after receiving written notification from the Port. If SAMPLE EVENT ORGANIZATION fails to cure the default within this time, the Port may cure the default and assess the cost of cure to the SAMPLE EVENT ORGANIZATION.
- 16. Notices:** Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing addressed to the other party at the addresses as follows:

TO THE PORT: MARIE DUCKWORTH
PORT OF BELLINGHAM
1801 ROEDER AVENUE
P.O. BOX 1677
BELLINGHAM, WASHINGTON 98227

TO THE SAMPLE EVENT ORGANIZATION: NAME OF CONTACT
EVENT ORGANIZATION ADDRESS INFORMATION

or such address as may have been specified by notifying the other party of the change of address. Notice shall be deemed served on the date of actual delivery or the first attempted delivery as shown on the return receipt if mailed with the United States Postal Service by certified mail, return receipt requested.

- 17. Survival:** All obligations of the SAMPLE EVENT ORGANIZATION as provided for in this agreement shall not cease upon the termination of this Agreement and shall continue as obligations until fully performed. All clauses of this Agreement which require performance beyond the termination date shall survive the termination date of this Agreement.

- 18. Amendment:** No modification, termination or amendment of this Agreement may be made except by written agreement signed by all parties, except as provided herein.
- 19. Waiver:** No failure by any of the foregoing parties to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement, or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or any other covenant, agreement, term or condition. Any party hereto, by notice, and only by notice as provided herein may, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other party hereto. No waiver shall affect or alter this Agreement, and each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.
- 20. Captions:** The captions of this Agreement are for convenience and reference only and in no way define, limit, or describe the scope or intent of this Agreement.
- 21. Severability:** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- 22. Neutral Authorship:** Each of the provisions of this Agreement has been reviewed and negotiated, and represents the combined work product of all parties hereto. No presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement.
- 23. Entire Agreement:** This Agreement contains all of the understandings between the parties. Each party represents that no promises, representations or commitments have been made by the other as a basis for this Agreement, which have not been reduced to writing herein. No oral promises or representations shall be binding upon either party, whether made in the past or to be made in the future, unless such promises or representations are reduced to writing in the form of a modification to this permit executed with all necessary legal formalities by the Commission of the Port of Bellingham.

EXECUTED, this _____ day of _____, 2010.

THE SAMPLE ORGANIZATION

THE PORT OF BELLINGHAM

By: _____
 Title: _____

By: Charles Sheldon
 Title: Port Executive Director