

CONSENT TO SUBLEASE AGREEMENT

The City of San Diego (CITY), as LESSOR under that certain Lease Agreement (Master Lease) entered into with

THE ZOOLOGICAL SOCIETY OF SAN DIEGO

(LESSEE), dated September 28, 1998, hereby consents to that certain Sublease Agreement between the above LESSEE (SUBLESSOR) and

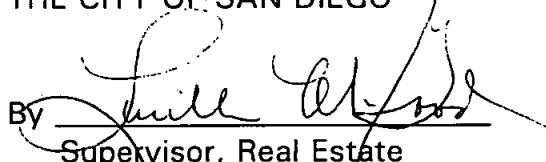
DAVID W. WEIR

(SUBLESSEE), dated September 30, 1998. Said Sublease shall be subordinate to the Master Lease in all respects. The CITY is merely approving the SUBLESSEE and the proposed use, and all terms and conditions of the Master Lease shall control and supersede any inconsistent or contrary provisions in the Sublease. The CITY is not bound by any term or condition in the Sublease which in any way conflicts with or is additional to the provisions of the Master Lease.

In addition, this consent is subject to the following conditions: (If none, write "none.") None

Date 10-20-98

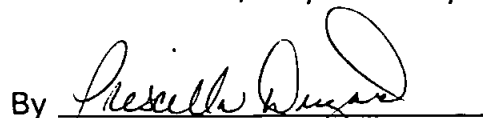
THE CITY OF SAN DIEGO

By 
Supervisor, Real Estate
Assets Department

APPROVED AS TO FORM
AND LEGALITY

CASEY GWINN, City Attorney

Date October 16, 1998

By 
Deputy City Attorney

SUBLEASE

This Sublease ("Sublease") is entered into this 30th day of September, 1998 (the "Effective Date") by and between the Zoological Society of San Diego, a California nonprofit corporation ("Lessee") and David W. Weir ("Sublessee"), with respect to the following facts:

WHEREAS, the City of San Diego ("Lessor") and Lessee have entered into a lease ("Master Lease") of premises hereinafter referred to as "the premises," a copy of which is appended as "Exhibit A" to this Sublease; and

WHEREAS, both Lessee (new leaseholder of the premises and owner of the Balboa Park Railroad), and Sublessee (former leaseholder of the premises and former owner of the Balboa Park Railroad), desire to provide a quality and safe experience for train riders of all ages, and for the railroad to continue to operate under the same conditions as are currently practiced; and

WHEREAS, the Lessor has consented to this Sublease.

The Lessee and Sublessee agree as follows:

1. Lessee hereby subleases the premises to Sublessee for the balance of the term of the Lease less one day commencing on October 1, 1998. This Sublease may be earlier terminated by Lessee upon the following conditions: (1) at any time for cause as defined in Section 4.4 of the Master Lease; (2) upon the sale or removal of the antique trains currently in use, which sale or removal may be made by Lessee, in Lessee's sole and absolute discretion, or (3) at any time after one year from the commencement date hereof upon thirty days written notice. The parties may mutually agree to extend the term of this Sublease.

2. The terms of this Sublease are subject to and contingent upon the Master Lease. Sublessee has read and understands the terms of the Master Lease and agrees to perform all the Lessee's covenants in the Master Lease, except for the payment of rent to the Lessor.

3. Sublessee shall make all payments and provide all reports due under Section 3 ("Rent") of the Master Lease to Lessee, which Lessee is required to make to Lessor. Lessee shall have all rights of City set forth in Section 3 of the Master Lease. Payments should be personally delivered, or mailed to the attention of the General Manager, San Diego Zoo, P.O. Box 551, San Diego, CA 92112-0551, and should be received by Lessee no later than the 25th day of the month.

4. Sublessee agrees to indemnify both the Lessor and Lessee under Section 5 of the Master Lease and to maintain the insurance required by Section 5 of the Master Lease naming both Lessor and Lessee as additional insureds.

5. The basic requirements of this Sublease are set forth below; these duties are laid out in the Master Lease with greater specificity and should be read in detail to insure strict compliance:

a. Days of operation for the railroad will be Saturdays and Sundays, 11:00 a.m. to 4:30 p.m., all school holidays and vacation periods except Thanksgiving and Christmas Day. This will include daily operation during Spring, Summer and Christmas vacation (approximately 175 operating days annually).

b. Ticket prices shall remain at \$1.25 per ticket.

c. Sublessee shall pay 25% of all gross ticket sales and commissions, and 10% of all gross souvenir sales and receipts from other authorized activities to the Lessor on a monthly basis. Minimum rent will be based on annual, rather than monthly receipts, due to the seasonal nature of the cash flow.

d. Sublessee shall hire employees as needed and shall pay Workers Compensation insurance as required.

e. Sublessee shall maintain the trains and tracks in good operating condition, normal wear and tear excepted, using the Zoo-owned train parts inventory. Any and all additional repair parts not in present inventory for trains and tracks are to be purchased and paid for by Sublessee.

f. Sublessee shall purchase and pay for all operating supplies (gas, oil, tickets, etc.).

g. Sublessee shall pay all applicable taxes and special assessments against the leasehold.

In the event of any conflict between this Section 5 and the Master Lease, the Master Lease shall control.

6. In addition, Sublessee agrees to the following terms:

a. Sublessee shall completely refurbish two passenger cars for Train 554, including painting all of the cars and rebuilding the trucks, to have Train 554 in running condition prior to October 1, 2000.

b. Sublessee shall assist Lessee in the sale of the two antique trains (numbers 510 and 554) and all track, showing prospective buyers all equipment, repair history, repair parts and sources, and shall teach maintenance and operational procedures to the new buyer as required.

c. Sublessee shall assist Lessee with the selection of new train equipment, installation, track layout, repair shop organization, and new train operation.

d. Sublessee shall provide basic orientation of train operation and maintenance to Lessee's employees as requested by Lessee.

e. Sublessee shall provide financial records for inspection and review by Lessee management at a time mutually agreed to by both parties.

7. Lessee shall install new benches at the train station.

8. Except as otherwise expressly provided by law, all notices or other communications required or permitted by this lease or by law to be served on or given to either party by the other party shall be in writing.

9. The provisions of Addendum A, Minimum Standard Sublease Conditions, are hereby incorporated herein by reference.

LESSEE:

Dr. S. Myas
Zoological Society of San Diego

Date: _____

Print Name: _____

Title: _____

Date: _____

SUBLESSEE:

David W. Weir
David W. Weir

Date: 09/30/98

Print Name: DAVID W. WEIR

Title: _____

Date: 09/30/98

ADDENDUM A

MINIMUM STANDARD SUBLEASE CONDITIONS

ASSIGNMENT AND SUBLEASING: Sublessee shall not assign the Sublease or sublet the premises or any part thereof without the prior written consent of LESSEE and The City of San Diego, hereinafter, "City." An assignment by operation of law shall automatically terminate this lease.

HOLD HARMLESS: Sublessee shall assume the defense of, indemnify and hold harmless Lessee and City from all claims, expenses and liability of every nature, directly or indirectly arising from, or alleged to have arisen from the operations conducted on the leased premises, the condition of the premises or from any act or omission of Sublessee, his agents and invitees; provided, however, Sublessee's duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of the City, its agents, officers, or employees.

INSURANCE: Sublessee shall be insured by an insurance carrier acceptable to the Lessee and City against loss from public liability arising from the use or condition of or operation conducted on the leased premises. Minimum coverage shall be \$1 million COMBINED SINGLE LIMIT LIABILITY. A copy of the policy of insurance shall be filed with City and shall name "The City of San Diego" as an additional insured. Said policy shall specify that the policy may not be terminated, altered or canceled without 30 days prior written notice to City by the insurance company.

LEGAL PROCEEDINGS: Should it become necessary for Lessee or City to commence legal proceedings to collect rent, to recover possession or enforce any other provision of this lease, the prevailing party shall be entitled to an award of reasonable legal costs, including court and attorneys' fees.

SUBORDINATION: This agreement is in effect a sublease of a portion of the premises covered by that certain Lease Agreement dated October 1, 1998 between the sublessor herein and the City of San Diego. This sublease is subject and subordinate to the covenants and conditions of said Lease Agreement notwithstanding any provision hereof contrary to or in conflict with said agreement.