

COPY
AGREEMENT

DOCUMENT NO. 44-285436

FILED MAR 06 1995

OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

THIS AGREEMENT is made by and between THE CITY OF SAN DIEGO (hereinafter, the "City"), and the PRO KIDS GOLF ACADEMY, INC., a non-profit corporation, (hereinafter, the "Agency") concerning COLINA DEL SOL GOLF COURSE.

RECITALS

A. WHEREAS, City has entered into a grant agreement with the U.S. Department of Housing and Urban Development (HUD) to carry out the Community Development Block Grant (CDBG) Program in the City of San Diego;

B. WHEREAS, City recognizes the need for community involvement to accomplish the goals of improving the Colina del Sol Golf Course;

C. WHEREAS, Agency wishes to improve the golf course and offer a year round golf program to inner-City youth; and

D. WHEREAS, the Agency has become incorporated through filing Articles of Incorporation with the California Secretary of State, and is willing and able to conduct activities as contained herein;

NOW, THEREFORE, in consideration of the recitals and mutual covenants and conditions herein, City and Agency agree as follows:

I. ASSOCIATION RESPONSIBILITIES

Agency will repair/refurbish/remodel the Colina del Sol Golf Course facility so that it can be used to teach the sport of golf to

inner-city youth. The irrigation system, tee boxes, turf areas and building will be improved to the extent possible with the funds available.

Agency will submit (quarterly/monthly) reports evaluating the progress of program based on the goals and objectives of this Agreement.

II. CITY RESPONSIBILITIES

City shall monitor Agency's activities under this Agreement through the Park and Recreation Director's designee, hereinafter referred to as the Contract Administrator. The designee shall have administrative responsibility for the Project as provided in this Agreement. The Director may withdraw or change the designee by providing effective notice to the Agency without in any respect affecting the terms of this Agreement.

III. TIME OF PERFORMANCE

Performance of services as described in the attached Scope of Services shall commence on January 1995, and terminate on January 1996.

IV. OPERATING MANUAL

In addition to the requirements contained in this agreement, the operations of the Program are governed by the Economic Development Program's "Operating Manual for Community/Economic Development Programs," (1994 update) hereinafter referred to as the Operating Manual. The Operating Manual is hereby incorporated by reference into this agreement, and by its authorized representative's

signature on this Agreement, Agency certifies receipt of a copy of the Operating Manual.

V. INDEPENDENT AGENCY

Agency is and shall be an independent contractor and not an agent of the City hereunder. Any provision in this agreement that may appear to give the City the right to direct Agency as to the details of doing the work, or to exercise a measure of control over the work, means that Agency follow the wishes of the City as to the results of the work only.

VI. BUDGET

Total compensation available for the program to be implemented pursuant to this agreement shall not exceed TWENTY-TWO THOUSAND FIVE HUNDRED Dollars (\$22,500).

PROJECT BUDGET

Personnel

1101	Salaries and Wages	\$14,500
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Non-Personnel

3101	Supplies	\$ 1,000
------	----------	----------

4213	Maintenance/Repairs	3,500
------	---------------------	-------

6010	Equipment Purchase	3,000
------	--------------------	-------

	Audit	500
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	TOTAL NON-PERSONNEL	\$ 8,000
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	TOTAL BUDGET	\$22,500
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(Not including fiscal monitoring of \$2,500)

Agency is responsible for planning expenditures and activities to ensure that the Project is completed within the budgeted amount.

VII. CHECKING ACCOUNTS, REIMBURSEMENT MONITORING, AND AUDIT

Agency shall establish a separate checking account for CDBG funds provided under this Agreement, and shall make expenditures only for costs related to goods and services required in this Agreement. Agency shall not commingle funds from any other source with the funds for this Project.

~~City shall contract with an independent accounting firm to monitor each monthly reimbursement request, as provided below. This monitoring cost shall be included as part of the Agency's budget and shall be paid for directly by the City from the funds allocated to Agency.~~

Agency shall conduct an audit of all its funds, in accordance with Federal Office of Management and Budget (OMB) Circular A-110 and general principles of costs and accounting applicable to nonprofit organizations. This audit may be conducted for the period of its performance as provided herein, for the calendar year, or the Agency's fiscal year, so long as all Agency funds as provided for in this Agreement are fully audited.

VIII. METHOD OF PAYMENT

City shall make a cash advance to Agency in the amount of THREE THOUSAND SEVEN HUNDRED FIFTY Dollars (\$3,750) to initiate the Project and to procure insurance [and/or bonds] as required herein. Thereafter, City will reimburse Agency for Agency's Project expenditures after Agency has submitted financial reports as detailed in Section V, Paragraph E of the Operating Manual, and any required program reports. City shall not disburse an amount greater

than TWENTY-TWO THOUSAND FIVE HUNDRED Dollars (\$22,500). Agency shall request reimbursement no more often than monthly.

City shall reimburse such expenses to Agency in a timely manner after receipt and verification of Agency's expenses. The final payment to Agency under this Agreement shall be withheld until all expenditures and the cash advance have been accounted for and the Agency's final report is received by the City.

IX. PERSONNEL, SUBCONTRACTS, AND ASSIGNABILITY

Agency will undertake all project activities with its own staff unless authorized to do otherwise by the Scope of Services or other written agreement with the City. Agency shall not subcontract, assign, or delegate any of its rights or duties under the terms of this Agreement without prior written approval by the City. The Agency shall not execute or amend any subcontracts, nor shall any disbursements made pursuant to such subcontracts, without the written approval of the Contract Administrator. Any attempts to subcontract, assign, or delegate without such approval shall render this Agreement void. Any subcontract entered into pursuant to the Scope of Services or written approval of the Contract Administrator shall be selected in compliance with the requirements of the CDBG Program and the City's Equal Opportunity Contracting Program.

X. ADDITIONAL FUNDING SOURCES

If Agency has received any additional funding from a source or sources other than City, a complete and separate accounting of such funding shall be maintained and made available to the City upon request. Any cost incurred in connection with the Project which is

properly chargeable to and actually claimed for compensation under a funding source other than the City shall not be allowed as a chargeable cost under this Agreement

XI. AUDITS

Agency will conduct an annual audit, in accordance with Federal Office of Management and Budget (OMB) Circulars A-110, A-128, and A-133. Agency shall provide the City with two (2) copies of the audit report within 30 days of completion.

XII. UNIFORM ADMINISTRATIVE REQUIREMENTS

Agency shall comply with applicable uniform administrative requirements as described in 24 CFR §570.502. Upon Agency's request to the Contract Administrator, the City will provide assistance in complying with this regulation.

XIII. COMPLIANCE WITH APPLICABLE LAWS

Agency agrees to comply fully with all applicable Federal, State, and local laws, ordinances, regulations, and permits, including but not limited to Federal CDBG financial and contractual procedures, and OMB Circular Nos. A-87 and A-110 (Attachments A, B, C, F, H, N, and O), as set forth in 24 CFR §507.502 (b). Said Federal documents are hereby incorporated by reference into this Agreement, and by its authorized representative's signature on this Agreement, Agency certifies its receipt of a copy thereof.

XIV. INELIGIBILITY OF AGENCY OR SUBCONTRACTORS

Agency shall not use CDBG funds directly or indirectly in its operations, or to employ, award contracts to, or otherwise engage

the services of, fund any Subcontractor during any period of debarment, suspension, or placement in ineligibility status of the Agency or Subcontractor by the City or the Federal government.

XV. SUSPENSION OF PAYMENTS

Other provisions of this Agreement notwithstanding, the City may elect to suspend one or more payments to Agency, or terminate this Agreement in accordance with 24 CFR Part 85.43, as a result of any of the following circumstances. In such case, Agency hereby agrees not to expend any funds related to or connected with any area of controversy or conflict which shall have resulted in the suspension of payment or termination of funding. A controversy or conflict may include, but is not limited to, the following:

- a. Noncompliance. Agency shall have failed to comply with any of the terms or conditions of this Agreement.
- b. Misrepresentation. Agency, with or without knowledge, shall have made a substantial and material misrepresentation in regard to information furnished to City.
- c. Unauthorized Actions. Agency shall have taken any action relative to Program which required approval by City or the Community Services Program, without having obtained such approval.
- d. Litigation. Agency shall have become subject to pending litigation with request to the performance of its duties and obligations hereunder, including any court action or proceeding involving the Federal Bankruptcy Act, which litigation may jeopardize or adversely affect the understanding or any carrying out of Program.

- e. Reports. Agency shall have failed submit any report and supporting document to City as required by this Agreement and the Operating Manual, or shall have failed to submit any report and supporting documentation on the date prescribed by City.
- f. Termination of Grant Funds. HUD shall have suspended or terminated a portion or all of the CDBG funds allocated to the City.
- g. Federal Directives. Agency shall have been unable or unwilling to comply with any additional terms or conditions relative to Program that may be required by newly enacted Federal laws, or changes in Federal rules, regulations, or other directives.

XVI. AGENCY RECORDS

Agency shall maintain detailed administrative and fiscal records (including all cash receipts) for Program activities, as required by the Operating Manual, during the time of performance of this Agreement. Agency shall also allow Contract Administrator to inspect its premises, books, accounting documents, payrolls, and all other records for the purpose of auditing, monitoring, and/or evaluating Agency and Program activities. Agency shall store records and receipts for a period of three years after submission of the final expenditure report for the contract period, or three years after submission of the final expenditure report upon earlier termination of the Agreement, or until all audit findings have been resolved, whichever period is longer. During this period, City or U.S. Government representatives or their authorized agents shall have access to all Agency records and documents at any time. In no

case shall the Agency dispose of Agency records without first informing the City of its intent to do so.

XVII. ORAL REPRESENTATIONS

This Agreement and the exhibits and references incorporated herein fully express all understandings of the parties concerning the matters covered herein. No change, alteration, or modification of the terms of this Agreement, and no verbal understanding of the parties, their officers, agents, or employees shall be valid unless made in the form of a written change or amendment to this Agreement which has been duly approved and executed in accordance with the procedures described herein.

XVIII. CHANGES OR AMENDMENTS TO AGREEMENT

Should circumstances require that any of the terms or conditions of this Agreement be changed or amended, such change or amendment shall be accomplished only in the following manner:

- a. A nonsubstantive change which does not affect the total dollars specified herein shall be approved in writing by the Contract Administrator and Agency's authorized representative.
- b. A substantive change to any of the terms or conditions of this Agreement, or a change which increases the total dollars specified herein, shall be accomplished only by written amendment to this Agreement approved by the City and signed by the authorized representatives of the City and Agency.

XIX. DELAY

Agency shall not be liable for delay resulting from causes beyond its reasonable control. In the event of such delay, the date of performances will be postponed by such length of time as may be reasonably necessary to compensate for the delay.

XX. OWNERSHIP OF DOCUMENTS AND EQUIPMENT

The originals of all reports and documents generated by this Agreement shall become the property of City when Agency has been compensated as set forth herein. Any equipment purchased by Agency with CDBG funds with a value in excess of Five Hundred Dollars (\$500) is owned by City and shall revert to City's possession upon the termination of this Agreement or any subsequent Agreements which continue Agency's Project or "core" funding.

XXI. FEDERAL LAWS AND REGULATIONS

The provisions of this Agreement are subject to the provisions and regulations promulgated by the Secretary of Housing and Urban Development or his delegate in effect on the effective date of this Agreement. Subsequent changes to such act and regulations shall become effective for the administration of the agreement upon notification of such changes to City and subsequent notice to Agency. All Federal regulations in effect as of July 1, 1994, which relate to the use of Community Development Block Grant (CDBG) funds shall govern this agreement.

XXII. PROJECT ELIGIBILITY

This project must meet the National Objective requirement for HUD funding eligibility utilizing the Limited Clientele or Presumed Benefit categories. Agency will collect and maintain data on all

clients served under this program. Data in the form of ethnic breakdown, head of household status, and individual/family income levels (using HUD Low and Low/Mod definitions) shall be collected and maintained in Agency files. The records shall be collected and maintained from the awarding of the contract and shall conclude one year after the completion of the project.

XXIII. EQUAL OPPORTUNITY PROGRAM REQUIREMENTS

Agency shall submit to the Project Manager statistical information as requested in the City of San Diego Contract Activity Report indicating the amount of subcontracting provided by firms during the period covered by the report. This information should be accompanied by an invoice from each subconsultant/subcontractor/vendor/service provider listed in the report. Agency agrees to issue payment to each of the firms listed within 14 days after City release of funds, or be assessed a penalty of 2% of the amount due each firm for each month or portion of a month in which payment is not made.

Agency and each of its subconsultants will comply with Title VII of the Civil Rights Acts 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 hereinafter enacted. Agency 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 request by the City of San Diego, the Agency will submit a current Work Force Report and, if required, an Equal Employment Opportunity (EEO) Plan which sets forth the actions that the consultant will take to achieve the City's goals for the employment of African Americans, American Indians, Asians, Filipinos, Latinos, women and people with disabilities.

Further, the Agency will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement so that such provisions will be binding upon each subconsultant.

Agency acknowledges that the City of San Diego seeks to promote employment and business opportunities for local residents and firms on all City contracts. Agency will, to the extent legally possible, solicit applications for employment, and bids and proposals for subcontracts, for work associated with this Agreement from local residents and firms as opportunities occur. Agency agrees to hire qualified local residents and firms whenever possible.

Agency understands that failure to comply with the above requirements, and/or submitting false information in response to these requirements, may result in withholding progress payments until Agency complies with the above, or termination of this Agreement, and/or suspension from participating in future City contracts as a prime or subconsultant, for a period of not less than one (1) year. For additional or subsequent violation, the period of suspension may be extended for a period of up to three years. Failure to satisfy penalties imposed pursuant to this

section shall prohibit Agency from participating in all future City contracts until all penalties have been satisfied.

XXIV. DISABLED ACCESS

Agency shall comply with the Federal Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act (Public Law 101-336), and any other applicable Federal and/or State laws and regulations enacted. Agency shall also comply with City Council Policy 100-04, adopted by Resolution R-282153, relating to the Federal Americans with Disabilities Act (ADA), and shall be responsible for establishing and implementing an ADA program within the Agency.

XXV. ETHNIC DIVERSITY OF BOARDS

Agency's advisory board shall reflect the ethnic breakdown of the community Agency is serving.

XXVI. LITERACY SERVICES

Agency shall identify clients in need of assistance with reading and writing skills and shall provide direct tutorial services, or shall refer such clients to other programs providing such services.

XXVII. HUD SECTION 3 CLAUSE

The following "Section 3 Clause" is included herein pursuant to the requirements of Title 24, Part 135 of the Code of Federal Regulations (24 CFR Part 135), and is binding upon the parties to this Agreement. Agency shall document its good faith efforts to comply with the terms and conditions of the Section 3 Clause, and furnish such documentation to City upon request.

- a. The work to be performed under this Agreement is on a

project a listed under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 USC 170(u)). Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the Program area, and contracts for work in connection with the Program be awarded to business concerns which are located in, or owned in substantial part by, persons residing in the area of the Program.

- b. The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and applicable rules and orders of the Department issued thereunder prior to the execution of this Agreement. The parties to this Agreement certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- c. Agency will send to each labor organization or representative of workers with which they have a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of their commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- d. Agency will include this Section 3 clause in every

subcontract for work in connection with the Program, and will, at the discretion of the applicant for or recipient of Federal financial assistance take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

- e. Compliance with the provisions of Section 3, the regulation set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the agreement, shall be a condition of the Federal financial assistance provided to the Program, binding upon the applicant or recipient, its contractors, subcontractors, its successors, and assignees to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

XXVIII. HOLD HARMLESS

Agency agrees to defend, indemnify, protect and hold City and its 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 Agency's employees, agents or officers which arise from or are connected with or caused or claimed to be caused by the acts or omissions of Agency, and its agents, officers or employees, in performing the

work or services herein, and all expenses of investigating and defending against same; provided, however, that Agency's duty to indemnify and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of the City, its agents, officers or employees.

XXIX. INSURANCE

Agency agrees to obtain and keep in force a policy of Commercial General Liability insurance, occurrence form, [Comprehensive Public Liability insurance] during the period of performance of this agreement in an amount not less than ONE MILLION Dollars (\$1,000,000). Such policy shall name the City as an additional insured, and City's insurance shall be non-contributing to the Agency's insurance.

Prior to any disbursement for any purpose other than obtaining fidelity bonds, Agency agrees that its chief fiscal officer or its insurer shall forward to City an assurance that all persons handling funds received or disbursements or loans made hereunder are covered by a fidelity bond in an amount not less than one half (1/2) of the total allocation. If the bond is cancelled or reduced, City shall immediately notify City. In that event, City shall make no further disbursements until it is assured adequate coverage has been obtained.

Agency shall produce evidence of required insurance to City prior to expending funds for operational purposes.

XXX. PROJECT REVENUES

All monies that accrue to Agency from CDBG funds shall be considered program income as defined by 24 CFR §570.500(a), and shall revert to the City within thirty (30) days of termination of this Agreement, except as otherwise provided herein.

All revenues that accrue to Agency as a result of the Program, including interest earned on Program funds deposited in an interest bearing account and revenue from advertising, shall be deposited in a separate bank account. All funds so deposited, including interest earned thereon, shall be considered program income. Documentation of all transactions taking place in this account shall be included in Agency's fiscal records and in Agency's monthly reports submitted to the City. With prior written approval of the Contract Administrator, funds in this account may be used to improve and extend services being rendered by Agency. If such approval is not given, these funds shall revert to Agency within thirty (30) days after the end of the time of performance specified herein or termination of this Agreement, as required by 24 CFR §570.503 (b).

XXXI. CONFLICT OF INTEREST

Agency shall establish and make known to its members, volunteer workers, and employees appropriate safeguards to prohibit same from using their positions for a purpose that is, or gives the appearance of being, motivated by desire for private gain for themselves or others, particularly those with whom they have family, business, or other relationships. Project personnel shall not accept gratuities or other favors from subcontractors or

potential subcontractors. In the procurement of supplies, equipment, and services by Agency, the conflict of interest provisions in OMB Circular No. A-110 (Attachment O) and 24 CFR §570.611 shall apply.

XXXII. AGENCY EMPLOYMENT OF CITY PERSONNEL

This Agreement shall be unilaterally and immediately terminated by City if Agency employs an individual who within twelve months immediately preceding such employment did, in the individual's capacity as City officer, board member, or employee, participate in, negotiate with, or otherwise have an influence on the recommendations made to the City Board in connection with the selection of Agency.

XXXIII. SUBSTANCE ABUSE EDUCATION AND REFERRAL, AND DRUG-FREE WORKPLACE REQUIREMENTS

Substance abuse is a major concern in our community. In order to address this concern, Agency shall provide substance abuse education and/or referral for staff and clients as necessary. In addition, Agency shall adopt and enforce a policy to maintain a drug-free work place by performing the following:

- a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances is prohibited in Agency's workplace.
- b. Specifying actions that Agency will take against employees who violate the drug-free workplace policy.
- c. Establishing a drug-free awareness program to inform employees about the dangers of drug abuse, the Agency's

drug-free workplace policy, and the availability of substance abuse counseling, rehabilitation, and employee assistance programs.

- d. Posting a statement concerning Agency's drug-free workplace policy in a prominent place at Agency's office.
- e. Incorporating in every subcontractor agreement language which indicates the subcontractor's agreement to abide by the provisions of a drug-free workplace.

XXXIV. POLITICAL AFFAIRS OR ACTIVITIES

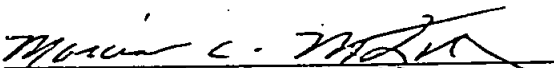
Agency shall not use Program funds, personnel, or materials to advocate or support any particular position on any matter that is being proposed by a vote of the people, or is being considered for enactment by any legislative body of the City or County of San Diego, State of California, or the Federal Government. Neither will the Agency use program funds, personnel, or materials to influence an officer or employee of any legislative body or an elected official or an employee of any governmental agency in the awarding of any contract, loan, cooperative agreement, or the extension, continuation, renewal, amendment or modification of any contract, grant, loan, or cooperative agreement. The Agency will disclose any funding from other sources that has been paid or will be paid to any person for influencing or attempting to influence an elected official or a public agency by completing, signing, and submitting Standard IRS Form-LLL, "Disclosure Form Report - Lobbying" in accordance with its instructions. Agency shall require this certification language to be included in the award documents for all subawards, subgrants, subcontracts, loans, and

cooperative agreements, and such subrecipients shall certify and disclose accordingly.

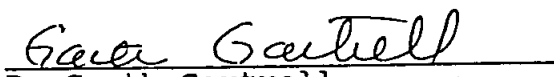
IN WITNESS THEREOF, this agreement is executed by The City of San Diego acting by and through its Executive Director, pursuant to Resolution No. R-285436, authorizing such execution, and by Agency.

Dated this _____ day of MAR 06 1995, 1995.

THE CITY OF SAN DIEGO

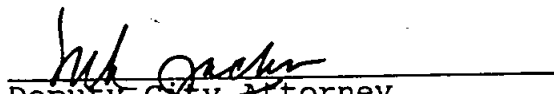
by 
Mark & Recreation Director

PRO KIDS GOLF ACADEMY, INC.

by 
P. Garth Gartrell

I HEREBY APPROVE the form and legality of the foregoing Agreement this 10th day of March, 1995.

JOHN W. WITT, City Attorney

by 
Deputy City Attorney

AGRM3312
12/94

R- 285436

DUPLICATE

THE CITY OF SAN DIEGO

AND

NATIONAL GOLF & TENNIS INC.

COLINA PARK PUBLIC GOLF COURSE

Percentage Lease

RR-271693

DOCUMENT NO. _____
FILED _____ AUG 08 1988
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

LEASE OUTLINE

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LEASE OUTLINE

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**CITY OF SAN DIEGO
PERCENTAGE LEASE**

THIS LEASE AGREEMENT is executed between the CITY OF SAN DIEGO, a municipal corporation, hereinafter called "CITY," and NATIONAL GOLF & TENNIS INC., a California corporation, hereinafter called "LESSEE."

SECTION 1: USES

1.01 Premises. CITY hereby leases to LESSEE and LESSEE leases from CITY all of that certain real property situated in the City of San Diego, County of San Diego, State of California, described in Exhibit "A" attached hereto and by this reference made part of this agreement. Said real property is hereinafter called the "premises" or "leased premises."

1.02 Uses. It is expressly agreed that the premises are leased to LESSEE solely and exclusively for the purposes of operation and maintenance of a public 18-hole pitch-and-putt golf course; pro shop; snack bar; food facility including on-premises catering service; sale, rental, and repair of golf equipment and supplies; the right to give golf instruction; and for such other related or incidental purposes as may be first approved in writing by the City Manager and for no other purpose whatsoever. "On-sale" beer, wine, and distilled spirits may be served as part of LESSEE'S food service/catering operation on the premises, provided LESSEE is able to obtain an appropriate license from the Alcoholic Beverage Control Department.

LESSEE covenants and agrees to use the premises throughout the term hereof for the above-specified purposes and to diligently conduct the business thereon to produce the most gross income that can be reasonably expected. Failure to continuously use the premises for said purposes, or the use thereof for purposes not expressly authorized herein, shall be grounds for termination by CITY.

1.03 Related Council Actions. By the granting of this lease, neither CITY nor the Council of CITY is obligating itself to any other governmental agent, board, commission, or agency with regard to any other discretionary action relating to development or operation of the premises. Discretionary action includes, but is not limited to rezonings, variances, environmental clearances or any other governmental agency approvals which may be required for the development and operation of the leased premises.

1.04 Quiet Possession. LESSEE, paying the rent and performing the covenants and agreements herein, shall at all times during the term peaceably and quietly have, hold and enjoy the premises. If CITY for any reason cannot deliver possession of the premises to LESSEE at the commencement of the term, or if during the lease term LESSEE is temporarily dispossessed through action or claim of a title superior to CITY'S, then and in either of such events, this lease shall not be voidable nor shall CITY be liable to LESSEE for any loss or damage resulting therefrom, but there shall be determined and stated in writing by the City Manager of CITY a waiver of LESSEE'S requirement to pay percentage rent for for the period or periods during which LESSEE is prevented from having the quiet possession of all or a portion of the premises.

1.05 Easements and Reservations.

- a. CITY hereby reserves all rights, title and interest in any and all subsurface natural gas, oil, minerals and water on or within the premises.
- b. CITY reserves the right to grant and use easements or to establish and use rights-of-way over, under, along and across the leased premises for utilities, thoroughfares, or access as it deems advisable for the public good.
- c. CITY has the right to enter the premises for the purpose of making repairs to or developing municipal resources and services.

However, CITY shall not unreasonably or substantially interfere with LESSEE'S use of the premises and will reimburse LESSEE for physical damages, if any, to the permanent improvements located on the leased premises resulting from CITY exercising the rights reserved in this section. Such reimbursement may include a reduction in the rent proportionate to the amount of physical damage as determined by CITY. CITY will pay the costs of maintenance and repair of all CITY installations made pursuant to these reserved rights.

1.06 Competent Management. Throughout the term of this Lease Agreement, LESSEE shall provide competent management of the leased premises to the satisfaction of the City Manager. For the purposes of this paragraph, "competent management" shall mean demonstrated ability in the management and operation of a public golf course and related activities in a fiscally responsible manner.

- 1.07 Operation of Facilities. A regular schedule of days and hours of operation shall be established by LESSEE to best serve the public as set forth in Section 9.03, Schedule of Days & Hours of Operation, hereof. Any changes in this schedule shall be subject to the prior written approval of the City Manager or his authorized representative. LESSEE shall diligently and in a creditable manner furnish services to the public in conformity with all applicable rules and regulations of the City of San Diego. The type and quality of service furnished by LESSEE shall qualify for the conditions and requirements of the "A" Card issued by the Department of Health to operators of food handling establishments.

SECTION 2: TERM

- 2.01 Commencement. The term of this agreement shall be twenty-five (25) years commencing on the first day of the calendar month following execution by the City Manager. "Lease year" as used in this lease shall mean the 12-month period commencing on the first day of the calendar month following the execution of this lease by the City Manager.
- 2.02 Holdover. Any holding over by LESSEE after expiration or termination shall not be considered as a renewal or extension of this lease. The occupancy of the premises after the expiration or termination of this agreement constitutes a month-to-month tenancy, and all other terms and conditions of this agreement shall continue in full force and effect; provided, however, CITY shall have the right to apply a reasonable increase in rent to bring the rent to fair market value and to terminate the holdover tenancy at will.
- 2.03 LESSEE Right to Negotiate Renewal. Provided LESSEE is not then in default of any provision hereof upon expiration of this agreement, LESSEE shall have the right to negotiate a proposed renewal lease of said premises for a mutually agreeable term upon such conditions and rental as CITY shall then offer. Such right must be exercised by written notice thereof to CITY not less than six (6) months, nor more than twelve (12) months prior to expiration of the lease term. Following such notice and not less than three (3) months prior to said expiration, CITY shall offer LESSEE a renewal lease containing such conditions and rental as CITY is then willing to accept from any other qualified party desiring to lease said premises. In the event such conditions and rental are not accepted by LESSEE, and in the event CITY and LESSEE do not agree as to any other conditions for renewal prior to expiration of this lease, then LESSEE'S right to renew herein shall

terminate upon said expiration. Notwithstanding the foregoing, CITY shall be under no obligation to continue the use of the premises as a golf course after expiration of the original term of this lease.

- 2.04 Surrender of Premises. At termination of this lease for any reason, LESSEE shall execute, acknowledge and deliver to CITY, within five (5) days after written CITY demand, a valid and recordable quitclaim deed covering all of the premises. The premises shall be delivered free and clear of all liens and encumbrances, and in a decent, safe and sanitary condition.

If LESSEE fails or refuses to deliver the required deed, the CITY may prepare and record a notice reciting LESSEE'S failure to execute this lease provision and the notice will be conclusive evidence of the termination of this lease and all LESSEE'S rights to the premises.

SECTION 3: RENT

- 3.01 Time and Place of Payment. All rents required herein must be made payable to the City Treasurer and mailed to the Office of the City Treasurer, City of San Diego, P.O. Box 2289, San Diego, California, 92112-4165, or delivered to the Office of the City Treasurer, City Operations Building, 1222 First Avenue, Third Floor, San Diego, California.

The place of payment may be changed at any time by CITY upon thirty (30) days written notice to LESSEE. Mailed rental payments shall be deemed paid upon the date such payment is postmarked by the postal authorities. If postmarks are illegible, the payment shall be deemed paid upon actual receipt by the City Treasurer. LESSEE assumes all risk of loss and responsibility for late payment charges if payments are made by mail.

3.02 Rent.

- a. Minimum Rent. There is no minimum rent.
- b. Percentage Rents. Percentage rents will be calculated on a calendar month basis and will consist of the following percentages of the gross income resulting from the use of the premises:

Percentages

Business Activities

Ten Percent	(10%)	Of commissions or any other compensation paid to LESSEE or sublessees for the right to install or operate coin-operated vending, game or service machines or devices on the premises, including telephones, or 10% of the gross income from any such coin-operated machines or devices owned, rented or leased by LESSEE or sublessees for use on the premises.
Three Percent	(3%)	Of gross income derived from all golf instruction given on the premises.
Ten Percent	(10%)	Of gross income derived from all other activities and operations conducted on or from the leased premises, including all the specific uses set forth in Section 1.02, <u>Uses</u> , hereof, except golf instruction.

The City Manager in his sole discretion may approve another percentage rate or flat rate of rent for each other incidental service or operation supplementary to the permitted use(s) set forth under Section 1.02, Uses, hereof as may be approved in writing by the City Manager prior to commencement of such other service(s) or operation(s). Provided, however, any activity conducted on the premises without prior approval by the City Manager shall be subject to the requirements of Section 3.07, Unauthorized Use Charge, hereof.

- c. Percentage Rate Adjustment. At least four (4) months prior to the end of the tenth year of the term of this agreement and at least four (4) months prior to the end of each ten-year period thereafter, the parties hereto, by mutual consent or through appraisal as hereinafter set forth, will adjust the percentage rates of LESSEE'S gross income to be paid CITY effective upon the first day of the succeeding ten-year period. Said adjustment will be made to the degree necessary to provide a fair rental to CITY as determined by the City Manager and LESSEE, taking into consideration the criteria set forth

in Section 3.02e. below. In the event that such adjustment is not made by mutual consent prior to two (2) months before the end of said ten-year periods, then the parties hereto will refer the matter to appraisal under the terms hereinafter set forth.

- d. Percentage Rate Appraisal. In the event the parties do not agree upon the amount of adjustment to said percentage rates as provided for in the previous section, then the adjustment shall be determined by a qualified professional independent real estate appraiser selected by mutual consent of the parties to this agreement from the list of appraisers approved by CITY. In the event the parties do not reach agreement as to selection of a mutually acceptable appraiser, then CITY and LESSEE shall each select a qualified professional independent real estate appraiser who in turn will select a third qualified professional independent real estate appraiser, which third appraiser will be employed to set the percentage rates to be applied to LESSEE'S percentage rate adjustment. In the event a mutually acceptable third appraiser is not agreed upon between the two selected appraisers within ten (10) days, then the third appraiser will be appointed by the presiding judge of the Superior Court of the State of California, County of San Diego, acting in his or her individual capacity, upon application by either CITY or LESSEE with prior notice thereof to the other party. Said third appraiser shall complete the assignment within sixty (60) days of appointment. Each party shall pay the cost of its own selected appraiser and both CITY and LESSEE agree to equally share the cost of the third mutually selected or court-appointed appraiser. CITY and LESSEE agree to accept and be bound by the percentage rates determined by the appraiser selected or appointed to complete the assignment.

In establishing the percentage rates for the items under controversy, the appraiser shall consider CITY'S property as a fee simple absolute estate, and as vacant and available for a full lease term equal to the initial full term of lease on the open market for the authorized purposes of this lease at the commencement of the rental period under review. The appraiser will be guided by prevailing market percentage rates for similar operations primarily within the Southern California area, if available. In the event the appraisal is not completed in time to permit the percentage adjustment to be made upon the applicable commencement of the ten-year period, LESSEE agrees to continue to pay rent in accordance with

the then existing lease rates and the adjustment, when determined, will be retroactive to said effective date of rental adjustment as hereinabove established. Any deficiency shall be paid by LESSEE to CITY within sixty (60) days after determination of the new percentage rate(s). In no event, however, shall any rent adjustment result in any decrease in any percentage rental rate.

- 3.03 Payment Procedure. On or before the last day of the calendar month following the calendar month in which the gross income subject to rents was earned, LESSEE shall provide CITY with a correct statement together with a payment of rent on all applicable gross receipts in a form selected by CITY. The statement will be signed by LESSEE or its authorized agent, attesting to the accuracy thereof, which shall be legally binding upon LESSEE. Each statement will indicate or include:
- a. Total gross receipts for the subject month, itemized as to business categories for which separate percentage rents are established. A gross receipts breakdown of each business conducted on the premises must be included when a reported category shows gross income to be from more than one business operation.
 - b. The percentage rental due CITY, computed and totaled.
 - c. The accumulated total of all rents previously paid for the current lease year.
 - d. Any rents due CITY from sublease activities or operations will begin with the earliest of the following dates (whether or not prior approval was given by CITY as required by this lease, and whether or not a separate percentage rent was established by CITY):
 - (1) Sublease commencement date.
 - (2) Physical occupancy date.
 - (3) Earliest activity date (i.e., sale of goods, solicitation of business, construction or alterations, etc.).
- 3.04 Gross Income. "Gross income or receipts" as used in this lease shall include all income resulting from occupancy of the leased premises from whatever source derived whether received or to become due. Provided, however, gross income shall not include federal, state or municipal taxes collected from the consumer (regardless of whether the amount thereof is stated

to the consumer as a separate charge) and paid over periodically by LESSEE to a governmental agency accompanied by a tax return or statement as required by law. Possessory interest taxes or other property taxes shall not be deducted by LESSEE in computing gross income. Gross income shall not include refunds for goods returned for resale on the premises or refunds of deposits. The amount of such taxes and refunds shall be clearly shown on the books and records of LESSEE. The percentage rent shall be calculated and paid by LESSEE on the basis of said gross income whether the income is received by LESSEE or by any sublessee, permittee or licensee, or their agents, and all gross income received by any sublessee, permittee, licensee, or other party as a result of occupancy of said premises or the operation thereof shall be regarded as gross income of LESSEE for the purpose of calculating the percentage rent hereunder required to be paid by LESSEE to CITY, except as may be otherwise specified by or pursuant to this lease.

3.05 Inspection of Records.

- a. Records. LESSEE shall, at all times during the lease term, keep or cause to be kept true and complete books, records and accounts of all financial transactions in the operation of all business activities conducted upon and financial transactions resulting from the use of the premises. The records shall be supported by source documents such as sales slips, daily cash register tapes, purchase invoices or other documents as necessary to allow CITY to easily determine the total gross income.

Any retail sales or charges will be recorded by means of cash registers or other comparable devices which display to the customer the amount of the transaction and automatically issues a receipt. The registers will be equipped with devices that lock in sales totals and other transaction numbers and sales details that are not resettable. Totals registered shall be read and recorded at the beginning and end of each business day.

In the event of admission charges or rentals, LESSEE shall issue serially numbered tickets for each such admission or rental and shall keep an adequate record of such tickets, as well as a record of unissued tickets.

All retail sales and charges may be recorded by a system other than cash registers or other comparable devices provided such system is approved by CITY.

- b. Financial Statements. Within sixty (60) days after the end of each lease year as previously established herein, LESSEE will, at its expense, submit to CITY a statement in which the total gross receipts and the corresponding amounts of rents paid CITY for the year are classified according to the categories of business established for any percentage rental and for any other business conducted on or from the premises. Said statement shall be signed by LESSEE or its authorized agent, attesting to the accuracy thereof, which shall be legally binding upon LESSEE.
- c. Right to Inspect. All LESSEE'S books of account, records and supporting documentation, as described under Section 3.05a., Records, will be kept for at least five (5) years and made available to CITY in one location within the City of San Diego. Said books and records shall be maintained separate from all other accounts not relating to the leased premises. The CITY, at its discretion, shall have the right to inspect and audit the business of LESSEE, its agents, sublessees, concessionaires and licensees operating on and in connection with the premises as necessary and appropriate for CITY to determine the amounts of rent due CITY in compliance with the requirements of this lease.

At CITY'S request, LESSEE shall promptly provide, at LESSEE'S expense, any necessary data to enable CITY to fully comply with all requirements of the state or federal government for lease information or reports concerning the premises. Such data will include, if required, a detailed breakdown of LESSEE'S receipts and expenses.

- d. Audit Cost. The full cost of CITY'S audit(s) will be borne by CITY unless one or both of the following conditions exists, in which case LESSEE hereby agrees to pay CITY'S cost of audit(s):
- (1) The audit(s) reveal an underpayment of more than Five Hundred Dollars (\$500) between the rent due as reported and paid by LESSEE pursuant to this lease and rent due as determined by the audit(s); or
 - (2) LESSEE has failed to maintain complete and true books, records, accounts and supporting source documents in strict accordance with this section hereof.

LESSEE shall pay any deficiency determined by the audit(s) plus interest on such amount as defined in Section 3.06, Delinquent Rent and Audit(s) Fees, hereof, within thirty (30) days of notice thereof by CITY. CITY will credit any overpayment against incoming rents. Any overpayment determined after the end of this lease will be refunded by CITY within thirty (30) days of confirmation by the City Manager of the audit(s) findings.

- e. Default. LESSEE'S failure to keep complete and accurate records by means of double entry bookkeeping and make them available for CITY inspection is, like all other failures to comply with covenants of this lease, a breach of this lease and cause for termination.

- 3.06 Delinquent Rent and Audit(s) Fees. If LESSEE fails to pay the rent when due, LESSEE will pay in addition to the unpaid rents, five percent (5%) of the delinquent rent. If the rent is still unpaid at the end of fifteen (15) days, LESSEE shall pay an additional five percent (5%) [being a total of ten percent (10%)] which is hereby mutually agreed by the parties hereto to be appropriate to compensate CITY for loss resulting from rental delinquency, including lost interest, opportunities, legal costs, and the cost of servicing the delinquent account.

In the event CITY audit(s) if applicable, discloses that the rent for the audited period(s) has been underpaid in excess of five percent (5%) of the total required rent, then LESSEE shall pay CITY the cost of the audit(s) plus ten percent (10%) per year on the amount by which said rent was underpaid in addition to the unpaid rents as shown to be due CITY as compensation to CITY for administrative costs and loss of interest as previously described herein. In the event CITY audit(s) discloses that the unpaid rent is less than five percent (5%) of the total rent, and should LESSEE fail to pay said unpaid rent within thirty (30) days after written notice from CITY, an additional fee of ten percent (10%) of said unpaid amount shall be added to the unpaid amount to compensate CITY for costs and losses due to such nonpayment. LESSEE agrees to pay such amounts and further agrees that the specific late charges represent a fair and reasonable estimate of the costs that CITY will incur from LESSEE'S late payment. Acceptance of late charges and any portion of the late payment by CITY shall in no event constitute a waiver of LESSEE default with respect to late payment, nor prevent CITY from exercising any of the other rights and remedies granted in this lease.

- 3.07 Unauthorized Use Charge. LESSEE shall pay CITY twenty percent (20%) of the gross receipts for any service or use that is not permitted by this lease. This payment is subject to the due date provided in this lease for rental payments and the provision for delinquent rent. The existence of the twenty percent (20%) charge in this clause and the payment of this charge or any part of it, does not constitute an authorization for a particular service or use, and does not waive any CITY rights to terminate a service or use or to default LESSEE for participating in or allowing any unauthorized use of the leased premises.

SECTION 4: ASSIGNMENT

- 4.01 Time is of Essence; Provisions Binding on Successors. Time is of the essence of all of the terms, covenants and conditions of this lease and, except as otherwise provided herein, all of the terms, covenants and conditions of this lease shall apply to, benefit and bind the successors and assigns of the respective parties, jointly and individually.
- 4.02 Assignment and Subletting. LESSEE shall not assign this Lease, or any interest therein, and shall not sublet the premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person, except employees, agents and guests of LESSEE, to use or occupy the premises or any part thereof, without the prior written consent of the City Manager in each instance. A consent to assignment, subletting, occupation or use by any other person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation or use by another person. Any such assignment or subletting without such consent shall be void, and shall, at the option of CITY, terminate this lease. This lease shall not, nor shall any interest therein, be assignable, as to the interest of LESSEE, by operation of law, without the written consent of the City Manager.

"Assignment," for the purposes of this clause shall include any transfer of any ownership interest in this lease by LESSEE or by any partners, principals, or stockholders, as the case may be, from the original LESSEE, its general partners or principals.

Approval of any assignment or sublease shall be conditioned upon the assignee or sublessee agreeing in writing that it will assume the rights and obligations thereby assigned or subleased and that it will keep and perform all covenants, conditions and provisions of this agreement which are applicable to the rights acquired. The City Manager may require, as

a condition to approval of any sublease or assignment, that the proposed sublessee or assignee pay additional rent to CITY to equal the full fair market rent justifiable at the date of such proposed sublease or assignment and that this lease or the requested sublease otherwise be revised to comply with standard CITY lease requirements that are then current.

- 4.03 Encumbrance. Subject to prior consent by CITY, which shall not be unreasonably withheld, LESSEE may encumber this lease, its leasehold estate and its improvements thereon by deed of trust, mortgage, chattel mortgage or other security instrument to assure the payment of a promissory note or notes of LESSEE, upon the express condition that the net proceeds of such loan or loans be devoted exclusively to the purpose of developing the leased premises in accordance with Section 6.12 hereof entitled Development Plan. However, a reasonable portion of the loan proceeds may be disbursed for payment of incidental costs of construction, including but not limited to the following: off-site improvements for service of the premises; on-site improvements; escrow charges; premiums for hazard insurance, or other insurance or bonds required by CITY; title insurance premiums; reasonable loan costs such as discounts, interest and commissions; and architectural, engineering and attorney's fees and such other normal expenses incidental to such construction.

Any subsequent encumbrances on the premises or on any permanent improvements thereon, must first have the approval in writing of City Manager. Such subsequent encumbrances shall also be for the exclusive purpose of development of the premises. Provided, however, after the premises are fully developed in accordance with said Development Plan to the satisfaction of the City Manager, proceeds from refinancing or from such subsequent encumbrances may be used to reduce LESSEE'S equity so long as there is also substantial benefit to the CITY therefrom. LESSEE understands and specifically agrees that the City Manager shall have the sole and absolute discretion to approve or disapprove any such proposed subsequent encumbrance including, but not limited to, amending the lease to provide then current rents and provisions.

In the event any such approved deed of trust or mortgage or other security-type instrument should at any time be in default and be foreclosed or transferred in lieu of foreclosure, the CITY will accept the approved mortgagee or beneficiary thereof as its new tenant under this lease with all the rights, privileges and duties granted and imposed in this lease.

Any default, foreclosure or sale pursuant to said deed of trust, mortgage or other security instrument, shall be invalid with respect to this lease without prior notice thereof to and approved by CITY. Upon prior written approval by CITY, said mortgagee or beneficiary may assign this lease to its nominee, if nominee is a reputable, qualified and financially responsible person in the opinion of CITY. Any deed of trust, mortgage or other security instrument shall be subject to all of the terms, covenants and conditions of this lease and shall not be deemed to amend or alter any of the terms, covenants or condition hereof.

4.04 Defaults and Remedies.

a. Default. In the event that:

- (1) LESSEE shall default in the performance of any covenant or condition required by this lease to be performed by LESSEE and shall fail to cure said default within thirty (30) days following written notice thereof from CITY; or if any such default is not curable within thirty (30) days, shall fail to commence to cure the default(s) within said thirty-day period and diligently pursue such cure to completion; or
- (2) LESSEE shall voluntarily file or have involuntarily filed against it any petition under any bankruptcy or insolvency act or law; or
- (3) LESSEE shall be adjudicated a bankrupt; or
- (4) LESSEE shall make a general assignment for the benefit of creditors;

then CITY may, at its option, without further notice or demand upon LESSEE or upon any person claiming rights through LESSEE, immediately terminate this lease and all rights of LESSEE and of all persons claiming rights through LESSEE to the premises or to possession thereof; and CITY may enter and take possession of the premises. Provided, however, in the event that any default described in Section 4.04a.(1), Defaults and Remedies, hereof, is not curable within thirty (30) days after notice to LESSEE, CITY shall not terminate this lease pursuant to the default if LESSEE immediately commences to cure the default and diligently pursues such cure to completion.

In the event that there is a deed of trust or mortgage on the leasehold interest, CITY shall give the mortgagee or beneficiary written notice of the default(s) complained of, and the same mortgagee or beneficiary shall 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-day period may be extended during such time as mortgagee or beneficiary pursues said cure with reasonable diligence.

- b. Remedies. If the mortgagee or beneficiary shall be required to exercise its right to cure said default(s) through litigation or through foreclosure, then CITY shall have the option of the following courses of action in order that the default(s) may be expeditiously corrected:
- (1) CITY may correct said default(s) and charge the costs thereof to the account of LESSEE, which charge shall be due and payable on the date that the rent is next due after presentation by CITY to LESSEE and mortgagee or beneficiary of a statement of said costs.
 - (2) CITY may correct said default(s) and may pay the costs thereof from the proceeds of any insurance fund held by CITY, CITY and LESSEE or by CITY and mortgagee or beneficiary, or CITY may use the funds of any faithful performance or cash bond on deposit with CITY, or CITY may call on the bonding agent to correct the default(s) or to pay the costs of correction performed by or at the direction of CITY.
 - (3) CITY may terminate this lease as to the rights of LESSEE by assuming or causing the assumption of liability for any trust deed or mortgage. LESSEE 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 CITY. CITY may, as an alternative, substitute for the terminated LESSEE a new LESSEE reasonably satisfactory to the mortgagee or beneficiary. Any reasonable costs incurred by CITY in releasing to a new tenant shall be the responsibility of the terminated LESSEE, and LESSEE hereby agrees to reimburse CITY for any such costs.

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

- c. Abandonment by LESSEE. Even though LESSEE has breached the lease and abandoned the property, this lease shall continue in effect for so long as CITY does not terminate this lease, and CITY may enforce all its rights and remedies hereunder, including but not limited to the right to recover the rent as it becomes due, plus damages.
- d. Waiver. Any CITY waiver of a default is not a waiver of any other default. Any waiver of a default must be in writing and be executed by the City Manager in order to constitute a valid and binding waiver. CITY delay or failure to exercise a remedy or right is not a waiver of that or any other remedy or right under this lease. The use of one remedy or right for any default does not waive the use of another remedy or right for the same default or for another or later default. CITY'S acceptance of any rents is not a waiver of any default preceding the rent payment. CITY and LESSEE specifically agree that the property constituting the premises is CITY-owned and held in trust for the benefit of the citizens of the City of San Diego and that any failure by the City Manager or CITY staff to discover a default or take prompt action to require the cure of any default shall not result in an equitable estoppel, but CITY shall at all times, subject to applicable statute of limitations, have the legal right to require the cure of any default when and as such defaults are discovered or when and as the City Council directs the City Manager to take action or require the cure of any default after

such default is brought to the attention of the City Council by the City Manager or by any concerned citizen.

- 4.05 Eminent Domain. If all or part of the premises are taken through condemnation proceedings or under threat of condemnation by any public authority with the power of eminent domain, the interests of CITY and LESSEE (or beneficiary or mortgagee) will be as follows:
- a. In the event the entire premises are taken, this lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.
 - b. In the event of a partial taking, if, in the opinion of CITY, the remaining part of the premises is unsuitable for the lease operation, this lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.
 - c. In the event of a partial taking, if, in the opinion of CITY, the remainder of the premises is suitable for continued lease operation, this lease shall terminate in regard to the portion taken on the date of the transfer of title or possession to the condemning authority, whichever first occurs, but shall continue for the portion not taken. The minimum rent shall be equitably reduced to reflect the portion of the premises taken.
 - d. Award. All monies awarded in any such taking shall belong to CITY, whether such taking results in diminution in value of the leasehold or the fee or both; provided, however, LESSEE shall be entitled to any award attributable to the taking of or damages to LESSEE'S then remaining leasehold interest in installations or improvements of LESSEE. CITY shall have no liability to LESSEE for any award not provided by the condemning authority.
 - e. Transfer. CITY has the right to transfer CITY'S interests in the premises in lieu of condemnation to any authority entitled to exercise the power of eminent domain. If a transfer occurs, LESSEE shall retain whatever interest it may have in the fair market value of any improvements placed by it on the premises in accordance with this lease.
 - f. No Inverse Condemnation. The exercise of any CITY right under this lease shall not be interpreted as an exercise of the power of eminent domain and shall not impose any liability upon CITY for inverse condemnation.

SECTION 5: INSURANCE RISKS/SECURITY

5.01 Indemnity. LESSEE shall at all times assume the defense of, relieve, indemnify, protect, and save CITY and any and all of its boards, officers, agents, and employees harmless from any and all claims and demands, actions, proceedings, losses, liens, costs, judgments, civil fines, and penalties of any nature whatsoever in regard to or resulting from the use of the premises, including but not limited to expenses incurred in legal actions, death, injury, or damage that may be caused directly or indirectly by:

- a. any unsafe or defective condition in or on the premises of any nature whatsoever which may exist by reason of any act, omission, neglect, or any use or occupation of the premises;
- b. any operation, use, or occupation conducted on the premises;
- c. any act, omission, or negligence on the part of LESSEE, its employees, agents, sublessees, invitees, licensees; or
- d. any failure by LESSEE to comply or secure compliance with any of the lease terms or conditions.

5.02 Insurance. LESSEE shall take out and maintain at all times during the term of this lease the following insurance at its sole expense:

- a. Public liability and property damage insurance 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 CITY or LESSEE or by authorized representatives of CITY or LESSEE 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 of the replacement cost. Any proceeds from a loss shall be payable jointly to CITY and LESSEE. The proceeds shall be placed in a trust fund to be reinvested in rebuilding or repairing the damaged property. If there is a mortgage or trust deed on the leasehold in accordance with Section 4.03, Encumbrance, hereof, the proceeds may be paid to the approved mortgagee or beneficiary so long as adequate provision

reasonably satisfactory to CITY has been made in each case for the use of all proceeds for repair and restoration of damaged or destroyed improvements on the premises.

- c. Conditions. All insurance policies will name CITY as an additional insured, protect CITY against any legal costs in defending claims, and will not terminate without sixty (60) days' prior written notice to CITY. All insurance companies must be satisfactory to CITY and licensed to do business in California. All policies will be in effect on or before the first day of the lease, except "course of construction fire insurance" shall be in force on commencement of all authorized construction on the premises, and full applicable fire insurance coverage shall be effective upon completion of each insurable improvement. A copy of the insurance policy will remain on file with CITY during the entire term of the lease. At least thirty (30) days prior to the expiration of each policy, LESSEE shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the terms of this lease.
- d. Modification. CITY, at its discretion, may require the revision of amounts and coverages at any time during the term by giving LESSEE sixty (60) days' prior written notice. CITY'S requirements shall be designed to assure protection from and against the kind and extent of risk existing on the premises. LESSEE also agrees to obtain any additional insurance required by CITY for new improvements, in order to meet the requirements of this lease.
- e. Accident Reports. LESSEE shall report to CITY any accident causing more than TEN THOUSAND DOLLARS (\$10,000) worth of property damage or any serious injury to persons on the premises. This report shall contain the names and addresses of the parties involved, a statement of the circumstances, the date and hour, the names and addresses of any witnesses and other pertinent information.
- f. Failure to Comply. If LESSEE fails or refuses to take out and maintain the required insurance or fails to provide the proof of coverage, CITY has the right to obtain the insurance. LESSEE shall reimburse CITY for the premiums paid with interest at the maximum allowable legal rate then in effect in California. CITY shall give notice of the payment of premiums within thirty (30) days of payment stating the amount paid, names of

the insurer(s) and rate of interest. Said reimbursement and interest shall be paid by LESSEE on the first (1st) day of the month following the notice of payment by CITY.

Notwithstanding the preceding provisions of this Subsection f., if LESSEE fails or refuses to take out or maintain insurance as required in this lease or fails to provide the proof of insurance, CITY has the right to declare this lease in default without further notice to LESSEE and CITY shall be entitled to exercise all legal remedies in the event of such default.

- 5.03 Waste, Damage, or Destruction. LESSEE agrees to give notice to CITY of any fire or other damage that may occur on the leased premises within ten (10) days of such fire or damage. LESSEE agrees not to commit or suffer to be committed any waste or injury or any public or private nuisance, to keep the premises clean and clear of refuse and obstructions, and to dispose of all garbage, trash, and rubbish in a manner satisfactory to CITY. If the leased premises shall be damaged by any cause which puts the premises into a condition which is not decent, safe, healthy and sanitary, LESSEE agrees to make or cause to be made full repair of said damage and to restore the premises to the condition which existed prior to said damage; or, at CITY'S option, LESSEE agrees to clear and remove from the leased premises all debris resulting from said damage and rebuild the premises in accordance with plans and specifications previously submitted to CITY and approved in writing in order to replace in kind and scope the operation which existed prior to such damage, using for either purpose the insurance proceeds as set forth in Section 5.02, Insurance, hereof.

LESSEE agrees that preliminary steps toward performing repairs, restoration, or replacement of the premises shall be commenced by LESSEE within thirty (30) days, and the required repairs, restoration, or replacement shall be completed within a reasonable time thereafter. CITY may determine an equitable deduction in the minimum annual rent requirement for such period or periods that said premises are untenable by reason of such damage.

SECTION 6: IMPROVEMENTS/ALTERATIONS/REPAIRS

- 6.01 Acceptance of Premises. By signing this lease, LESSEE represents and warrants that it has independently inspected the premises and made all tests, investigations, and observations necessary to satisfy itself of the condition of the premises. LESSEE agrees it is relying solely on such independent inspection, tests, investigations, and observations in making this lease. LESSEE further acknowledges that the premises are in the condition called for by this lease, that CITY has performed all work with respect to the premises, and that LESSEE does not hold CITY responsible for any defects, whether apparent or latent, in the premises.
- 6.02 Entry and Inspection. CITY reserves and shall always have the right to enter said premises for the purpose of viewing and ascertaining the condition of the same, or to protect its interests in the premises, or to inspect the operations conducted thereon. In the event that such entry or inspection by CITY discloses that said premises are not in a decent, safe, healthy, and sanitary condition, CITY shall have the right, after ten (10) days written notice to LESSEE, to have any necessary maintenance work done at the expense of LESSEE, and LESSEE hereby agrees to pay promptly any and all costs incurred by CITY in having such necessary maintenance work done, in order to keep said premises in a decent, safe, healthy, and sanitary condition. Further, if at any time CITY determines that said premises are not in a decent, safe, healthy, and sanitary condition, CITY may at its sole option, without additional notice, require LESSEE to file with CITY a faithful performance bond to assure prompt correction of any condition which is not decent, safe, healthy, and sanitary. Said bond shall be in an amount adequate in the opinion of CITY to correct the said unsatisfactory condition. LESSEE shall pay the cost of said bond. The rights reserved in this section shall not create any obligations on CITY or increase obligations elsewhere in this lease imposed on CITY.
- 6.03 Maintenance. LESSEE agrees to assume full responsibility and cost for the operation and maintenance of the premises throughout the term, except as otherwise provided in Section 6.05, Utilities, hereof. LESSEE will make all repairs and replacements necessary to maintain and preserve the premises in a decent, safe, healthy, and sanitary condition satisfactory to CITY and in compliance with the Development Plan described in Section 6.12, Development Plan, hereof, and with all applicable laws. LESSEE agrees to promptly repair or replace any faulty irrigation lines and sprinklers to minimize costs to CITY from water leakage.

6.04 Improvements/Alterations. No improvements, structures, or installations shall be constructed on the premises, and the premises may not be altered by LESSEE without prior written approval by the City Manager. Further, LESSEE agrees that major structural or architectural design alterations to approved improvements, structures, or installations may not be made on the premises without prior written approval by the City Manager and that such approval shall not be unreasonably withheld. This provision shall not relieve LESSEE of any obligation under this lease to maintain the premises in a decent, safe, healthy, and sanitary condition, including structural repair and restoration of damaged or worn improvements. CITY shall not be obligated by this lease to make or assume any expense for any improvements or alterations.

6.05 Utilities. Except as hereinafter provided, LESSEE agrees to order, obtain and pay for all utilities necessary for operation of the premises. All additional or new utilities will be installed underground. Throughout the term of this lease, CITY shall pay 100 percent of charges for all water used for reasonable maintenance and upkeep of the leased premises, except for the clubhouse. "Reasonable" for purposes of this section is defined as water usage in any given lease year not exceeding a 50 percent increase over the base figure of 8,500 hundred cubic feet (HCF), which equals 12,750 HCF. LESSEE shall not exceed the 12,750 HCF limit without first obtaining written CITY approval. Should LESSEE fail to obtain such prior approval, the City Manager, at his sole discretion, may then:

- a. require LESSEE to pay any water costs for the subject year in excess of the 12,750 HCF limit, and/or
- b. terminate this lease.

CITY shall install at its expense a separate water meter for the clubhouse, and LESSEE shall thereafter pay all water costs from clubhouse operations. The gas and electric meters shall remain in the CITY'S name during the first year of this lease, and CITY shall pay all such costs during that time. At the start of the second year of this lease, LESSEE shall put the gas and electric meters in its own name and thereafter pay all gas and electric costs.

6.06 Construction Bond. Whenever there is any construction to be performed on the premises, LESSEE shall deposit with CITY, prior to commencement of said construction, a faithful performance bond in the amount of 100 percent of the estimated construction cost of the work to be performed. The bond may be

in cash or may be a corporate surety bond or other security satisfactory to CITY. The bond shall insure that the construction commenced by LESSEE shall be completed in accordance with the plans approved by CITY or, at the option of CITY, that the uncompleted construction shall be removed and the premises restored to a condition satisfactory to CITY. The bond or cash will be held in trust by CITY for the purpose specified above or at CITY'S option it may be placed in an escrow or other trust approved by CITY.

- 6.07 Liens. LESSEE shall at all times save CITY free and harmless and indemnify CITY against all claims for labor or materials in connection with operations, improvements, alterations, or repairs on or to the premises and the costs of defending against such claims, including reasonable attorney's fees.

If improvements, alterations, or repairs are made to the premises by LESSEE or by any party other than CITY, and a lien or notice of lien is filed, LESSEE shall within five (5) days of such filing either:

- a. take all actions necessary to record a valid release of lien, or
- b. file with CITY a bond, cash, or other security acceptable to CITY sufficient to pay in full all claims of all persons seeking relief under the lien.

- 6.08 Taxes. LESSEE agrees to pay, before delinquency, all taxes, assessments, and fees assessed or levied upon LESSEE or the premises, including the land, any buildings, structures, machines, equipment, appliances, or other improvements or property of any nature whatsoever erected, installed, or maintained by LESSEE or levied by reason of the business or other LESSEE activities related to the leased premises, including any licenses or permits. LESSEE recognizes and agrees that this lease may create a possessory interest subject to property taxation, and that LESSEE may be subject to the payment of taxes levied on such interest, and that LESSEE shall pay all such possessory interest taxes. LESSEE further agrees that payment for such taxes, fees and assessments will not reduce any rent due CITY.

- 6.09 Signs. LESSEE agrees not to erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings, or similar devices or advertising without the prior written consent of CITY. If any such unauthorized item is found on the premises, LESSEE agrees to remove the item at its expense within 24 hours notice thereof by CITY, or CITY may thereupon remove the item at LESSEE'S cost.

6.10 Ownership of Improvements and Personal Property.

- a. Any and all improvements, structures, and installations or additions to the premises now existing on the premises shall remain CITY'S property. Any and all new permanent improvements constructed in accordance with Sections 6.04 and 6.12 hereof shall be deemed to be part of the premises and shall become CITY'S property upon completion of the improvement(s) to the satisfaction of the City Manager. LESSEE shall keep CITY'S title free of all liens and claims except as otherwise provided in this lease.
- b. LESSEE-owned machines, appliances, equipment, trade fixtures as itemized herein, and other items of personal property shall be removed by LESSEE by the date of the expiration or termination of this lease. Any said items which LESSEE fails to remove will be considered abandoned and become CITY'S property free of all claims and liens, or CITY may, at its option, remove said items at LESSEE'S expense. Trade fixtures that LESSEE owns and has the right to remove are listed in Section 9.04 hereof.
- c. If any removal of such trade fixtures and personal property by LESSEE results in damage to the remaining improvements on the premises, LESSEE agrees to repair all such damage at its expense.
- d. Any necessary removal by either CITY or LESSEE which takes place beyond said expiration or termination hereof shall require LESSEE to pay rent to CITY at the rate in effect immediately prior to said expiration or termination.
- e. Notwithstanding any of the foregoing, in the event LESSEE desires to dispose of any of its trade fixtures and personal property used in the operation of said premises upon expiration or termination of this lease, then CITY shall have the right of first refusal to purchase said fixtures and personal property.

6.11 Unavoidable Delay. If the performance of any act required of CITY or LESSEE is directly prevented or delayed by reason of strikes, lockouts, labor disputes, unusual governmental delays, acts of God, fire, floods, epidemics, freight embargoes, or other causes beyond the reasonable control of the party required to perform an act, said party shall be excused from performing that act for the period equal to the period of the prevention or delay. Provided, however, this provision

shall not apply to obligations to pay rental as required pursuant to this lease. In the event LESSEE or CITY claims the existence of such a delay, the party claiming the delay shall notify the other party in writing of such fact within ten (10) days after the beginning of any such claimed delay.

- 6.12 Development Plan. LESSEE agrees to develop the leased premises in accordance with the General Development Plan approved by the City Manager and filed in the Office of the City Clerk, which plan is hereby incorporated by this reference. The general contents and provisions of the Development Plan are described in Section 9.02 hereof. The City Manager or his designee shall have the authority to authorize changes to the plan provided that the basic concept may not be modified without City Council approval and a document evidencing any approved changes shall be filed in the Office of the City Clerk. Failure by LESSEE to comply with the General Development Plan shall constitute a major default and subject this lease to termination by CITY.

CITY agrees to contribute a maximum of Forty Thousand Dollars (\$40,000) towards LESSEE'S completion to CITY'S satisfaction of capital improvements to the clubhouse, in accordance with building plans approved in the Development Plan hereof and subject to CITY'S verification of LESSEE'S expenditure of said funds for the agreed purpose. CITY is under no obligation to supply additional funds for improvements to the premises beyond those specified herein.

SECTION 7: GENERAL PROVISIONS

7.01 Notices

- a. Any notice required or permitted to be given hereunder shall be in writing and may be served personally or by United States mail, postage prepaid, addressed to LESSEE at the leased premises or at such other address designated in writing by LESSEE; and to CITY as follows:

City Manager
Attention Property Director
City Administration Building
202 "C" Street, M.S. 9B
San Diego, CA 92101-4155

or to any mortgagee, trustee, or beneficiary as applicable, at such appropriate address designated in writing by the respective party.

b. Any party entitled or required to receive notice under this lease may by like notice designate a different address to which notices shall be sent.

- 7.02 Compliance with Law. LESSEE shall at all times in the construction, maintenance, occupancy, and operation of the premises comply with all applicable laws, statutes, ordinances, and regulations of CITY, County, State, and Federal Governments, at LESSEE'S sole cost and expense. In addition, LESSEE shall comply with any and all notices issued by the City Manager or his authorized representative under the authority of any such law, statute, ordinance, or regulation.
- 7.03 CITY Approval. The approval or consent of CITY, wherever required in this lease, shall mean the written approval or consent of the City Manager unless otherwise specified, without need for further resolution by the City Council.
- 7.04 Nondiscrimination. LESSEE agrees not to discriminate in any manner against any person or persons on account of race, marital status, sex, religious creed, color, ancestry, national origin, age, or physical handicap in LESSEE'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.
- 7.05 Equal Opportunity. LESSEE agrees to abide by CITY'S Affirmative Action Program for LESSEES as it exists or is amended to the extent that the program is applicable to this lease. A copy of the program effective as of the date of this lease is on file in the City Clerk's Office and by this reference is part hereof. The program's goal is the attainment of employment for minorities and women in all areas of employment, in a total percentage as established by CITY for its Affirmative Action Program each year.
- 7.06 Partial Invalidity. If any term, covenant, condition, or provision of this lease is found invalid, void, or unenforceable by a court of competent jurisdiction, the remaining provisions will remain in full force and effect.
- 7.07 Legal Fees. In the event of any litigation regarding this lease, the prevailing party shall be entitled to an award of reasonable legal costs, including court and attorney's fees.
- 7.08 Number and Gender. Words of any gender used in this lease shall include any other gender, and words in the singular number shall include the plural, when the tense requires.

7.09 Captions. The Lease Outline, section headings, and captions for various articles and paragraphs shall not be held to define, limit, augment, or describe the scope, content, or intent of any or all parts of this lease. The numbers of the paragraphs and pages of this lease may not be consecutive. Such lack of consecutive numbers is intentional and shall have no effect on the enforceability of this lease.

7.10 Entire Understanding. This lease contains the entire understanding of the parties. LESSEE, by signing this agreement, agrees that there is no other written or oral understanding between the parties with respect to the leased premises. Each party has relied on its own examination of the premises, advice from its own attorneys, and the warranties, representations, and covenants of the lease itself. Each of the parties in this lease agrees that no other party, agent, or attorney of any other party has made any promise, representation, or warranty whatsoever which is not contained in this lease.

The failure or refusal of any party to read the lease or other documents, inspect the premises, and obtain legal or other advice relevant to this transaction constitutes a waiver of any objection, contention, or claim that might have been based on these actions. No modification, amendment, or alteration of this lease will be valid unless it is in writing and signed by all parties.

7.11 CITY Employee Participation Policy. It is the policy of CITY that all CITY contracts, agreements or leases with consultants, vendors or LESSEES shall include a condition that the contract, agreement or lease shall be unilaterally and immediately terminated by CITY if the contractor or LESSEE employs an individual who within the twelve months immediately preceding such employment did in his/her capacity as a CITY officer or employee participate in negotiations with or otherwise have an influence on the recommendation made to the City Council in connection with the selection of the contractor or LESSEE. It is not the intent of this policy that these provisions apply to members of the City Council.

7.12 Corporate Authority. Each individual executing this lease on behalf of LESSEE represents and warrants that he/she is duly authorized to execute and deliver this lease on behalf of said corporation, in accordance with a duly adopted resolution of the Board of Directors of the corporation or in accordance with the bylaws of the corporation, and that this lease is binding upon the corporation in accordance with its terms and that LESSEE is a duly qualified corporation and all steps have been taken prior to the date hereof to qualify LESSEE to do business in the state where the premises are situated.

- 7.13 CITY Option to Purchase. In the event LESSEE desires to dispose of its interest in this lease, together with any of its interest in improvements, trade fixtures and furnishings owned by LESSEE on the leased premises, CITY shall be given the first right to purchase said interest and improvements at a mutually agreeable price. If CITY does not exercise such right to purchase, LESSEE shall not then sell or offer to sell its interest at a lower price without first reoffering to CITY the right to purchase at such lower price.
- 7.14 Planting Strips. LESSEE shall, at its sole cost with the exception of water costs, landscape and maintain all areas adjoining the westerly and southerly boundaries of the leased premises, extending to the curbs on 52nd Street and 52nd Place and taking in both sides of any fencing.
- 7.15 Schedule of Prices. All prices of merchandise, equipment and services of LESSEE and its sublessees shall be comparable with prices of like merchandise, equipment and services offered in the San Diego area. All prices charged by LESSEE and its sublessees shall be subject to the prior written approval of the City Manager; provided, however, that LESSEE and its sublessees shall not be required to sell any merchandise at a loss.
- 7.16 Standard of Employees. LESSEE and its employees shall at all times conduct themselves and the operations on the leased premises in a creditable manner.
- 7.17 Faithful Performance Bond. LESSEE shall maintain with CITY a Faithful Performance Bond in the amount of One Thousand Dollars (\$1,000) in cash, or other method satisfactory to CITY, payable to CITY for loss resulting from failure of LESSEE to comply with the covenants and conditions of this lease agreement, or for reimbursement to CITY for expenses incurred in performing itself such covenants or conditions after breach of LESSEE, including the costs and reasonable attorney's fees for defending CITY against any claims resulting from such failure of LESSEE. Said bond shall also assure payment of rent and shall be kept in effect throughout the term of the lease or for such lesser period of time as may be determined by the City Manager.
- 7.18 Relocation Payments. LESSEE understands and agrees that it shall not be entitled to any relocation payment whatsoever upon termination of this lease.

SECTION 8: SIGNATURES

8.01 Signature Page

IN WITNESS WHEREOF, this Lease Agreement is executed by CITY, acting by and through its City Manager, and by LESSEE, acting by and through its lawfully authorized officers.

THE CITY OF SAN DIEGO

Date AUG 08 1988

By Deborah Van Wansiele
ASSISTANT TO THE City Manager

LESSEE: NATIONAL GOLF & TENNIS INC.,
a California corporation

Date 8-4-88

By James R. Duffin
James R. Duffin, President

By _____

APPROVED as to form and legality this 16 day of Sept., 1988.

JOHN W. WITT, City Attorney

By [Signature]
Deputy City Attorney

PTC:baa(16)61
7-27-88

9.01 Parcel Map

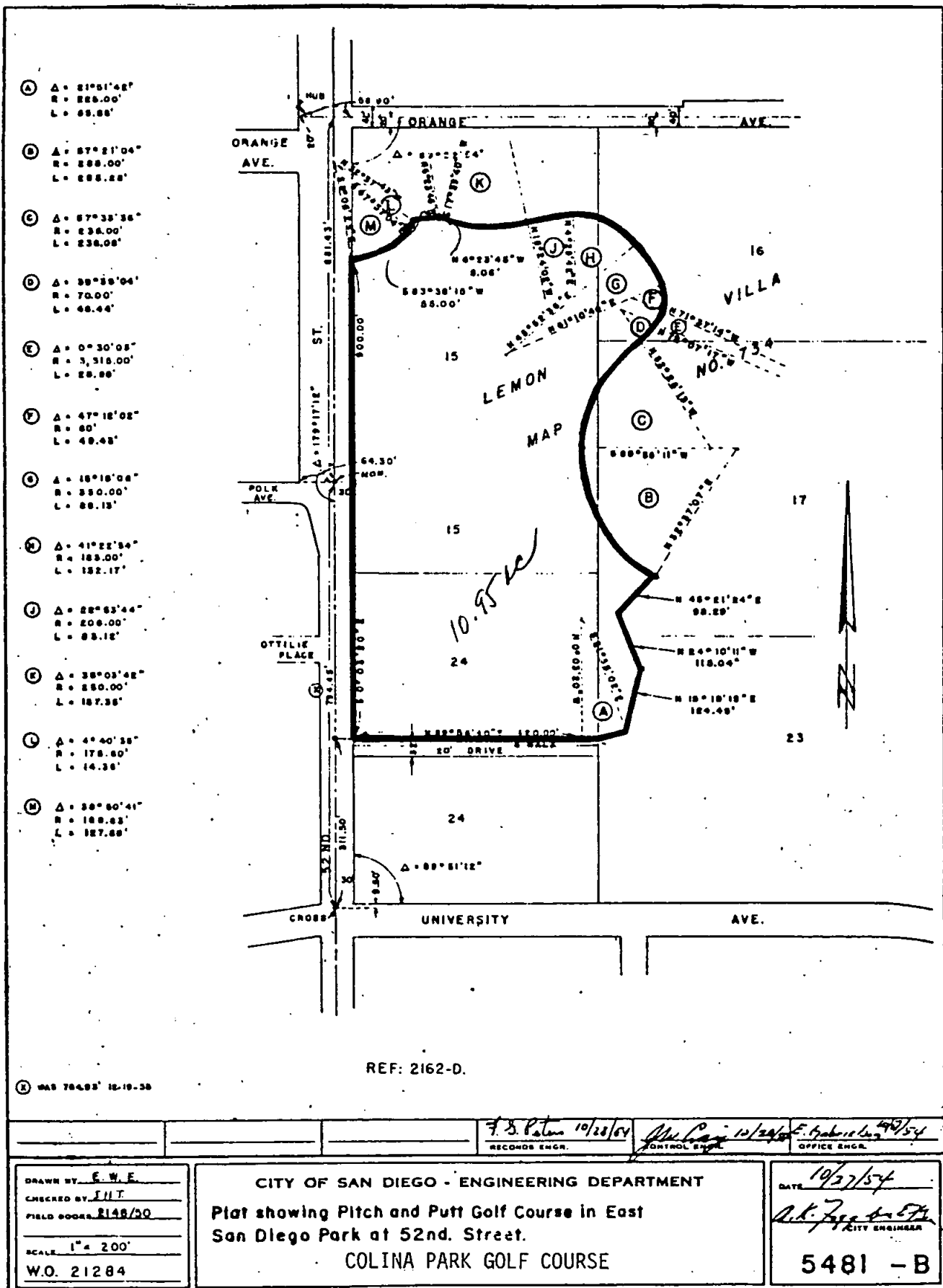


EXHIBIT A

9.02 General Development Plan.

The General Development Plan consists of:

- a. Plot Plan
- b. Development Schedule
- c. Financial Plan
- d. Operational Plan
- e. Others as applicable

and is filed in the Office of the City Clerk referenced to this lease.

9.03 Schedule of Days and Hours of Operation

Sunrise until 10 p.m., seven days per week, year-round,
weather permitting.

9.04 Description and Listing of LESSEE-owned Trade Fixtures

None.

9.05 Corporate Name

NATIONAL GOLF & TENNIS INC.
CORPORATE NAME

I, JAMES R. DUFFIN, certify that I am the PRESIDENT of the corporation named in the attached agreement; that JAMES R. DUFFIN, who signed this agreement on behalf of the corporation, was then PRESIDENT of said corporation; that said agreement was duly signed for and on behalf of said corporation by authority of its governing body, pursuant to a resolution duly adopted by its Board of Directors on AUGUST 3, 1988 and is within the scope of its corporate powers; and that set out below are the names of the officers and directors of said corporation.

By James R. Duffin

CORPORATE SEAL

Name James R. Duffin
Title President

Name DONALD MATHEWS
Title VICE PRESIDENT

Name JAMES R. DUFFIN II
Title SECRETARY

Name _____
Title _____

National Golf & Tennis Inc.

340 E. 192nd St., Carson, Ca. 90746

(213) 217-1717

DEVELOPMENT PLAN FOR COLINA PARK GOLF COURSE

A) Plot Plan (Attached)

B) Development Schedule:

Upon assumption of the lease to operate Colina Park Golf Course, National Golf plans on providing the following:

- 1) Staff for the facility.
- 2) Provide the equipment necessary to operate and maintain the facility.
- 3) A ten year program of Capital Improvement Programs will be initiated with the proposed schedule as follows:

Year One: Build an addition on the existing clubhouse building of approximately 1,000 square feet. This addition will include a kitchen, restrooms, storage room, and washroom.

Year Two: Renovate the irrigation system, replacing pipes where needed, installing heads and valves to make the system function automatically.

Year Three: Renovate the lighting system, replacing wiring, adjusting light positions, replacing poles in order to make the system fully functional.

Year Four: Resod greens as necessary, replacing the subsoil and adding drainage to ensure good playing conditions. Add to the parking lot area perimeter curbing and landscaping, plus resurface where needed.

Year Five : Reroof the clubhouse.

Year Six: Add synthetic turf to Teeing areas.

Additional Capital Improvements after year six will be decided upon, and a schedule developed, after year six.

National Golf & Tennis Inc.

340 E. 192nd St., Carson, Ca. 90746

(213) 217-1717

C) Financial Plan

The expenditures for the Capital Improvements are anticipated to be as follows:

Year One	\$60,000
less funds from City	<u>\$40,000</u>
Total expense to National Golf	\$20,000
Year Two	\$15,000
Year Three	\$20,000
Year Four	\$22,000
Year Five	\$10,000
Year Six	<u>\$10,000</u>
Total investment by National Golf	\$97,000

D. Services Provided

As the operator of Colina Park Golf Course, National Golf will provide the following services:

1. Operation of an 18 hole par three golf course including starter services, lessons, tournaments, and merchandise, and club rental
2. Food and beverage service that offers sandwiches, soft drinks and snacks. Banquet service will also be provided.
3. Aggressive marketing of tournaments in the community.
4. Prices for the above services are anticipated to be as follows:

Golf: nine holes	\$2.00
eighteen holes	\$4.00
soft drinks	.85
hamburger	\$2.50

National Golf & Tennis Inc.

340 E. 192nd St., Carson, Ca. 90746

(213) 217-1717

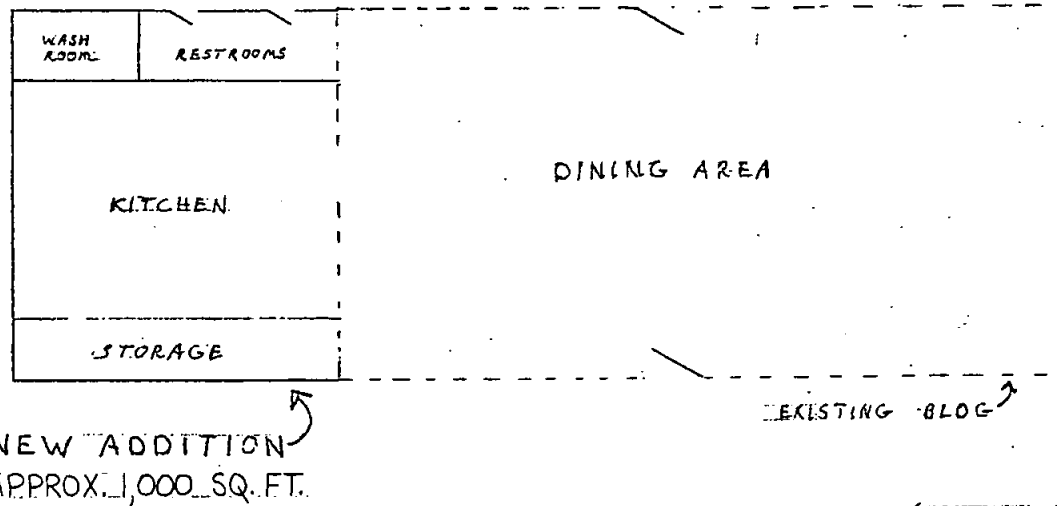
sandwiches	\$2.00
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breakfast	\$3.50
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This is only a representative listing of prices. A complete listing will be provided when the clubhouse is fully operational.

- 5) The hours of operation will be from Sunrise to 10:00 P.M.

GOLF COURSE



NEW ADDITION
APPROX. 1,000 SQ. FT.

NO SCALE

COLINA PARK		
SCALE:	APPROVED BY:	DRAWN BY:
DATE:	Plot Plan	REVISED:
		DRAWING NUMBER:

(R-89-312)

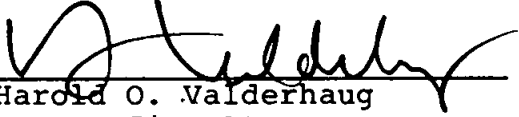
RESOLUTION NUMBER R- 271693

ADOPTED ON AUG 08 1988

BE IT RESOLVED, by the Council of The City of San Diego, that the City Manager is hereby authorized and empowered to execute, for and on behalf of The City of San Diego, a twenty-five (25) year percentage lease agreement with NATIONAL GOLF AND TENNIS INC., a California corporation, for the 10.95 acre Colina Park Golf Course at an initial rent of ten percent (10%) of gross, under the terms and conditions set forth in that percentage lease agreement on file in the office of the City Clerk as Document No. 271693.
RR- 271693.

APPROVED: JOHN W. WITT, City Attorney

By


Harold O. Valderhaug
Deputy City Attorney

HOV:fs
08/04/88
Or.Dept:Prop.
Job:218747
R-89-312
Form=r.none

Passed and adopted by the Council of The City of San Diego on

AUG 08 1988

by the following vote:

YEAS: Wolfsheimer, Roberts, McColl, Pratt, Struiksma, Henderson, McCarty,
Filner, Mayor O'Connor.

NAYS: None.

NOT PRESENT: None.

AUTHENTICATED BY:

MAUREEN O'CONNOR

Mayor of The City of San Diego, California

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California

(SEAL)

By: MAYDELL L. PONTECORVO, Deputy

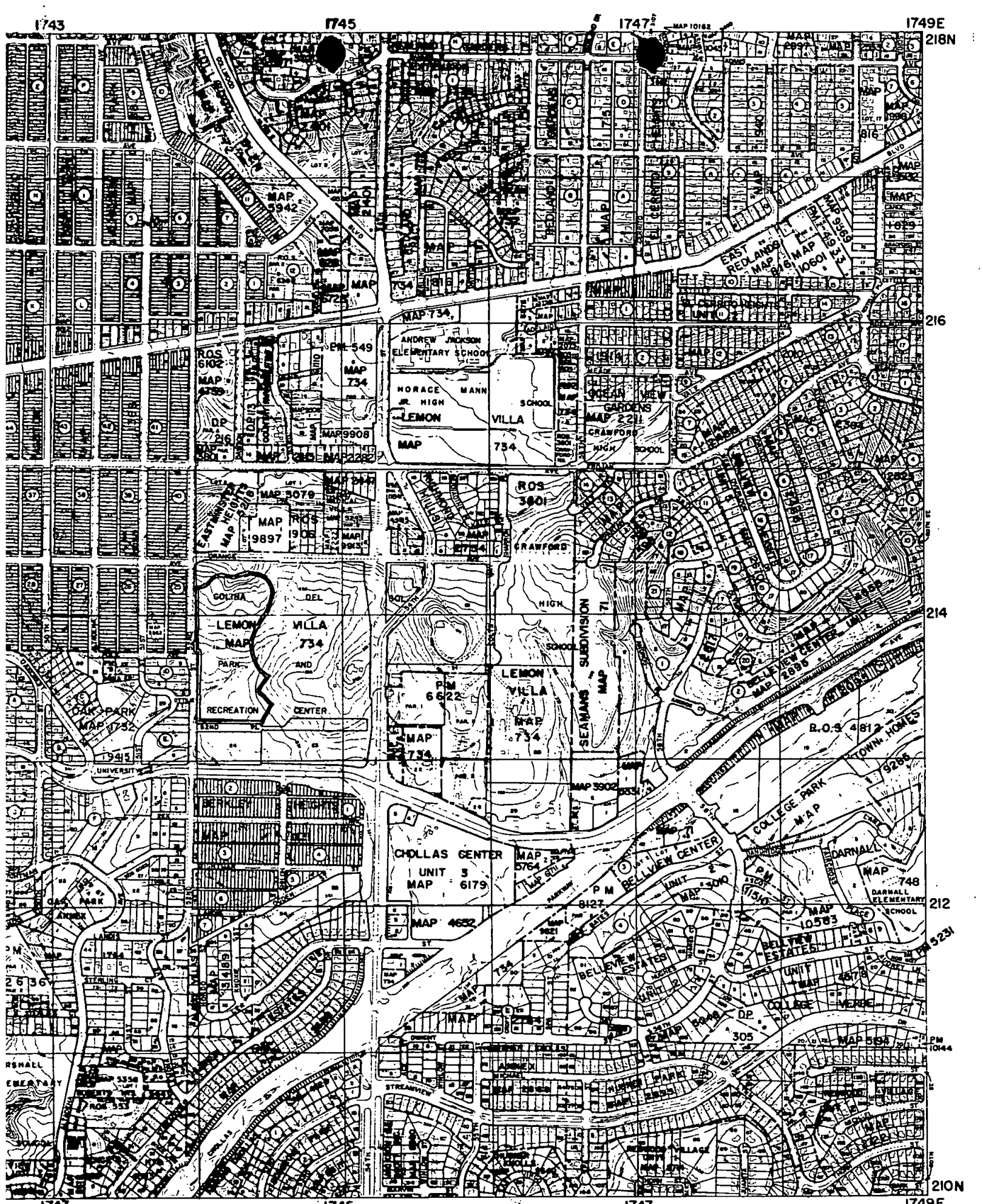
I HEREBY CERTIFY that the above and foregoing is a full, true
and correct copy of RESOLUTION NO. R- **271693**, passed
and adopted by the Council of The City of San Diego, California
on **AUG 08 1988**.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California

(SEAL)

By: *Maydell L. Pontecorvo*, Deputy



N DIEGO, CALIFORNIA

E 1 INCH = 400 FEET
15 MEAN SEA LEVEL

	218-1737	
210-1725		210-1749

210-1737

OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

THIS AGREEMENT is made by and between THE CITY OF SAN DIEGO (hereinafter, the "City"), and the PRO KIDS GOLF ACADEMY, INC., a non-profit corporation, (hereinafter, the "Agency") concerning COLINA DEL SOL GOLF COURSE.

RECITALS

A. WHEREAS, City has entered into a grant agreement with the U.S. Department of Housing and Urban Development (HUD) to carry out the Community Development Block Grant (CDBG) Program in the City of San Diego;

B. WHEREAS, City recognizes the need for community involvement to accomplish the goals of improving the Colina del Sol Golf Course;

C. WHEREAS, Agency wishes to improve the golf course and offer a year round golf program to inner-City youth; and

D. WHEREAS, the Agency has become incorporated through filing Articles of Incorporation with the California Secretary of State, and is willing and able to conduct activities as contained herein;

NOW, THEREFORE, in consideration of the recitals and mutual covenants and conditions herein, City and Agency agree as follows:

I. ASSOCIATION RESPONSIBILITIES

Agency will repair/refurbish/remodel the Colina del Sol Golf Course facility so that it can be used to teach the sport of golf to

inner-city youth. The irrigation system, tee boxes, turf areas and building will be improved to the extent possible with the funds available.

Agency will submit (quarterly/monthly) reports evaluating the progress of program based on the goals and objectives of this Agreement.

II. CITY RESPONSIBILITIES

City shall monitor Agency's activities under this Agreement through the Park and Recreation Director's designee, hereinafter referred to as the Contract Administrator. The designee shall have administrative responsibility for the Project as provided in this Agreement. The Director may withdraw or change the designee by providing effective notice to the Agency without in any respect affecting the terms of this Agreement.

III. TIME OF PERFORMANCE

Performance of services as described in the attached Scope of Services shall commence on January 1995, and terminate on January 1996.

IV. OPERATING MANUAL

In addition to the requirements contained in this agreement, the operations of the Program are governed by the Economic Development Program's "Operating Manual for Community/Economic Development Programs," (1994 update) hereinafter referred to as the Operating Manual. The Operating Manual is hereby incorporated by reference into this agreement, and by its authorized representative's

signature on this Agreement, Agency certifies receipt of a copy of the Operating Manual.

V. INDEPENDENT AGENCY

Agency is and shall be an independent contractor and not an agent of the City hereunder. Any provision in this agreement that may appear to give the City the right to direct Agency as to the details of doing the work, or to exercise a measure of control over the work, means that Agency follow the wishes of the City as to the results of the work only.

VI. BUDGET

Total compensation available for the program to be implemented pursuant to this agreement shall not exceed TWENTY-TWO THOUSAND FIVE HUNDRED Dollars (\$22,500).

PROJECT BUDGET

Personnel

1101	Salaries and Wages	\$14,500
------	--------------------	----------

Non-Personnel

3101	Supplies	\$ 1,000
------	----------	----------

4213	Maintenance/Repairs	3,500
------	---------------------	-------

6010	Equipment Purchase	3,000
------	--------------------	-------

	Audit	500
--	-------	-----

	TOTAL NON-PERSONNEL	\$ 8,000
--	---------------------	----------

	TOTAL BUDGET	\$22,500
--	--------------	----------

(Not including fiscal monitoring of \$2,500)

Agency is responsible for planning expenditures and activities to ensure that the Project is completed within the budgeted amount.

VII. CHECKING ACCOUNTS, REIMBURSEMENT MONITORING, AND AUDIT

Agency shall establish a separate checking account for CDBG funds provided under this Agreement, and shall make expenditures only for costs related to goods and services required in this Agreement. Agency shall not commingle funds from any other source with the funds for this Project.

~~City shall contract with an independent accounting firm to monitor each monthly reimbursement request, as provided below. This monitoring cost shall be included as part of the Agency's budget and shall be paid for directly by the City from the funds allocated to Agency.~~

Agency shall conduct an audit of all its funds, in accordance with Federal Office of Management and Budget (OMB) Circular A-110 and general principles of costs and accounting applicable to nonprofit organizations. This audit may be conducted for the period of its performance as provided herein, for the calendar year, or the Agency's fiscal year, so long as all Agency funds as provided for in this Agreement are fully audited.

VIII. METHOD OF PAYMENT

City shall make a cash advance to Agency in the amount of THREE THOUSAND SEVEN HUNDRED FIFTY Dollars (\$3,750) to initiate the Project and to procure insurance [and/or bonds] as required herein. Thereafter, City will reimburse Agency for Agency's Project expenditures after Agency has submitted financial reports as detailed in Section V, Paragraph E of the Operating Manual, and any required program reports. City shall not disburse an amount greater

than TWENTY-TWO THOUSAND FIVE HUNDRED Dollars (\$22,500). Agency shall request reimbursement no more often than monthly.

City shall reimburse such expenses to Agency in a timely manner after receipt and verification of Agency's expenses. The final payment to Agency under this Agreement shall be withheld until all expenditures and the cash advance have been accounted for and the Agency's final report is received by the City.

IX. PERSONNEL, SUBCONTRACTS, AND ASSIGNABILITY

Agency will undertake all project activities with its own staff unless authorized to do otherwise by the Scope of Services or other written agreement with the City. Agency shall not subcontract, assign, or delegate any of its rights or duties under the terms of this Agreement without prior written approval by the City. The Agency shall not execute or amend any subcontracts, nor shall any disbursements made pursuant to such subcontracts, without the written approval of the Contract Administrator. Any attempts to subcontract, assign, or delegate without such approval shall render this Agreement void. Any subcontract entered into pursuant to the Scope of Services or written approval of the Contract Administrator shall be selected in compliance with the requirements of the CDBG Program and the City's Equal Opportunity Contracting Program.

X. ADDITIONAL FUNDING SOURCES

If Agency has received any additional funding from a source or sources other than City, a complete and separate accounting of such funding shall be maintained and made available to the City upon request. Any cost incurred in connection with the Project which is

properly chargeable to and actually claimed for compensation under a funding source other than the City shall not be allowed as a chargeable cost under this Agreement

XI. AUDITS

Agency will conduct an annual audit, in accordance with Federal Office of Management and Budget (OMB) Circulars A-110, A-128, and A-133. Agency shall provide the City with two (2) copies of the audit report within 30 days of completion.

XII. UNIFORM ADMINISTRATIVE REQUIREMENTS

Agency shall comply with applicable uniform administrative requirements as described in 24 CFR §570.502. Upon Agency's request to the Contract Administrator, the City will provide assistance in complying with this regulation.

XIII. COMPLIANCE WITH APPLICABLE LAWS

Agency agrees to comply fully with all applicable Federal, State, and local laws, ordinances, regulations, and permits, including but not limited to Federal CDBG financial and contractual procedures, and OMB Circular Nos. A-87 and A-110 (Attachments A, B, C, F, H, N, and O), as set forth in 24 CFR §507.502 (b). Said Federal documents are hereby incorporated by reference into this Agreement, and by its authorized representative's signature on this Agreement, Agency certifies its receipt of a copy thereof.

XIV. INELIGIBILITY OF AGENCY OR SUBCONTRACTORS

Agency shall not use CDBG funds directly or indirectly in its operations, or to employ, award contracts to, or otherwise engage

the services of, or fund any Subcontractor during any period of debarment, suspension, or placement in ineligibility status of the Agency or Subcontractor by the City or the Federal government.

XV. SUSPENSION OF PAYMENTS

Other provisions of this Agreement notwithstanding, the City may elect to suspend one or more payments to Agency, or terminate this Agreement in accordance with 24 CFR Part 85.43, as a result of any of the following circumstances. In such case, Agency hereby agrees not to expend any funds related to or connected with any area of controversy or conflict which shall have resulted in the suspension of payment or termination of funding. A controversy or conflict may include, but is not limited to, the following:

- a. Noncompliance. Agency shall have failed to comply with any of the terms or conditions of this Agreement.
- b. Misrepresentation. Agency, with or without knowledge, shall have made a substantial and material misrepresentation in regard to information furnished to City.
- c. Unauthorized Actions. Agency shall have taken any action relative to Program which required approval by City or the Community Services Program, without having obtained such approval.
- d. Litigation. Agency shall have become subject to pending litigation with request to the performance of its duties and obligations hereunder, including any court action or proceeding involving the Federal Bankruptcy Act, which litigation may jeopardize or adversely affect the understanding or any carrying out of Program.

- e. Reports. Agency shall have failed to submit any report and supporting document to City as required by this Agreement and the Operating Manual, or shall have failed to submit any report and supporting documentation on the date prescribed by City.
- f. Termination of Grant Funds. HUD shall have suspended or terminated a portion or all of the CDBG funds allocated to the City.
- g. Federal Directives. Agency shall have been unable or unwilling to comply with any additional terms or conditions relative to Program that may be required by newly enacted Federal laws, or changes in Federal rules, regulations, or other directives.

XVI. AGENCY RECORDS

Agency shall maintain detailed administrative and fiscal records (including all cash receipts) for Program activities, as required by the Operating Manual, during the time of performance of this Agreement. Agency shall also allow Contract Administrator to inspect its premises, books, accounting documents, payrolls, and all other records for the purpose of auditing, monitoring, and/or evaluating Agency and Program activities. Agency shall store records and receipts for a period of three years after submission of the final expenditure report for the contract period, or three years after submission of the final expenditure report upon earlier termination of the Agreement, or until all audit findings have been resolved, whichever period is longer. During this period, City or U.S. Government representatives or their authorized agents shall have access to all Agency records and documents at any time. In no

case shall the Agency dispose of Agency records without first informing the City of its intent to do so.

XVII. ORAL REPRESENTATIONS

This Agreement and the exhibits and references incorporated herein fully express all understandings of the parties concerning the matters covered herein. No change, alteration, or modification of the terms of this Agreement, and no verbal understanding of the parties, their officers, agents, or employees shall be valid unless made in the form of a written change or amendment to this Agreement which has been duly approved and executed in accordance with the procedures described herein.

XVIII. CHANGES OR AMENDMENTS TO AGREEMENT

Should circumstances require that any of the terms or conditions of this Agreement be changed or amended, such change or amendment shall be accomplished only in the following manner:

- a. A nonsubstantive change which does not affect the total dollars specified herein shall be approved in writing by the Contract Administrator and Agency's authorized representative.
- b. A substantive change to any of the terms or conditions of this Agreement, or a change which increases the total dollars specified herein, shall be accomplished only by written amendment to this Agreement approved by the City and signed by the authorized representatives of the City and Agency.

XIX. DELAY

Agency shall not be liable for delay resulting from causes beyond its reasonable control. In the event of such delay, the date of performances will be postponed by such length of time as may be reasonably necessary to compensate for the delay.

XX. OWNERSHIP OF DOCUMENTS AND EQUIPMENT

The originals of all reports and documents generated by this Agreement shall become the property of City when Agency has been compensated as set forth herein. Any equipment purchased by Agency with CDBG funds with a value in excess of Five Hundred Dollars (\$500) is owned by City and shall revert to City's possession upon the termination of this Agreement or any subsequent Agreements which continue Agency's Project or "core" funding.

XXI. FEDERAL LAWS AND REGULATIONS

The provisions of this Agreement are subject to the provisions and regulations promulgated by the Secretary of Housing and Urban Development or his delegate in effect on the effective date of this Agreement. Subsequent changes to such act and regulations shall become effective for the administration of the agreement upon notification of such changes to City and subsequent notice to Agency. All Federal regulations in effect as of July 1, 1994, which relate to the use of Community Development Block Grant (CDBG) funds shall govern this agreement.

XXII. PROJECT ELIGIBILITY

This project must meet the National Objective requirement for HUD funding eligibility utilizing the Limited Clientele or Presumed Benefit categories. Agency will collect and maintain data on all

clients served under this program. Data in the form of ethnic breakdown, head of household status, and individual/family income levels (using HUD Low and Low/Mod definitions) shall be collected and maintained in Agency files. The records shall be collected and maintained from the awarding of the contract and shall conclude one year after the completion of the project.

XXIII. EQUAL OPPORTUNITY PROGRAM REQUIREMENTS

Agency shall submit to the Project Manager statistical information as requested in the City of San Diego Contract Activity Report indicating the amount of subcontracting provided by firms during the period covered by the report. This information should be accompanied by an invoice from each subconsultant/subcontractor/vendor/service provider listed in the report. Agency agrees to issue payment to each of the firms listed within 14 days after City release of funds, or be assessed a penalty of 2% of the amount due each firm for each month or portion of a month in which payment is not made.

Agency and each of its subconsultants will comply with Title VII of the Civil Rights Acts 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 hereinafter enacted. Agency 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 request by the City of San Diego, the Agency will submit a current Work Force Report and, if required, an Equal Employment Opportunity (EEO) Plan which sets forth the actions that the consultant will take to achieve the City's goals for the employment of African Americans, American Indians, Asians, Filipinos, Latinos, women and people with disabilities.

Further, the Agency will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement so that such provisions will be binding upon each subconsultant.

Agency acknowledges that the City of San Diego seeks to promote employment and business opportunities for local residents and firms on all City contracts. Agency will, to the extent legally possible, solicit applications for employment, and bids and proposals for subcontracts, for work associated with this Agreement from local residents and firms as opportunities occur. Agency agrees to hire qualified local residents and firms whenever possible.

Agency understands that failure to comply with the above requirements, and/or submitting false information in response to these requirements, may result in withholding progress payments until Agency complies with the above, or termination of this Agreement, and/or suspension from participating in future City contracts as a prime or subconsultant, for a period of not less than one (1) year. For additional or subsequent violation, the period of suspension may be extended for a period of up to three years. Failure to satisfy penalties imposed pursuant to this

section shall prohibit Agency from participating in all future City contracts until all penalties have been satisfied.

XXIV. DISABLED ACCESS

Agency shall comply with the Federal Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act (Public Law 101-336), and any other applicable Federal and/or State laws and regulations enacted. Agency shall also comply with City Council Policy 100-04, adopted by Resolution R-282153, relating to the Federal Americans with Disabilities Act (ADA), and shall be responsible for establishing and implementing an ADA program within the Agency.

XXV. ETHNIC DIVERSITY OF BOARDS

Agency's advisory board shall reflect the ethnic breakdown of the community Agency is serving.

XXVI. LITERACY SERVICES

Agency shall identify clients in need of assistance with reading and writing skills and shall provide direct tutorial services, or shall refer such clients to other programs providing such services.

XXVII. HUD SECTION 3 CLAUSE

The following "Section 3 Clause" is included herein pursuant to the requirements of Title 24, Part 135 of the Code of Federal Regulations (24 CFR Part 135), and is binding upon the parties to this Agreement. Agency shall document its good faith efforts to comply with the terms and conditions of the Section 3 Clause, and furnish such documentation to City upon request.

- a. The work to be performed under this Agreement is on a

project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 USC 170(u)). Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the Program area, and contracts for work in connection with the Program be awarded to business concerns which are located in, or owned in substantial part by, persons residing in the area of the Program.

- b. The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and applicable rules and orders of the Department issued thereunder prior to the execution of this Agreement. The parties to this Agreement certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- c. Agency will send to each labor organization or representative of workers with which they have a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of their commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- d. Agency will include this Section 3 clause in every

subcontract for work in connection with the Program, and will, at the discretion of the applicant for or recipient of Federal financial assistance take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

- e. Compliance with the provisions of Section 3, the regulation set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the agreement, shall be a condition of the Federal financial assistance provided to the Program, binding upon the applicant or recipient, its contractors, subcontractors, its successors, and assignees to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

XXVIII. HOLD HARMLESS

Agency agrees to defend, indemnify, protect and hold City and its 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 Agency's employees, agents or officers which arise from or are connected with or caused or claimed to be caused by the acts or omissions of Agency, and its agents, officers or employees, in performing the

work or services herein, and all expenses of investigating and defending against same; provided, however, that Agency's duty to indemnify and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of the City, its agents, officers or employees.

XXIX. INSURANCE

Agency agrees to obtain and keep in force a policy of Commercial General Liability insurance, occurrence form, [Comprehensive Public Liability insurance] during the period of performance of this agreement in an amount not less than ONE MILLION Dollars (\$1,000,000). Such policy shall name the City as an additional insured, and City's insurance shall be non-contributing to the Agency's insurance.

Prior to any disbursement for any purpose other than obtaining fidelity bonds, Agency agrees that its chief fiscal officer or its insurer shall forward to City an assurance that all persons handling funds received or disbursements or loans made hereunder are covered by a fidelity bond in an amount not less than one half (1/2) of the total allocation. If the bond is cancelled or reduced, City shall immediately notify City. In that event, City shall make no further disbursements until it is assured adequate coverage has been obtained.

Agency shall produce evidence of required insurance to City prior to expending funds for operational purposes.

XXX. PROJECT REVENUES

All monies that accrue to Agency from CDBG funds shall be considered program income as defined by 24 CFR §570.500(a), and shall revert to the City within thirty (30) days of termination of this Agreement, except as otherwise provided herein.

All revenues that accrue to Agency as a result of the Program, including interest earned on Program funds deposited in an interest bearing account and revenue from advertising, shall be deposited in a separate bank account. All funds so deposited, including interest earned thereon, shall be considered program income. Documentation of all transactions taking place in this account shall be included in Agency's fiscal records and in Agency's monthly reports submitted to the City. With prior written approval of the Contract Administrator, funds in this account may be used to improve and extend services being rendered by Agency. If such approval is not given, these funds shall revert to Agency within thirty (30) days after the end of the time of performance specified herein or termination of this Agreement, as required by 24 CFR §570.503 (b).

XXXI. CONFLICT OF INTEREST

Agency shall establish and make known to its members, volunteer workers, and employees appropriate safeguards to prohibit same from using their positions for a purpose that is, or gives the appearance of being, motivated by desire for private gain for themselves or others, particularly those with whom they have family, business, or other relationships. Project personnel shall not accept gratuities or other favors from subcontractors or

potential subcontractors. In the procurement of supplies, equipment, and services by Agency, the conflict of interest provisions in OMB Circular No. A-110 (Attachment O) and 24 CFR §570.611 shall apply.

XXXII. AGENCY EMPLOYMENT OF CITY PERSONNEL

This Agreement shall be unilaterally and immediately terminated by City if Agency employs an individual who within twelve months immediately preceding such employment did, in the individual's capacity as City officer, board member, or employee, participate in, negotiate with, or otherwise have an influence on the recommendations made to the City Board in connection with the selection of Agency.

XXXIII. SUBSTANCE ABUSE EDUCATION AND REFERRAL, AND DRUG-FREE WORKPLACE REQUIREMENTS

Substance abuse is a major concern in our community. In order to address this concern, Agency shall provide substance abuse education and/or referral for staff and clients as necessary. In addition, Agency shall adopt and enforce a policy to maintain a drug-free work place by performing the following:

- a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances is prohibited in Agency's workplace.
- b. Specifying actions that Agency will take against employees who violate the drug-free workplace policy.
- c. Establishing a drug-free awareness program to inform employees about the dangers of drug abuse, the Agency's

drug-free workplace policy, and the availability of substance abuse counseling, rehabilitation, and employee assistance programs.

- d. Posting a statement concerning Agency's drug-free workplace policy in a prominent place at Agency's office.
- e. Incorporating in every subcontractor agreement language which indicates the subcontractor's agreement to abide by the provisions of a drug-free workplace.

XXXIV. POLITICAL AFFAIRS OR ACTIVITIES

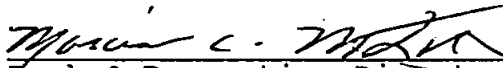
Agency shall not use Program funds, personnel, or materials to advocate or support any particular position on any matter that is being proposed by a vote of the people, or is being considered for enactment by any legislative body of the City or County of San Diego, State of California, or the Federal Government. Neither will the Agency use program funds, personnel, or materials to influence an officer or employee of any legislative body or an elected official or an employee of any governmental agency in the awarding of any contract, loan, cooperative agreement, or the extension, continuation, renewal, amendment or modification of any contract, grant, loan, or cooperative agreement. The Agency will disclose any funding from other sources that has been paid or will be paid to any person for influencing or attempting to influence an elected official or a public agency by completing, signing, and submitting Standard IRS Form-LLL, "Disclosure Form Report - Lobbying" in accordance with its instructions. Agency shall require this certification language to be included in the award documents for all subawards, subgrants, subcontracts, loans, and

cooperative agreements, and such subrecipient shall certify and disclose accordingly.

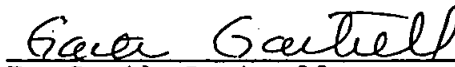
IN WITNESS THEREOF, this agreement is executed by The City of San Diego acting by and through its Executive Director, pursuant to Resolution No. R-285436, authorizing such execution, and by Agency.

Dated this _____ day of MAR 06 1995, 1995.

THE CITY OF SAN DIEGO

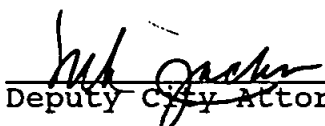
by 
Park & Recreation Director

PRO KIDS GOLF ACADEMY, INC.

by 
P. Garth Gartrell

I HEREBY APPROVE the form and legality of the foregoing Agreement this 10th day of March, 1995.

JOHN W. WITT, City Attorney

by 
Deputy City Attorney

AGRM3312
12/94

cooperative agreements, and such subrecipients shall certify and disclose accordingly.

IN WITNESS THEREOF, this agreement is executed by The City of San Diego acting by and through its Executive Director, pursuant to Resolution No. R-285436, authorizing such execution, and by Agency.

Dated this _____ day of MAR 06 1995, 1995.

THE CITY OF SAN DIEGO

by _____
Park & Recreation Director

PRO KIDS GOLF ACADEMY, INC.

by Garth Gartrell
P. Garth Gartrell

I HEREBY APPROVE the form and legality of the foregoing Agreement this _____ day of _____, 1995.

JOHN W. WITT, City Attorney

by _____
Deputy City Attorney

AGRM3312
12/94

**FY88 COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
PROPOSED DEPARTMENTS**

DRAFT

No.	Applicant	Project Name	Approved
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ENGINEERING

25	Clairmont Friendship Center	Parking Lot Construction	95,000
7	Sherman Heights Comm. Center Corp.	Historic Street Lights	100,000
25	San Ysidro Health Center	Parking Lot	75,000
28	ACCESS	Fire Safety and ADA Rehabilitation	25,000
33	Villa View Health Services Foundation	Sexual Assault Response Team Facility	108,000
35	Elementary Institute of Science	Facilities Improvement Project	181,000
36	Chinese Consolidated Benevolent Assoc.	Third Avenue Preservation Project	75,000
43	San Diego Youth and Community Services	City Heights Community Center	20,000
45	Stepping Stone of San Diego	Stepping Stone*	100,000
46	Chicano Federation of San Diego County	Historic Renovation and Office Remodeling	100,000
49	YMCA of San Diego Co. - Copley Branch	Youth Center	50,000
51	AIDS Foundation of San Diego	AIDS Foundation Building**	65,000
57	Alzheimer's Association of San Diego	Assessibility Enhancement Project	16,500
67	Jackie Robinson YMCA	Facilities Upgrade	44,500
72	Family Service Association	Family Service Assoc. Renovation Project	52,500
101	Catholic Charities, San Diego	Rachel's Women's Center	48,000
106	City of San Diego - Library	College Heights Branch	388,000
120	Union of Pan Asian Communities	UPAC Re-Roofing	65,000
121	H.O.P.E. CDC	Lincoln Park Cooperative	50,000
126	Logan Heights Family Health Center	Master Plan Completion	100,000
129	Girls Club of San Diego	Girls Club Renovation	25,000
135	Logan Academy of Literature and Writing	Beautification Project	10,000
152	Vietnamese Federation of San Diego	San Diego Refugee Center	29,000
159	Rainbow Arts Project	Rainbow Arts	25,000

PARK AND RECREATION

74	City of San Diego - Park and Recreation	Ocean Beach Athletic Area / Parking Lot	80,000
78	City of San Diego - Park and Recreation	Reconversion Security Lighting - Various Sites	25,000
79	City of San Diego - Park and Recreation	Chollas Lake Comm. Park / Erosion	50,000
83	City of San Diego - Park and Recreation	Reconversion Security Lighting - Various Sites	40,000
85	City of San Diego - Park and Recreation	Kelly Street Security Lighting	100,000
86	City of San Diego - Park and Recreation	Linda Vista Comm. Park / Activity Room	250,000
91	City of San Diego - Park and Recreation	Colina Del Sol / Golf Course Club House	40,000
108	Sunshine Baseball Organization	Chollas Canyon Recreation Area	25,000

ECONOMIC DEVELOPMENT SERVICES

18	Golden Hill CDC / SMART	Angle of Repose	40,000
19	Golden Hill CDC	Golden Hill Revitalization	150,000
26	University Heights CDC	CDC Core Funding	23,500
27	University Heights CDC	Park Boulevard Revitalization	12,500
29	Occupational Training Services	Centre City East Revitalization	95,000
30	Ocean Beach CDC	Ocean Beach Affordable Housing	72,700
31	San Diegans United for Safe Neighborhoods	Neighborhood Enhancement Team	25,000
39	Ocean Beach Merchants Assoc.	Commercial Revitalization Project	170,000
40	El Cajon Blvd. Central BIA	Boulevard Improvements	185,000
47	Neighbors United	Food Cooperative	110,000
50	Adams Avenue Business Assoc.	Adams Avenue Streetscape (805 - 33rd)	20,000
54	People for Trees	Neighborhoods	38,000
55	San Diego Incubator Corporation	Business Incubator	114,000
65	Azalea Park Community Association	Neighborhood Identification Project	15,000
102	Bayview Community Development Corp.	Planning/Capacity Grant	25,000
107	City Heights BIA	University Ave. Improvements - Western Gate	150,000
117	City of San Diego - Econ. Development	San Diego Enterprise Zone	111,000

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NEW PROJECT

118	City of San Diego - Econ. Development	Hillcrest/Uptown Sidewalk Improvements	100,000
122	Episcopal Community Services	Work Center	10,000
123	City Heights CDC	Rebuild City Heights - District Three	70,000
153	Rural Area Non-Profit Comm. Housing Corp.	Rancho Builders	50,000
	Office of Small Business		
41	El Cajon Blvd. Gateway BIA	Business District Enhancement	30,000
42	Adams Avenue Business Assoc.	Business District Revitalization	35,000
44	Business District Improvement Council	Small Business Enhancement	58,000
110	North Park Organization of Businesses	No. Park Business Development and Retention	35,000
111	City Heights Business Assoc.	City Hqts. Business Development and Retention	46,000
119	Union of Pan Asian Communities	Multi-Cultural Economic Development	122,000

S.D. HOUSING COMMISSION

32	Luthern Social Services of So. California	Christian Neighbor Program	38,000
37	Labor's Community Service	Home Security Rehabilitation Program	500,000
144	San Diego Housing Commission	Affordable Housing	300,000
145	San Diego Housing Commission	Citywide Programs / Program Support	1,750,000
149	S.D. Neighborhood Housing Services	Home Ownership/Rehabilitation - Management	77,500
150	S.D. Neighborhood Housing Services	Housing/Rehabilitation - Capital Budget	5,000

REAL ESTATE ASSETS

48	Ecumenical Council of San Diego County	Transitional Living Program	280,000
157	City of San Diego - Real Estate Assets	Ocean Beach Child Care Center	4,000
158	City of San Diego - Real Estate Assets	Neighborhood House Association	16,000
163	St. Martin de Porres Center	AIDS/HIV Group Housing Acquisition	60,000

PLANNING

55	People for Trees	Urban Forestry Master Plan Format	34,000
137	City of San Diego - EDS, NCC, O.N., Plan.	Livable Neighborhoods	144,333

NEIGHBORHOOD CODE COMPLIANCE

64	Social Advocates for Youth	Code Compliance Liaison	40,000
132	City of San Diego - Neighborhood Code Comp.	Targeted Code Enforcement - Linda Vista	204,000
133	City of San Diego - Neighborhood Code Comp.	Targeted Code Enforc. - Logan Hqts/Otay Mesa	100,000
134	City of San Diego - Neighborhood Code Comp.	Vacant Property Coordination	55,000

REDEVELOPMENT

113	City of San Diego - Redevelopment	San Ysidro Redevelopment Project	145,000
116	City of San Diego - Redevelopment	North Park Redevelopment Project	40,000
160	Mid-City Development Corp.	City Heights Redevelopment	235,000

COMMUNITY SERVICES

136	City of San Diego - Community Services	ADA Compliance ?	1,576,000
146	City of San Diego - Community Services	Social Services	2,955,000
147	City of San Diego - Community Services	CDBG Administration	400,000
58	Alpha of San Diego, Inc.	City Heights Community Service Center	15,000

S.E.D.C.

140	Southeastern Economic Development Corp.	Post Office Site Acquisition	362,640
154	San Diego Youth and Adult Coalition	Acquisition/Renovation Feasibility Study	100,000

TOTAL 13,786,673

(2)

NEW PROJECTS - PROPOSED DEPARTMENTS

NEIGHBORHOOD CODE ENFORCEMENT

3 City Heights Town Council	20,000
6 Targeted Code Enforcement - District Six	25,000

ENGINEERING

2 Fifth Avenue Banner Standards	50,000
2 District Two Public Improvement Fund	167,760
3 School for Success	30,000
3 Mid-Block Lights / District Three	302,300
3 Center for Social Services / ADA Requirements	35,000
4 Malcolm X Library - Public Art	15,000
4 Mid-Block Lights / District Four	50,000
5 Fire Station #23	141,500
6 No. Clairemont Library - ADA	17,400
7 JCC Community Center Renovation	250,000
8 Women's Civic League	25,000
8 Youth for Progress	40,000

PARK AND RECREATION

✓ = J.O. Nos REQUESTED

6 Western Hills Park Tot Lot - ADA	70,000
6 Tecolote Community Park Tot Lot - ADA	100,000
6 Mission Hqts. Park Tot Lot - ADA	100,000
6 Cabrillo Hqts. Park Tot Lot - ADA	50,000
6 So. Clairemont Rec. Center Tot Lot - ADA	70,000
6 Mt. Acadia Park Tot Lot - ADA	70,000
6 No. Clairemont Rec. Center - ADA	67,156
6 Mt. Etna Park Tot Lot - ADA	70,000
6 Clairmont Friendship Center - ADA	14,000
7 ADA Compliance - Clay and Allied Gardens	20,000

PN EVN NOW IN DESIGN

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MISC. MINOR Bldg changes FRT SIEGLER

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SCOPE ? DEAD

ECONOMIC DEVELOPMENT SERVICES

2 BID Formation / Little Italy	25,000
2 District Two Tree Planting Program	25,000
2 Washington Street Improvements	121,500
4 Black Economic Dev. Task Force	25,000
4 Kids Copy - Business Roundtable	50,000
4 Project Gold Star	200,000
6 Pacific Beach BID - Feasibility study	10,000
7 University Avenue Improvements - EDS	50,000
8 S.B. Ecological Project	25,000
8 Casa Familiar	35,000
9 Black Economic Development Task Force	100,000

S.D. HOUSING COMMISSION

8 Alpha Project	75,000
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PLANNING

4 Special Planner - District Four	25,000
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REDEVELOPMENT

8 Logan Heights Redevelopment	10,000
5 Linda Vista Town Center	399,100

COMMUNITY SERVICES

1 ADA Compliance / District One	480,000
2 ADA Compliance / District Two	25,000
4 ADA Compliance / District Four	225,000
4 Sickle Cell Foundation	5,000

TOTAL

3,452,716

(3)

VILLAS LO JUELO PA?

901-3118521
FUND 4091
dept. 9113
per Jim Collins
7-6-85

6-12-95
JANON SAYS NO DIST. BY
DIST = 1



Corporate Officers

Ernest H. (Ernie) Wright
Chairman of the Board

Tony Perez
President

P. Garth Gartrell
Secretary/Treasurer

(619) 544-3160

October 28, 1994

Ross McCollum
Community Program Administrator
The City of San Diego
1200 Third Avenue, Suite 924
San Diego, CA 92101

Re: Pro Kids Golf Academy

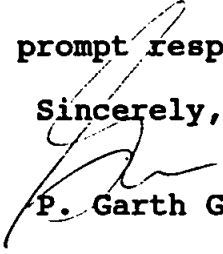
Dear Mr. McCollum:

Enclosed please find the application of Pro Kids Golf Academy Inc. for \$25,000 in CDBG funds for renovation and repair of Colina del Sol Golf Course. We have already received over \$40,000 in contributions which have been substantially applied to the renovation and repair project. We estimate that 90% of the renovation and repair will be complete within the next year. Please correspond to me at:

P. Garth Gartrell
Pillsbury Madison & Sutro
101 West Broadway, Suite 1800
San Diego, CA 92101

We look forward to your prompt response.

Sincerely,


P. Garth Gartrell

PGG/eam
Encs.

cc: Tony Perez (w/encs.)
Steve Castaneda (w/encs.)

**COMMUNITY DEVELOPMENT BLOCK GRANT
APPLICATION CHECK-OFF LIST**

Applicant: PRO KIDS GOLF ACADEMY
(Name of Agency)

Address: 4085 52nd Street
San Diego CA 92105

Contact Person: Garta G Gartrell Telephone: ~~644~~ 544 - 3160

VERIFY THAT THE FOLLOWING ITEMS ARE ENCLOSED:

Yes	No	
<u>X</u>	<u> </u>	Project Summary Sheet (Original + 6 Copies)
<u>X</u>	<u> </u>	Articles of Incorporation (1 Copy)
<u>X</u>	<u> </u>	By-Laws (1 Copy)
<u>X</u>	<u> </u>	Name of Executive Director and list of Board of Directors (1 Copy)
<u>X</u>	<u> </u>	Equal Opportunity Certificate of Compliance (1 Copy)
<u>X</u>	<u> </u>	Equal Opportunity Workforce Analysis (1 Copy)
<u>X</u>	<u> </u>	Budget Summary (Original + 6 Copies)
<u>X</u>	<u> </u>	Personnel Schedule (Original + 6 Copies)
<u>X</u>	<u> </u>	Budget Justification (Original + 6 Copies)
<u>X</u>	<u> </u>	All Material on 8 1/2 x 11 Paper, 3-Hole Punched
<u>X</u>	<u> </u>	Description of 10% Match
<u>X</u>	<u> </u>	Project Schedule and Time Line
<u>X</u>	<u> </u>	Did You Attend Technical Workshops?
<u>X</u>	<u> </u>	Detailed Description of Request (Not to Exceed Five Pages) (Original + 6 Copies)
		Including: History of Agency Current Funding and Sources Experience Managing Capital Projects
<u>N/A</u>	<u>X</u>	Attached Preliminary Drawings, Sketches, Etc.
<u>N/A</u>	<u> </u>	Explanation if Association with a Religious Organization
<u>N/A</u>	<u> </u>	Included Copy of Most Recent Audit or Financial Statement


(Authorized Signature)

Garta Gartrell
(Print Name)



THE CITY OF

SAN DIEGO

EQUAL OPPORTUNITY PROGRAM FOR BUSINESSES CONTRACTING WITH THE CITY OF SAN DIEGO

The City Council is committed to an Equal Opportunity Program pursuant to applicable State and Federal laws and guidelines, to provide Equal Opportunity in all activities of the City and its agencies, including employment of individuals and firms which contract with the City.

— CITY COUNCIL POLICY 300-10
MAY 9, 1983

— CERTIFICATE OF COMPLIANCE — (PRINT OR TYPE)

PRO KIDS GOLF ACADEMY, INC.
NAME OF BUSINESS
4085 52nd Street
STREET ADDRESS
San Diego California 92105 582-4704
CITY STATE ZIP PHONE

Type of Business (please check one):

☐ Consultant/Professional Services ☐ Vendor ☐ Grantee ☒ Lessee

The objectives of the Equal Opportunity Program for businesses contracting with the City of San Diego, recorded with the City Clerk as approved on March 4, 1985, by City Council Resolution 262633, are to promote equality of opportunity and to prohibit discrimination in employment practices. The requirements of the Equal Opportunity Program apply to individuals, vendors, consultants, grantees, lessees, and banks contracting with the City of San Diego.

As an authorized official for the above named business, I hereby certify by the signature affixed below that said business will comply with Title VII of the Civil Rights Act of 1964, as amended, the California Fair Employment Practices Act, and any other applicable federal and state laws and regulations hereinafter enacted as well as those requirements addressed by the City of San Diego's Equal Opportunity Program, recorded with the City Clerk as Document RR-262633.

Further, upon request by the City of San Diego, I will submit a current Workforce Analysis Form and, if required, an Equal Opportunity Plan which addresses the affirmative actions that will be taken by business to achieve the City's goals for the employment of minorities, women, and the handicapped.

Tony Perez

Printed Name of Authorized Official
Signature of Authorized Official

President

Title
Date

Mail to: City of San Diego
Equal Opportunity Program
1010 Second Avenue, Suite 1515
Mail Station 615A
San Diego, CA 92101



THE CITY OF

SAN DIEGO

OFFICE OF THE CITY MANAGER • EQUAL OPPORTUNITY CONTRACTING PROGRAM

1200 THIRD AVENUE • SUITE 250 • SAN DIEGO, CA 92101 • (619) 533-4090 • FAX: (619) 533-4072

WORK FORCE REPORT

The Equal Opportunity Program, established by City Council Resolution R-262633, prohibits discrimination in employment and requires compliance with County Labor Force availability goals by contractors doing business with the City. The overall objectives of the Equal Employment Opportunity Program are to ensure that contractors doing business with the City, or receiving funds from the City, will not discriminate against any employee or applicant for employment because of race, color, religion, gender, medical condition, disability, age, sexual orientation or national origin, to ensure that equal employment opportunity is provided to all applicants and employees without regard to race, color, religion, gender, disability, medical condition, age, sexual orientation or national origin, and to ensure that all contractors attempt to achieve parity in the representation of women, people of color, and the disabled in each contractor's work force with the availability of women, people of color, and the disabled in the relevant county labor market. *Please complete all sections of this form.*

NO OTHER FORMS WILL BE ACCEPTED.

CONTRACTOR IDENTIFICATION

TYPE OF CONTRACTOR: ☐ Construction ☐ Consultant ☐ Grant Recipient ☒ Lessee/Lessor
☐ Insurance Co. ☐ Financial Institution ☐ Vendor/Supplier ☐ Other

A. Name of Company: PRO KIDS GOLF ACADEMY, INC.
AKA/DBA: COLINA PARK GOLF COURSE

B. Address (Corporate Headquarters, where applicable): 4085 52nd Street
City San Diego County San Diego State CA Zip 92105

C. Telephone Number: (619) 582-4704 FAX Number: (619) 481-7063

D. Name of Company CEO: Tony Perez

E. Address(es), phone and fax numbers of company facilities located in San Diego County (if different from above):

Address _____

City _____ Zip _____

Telephone Number: () _____ FAX Number: () _____
Not for profit -

F. Type of Business: youth golf instruction Type of License: _____

G. The Company has appointed: Tony Perez
as its Equal Employment Opportunity Officer (EEOO). The EEOO has been given the authority to establish, disseminate, and enforce the equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: 4085 52nd Street San Diego, CA 92105

Telephone Number: (619) 582-4704 FAX Number: (619) 481-7063

I, the undersigned representative of

PRO KIDS GOLF ACADEMY, INC.

(FIRM NAME)

FOR FIRM'S: SAN DIEGO COUNTY WORK FORCE ☐
AND/OR MANAGING OFFICE WORK FORCE: ☐

San Diego

COUNTY

CA

STATE

hereby certify that the information provided herein is true and correct. This document was executed on this

21 day of October, 1994

AUTHORIZED SIGNATURE

Tony Perez

PRINTED OR TYPED NAME OF SIGNEE

DATE:

The following groups are to be included in the ethnic categories listed below:

1. African-American, Black
2. Latino, Hispanic, Mexican-American, Chicano, Puerto Rican
3. Asian, Pacific Islander
4. American Indian, Native American, Eskimo
5. Filipino
6. Other: Caucasian and others not falling into one of the above categories.

TOTAL NUMBER OF EMPLOYEES REPORTED ON THIS FORM 4.

[illegible]

*Construction laborers and other field employees are not to be included on this form.

TOTALS FOR EACH COLUMN			3	1							1	
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IN THE ROW BELOW PLEASE INDICATE BY GENDER AND ETHNICITY THE NUMBER OF THE ABOVE EMPLOYEES WHICH ARE DISABLED.

[illegible]**NON-PROFIT ORGANIZATIONS ONLY**[illegible]

Community Development Block Grant

PROJECT SUMMARY SHEET

Applicant (Agency) Name: PRO KIDS GOLF ACADEMY, INC.

Address: 4085 52nd Street Council Dist(s):

City: San Diego, CA Zip: 92105

Contact Person: Tony Perez Telephone: 582-4704

Project Name: PRO KIDS GOLF Amount Requested: \$25,000

Eligible Activity Categories: Public facilities and improvements

National Objective: Activities benefitting low and moderate income persons

Brief Project Description: PRO KIDS is a not for profit organization formed for the purpose of teaching golf to at risk youths. The game of golf is typically beyond the reach of such youngsters because of a lack of role models and adequate facilities. The game offers a healthy alternative to the sometimes dismal alternatives available to the kids. Effective September 1, 1994 the Academy leases Colina Park Golf Course from the City of San Diego. Located in an area populated by low and moderate income persons, the course has not been adequately cared for in many years. This abandonment deprives the community of a potentially positive and attractive facility. The facility is perfectly situated to accomplish the Academy's goals. Funds will be used to restore the physical facility of the golf course.

PRO KIDS GOLF ACADEMY

Pro Kids Golf Academy (PKGA) is a non-profit organization incorporated and designed to provide San Diego's inner-city boys and girls, from ages 7-17, an opportunity to learn the sport of golf -- right in their own neighborhood.

Mission Statement

Pro Kids Golf Academy is committed to providing a structured year-round program to introduce golf to San Diego's inner-city youth who otherwise would not have exposure to the game. Through golf, PKGA will build self-esteem, discipline, respect and, most importantly, will emphasize the importance of completing an education.

Vision Statement

At the conclusion of a 4 to 6 weeks course, students will have learned the basic skills of the golf swing, rules of golf, tournament play, etiquette of the game, and course maintenance. Furthermore, they will be able to play proficiently on any golf course and compete in local, state and national junior golf tournaments. Through this exposure, ultimately, it is envisioned that those who excel will be in a position to further their education through college golf scholarships.

Location

Effective September 1, 1994, PKGA has acquired the lease of Colina Park City Golf Course. It will serve as the headquarters for Pro Kids Golf Academy and will be available on a year-round basis for instruction and play. Colina Park is an 18-hole golf course with holds ranging from 65 to 115 yards which is ideal for beginning golfers. The club house has ample room for dining facilities, a classroom and a lounge area. Plans include development of an enclosed driving range with 30 tee boxes.

Professional Business Persons Athletes

PKGA has approached several professional business persons, athletes in the San Diego area who also play golf. They have unanimously endorsed a plan that would utilize their volunteer time to generate enthusiasm for golf among kids. One of the goals of PKGA is to establish a link between kids and active and retired professionals to provide solid and personal role models.

Volunteer Support

The San Diego Chapter of the PGA Teaching Professionals have volunteered to provide instruction on a scheduled basis. In addition, the Men's Club and Ladies Club at Colina Park have volunteered their services to accompany the kids during a round of golf and provide on-course instruction.

Equipment

San Diego is the home base for major manufacturers of golf equipment. These companies will be approached for various types of support. Aldila, Callaway, Taylor Made, Titlest, Plop, Monticito, Cobra and others will be asked to donate clubs, hats, balls, bags, shirts, shoes and, in some cases, funding.

Management

The Executive Director and President for Pro Kids Golf Academy is Tony Perez. He will manage the day to day activities for Colina Park and the Academy.

Tony grew up in an inner-city neighborhood in San Antonio, Texas. It wasn't until his early twenties with IBM that he learned golf. With IBM, Tony was a top producer receiving many awards for his marketing and administrative skills.

Tony is a member of the Hispanic Chamber of Commerce, Starter for the PGA Buick Invitational held at Torrey Pines Golf Course and Tournament Director for several San Diego County Junior Golf tournaments. He has also coached soccer, baseball and golf teams throughout San Diego. He most recently was the Junior Golf Director at Lomas Santa Fe Country Club.

Corporate Officers

Ernie Wright, Chairman of the Board

- Former NFL player, four-time Pro Bowl Selection
- Founder and president of Pacific Furlough Corporation
- On Board of Directors for the following:
 - San Diego Crime Victims, San Diego Crime Stoppers, Epilepsy Society, Minority Entrepreneur Development Corporation and Holiday Bowl

P. Garth Gartrell, Secretary/Treasurer

- Partner of Pillsbury Madison and Sutro Law Firm
- Selected one of "Best Lawyers in America"
- Serves on Board of San Diego Crime Stoppers
- Immediate Past Chairman of Taxation Section of California Bar Association
- Former Director of the University of San Diego Law School Graduate Tax Program

Other Required Support Personnel

Assistant to the Director

Greens keeper

Assistant Greens keeper (2)

Volunteers

Operations

PKGGA will operate Colina Park Golf Course and the Golf Academy under the management direction of Tony Perez and his staff. The Academy will operate on a year-round basis from January 1st through November 31st. Classes will be conducted from 4 to 6 weeks in duration. Each session will consist of approximately 50 to 100 students. Colina Park will be open 7 days per week and will remain open to the public. Each student will have access to the equipment and will be allowed to play as often as desired.

USE OF CDBG FUNDS

The CDBG funds will be used to restore long abandoned Colina Park Golf Course. The Course represents a pivotal opportunity to provide a sense of community and positive development in a geographic area that itself is at risk.

If the course is restored, it will provide a perfect facility to attract the attention of youngsters in the area. Once there, they can benefit from the golf instruction offered by the Academy.

Once the Course is restored it can also attract public course play. Currently the Course attracts on average, no more than one dozen players per day. That accounts for just THREE TEE TIMES per day. A restored golf course with suitable practice facilities can attract twenty times that number and in the process provide an economic boost to an area that badly needs it. Enhanced golf traffic could permit the addition of ten-fifteen jobs available to area residents. Increased golf traffic would come from youngsters and as importantly, area seniors. Seniors often prefer par-three courses like Colina Park because they are less strenuous to take on. Indeed, 90% of the current play comes from seniors who are confident other seniors would flock to a restored facility.

The first priority will be to restore the golf course itself. The fairways and greens have been abandoned so severely that they are unsuitable for golf play. The irrigation system must be restored first. Then the greens have to be reestablished with labor, seed and proper maintenance. Proper maintenance equipment must be obtained. The same is true of the process to restore the fairways.

Tee boxes currently are a joke. They consisted of broker concrete slabs and ratty simulated grass mats. The slabs must be removed and ideally replaced with properly constructed grass tee boxes.

There are no suitable practice facilities. Sufficient practice tee boxes and a practice green are essential to the training mission of the Academy. They are also essential to the public

who will play the course. Furthermore, a proper practice tee will provide a source of revenue that could ultimately help pay for the Academy's youth training mission.

Finally, the clubhouse facility is in bad need of repairs. The roof sags and the condition of the clubhouse is very poor. Properly renovated, the clubhouse could provide an important and comfortable community meeting place.

CDBG PROJECT BUDGET SUMMARY

Personnel Expense

Salaries and Wages	\$ 35,000
Employee Pensions	
Disability and Health Insurance	
SUBTOTAL	\$

Non-Personnel

Architectural/Engineering	\$ 25,000
Construction	100,000
Property Acquisition	
Demolition	25,000
Relocation	
Capital Equipment	50,000
Consultant Services	
City Costs	
Other	20,000
SUBTOTAL	\$ 220,000
GRAND TOTAL	\$ 255,000

CDBG BUDGET JUSTIFICATION*

OPERATING AGENCY Pro Kids Golf Academy, Inc. Project Pro Kids Golf Academy, Inc.

LINE ITEM	Personnel	AMOUNT
Detailed Explanation:		
72.5% of annual wages of Paz Brito, Superintendent, and Laborer Luis Vargas		\$20,000
Also, 31.25% of wages of Tony Perez, Director, who will be involved in renovation		15,000
TOTAL		\$35,000
LINE ITEM	Architects	AMOUNT
Detailed Explanation:		
Costs to design tee boxes, practice facility and clubhouse renovation		
TOTAL		\$25,000
LINE ITEM	Construction	AMOUNT
Detailed Explanation:		
Tee box construction		\$ 5,000
Practice tee and green construction		50,000
Clubhouse construction		45,000
TOTAL		\$100,000
LINE ITEM	Demolition	AMOUNT
Detailed Explanation:		
Old tee boxes		\$15,000
Clubhouse		10,000
TOTAL		\$25,000

*All line items must be justified

FY'94

Exhibit B
(CONTINUED)

CDBG BUDGET JUSTIFICATION*

OPERATING AGENCY Pro Kids Golf Academy, Inc Project Pro Kids Golf Academy, Inc.

LINE ITEM	Capital Equipment	AMOUNT
Detailed Explanation:		
Course maintenance equipment		\$50,000
		TOTAL
LINE ITEM	Other	AMOUNT
Detailed Explanation:		
Miscellaneous		\$20,000
		TOTAL
LINE ITEM		AMOUNT
Detailed Explanation:		
		TOTAL
LINE ITEM		AMOUNT
Detailed Explanation:		
		TOTAL

*All line items must be justified

PERSONNEL SCHEDULE

OPERATING AGENCY Pro Kids Golf Academy, Inc.

PROJECT Pro Kids Golf Academy, Inc.

POSITION (1)	PERCENT CHARGED (2)	HOURLY RATE (3)	START DATE (4)	TERMINATION DATE (5)	NUMBER OF MONTHS/ PAY PERIODS (6)	SALARY PER MONTH/ PAY PERIOD (7)	TOTAL SALARY (8)
Paz Brito	72.5%	\$ 9.00	Full Time		12	\$1,088	\$13,050
Luis Vargas	72.5%	\$ 4.80	Full Time		12	\$ 581	\$ 6,974
Tony Perez	31.25%	\$24.00	Full Time		12	\$1,253	\$15,030

1. List all personnel charged against City funding source.
2. Percent of full-time position charged against City Funding source.
3. Hourly rate of pay of City paid position.
4. The date this position will start being claimed against City funding source.
5. The date this position will stop being claimed against City funding source.
6. No. of months/pay periods this position will be charged against City funding source.
7. The salary per month/pay period charged to City funding source.
8. The total salary charged against City funding source.

TOTAL

Pay Schedule (Check One)

☐ Monthly
☐ Biweekly
☒ Twice a Month

Date(s) Paid _____

FY'94

EXHIBIT A

State of California

OFFICE OF THE SECRETARY OF STATE

1872135

I, TONY MILLER, Acting Secretary of State of the State of California, hereby certify:

That the annexed transcript has been compared with the record of file in this office, of which it purports to be a copy, and that same is full, true and correct.



*IN WITNESS WHEREOF,
I execute this certificate and
affix the Great Seal of the
State of California*

Tony Miller
Acting Secretary of State

ARTICLES OF INCORPORATION

OF

PRO KIDS GOLF ACADEMY, INC.

1872135

ENDORSED
FILED

In the office of the Secretary of State
of the State of California

JUN 02 1994

TONY MILLER
Acting Secretary of State

One: The name of this corporation is:

Pro Kids Golf Academy, Inc.

Two: This corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for charitable purposes.

Three: The name and address in this state of this corporation's initial agent for service of process are Tony Perez, 4575 Viewridge Avenue, San Diego, California 92123.

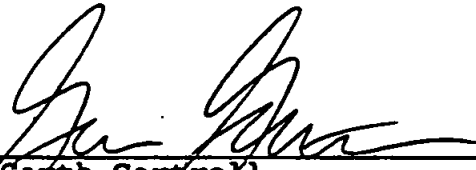
Four: This corporation is organized and operated exclusively for charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986.

No substantial part of the activities of this corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and this corporation shall not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of (or in opposition to) any candidate for public office.

Five: The property of this corporation is irrevocably dedicated to charitable purposes, and no part of the net income or assets of this corporation shall ever inure to the benefit of any director or officer of this corporation, or to the benefit of any private individual.

Upon the dissolution or winding up of this corporation, its assets remaining after payment of, or provision for payment of, all debts and liabilities of this corporation shall be distributed to a nonprofit fund, foundation, or corporation which is organized and operated exclusively for charitable purposes and which has established and maintained its tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986.

Dated: June 2, 1994



P. Garth Gartrell,
Sole Incorporator

**BYLAWS
OF
PRO KIDS GOLF ACADEMY, INC.**

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B Y L A W S

of

PRO KIDS GOLF ACADEMY, INC.

A Nonprofit Public Benefit Corporation

ARTICLE I

Members

This corporation shall have no members.

ARTICLE II

Board of Directors

Section 1. General Powers. Subject to the provisions of the Nonprofit Public Benefit Corporation Law (the "Law") and any limitation in the articles and bylaws of this corporation, the activities and affairs of this corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the board. The board may delegate the management of the activities of this corporation to any person or persons, management company, or committee however composed, provided that the activities and affairs of this corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the board.

Section 2. Number of Directors. The board of directors shall consist of not less than three (3) nor more than nine (9) members.

The exact authorized number of directors shall be fixed from time to time, within the limits specified in this section or in the articles of incorporation, by the board of directors.

Subject to the foregoing provisions for changing the authorized number of directors, the authorized number of directors of this corporation shall be five (5).

Section 3. Qualification. So long as required by law, not more than forty-nine percent (49%) of the persons serving on the board of this corporation may be "interested persons" as defined by the Law (presently section 5227).¹

¹ Section 5227 presently defines "interested persons" as either:

(continued...)

Section 4. Selection. The directors shall be elected at a regular annual meeting of the directors or in any other manner authorized by law. In any election of directors the candidates receiving the highest number of votes are elected. Elections for directors need not be by ballot unless a director demands election by ballot at the meeting and before the voting begins. Each director shall cast one vote for each office of director to be filled without the right to cumulate votes.

Section 5. Term. Directors are elected to a term of one year. Each director, including a director elected to fill a vacancy, shall hold office until his successor is elected, except as otherwise provided by law.

Section 6. Regular Meetings. The board of directors may fix by resolution the time and place, either within or without the State of California, for the holding, without other notice than such resolution, of regular meetings of the board, including the regular annual meeting of the board. Notice of any change in the time or place of regular meetings shall be given to all of the directors in the same manner as notice for special meetings of the board of directors.

Section 7. Special Meetings. Special meetings of the board of directors for any purpose or purposes may be called by the chairman of the board or the president or, if both the chairman of the board and the president are absent or refuse to act, by any vice president (if the board of directors shall have created such office or offices), or by any two (2) directors.

Section 8. Notice. Special meetings of the board of directors shall be held upon four (4) days' notice by first-class mail or forty-eight (48) hours' notice delivered personally or by telephone or telegraph or facsimile transmission, charges prepaid, to each director at his address as shown on the records of this corporation or, if it is not shown on the records and is not readily ascertainable, at the place at which the meetings of the directors are regularly held. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in

1(...continued)

"(1) Any person currently being compensated by the corporation for services rendered to it within the previous 12 months, whether as a full- or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director as director; or

"(2) Any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person."

a sealed envelope so addressed, with postage thereon prepaid. If notice be given by telegram or facsimile transmission, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company or actually transmitted by the person giving notice by electronic means. Any notice given personally or by telephone may be communicated either to the director or to a person at the office of the director whom the person giving the notice has reason to believe will promptly communicate it to the director. Notice of a meeting need not be given to any director who signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings. The business to be transacted at the meeting need not be specified in the notice or waiver of notice of such meeting, unless specifically required by law or by these bylaws.

Section 9. Quorum and Adjournment. A majority of the number of directors authorized by these bylaws shall constitute a quorum for the transaction of business at any meeting of the board. A majority of the directors present, whether or not a quorum is present, may adjourn the meeting for twenty-four (24) hours or less without further notice. If the meeting is adjourned for more than twenty-four hours, notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

Section 10. Manner of Acting. The act of a majority of the directors present at a meeting duly held at which a quorum is present shall be the act of the board of directors, unless the act of a different number is required by law, the articles of incorporation or these bylaws. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least as many directors as is required to act on behalf of the board.

Members of the board of directors may participate in a meeting through the use of conference telephone or similar communications equipment, so long as all members participating in such meeting can hear one another. Participation in a meeting in such a manner constitutes presence in person at such meeting.

Section 11. Action Without a Meeting of the Board. Unless an open hearing is required by law, any action required or permitted to be taken by the board of directors may be taken without a meeting if all members of the board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the board. Such action by written consent shall

have the same force and effect as a unanimous vote of such directors.

Section 12. Directors' Duty of Care. A director shall perform the duties of a director, including duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such director believes to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

(a) One or more officers or employees of this corporation whom the director believes to be reliable and competent in the matters presented;

(b) Counsel, independent accountants or other persons as to matters which the director believes to be within such person's professional or expert competence; or

(c) A committee of the board upon which the director does not serve, as to matters within its designated authority, which committee the director believes to merit confidence,

so long as, in any such case, the director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

Section 13. Directors' Duty of Loyalty. Subject to being able to comply with subdivision (d) of Section 5233 of the Law or any successor section thereto, prior to consummating a "self-dealing transaction" or any part thereof, as defined by Section 5233 of the Law or any successor section thereto,² either

² As of March 1, 1994, Section 5233 defined "self-dealing transaction" to mean a transaction to which the corporation is a party and in which one or more directors has a material financial interest. A "self-dealing transaction" does not include (a) an action of the board fixing the compensation of a director as a director or officer of this corporation; (b) a transaction which is part of a public or charitable program of this corporation if it: (i) is approved or authorized by this corporation in good faith and without unjustified favoritism; and (ii) results in a benefit to one or more directors or their families because they are in the class of persons intended to be

(continued...)

(A) the board shall authorize or approve the transaction in good faith by a vote of a majority of the directors then in office without counting the vote of the interested director or directors, and with knowledge of the material facts concerning the transaction and the director's interest in the transaction; and, further, prior to authorizing or approving a self-dealing transaction, shall consider and in good faith determine after reasonable investigation under the circumstances that this corporation could not have obtained a more advantageous arrangement with reasonable effort under the circumstances; or (B) where it is not reasonably practical to obtain approval of the board prior to entering into the transaction, a committee or person authorized by the board shall approve the transaction in a manner consistent with the standards set forth in clause (A) of this section. In the event the procedure of clause (B) of this section is followed, the board, after determining in good faith that the conditions of clause (B) of this section are satisfied, shall ratify the transaction at its next meeting by a vote of the majority of the directors then in office without counting the vote of the interested director or directors.

Subject to being able to comply with Section 5234(a)(2) of the Law, no contract or other transaction between this corporation and any corporation, firm or association in which one or more directors are directors shall be authorized, approved or ratified by the board or a committee of the board unless the material facts as to the transaction and as to the director's or directors' common directorships are fully disclosed or known to the board or committee of the board, and the board or a committee of the board authorizes, approves or ratifies the transaction in good faith by a vote sufficient without counting the vote of the common director or directors.

Interested directors may be counted in determining the presence of a quorum at a meeting of the board which authorizes, approves or ratifies a self-dealing transaction.

Section 14. Removal and Filling Vacancies. The board may declare vacant the office of a director who has been declared of unsound mind by a final order of a court, or convicted of a felony, or who has been found by a final order or judgment of any court to have breached any duty arising under Article 3 of Chapter 2 of the Law or any successor article thereto. A director elected to fill a vacancy shall hold office during the unexpired

2(...continued)

benefitted by the public or charitable program; or (c) a transaction of which the interested director or directors have no actual knowledge, and which does not exceed the lesser of one percent (1%) of the gross receipts of this corporation for the preceding fiscal year or one hundred thousand dollars (\$100,000). This footnote is not part of this corporation's by-laws and is intended for informational purposes only.

term of his predecessor in office and until his successor is elected. Any vacancy occurring on the board of directors as well as any directorship to be filled by reason of an increase in the number of directors shall be filled by approval of the board or, if the number of directors then in office is less than a quorum, by (1) the unanimous consent of the directors then in office, (2) the affirmative vote of a majority of the directors then in office at a meeting held pursuant to notice or waivers of notice complying with Section 5211, or (3) a sole remaining director.

Section 15. Compensation. Directors as such shall not receive any stated salaries for their services, but by resolution of the board of directors a just and reasonable fixed sum and expenses of attendance, if any, may be allowed for attendance at each regular or special meeting of the board or any committee of the board; but, subject to the restrictions of Section 3 of Article II of these bylaws, nothing contained in this section shall be construed to preclude any director from serving this corporation in any other capacity and receiving just and reasonable compensation therefor.

Section 16. No Interest in Assets. No director shall possess any property right in or to the property of this corporation. In the event this corporation owns or holds any property upon its dissolution and winding up, after paying or adequately providing for its debts and obligations, the directors shall dispose of the remaining property in accordance with the articles of incorporation.

Section 17. Resignation. Any director may resign effective upon giving written notice to the chairman of the board, the president, the secretary or the board of directors of this corporation, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation is effective at a future time, a successor may be elected to take office when the resignation becomes effective. However, except upon notice to the Attorney General, no director may resign if this corporation would then be left without a duly elected director in charge of its affairs.

ARTICLE III

Officers

Section 1. Officers. The officers of this corporation shall be a chairman of the board or a president or both (the determination of which is to be made by the board of directors), one or more vice presidents, a secretary, a treasurer and such other officers with such titles and duties as shall be determined by the board of directors. Any number of offices may be held by the same person, except that neither the secretary nor the treasurer may serve concurrently as the president or chairman of the board.

Section 2. Selection and Term of Office. The officers of this corporation shall be chosen by the board of directors and shall serve at the pleasure of the board.

Section 3. Removal. Any officer selected by the board of directors may be removed by the board of directors whenever in its judgment the best interests of this corporation would be served thereby.

Section 4. Resignation. Any officer may resign at any time upon written notice to this corporation without prejudice to the rights, if any, of this corporation under any contract to which the officer is a party.

Section 5. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise may be filled by the board of directors.

Section 6. Chairman of the Board. The chairman of the board, if there be such officer, shall, if present, preside at all meetings of the board of directors and exercise and perform such powers and duties as from time to time may be assigned to him by the board of directors or prescribed by these bylaws. If there is no president, the chairman of the board shall, in addition, be the general manager and chief executive officer of the corporation and shall have the powers and duties prescribed in Section 7 of this article.

Section 7. President. Subject to such powers and duties, if any, as may be prescribed by these bylaws or the board of directors for the chairman of the board, if there be such officer, the president shall be the general manager and chief executive officer of this corporation and shall, subject to the control of the board of directors, have general supervision, direction and control of the business and affairs of this corporation. He shall preside in the absence of the chairman of the board or, if there be none, at all meetings of the board of directors. He shall have all of the powers and shall perform all of the duties which are ordinarily inherent in the office of the president, and he shall have such further powers and shall perform such further duties as may be prescribed for him by the board of directors.

Section 8. Vice Presidents. In the absence or disability or refusal to act of the president, the vice presidents in order of their rank as fixed by the board of directors or, if not ranked, the vice president designated by the president or the board of directors, shall perform all of the duties of the president and when so acting shall have all the powers of and be subject to all the restrictions upon the president. The vice presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them, respectively, by the board of directors or these bylaws.

Section 9. Treasurer. The treasurer shall be the chief financial officer of this corporation and shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of account of this corporation. He shall receive and deposit all moneys and other valuables belonging to this corporation in the name and to the credit of this corporation and shall disburse the same only in such manner as the board of directors or the appropriate officers of this corporation may from time to time determine and shall render to the chief executive officer and the board of directors, whenever they request it, an account of all his transactions as treasurer and of the financial condition of this corporation. He shall have all of the powers and perform all of the duties incident to the office of treasurer, and he shall have such further powers and shall perform such further duties as may be prescribed for him by the board of directors.

Section 10. Secretary. The secretary shall keep or cause to be kept at the principal executive office of this corporation or such other place as the board of directors may order a book of minutes of all proceedings of the board of directors, with the time and place of each meeting, whether regular or special, and, if special, how authorized, the notice thereof given, and the names of those present. The secretary or, if he is absent or unable or refuses to act, any other officer of this corporation shall give or cause to be given notice of all the meetings of the board of directors required by these bylaws or by statute to be given, and he shall keep the seal of this corporation, if any, in safe custody. He shall have all of the powers and perform all of the duties incident to the office of secretary, and he shall have such further powers and shall perform such further duties as may be prescribed for him by the board of directors.

ARTICLE IV

Committees

Section 1. Committees of Directors. The board of directors may, by resolution adopted by a majority of the number of directors then in office, provided that a quorum is present, create one or more committees, each consisting of two (2) or more directors, to serve at the pleasure of the board. Appointments to such committees shall be by a majority vote of the directors then in office. The board of directors may appoint one or more directors as alternate members of any committee, who may replace any absent member at any meeting of the committee. And such committee, to the extent provided in the resolution of the board, shall have all the authority of the board, except with respect to:

- (a) The approval of any action for which the Law also requires approval of the board;

(b) The filling of vacancies on the board or on any committee which has the authority of the board;

(c) The fixing of compensation of the directors for serving on the board or on any committee;

(d) The amendment or repeal of bylaws or the adoption of new bylaws;

(e) The amendment or repeal of any resolution of the board which by its express terms is not so amendable or repealable;

(f) The appointment of committees of the board or the members thereof;

(g) The expenditure of corporate funds to support a nominee for director after there are more people nominated for director than can be elected; or

(h) The approval of any self-dealing transaction as defined by Section 5233 of the Law or any successor section thereto, except as provided by law.

Section 2. Rules. Sections 6 to 17 of Article II of these bylaws shall also apply, with necessary changes in point of detail, to committees exercising the authority of the board of directors, if any, and to actions by such committees, except that (a) the first sentence of Section 9 of Article II shall not apply and a quorum of the committee shall be a majority of the authorized number of members of the committee and except that (b) special meetings of a committee may be called by any two members of the committee, unless otherwise provided by these bylaws or by the resolution of the board of directors designating such committees. For such purpose, references to "the board" or "the board of directors" shall be deemed to refer to each such committee and references to "directors" or "members of the board" shall be deemed to refer to members of the committee.

ARTICLE V

Miscellaneous

Section 1. Contracts. The board of directors may authorize any officer or officers to be agent or agents of this corporation, in addition to the officers so authorized by these bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of this corporation, and such authority may be general or confined to specific instances.

Section 2. Checks, Drafts, Etc. All checks, drafts or orders for the payment of money, notes or other evidences of indebtedness issued in the name of this corporation shall be

signed by such officer or officers, agent or agents, of this corporation and in such manner as shall from time to time be determined by resolution of the board of directors. In the absence of such determination by the board of directors, such instruments shall be signed by the treasurer and countersigned by the chief executive officer of this corporation.

Section 3. Deposits. All funds of this corporation shall be deposited from time to time to the credit of this corporation in such banks, trust companies or other depositories as the board of directors may select.

Section 4. Donations. The chief executive officer of this corporation or his designee is authorized to accept donations which support the purposes of this corporation as set forth in the articles of incorporation of this corporation whether such donation is for a specific project or projects or is for the general support of this corporation's programs.

Section 5. Representation of Corporate Shares. The president or any vice president or the secretary or any assistant secretary of this corporation is authorized to vote, represent and exercise on behalf of this corporation all rights incident to any and all shares of any other corporation or corporations standing in the name of this corporation. The authority hereby granted to said officers to vote or represent on behalf of this corporation any and all shares held by this corporation in any other corporation or corporations may be exercised either by such officers in person or by any other person authorized so to do by proxy or power of attorney duly executed by said officers.

ARTICLE VI

Books and Records

This corporation shall keep at its principal office in this state, if any, the original or a copy of its articles of incorporation and bylaws as amended to date. Furthermore, this corporation shall keep adequate and correct books and records of account and shall also keep minutes of the proceedings of its board of directors and committees of the board. Minutes shall be kept in written form. Other books and records shall be kept either in written form or in any other form capable of being converted into written form. Every director shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of this corporation.

ARTICLE VII

Annual and Other Reports

Section 1. Annual Statement of Certain Transactions. So long as required by the Law (presently Section 6322), this corporation shall furnish annually to its directors, within one hundred twenty (120) days after the close of this corporation's fiscal year, a statement which briefly describes each of the following transactions, if any:

(a) Any "covered transaction" during the previous fiscal year involving more than fifty thousand dollars (\$50,000), or which was one of a number of "covered transactions" in which the same "interested person" had a direct or indirect material financial interest, and which transactions in the aggregate involved more than fifty thousand dollars (\$50,000). The description of such "covered transactions" should include the names of the "interested persons" involved in such transactions, stating such person's relationship to this corporation, the nature of such person's interest in the transaction and, where practicable, the amount of such interest; provided, that in the case of a transaction with a partnership of which such person is a partner, only the interest of the partnership need be stated; and

(b) Any indemnification or advance aggregating more than ten thousand dollars (\$10,000) paid during the fiscal year to any officer or director of this corporation pursuant to the Law (presently Section 5238) providing for the indemnification of officers and directors. The amount and circumstances of such indemnification should be stated.

Within the meaning of this section, a "covered transaction" with an "interested person" means a transaction in which this corporation, its parent or its subsidiary was a party, and in which either of the following persons had a direct or indirect material financial interest: any director or officer of this corporation, or its parent or subsidiary; or any holder of more than ten percent (10%) of the voting power of the corporation, its parent or its subsidiary. A common directorship is not a material financial interest within the meaning of this section.

The statement required by this section shall be included in the report prepared pursuant to Section 2 of this article.

Section 2. Financial Information. So long as required by the Law (presently Section 6321), the board of directors shall cause to be prepared within one hundred twenty (120) days after the close of this corporation's fiscal year, for their own use and for whatever further use the board may duly authorize, a report containing in appropriate detail the following information:

(a) The assets and liabilities, including the trust funds, of this corporation as of the end of the fiscal year;

(b) The principal changes in assets and liabilities, including trust funds, during the fiscal year;

(c) The revenue or receipts of this corporation, both unrestricted and restricted to particular purposes, for the fiscal year;

(d) The expenses or disbursements of this corporation, for both general and restricted purposes, during the fiscal year; and

(e) Any information required by Section 1 of this article.

The report required by this section shall be accompanied by any report thereon of independent accountants, or, if there is no such report, the certificate of an authorized officer of this corporation that such statements were prepared without audit from the books and records of this corporation.

ARTICLE VIII

Indemnification of Directors

and Officers

This corporation shall, to the maximum extent permitted by law, indemnify each of its present or former directors and officers against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any proceeding or any threatened proceeding (hereinafter "proceeding" includes any threatened proceeding) arising by reason of the fact that any such person is or was a director or officer of this corporation; provided that the board of directors determines that such director or officer was acting in good faith and in a manner such person reasonably believed to be in the best interests of this corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. Payments authorized hereunder include amounts paid and expenses incurred in settling any such proceeding. The foregoing does not apply to any proceeding specifically excluded by law, which includes actions brought by or in the right of this corporation and certain actions alleging self-dealing or a breach of any duty relating to assets held in charitable trust.

If, because of the nature of the proceeding, this corporation is prohibited by the Law from indemnifying its directors or officers against judgments, fines, settlements and other amounts,

this corporation shall nevertheless indemnify each of its directors and officers against expenses actually and reasonably incurred in connection with the defense or settlement of such proceeding arising by reason of the fact that any such person is or was a director or officer of the corporation; provided that the board of directors determines that such director or officer was acting in good faith and in a manner such person believed to be in the best interests of this corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances; and further provided that, to the extent required by law, the authority specified by law shall also approve the indemnification provided for by this paragraph.

Expenses incurred in defending any proceeding may be advanced by this corporation prior to the final disposition of the proceeding upon receipt of an undertaking by or on behalf of the director or officer to repay the amount of the advance unless it is determined ultimately that the director or officer is entitled to be indemnified as authorized in this article or by law.

The board of directors may authorize this corporation to purchase and maintain insurance on behalf of any director or officer against any liability asserted against or incurred by such person in such capacity or arising out of the person's status as such, whether or not this corporation would have the power to indemnify such person against such liability.

This article does not apply to any proceeding against any trustee, investment manager or other fiduciary of an employee benefit plan in that person's capacity as such, even though that person may also be a director or officer of this corporation. Nothing contained in this article shall limit any right to indemnification to which such a trustee, investment manager or other fiduciary may be entitled by contract or otherwise, which shall be enforceable to the extent permitted by applicable law.

ARTICLE IX

Limitation of Liability of

Certain Directors and Officers

Section 1. Limitation of Liability of Volunteer Directors and Volunteer Executive Officers to Third Parties. There shall be no personal liability to a third party on the part of a volunteer director or volunteer executive officer caused by the director's or officer's negligent act or omission in the performance of that person's duties as a director or officer, if all of the following conditions are met:

- (a) The act or omission was within the scope of the director's or executive officer's duties;

(b) The act or omission was performed in good faith;

(c) The act or omission was not reckless, wanton, intentional, or grossly negligent; and

(d) Damages caused by the act or omission are covered pursuant to a liability insurance policy issued to the corporation, either in the form of a general liability policy or a director's and officer's liability policy, or personally to the director or executive officer. In the event that the damages are not covered by a liability insurance policy, the volunteer director or volunteer executive officer shall not be personally liable for the damages if the board of directors and the person had made all reasonable efforts in good faith to obtain available liability insurance.

"Volunteer" means the rendering of services without compensation. "Compensation" means remuneration whether by way of salary, fee, or other consideration for services rendered. However, the payment of per diem, mileage, or other reimbursement expenses to a director or executive officer does not affect that person's status as a volunteer with the meaning of this Section 1.

"Executive officer" means the president, vice president, secretary, or treasurer of a corporation, or such other person who serves in like capacity, who assists in establishing the policy of the corporation.

Nothing in this Section 1 shall limit the liability of the corporation for any damages caused by acts or omissions of the volunteer director or volunteer executive officer.

This Section 1 does not eliminate or limit the liability of a director or officer for any of the following:

(a) As provided in Section 5233 or 5237; or

(b) In any action or proceeding brought by the Attorney General.

Nothing in this Section 1 creates a duty of care or basis of liability for damage or injury caused by the acts or omissions of a director or officer.

Section 2. Limitation of Liability of Certain Directors. Except as provided in Section 5233 or 5237, there is no monetary liability on the part of, and no cause of action for damages shall arise against, any nonpaid director, including any nonpaid director who is also a nonpaid officer, of this corporation based upon any alleged failure to discharge the person's duties as director or officer if the duties are performed in a manner that meets all of the following criteria:

(a) The duties are performed in good faith;

(b) The duties are performed in a manner such director believes to be in the best interests of the corporation; and

(c) The duties are performed with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

ARTICLE X

Corporate Loans, Guarantees and Advances

Except as provided by the Law (presently Section 5236), this corporation shall not make any loan of money or property to or guarantee the obligation of any director or officer.

ARTICLE XI

Amendments to Bylaws

New bylaws may be adopted or these bylaws may be amended or repealed by the approval of the board of directors.

CERTIFICATE OF SECRETARY

I, the undersigned, certify that I am the presently elected and acting Secretary of Pro Kids Golf Academy, Inc., a California nonprofit corporation, and that the above bylaws, consisting of 15 pages, are the bylaws of this corporation as adopted at a meeting of the board of directors on _____, 1994.

Dated: June __, 1994.

P. Garth Gartrell, Secretary

Directors, Officers, Members

The bylaws provide that there shall be a minimum of three and a maximum of nine directors; the exact number, presently three, is set from time to time by the board. Directors serve for one year and can be reelected.

The corporation has no members other than the directors.

The names and addresses of the current directors and brief description of their background are:

NAME	BACKGROUND	ADDRESS
TONY PEREZ Chairman	• Member Hispanic Chamber of Commerce • Past Junior Golf Director at Lomas Santa Fe Country Club • Starter PGA Buick Invitational Torrey Pines Golf Course • Tournament Director for San Diego City Junior Golf Tournaments	3525 Del Mar Heights Road San Diego, CA 92130
ERNEST WRIGHT, SR	• Former NFL player, four-time Pro Bowl Selection • Founder and President of Pacific Furlough Corporation • On Board of Dir: - S.D. Crime Victims - S.D. CrimeStoppers - Epilepsy Society - Minority Entrepreneur Development Corp. - Holiday Bowl	359 Shore View Ln. Leucadia, CA 92024

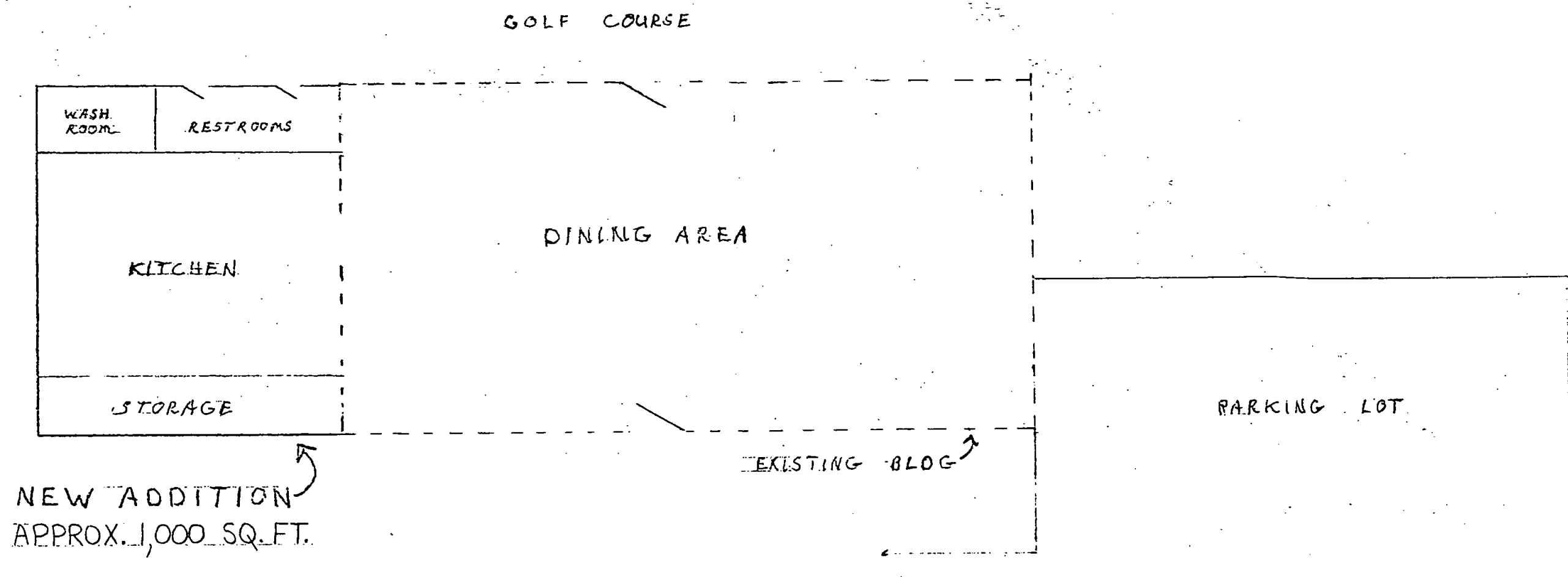
P. GARTH GARTRELL	• Partner, Pillsbury Madison & Sutro Law Firm • Selected One of "Best Lawyers in America" • Serves on Board: S.D. Crime Stoppers • Immediate past Chairman Taxation Section of Cal. State Bar Assoc. • Former Director of University of San Diego Graduate Tax Program	5233 Cassandra Ln. San Diego, CA 92109
JAMES E. IVERSON	• Executive Vice President of Miller & Schroeder Financial, Inc.	505 Lomas Santa Fe Drive, Solana Beach, CA 92075

The officers of the corporation are:

Tony Perez	-	President
P. Garth Gartrell	-	Treasurer
P. Garth Gartrell	-	Secretary

Mr. Perez, chief executive officer and president, will manage the day to day activities for the Academy and Colina Park. The Academy will compensate Mr. Perez in the amount of \$4,000 a month. Neither Mr. Wright nor Mr. Gartrell are or have been compensated for their services. All directors and officers are expected to contribute as much time as necessary to assure that the Academy operates satisfactorily.

Except as discussed above, no person who has received or will receive compensation from the Academy is a director, officer or close relative of a director or officer.



NEW ADDITION
APPROX. 1,000 SQ. FT.

NO SCALE

COLINA PARK			
SCALE:	APPROVED BY:		DRAWN BY:
DATE:	Plot Plan		REVISED:
			DRAWING NUMBER

ASSIGNMENT OF LEASE

FOR VALUE RECEIVED, I, the undersigned R.A.F. CORPORATION, a California corporation do hereby assign, transfer and set over unto JERRY D. AKENS and DONNA K. AKENS , all my right, title and interest in and to that certain lease dated November 19, 1954, by and between THE CITY OF SAN DIEGO, a municipal corporation, as Lessor, and COLINA PARK RECREATION CENTER, INC., a California corporation, as Lessee, covering that certain property situated in the City of San Diego, County of San Diego, State of California, described as all those portions of Lots 15, 16, 17, 23 and 24 of LEMON VILLA, according to the Map thereof No. 734, filed in the Office of the County Recorder of San Diego County, December 2, 1892, as more particularly described on Exhibit "A" attached hereto and composed of one page. Said premises is known as "COLINA PARK GOLF COURSE" at 4085 52nd Street, San Diego, California 92105. Together with all my right, title and interest in and to prepaid rent and/or security type deposit on said lease, if any.

Dated: August 31, 1977

R.A.F. CORPORATION, a California corporation

_____, Lessee

By: John C. Federico, Lessee
President

_____, Lessee

By: _____, Lessee
Secretary

ACCEPTANCE OF ASSIGNMENT OF LEASE

I, JERRY D. AKENS and DONNA K. AKENS

do hereby accept the above assignment and agree to be bound by all of the conditions and covenants contained in said lease, and I promise to pay the rent therein reserved in the manner and at the times therein specified.

Dated: August 31, 1977

Jerry D. Akens
Jerry D. Akens

Donna K. Akens
Donna K. Akens

CONSENT TO ASSIGNMENT

I, THE CITY OF SAN DIEGO

Lessor named in the foregoing mentioned lease, do hereby consent to the Assignment thereof on the understanding that all the terms, conditions, provisions and covenants of said Lease shall remain and continue in full force and effect.

I also hereby certify that rent paid in advance in the sum of \$ _____ is held by me to cover the final _____ months rent on the said lease.

The next regular rent payment on said lease will be due _____ 19____, in the amount of \$ _____ per month, payable to _____

Telephone: _____

Dated: _____

_____, Lessor

_____, Lessor

_____, Lessor

_____, Lessor

August 31, 1977
Escrow No. 1-5208-K

EXHIBIT A

All those portions of Lots 15, 16, 17, 23 and 24 of Lemon Villa, in the City of San Diego, in the County of San Diego, State of California, according to the Map thereof No. 734, filed in the Office of the County Recorder of San Diego County, December 2, 1892, described as a whole as follows:

Beginning at intersection of the center line of University Avenue with a line drawn parallel with and 30.00 Feet Easterly of the West line of said Lemon Villa; thence North along said parallel line 341.60 Feet to the true point of beginning; thence continuing North along said parallel line 896.40 Feet; thence leaving said line North $62^{\circ}04'30''$ East 161.57 Feet; thence South $77^{\circ}36'30''$ East 109.21 Feet; thence North $72^{\circ}23'00''$ East 123.35 Feet; thence South $84^{\circ}36'50''$ East 41.79 Feet; thence South $64^{\circ}27'30''$ East 127.82 Feet; thence South $36^{\circ}07'09''$ East 50.25 Feet; thence South $11^{\circ}32'20''$ West 179.21 Feet; thence South $45^{\circ}55'50''$ West 91.86 Feet; thence South $04^{\circ}39'20''$ West 155.80 Feet; thence South $32^{\circ}05'20''$ East 222.60 Feet; thence South $46^{\circ}02'10''$ West 98.40 Feet; thence South $23^{\circ}14'30''$ East 114.97 Feet; thence South $16^{\circ}11'00''$ West 123.84 Feet; thence South $79^{\circ}35'00''$ West 85.53 Feet; thence North $89^{\circ}14'30''$ West 419.52 Feet to the true point of beginning.

TO 1945 CA (8-74)

(Corporation)



STATE OF CALIFORNIA }
COUNTY OF San Diego } SS.

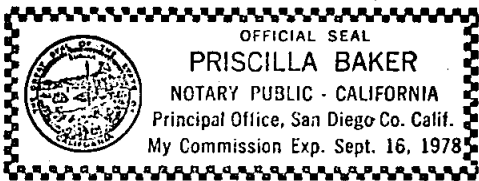
On September 13, 1977 before me, the undersigned, a Notary Public in and for said State, personally appeared John C. Federico

known to me to be the _____ President, and Richard Tatus

known to me to be _____ Secretary of the corporation that executed the within Instrument, known to me to be the persons who executed the within Instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

Signature Priscilla Baker



(This area for official notarial seal)

TO 1944 CA (8-74)

(Individual)



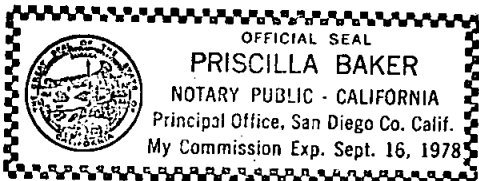
STATE OF CALIFORNIA }
COUNTY OF San Diego } SS.

On September 13, 1977 before me, the undersigned, a Notary Public in and for said State, personally appeared Jerry D. Akens and Donna K. Akens

_____, known to me to be the persons whose names are _____ subscribed to the within instrument and acknowledged that they executed the same.

WITNESS my hand and official seal.

Signature Priscilla Baker



(This area for official notarial seal)

TO 1945 CA (8-74)

(Corporation)



STATE OF CALIFORNIA }
COUNTY OF _____ } SS.

On _____ before me, the undersigned, a Notary Public in and for said State, personally appeared _____

known to me to be the _____ President, and _____

known to me to be _____ Secretary of the corporation that executed the within Instrument, known to me to be the persons who executed the within Instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

Signature _____

(This area for official notarial seal)