

CONSENT TO SUBLEASE AGREEMENT

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

LHO MISSION BAY HOTEL, L.P.

("LESSEE") and filed in the Office of the City Clerk as Document No. RR-293127, hereby consents to that certain Sublease Agreement between the above LESSEE ("SUBLESSOR") and

ACTION SPORTS RENTALS

("SUBLESSEE") dated January 1, 2002 ("Sublease"). The Sublease shall be subordinate to the Master Lease in all respects. CITY is merely approving 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. 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:

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 CITY. An assignment by operation of law shall automatically terminate the Sublease.

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, its 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 CITY, its elected officials, representatives, agents, officers or employees.

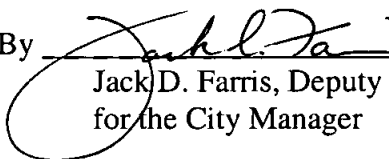
INSURANCE: SUBLESSEE shall be insured by an insurance carrier acceptable to LESSEE and CITY against loss from public liability arising from the use or condition of or operation conducted on the leased premises. Minimum coverage shall be One Million Dollars (\$1,000,000) COMBINED SINGLE LIMIT LIABILITY. A copy of the policy of insurance shall be filed with CITY and shall name "The City of San Diego, its elected officials, officers, representatives, agents, and employees" as additional insureds. The policy shall specify that the policy may not be terminated, altered or canceled without thirty (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 consent, 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 the Master Lease dated May 15, 2000, between SUBLESSOR and CITY. The Sublease is subject and subordinate to the covenants and conditions of the Master Lease notwithstanding any provision hereof contrary to or in conflict with the Master Lease.

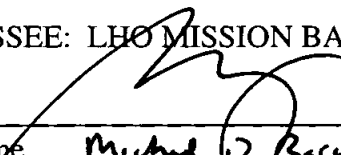
LESSOR: CITY OF SAN DIEGO

Dated 8-6, 2004

By 
Jack D. Farris, Deputy Director
for the City Manager

LESSEE: LHO MISSION BAY HOTEL, L.P.

Dated _____, 2004

By 
Name Michael J. Barnwell
Title President

SUBLESSEE: ACTION SPORTS RENTALS

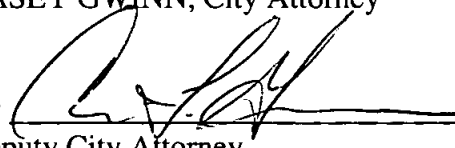
Dated 7/27, 2004

By 
Name Steven Pinaud
Title Vice President

APPROVED AS TO FORM AND LEGALITY:

CASEY GWINN, City Attorney

Dated 8/24/04, 2004

By 
Deputy City Attorney

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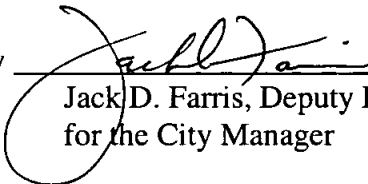
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LESSOR: CITY OF SAN DIEGO

Dated 8-6, 2004

By


Jack D. Farris, Deputy Director
for the City Manager

LESSEE: LHO MISSION BAY HOTEL, L.P.

Dated _____, 2004

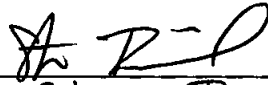
By

Name M. Michael P. Barnello
Title President

SUBLESSEE: ACTION SPORTS RENTALS

Dated 7/27, 2004

By

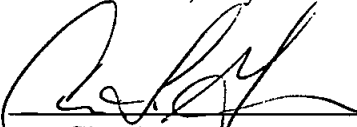

Name Steve Pinard
Title Vice President

APPROVED AS TO FORM AND LEGALITY:

CASEY GWINN, City Attorney

Dated 8/24/04, 2004

By


Deputy City Attorney

SAN DIEGO PARADISE POINT RESORT SUB-LESSEE AGREEMENT

This Concession Agreement made and entered into this first day of January, 2002, between Westgroup San Diego Associates, Ltd., as manager of the San Diego Paradise Point Resort pursuant to a management agreement between Manager and Owner, hereinafter collectively referred to as "Resort" and Action Sports Rentals, hereinafter called Sub-"Lessee".

WITNESSETH

WHEREAS, Resort leases from the City of San Diego the real property upon which the San Diego Paradise Point Resort, including the marina and adjacent waters are located; and

WHEREAS, Resort has constructed dock on said leasehold and is willing to grant Sub-Lessee a concession to conduct and engage in such activities as described herein and in accordance with the terms hereof.

NOW, THEREFORE, It is hereby covenanted and agreed by the parties as follows:

1. Resort hereby grants Sub-Lessee the right to rent watercraft at the marina located at the Resort. Sub-Lessee agrees to conduct watercraft rental business at the marina dock and adjacent beach throughout the term of this Agreement, to abide by all applicable laws and governmental regulations and all requirements of said lease from the City of San Diego, hereinafter called City, to Resort, to conduct said business in a good and businesslike manner and in a manner that will be pleasing to customers of Resort and the general public, and to do nothing that would cause Resort to be in default under said lease. Sub-Lessee shall not assign this lease or sublet the premises or any part thereof without the prior written consent of Resort and City. Sub-Lessee shall not transfer or assign this Agreement without the prior written consent of Resort and City. To do so shall by law automatically terminate this lease.
2. Sub-Lessee agrees to keep complete, accurate and detailed records of all gross receipts from its operation at Resort in the form required by the City, to furnish a statement in duplicate of all gross receipts of rentals and sales from its operation to Resort within ten (10) days following the end of each and every calendar month, and simultaneously therewith to pay Resort rent equal to 22 percent of all such gross receipts during said month. If gross receipts exceed \$120,000 annually, Sub-Lessee further agrees to pay Resort 20% percent of all gross receipts exceeding \$120,000. Gross receipts are defined as all receipts derived from the operation at this leasehold. All such records shall be maintained for a period of at least four (4) years and shall be available for inspection at all reasonable times by representative of the City and of Resort. It is further agreed that a willful understatement of gross sales by Sub-Lessee shall be cause for immediate termination of this Agreement by Resort. Resort reserves the right to increase rent percentage to the extent that the City raises the percentage it charges the Resort on Sub-Lessee operation.
3. Sub-Lessee shall maintain adequate dock space for persons or vessels coming to Resort. Sub-Lessee shall maintain the entire dock in a clean, safe and sightly condition. Sub-Lessee shall paint the entire dock or any portions thereof when necessary as directed by Resort. Resort reserves the right to change Sub-lessee's location on the dock, expand and/or change the dock, and/or develop a marina at same location.

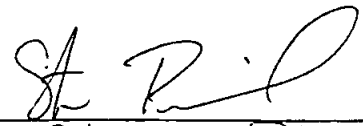
Resort reserves the right to utilize the wooden building on the dock along with Sub-Lessee. Sub-Lessee agrees, without charge, to provide general supervision for the entire dock, to assist boats in docking and departing, and generally to provide a hospitable reception for visitors during the hours they are required to operate, and to exercise their best effort to prevent any nuisance or disorder on or about the dock.

4. Sub-Lessee agrees to operate the boat rental operation from 9:00 a.m. to 8:00 p.m. Friday, Saturday, Sunday and 10:00 a.m. to 7:00 p.m. Monday through Thursday from May 1 to October 15; and from 11:00 a.m. to 4:00 p.m. seven days a week the balance of the year, except when closing is made necessary by inclement weather at which point the Manager on Duty of the Resort will be consulted.
5. All prices to be charged for rentals and instruction fees shall be set forth in a schedule to be provided by Sub-Lessee to Resort and which must be approved by Resort in writing prior to the execution of this Agreement (Exhibit A). Any change in the price schedule must be submitted to Resort in writing for approval prior to its being put into effect by Sub-Lessee.
6. Sub-Lessee agrees to work with Resort sales and promotional people in developing sailing and vacation packages that would be beneficial to both parties. Sub-Lessee, with Resort approval, further agrees to develop, print and distribute at its own cost brochures listing Resort as a location of Sub-Lessee operation. Sub-Lessee also agrees to develop and promote, but not be limited to, sailing races, sailing clinics, manufacturers' promotions, and sailing seminars, or other guest activities as designated by Resort.
7. Sub-Lessee agrees to keep available at all times at Resort a sufficient number of boats of appropriate types to meet the demand for rentals, to keep all of those boats in good, safe and slightly condition, to comply with all regulations covered by governmental bodies, and to rent each type at a rate not to exceed the average rental charge for the most similar boats in Mission Bay, or in any event not in excess of the maximum rental permitted by the City. Sub-Lessee agrees that it shall have at all times during the term of the Agreement, equipment and watercraft noted in Exhibit B as amended or extended.
8. Sub-Lessee shall not permit anyone to use the watercraft except on payment as rental in accordance with the Schedule established without prior consent from Resort.
9. Sub-lessee agrees to indemnify, defend and hold harmless Resort and any other corporate entity so indicated and City against any and all loss, expense, or liability for injury to or death of persons, or damage to property, arising out of any occurrence in connection with this sub-lease, or said boats, or with the dock to the event it is under the control of Sub-lessee and agrees to carry insurance in the amount not less than \$1,000,000 expressly covering the contractual liability imposed by this paragraph. All insurance shall be issued by reputable insurance carriers licensed to transact business in the State of California and acceptable to Resort and City. Sub-Lessee will supply Resort and City with certificates of such insurance indicating Resort and City as additional loss payees. Additionally, Sub-Lessee agrees to carry appropriate worker's compensations Insurance for all of its employees.

10. Sub-Lessee agrees that should it become necessary for Resort or City to commence legal proceedings to collect rent, to recover possession or enforce any other provisions of this lease, Sub-Lessee agrees to pay all legal costs in connection therewith, including a reasonable sum as attorney fees. This Agreement is in effect a sublease of a portion of the premises covered by that certain Lease Agreement dated December 26, 1968, as amended between Sub-Lessor herein and the City. This sublease is subject and subordinates to the covenants and conditions of said Lease Agreement notwithstanding any provision hereof contrary to or in conflict with said Agreement,
11. The term of this Agreement shall be for a period of three (3) years commencing January 1, 2002, except that either party may terminate upon 90 day written notice for good cause and after giving a ten (10) day written notice to cure. This Agreement is subject to all provisions of said City lease. In addition, either party may terminate this agreement by giving not less than thirty (30) days' prior written notice to the other party.
12. Sub-Lessee agrees to pay all personal property taxes on his property located at Resort, all license fees and other taxes imposed on his business.
13. Sub-Lessee shall be solely responsible for all the employees, agents, and representatives of the Sub-Lessee and all obligations with respect to such employment, agents and representatives. Sub-Lessee's employees, agents and representatives shall conduct themselves in a manner fitting and consistent with the operation of an exclusive resort hotel facility. All Sub-Lessee employees will maintain a grooming and uniform standard equal or greater than that of the Resort. The Resort grooming and appearance standards policy is attached as Exhibit C. Violations of these standards will result in a penalty of \$250 for the first offense and \$1,000 for all subsequent violations. All swimming and other clothing to be worn by employees of Sub-Lessee for the purpose of this Agreement shall be in keeping with the operation of Resort and shall be subject to approval of Resort.
14. Notices hereunder to Resort shall be deemed given when delivered to any principal Corporate Officer of Resort or mailed postage prepaid via certified or registered mail, addressed to San Diego Paradise Point Resort, 1404 West Vacation Road, San Diego, California 92109. Notice to Sub-Lessee shall be deemed given when delivered personally or mailed, postage prepaid via certified or registered mail, addressed to Action Sports Rentals, 2590 Ingraham Street, San Diego, CA 92109.

ACTION SPORTS RENTALS

SAN DIEGO PARADISE POINT RESORT


By: Steven Pinard
Its: Vice President


By: _____
Its: GENERAL MANAGER

Paradise Point

Resort & Spa
A NOBLE HOUSE RESORT

Marina and Boat Rentals

858-581-5939

MOTORBOATS. Pilot your own motorboat on the waters of mission bay. Up to six passengers per boat.

	1 HOUR	4 HOURS	Additional Hrs
17' 60 H.P.	70	250	60
18' 70 H.P.	80	300	70
19' 90 H.P.	100	330	80
PONTOON (up to 13 people)	100	330	80

SAILBOATS. Take a leisurely cruise on sail bay in one of our sloops. Lessons and skippers available for the less experienced.

	1 HOUR	4 HOURS	8 HOURS
Capri 14'	20	50	60
Capri 18'	30	90	120
Capri 22'	35	105	140
Catamaran	25	75	100

LESSONS or SKIPPERS \$20 per hour.

JETSKIIS. Experience the high speed thrills of our three-person sit-down type personal watercraft.

REQUIREMENTS: No children under 12 allowed. 18 years old to drive.

	1 HOUR
Kawasaki 900cc STX	85

WATERSKIING and WAKEBOARDING. Our driver takes up to four passengers out in our Ski Nautique Competition Ski Boat. All inclusive package features Waterskiis, wakeboards, kneeboards, wetsuits, lifevests, gas, oil & instruction. Reservation required.

	1 HOUR	4 HOURS	Additional Hrs.
	135	400	90

KAYAKS / PADDLEBOATS / POWERLOUNGES.

	½ HOUR	1 HOUR	4 HOURS
Sngl. Kayak	15	20	60
Tandem	20	25	75
Paddleboat	15	20	60
Aquacycle	15	20	60
Powerlounge	30	40	120

The following is an inventory of rental boats at the Paradise Point Resort on August 8, 2002

Quantity	Length	Description
4	10	900cc Jet Skis
1	18	60 H.P. Motorboat
3	17	70 H.P. Motorboat
4	16	115 H.P. Motorboat
1	22	50 H.P. pontoon boat
1	24	50 H.P. pontoon boat
1	18	Ski natuique
15	14	sailboat
3	18	sailboat
2	22	sailboat
3	14	Hobie catamaran
1	n/a	aqua cycle
6	n/a	paddle boat
3	n/a	tandem Kayak
7	n/a	single Kayak

PARADISE POINT RESORT & SPA

Standards for a Professional Image

PROFESSIONAL APPERANCE

Uniforms:

The standards of professional appearance and grooming reflect the conservative tradition of Paradise Point Resort & Spa. It is very important that as a team of professionals we present a well groomed appearance.

All employees of the resort are required to follow the dress and grooming standards established by the Company. It is important that you take great pride in your personal hygiene and professional attire. Remember that you must project at all times a polished, well groomed, professional and conservative image of casual elegance.

Employees in uniform must make sure that such uniforms are properly maintained. Please take care of these uniforms as you would your own clothing. Each employee receiving uniforms that are the property of the Resort and are repeatedly lost or suffer extensive damage is responsible for such uniforms and may be subject to disciplinary action.

As part of the uniform standard, employees may furnish their own shoes and some accessories as determined by your Department Head. Specific footwear standards exist for each work area of the resort. For safety reasons, no extreme shoe styles such as sandals, thongs, backless, platform shoes or moccasins are allowed. All employees are informed of acceptable footwear styles and color for their specific department. Employees are required to wear hosiery at all times, except in positions where the uniform requires not to wear hosiery. (Hosiery refers to socks and stockings). In some instances, hosiery color is specified. At no time should an employee wearing pants or slacks wear shoes without wearing complimentary hosiery. Please check with your manager for the appropriate standard in your department. Shoes MUST be kept shined and in good repair.

Note: A pleasant smile is part of the uniform and it is a must! It will prove to be a terrific asset.

ACCEPTABLE ATTIRE:

Employees NOT in uniform are expected to dress in professional business attire reflecting the casual elegance and business atmosphere of the Resort. Professional attire and uniforms MUST BE clean, freshly pressed and well coordinated. In keeping with these standards we offer the following guidelines for clarification:

Females (Not In Uniform):

Skirt, blouse, pantsuit, skirted suit or conservative dress. Hosiery MUST be worn with each of the above. (Hosiery meaning socks or stockings). Choose hosiery that is closest to your skin tone or a color that is well coordinated with your attire. At no time should an employee wearing pants or slacks wear shoes without wearing appropriate socks or stockings. No extreme colors or styles are allowed. Casual wear such as, but not limited to, evening style dresses, skirts, or blouses, strapless, bare back dresses or blouses, bare midriffs, tank tops, T-shirts, or sundresses are not acceptable. Dress pants are considered appropriate when worn with a jacket covering the hipline. Denim jeans, gaucho pants, culottes, split skirts, shorts, leggings, stretch pants, stirrups or tights are unacceptable. The skirt length is to be 2 inches above the knee or longer. Faddish or sheer attire is not appropriate of a casual elegant resort atmosphere.

Note: Employees wanting to wear a sweater or turtle neck under a uniform must do so in a color that complements the uniform/garment. Please check with your manager or supervisor.

Males (Not In Uniform):

Jackets, blazers, slacks, shirts with collars, crew necks, and sweaters appropriate of business attire in a casual elegant resort atmosphere. Coordinated socks must be worn at all times during working hours. If an undershirt is to be worn, it must be white. Color undershirts are not allowed. Undershirts with names, letters, and/or insignias, which can be seen through the shirt may not be worn.

Males/Females, In/Out Of Uniform:

All employees must wear proper undergarments for their uniform or professional attire.

PROFESSIONAL APPEARANCE STANDARDS

Hair:

- Hair MUST BE neat, conservative, clean and in place throughout your shift.
- Hair color MUST BE a “natural color,” defined as one that could be grown naturally (though not necessarily the natural color).
- No unnatural streaks or sparkles in hair.
- Hairstyles should NOT be distracting, obtrusive or cover the eyes.
- No excessive gels or lotions in the hair.
- No dreadlocks style.
- Distinct weighted lines or partially shaven styles are NOT acceptable.
- Bangs MUST BE above the eyebrows.
- Hats are NOT permitted unless they are part of the uniform and have the Paradise Point Resort & Spa insignia.

Females:

- Acceptable hair accessories are a headband or hair band (not wider than (1) one inch), a small bow, clip, barrette or ponytail holder.
- Hair accessories MUST BE a solid color and match the uniform/professional attire. Gold, silver, tortoise shell, or pearl barrettes are also acceptable.
- Buns, twists, bangs, etc., MUST NOT BE more than (3) three inches from the top of the head.
- Long hair MUST NOT fall across or into the face.

Braids:

- Braids MUST NOT exceed a half-inch in width and must be styled close to the head (unless it is a single hanging braid or French braid).
- If braids are longer than shoulder length, they must be pulled back into one unit.

- Braided bangs must be pulled back off the forehead if they touch the eyebrow.
- Braids MUST BE neatly maintained.
- No beads, flowers, or trinkets in the hair.

Males:

- Hair MUST BE neatly trimmed at or above the standard collar line.
- Hairstyles requiring that the head be partially shaven are prohibited.
- Beards are prohibited except when medically necessary.
- Mustaches are acceptable if trimmed and kept neat. They MUST NOT extend below the upper lip or extend over the corners of the mouth. (Mustaches must be grown during time off from work.)
- Face must be clean shaven at all times (except as above.)
- Sideburns MUST NOT extend beyond the middle of the ear or top of ear lobe, nor may they be flared in a “mutton chop” style.

Culinary Staff:

- Culinary staff MUST wear hats or hairnets for sanitary purposes.

Food Service Employees:

- Due to food service requirements, female employees MUST confine shoulder length hair or longer hair. The hair confinement accessory guidelines listed above also apply to all kitchen and food service female employees. A uniform requiring a hat must have the Paradise Point Resort & Spa insignia.

Make-Up (Female Employees):

- Make-up should be tastefully applied and not excessive, especially eye shadow and lipstick. (Black, blue, green, purple, or extreme shades are not permitted.)
- A natural wholesome look is more appropriate to the casual elegance of the Resort.
- Make up is NOT allowed for male employees.

Jewelry:

- Rings: A maximum of two simple rings on each hand is allowed. No thumb and pinkie rings are allowed. Wedding/engagement rings are considered one ring.
- Bracelets: One bracelet or wrist watch only per arm. No plastic bracelets are allowed.
- Necklaces: Extreme styles are not acceptable. No necklaces may show outside the uniform. Shell necklaces are not to be worn.
- Pins: No attachments other than the nametag on any uniform.
- Brooches: May be worn by female employees not in uniform.
- Earrings: Only two earrings per ear lobe are allowed. Earrings should not be larger than a quarter. No earrings outside the ear lobe are permissible. Earrings ARE NOT allowed to be worn by males.
- Body piercing jewelry: No nose rings, no tongue rings or visible body jewelry.

Fingernails:

- Fingernails must be kept clean, trimmed and moderate in length.
- Female employees may wear nail polish in conservative colors only. (Black, blue, purple, green, sparkles, etc., is not allowed).
- Fingernail art is not allowed.
- Female fingernails MUST BE no longer than ½" from fingertip.
- Male fingernails MUST BE no longer than 1/8" from the fingertip.
- Males DO NOT wear finger nail polish.

Tattoos:

- Tattoos MAY NOT be visible to the guests.

Personal Hygiene:

- Please pay special attention to your daily personal hygiene: brush your teeth, use deodorant, keep your hair clean and shiny, bathe daily, etc.
- When using perfume or cologne, use it in moderation.

While these standards are not all inclusive, if you display an unprofessional appearance, you will be counseled. Our appearance and dress standards may change as the needs arise. It is your responsibility to consistently follow the standards dictated by the Resort as well as the standards set in your specific department.

NOTE: When attending a mandatory meeting please wear professional attire. Please remember children are not allowed to attend these meetings.

Revised 04/19/02