

RECREATION, LIBRARIES AND AUTHORITIES COMMITTEE

11-0659R

RESOLUTION AUTHORIZING AN AGREEMENT WITH THE MINNESOTA CHILDREN'S MUSEUM FOR HOSTING A TRAVELING EXHIBIT AT THE MAIN LIBRARY ENTITLED STORYLAND: A TRIP THROUGH CHILDHOOD FAVORITES.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. _____, with the Minnesota Children's Museum which provides for the city to host a traveling exhibit at the main library in October and November of 2012 which is entitled Storyland: A Trip through Childhood Favorites, the cost of procuring insurance to cover the exhibition in an amount not to exceed \$1,500, payable from Fund 240-300-50-5319 (Library Special Gifts, Library, Friends of the Library).

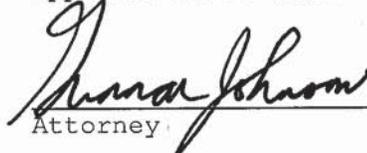
Approved:


Department Director

Approved for presentation to council:


Chief Administrative Officer

Approved as to form:


Attorney

Approved:


Auditor

STATEMENT OF PURPOSE: This resolution authorizes an agreement with the Minnesota Children's Museum which provides for the City to host a traveling exhibit at the main library in October and November of 2012. Storyland: A Trip through Childhood Favorites, is a statewide traveling exhibition providing a three-dimensional play and learning environment relating to three beloved picture books: *The Tale of Peter Rabbit*, *The Snowy Day*, and *Where's Spot?*.

**MINNESOTA CHILDREN'S MUSEUM
EXHIBITION AGREEMENT**

PARTIES:

Minnesota Children's Museum
West 7th Street
St. Paul, MN 55102

City of Duluth
520 West Superior Street
Duluth, MN55802
("Participant")

EXHIBITION:

Storyland: A Trip Through Childhood Favorites
(500 Square feet)

EXHIBITION SITE:

Duluth Public Library

EXHIBITION DATES:

Delivery Date:	Friday, September 28, 2012
Opening:	Saturday, October 06, 2012
Closing:	Saturday, November 24, 2012
Ship Date:	Tuesday, November 27, 2012

The Parties agree to present and display the above-described Exhibition under the terms and conditions of this Agreement.

1.0 BOOKING

- 1.1** The Participant's booking of the Exhibition for the Exhibition Dates will be confirmed when the Agreement has been signed by both parties.
- 1.2** The exhibit will be scheduled to arrive and leave Participant's site within the dates set forth in the EXHIBITION DATES section.
- 1.3** If the Participant cannot subsequently accept the Exhibition on the Exhibition Date(s), Participant may be responsible for any resulting holding or storage fees.

2.0 PARTICIPATION FEE

The Participant will not pay a participation fee for the use of the Exhibition.

3.0 SHIPPING

- 3.1 Shipping charges for the Exhibition are the responsibility of MINNESOTA CHILDREN'S MUSEUM.
- 3.2 The Exhibition will be delivered to the Exhibition Site designated above. All arrangements for transporting the Exhibition to and from the Exhibition Site will be made by MINNESOTA CHILDREN'S MUSEUM. MINNESOTA CHILDREN'S MUSEUM will work in cooperation with all participants on the tour to determine a shipping schedule that provides adequate time for each participant to unpack, install and pack the Exhibition. The Participant agrees to receive the Exhibition when delivered and to have it repacked and ready to ship by the date specified by Minnesota Children's Museum. The exhibit will travel on one truck with a lift gate.
- 3.3 The Participant is responsible for unloading and loading the truck.
- 3.4 If installation of the Exhibition is completed prior to the scheduled opening date, the Participant may open the Exhibition before the scheduled opening date.

4.0 CANCELLATIONS

- 4.1 Participant must notify MINNESOTA CHILDREN'S MUSEUM in writing at least eight (8) months before opening if it intends to cancel the Exhibition.
- 4.2 In the event that MINNESOTA CHILDREN'S MUSEUM determines, for any reason, that it is no longer safe or feasible to travel the Exhibition, MINNESOTA CHILDREN'S MUSEUM shall have the right to cancel the tour. MINNESOTA CHILDREN'S MUSEUM shall not be held responsible for any costs incurred by the Participant in preparation for the Exhibition in the event the venue must be cancelled. If MINNESOTA CHILDREN'S MUSEUM must cancel the venue, as much advance notice as possible will be given.

5.0 PURPOSE

- 5.1 The Exhibition is a direct extension of MINNESOTA CHILDREN'S MUSEUM's objective to provide to the public educational enrichment programs for children through informative exhibits. Therefore, the Exhibition is to be used for educational purposes only. No commercial use may be made of the Exhibition. No fees may be charged for entrance to the Exhibition.
- 5.2 Public access to the Exhibition must not be denied to anyone on the basis of race, color, creed, religion, sex, national origin, status with regard to public assistance, disability, age, sexual orientation or status as a special disabled, Vietnam era, or other covered veteran.

5.3 The Exhibition must be presented separately and in its entirety at the Exhibition Site indicated in this Agreement. Prior written approval from MINNESOTA CHILDREN'S MUSEUM must be secured by the Participant if the Exhibition is to be shown at a location different from the EXHIBITION SITE listed above or at more than one location during the Exhibition Dates.

5.4 MINNESOTA CHILDREN'S MUSEUM has the sole right to determine the content of the Exhibition. No supplemental material may be added to nor components removed from the Exhibition without prior written approval from MINNESOTA CHILDREN'S MUSEUM. The Participant will be notified should MINNESOTA CHILDREN'S MUSEUM determine that it is necessary to remove a certain object(s) from the Exhibition. The Participant shall, upon receipt of such notification, remove the object(s) identified in such notice. If appropriate, MINNESOTA CHILDREN'S MUSEUM shall exercise commercially reasonable efforts to find a replacement for the removed object(s).

6.0 INTELLECTUAL PROPERTY RIGHTS

6.1 MINNESOTA CHILDREN'S MUSEUM owns or has obtained from third parties the rights to use certain names, symbols, designs, artwork, characters, illustrations, logos, trademarks and service marks in the Exhibition. Participant shall not modify, delete, obliterate or otherwise alter the use or appearance of any such item.

6.2 Participant shall install and display the Exhibition exactly as authorized and directed by MINNESOTA CHILDREN'S MUSEUM. No additions or modifications of any kind, including but not limited to signage and/or displays, are allowed. The Participant may not make any use of images, objects, artwork or characters other than as expressly authorized in this Agreement.

6.3 In the event of any violation of this Section 6, MINNESOTA CHILDREN'S MUSEUM shall have the right to terminate Participant's use of the Exhibition, in addition to such other remedies as may be available to MINNESOTA CHILDREN'S MUSEUM.

7.0 SECURITY

7.1 The Participant must provide security for the Exhibition throughout the Exhibition Dates, commencing with the time the Exhibition is delivered to Participant through the date of pick-up at the Exhibition Site, including all interim phases of handling, installation and display. The Participant agrees to take all necessary measures to provide a safe and secure environment for the Exhibition and to provide all fire precautions as required by law or local ordinance.

8.0 INSURANCE

- 8.1** The Exhibition is to be insured at the Exhibition Site under an inland marine policy from the time the Exhibition is delivered to the Exhibition Site, while on display, and post-Exhibition time until the Exhibition is delivered to Duluth Children's Museum. The Exhibition shall be insured under such policy for not less than \$300,000. The Participant shall bear all risk of damage and/or loss to the Exhibition and all parts thereof while in the possession of the Participant. In connection with the insurance maintained by Participant hereunder, MINNESOTA CHILDREN'S MUSEUM shall be named as additional insured and shall be entitled to the proceeds of such insurance, as its interest may appear.
- 8.2** The City is a self-insured political subdivision with respect to general liability and automobile liability in the amount of \$1.5 million single limit. The City is a self-insured political subdivision with respect to Worker's Compensation insurance in the amount required by Minnesota law. By execution of this Agreement, MINNESOTA CHILDREN'S MUSEUM agrees that said self-insurance and the insurance provided in Section 8.1 satisfies all insurance requirements of this Agreement.
- 8.3** The Participant agrees to notify MINNESOTA CHILDREN'S MUSEUM immediately of any damage or theft that occurs while the Exhibition is in Participant's possession and assumes responsibility for any liability to MINNESOTA CHILDREN'S MUSEUM which may arise because of the Participant's failure to provide such notice.

9.0 SET-UP AND TAKE-DOWN

- 9.1** Participant shall be responsible for all set-up, installation and take-down of the Exhibition. The Participant shall provide a minimum of two (2) qualified staff for such purposes.
- 9.2** Upon delivery of the Exhibition, the Participant agrees to store the crates in a safe and secure environment, protected from exposure to the weather or other circumstances that could result in damage to the crates and/or packing materials. The Participant will be held responsible and accountable for any damage to and/or loss of the Exhibition crates. If damage does occur, the Participant must notify MINNESOTA CHILDREN'S MUSEUM immediately.
- 9.3** The Participant is responsible for packing the Exhibition correctly as per the instructions in the Exhibition's Instruction Manual. If, due to improper packing procedures, any part of the Exhibition is damaged while in transit to the next site, the Participant is responsible for any resulting repair costs, not to exceed full replacement value of the Exhibition.

10.0 MAINTENANCE

- 10.1** Due to the interactive nature of the Exhibition, daily maintenance and care must be provided. Some components will require daily start-up and shut-down procedures including set-up of props and daily cleaning and/or adjusting to remain in proper working order. The Participant agrees to make available at least one (1) staff or volunteer person for maintaining the exhibition.
- 10.2** The Participant shall inspect the Exhibition at least once each day and report any problems to MINNESOTA CHILDREN'S MUSEUM. Participant will maintain the display at its own expense, including the replacement of lights, janitorial services and minor repairs as necessary to maintain the Exhibition in good working order. All repairs and replacements will be done in coordination with MINNESOTA CHILDREN'S MUSEUM and be repaired or replaced to their original state and value. Unauthorized repairs or modifications will not be permitted. MINNESOTA CHILDREN'S MUSEUM will, at its cost, provide service and maintenance for major breakdowns of the Exhibition or its components, where repair or replacement costs are estimated to exceed \$500. MINNESOTA CHILDREN'S MUSEUM's obligations under this provision assume normal, reasonable operation and care by the Participant's staff and visitors. Any maintenance or repair caused by other than normal operation will be the responsibility of the Participant.
- 10.3** It is the Participant's responsibility to inventory all props and component pieces upon delivery to Participant and when the Exhibition is packed for shipment. Any supplies required by Participant over and above those provided will be at the Participant's expense and will be invoiced to Participant. MINNESOTA CHILDREN'S MUSEUM must be contacted immediately should additional supplies be required.
- 10.4** The Participant shall maintain the cleanliness and good appearance of the Exhibition at all times. The Participant is responsible for thoroughly cleaning the Exhibition prior to opening to the public and at the close of the booking prior to packing.
- 10.5** If Minnesota Children's Museum decides it's necessary, Participant must allow representatives of Minnesota Children's Museum to refurbish components of the Exhibit that are beyond the maintenance expectations of the Participant. Participant should expect to reasonably accommodate repair technicians from Minnesota Children's Museum as needed. Some repairs may require individual components to be closed off to visitors for a limited amount of time. Such time would be coordinated in the best interests of Participant and Minnesota Children's Museum.
- 10.6** Maintenance Reports will be completed by the Participant as directed by the Exhibition Instruction Manual.

11.0 CONDITION AND FINAL REPORTS

- 11.1** The Exhibition will be examined by the Participant during the set-up and take-down period at each Participant site. A Condition Report will be completed by Participant and provided to MINNESOTA CHILDREN'S MUSEUM within three (3) days after completion of installation of the Exhibition, and again within three (3) days after shipping of the Exhibition.
- 11.2** A Final Report will be completed by the Participant and provided to MINNESOTA CHILDREN'S MUSEUM within thirty (30) days of shipping the exhibit.

12.0 STAFFING

Staffing of the Exhibition is the responsibility of the Participant. A minimum of one (1) guide must be provided by the Participant during hours the Exhibition is open to the public.

13.0 SITE REQUIREMENTS

Approximately 500 square feet is required to display the Exhibition. The Exhibition will require 110 power/20 amp electrical service. Further specifics regarding site requirements were provided to Participant in the exhibit application document.

14.0 ADVERTISING/PUBLICITY

- 14.1** MINNESOTA CHILDREN'S MUSEUM will provide the Participant with marketing guidelines and sample advertising templates in advance of delivery of the Exhibition. The Participant may use these materials to promote the exhibit and must submit all pieces to MINNESOTA CHILDREN'S MUSEUM for approval before use. The Participants should allow five (5) business days for approval. If the Participant does not have access to design programs, MINNESOTA CHILDREN'S MUSEUM will create personalized ad layouts upon request for the Participant which requires a minimum of fifteen (15) business days. Negotiation and/or payment for ad space (if desired) are the sole responsibility of the Participant.
- 14.2** MINNESOTA CHILDREN'S MUSEUM will create and distribute press releases on the Participant's behalf. MINNESOTA CHILDREN'S MUSEUM will provide the press releases to the Participant for review prior to submitting to media outlets.
- 14.3** At the end of the venue, the Participant will provide MINNESOTA CHILDREN'S MUSEUM with one copy of each printed ad.

15.0 PROMOTION AND CREDIT

- 15.1** The Participant acknowledges that portions of the Exhibition may use trademarks, logos, artwork, film footage, photographs, renderings, costumes, props, models and other Property belonging or licensed to MINNESOTA CHILDREN'S MUSEUM (together, the "Intellectual Property"). All rights in and to the Intellectual Property are hereby expressly reserved to MINNESOTA CHILDREN'S MUSEUM or its licensors without restriction.
- 15.2** The Participant agrees to ensure that MINNESOTA CHILDREN'S MUSEUM is properly credited in all publicity and communications relating to the Exhibition. The following credit line, or a similar credit line approved in advance by MINNESOTA CHILDREN'S MUSEUM must appear on all printed material relating to the Exhibition:

Storyland: A Trip Through Childhood Favorites™ was created by Minnesota Children's Museum with support from the State of Minnesota Clean Water, Land and Legacy Amendment. [logo]
© 2011 Minnesota Children's Museum. All rights reserved.

The foregoing credit may vary slightly based on its designated usage. Additional credit line guidelines will be included in the Marketing/PR package.

16.0 SPONSORSHIPS/ PARTNERSHIPS

- 16.1** MINNESOTA CHILDREN'S MUSEUM shall have the right to enter into an agreement with one or more sponsors for national sponsorship rights in connection with the Exhibition. The Participant agrees to accept any national sponsor designated by MINNESOTA CHILDREN'S MUSEUM and grant to such sponsor rights that shall include (but are not limited to) inclusion in a pre-exhibit press conference; the right to hold an Exhibition reception party at the sponsor's expense; the national sponsor's name on handbills, all on-site and off-site advertising as it relates to the Exhibition, and all materials created in connection with the Exhibition, including, without limitation, all advertising and marketing materials, and press releases. The national sponsor's name shall be prominently displayed in the Exhibition.
- 16.2** Participant shall have the right to enter into agreements with one or more local sponsors of the Exhibition, provided they are in agreement with the national sponsor and approved in writing in advance by MINNESOTA CHILDREN'S MUSEUM.

17.0 LIABILITY

- 17.1** MINNESOTA CHILDREN'S MUSEUM agrees to indemnify and to hold harmless the Participant from and against all damages, claims, suits, or other legal proceedings arising from or attributed to negligent or otherwise improper design or construction of the Exhibition by MINNESOTA CHILDREN'S MUSEUM, improper or negligent maintenance or repair of the Exhibition while in MINNESOTA CHILDREN'S MUSEUM's possession, and improper use of proprietary and/or intellectual property. The Participant agrees to indemnify and to hold harmless MINNESOTA CHILDREN'S MUSEUM from and against all damages, claims, suits or other legal proceedings arising from or attributed to negligent or improper operation or display of the Exhibition by the Participant, or violation of third party rights resulting from any unauthorized creation, use, display or modification of the Exhibition or advertising or publicity materials relating to the Exhibition.
- 17.2** MINNESOTA CHILDREN'S MUSEUM will make commercially reasonable efforts to assure prompt delivery of the Exhibition. However, MINNESOTA CHILDREN'S MUSEUM cannot be responsible for damages, financial or otherwise, incurred by the Participant as a result of delay in delivery or failure to deliver the Exhibition due to circumstances beyond its control.

18.0 MINNESOTA CHILDREN'S MUSEUM CONTACT

All questions and/or requests for information regarding this Agreement or any aspect of the Exhibition should be directed to the Traveling Exhibits Department at (651) 225-6053.

19.0 GOVERNING LAW

This Agreement shall be governed by and in accordance with the laws of Minnesota, and all claims, disputes, and other matters in question between Minnesota Children's Museum and the Participant arising out of or relating to this Agreement shall be venued in state or federal courts located in Minnesota.

19.0 NOTICES

All Notices hereunder:

- (i) shall be in writing
- (ii) shall be forwarded by one of the following methods: hand-delivery, first-class, certified or registered U.S. mail, Federal Express or other nationally recognized overnight courier service or by fax (followed by a mailed copy),
- (iii) shall be effective upon receipt
- (iv) shall be addressed to the recipient at its address of 10 West Seventh St., St. Paul, MN 55102 and
- (v) shall be delivered to the undersigned at the address of 520 West Superior Street, Duluth, MN55802 unless otherwise directed.

20.0 ENTIRE AGREEMENT

This Agreement, including all schedules, sets forth the entire agreement between the Minnesota Children's Museum and the Borrowing Institution, and supersedes all prior agreements, negotiations, notices, representations, descriptions, oral or written, speaking to the subject matter hereof.

21.0 CONFIDENTIALITY

Except as required by law, each of the parties agrees to keep the terms and conditions outlined in this Agreement confidential

22.0 SIGNATURES

This Agreement sets forth the terms and conditions under which Minnesota Children’s Museum agrees to loan the Exhibition to the Participant and reflects the entire understanding of the parties regarding the subject matter of this contract. Each party agrees to keep the terms and conditions contained in this Agreement confidential, and agrees not to disclose said terms and conditions to any third parties other than its representatives.

MINNESOTA CHILDREN’S MUSEUM

By: _____

Dated: _____

Its: _____

PARTICIPANT – CITY OF DULUTH

By: _____

Dated: _____

Mayor (Authorized Signature)

Mayor Name and Title (please print)

Attest: _____

Dated: _____

City Clerk (Authorized Signature)

City Clerk Name and Title (please print)

Countersigned: _____

Dated: _____

City Auditor (Authorized Signature)

City Auditor Name and Title (please print)

Approved as to form: _____

Dated: _____

City Attorney (Authorized Signature)

City Attorney Name and Title (please print)