



Greater Boca Raton Beach & Park District

300 South Military Trail, Boca Raton, Florida 33486
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Board of Commissioners

Craig F. Ehrnst
Steven M. Engel
Robert K. Rollins, Jr.
Susan Vogelgesang
Erin A. Wright

REGULAR MEETING of the BOARD OF COMMISSIONERS January 16, 2018 ~ 5:15 P.M. REVISED AGENDA

ROLL CALL:

CHANGES TO AGENDA:

PUBLIC REQUESTS:

APPROVAL OF MINUTES OF PREVIOUS BOARD MEETINGS:

Regular Board meeting held on January 2, 2018 1

REGULAR BUSINESS:

1. Execution of Employee Pension Plan 7
2. Approval of Explorium Exhibit "Noise"
3. Execution of Boca Raton Championship Agreement
4. Ocean Breeze Discussion
- a) Interlocal Agreement
- b) Architect Selection Schedule
5. Swim and Racquet Center Update

APPROVAL OF INVOICES: 20

REPORTS AND DISCUSSION ITEMS:

Executive Director
District Counsel
Commissioners

FUTURE AGENDA ITEMS:

ADJOURNMENT:

NOTICE: Anyone wanting to appeal an official decision made on any subject at the meeting must have a verbatim record of the meeting, and the appeal must include the testimony and evidence on which the appeal is based.

GREATER BOCA RATON BEACH & PARK DISTRICT
MINUTES OF A REGULAR MEETING OF THE BOARD OF COMMISSIONERS
SUGAR SAND PARK - 300 SOUTH MILITARY TRAIL, BOCA RATON
January 2, 2018

The MEETING was called to order by CHAIRMAN Robert K. Rollins, Jr. at approximately 5:15 p.m.

COMMISSIONERS PRESENT: Craig F. Ehrnst
Steven M. Engel
Robert K. Rollins, Jr.
Susan Vogelgesang
Erin A. Wright

CHANGES TO AGENDA: Based on discussions with Mr. Koski, Chairman Rollins requested, the elimination of the following agenda items under Regular Business: #2- Execution of Boca Raton Championship Agreement; and #3- City Waterfront Masterplan Discussion. In addition, Public Requests were moved to follow the Ocean Breeze Interlocal Agreement discussion.

APPROVAL OF MINUTES OF PREVIOUS BOARD MEETINGS:

MOTION was made by Commissioner Vogelgesang and seconded by Commissioner Engel to approve the minutes of the Regular Board meeting of December 18, 2017.

MOTION UNANIMOUSLY APPROVED

REGULAR BUSINESS:

Ocean Breeze Interlocal Agreement

Chairman Rollins stated that there has been a great deal of consternation with the first Interlocal Agreement received from the City regarding Ocean Breeze. Chairman Rollins and Mr. Koski both discussed the areas of concern with City Staff. Mr. Koski stated that the Interlocal Agreement that the City prepared was a draft, and that the District's response was rather curt in some respect. Further discussions are intended to take place at the City Council Workshop meeting on Jan 8, 2018.

Due to the urgent time frame associated with the closing of the contract with Lennar and Wells Fargo on February 28, 2018, Mr. Koski will have a conference call with Mr. Brown, Assistant City Manager, on Thursday, January 4, 2018. Mr. Koski had an encouraging conversation with Leif Ahnell, City Manager, and feels confident that he will be able to present an Interlocal Agreement that will be mutually acceptable to the City and the District prior to January 8, 2018.

Alterations to the transaction include-

1. City Issue Tax Exempt Borrowing/Debt Service Policy- After consulting with Mr. Timberlake, District Financial Advisor, Mr. Koski proposed that the District acquire (with money in its Reserves), all of the property that is associated with Ocean Breeze lying east

of NW 2nd Avenue. That would be based upon the pro rata value as determined by the appraisal received by Callaway & Price. The title would go directly to the District.
City Financing- Hypothetically, the amount of money the District originally intended to borrow from the City would be reduced from \$27 million to \$19 million, and the two years of capitalized payments would be eliminated. This would be an indication that both the City and the District would have an investment in the entirety of the project. It would be more palatable to have both parties jointly on the deed and would potentially resolve the issue.

2. City Review & Approval- This item would only pertain to the portion of the property that is subject to City financing (the 18 holes of golf). Mr. Koski and Mr. Ahnell feel that they can mutually agree upon additional language to the City's approval process to parenthetically say "such approval not to be unreasonably withheld".
3. District Assumption of City Employees- Mr. Koski and Mr. Ahnell agreed that the District could employ possibly one to three City employees to be the interface between the Board and the maintenance organization. They could oversee whomever the District employs to do the maintenance of the project. This could be a private maintenance organization, or possibly enter into an Interlocal Agreement with the City. Further conversation on this subject was agreed upon.

Mr. Koski feels that these changes will give the District more flexibility on the property east of NW 2nd Avenue, and the District will not be in danger of violating any Tax-Exempt Financing, or City Debt Service Policies.

Commissioner Rollins stated that Mr. Koski mentioned some of the more salient issues that the District was displeased with, and inquired about the other bullet points in the memo to George Brown that he had not mentioned. Mr. Koski advised that it is agreed that there should be a differential between residents of the District/City and non-residents. This issue will be subject to negotiations or decisions that will be made once operations get underway. He feels that there will be no need to have provisions that survive the Interlocal Agreement, especially if the District retains two or three of the City administrative employees. Mr. Koski believes that many of the bullet points will be resolved over the next few days.

Chairman Rollins queried if this would affect the ability for the District to borrow funds for development. Mr. Koski advised that the District would need the second tranch of money and that it is available from the City. He noted that there are other sources of financing, and that the District will have the ability within the private marketplace to borrow money.

Mr. Koski does not anticipate that there will be a need for survival of the relationship of City employees. The City feels comfortable that they can find positions within the Recreation Services Department for those other people who will be displaced when the Municipal Golf Course shuts down.

Chairman Rollins stated that his prevailing concern is that the contract for financing evolved into a contract for operation; it absolutely must be negotiated out of the issue.

Mr. Koski believes the District and the City realize that both properties will be a District owned, operated and designed facility (with the assistance and approval of the City), with concurrence that what the District is building is for the betterment of the community. Mr. Koski pledged support to the City and Mr. Ahnell pledged the cooperation of the City.

Chairman Rollins acknowledged that at the Joint meeting, the District only asked for funding and the arrangement presented was a great deal different. He recalled Mayor Haynie's comments explicitly when the vote was taken, "this is your project and we are in a support role." Mr. Koski believes this will be the end result.

Commissioner Wright asked if it is the District's sole discretion if a third party runs the golf course, or if City approval is needed. Mr. Koski replied that it can be approved, but it cannot be unreasonably withheld. The City fully understands that a maintenance company may operate the golf course; the City does not want to operate the facility. The City wants to make sure no employees are left without work and to utilize whatever expertise exists within the City staff to help with the operation of the golf course. The City employees can act as an interface between the District and a maintenance organization.

Commissioner Engel inquired if the two separate purchase transactions will be consolidated under one deed. Mr. Koski explained that there will be two separate deeds: one from Redus [the Wells Fargo subsidiary] directly to the District; and the other, hopefully, from Redus, jointly to the City and District.

Commissioner Ehrnst was very pleased with Mr. Koski's proposal. He believes that the District and City working together can do a far better job delivering a very worthwhile product. He would prefer to make the architect selection before the closing to avoid any delays. He feels that having the two properties separated will give the District flexibility. The District and City need to be a team and complete this project in a set time frame.

To keep the lines of communication open, Chairman Rollins suggested sending the minutes from District Board meetings to City Council members. Mr. Koski was very optimistic after discussions with Mr. Ahnell and feels the District and the City will be able to reach an agreement and an understanding, and will be able to close on the transaction on February 28th.

Proposals for Ocean Breeze

Florida Statute §287.055 and an Architect Selection Factor document were handed out to the Commissioners to aid in their selection of a golf course architect. Mr. Koski announced that the proposals will not become public record until January 20, 2018, and that the presentations from the proposers would be closed to the public. A complete record will be made available to the public after the presentations are complete.

The Board agreed to review all proposals by January 16, 2018, and will make a decision as to which proposers will be invited to make an oral presentation on January 25 & 26, 2018. An architect ranking will take place on January 29, 2018 to choose the architect.

Commissioner Ehrnst reiterated that after the architect is selected, there will be opportunities for public input as to the design of the golf course.

PUBLIC REQUESTS:

Robert Dukate, 5351 NW 3rd Terrace, Boca Raton

Mr. Dukate thanked the Commissioners and Mr. Koski for their support over the last year and a half. He was shocked and horrified at the lack of cooperation by the City regarding the Interlocal Agreement. He does not want the City involved in any of the decisions being made with regard to Ocean Breeze. He feels that the amount of cooperation and effort that the District has provided to the City is understated in many ways. "Let's keep the City out of District owned property!"

Greg Galanis, 1780 Parkside Circle South, Boca Raton

Mr. Galanis wished the Board a Happy New Year and thanked them for their efforts. He represents the Boca Golf Association which offered their support to the Board in design criteria and architect selection. He feels that it is important for the golfers to be involved in the process.

Harold Chaffee, 6200 NW 2nd Avenue, Boca Raton

Mr. Chaffee, representing "Keep Golf in Boca", was happy with Mr. Koski's report, however, he was not happy with the City's Interlocal Agreement. Mr. Chaffee stated that the "City hasn't handled any projects well and the District does not get the credit they deserve." He indicated that if the District runs the golf course and takes responsibility for it, it will be a success!

Tom Vasell, 1901 S. Ocean Boulevard, Boca Raton

Mr. Vasell, representing the Boca Raton Men's Golf Association, stated that they enjoy the facilities at the Municipal Golf Course and want to maintain the same ambiance at the new course at Ocean Breeze. They do not want it to be a "golf destination". They want reasonable green fees and facilities that everyone can utilize and afford. Chairman Rollins responded that it is the District's intention to make it pleasurable and to meet the high standards the District maintains at its parks.

Doug Collier, 5701 NW 2nd Avenue, Boca Raton

Mr. Collier feels that the District should be the only entity in charge of the golf course. He would support the District negotiating an agreement with the City that allows for the City's input and support, but gives control to the District for decisions regarding the golf course. Chairman Rollins stated that the District does rely on professional advice from City staff, however, the ultimate decision will rest with this body.

David Sergi, 559 NE 46th Street, Boca Raton

Mr. Sergi inquired if the District/Architects have taken into consideration where the swimming pools in the area are located when designing the golf course. Mr. Koski assured him that the golf course will not interfere with the people who reside there. Landscape architects will aid in developing a championship golf course that considers its surroundings.

ELECTION OF BOARD OFFICERS FOR 2018:

Chairman

Commissioner Vogelgesang nominated Commissioner Rollins for the position of Chairman. By acclamation, Commissioner Rollins accepted the position of Chairman.

Vice-Chairman

Commissioner Vogelgesang nominated Commissioner Engel for the position of Vice-Chairman. By acclamation, Commissioner Engel accepted the position of Vice-Chairman.

Secretary-Treasurer

Commissioner Vogelgesang nominated Commissioner Ehrnst for the position of Secretary-Treasurer. Chairman Rollins seconded the nomination. By acclamation, Commissioner Ehrnst accepted the position of Secretary-Treasurer.

APPROVAL OF INVOICES: Secretary-Treasurer Vogelgesang provided a revised invoice disbursement list and recommended approval.

MOTION was made by Commissioner Vogelgesang and seconded by Commissioner Engel to approve the revised invoices as presented totaling \$79,670.96

MOTION UNANIMOUSLY APPROVED

REPORTS AND DISCUSSION ITEMS:

Commissioners-

Commissioner Vogelgesang wished everyone a happy, healthy New Year and advised that the Red Reef Golf Course is up 4% over last year. She welcomed Councilwoman O'Rourke and thanked her for all of her input and a good first year in office.

Commissioner Engel wished everyone a happy, healthy, prosperous New Year. He extended his congratulations to Commissioner Ehrnst on his nomination as Treasurer-Secretary and congratulated Chairman Rollins for an exceptional job over his tenure. Commissioner Engel also showed his appreciation to the members of the audience and thanked them for all their input saying "without you we would not be able to function the way we do!"

Commissioner Wright wished everyone a Happy New Year and advised that the rezoning of the Boca Executive Golf Course is on the Planning and Zoning Agenda scheduled for Thursday, January 4, 2018 at 6:30 p.m.

Swim & Racquet Center Pool Closings

Facilities Manager, Melissa Dawson, announced that the pool closings are being posted on the Swim & Racquet Center page on the District's website. Meadows Park Pool will be open every day at 7:30 am. All aquatics memberships will be valid at Meadows Park Pool during this time.

Commissioner Ehrnst wished everyone a Happy New Year and requested the prioritization of District projects be added as a future agenda item.

Chairman Rollins extended his wishes to all for a Happy New Year and thanked the audience for their valuable input. He expressed to Councilwoman O'Rourke that he is delighted that she is serving on the City Council and that she is quite transparent and is serving us very well. He also appreciates Michael Kalvort coming to the District meetings.

FUTURE AGENDA ITEM – Prioritization of District Projects

ADJOURNMENT:

MOTION was made by Commissioner Engel and seconded by Commissioner Vogelgesang to adjourn the meeting at 6:30 p.m.

MOTION UNANIMOUSLY APPROVED

Robert K. Rollins, Jr. Chairman Craig F. Ehrnst Secretary-Treasurer



December 19, 2017

Greater Boca Raton Beach & Park District
Mr. Arthur C. Koski, District Administrator
300 S. Military Trail
Boca Raton, FL 33486

RECEIVED

DEC 22 2017

GREATER BOCA RATON
BEACH & PARK DISTRICT

Re: Sugar Sand Park – Explorium Exhibit
“Noise”

Dear Art,

Staff recommends approval of the attached agreement between the Greater Boca Raton Beach & Park District and Science Works Hands-on Museum, to provide a “traveling exhibit” from October through December 2018.

It’s a Noise! is a 1,600 square foot exhibit created for kids 5-8 and families. Nine original exhibits invite visitors to explore the science of sound.

Zoom Noise! features exhibits on sound, music, and hearing. Visitors can take a playful look at the physics of sound waves as well as how music and sound affects our mood through interactive exhibits like the “Can you hear me?” Scream Chamber and the “good vibrations” of the Dancing Sands plates.

This exhibit enhances our own exhibit collection and reinforces current topics and standards of the elementary science curriculum. It also serves as an incentive for additional programming opportunities. Rental for the exhibit, including the deposit, is \$23,000. Incoming shipping costs for one truck and the usual travel, liability and damage insurance apply. The rental company will cover the exhibit return shipping.

Staff anticipates this exhibit being very popular with patrons, as demonstrated by public interest in the existing programs offered by the Explorium and Sugar Sand Park.

Thank you for your consideration of this matter.

Sincerely,

Buddy Parks, CPRP
Deputy Recreation Services Director

Attachments

c: Recreation Services Director/Parks Superintendent *(share copy)*
Community Centers Administrator

EXHIBIT RENTAL AGREEMENT

This Agreement (the "Agreement") is made as of the 9th day of December, 2017 (the "Effective Date") by and between Science Works Hands-On Museum, an Oregon non-profit corporation whose principal office location is 1500 East Main Street, Ashland, OR. 97520 (hereinafter referred to as "Provider") and the "Greater Boca Raton Beach & Park District", and the exhibition will reside in the Children's Science Explorium, whose principal office location is 300 South Military Trail, Boca Raton, Florida 33486 (hereinafter referred to as the "Exhibitor").

WHEREAS, Exhibitor desires to rent from Provider a series of exhibits titled "Noise" to be displayed at Exhibitor's location to Exhibitor patrons. WHEREAS, the Provider desires to rent such Exhibition to Exhibitor. NOW THEREFORE, in consideration of the mutual covenants hereinafter written, the parties agree as follows:

1 Rental of the Exhibition, Rental Term, Rental Fees

1.1 The Provider agrees to provide and rent to Exhibitor and Exhibitor agrees to rent from Provider the series of exhibits known as the "Noise" Exhibition. Provider agrees to not rent "Noise" to any other party located within 100 miles of the Exhibitors location prior to the commencement of this rental contract. See attached Exhibit A for a summary of "Noise" exhibit units.

1.2 This Agreement commences on the date of signing and secures a future rental period for "Noise" from its actual arrival date to Exhibitor site, estimated to be on or about September, 17, 2018, for a period of fifteen (15) consecutive weeks, hereinafter referred to as the Rental Period. Provider shall have three (3) business days immediately following the conclusion of the rental period, January, 7th, 2019, to disassemble and prepare for outbound shipping at which point if Provider does not perform, additional rental charges may apply. The parties agree and acknowledge that the Term of this Agreement may be modified in writing to reflect any such mutually agreed upon change.

1.3 As described herein, Exhibitor will pay costs for the Total Rental Fee, insurance, + inbound shipping (to Exhibitor location) and any receiving costs and set up costs at Exhibitor site as well as the costs of breakdown and prep for outbound shipping at the end of the rental period.

1.4 Provider will arrange for and pay for outbound (return to Provider) shipping and shipping insurance.

1.5 The total rental fee ("Total Rental Fee") for the Rental Period shall be \$23,000 + inbound shipping. Should Exhibitor desire expedited shipping, any costs of the expedited service above the base shipping costs shall be paid by Exhibitor.

1.6 One month extensions beyond the minimum three month rental are possible and must be agreed upon under separate written amendment to this agreement and are subject to availability of "Noise" at the time of the request. Extension months will be priced at \$4,000 flat

fee and would be payable immediately upon signing an agreement to extend.

2 Payment of Rental Fee and Service Fee

2.1 Exhibitor will pay the Total Rental Costs as follows:

- (i) Full payment of \$23,000 shall be due and payable to Provider by check or wire as follows:
- (ii) \$5,000 deposit due immediately upon signing of the contract.
- (iii) \$18,000 balance due in full no later than September, 17th, 2018.

3 Shipping and Insurance

3.1 Provider shall be responsible for arranging documentation and scheduling of inbound shipping and transit, including insurance to the Exhibitor's location. Exhibitor agrees to cooperate as is necessary with Provider, or the Provider's agents, with respect to transport, customs, taxes, and such matters which relate to transport to Exhibitors specific site at no additional expense to Provider, except as otherwise stated in this agreement.

3.2 Risk of loss, for "Noise", is borne by Exhibitor from the time "Noise" arrives at Exhibitor's location until the time "Noise" shipped to the next site or back to the Provider. Exhibitor agrees to insure "Noise", at Exhibitor's expense while in Exhibitor's possession. "Noise" is in possession of Exhibitor from the time "Noise" arrives at Exhibitor's location until the end of the rental term and upon pickup by outbound shipping company. Exhibitor shall provide Provider with adequate written proof of such insurance coverage one month prior to the scheduled arrival date. Such insurance will be primary to any other insurance held by Provider. Exhibitor's insurance will provide "all risks", wall-to-wall insurance coverage, subject to the standard exclusions of earthquake, wear and tear, mail shipments, war risk, nuclear radiation, and terrorism, and shall be in such amount and subject to such conditions as are set forth herein.

3.3 Exhibitor shall maintain and furnish the Provider with evidence of insurance showing that Exhibitor carries comprehensive general liability insurance. This evidence should show commercial general liability insurance on an occurrence form with coverage for premise/operations, products/completed operations, blanket contractual liability, stipulated as to have unimpaired limits of liability of not less than \$1,000,000 combined single limit per occurrence and \$1,000,000 per accident. This evidence will also indicate physical damage coverage for "Noise" in the amount of \$75,000. Individual exhibit component replacement value is described as such: Scream Chamber \$5,000, Pipe Organ \$4,000, Sound Track \$7,000, Good Vibrations, \$15,000, Whirling Sounds 15,000, Hearing Test 7,000, Dancing Sands 5,000, Spooky Sounds 10,000, Now Hear This 7,000. The insurances will evidence that Provider, its directors, officers, employees, and volunteers shall be included as additionally insured. This insurance shall be stipulated to be primary to insurance carried by the Provider. All insurance required shall apply with not less than thirty (30) days' notice of cancellation to Provider.

3.4 Exhibitor agrees to provide security for the Exhibits while in storage, during installation or deinstallation and while on display at Exhibitor's location. The Exhibits shall be displayed or stored in a physically secure, weather-tight, supervised space that is suitable for display and storage of such Exhibits. Exhibitor shall provide sufficient staff to minimize risk of theft and shall take all reasonable precautions to minimize risk of damage to Exhibits due to fire, flood,

earthquake, adverse weather or other such causes. Exhibitor also agrees to provide secure storage of the crates used to protect the Exhibits for the duration of each Rental Term.

4 Inspection

4.1 Upon completion of installation of the exhibits and prior to the date of opening, Exhibitor shall inspect the exhibit for damage and report damage to Provider. The Provider expects that the exhibits shall leave the Exhibitors site in the same condition as they were received unless otherwise notified by Exhibitor.

5 Installation/De-installation

5.1 Exhibitor is responsible for the installation and the de-installation of the Exhibits. Provider will provide technical assistance by phone to Exhibitor.

5.2 Exhibitor shall provide, at its sole cost and expense, suitable display areas, flexible lighting, continuous electrical power, all piping and wiring up to the Exhibits, suitable flooring, wall coverings, storage space for crates, and suitable means for moving the crated Exhibits into and out of the exhibition hall and other necessary facilities relating to the installation of the Exhibition and the preparation of the physical site.

6 Warranty

6.1 Provider warrants that each Exhibit in “Noise” shall be free from all significant defects in materials and workmanship and all significant defects due to design during the rental term. Provider agrees to repair or replace, upon Exhibitor's written request, any such defects at no charge to Exhibitor for all parts and labor.

6.2 Exhibitor will conduct routine maintenance and cleaning of the Exhibits on an on-going basis in accordance with instructions provided in the maintenance manual for each Exhibit. Costs for repairs due to lack of routine maintenance shall be borne by Exhibitor. Exhibitor shall provide consumable materials, if any, as needed for the operation of “Noise” as described in the maintenance manual.

6.3 If repairs beyond standard maintenance as described in the maintenance manual are required during the term of the Exhibition, the Provider agrees to supply spare parts and technical assistance by phone to Exhibitors repair staff/contractors at Provider’s cost. Provider also agrees to reimburse Exhibitor for reasonable labor fees associated with such repairs.

6.4 Acts of vandalism and damage caused by mishandling and/or improper care, accidental or otherwise, of Exhibits are not covered under the Provider's warranty. Any repairs which Provider may undertake due to acts of vandalism or damage caused by mishandling or improper care, shall be at Exhibitor's sole and complete expense, including salary costs, travel and accommodation costs, and all such expenses required to repair the Exhibit or Exhibits.

6.5 THE FOREGOING CONSTITUTES THE COMPLETE WARRANTY, IMPLIED OR EXPRESSED AND NO OTHER WARRANTIES ARE MADE BY THE PROVIDER. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WITH RESPECT TO THE

EXHIBITS, SERVICES AND ACCOMPANYING MATERIALS, PROVIDER DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT OR THAT THE EXHIBITS WILL PERFORM ANY FUNCTION OR HAVE ANY CAPABILITY (OTHER THAN AS DESCRIBED ABOVE). PROVIDER SPECIFICALLY DISCLAIMS THE FITNESS OF THE EXHIBITS FOR YOUR PARTICULAR PURPOSE.

7 Educational Support Services and Educational Materials

7.1 Educational materials ("Educational Materials") means all written materials and training that Provider may provide to Exhibitor related to the use of "Noise".

7.2 Exhibitor may not make commercial use of such Educational Materials or other Provider intellectual property, such as, without limitation, in commercial publications, without the prior written consent of Provider. Provider and Exhibitor hereby agree that Provider has retained all of its copyright interest in any Provider owned Educational Materials including without limitation its right to translate.

8 Exhibition Graphics

8.1 Exhibition graphics ("Graphics") means the signs and placards that Provider shall provide for "Noise" and any other signage relating to "Noise".

8.2 Any of the Graphics that are owned by Provider are protected by United States intellectual property laws and international treaty provisions. Provider owns and retains all right, title and interest in and to the Provider owned Graphics, including trademarks, copyrights, trade secrets and other intellectual property rights embodied or contained therein. Provider hereby grants Exhibitor a nonexclusive, personal license to display, translate and modify the Provider owned Graphics solely in connection with "Noise" and subject to the terms of this Agreement, and no other use of the Provider owned Graphics may be made without the prior written consent of Provider. Provider and Exhibitor hereby agree that Provider has retained all of its copyright interest including without limitation its right to translate.

9 Trademark Ownership and License

9.1 Provider will retain all right, title and interest in and to its trademarks, service marks and trade names worldwide, including any goodwill associated therewith, subject to the limited license granted to Exhibitor hereunder. Any use of any such trademarks by Exhibitor shall inure to the benefit of Provider and Exhibitor shall take no action that is inconsistent with Provider's ownership thereof.

9.2 Each party hereby grants to the other a non-exclusive, limited license to use its trademarks, service marks or trade names solely in connection with "Noise" and as necessary for inclusion in or on Materials, Graphics and Exhibits as specifically described in this Agreement. All such use shall be in accordance with each party's reasonable policies regarding advertising and trademark usage as established from time to time.

9.4 Upon the expiration or termination of this Agreement, each party will cease using the trademarks, service marks and/or trade names of the other except:

- (i) As the parties may agree in writing; or
- (ii) To the extent permitted by applicable law.

10 Copyright/Use of Exhibits

10.1 Ownership of the tangible property rights of “Noise” included in this Agreement shall belong to Provider; furthermore, all intangible rights therein, including without limitation any copyrights, patents, design rights or rights of reproduction or duplication in “Noise”, and/or any associated trademarks, service marks, trade names or trade dress are reserved by Provider, except as expressly licensed by this Agreement.

10.2 If available and in Provider's sole discretion, Provider hereby grants to Exhibitor a nonexclusive, limited license to reproduce and display Promotional Materials (defined below) in Exhibitor's promotional articles, pamphlets, on Exhibitor's web site and in other similar promotional and educational materials of Exhibitor solely as necessary for promoting “Noise” during the Term of this Agreement and subject to the terms of this Agreement. Such materials may include selected photographs and digital images of “Noise” (the "Promotional Materials"). Upon termination of this Agreement for any reason whatsoever, Exhibitor agrees to cease using and return or destroy all Promotional Materials and upon request by Provider, certify as to the same in writing. Exhibitor shall further have the right to create and use additional photographs or images of “Noise” (the "Additional Images"), in Exhibitor’s setting for publicity, educational materials, posters, postcards, and publications, only to the extent any of the foregoing uses are related to the Exhibition. Except as set forth in the preceding sentences, Exhibitor may not make any use of such Promotional Materials or Additional Images of “Noise” (including without limitation in connection with any commercial advertising) without the prior written consent of Provider. All of the Promotional Materials are protected by United States intellectual property laws and international treaty provisions. Provider owns and retains all right, title and interest in and to the Provider owned Promotional Materials, including trademarks, copyrights, trade secrets and other intellectual property rights embodied or contained therein.

10.3 Nothing in this Agreement restricts the right of Provider or its suppliers to duplicate and sell and or rent the Exhibits, plans for “Noise” or written materials associated with the Exhibits included in the Exhibition.

10.4 Exhibitor shall acknowledge that “Noise” exhibits are the creations of the Provider in publications, publicity materials, broadcasts and other literature associated with the Exhibits and on any graphics that are incorporated into the display of the Exhibits.

10.5 Provider agrees to indemnify, defend, protect and hold harmless Exhibitor against all damages, liability and costs suffered or incurred by Exhibitor as a result of any claims by any third party that the Exhibits constitute an infringement of any patent, trademark, design patent, copyright or other intellectual property rights.

10.6 Exhibitor likewise agrees to indemnify, defend, protect and hold harmless Provider against all damages, liability and costs suffered or incurred by Provider as a result of any claims by any third party that the contributions of Exhibitor with respect to “Noise” or “Noise” related materials constitute an infringement of any patent, trademark, design patent, copyright or other intellectual property rights.

11 Termination

11.1 The Agreement shall not be terminated unless under any of the following circumstances: (i) In the event of material breach or material delay in performance of this Agreement by either party, this Agreement may be terminated by the non-breaching party upon thirty (30) days written notice to the other party specifying the nature of the breach or delay, should the breaching/delaying party fail to cure the breach or delay to the reasonable satisfaction of the non-breaching/non-delaying party within such thirty (30) day period. Termination pursuant to this clause shall not have prejudice to the non-breaching/non-delaying party's right to compensation for damages or loss incurred by such breach or delay; or (ii) Either party may terminate this Agreement effective immediately upon written notice to the other party if such other party (i) becomes insolvent; (ii) fails to pay its debts or perform its obligations in the ordinary course of business as they mature; (iii) admits in writing its insolvency or inability to pay its debts or perform its obligations as they mature; or (iv) becomes the subject of any voluntary or involuntary proceeding in bankruptcy, liquidation, dissolution, receivership, attachment, or general assignment for the benefit of creditors that is not dismissed with prejudice within thirty (30) days after the institution of such proceeding; or (iii) If any acts of God or other cause beyond the reasonable control of Provider prevents Provider from substantially performing its obligations hereunder, Exhibitor may terminate this Agreement upon written notice to Provider, subject to Provider's right to cure under paragraph 11.1(i).

12 Relationship of the Parties

Exhibitor agrees and acknowledges that Exhibitor's relationship with Provider is strictly and solely that of an independent contractor, and that Exhibitor is not entitled to any employee benefits or insurance, including without limitation any health care, worker's compensation, unemployment or disability benefits, on Provider's account. Exhibitor further agrees and acknowledges that it is solely responsible for determining the method and means by which it will fulfill its obligations hereunder. Exhibitor shall be solely responsible for payment of all sales, use, or other taxes assessed against or associated with the performance of Exhibitor's obligations or on the exercise of Exhibitor's rights under this Agreement, including without limitation Exhibitor's income, payroll or employment-related taxes and payments. Provider shall not engage any person or entity to serve in any capacity, or incur any expense or obligation, on behalf of Exhibitor, without the prior written consent of Exhibitor, such consent not to be unreasonable withheld. Nothing contained in this Agreement shall be construed to place the parties in the relationship of partners or joint ventures and neither party shall have any right to obligate or bind the other in any manner.

13 Dispute Resolution

In the event of any disputes or claim in law or equity arising out of relating to this Agreement, the parties agree to discuss the problem amicably and attempt to resolve the dispute. Disputes

that cannot be settled shall be submitted to mediation under terms agreed on by the parties in good faith at the time. Should the parties fail to agree on a mediation procedure within ten (10) business days or should a mediation session be held and fail to produce agreement, the dispute shall be submitted to arbitration in accordance with Section 14 (Applicable Law) of this Agreement.

14 *Applicable Law*

14.1 Arbitration under this Agreement, shall be decided by neutral binding arbitration, to be held at Medford, Oregon, in accordance with The Rules of the American Arbitration Association applicable to the arbitration of commercial transactions, and not by court action except as provided by Oregon law for judicial review of arbitration proceedings. Judgment upon any award made in such arbitration may be entered and enforced in any court of competent jurisdiction.

14.2 This Agreement shall be construed, and the legal relations between the parties hereto, shall be determined in accordance with the Laws of the State of Oregon in the United States of America applicable to contracts made and performed in Oregon.

15 *Failure to Enforce Rights*

Failure of either party to enforce at any time or for any period of time any of the provisions hereof shall not be construed to be a waiver of such provisions or the right of such party thereafter to enforce each and every such provision. Except as set forth herein, all remedies accorded herein or otherwise available to any party hereto shall be cumulative, and no one such remedy shall be exclusive of, nor shall it be considered a waiver of, any other.

16 *Assignment*

Neither this Agreement nor any rights or duties hereunder may be assigned or delegated (in whole or in part) to any other person or entity by either party without the express prior written consent of the other party, and any purported assignment or delegation without such consent shall be void, at the option of the other party. Either party's obligations are personal to such party, and either party acknowledges that the other party has entered this Agreement in reliance on such party's ability and agreement to perform its obligations accurately, competently, and completely.

17 *Schedules*

The Provider and Exhibitor agree to adhere to the rental term schedule described herein.

18 *Notices*

Any and all notices or other communications required or permitted by this Agreement shall be in writing and shall be deemed delivered the earlier of (a) actual receipt by personal delivery to the Provider's Representative (defined in Section 21.1 below) or Exhibitor's Representative (defined in Section 21.2 below), as the case may be, or in lieu of such personal service, actual receipt by way of Federal Express, DHL, or other similar courier addressed to such party at the appropriate address set forth below the signature block of this Agreement, (b) the date of receipt by facsimile to Provider's Representative or Exhibitor's Representative, or (c) three (3) business days after the date of mailing

(postage pre-paid return receipt requested). Either party may change its address for the purpose of this Paragraph by giving written notice of such change to the other.

19 Advertising

Except as provided in Section 7 (Educational Materials), Section 8 (Exhibition Graphics), Section 9 (Trademark Ownership and License) and Section 10 (Copyright/Use of Exhibits), Exhibitor shall acquire no right to use, and shall not use without Provider's prior written consent, the names, characters, art work, designs, trade names, copyrighted materials, trademarks or service marks of Provider, its related or subsidiary companies, employees, directors, shareholders, assigns, successors or licensees, (a) in any advertising, publicity or promotion, (b) to express or to imply any endorsement of Exhibitor's services, or (c) in any manner other than in accordance with this Agreement.

20 Waiver

All waivers hereunder must be made in writing, and failure at any time to require the other party's performance of any obligation under this Agreement shall not affect the right subsequently to require performance of that obligation.

21 The Representatives

21.1 "Provider's Representatives" means Leo Palombo, or such other person as may be subsequently designated by Provider in writing. All instructions, approvals, submissions, notices, or any other communications or transactions that must be made to or by Provider under this Agreement must be made through Provider's Representatives.

21.2 "Exhibitor's Representative" mean Maddy Bentivegna; or such other person as may be subsequently designated by Exhibitor in writing. All instructions, approvals, submissions, notices, or any other communications or transactions that must be made to or by Exhibitor under this Agreement must be made through Exhibitor's Representative.

22 Indemnity

22.1 Either party indemnifies and holds the other party and each of its directors, officers, employees and agents harmless from and against any third party claim, loss, proceeding, liability, damages, judgment, cost or expense, including penalties and reasonable outside attorneys' fees and costs in the disposition and defense of such matters of any kind and character suffered or incurred by such other party (1) by reason of any material breach or alleged breach or failure of any of the warranties, agreements, representations or obligations of such party under this Agreement, and/or (2) by reason of, arising from, or in any manner connected with any acts or omissions of such party in connection with this Agreement.

22.2 The indemnity obligation of the party from whom indemnity is sought ("Party A") is contingent upon the prompt written notice by the party seeking indemnity ("Party B") to Party A of any claim, damage, or action for which indemnity under the Agreement is sought. Party A's indemnity obligation is further conditioned on the cooperation of Party B in the defense of any such claim, damage, or action. Party A, in its discretion, may assume the defense of any such claim, defense, or action, in which case Party B may retain counsel to monitor the defense thereof; however, any counsel retained by Party B for this purpose shall be retained by said party

solely at its own expense. If Party A assumes defense, it shall have full control over the defense and/or settlement. If Party B settles any claim, damage, or action without first obtaining the written consent of Party A (which consent will not be unreasonably withheld), Party A shall be released from any and all indemnity obligations with respect to the defense and settlement of such claim, damage, or action, unless Party A has materially breached its indemnity obligation hereunder.

23. Limitation of Liability

IN NO EVENT WILL PROVIDER BE LIABLE TO EXHIBITOR OR TO ANY THIRD PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND, EVEN IF INFORMED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL PROVIDER'S TOTAL LIABILITY UNDER THIS AGREEMENT EXCEED THE TOTAL RENTAL FEES ACTUALLY PAID BY EXHIBITOR TO PROVIDER UNDER THIS AGREEMENT. PROVIDER'S LIMITATION OF LIABILITY DOES NOT APPLY TO THE INDEMNIFICATION OBLIGATIONS OF EITHER PARTY AS SET FORTH IN SECTION 22 (INDEMNITY) ABOVE.

24 Compliance with Laws

24.1 Nothing contained herein shall require the commission of any act or payment, which is contrary to any law, rule or regulation. After due investigation the Exhibitor represents and warrants that any acts of or payments by the parties as contemplated by this Agreement do not violate any law, rule or regulation. If there shall exist any conflict between this Agreement and any such law, rule or regulation, the latter shall prevail, and the provision(s) hereof affected shall be curtailed, limited or eliminated only to the extent necessary to remove such conflict and, as so modified, this Agreement shall continue in full force and effect.

24.2 This Agreement states the entire contract between the parties in respect to the subject matter of this Agreement and supersedes any previous written or oral representations, statements, negotiations or agreements. Both parties shall exercise their respective obligations under this Agreement in compliance with all applicable laws, orders and regulations. The Agreement may be modified only by written amendment signed by Provider's Representatives and Exhibitor's Representatives.

25 Force Majeure

Except for payments due under this Agreement neither party will be responsible for any failure to perform due to causes beyond its reasonable control, including but not limited to acts of God or riot, embargoes, acts of civil or military authority, denial of or delays in processing export license applications, fire, floods, earthquakes, accidents, strikes or fuel crises, provided that such party give prompt written notice thereof the other party

26 Warranties

Provider represents, warrants and agrees that: (a) Provider has the right to furnish the Exhibition, and the objects contained therein, to Exhibitor and, to the best of Provider's knowledge it is not the subject of any actual or threatened litigation or claim, and shall not infringe upon or violate any common law, statutory rights, rights of repatriation or any other rights of any party; (b)

Provider is under no obligation, which will in any manner prevent or restrict Provider from entering into and freely performing this agreement; and (c) Provider is a corporation duly organized and validly existing under the laws of its state of incorporation.

27 Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument. If this Agreement is executed in counterparts, no signatory hereto shall be bound until both the parties named below have duly executed or caused to be duly executed a counterpart of this Agreement.

28 Facsimile Signatures

A signature on a copy of this Agreement received by either party by facsimile is binding upon the other party as an original. Both parties agree that a photocopy of such facsimile may also be treated by the parties as a duplicate original.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

ScienceWorks Hands-On Museum

Greater Boca Raton Beach & Parks District

By: _____

By: _____

Ann Dowdy

Executive Director

Date: _____

Date: _____

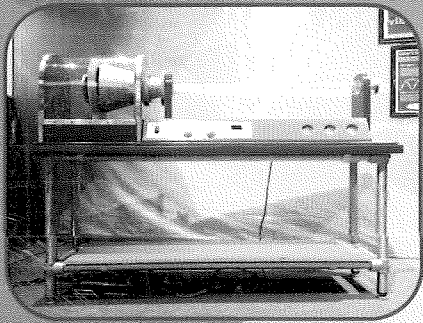
Address:

1500 East Main
Ashland, OR 97520

Address:

300 South Military Trail
Boca Raton, Florida 33486

features exhibits on sound, music and hearing, this exhibit is sure to knock your socks off!



Creating experiences from the “can you hear me now” Scream Chamber to the “good vibrations” of the Dancing Sand Plates, these exhibits take a playful look at the physics of sound waves as well as how music and sound affects our mood.

Good Vibrations

Visitors manipulate frequency and amplitude controls to generate sound waves through an acrylic tube filled with Styrofoam beads.

The vibrations set up a variety of standing wave patterns.

Scream Chamber

Visitors enter a soundproof booth and scream loudly. A video camera and monitor enable visitors outside the booth to watch. A meter outside the booth indicates the decibel level of the scream.

Pipe Organ

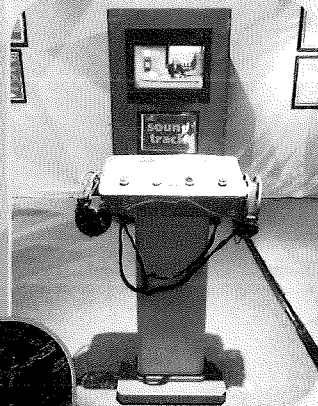
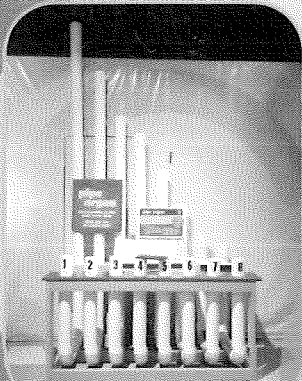
Visitors slap the open ends of large PVC tubes with foam paddles to create musical tones. Visitors can make up their own songs or use the included songbook.

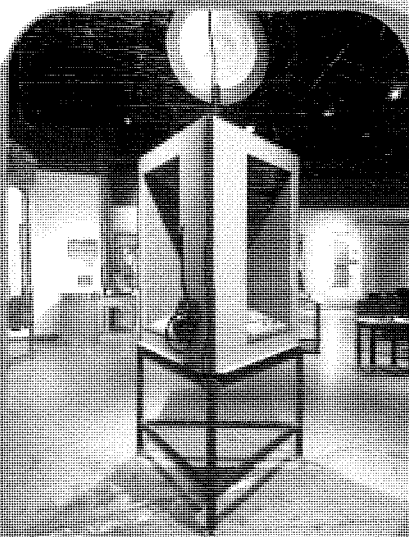
Sound Track

Visitors first watch a series of video clips without sound on a TV monitor. Next, the visitor selects from four soundtracks (background music) and observes how each influences the “feel” of the video sequences. The exhibit provides two sets of headphones so the soundtracks can be experienced and shared by two visitors at a time.

Whirling Sounds

Demonstration of the Doppler Effect – visitors experience perceived pitch change as a sound source moves towards or away from the listener. The speaker mounted to a rotating arm spins above the visitor’s head while the visitor can select sound effects and manipulate rotation speed.





Hearing Test + Pitch Match

Two exhibits housed in one kiosk. Hearing Test allows visitors to test the frequency range of their hearing. Pitch Match challenges the visitor's tonal memory. First, a reference tone is selected and heard by the visitor. Next, the visitor uses a dial control to match the tone they first heard. Pushing a third button allows visitor to see how close they came.

Dancing Sands

Visitors select and place a metal plate on vibrating unit. Next, sand is sprinkled on the plate. Visitors close acrylic enclosure and manipulate frequency control to find resonant frequencies that create amazing patterns in the sand.



NOISE!

Spooky Sounds

This exhibit consists of a Theremin, an oscilloscope, and a TV/DVD player. Visitors play the Theremin by bringing their hands near the frequency and volume antennae. The sound waves are displayed on the oscilloscope. A silent video of science fiction clips inspires users to create eerie soundtracks. Signs explain the basics of wave mechanics.



Now 'Ear This

Model of the human ear using analogous mechanisms to demonstrate function and structure of the outer, middle and inner ear portions. Visitors first turn a crank to send a pressure wave of air into the outer ear. Next, visitors push a button to see the vibration transferred to the hammer, anvil and stirrup bones of the middle ear. Finally, visitors push another button to activate blinking lights which represent the flow of impulses from the cochlea to the auditory nerve and on to the brain.

