

CONSENT TO SUBLEASE AGREEMENT

THIS CONSENT TO SUBLEASE AGREEMENT (Consent) is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation (CITY), RICHARD AND DEBRA GLEASON (GLEASON), to be effective upon execution by CITY the (Effective Date) and approval by the San Diego City Attorney, as follows:

RECITALS

- A. GLEASON is the LESSEE, under that certain LEASE AGREEMENT dated October 16, 1995, by and between CITY, as lessor, and Richard L. Gleason and Debra L. Gleason, as lessee (Master Lease), relating to certain real property (Master Lease Property) located at 1010 Santa Clara Place in Mission Bay Park, City of San Diego, County of San Diego, State of California, and more particularly described in the Master Lease.
- B. The Master Lease requires CITY'S consent to any sublease of the Master Lease Property.
- C. GLEASON desires to enter into a Sublease with OEX Express, Inc. (OEX) whereby GLEASON subleases to OEX and OEX subleases from GLEASON a portion of the Master Lease Property (Sublease Premises) located on the Master Lease Property

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

- 1. Subordination. The OEX Sublease (Sublease) is and shall be subordinate to the Master Lease. CITY shall not be bound by any term or condition in the Sublease which in any way conflicts with CITY'S rights or increases CITY'S obligations under the Master Lease. Any conflict between the Master Lease and the Sublease shall be construed or resolved in favor of the Master Lease. GLEASON shall ensure through its Sublease that OEX acknowledges and agrees that its rights and obligations as Lessee under the Sublease are subject and subordinate to the terms and conditions of this Consent and the Master Lease.
- 2. Master Lease Provisions. GLEASON acknowledges that the Master Lease is on month-to-month holdover and that OEX has acknowledged the month-to-month status of the Master Lease.

3. Use. The Subleased area shall be used for the sole purpose of kayak and related accessories sale, kayak service, scuba sales, and service, and shall comply at all times to the Master Lease.
4. Rent. GLEASON shall pay the following to CITY as rent defined under the Master Lease:
 - (a) Two percent (2%) of all of OEX gross income ("gross income" as that term is defined in the Master Lease) from sales of new boats and related accessories; service and repairs of boats and aquatic equipments;
 - (b) One percent (1%) of all of OEX gross income from sale of used boats;
 - (c) Ten percent (10%) of all OEX gross income from any other source permitted under the purpose of the Master Lease, subject to prior written approval of the CITY.
5. Indemnification. Through its Sublease, GLEASON shall ensure that OEX shall defend, indemnify, protect, and hold CITY, its elected officials, officers, representatives, agents and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including without limitation any injury to GLEASON'S or OEX'S officers, employees, agents, invitees, guests, customers, subtenants or licensees, which arise out of or are in any manner directly or indirectly connected with the Sublease, OEX'S use of or operations on the Master Lease Property, the condition of the Sublease Premises, or from any act or omission of OEX or any of his employees, agents, invitees, guests, subtenants or licensees; provided, however, this duty to indemnify and hold harmless shall not include any claims or liability arising from the established sole negligence, or sole willful misconduct of CITY, its elected officials, officers, representatives, agents or employees.
6. Subsequent Sublease. This Consent does not constitute consent to any subsequent subletting of any portion of the Master Lease Property, and does not relieve GLEASON or any person claiming under or through GLEASON of the obligation to obtain CITY'S consent to any future sublease.
7. Brokerage Commission. CITY shall not be liable for any brokerage commission or finder's fee in connection with the consummation of the Sublease or this Consent. GLEASON shall protect, defend, indemnify, and hold CITY harmless from and against any claim for any brokerage commission or finder's fee related to the consummation of the Sublease or this Consent, and from and against any cost or expense (including without limitation attorney fees) incurred by CITY in resisting any claim for any such brokerage commission or finder's fee.
8. San Diego's Strong Mayor Form of Governance. The Master Lease shall be amended by adding the following section:

All references to "City Manager" in this lease and all subsequent amendments to this lease shall be deemed to refer to "Mayor." This section became effective on January 1, 2006, and shall remain in effect for the duration the City operates under the mayor-council (commonly referred to as "strong mayor") form of governance pursuant to Article XV of the City of San Diego City Charter.

9. No Further Modification of Master Lease or Sublease. Except as provided herein, this Consent shall not be deemed or construed to modify, waive, impair, or affect any of the terms or conditions of the Master Lease or the Sublease.
10. Controlling Law. The terms and conditions of this Consent shall be construed in accordance with the laws of the State of California.
11. Captions. Captions to the sections of this Consent are included for convenience only and do not modify any of the terms of this Consent.
12. Entire Agreement. This Consent constitutes the entire statement of the agreement of the parties pertaining to the CITY'S consent to sublease, and is binding on and inures to the benefit of the parties' respective heirs, representatives, successors and assigns. No party has been induced to enter into this Consent by, nor is any party relying on, any representation or warranty outside those expressly set forth in this Consent. No modification of the terms or conditions of this Consent shall be effective unless made in a writing that expressly states that it modifies this Consent, and signed by the parties hereto.
13. Attorney Fees. If any party commences litigation against any other party for the specific performance of this Consent, for damages for the breach of the terms and conditions of this Consent, or otherwise for any remedy and the enforcement thereof, the prevailing party shall be entitled to recover from the non-prevailing party its costs and reasonable attorney fees incurred.
14. Authority. Each individual executing this Consent on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Consent on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Consent is binding upon such person or entity in accordance with its terms. Each person executing this Consent on behalf of another person or legal entity shall provide CITY with evidence, satisfactory to the City Manager, that such authority is valid and that such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.

15. CITY'S Consent. Subject to the terms and conditions of this Consent, CITY hereby consents to GLEASON subleasing a portion of the Master Lease Property.

IN WITNESS WHEREOF, the parties hereto execute this Consent to be effective as of the Effective Date.

Date: 9/13/09

Richard L. Gleason

Richard L. Gleason

Date: 9/13/09

Debra L. Gleason

Debra L. Gleason

THE CITY OF SAN DIEGO,
a California municipal corporation

Date: 9/16/09

BY: [Signature]
Name & Title: P. Barwick, CCIM
Director, Real Estate Assets

APPROVED AS TO FORM AND LEGALITY:

Date: 9/22/09

JANI I. GOLDSMITH, City Attorney

BY: [Signature]
Deputy City Attorney

VEB/cb
09-03-09

I: SUPPORT STAFF GROUP\WPO\2009\BALOTSKY\CONSENT TO SUBLEASE- GLEASON-OEX

Commercial Lease

This sublease is made between Mission Bay Sportcenter, Inc., herein called "Lessor," and OEX Express Inc., herein called "Lessee."

Lessee hereby offers to sublease from Lessor the premises situated in the City of San Diego, County of San Diego, State of California, described as the one story property at 1010 Santa Clara Place (detailed in Exhibit A), upon the following TERMS and CONDITIONS:

1. **Term and Rent.** Lessor demises the above premises for a month-to-month term, commencing May 1, 2009 at the monthly base rate of two thousand five hundred eighty four dollars (\$2584.00) per month, payable in arrears on the last day of every month. All rental payments shall be made to the Lessor, at the address specified above.

At a later date and at Lessors discretion the premises described as Exhibit C will be conveyed to Lessee at no additional base rent fee. Upon conveyance of said premises Lessee will be responsible for the additional base rent for the area described as Exhibit B, in the amount of \$464.00 monthly. The term for Exhibit C, no rent consideration, shall be one year. The purpose for no rent consideration for the premises in Exhibit C is for the exploration of the viability of Scuba equipment and accessories sales.

Percentage Rent: Lessee shall pay Lessor in addition to the base rent, two percent (2%) of Lessee's gross receipts for sales of kayaks and scuba diving accessories, kayak service, and boating accessories and 10 percent (10%) of Lessee's gross receipts for instructional kayak courses, tours and scheduled group events, monthly in arrears, and prior to the 16th day of the month following that month in which the revenue subject was earned to be forwarded to the city.

Shared Expenses: Lessee shall pay to Lessor, as additional rent, Lessee's "proportionate share" of (1) all costs of operation and maintenance of the common facilities; (2) utilities including electrical, gas and water; (3) all "real estate taxes" levied and assessed against the Sportcenter facility. Said-shared expenses shall be paid monthly by the end of the month billed. At the end of the first term of the sublease, the "proportionate share" shall be re-evaluated and adjusted to reflect actual usage.

Definitions: For the purpose of this section (a) Lessee's "proportionate share" shall be equal to the total "shared expenses" divided by the number of sublessees and the Lessor in equal shares unless otherwise agreed upon.

2. **Use.** Lessee shall use and occupy the premises for kayak and related accessories sales, and kayak service as well as scuba sales and service. The premises shall be used for no other purpose. The Lessor shall not allow any other kayak sales and service, scuba sales and service businesses or stand up paddle board sales and service business to operate out of the facility. Lessee agrees to not engage in any business not specified in Lease.
3. **Assignment and Subleasing.** Lessee shall not assign this lease or sublet the premises or any part thereof without the prior written consent of Lessor and The City of San Diego, hereinafter, "City." An assignment by operation of law shall automatically terminate this lease.
4. **Care and Maintenance of Premises.** Lessee acknowledges that the premises are in good order and repair, unless otherwise indicated herein. Lessee shall, at his own expense and at all times, maintain the premises in good and safe condition, including plate glass, electrical wiring, plumbing and heating installations and any other system or equipment upon the premises, and shall surrender the same at termination hereof, in as good condition as received, normal wear and tear excluded. Lessee shall be responsible for all repairs required, including the roof and the exterior walls over and around the subleased area.

5. **Alterations.** Lessee shall not, without first obtaining the written consent of Lessor, make any alterations, additions, or improvements, in, to, or about the premises. The Lessee shall be responsible for all interior and exterior improvements.
6. **Ordinances and Statutes.** Lessee shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the premises, occasioned by or affecting the use thereof by the Lessee.
7. **Utilities.** All applications and connections for necessary utility services on the demised premises shall be made in the name of Lessee only, and Lessee shall be solely liable for utility charges as they become due, including those for sewer, water, gas, electricity, and telephone services.
8. **Entry and Inspection.** Lessee shall permit Lessor or Lessor's agents to enter upon the premises at reasonable times and upon reasonable notice, for the purpose of inspecting the same, and will permit Lessor at any time within sixty (60) days prior to the expiration of this lease, to place upon the premises any usual "To Let" or "For Lease" signs, and permit those persons desiring to lease the same to inspect the premises thereafter.
9. **Possession.** If Lessor is unable to deliver possession of the premises at the commencement hereof, Lessor shall not be liable for any damage caused thereby, nor shall this lease be void or voidable, but Lessee shall not be liable for any rent until possession is delivered. Lessee may terminate this lease if possession is not delivered within 10 days of the commencement of the term hereof.
10. **Indemnification of the Lessor.** Lessor shall not be liable for any damage or injury to Lessee, or any other person, or to any property, occurring on the demised premises or any part thereof, and Lessee agrees to hold Lessor harmless from any claim of damages, no matter how caused.
11. **Insurance.** Lessee shall be insured by an insurance carrier acceptable to the Lessor 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 \$2 million combined single limit liability. A copy of the policy of insurance shall be filed with the City and shall name "The City of San Diego" and "Mission Bay Sportcenter" as 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.
12. **Hold Harmless.** Lessee shall assume the defense of, indemnify and save harmless Lessor and City from all claims, expenses and liabilities of every nature, directly or indirectly arising from or alleged to have arisen from the operations conducted on the leased premises or from any act or omission of Lessee, his agents or invitees.
13. **Eminent Domain.** If the premises or any part thereof or any estate therein, or any other part of the building materially affecting Lessee's use of the premises, shall be taken by eminent domain, this lease shall terminate on the date when title vests pursuant to such taking. The rent, and any additional rent, shall be apportioned as of the termination date, and any rent paid for any period beyond that date shall be repaid to Lessee. Lessee shall not be entitled to any part of the award for such taking or any payment in lieu thereof, but Lessee may file a claim for any taking of fixtures and improvements owned by the Lessee, and for moving expenses.
14. **Destruction of Premises.** In the event of a partial destruction of the premises during the term hereof, from any cause, Lessor shall forthwith repair the same, provided that such repairs can be made within sixty (60) days under existing governmental laws and regulations, but such partial destruction shall not terminate this lease, except that Lessee shall be entitled to a proportionate reduction of rent while such repairs are being made, based upon the extent to which the making of such repairs shall interfere with the business of Lessee on the premises. If such repairs cannot be made within said sixty (60) days, Lessor, at his option, may make the same within a reasonable time, this lease continuing in effect with the rent proportionately abated as aforesaid, and in the event that Lessor does not elect to make such repairs which cannot be made within sixty (60) days, this lease may be terminated at the option of

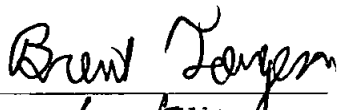
either party. In the event that the building in which the demised premises may be situated is destroyed to an extent of not less than one-third of the replacement costs hereof, Lessor may elect to terminate this lease whether the demised premises be injured or not. A total destruction of the building in which the premises may be situated shall terminate this lease.

15. **Lessor's Remedies on Fault.** If Lessee defaults in the payment of rent, or any additional rent, or defaults in the performance of any of the other covenants or conditions hereof, Lessor may give Lessee notice of such default and if Lessee does not cure any such default within 10 days, after the giving of such notice (or if such other default is of such nature that it cannot be completely cured within such period, if Lessee does not commence such curing within such 20 days and thereafter proceed with reasonable diligence and in good faith to cure such default), the Lessor may terminate this lease on not less than 30 days' notice to Lessee. On the date specified in such notice the term of this lease shall terminate, and Lessee shall then quit and surrender the premises to Lessor, but Lessee shall remain liable as hereinafter provided. If this lease shall have been so terminated by Lessor, Lessor may at any time thereafter resume possession of the premises by any lawful means and remove Lessee or other occupants and their effects. No failure to enforce any term shall be deemed a waiver.
16. **Security Deposit.** Lessee shall deposit with Lessor on the signing of this Lease the sum of two thousand eight hundred dollars (\$2800.00) as security deposit for the performance of Lessee's obligations under this lease, including, without limitation, the surrender of possession of the premises to Lessor as herein provided. If Lessor applies any part of the deposit to cure any default of Lessee, Lessee shall on demand deposit with Lessor the amount so applied so that Lessor shall have the full deposit on hand at all times during the term of this lease.
17. **Tax Increase.** In the event there is any increase during any year of the term of this lease in the City, County or State real estate taxes over and above the amount of such taxes assessed for the tax year during which the term of this lease commences, whether because of increased rate or valuation, Lessee shall pay to Lessor upon presentation of paid tax bills an amount equal to 25% of the increase in taxes upon the land and building in which the leased premises are situated. In the event that such taxes are assessed for a tax year extending beyond the term of the lease, the obligation of Lessee shall be proportionate to the portion of the lease term included in such year.
18. **Attorney's Fees.** In the event suit should be brought for recovery of the premises, or for any sum due hereunder, or because of any act which may arise out of the possession of the premises, by either party, the prevailing party shall be entitled to all costs incurred in connection with such action, including a reasonable attorney's fee.
19. **Notices.** Any notice which either party may, or is required to, give, shall be given by mailing the same, postage prepaid, to Lessee at the premises, or Lessor at the address shown below, or at such places as may be designated by the parties from time to time.
20. **Subordination.** This agreement is in effect a sublease of a portion of the premises covered by that certain Lease Agreement dated 10/16/95, as amended between the Lessor 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.

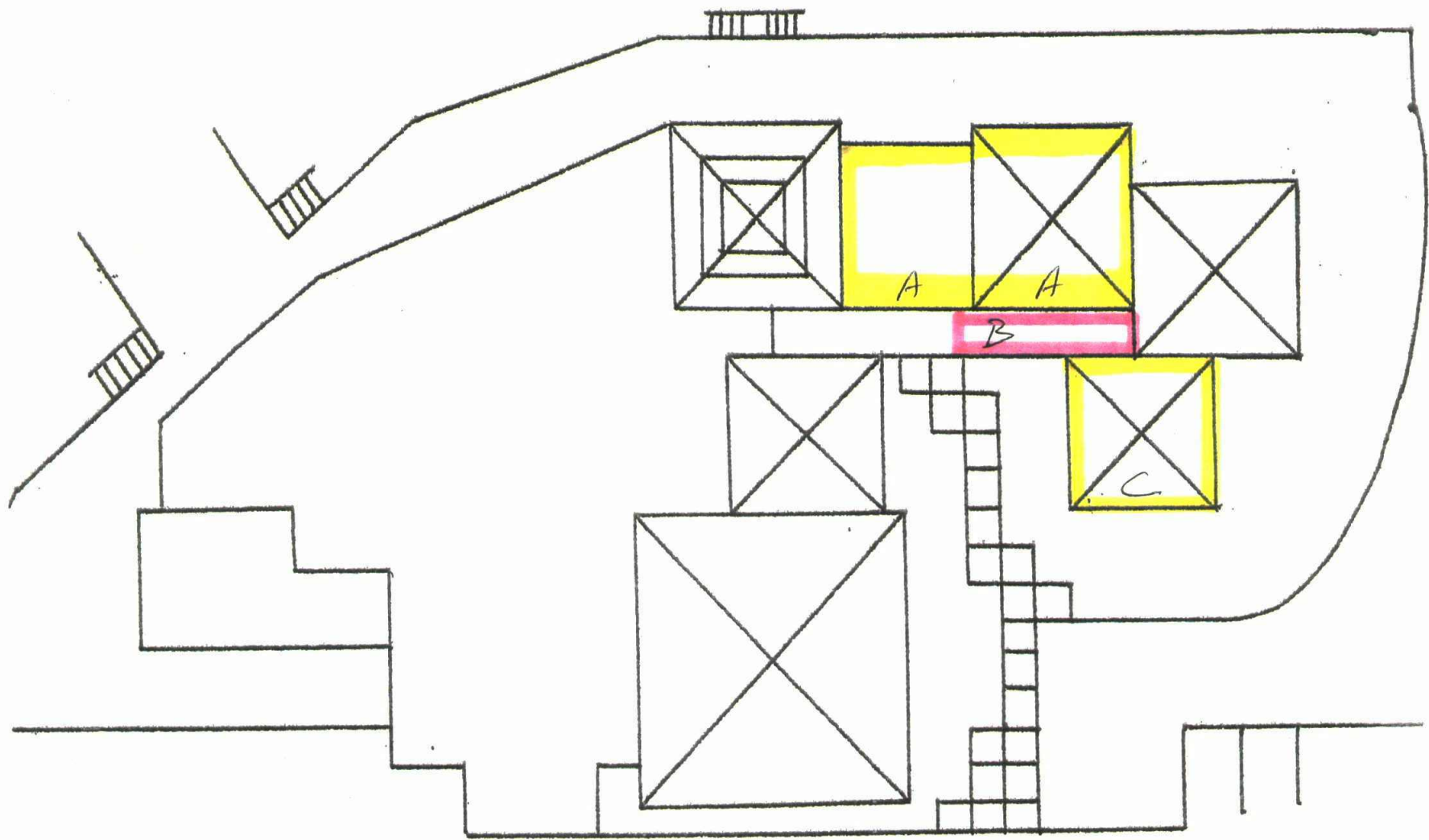
21. **Entire Agreement.** The foregoing constitutes the entire agreement between the parties and may be modified only by a writing signed by both parties. The following Exhibits have been made a part of this lease before the parties execution hereof:

BY 
DATE 1/26/2010

Mission Bay Sportcenter, Inc.
1010 Santa Clara Place
San Diego, CA 92109

BY 
DATE 1/28/2010

Brent Torgeson
OEX Express, Inc.
1010 Santa Clara Place
San Diego, CA 92109



PADI DIVE CENTER/RESORT CERTIFICATE

Contact Agent for information or reporting Claims

Vicencia & Buckley Insurance Services, Inc.
Steve Vicencia CPCU
20 Centerpointe Drive, #100
La Palma, CA 90623-1078

(714) 739-3177 FAX (714) 739-3188
(800) 223-8998
License#: 0578496

Named Insured and Mailing Address

O.E. EXPRESS INC.
OEX DIVE & KAYAK CENTERS
2158 AVENIDA DE LA PLAYA
LA JOLLA, CA, 92037

Certificate #: 200900254**Store #:** 18545**Effective Date:** 06/30/2008**Expiration Date:** 6/30/2009 12:01:00 AM

Policy issued by Lexington Insurance Company

Policy #: 9929140

PADI

30151 Tomas Street
Rancho Santa Margarita, CA 92688

Summary of Coverage for Store Location: Same as Mailing Address

Liability Coverages	Limits
Commercial General Liability (per Occurrence) (Including Personal Injury and Products and Completed Operations)	\$1,000,000
General and Products and Completed Operations Aggregate	\$2,000,000
Tenant's Legal Liability	\$1,000,000
NON-Owned Auto	\$100,000
NON-Diving Pool Use	Not Included
Travel Agent E&O (Each wrongful act & Aggregate) (Claims made form)	Not Included

Certificate has Additional Insureds (See Attached)

Certificate has Additional Locations (See Attached)

In accordance with all of the terms and conditions set forth in the Master Policy. The Master Policy may be amended by endorsement, cancelled, or non-renewed without notice to the Insured/Certificate Holder. In the event of cancellation of the Master Policy by the Company, the Company will send the notice required by the Master Policy to PADI and shall have no obligation to notify the Individual Insured/Certificate Holder. In the event of cancellation by the Company of the Insured/Certificate Holder under the Master Policy, the Company will mail at least 10 days notice to the Insured/Certificate Holder in which case the premium paid by the Insured/Certificate Holder shall be returned in due course. The Insured/Certificate Holder may cancel its coverage under the Master Policy by giving written notice to the Company stating when thereafter such cancellation shall be effective.

Countersigned at

20 Centerpointe Drive, #100
La Palma, CA 90623-1078

Date

07/11/2008

Authorized Representative

Steve Vicencia

PADI DIVE CENTER/RESORT

ADDITIONAL INSURED(S) ENDORSEMENT

Contact Agent for information or reporting Claims

Vicencia & Buckley Insurance Services, Inc.
20 Centerpointe Drive, #100
La Palma, CA 90623-1078
(714) 739-3177 FAX (714) 739-3188
(600) 223-9998

Certificate #: 200900254

Store #: 18545

Effective Date: 06/30/2008

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OEX DIVE & KAYAK CENTERS
2158 AVENIDA DE LA PLAYA
LA JOLLA, CA, 92037

Policy #: 9929140

PADI

30151 Tomas Street
Rancho Santa Margarita, CA 92688

Name & Address

LAWRENCE FAMILY JEWISH COMMUNITY CENTER 4126 EXECUTIVE DRIVE LA JOLLA, CA 92037
GARAGE #4 DE LA RIBERA LA JOLLA, CA 92037
WATER WORLD ADVENTURES 5722 RILEY ST #2 SAN DIEGO, CA 92110
JEWISH COMMUNITY CENTER (JCC) 4125 EXECUTIVE DR LA JOLLA, CA 92037
WATER WORLD ADVENTURES 2158 AVE RIDE DE LA PLAYA LA JOLLA, CA 92037
O E EXPRESS LA JOLLA KAYAK 1025 PROSPECT LA JOLLA, CA 92037
LA JOLL BEACH AND TENNIS CLUB 2000 SPINDRIFT DRIVE LA JOLLA, CA 92307
CITY OF SAN DIEGO
OUTDOOR TRAVEL ADVENTURE
ACCESS CALIFORNIA
LA JOLLA YMCA 8355 CLIFFRIDGE AVE SAN DIEGO, CA 92037
DAVID MARTIN 1205 SAXONY RD ENCINITAS, CA 92024
KSL DE MANAGEMENT LLC DBA HOTEL DEL CORONADO 1500 ORANGE AVE SAN DIEGO, CA 92118
YMCA SAN DIEGO COUNTY SAN DIEGO
WAVE HOUSE ATHLETIC CLUB, 3115 OCEAN FRONT WALK, MISSION BEACH CA 92109
CNL HOTEL DEL PARTNERS, LP DELAWARE LIMITED PARTNERSHIP
KSL D.C. MANAGEMENT LLC A DELAWARE LTD LIABILITY COMPANY
H D MURDOCK INC
MALIBU KAYAKS 7110 JACKSON ST PARAMOUNT, CA 90723
GRANDE COLONIAL HOTEL 910 PROSPECT ST., LA JOLLA, CA 92037
WYNN RESORTS LTD, ITS DIRECTORS AND OFFICERS, SUBSIDIARIES AND EMPLOYEES 3131 LAS VEGAS BLVD LAS VEGAS, NV 89109
PROSPECT ENTERPRISES INC 625 KOHLER LOS ANGELES, CA 90021
LA JOLLA SURF SYSTEMS
REGENTS OF THE UNIVERSITY OF CALIFORNIA
WATERHORSE CHARTERS LLC
SPORTSMENS SEA FOODS INC. & THE CITY OF SAN DIEGO, ITS ELECTED OFFICIALS, OFFICERS, EMPLOYEES
REPRESENTATIVES & AGENTS, REAL ESTATE ASSETS DEPARTMENT, 1200 3RD AVE., #1700, SAN DIEGO, CA 92101

But only as respects the operations of the named insured

NOTE: Professional and Instructors Liability is EXCLUDED under this policy. This coverage must be purchased under a separate Instructors Liability Insurance Policy. This Insurance is subject to all terms and conditions of the master policy to and held by PADI. A copy of the policy wording is attached to this certificate. Please read this document including its limitations, conditions and wording.

This insurance is issued pursuant to the California Insurance Code, Sections 1760 through 1780, and is placed in an insurer or insurers not holding a Certificate of Authority from or regulated by the California Insurance Commissioner.

Countersigned at

20 Centerpointe Drive, #100
La Palma, CA 90623-1078

Date

07/11/2008

Authorized Representative


PADI DIVE CENTER/RESORT**ADDITIONAL LOCATION(S) ENDORSEMENT****Contact Agent for information or reporting Claims**

Vicencia & Buckley Insurance Services, Inc.
Steve Vicencia CPCU
20 Centerpointe Drive, #100
La Palma, CA 90623-1078

(714) 739-3177 FAX (714) 739-3188
(800) 223-9998

Certificate #: 200900254**Store #:** 18545**Effective Date:** 06/30/2008**Expiration Date:** 6/30/2009 12:01:00 AM**Named Insured and Mailing Address**

O.E. EXPRESS INC.
OEX DIVE & KAYAK CENTERS
2158 AVENIDA DE LA PLAYA
LA JOLLA, CA, 92037

PADI

30151 Tomas Street
Rancho Santa Margarita, CA 92688

See the Certificate for Primary Liability coverages.
These coverages apply to this location only.

Store /Location Number: 21113

Location Address: 1435 ROSECRANS ST.
SAN DIEGO, CA, 92106

Property Coverage(s)	Limits
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Policy issued by Lexington Insurance
Company

Policy #: 8757142

Contents Limit (includes property of others): \$50,000

Loss of Earnings: \$10,000/mo \$40,000

Mechanical Breakdown: Included

Sign: \$25,000

Pollutant Cleanup: \$10,000

Building Coverage: Not Included

Deductible: Wind/Hail is 5% of Insured Values per location, \$5000 minimum, for Florida, Hawaii, Puerto Rico, USVI, Guam and all Tier 1 locations (coastal Counties) in Texas, Louisiana, Mississippi, Alabama, Georgia, South Carolina, North Carolina and all Harris County Texas locations. Mechanical breakdown is \$2500. All other perils is \$1000.

Liability Coverage(s)	Limits
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Policy issued by Lexington Insurance
Company

Policy #: 9929140

NON-Diving Pool Use Not Included

Travel Agent E&O (Each wrongful act & Aggregate) Not Included
(Claims made form)

NOTE: Professional and Instructors Liability is EXCLUDED under this policy. This coverage must be purchased under a separate Instructors Liability Insurance Policy. This insurance is subject to all terms and conditions of the master policy to and held by PADI. A copy of the policy wording is attached to this certificate. Please read this document including its limitations, conditions and wording.

This insurance is issued pursuant to the California Insurance Code, Sections 1760 through 1780, and is placed in an insurer or insurers not holding a Certificate of Authority from or regulated by the California Insurance Commissioner.

Countersigned at**Date****Authorized Representative**

20 Centerpointe Drive, #100
La Palma, CA 90623-1078

Steve Vicencia

PADI DIVE CENTER/RESORT CERTIFICATE

Contact Agent for information or reporting Claims

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Steve Vicencia CPCU
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License#: 0578496

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O.E. EXPRESS INC.
OEX DIVE & KAYAK CENTERS
2158 AVENIDA DE LA PLAYA
LA JOLLA, CA, 92037

Certificate #: 200900254**Store #:** 18545**Effective Date:** 06/30/2008**Expiration Date:** 6/30/2009 12:01:00 AM

Policy issued by Lexington Insurance Company

Policy #: 8757142

PADI

30151 Tomas Street
Rancho Santa Margarita, CA 92688

Summary of Coverage for Store Location: Same as Mailing Address

Property Coverages	Limits
Contents Limit (includes property of others):	\$75,000
Loss of Earnings: \$10,000/mo	\$40,000
Business Income from dependant properties	\$5,000
Robbery: (per Occurrence - Inside)	\$1,000
Robbery: (per Occurrence - Outside)	\$2,000
Transit Coverage (Locked Vehicle): (Rental Equipment)	\$5,000
Employee Dishonesty Limit:	\$5,000
Mechanical Breakdown:	Included
Sign:	\$25,000
Pollutant Cleanup:	\$10,000
Building Coverage:	Not Included

Deductible: Wind/Hail is 5% of Insured Values per location, \$5000 minimum, for Florida, Hawaii, Puerto Rico, USVI, Guam and all Tier 1 locations (coastal Counties) in Texas, Louisiana, Mississippi, Alabama, Georgia, South Carolina, North Carolina and all Harris County Texas locations. Mechanical breakdown is \$2500. All other perils is \$1000.

Certificate has Additional Locations (See Attached)

In accordance with all of the terms and conditions set forth in the Master Policy. The Master Policy may be amended by endorsement, cancelled, or non-renewed without notice to the Insured/Certificate Holder. In the event of cancellation of the Master Policy by the Company, the Company will send the notice required by the Master Policy to PADI and shall have no obligation to notify the individual Insured/Certificate Holder. In the event of cancellation by the Company of the Insured/Certificate Holder under the Master Policy, the Company will mail at least 45 days notice to the Insured/Certificate Holder in which case the premium paid by the Insured/Certificate Holder shall be returned. The Insured/Certificate Holder may cancel its coverage under the Master Policy by giving written notice to the Company stating when thereafter such cancellation shall be effective.

Countersigned at

20 Centerpointe Drive, #100
La Palma, CA 90623-1078

Date

07/11/2008

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Certificate #: 200900254

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Effective Date: 06/30/2008

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Named Insured and Mailing Address

O.E. EXPRESS INC.
OEX DIVE & KAYAK CENTERS
2158 AVENIDA DE LA PLAYA
LA JOLLA, CA, 92037

PADI

30151 Tomas Street
Rancho Santa Margarita, CA 92688

See the Certificate for Primary Liability coverages.
These coverages apply to this location only.

Store /Location Number: 20863

Location Address: 1617 QUIVIRA ROAD
SAN DIEGO, CA,

Property Coverage(s)	Limits
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Policy issued by Lexington Insurance Company

Policy #: 8757142

Contents Limit (includes property of others): \$25,000

Loss of Earnings: \$5,000/mo \$20,000

Mechanical Breakdown: Included

Sign: \$25,000

Pollutant Cleanup: \$10,000

Building Coverage: Not included

Deductible: Wind/Hail is 5% of Insured Values per location, \$5000 minimum, for Florida, Hawaii, Puerto Rico, USVI, Guam and all Tier 1 locations (coastal Counties) in Texas, Louisiana, Mississippi, Alabama, Georgia, South Carolina, North Carolina and all Harris County Texas locations. Mechanical breakdown is \$2500. All other perils is \$1000.

Liability Coverage(s)	Limits
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Policy issued by Lexington Insurance Company

Policy #: 9929140

NON-Diving Pool Use

Not Included

Travel Agent E&O (Each wrongful act & Aggregate)
(Claims made form)

Not Included

NOTE: Professional and Instructors Liability is EXCLUDED under this policy. This coverage must be purchased under a separate Instructors Liability Insurance Policy. This Insurance is subject to all terms and conditions of the master policy to and held by PADI. A copy of the policy wording is attached to this certificate. Please read this document including its limitations, conditions and wording.

This insurance is issued pursuant to the California Insurance Code, Sections 1760 through 1780, and is placed in an Insurer or Insurers not holding a Certificate of Authority from or regulated by the California Insurance Commissioner.

Countersigned at

Date

Authorized Representative

20 Centerpointe Drive, #100
La Palma, CA 90623-1078

Steve Vicencia

City of San Diego
Application to lease

Name of Lessee: O.E. Express, Inc.
D.B.A. OEX Dive & Kayak Centers
EIN #: 30-0017513 / SSN # 228-39-9193
Telephone: 619.985.7467
Drivers License: ~~MA~~ B6987777

Type of Operation: Kayak and Scuba retail, sales, rentals, tours

Experience: In operation since 1995

Name and Title of person Authorized to execute documents: John Metzger, CFO

Organization Type: S-Corporation

Number of Employees: 4

Business References:

Hobie Kayaks, 800-49-HOBIE
Malibu Kayaks, 877-9-KAYAKS
Cramer Decker Industries, 714-566-3800

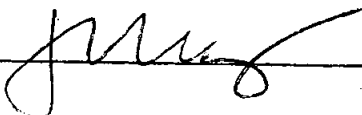
Credit References:

Please see above

Bank:

Union Bank of California

Applicant represents that the above statements are true and correct and hereby authorize verification of references given, and agrees to furnish additional credit references on request. Applicant also hereby authorizes the City of San Diego to obtain a personal or commercial credit report.

Date: 4/19/09 Signature: 

CITY OF SAN DIEGO

LESSEE'S AND SUBLESSEE'S QUESTIONNAIRE
FOR ALL LEASES, ASSIGNMENTS AND SUBLEASES

Pursuant to the City of San Diego City Charter Section 225: "Mandatory Disclosure of Business Interests," before the City will process requests to (Sub)Lease, all information requested in this Questionnaire must be completed by the proposed (Sub)Lessee. Even though a proposed Sublessee may complete the Questionnaire, the Questionnaire must be delivered or mailed to the City with a cover letter signed by the City Lessee or proposed Lessee. **THE CITY WILL NOT ACCEPT THE QUESTIONNAIRE, DOCUMENTS, OR OTHER INFORMATION DIRECTLY FROM A SUBLESSEE.**

All information furnished in this Questionnaire must be complete and accurate. Omissions, inaccuracies, or misstatements may cause the rejection and/or subsequent revocation of the City's Lease, consent to Sublease, or consent to Assignment of (Sub)Lease.

In submitting this Questionnaire, the proposed (Sub)Lessee completing the Questionnaire authorizes the City to make any inquiry or investigation it believes necessary to substantiate or supplement the information furnished in the Questionnaire, and authorizes others to release such information to the City.

Exact name of existing Lessee (always complete):

O.E. Express, Inc.

Exact name of proposed Lessee (complete only if applicable):

Exact name of existing Sublessee (complete only if applicable):

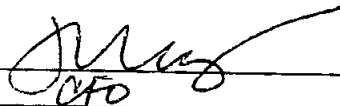
Exact name of proposed Sublessee (complete only if applicable):

Date this Questionnaire completed: 4-23, 2009

The information furnished in and with this Questionnaire is true, complete, and correct to the best of my knowledge.

Signature: _____

Title: _____


CFO

Thank you for taking the time to complete the Questionnaire. Lessees may contact Real Estate Assets if they have any questions. Please return the completed Questionnaire, with any additional information or documents to:

REAL ESTATE ASSETS DEPARTMENT
1200 THIRD AVENUE STE. 1700
SAN DIEGO, CA 92101
TEL.: (619) 236-6020 FAX: (619) 236-6706

This Questionnaire contains 15 pages.

PROPOSED (SUB)LESSEE

1. Name of proposed (Sub) Lessee exactly as it will appear on the actual tenancy document:

OE. Express, Inc

2. Mailing Address of proposed (Sub)Lessee for purposes of notice or other communication relating to the proposed tenancy:

1010 Santa Clara Place

San Diego CA 92109

Telephone No.: 858-488-1004

Fax. No.: _____

E-mail Address: info@oexcalifornia.com

3. Billing Address (only if different from Mailing Address);

Telephone No.: _____

Fax. No.: _____

4. Proposed (Sub)Lessee intends to operate as a:

Sole Proprietorship ();

Partnership ();

Corporation (X);

Limited Liability Company (); Other _____

Explain if necessary:

5. Effective date of assignment (complete only if applicable): _____

PARTNERSHIP STATEMENT

If proposed (Sub)Lessee is a partnership, please answer the following:

1. Date of Organization: _____
2. General Partnership (☐)
Limited Partnership (☐)
Other (☐) Explain _____

3. Statement of Partnership recorded: Yes (☐) No (☐)

Date	Book	Page	County
4. Has the partnership conducted business in San Diego County?
Yes (☐) No (☐) If so, when? _____
If so, where? _____
5. Name, address, and partnership share of each general and limited partner. If a general partner is another partnership, a corporation, or a limited liability company (LLC), please complete separate pages 3; or 4 and 5; or 6, as appropriate for such entity (type proposed [Sub]Lessee name [from page 2] on the top of each page for identification purposes). If a limited partner holding a 10% or greater interest is another partnership, a corporation, or an LLC, pages 3; or 4 and 5; or 6 must also be completed for such entity (type proposed [Sub]Lessee name [from page 2] on the top of each page).

General/Limited	Name	Address	Share %

6. Attach a complete copy of the Partnership Agreement. If a Partnership Agreement has been previously submitted, a new Partnership Agreement need be submitted only if the Partnership Agreement on file with the City is no longer current.

CORPORATION STATEMENT

If proposed (Sub)Lessee is a corporation, please answer the following:

1. Type of corporation: C () Subchapter S (X)
2. When incorporated? 2000
3. Where incorporated? california
4. Is the corporation authorized to do business in California? Yes (X) No ()
If so, as of what date? Jan 1, 2000
5. The corporation is held:
 - a. Publicly () Privately (X)
 - b. If publicly held, how and where is the stock traded?
6. Please list the following:

	<u>Authorized</u>	<u>Issued</u>	<u>Outstanding</u>
a. Number of voting shares:	_____	_____	_____
b. Number of nonvoting shares:	_____	_____	_____
c. Number of shareholders:			_____
d. Value per share of Common Stock:		Par \$ _____	
		Book \$ _____	
		Market \$ _____	
7. Please furnish the name, title, address, and the number of voting and nonvoting shares of stock owned by each officer and, in addition, the same information for each stockholder owning more than 10% of any class of stock.

Name: John Metzger
Title: CFO
Address: 3120 Hawthorn St.
San Diego, CA 92104
No. of Shares: 50%

Name: Brent Torgeson
Title: President
Address: 3022 Curie St
San Diego CA 92122
No. of Shares: 50%

Name: _____
Title: _____
Address: _____
No. of Shares: _____

Name: _____
Title: _____
Address: _____
No. of Shares: _____

Name: _____
Title: _____
Address: _____
No. of Shares: _____

(Additional page(s) may be added if needed to complete list of stockholders [type proposed (Sub)Lessee name (from page 2) on the top of each page].)

8. Attach complete copies of the Articles of Incorporation (and any Certificate(s) of Amendment thereto, as the case may be) of the Corporation, and the Bylaws of the Corporation (and any Amended and Restated Bylaws, as the case may be), and any other applicable Corporate documents.

Any partnership, corporation, or LLC owning more than a 10% ownership interest must also complete separate pages 3; or 4 and 5; or 6, as appropriate for each entity (type proposed [Sub]Lessee name [from page 2] on the top of each page for identification purposes). Also, furnish the financial data for such partnership, corporation, or LLC, as required on page 7. If there is an ownership chain of additional partnerships, corporations, or LLCs, the above requirements extend to each such entity having either: (1) a 10% or greater direct, indirect, beneficial ownership, or membership interest in

the proposed (Sub)Lessee; or (2) effective control of the proposed (Sub)Lessee, regardless of the percentage of ownership or membership interest.

LIMITED LIABILITY COMPANY STATEMENT

If the proposed (Sub)Lessee is an LLC, please answer the following:

1. Date of Organization: _____
2. Where Organized: _____
3. Is the Company authorized to do business in California?
 - a. Yes () No ()
 - b. If so, as of what date? _____
4. Has the Company conducted business in San Diego County?
 - a. Yes () No ()
 - b. If so, when? _____
 - c. If so, where? _____
5. Please furnish the name, address, and membership share held by each manager and officer, and each member owning more than a 10% membership interest. If a member is a partnership, corporation, or another LLC, please complete separate pages 3; or 4 and 5; or 6, as appropriate for such entity (type proposed [Sub]Lessee name [from page 2] on the top of each page).

Manager/Officer/ Member	Name	Address	Share %

6. Attach a complete copy of the Operating Agreement. If an Operating Agreement has been previously submitted, a new Operating Agreement need be submitted only if the Operating Agreement on file with the City is no longer current.

FINANCIAL AND OTHER BACKGROUND INFORMATION

FINANCIAL STATEMENT

(Sub)Lessee, general partners of (Sub)Lessee, owner-corporations of (Sub)Lessee, members of (Sub)Lessee owning more than a 10% membership interest, and any person or business entity guaranteeing the performance of (Sub)Lessee must attach a complete report, prepared in accordance with good accounting practice, reflecting current financial condition. The report must include a balance sheet and annual income statement. The person or entity covered by the report must be prepared to substantiate all information provided.

OTHER INFORMATION

Each (Sub)Lessee, each general partner of (Sub)Lessee, each owner-corporation of (Sub)Lessee, each member of (Sub)Lessee owning more than a 10% membership interest, any person or business entity guaranteeing the performance of (Sub)Lessee, any person or entity owning more than a 10% interest of (Sub)Lessee, and any guarantor of (Sub)Lessee must answer the following questions:

1. **Surety Information** - Has a surety or bonding company ever been required to perform on the default of any of the individuals or entities?
 - a. Yes () No (X)
 - b. If yes, please attach a statement naming the surety or bonding company, date, amount of bond, and the circumstances surrounding said default and performance.
2. **Bankruptcy Information** - Have any of the individuals or entities ever been adjudicated bankrupt or are any presently a debtor in a pending bankruptcy action?
 - a. Yes () No (X)
 - b. If yes, please give dates, court jurisdiction, and amount of liabilities and assets.
3. **Pending Litigation** - Are any of the individuals or entities presently a party to ANY pending litigation?
 - a. Yes () No (X)
 - b. If yes, please provide detailed information for each action.
4. **Claims, Liens, or Judgments** - Are any of the individuals or entities now subject to any outstanding claims, liens, or judgments?
 - a. Yes () No (X)
 - b. If yes, please provide detailed information for each claim, lien, or judgment.

REFERENCES FOR PROPOSED (SUB)LESSEE

Please list four persons or firms with whom you have conducted business transactions during the past three years. Two of the references must have knowledge of your debt payment history, with at least one being a financial institution. Two of the references must have knowledge of your business experience.

REFERENCE NO. 1

Name: Sue Itani
Firm: Union Bank of California
Title: Account Representative
Address: 1175 Rosierans St. San Diego CA 92106
Telephone: 800-238-4486

Nature and magnitude of purchase, sale, loan, business, association, etc.:

Primary bank for OEX since 1995

REFERENCE NO. 2

Name: Charlie Bush
Firm: Cramer Pecker Industries
Title: Vice President Waterports Division
Address: 1641 E. St. Andrews Pl; Santa Ana CA 92705
Telephone: 714-566-3800

Nature and magnitude of purchase, sale, loan, business, association, etc.:

Umbrella company for several lines of Santa equipment. OEX has been on credit terms since 1998.

REFERENCE NO. 3

Name: Sean Caples
Firm: Malibu Kayaks
Title: President
Address: Los Angeles, CA
Telephone: 562-630-4311

Nature and magnitude of purchase, sale, loan, business, association, etc.:

OEX is the largest dealer for Malibu Kayaks in the US.
OEX has exclusive rights to sell Malibu Kayaks
from Southern California through Mexico

REFERENCE NO. 4

Name: Joe Busalacchi
Firm: Sportsmens Seafood
Title: President
Address: 1617 Quivira Rd.; San Diego CA 92109
Telephone: 619-224-3551

Nature and magnitude of purchase, sale, loan, business, association, etc.:

OEX has been a tenant at Sportsmens Seafood
at Quivira Basin in Mission Bay since 2005.

CITY OF SAN DIEGO PERSONAL DESCRIPTION AND RELEASE

PLEASE NOTE: All partners, both general and limited; all stockholders owning more than 10% of any class of stock of corporations; all members of a limited liability company; and sole proprietors requesting to (sub)lease, must each complete this page before the tenancy request can be processed. (You may reproduce and use copies of this page, if necessary.)

The following personal information is required to initiate a credit investigation. The business and personal reputation of principals, partners, and members will be considered in qualifying Lessees or in consenting to Sublessees.

First, Middle, & Last Name	<u>John David Metzger</u>
Date of Birth	<u>1-31-1971</u>
Place of Birth	<u>Washington DC</u>
Social Security Number	<u>228-39-9193</u>
Driver's License Number/State	<u>B6987777</u>
Home Address	<u>3120 Hawthorn St.</u> <u>San Diego CA 92104</u>
Previous Address	<u>5130 Cape May Ave</u> <u>San Diego CA 92107</u>
Home Telephone No.	<u>619-269-7466</u>
Employer	<u>OCE Express Inc</u>
Occupation	<u>Self-Employed</u>
Business Address	<u>See above</u>
Business Telephone No.	<u>619-9857467</u>
Business Fax No.	<u>619-269-7466</u>

The City is hereby authorized to request a credit report and other information covering my financial and business history.

Date 4/23/09 Signed [Signature]

Print or type exact name of proposed (Sub)Lessee from page 2 of Questionnaire:

OCE Express, Inc

CITY OF SAN DIEGO PERSONAL DESCRIPTION AND RELEASE

PLEASE NOTE: All partners, both general and limited; all stockholders owning more than 10% of any class of stock of corporations; all members of a limited liability company; and sole proprietors requesting to (sub)lease, must each complete this page before the tenancy request can be processed. (You may reproduce and use copies of this page, if necessary.)

The following personal information is required to initiate a credit investigation. The business and personal reputation of principals, partners, and members will be considered in qualifying Lessees or in consenting to Sublessees.

First, Middle, & Last Name Brent Roger Tongson
Date of Birth 6/19/71
Place of Birth Ft Dix New Jersey
Social Security Number 228 33 6980
Driver's License Number/State A6317675
Home Address 3022 Curie St
San Diego CA 92122
Previous Address _____
Home Telephone No. 858 642 0302
Employer Self employed
Occupation Retail
Business Address 1453 Rosacrans St SD CA 92106
Business Telephone No. 619 758 9531
Business Fax No. 619 758 9827

The City is hereby authorized to request a credit report and other information covering my financial and business history.

Date 4/22/09 Signed Brent Tongson

Print or type exact name of proposed (Sub)Lessee from page 2 of Questionnaire:

OE EXPRESS Inc

METHOD OF OPERATION

Please describe your proposed business operation on the property to be (Sub)Leased. Discuss any optional services and uses which you propose to provide.

OEX intends to establish and manage a kayak retail location at Mission Bay Sailing Center, with an emphasis on kayak fishing.

**PROPOSED METHOD OF FINANCING
DEVELOPMENT OR LEASEHOLD PURCHASE**

Describe the method of financing for the Leasehold purchase or any new or additional development on the Leasehold. Include a schedule of approximate dates when construction of each significant improvement is expected to be commenced and completed.

There are no plans for loans or financing to operate OEX at Mission Bay Sailing Center. All will be done on a cash basis.

ESTIMATE OF GROSS RECEIPTS

If this Questionnaire is being completed by a prospective Lessee, please show the best estimate of the average annual gross sales for each significant use or service, and for each significant optional use or service which the Lessee and its Sublessees (if any) plan to conduct on or from the property. (If the Questionnaire is being completed by a Sublessee, only the estimate of the Sublessee's gross sales is required.) This data will be used by the City to analyze the proposed Lease or Sublease Consent application. The time periods shown should not be assumed to necessarily represent the term of a (Sub)Lease that may be granted or consented to by the City.

Average annual gross sales for each proposed significant use during each of the first five operating years:

Year of Operation	Uses (Identify Each Use)				
	Kayak Rental				
1	\$ 110,000	\$	\$	\$	\$
2	120,000				
3	130,000				
4	140,000				
5	150,000				

EXPERIENCE STATEMENT

Please describe in detail the duration and extent of your business experience, with special emphasis upon experience with the type of business which you propose to conduct on City property. Also state in detail the pertinent experience of the persons who will be directly involved in development and management of the business.

OEX Dive & Kayak Center began dive and kayak operations in La Jolla in 1995. We are a PADI Five Star Dive Center and have since opened six retail locations in Southern California. Our specialties in kayaking are kayak rentals and tours and the growing sport of kayak fishing. We have a large pro staff of kayak fishermen who regularly conduct seminars on kayak fishing. OEX also sponsors four kayak fishing tournaments a year in conjunction with the non-profit group Plastic Navy, with proceeds going to different charitable organizations.

On the Scuba side, we regularly certify San Diego Lifeguards to scuba dive and have a running account to provide air fills and equipment service for the San Diego Lifeguard Dive Team. All OEX Scuba employees and instructors meet industry standards to provide scuba instruction and service.

**TERMS AND CONDITIONS OF PURCHASE, SALE,
OR TRANSFER OF (SUB)LEASEHOLD INTEREST**

(NOTE: Complete this page only if the transaction involves a Lease assignment.)

Please summarize the terms and conditions of the purchase, sale, or transfer of Leasehold interest(s) which requires City consent, as specified in the Assignment-Sublease provisions of the City Lease. Please attach copies of the applicable sales agreement(s), escrow instructions, assignment agreement(s), or other documents in conjunction with the sale, purchase, or transfer of the (Sub)Leasehold interest(s).