

TERMINATION
OF
MEMORANDUM OF UNDERSTANDING
BETWEEN
THE COUNTY OF UNION
AND
THE CHILDREN'S MUSEUM OF CENTRAL NEW JERSEY

TERMINATION OF MEMORANDUM OF UNDERSTANDING

12-12-07

This Termination of Memorandum of Understanding (hereinafter "Termination Memorandum") is entered into between the **County of Union**, a political subdivision of the State of New Jersey (hereinafter sometimes referred to as the "County"), whose address is 2 Elizabethtown Plaza, Elizabeth, New Jersey 07207 and the **Children's Museum of Central New Jersey**, a New Jersey Non-Profit Corporation, (hereinafter sometimes referred to as "Children's Museum"), whose address is c/o Albert I. Telsey, Maraziti, Falcon & Healey, 150 JFK Parkway, Short Hills, New Jersey 07078:

WHEREAS, the County and the Children's Museum entered into a Memorandum of Understanding on August 4, 2003 for the purpose of setting forth the guiding principals associated with the County's offer of a \$1 million dollar grant to assist the Children's Museum locate and construct a children's museum in Union County; and

WHEREAS, the Memorandum of Agreement was approved by the Freeholders by Resolution No 650-03 on June 19, 2003; and

WHEREAS, despite its best efforts to do so, the Children's Museum has been unable to find a suitable location to establish a children's museum in Union County, which best efforts are acknowledged by the County; and

WHEREAS, the Children's Museum undertook considerable time and effort to site the Children's Museum at the Liberty Hall Museum in Union, which arrangement was ultimately not able to be consummated; and

WHEREAS, the Children's Museum is returning and/or not spending \$622,000 of the available grant;

NOW THEREFORE, the parties herewith agree mutually and amicably to terminate the Memorandum of Understanding as follows:

1. Reason for Termination. The Children's Museum worked in good faith and with tireless effort for a considerable period of time to find a suitable location to construct the Children's Museum in Union County. A summary of the Museum's efforts over the past few years is attached hereto as Exhibit A. Despite those good efforts, the Children's Museum was unable to find a suitable location. As such, the Children's Museum was unable to undertake a capital campaign as required by the Memorandum of Understanding.

2. Accounting and financial windup. An accounting of the grant funds provided by the County is attached as Exhibit B. In summary, the County provided the Children's Museum with \$500,000 of the available grant and the Children's Museum spent \$377,499 during the period August 2003 through March 2007. The County finds that the money was spent appropriately and in accordance with the terms of the Memorandum of Understanding. None of the money was spent for services or products not received or provided. The Children's Museum has returned \$122,501 plus interest of the \$500,000 grant money already provided, which money remained unspent. The County has not provided the Children's Museum with any other funds.

3. Reimbursement of Grant Money. The Children's Museum spent \$377,499 of the grant money on efforts to locate the museum in Union County with \$181,052 spent to locate the museum at the Liberty Hall Museum site. The balance of the money (\$196,446) was spent trying to locate the museum elsewhere in Union County. The

County and the Children's Museum have agreed that the Children's Museum will return the amount of \$196,446 (rounded to \$200,000) to Union County as follows:

- a. Five thousand dollars (\$5,000) will be returned to Union County within thirty (30) days of the date of this Resolution.
- b. Forty-five thousand dollars (\$45,000) will be returned to Union County within sixty (60) days of the Children's Museum raising and receiving \$2.5 million dollars in unrestricted contributions to construct the museum in any other location in New Jersey other than Union County, should the Children's Museum continue its efforts to locate and construct the museum elsewhere in New Jersey.
- c. Fifty thousand dollars (\$50,000) will be returned to Union County within sixty (60) days of the Children's Museum raising and receiving \$1 million dollars over and above the first \$2.5 million dollars in unrestricted contributions (i.e., \$3.5 million dollars) to construct the museum in another location in New Jersey, should the Children's Museum continue its efforts to construct the museum elsewhere in New Jersey.
- d. Fifty thousand dollars (\$50,000) will be returned to Union County within sixty (60) days of the Children's Museum raising and receiving \$1 million over and above the first \$3.5 million dollars in unrestricted contributions (i.e., \$4.5 million dollars) to construct the museum in another location in New Jersey, should the

Children's Museum continue its efforts to construct the museum elsewhere in New Jersey.

- e. Fifty thousand dollars (\$50,000) will be returned to Union County in the form of a 10% discount towards admission to the Children's Museum for children in Union County schools, public, parochial and private grades K thru 5 and pre-school until such time as the discount amounts to \$50,000, or equivalent value coupons, if and when the museum is constructed elsewhere in New Jersey and is open for business.
- f. The Children's Museum shall provide Union County with a copy of its annual return (Form 990) filed with the Internal Revenue Service, for each year, until all obligations of the Children's Museum are fulfilled in accordance with this agreement.
- g. Union County agrees that no other moneys, contributions or reimbursements of any kind will be required by the Children's Museum.
- h. Union County agrees that if the Children's Museum is dissolved or otherwise ceases to exist, the obligations set forth herein shall terminate.

4. County Recognition. If the Children's Museum continues as an ongoing entity and should it succeed in locating and operating a children's museum anywhere else in New Jersey, the Children's Museum has agreed to recognize the Union County

Freeholders as a founding donor and to undertake appropriate commemorative and programming recognition for the County's contribution.

5. Design and Construction related documents/assignment of contract. There are no design and construction documents or outstanding contracts for services required to be provided or assigned to the County by the Children's Museum. All design and construction documents in the possession of the Children's Museum shall be the property of the Children's Museum as of the date of this Resolution.

6. Board of Trustees. The three (3) County Board Members appointed to the Children's Museum Board of Trustees shall retire.

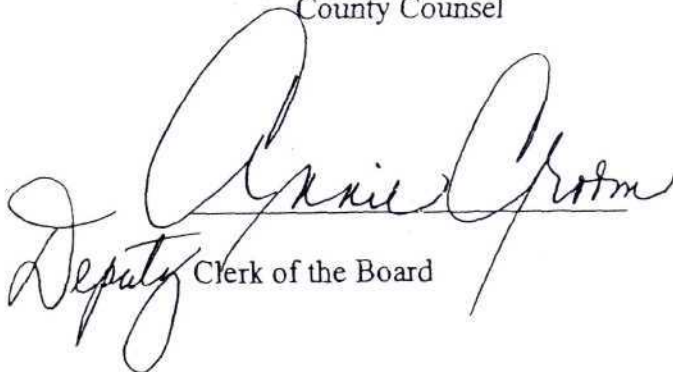
WHEREFORE, the parties have hereunder signed this Termination Memorandum this ____ day of _____, 2007.

Approved as to Form:

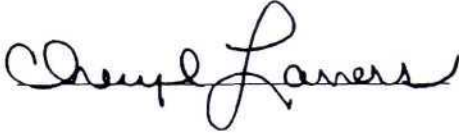
COUNTY OF UNION



County Counsel


GEORGE V. DEVANNEY
County Manager
Deputy Clerk of the Board

Witness:



THE CHILDREN'S MUSEUM OF
CENTRAL NEW JERSEY, a New
Jersey Non-Profit Corporation

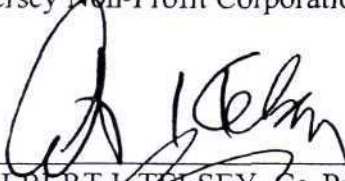
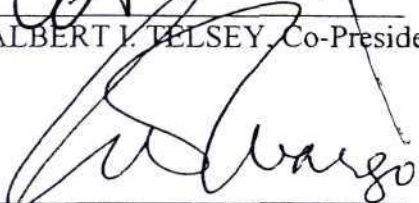

ALBERT I. TELSEY, Co-President,
ANNE WARGO, Co-President

Exhibit A

Summary of Efforts to Site the Museum in Union County (2001 – 2007)

Creation of Children's Museum of Central New Jersey (CMCNJ)

In 2001, Heather Hays, her husband and young children moved to Union County from Chicago Illinois. One of the first things Heather noticed missing in the area was a regional children's museum. Being a can-do person, she simply took it upon herself to build one.

With her boundless energy and drive, Heather quickly found like-minded people interested in the museum, not because it was an inspired grand vision, but because they really wanted it to exist. Surprisingly, no such museum exists in the Northern New Jersey metropolitan area.

In 2002, the initial stakeholders created a non-profit corporation and described their vision to the Union County Freeholders. The Freeholders found the idea exciting for all the reasons a children's museum is appealing – CMCNJ would become a unique place where children and their families could enjoy learning and play in an environment that respects, nurtures and celebrates childhood.

In 2003, the Freeholders agreed to help CMCNJ locate the museum in Union County by providing the non-profit corporation with money that could be used for specific purposes related to the museum's creation. The initial step was to find a location in the County. Other important early steps included undertaking a detailed economic and feasibility analysis, developing a capital campaign strategy, designing exhibits and designing the museum itself. The later task was done with the help of the Hazlip Group, a nationally renowned architectural firm that builds children's museums. CMCNJ undertook all these steps with enthusiasm and grateful appreciation for the seed money provided by Union County.

Initial Searches for a Site

In 2003 and 2004, CMCNJ began a countywide search for a location. Criteria used for siting the museum included the following:

Locality Criteria

Municipal endorsement
Political capacity
Community support
Underserved audiences
Transportation access
Funding base

Site Specific Criteria

Site visibility/inspire curiosity
Avoid heavily residential areas
Minivan test (Can a care-giver easily get to the museum from the car?)
Zoning/utilities, etc.
Gain control of site
Green Building

Initial efforts took the museum to the former Terry Lou Zoo in Scotch Plains and Seville Farms in Clark. Both sites were ultimately found unsuitable for various reasons.

Liberty Hall Museum Site Identified – Fall 2004

Liberty Hall Museum is located in Union, across from Kean University. It is a beautiful house that was home to the first Governor of New Jersey. It is now operated as a museum. This site looked good for CMCNJ because there could have been unique synergy with the existing Liberty Hall Museum and Kean University. All parties expressed interest in locating CMCNJ on the premises. The Meadow site was identified as the best location. The site was tested. Liberty Hall then asked CMCNJ to test the northeast corner of the site. CMCNJ tested this site as well and found it suitable.

Letter of Intent and Draft Ground Lease with Liberty Hall

CMCNJ invested considerable energy and money in preparing a Letter of Intent to enter into a ground lease. The parties executed the Letter of Intent. During this process Kean University introduced the need to construct a road across the northern site of the Liberty Hall property, which would have to be coordinated with the use of the property by CMCNJ. In the spring of 2005 a draft lease was submitted to Liberty Hall for their consideration. Throughout the spring and summer of 2005 CMCNJ was unable to obtain any substantive feedback to the draft lease. By late fall 2005 it was clear to CMCNJ that the lease would not be negotiated or signed by Liberty Hall for reasons that were never explained to CMCNJ. CMCNJ discontinued its efforts to secure a site at Liberty Hall. See the letter dated November 7, 2005 from CMCNJ to Liberty Hall (attached).

New Museum Models and Steering Committee

While disappointing, the demise of the proposed Liberty Hall lease permitted CMCNJ to “zero base” its site analysis and search effort. CMCNJ developed several models that would allow it to build a first-rate children’s museum different from the model that might have been built at the Liberty Hall site. In particular, the museum began considering a suburban model for the museum.

In December 2005 CMCNJ convened a Steering Committee consisting of well-known and experienced business and educational leaders to seek guidance on the major

elements of the project; e.g., location, fundraising, business plan, etc. The single strongest recommendation of the Committee was that CMCNJ should focus the majority of its energy and resources on finding a site in an urban area because it could better tie in to mass transit, better serve the underserved and better enable capital funds to be raised.

Site Prospectus and Ramped Up Search

In early 2006, CMCNJ developed a Site Prospectus that outlined the location criteria and construction requirements for the museum. The Prospectus was sent to the mayor of every municipality in Union County. The museum received one response jointly from Roselle and Roselle Park. CMCNJ reviewed the towns in an effort to locate potential sites but was unable to arrange a meeting with the towns' collective leadership. Independent from the Prospectus mailing, an inquiry was also received from Cranford. Again CMCNJ was unable to move forward with any detailed discussion.

Our internal analysis indicated it was appropriate to try to find suitable sites in Linden, Berkeley Heights, Elizabeth, Union Township and Rahway.

Throughout the process we spoke with many people who were involved in projects similar to the museum project (redevelopment experts, professional planners, cultural facility professionals, legal counsel, academics, developers, economic development professional [EDA, NJRA, Union County EDA] and philanthropists) in and outside Union County, on and off the Steering Committee, to get the best possible ideas and advice.

These discussions had several goals, but the primary goal was to focus our efforts on communities that would welcome CMCNJ and that had the wherewithal to identify viable sites efficiently. Nearly every inquiry about CMCNJ and potential sites in Union County elicited suggestions regarding locations outside the County. CMCNJ discounted sites not located in Union County given the generous support being provided by Union County to locate the museum within Union County.

Using appropriate databases, CMCNJ undertook a complete countywide survey of available county-owned parcels with a footprint of at least 2.5 acres. This review of sites offered 103 parcels in 15 municipalities. Most of the sites were part of or located next to Union County Parks with the balance of the sites being small, odd, wet, sides of highways, or otherwise unbuildable or inappropriate parcels for construction of the museum. The park sites and odd lots were not suitable.

In March 2006 CMCNJ then obtained a list of approximately 115 sites owned by the State of New Jersey in the five towns being seriously considered (Linden, Berkeley Heights, Elizabeth, Union Township and Rahway). CMCNJ considered 102 sites and found that, like the county-owned parcels, few of these sites were viable. They too tended to be small, odd parcels that were essentially castoffs from highway or other state projects.

Throughout 2006, however, CMCNJ did reach out to the five municipalities to further investigate possible sites. Berkeley Heights was interested in the museum and suggested a large parcel in the Watchung Mountains which was isolated from Route 78 and which had to overcome Green Acres restrictions. The museum found the site inappropriate. Elizabeth leaders informed CMCNJ that, given its existing redevelopment plans, there were no suitable parcels in the City or near mass transit available for the museum. Linden did not have adequate sites. Union Township officials had interest but no sites. Rahway had interest, political wherewithal and a site about a mile from downtown. CMCNJ met with Rahway officials a number of times, reviewed the site and found that it was too far away from downtown transportation to promote the goals required by the Steering Committee and would be unsuitable for a viable funding campaign.

Wind Down

By early 2007, CMCNJ had exhausted its efforts to find a suitable location for the museum in Union County, even though its Board and stakeholders remained committed to locating the museum somewhere in central or northern New Jersey. With deep regret and disappointment CMCNJ notified the Union County Freeholders that it would discontinue its efforts to site the museum in Union County and provide the Freeholders with an accounting of grant funds.

CMCNJ will continue to look for a suitable site in the area and, if successful, will recognize and honor the Union County Freeholders as a significant partner in success.

Exhibit B

CMCNJ – Union County Grant Expenditures

Summary of Union County Grant – Page 1

This spreadsheet summarizes the receipts from Union County (\$500,000) and the expenditures (\$377,499) by category and payee. The expenditures break out as follows:

Design & Feasibility	\$358,599
Construction/Construction Mgt	\$0
Accounting Services	\$12,650
Legal Services	\$6,250
TOTAL	<u>\$377,499</u>

The total grant money remaining after these expenditures is \$122,501, with interest earned totaling \$9,837 as of 11/30/07, for a grand total of Union County Grant money remaining of \$132,338. This total less some bank service fees - \$132,303.15 - will be remitted to Union County.

Union County Grant Expenditures Detail – Page 2

This spreadsheet details every expenditure made, by payee, and lists the invoice date, the invoice number where applicable, the check # and amount paid. The last three columns break out the expenditures into three categories as follows:

Liberty Hall Site: This column lists grant expenditures made solely on the Liberty Hall site. This column includes expenditures for architecture services, feasibility study, engineering, project management, accounting services and legal services (contract/lease for Liberty Hall), all relating only to Liberty Hall.

Other Union County Sites: This column lists grant expenditures made solely on Union County sites other than Liberty Hall. This column includes architecture services, project management (mostly on site research and evaluation), accounting services, parcel ID services and site prospectus development.

Not Site Specific: This column lists grant expenditures not related to any site. The expenditures in this column were for services or deliverables that CMCNJ requires regardless of the eventual building site such as content/exhibit planning, Steering Committee development/implementation, Board Development, and Capital Campaign planning.

Detail of Interest Earned on PNC Money Market Account – Page 3

This page details the interest received on the Union County Grant since its deposit into CMCNJ money market account at PNC.

