

Chairman Mike Calandrino called the meeting to order at 7 pm on November 9, 2009. In attendance were committee members Gregg Seabury and Paul Rotello, Assistant Corporation Counsel Robin Edwards, Chief of Staff Wayne Sheppard, Director of Finance David St Hilaire, Ex Officio Ben Chianese, Jack Knapp and Joe Cavo, Cultural Commission Chairman Ben DaSilva, Jim Whitney of the Northwest CT Convention and Visitors Bureau, Tom Carruthers and City Center Director Andrea Gartner.

Mr. Calandrino asked Mr. Sheppard to recap the previous committee meeting. Mr. Sheppard said attendance at the Film Festival was up and the economic impact in 2009 was \$1 million and over 2 years the economic impact was \$1.67 million. Two years ago the City sponsored the event at \$75,000., and last year at \$65,000. They are asking for \$65,000 in 2010.

Mr. Whitney explained some of the data from a survey conducted during the 2009 CT Film Festival which showed attendance up and spending average at approximately \$89.per person even in the poor economy. Also over 97% considered it safe being in the downtown area, an impressive statistic considering 61% of the respondents were from out of town.

Mr. Seabury asked what the organizers were looking for and if they have other sources of funding. Mr. Carruthers requested \$65,000., is looking into other sources, but they don't have a date set for next year. Mr. Chianese asked if we can afford this sponsorship, given the money would come from Contingency and we haven't reached winter yet. Mr. St. Hilaire replied everything is spoken for in the budget and Contingency is for surprises.

Mr. Chianese said the CT Film Festival is a positive for the City, but thinks there should be a partnership or matching program up to a predetermined dollar amount, and that \$65,000. is too much. Being a for-profit doesn't allow other donors a tax break, which may be a deterrent. Mr. Knapp asked what percentage of the festival budget is the \$65,000. Mr. Carruthers said about one third. They also get \$50,000 from the CT Commission on Culture and \$50,000 from the General Assembly.

**Mr. Seabury moved to have the City fund the Connecticut Film Festival with \$50,000.00 and if there's a need for additional funds they can request it but there is no guarantee of any additional funds. Seconded by Mr. Rotello. Motion passed unanimously.**

**Mr. Seabury moved to adjourn the meeting. Seconded by Mr. Rotello. The meeting ended at 7:40 p.m.**

Respectfully submitted,

\_\_\_\_\_  
Mike Calandrino, Chairman

\_\_\_\_\_  
Gregg Seabury

\_\_\_\_\_  
Paul Rotello

AGREEMENT

This agreement is made on \_\_\_\_\_, 2009, by and between the City of Danbury, a municipal corporation created and existing under the laws of the State of Connecticut, with its office at 155 Deer Hill Avenue, Danbury, CT ("City") and The Connecticut Film Festival, LLC, a domestic limited liability corporation organized and existing under the laws of the State of Connecticut with an address of 7 Vera Drive, Bethel, CT 06801 ("Promoter").

Whereas, the Promoter desires the use of certain locations within the City of Danbury for the purpose of conducting a film festival to be known as The Connecticut Film Festival ("Festival"). Said Festival shall take place during the week of \_\_\_\_\_ through \_\_\_\_\_, 2010; and

Whereas, the Festival further creates unique opportunities to promote tourism in the City and to generate employment opportunities for Danbury residents, both of which are in the public interest; and

Whereas, the Festival creates a unique opportunity for the City to participate in sponsoring a signature event in the City through the screening of the films, and the presentation of panel discussions, educational sessions, social gatherings, and dinner meetings regarding the films and related topics; and

Whereas, the City desires to provide sponsorship funding in the amount of \$50,000.00 as approved at the City Council meeting of December 1, 2009, to the Festival in exchange for the services to be provided by Promoter, as referenced in Schedule A attached hereto; and

Now, therefore, in consideration of the mutual covenants and promises contained in this Agreement, and for such other good and valuable consideration, the receipt of which is by this means is acknowledged, the parties agree as follows:

Section 1. RECITALS. The above recitals are expressly incorporated in and made a part of this Agreement as though fully set forth in this place.

Section 2. OBLIGATIONS OF THE CITY.

2.01. Payment:

- (a) The City shall pay the sum of \$50,000.00, as a sponsorship fee to the Promoter on the following dates:
  - (1) \$25,000.00 upon the signing of the contract;
  - (2) \$25,000.00 on March 1, 2010.
- (b) The City will not be responsible for payment of any additional expenses related to the hosting of this Festival.

2.02. Advertising:

- (a) The City will advertise the Festival on its website, 311 system and on other appropriate communications, as determined by the City in its sole discretion.

- (b) The City shall have the right to use the Promoter's trademarks in advertising and promotional activities as it deems desirable, subject to Promoter's approval, which approval shall not be unreasonably withheld.

2.03. Merchandising Profits:

- (a) The City will not claim rights to any merchandising profits.

2.04. Venues:

- (a) The City will help Promoter in securing venues within the City suitable for holding panel discussions, educational sessions, social gatherings, dinner meetings and movie screenings.

Section 3. OBLIGATIONS OF THE PROMOTER.

3.01. Advertising:

- (a) The Promoter shall include the City in all advertising and public relations materials. The Promoter is not an agent of the City.
- (b) The Promoter shall spend a minimum of ten thousand dollars (\$10,000.00) on advertising of the Festival. Such funds shall be spent on print, broadcast, website, internet, direct mailing or any other form of advertising acceptable to the City.
- (c) The Promoter shall use its best efforts to attract a minimum of 6,000 attendees to the Festival.

3.02. Events:

- (a) The Promoter shall organize, conduct and be solely responsible for a minimum of forty (40) events, including but not limited to, panel discussions, educational sessions, social gatherings and movie screenings ("Events") all of which will be held during the Festival.
- (b) All Events shall be held within the City of Danbury, with the sole exception being that certain Events may be held at the Bethel Cinema. The Promoter must obtain approval from the Mayor's Chief of Staff / Interim Economic Development Coordinator prior to holding any Events at the Bethel Cinema.

3.03. Films:

- (a) The Promoter shall be solely responsible for any and all operations and productions related to the films.
- (b) A minimum of thirty (30) business days prior to the Festival the Promoter shall provide the City with acceptable criteria for rating all of the films to be shown at the Festival. If the City, in its sole discretion determines that said entertainment rating system is not acceptable, then the Promoter shall be obligated to revise the criteria until it is acceptable to the City as determined by the Director of Economic Development.

- (c) The Sponsor shall be solely responsible to communicate with and make the rating system available to all Festival attendees. Said rating system shall at a bare minimum be made available in writing and posted at every film showing.

### 3.04. Communications:

The Promoter, upon signing this contract, shall communicate monthly, at a minimum, with the Mayor's Chief of Staff / Interim Economic Development Coordinator until February 1, 2010 when Promoter will initiate weekly communications with the Mayor's Chief of Staff / Interim Economic Development Coordinator on any and all details concerning and related to the holding of the Festival and the status of all promotions and advertising and any other matters relating to the Festival as deemed necessary by the City of Danbury. In turn, beginning in March 2010, the Mayor's Chief of Staff / Interim Economic Development Coordinator shall communicate monthly with the City of Danbury City Council regarding the status of the Festival, including but not limited to, details regarding financial expenditures made by the Promoter from the \$50,000.00 sponsorship fee paid by the City.

### 3.05. Indemnification:

To the fullest extent permitted by law, Promoter shall indemnify, defend and hold harmless each of the "Indemnitees" (as defined below) from and against any and all "Charges" (as defined below) paid or incurred by any of them as a result of any claims, demands, lawsuits, actions, or proceedings: (i) alleging violation, misappropriation or infringement of any valid copyright, trademark, patent or trade secret, all of the United States, or other valid proprietary rights of the United States with respect to any promotions, services or products provided to the City pursuant to this Agreement ("Infringement Claims"); provided that the City: promptly notifies Promoter in writing of the filing of such suit or the threat thereof; permits Promoter to control completely the defense or compromise of such claim of infringement; and provides all reasonable assistance and cooperation requested by Promoter for the defense of such suit. In the event that the promotions, services or any products provided to the City pursuant to this Agreement by Promoter are held to be infringing, in such suit and their use is enjoined, Promoter shall, at its sole option and expense, provide a commercially reasonable alternative, including, but not limited to, procuring for the City the right to continue using the promotions, services and products, replacing them with a non-infringing product or modifying them so they become non-infringing; (ii) seeking payment for services or materials purchased or supplied by Promoter or its subcontractors in connection with this Agreement or (iii) arising from Promoter's failure to perform its obligations under this Agreement (to the extent such failure could have been reasonably avoided by Promoter), or arising from any liability caused by an accident or other occurrence resulting in bodily injury, death, sickness or disease to any person(s) or damage or destruction to any property, but only to the extent caused by any negligent act or omission, or willful misconduct of Promoter or any of its agents, employees or subcontractors relating to this Agreement; or (iv) arising from Promoter's violation of any law (including without limitation immigration laws); and (v) any claim that Promoter or an employee or subcontractor of Promoter is an employee of the City, including but not limited to claims relating to worker's compensation, failure to withhold taxes and the like. For purposes of this article: (a) the term "Indemnitees" means the City and each of the City's officers, officials, employees, agents and independent contractors (excluding Promoter); and (b) the term "Charges" means any and all losses, damages, costs, expenses, (including reasonable attorneys' fees) obligations, duties, fines, penalties, royalties, interest charges and other liabilities (including settlement amounts).

3.06. Insurance:

Throughout the term of this Agreement, Promoter shall comply with the insurance requirements described in this section. In the event Promoter fails to procure and maintain each type of insurance required by this Agreement or in the event Promoter fails to provide City with the required certificates of insurance, City shall be entitled to terminate this Agreement immediately upon written notice to Promoter.

(a) Promoter shall not commence any services in connection with this Agreement until it has provided evidence satisfactory to the City that it maintains all of the types of insurance coverage set forth in this section and the City has approved such insurance. Promoter shall not allow any contractor or subcontractor to commence work on its contract or subcontract until the contractor or subcontractor has provided evidence satisfactory to the City that it maintains all insurance required of the subcontractor.

(b) Within ten (10) days prior to the Events, Promoter shall provide City with certificates of insurance showing that the insurance requirements set forth in this section have been met. Promoter shall further provide such certificates of insurance to City at any time requested by City after execution of this Agreement, and shall provide such certificates within seven (7) days after City's request. City's failure to review or approve a certificate of insurance sent by or on behalf of Promoter shall not relieve Promoter of its obligations to meet the insurance requirements set forth in this Agreement.

(c) Types of insurance. The Promoter agrees to purchase and maintain between \_\_\_\_\_, 2010 and \_\_\_\_\_, 2010 with an insurance company, acceptable to the City, authorized to do business in the State of Connecticut, the following insurance:

(1) Automobile Liability. Bodily injury and property damage liability covering all owned, non-owned and hired automobiles for limits of \$1,000,000.00 bodily injury each person, each accident and \$1,000,000.00 property damage or \$1,000,000.00 combined single limit bodily injury and property damage.

(2) Commercial General Liability. Bodily injury and property damage liability as shall protect Promoter and any subcontractor performing work under this Agreement, from claims of bodily injury or property damage which arise from operation of this Agreement, whether such operations are performed by Promoter, any subcontractor, or anyone directly or indirectly employed by either. The amounts of such insurance shall be \$1,000,000.00 bodily injury each occurrence/aggregate and \$1,000,000.00 property damage each occurrence/aggregate, or \$1,000,000.00 bodily injury and property damage combined single limits each occurrence/aggregate. This insurance shall include coverage for products, operations, personal injury liability, advertising injury and contractual liability, assumed under the indemnity provision of this Agreement.

(3) Excess Liability Insurance. The Excess Liability coverage is in addition to the limits expressed in (1) and (2) above. Bodily injury, property damage and automobile liability shall be \$1,000,000.00 combined, each occurrence.

- (4) Worker's Compensation Insurance. Promoter shall meet the statutory requirements of the State of Connecticut.

The certificates of insurance provided hereunder shall name the City as additional insured under the commercial general liability insurance and automobile liability for operations or services rendered under this Agreement subject to (a) the terms and limits of liability which are set out in this Agreement, (b) such inclusion as additional insured only applying to the products and/or services which are to be supplied by Promoter under the Agreement; and (c) such inclusion as additional insured only applying to the extent of Promoter's negligence. Nothing in the Agreement shall be deemed to alter any generally accepted insurance principles relating to whether an applicable insurance policy of either the Promoter or City would apply to a loss on a primary or an excess basis. Certificates of all required insurance shall be furnished to City and shall contain the provision that Promoter will provide City thirty (30) days' written notice of any cancellation by either the insured or the insuring company. The City is not responsible for obtaining insurance coverage for all Events occurring in venues not owned or controlled by the City.

3.07. Termination:

(a) The following shall constitute events of default:

- (1) Any material misrepresentation made by the Promoter to the City.
- (2) Failure by the Promoter to timely perform and/or observe any or all of the covenants, rules, regulations, guidelines or conditions of this Agreement; and
- (3) Insolvency or bankruptcy on the part of the Promoter or the assignment of assets for the benefit of creditors by the Promoter.

(b) Upon the occurrence of any event of default the City may, at the sole option of the City, declare the Promoter in default of this Agreement and shall be entitled to an immediate refund of the \$50,000.00 sponsorship fee, or a pro rata portion thereof, if only a portion of the Events took place, the portion shall be determined by using the number of Events which took place as the numerator and the total number of Events to be held as the denominator.

3.08. Survey.

The Promoter shall engage in and participate in an economic impact study to be conducted by the Northwest Connecticut Convention and Visitors Bureau.

4.00 ADDITIONAL TERMS

4.01. Term of Agreement:

This Agreement shall terminate upon the conclusion of the Festival, unless the parties agree to an amendment in writing. Upon completion of the Festival and the receipt of post-event evaluations from the Northwest Convention and Visitors Bureau, the Connecticut Film Festival, LLC, CityCenter Danbury and the City of Danbury's Economic Development Office, both parties will evaluate the success of the 2010 Festival. The City will then evaluate future potential sponsorship by the City forthwith. If the City

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desires to sponsor a Festival in the following calendar year, it shall notify the Promoter of its intention in writing five (5) days after the October 2010 City Council meeting, or earlier to the extent possible. The Promoter agrees that it will not enter into any Agreements containing similar terms and conditions with other municipalities to hold Connecticut Film Festival's annual 6 day and night event, until such time as the City notifies Promoter that it does not wish to sponsor another Festival in Danbury the following calendar year. Promoter agrees to not conduct business that would be a conflict of interest to the success of the annual festival held in the City of Danbury.

#### 4.02. Laws:

Promoter agrees that it shall comply with all applicable federal, state, and local laws, ordinances, rule and regulations and Executive Orders.

#### 4.03. Permits:

Promoter shall, at its own cost and expense, obtain all necessary permits, licenses, authorizations, and assurances prior to the commencement of the term of the Agreement.

#### 4.04. Liability:

Promoter agrees that the City of Danbury, its officials, employees, and agents, shall not be liable, to the extent permitted by law, for injury to the Promoter's business or any loss of income or for damage to the goods, wares, merchandise or other property of the Promoter, its employees, invitees, customers, or any other person in or about the Festival, nor shall the City, its officials, employees, and agents, be liable for injury to the person of the Promoter, its employees, agents, vendors or contractors, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air-conditioning or lighting fixtures, or from any other cause, whether the damage or injury results from conditions arising upon the Festival or from other sources or places, and regardless of whether the cause of such damage or injury or the means of repairing the same is inaccessible to the Promoter. The City of Danbury, its officials, employees and agents, shall not be liable for any damages arising, directly or indirectly from any act or neglect of any other invitee.

#### 4.05. Effect of Cancellation on City:

In the event that the Festival does not take place, in whole or in part, due to any Act of God or force majeure, including, without limitation, weather, fire, flood, strike, labor dispute, civil commotion, riot or threat of violence or similar cause beyond the control of the parties, then the Festival shall be re-scheduled to a date to be mutually agreed upon by the parties no later than July 31, 2010.

#### 4.06. Governing Law:

This Agreement shall be governed as to performance and interpretation in accordance with the law of the State of Connecticut. The parties agree to consent to jurisdiction in the Danbury Superior Court.

#### 4.07. Headings:

Any headings of this Agreement are for convenience of reference only and do not define or limit any of its provisions. Words of any gender shall be deemed and construed to include correlative words of the other genders. Words importing the singular number shall include the plural number and vice-versa,

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unless the context shall otherwise indicate. All references to any exhibit or document shall be deemed to include all supplements and/or amendments to any such exhibits or documents. All references to any person or entity shall be deemed to include any person or entity succeeding to the rights, duties, and obligations of such person or entity in accordance with the terms of this Agreement.

4.08. Severability:

If any provision of this Agreement shall be held or deemed to be or shall in fact be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all cases because it conflicts with any other provision or provisions or any constitution, statute, ordinance, rule of law or public policy or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions contained in the Agreement invalid, inoperative or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or section contained in this Agreement shall not affect the remaining portions of this Agreement.

4.09. Changes:

No changes, amendments, modifications, cancellation or discharge of the Agreement, or any part of it, shall be valid unless in writing and signed by the parties, or their respective successors and assigns.

4.10. Binding:

All of the terms and provisions of the Agreement shall be binding upon and inure to the benefit of the parties and their respective legal representatives, successors, transferees and assigns.

4.11. Notices:

Any and all notices given or required under this Agreement shall be in writing and may be delivered personally or by placing in the United States mail, first-class and certified, return receipt requested, with postage prepaid and addressed to:

City of Danbury  
Wayne Shepperd  
Mayor's Chief of Staff  
155 Deer Hill Avenue  
Danbury CT 06810

The Connecticut Film Festival  
Thomas Carruthers  
7 Vera Drive  
Bethel, CT 06801

Office of the Corporation Counsel at the above address.

Notices mailed in accordance with this section shall be deemed effective upon mailing. Notices delivered personally shall be deemed effective upon receipt.

Schedule A

The City of Danbury will provide a \$50,000.00 sponsorship to the 2010 Connecticut Film Festival, LLC.

In return, the Connecticut Film Festival, LLC will:

- include the City of Danbury in all advertising and public relations materials.
- spend a minimum of \$10,000.00 on advertising (print, broadcast, website, internet, direct mailing or any other).
- conduct a minimum of 40 events (panel discussions, educational sessions, social gatherings and movie screenings) during the week of the Festival.
- conduct all events (panel discussions, educational sessions, social gatherings, dinner meetings and movie screenings) within the City of Danbury. The sole exception being the Bethel Cinema.
- provide appropriate liability insurance (as determined by the City of Danbury)
- make every effort to attract 6,000 attendees to the Festival.
- communicate weekly with the City of Danbury on all plans for the event.
- will handle all film-related operations and productions.
- will engage in an economic impact study conducted by the Northwest Connecticut Convention and Visitors Bureau.
- will provide acceptable (to both parties) criteria for rating all of the films shown and communicate such rating to all attendees.

In addition, the City of Danbury:

- will advertise the event on its website and on other appropriate communications as determined by the City.
- will help secure venues for the aforementioned panel discussions, educational sessions, social gatherings, dinner meetings and movie screenings.
- will make payment of its sponsorship as indicated in the Agreement.
- will not be held accountable for any additional expenses related to the hosting of this event.
- will grant all merchandising profits to Connecticut Film Festival, LLC

Upon completion of the event and receiving post-event evaluations from the Northwest Convention and Visitors Bureau, the Connecticut Film Festival, LLC, CityCenter Danbury and the Mayor's Chief of Staff /Interim Economic Development Coordinator, will evaluate the success of the 2010 Festival. In turn, they will then evaluate future potential sponsorship by the City of Danbury as soon as possible.