

SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT dated, for reference purposes only, this 12th day of September, 2003, is executed between the CITY OF SAN DIEGO, a California municipal corporation, hereinafter referred to as ("Sublessor"), and San Diego MANA, a California nonprofit organization, hereinafter referred to as ("Sublessee").

RECITALS

- A. Sublessor entered into a lease agreement dated April 25, 2001 ("the Lease"), with the Sports Arena Village, LTD ("the Lessor"), for that certain real property known as 3740 Sports Arena Blvd., Suite 2-4, San Diego, California 92110.
- B. Sublessor desires to sublet a portion of the premises, to the Sublessee.
- C. The Lessor has consented to this Sublease per the attached memo. Furthermore, such use by the Sublessee is in compliance with Paragraph 3 of the Lease.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree to this Sublease on the following terms and conditions:

- 1. Sublease. Sublessor hereby subleases to Sublessee and Sublessee hereby subleases from Sublessor the office space designated as "Sublessee Space" incorporated herein by reference (the "Premises") consisting of one (1) office being approximately 200 square feet.
- 2. Location. Peninsula Community Service located at 3740 Sports Arena Blvd., San Diego, California, 92110.
- 3. Term. The term of this Sublease is for one (1) year commencing on October 1, 2003 and terminating on September 30, 2004.
- 4. Right to Cancel the Sublease. In the event Sublessee's funding is denied, and provided there is no continuing and uncured default by Sublessee under this Sublease, Sublessee shall have the right to cancel this Sublease agreement and any extension thereof upon providing a 24-hour prior written notification to the Sublessor stating the effective cancellation date.
- 5. Option to Extend. Sublessor hereby grants to Sublessee an option to extend the term of the Sublease for two additional one (1)-year periods subject to the same rental rate and/or increases as Sublessor per the Lease and subject to Sublessor's continued tenancy;

10-01-03 - 09-30-04
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provided however, that Sublessee shall have no right to exercise this option if the Sublessee is then in default of any material term of this Sublease. Sublessee shall give Sublessor not less than ninety (90) days prior written notice of its intent to extend said Sublease. Tenancy beyond an accumulated 3-year period is subject to City Council approval.

6. Monthly Rent and Utility Costs. Sublessee agrees to and shall pay directly to the Sublessor, the City of San Diego, c/o Peninsula CSC, 600 "B" Street, Suite 1440, MS 914 Attention: Karyn Baker, San Diego, CA 92101 the amount of Two Hundred and Thirty Dollars (\$230.00) per month. The rental payment is due on or before the first day of each month commencing October 1, 2003. The rent shall be subject to fixed annual increases, being \$.05 per square foot increase per year, during the initial term and extension terms of this Sublease in accordance with Sublessor's Lease. The Monthly Rent includes operating expenses to maintain the interior premises in a clean and safe condition. Utility costs include: water, gas and electric.
7. Security Deposit. As additional consideration, Sublessee shall deposit with Sublessor upon execution hereof a security deposit in the amount of Two Hundred and Thirty Dollars (\$230.00). The Security Deposit may be increased by the Sublessor proportionate to any increase in rent. If Sublessee fails to pay rent or other charges due hereunder, or otherwise defaults with respect to any provision of this Sublease, Sublessor may use, apply or retain all or any portion of said deposit for the payment of any rent or other charge in default for the payment of any other sum to which Sublessor may become obligated by reason of Sublessee's default, or to compensate Sublessor for any loss or damage which Sublessor may suffer thereby. If Sublessee performs all of the Sublessee's obligations hereunder, said deposit, or so much thereof that has not been applied by Sublessor, shall be returned, without payment of interest or other increments for its use, to Sublessee at the expiration or cancellation of the term hereof, and after the Sublessee has vacated the Premises.
8. Use. The Premises shall be used by Sublessee and Sublessee's permittees for general office and meeting assembly purposes relating to San Diego MANA community programs. Any violation of this paragraph is a material breach of this Sublease and of the Lease.
9. Copy Machine. If applicable, the Community Service Center Program will bill the Sublessee each month in arrears for the usage of the copier. The Sublessee will pay \$.0335 cents per copy.
10. Condition of Premises. Sublessee agrees that its act of taking possession will be an acknowledgement that the Premises are in leasable and good condition. Sublessee shall not, without Sublessor's and Lessor's prior written consent, make any alterations, improvements, additions on or about the Premises. At the expiration of the term, Sublessor may require the removal of any or all of said alterations and improvements in the Premises at Sublessee's sole expense. Upon termination of this Sublease, Sublessee shall surrender and vacate the Premises in a broom-clean, good condition, normal wear

and tear excepted, and shall, without expense to Sublessor, remove or cause to be removed from the Premises all debris and rubbish, all furniture, equipment, business and trade fixtures, movable partitions and other articles of property owned by Sublessee. Sublessee shall repair all damage to the Premises resulting from such removal.

11. Late Charges. If any installment of Base Rent, Operating Expenses, or any other sum due from Sublessee shall not be received by Sublessor within five (5) days after such amount shall be due, then, without any requirement for notice to Sublessee, the Sublessee shall pay to Sublessor a late charge equal to 5% of such overdue amount. Acceptance of the late charge shall in no event constitute a waiver of Sublessee's default with respect to such overdue amount, nor prevent Sublessor from exercising legal remedies.

12. Defaults and Remedies

- a. Default. Each of the following shall constitute an event of default under this Sublease.

- i. Sublessee's failure to make any payment required under this sublease when due;
- ii. Sublessee defaults in the performance of any covenant or condition required by this sublease, other than those requiring payment to Sublessor, to be performed by Sublessee and fails to cure said default within thirty (30) days following written notice thereof from Sublessor; or if any such default, other than those requiring payment to Sublessor, is not curable within thirty (30) days, and fails to commence to cure the default(s) within said thirty (30)-day period and diligently pursue such cure to completion;
- iii. Sublessee voluntarily files or involuntarily has filed against it any petition under any bankruptcy or insolvency act or law;
- iv. Sublessee is adjudicated a bankrupt; and
- v. Sublessee makes a general assignment for the benefit of creditors.

- b. Remedies.

- (i) Upon default by Sublessee, Sublessor may, at its option, give Sublessee, or any person claiming rights through Sublessee, a written Three (3)-Day Notice to Pay or Quit, or Sublessor may terminate the sublease and all rights of Sublessee and of all persons claiming rights through Sublessee to the premise or to possession thereof, and Sublessor may enter and take possession of the premise (provided, however, in the event that any default described in Section 11.1 Defaults, hereof, is not curable within thirty (30) days after notice to Sublessee, Sublessor will not terminate this sublease pursuant to the default if Sublessee immediately commences to cure the

default and diligently pursues such cure to completion), and may recover from Sublessee the sum of:

- (ii) the worth at the time of award of any unpaid rent that had been due at the time of termination;
- (iii) the worth at the time of award of the amount by which (a) the unpaid rent that would have been earned after termination until the time of award exceeds (b) the amount of rental loss, if any, ads Sublessee affirmatively proves could have been reasonably avoided;
- (iv) the worth at the time of award of the amount by which (a) the unpaid rent for the balance of the term after the time of award exceeds (b) the amount of rental loss, if any as Sublessee affirmatively proves could be reasonably avoided;
- (v) any other amount necessary to compensate Sublessor for all the detriment proximately caused by Sublessee's failure to perform Sublessee's obligations or that, in the ordinary course of things, would be likely to result; and
- (vi) all other amounts in addition to or in lieu of those previously stated as may be permitted from time to time by California law.

As used in clauses (i) and (ii) of this Section, the "worth at the time of award" is computed by allowing interest at the rate of ten percent (10%) per annum. As used in clause (iii) of this Section, the "worth at the time of award" is computed by discounting that amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus two percent (2%). As used in this Section the term "rent" shall include Base Rent, Percentage Rent and any other payments required by Sublessee.

- c. If there is a deed of trust or mortgage on the subleasehold interest, Sublessor will give the mortgagee or beneficiary written notice of the default(s) complained of, and the same mortgagee or beneficiary will have thirty (30) days from such notice to cure the default(s) or, if any such default is not curable within thirty (30) days, to commence to cure the default(s) and diligently pursue such cure to completion. The thirty (30) day period may be extended during such time as mortgagee or beneficiary pursues said cure with reasonable diligence.

If the mortgagee or beneficiary will be required to exercise its right to cure said default(s) through litigation or through foreclosure, then Sublessor will have the option of the following courses of action in order that the default(s) may be expeditiously corrected:

- i. Sublessor may correct said default(s) and charge the costs thereof to the account of Sublessee, which charge will be due and payable on the date that the rent is next due after presentation by Sublessor to Sublessee and mortgagee or beneficiary of a statement of said costs.
- ii. Sublessor may terminate this sublease as to the rights of Sublessee by assuming or causing the assumption of liability for any trust deed or mortgage. Sublessee agrees to assume and pay any and all penalties or bonuses required by the beneficiaries, trustees or mortgagees as a condition for early payoff of the related obligations by Sublessor. Sublessor may, as an alternative, substitute for the terminated Sublessee a new Sublessee reasonably satisfactory to the mortgagee or beneficiary. Any reasonable costs incurred by Sublessor in releasing to a new sublessee will be the responsibility of the terminated Sublessee, and Sublessee hereby agrees to reimburse Sublessor for any such cost.

Should the default(s) be noncurable by Sublessee, then any lender holding a beneficial interest in the subleasehold, whose qualifications as an assignee have been approved by Sublessor, will have the absolute right to substitute itself to the estate of Sublessee hereunder and to commence performance of this sublease. If such mortgagee or beneficiary will give notice in writing of its election to so substitute itself within the thirty (30)-day period after receiving written notice by Sublessor of the default, and the default, if curable, is cured by such mortgagee or beneficiary, then this sublease will not terminate pursuant to the default. In that event, Sublessor expressly consents to the substitution and authorizes the mortgagee or beneficiary to perform under this sublease with all the rights, privileges, and obligations of Sublessee, subject to cure of the default, if possible, by mortgagee or beneficiary. Sublessee expressly agrees to assign all its interest in and to its subleasehold estate to mortgagee or beneficiary in that event.

13. Insurance. Sublessee shall, at Sublessee's expense, obtain and keep in force at all times during the term of this Sublease as follows:
 - a. Public liability and property damage in the amount of not less than One Million Dollars (\$1,000,000) Combined Single Limit Liability with an occurrence claims form. This policy shall cover all injury or damage, including death, suffered by any party or parties from acts or failures to act by Sublessor or Sublessee or by authorized representatives of Sublessor or Sublessee on or in connection with the use or operation of the premises.
 - b. Fire, extended coverage, and vandalism insurance policy on all insurable property on the premises in an amount to cover 100 percent (100%) of the replacement

cost. Any proceeds from a loss will be payable jointly to Sublessor and Sublessee.

- c. **Additional Insured.** All insurance policies will name Sublessor as an additional insured, protect Sublessor and Lessor against any legal costs in defending claims, and will not terminate without sixty days (60) days prior written notice to Sublessor. A copy of the insurance policy will remain on file with Sublessor during the entire term of the Sublease. At least thirty (30) days prior to the expiration of each policy, Sublessee shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the terms of this Sublease.
 - d. **Failure to Comply.** If Sublessee fails or refuses to take out and maintain its required insurance or fail to provide the proof of coverage, Sublessor has the right to obtain the insurance. Sublessee shall reimburse Sublessor for the premiums paid with interest at the maximum allowable legal rate then in effect in California. Sublessor shall give notice of payment of premiums within thirty (30) days of payments stating the amount paid, names of the insurer(s), and rate of interest. Said reimbursement and interest shall be paid by Sublessee on the first (1st) day of the month following notice of payment by Sublessor.
14. **Indemnity.** Sublessee agrees to defend, indemnify, protect, and hold the Sublessor and Lessor, its elected officials, representatives, agents, officers, and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to Sublessee's employees, invitees, guests, agents, or officers, which arise out of or are in any manner directly or indirectly connected with the development or operation of the leasehold or the work and operations to be performed under this Sublease, and all expenses of investigating and defending against same; provided, however, that 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 Sublessor, its agents, officers, or employees.
15. **Assignment and Subleasing.** Sublessee shall not assign this Sublease or sublet the premises or any part thereof without the prior written consent of Lessor and Sublessor. An assignment by operation of law shall automatically terminate this Sublease.
16. **Attorney's Fees.** In the event of any action or proceedings brought by either party against the other under this sublease, the prevailing party shall be entitled to recover the fees for its attorneys in such action or proceeding, in such amount as the court may adjudge reasonable as attorney's fees. In the event the Sublessor intervenes in or becomes a party to any action or proceeding arising in connection with this sublease in order to protect its rights, then Sublessee will pay the Sublessor the fees of Sublessor's attorneys therein as fixed by the court.
17. **Possessory Interest Tax.** Sublessee agrees to pay, before delinquency, all possessory interest tax assessed or levied upon Sublessee or the Premises, including any structures,

machines, equipment, appliances, or other improvements or property of any nature whatsoever erected, installed or maintained by Sublessee or levied by reason of the business or other Sublessee activities related to the Premises, including any licenses or permits. Sublessee recognizes and agrees that this sublease may create a possessory interest tax levied on such interest, and that Sublessee shall pay all such possessory interest taxes. Sublessee further agrees that payment for such taxes, fees and assessments will not reduce any rent due Sublessor.

18. Subordination. This agreement is in effect a sublease of a portion of the premises, covered by that certain Lease dated April 25, 2001, between the Sublessor herein and Lessor. This sublease is subject to the covenants and conditions of said Lease Agreement notwithstanding any provision hereof contrary to or in conflict with said agreement.
19. Nondiscrimination. Sublessee agrees not to discriminate in any manner against any person or persons on account of race, color, religion, gender, sexual orientation, medical status, national origin, age, marital status, or physical disability in Sublessee's use of the Premises, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.
20. Notices. Any notice, consent, demand, bill, statement or other communication required or permitted to be given hereunder shall be in writing and mailed to Sublessor at the following address:

City of San Diego
Attn: Karyn Baker
600 'B' Street, Suite 1440
San Diego, CA 92101
(619) 533-4214

cc: City of San Diego, Real Estate Assets Department
Attn: Diana Monaco
1200 Third Avenue, Suite 1700
San Diego CA 92101
(619) 236-6081

21. Signage. Upon approval of the Sublessor, Sublessee shall be allowed to display appropriate signage identifying its presence in the Center.
22. Equal Opportunity – Work Force Report. Sublessee will comply with Title VII of the Civil Rights Act of 1964, as amended, Executive orders 11246, 11375, and 12086; the California Fair Employment Practices Act; and any other applicable federal and state laws and regulations hereafter enacted. Sublessee will not discriminate against any employee or applicant for employment based on race, religion, color, ancestry, age,

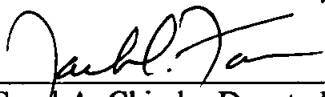
gender, sexual orientation, disability, medical condition, or place of birth. Upon City's request, Sublessee will submit a current Workforce Report (attached as Exhibit C) and, if required, an Equal Opportunity Plan which set forth the actions that the Sublessee will take to achieve the City's goals for the employment of African Americans, American Indians, Asians, Filipinos, Latinos, women, and people with disabilities. Sublessee understands that failure to comply with the requirement listed above and/or submitting false information in response to these requirements may result in termination of this Sublease and debarment from participating in City contracts for a period of not less than one (1) year.

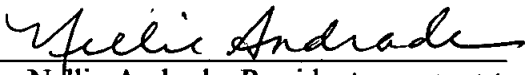
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IN WITNESS WHEREOF, this Sublease Agreement is executed by the City of San Diego, acting by and through its City Manager, and by Sublessee acting by and through its lawfully authorized officers.

SUBLESSOR:
CITY OF SAN DIEGO, a California
municipal corporation

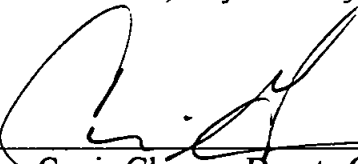
SUBLESSEE:
San Diego MANA,
A California nonprofit organization

By: 
~~Carol A. Chiodo, Deputy Director~~
Real Estate Assets Department
Jack D. Farris,

By: 
Nellie Andrade, President 11-24-03
San Diego MANA

APPROVED AS TO FORM AND LEGALITY THIS 4th day of March, 2004

CASEY GWINN, City Attorney

By: 
Carrie Gleeson, Deputy City Attorney

DLM/cdj
9/12/03
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