

CITY OF SAN DIEGO

CONSENT TO ASSIGNMENT OF LEASE AGREEMENT

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

NATIONAL GOLF & TENNIS INC.,

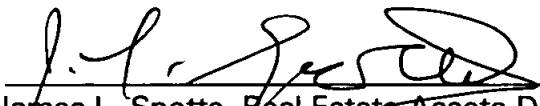
(LESSEE), dated August 8, 1988 and filed in the Office of the City Clerk as Document RR-271693, hereby consents to the Assignment of that Lease Agreement to

PRO KIDS GOLF ACADEMY, INC., a California nonprofit corporation

(ASSIGNEE), in accordance with the terms and conditions set out in the attached Assignment of Lease Agreement entered into by LESSEE and said ASSIGNEE, dated July 22, 1994 and in accordance with additional conditions as follows: It is agreed by all parties that City releases National Golf & Tennis Inc., from all obligations under the lease, accruing and/or relating from and following the assignment date, except that National Golf & Tennis will remain obligated to pay all rent accrued or due up to the date of assignment and will be responsible for any and all hazardous substances deposited, in, on, under, or from the premises during National Golf & Tennis' occupancy of the leased premises. The assignee will assume the rights and obligations assigned and will keep and perform all covenants, conditions, and provisions of this Lease Agreement.

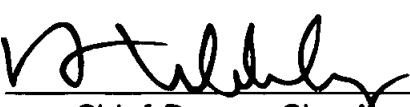
THE CITY OF SAN DIEGO

Dated 7/22/94

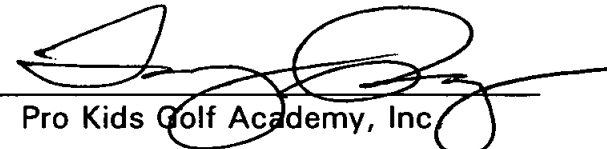
By 
James L. Spotts, Real Estate Assets Director
for the City Manager

APPROVED AS TO FORM AND LEGALITY THIS 19 DAY OF July,
1994

JOHN W. WITT, City Attorney

By 
Chief Deputy City Attorney

By 
National Golf & Tennis Inc.

By 
Pro Kids Golf Academy, Inc.

JLS:JVN:rc-j
7-19-94

Attachment:

ASSIGNMENT OF LEASE

This ASSIGNMENT OF LEASE ("Assignment") is made and entered into as of the _____ day of July, 1994, by and between NATIONAL GOLF & TENNIS, INC., a California corporation ("Assignor"), and PRO KIDS GOLF ACADEMY, INC., a California nonprofit corporation ("Assignee"), in connection with that certain Percentage Lease - Colina Park Public Golf Course dated August 8, 1988 ("Lease") by and between The City of San Diego, a municipal corporation, as Landlord, and Assignor, as Tenant, pursuant to which Landlord is leasing to Assignor the Colina Park Public Golf Course located within the City of San Diego, California ("Premises"), as more particularly described in the Lease, a copy of which is attached hereto as Exhibit "A." All defined terms used in this Assignment, unless specifically defined in this Assignment, shall have the same meaning as such terms have in the Lease.

1. Defined Terms. As used in this Assignment, the following capitalized terms have the following meanings:

(a) "Assignment Date" means the date on which all of the Conditions to Assignment have been satisfied.

(b) "Conditions to Assignment" means the conditions set forth in Section 5 below.

(c) "Required Consent" means the consent and authorization which is required to be obtained pursuant to Section 4.02 of the Lease with respect to this Assignment.

(d) "Scheduled Assignment Date" means ~~August 1~~ ^{September} 1, 1994.

2. Assignment of Lease. In consideration of the payment of Three Thousand Five Hundred and No/100 Dollars (\$3,500.00), which payment shall be made by Assignor to Assignee on the Assignment Date, Assignor hereby grants, transfers, conveys and assigns to Assignee, effective as of the Assignment Date, all of Assignor's right, title and interest in and to the Lease, the Equipment (as defined below) and the Contracts (as defined below).

3. Assumption of Obligations. Assignor hereby assigns to Assignee, and Assignee hereby assumes, all of the obligations and liabilities of Assignor under the Lease which accrue following the Assignment Date. Assignee hereby agrees to defend, indemnify and hold Assignor harmless from and against any and all claims, demands, causes of action, liabilities, losses, costs and expenses (including, without limitation, costs of suit and reasonable attorneys' fees) arising from or in connection with the obligations and liabilities assumed by Assignee hereunder. Assignor hereby agrees to defend, indemnify and hold Assignee harmless from and against any and all claims, demands, causes of

action, liabilities, losses, costs and expenses (including without limitation costs of suit and reasonable attorneys' fees) arising from or in connection with any obligation or liability of Assignor under the Lease which accrue prior to the Assignment Date. No assumption by Assignee of any obligations of Assignor under this Section 3 shall be effective except in conjunction with the assignment of the rights and interests of Assignor pursuant to Section 2 above.

4. Delivery of Premises. On the Assignment Date, Assignor shall deliver the Premises to Assignee, together with all of the furniture, fixtures, equipment and improvements related to the operation of a public golf course on the Premises (collectively, "Equipment"), which is more fully described on the attached Exhibit "B," clear of all other personal property of Assignor and free of debris, but otherwise in its "as is" condition.

5. Conditions to Assignment. Notwithstanding anything to the contrary contained in this Assignment, no assignment by Assignor to Assignee described herein shall be effective until each of the following conditions (collectively, "Conditions to Assignment") have been fulfilled:

(a) Assignor and Assignee have obtained the Required Consent;

(b) Assignor has prepared and delivered to Assignee a bill of sale for all of the Equipment set forth on the attached Exhibit "B"; and

(c) Assignor has prepared and delivered to Assignee a comprehensive list of all of the contracts which affect the Premises and the operation of a public golf course thereon (collectively, "Contracts"), which list shall be attached to this Assignment as Exhibit "C."

6. Representations and Warranties of Assignor.

(a) Assignor hereby represents and warrants to Assignee, as of the date on which this Assignment is executed by Assignor, that:

(i) A true and complete copy of the Lease, together with all supplements, amendments and other modifications thereto, is attached hereto as Exhibit "A" and made a part hereof. The "Commencement Date" under the Lease occurred on September 1, 1988 and the Lease term shall expire on August 31, 2013.

(ii) The Lease is in full force and effect, and Assignor's rights and interests under the Lease are free of any liens, charges and encumbrances created by Assignor.

(iii) There are no contracts or other agreements (other than the Lease) by which Assignor is bound in connection with its tenancy of the Premises which will survive the Assignment Date and which are not set forth on the attached Exhibit "C."

(iv) All of the permits and approvals required by local governmental and quasi-governmental agencies having jurisdiction over the Premises for the operation of a public golf course on the Premises (collectively, "Land Use Approvals") are in full force and effect, and Assignor is unaware of any violation or pending violation of any of the Land Use Approvals or of any of the conditions contained therein.

(v) Assignor has not used, generated, stored or disposed of, or permitted the use, generation, storage or disposal of, any hazardous material or substance (as defined by applicable environmental laws and regulations) on, under, about or within the Premises in violation of any law or regulation.

(b) Following the execution of this Assignment by Assignor and until the Assignment Date occurs, Assignor shall not, without the prior written consent of Assignee, take any action, or omit to take any action, which will render any representation or warranty set forth herein inaccurate, and shall notify Assignee in writing, within three (3) business days of Assignor's learning thereof from time to time, of any fact or circumstance that renders any such representation or warranty inaccurate. Without limiting the generality of the foregoing, Assignor shall not, without Assignee's prior written consent, (i) supplement, amend or otherwise modify the Lease or any Contract or other agreement assigned to Assignee hereunder; (ii) enter into any agreement or contract which affects the Premises; or (iii) pledge, grant a security interest in or otherwise hypothecate any of the Equipment.

(c) Assignee acknowledges that, except for the representations and warranties expressly set forth in this Section 6, Assignor has made no representations or warranties, express or implied, with respect to the Lease.

7. Termination Right. In the event that, for any reason, the Assignment Date shall not occur on or before August 1, 1994, Assignee shall have the one-time right ("Termination Right"), exercisable by delivery of irrevocable written notice to Assignor specifying in reasonable detail the action which has not occurred which has delayed the occurrence of the Assignment Date ("Termination Notice") at any time thereafter, to terminate this Assignment effective on the date which is thirty (30) days following delivery to Assignor of the Termination Notice.

8. Further Assurances. Each party hereto shall execute, acknowledge and deliver to each other party all documents, and shall take all actions, reasonably required by such other party from time to time to confirm or effect the matters set forth herein, or otherwise to carry out the purposes of this Assignment, including without limitation obtaining required consents, if any, from parties to the Contracts.

9. Attorneys' Fees. In the event that any litigation or arbitration shall be commenced concerning this Assignment by any party hereto, the party prevailing in such litigation or arbitration shall be entitled to recover, in addition to such other relief as may be granted, its reasonable costs and expenses, including without limitation reasonable attorneys' fees and court costs as awarded by a court of competent jurisdiction or the arbitrator(s).

10. Notices. All notices, demands, approvals and other communications provided for in this Assignment shall be in writing and shall be delivered via U.S. Mail, recognized overnight courier or electronic telecopier to the appropriate party at its address as follows:

If to Assignor: National Golf & Tennis, Inc.
879 W. 190th Street, Suite 550
Gardena, California 90248
Attn: Mr. James Duffin
FAX: (310) 352-6215

If to Assignee: Pro Kids Golf Academy, Inc.
3525 Del Mar Heights Road #444
San Diego, CA 92130
Attn: Tony Perez
FAX: (619) 481-7063

With a copy to: Pillsbury Madison & Sutro
101 West Broadway, Suite 1800
San Diego, California 92101
Attn: P. Garth Gartrell, Esq.
FAX: (619) 236-1995

Addresses for notice may be changed from time to time by written notice to all other parties. All communications shall be effective when actually received; provided, however, that nonreceipt of any communication as the result of a change of address of which the sending party was not notified or as the result of a refusal to accept delivery shall be deemed receipt of such communication.

11. No Third Parties Benefitted. This Assignment is made for the purpose of setting forth certain rights and obligations of Assignee and Assignor, and no other person shall have any rights hereunder or by reason hereof as a third party beneficiary or otherwise.

12. Miscellaneous. This Assignment shall bind, and shall inure to the benefit of, the successors and assigns of the parties hereto. This Assignment may be executed in counterparts with the same force and effect as if the parties had executed one instrument, and each such counterpart shall constitute an original hereof. No provision of this Assignment that is held to be inoperative, unenforceable or invalid shall affect the remaining provisions, and to this end all provisions hereof are hereby declared to be severable. Time is of the essence of this Assignment. This Assignment shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Assignment of Lease as of the date first above written.

ASSIGNOR:

NATIONAL GOLF & TENNIS, INC., a
California corporation

By: James K. Ruff

Name: James K. Ruff

Title: President

By: James K. Ruff

Name: James K. Ruff

Title: Secretary

ASSIGNEE:

PRO KIDS GOLF ACADEMY, INC., a
California nonprofit corporation

By: Tom Pence

Name: Tom Pence

Title: President

By: _____

Name: _____

Title: _____

EXHIBIT "A"

Lease

[to be attached]

EXHIBIT "B"

Equipment

[to be provided by Assignor]

EXHIBIT "C"

Contracts

[to be provided by Assignor]



THE CITY OF

SAN DIEGO

PROPERTY DEPARTMENT, MAIL STATION 51-A

SECURITY PACIFIC PLAZA, 1200 THIRD AVENUE, SUITE 1700

SAN DIEGO, CALIFORNIA 92101-4199

TELEPHONE: (619) 236-6020

FAX: (619) 696-0590

File: Leases - National Golf & Tennis, Inc.

February 28, 1992

Mr. John B. O'Donnell
National Golf & Tennis, Inc.
919 W. Sierra Madre
Azusa, CA 91702

CITY OF SAN DIEGO	
PROPERTY DEPT.	
☐	DIRECTOR
☐	DEPUTY MANAGER
☒	FILE COPY
☐	CHRON. COPY
☐	ORIGINATOR

RE: Colina Golf Course

Dear Mr. O'Donnell:

We have received your request to modify the hours of operation for Colina Golf Course. You stated the reason for the request is that the lighting system does not work.

The lease agreement between National Golf and the City calls for National Golf to abide by the Development Plan. The plan states that the lighting system will be renovated during the third lease year (September 1, 1990 through August 31, 1991).

While a closing time of dusk, rather than 10:00 p.m. is acceptable to the City at this time, we strongly encourage you to abide by the Development Plan and begin the improvements specified therein.

Linda Fierro of this office will be contacting you within the next month to further discuss the Development Plan and your intention to begin improvements.

Should you have any comments or questions, contact Linda at (619) 236-6985.

Jane E. Vickers
Jane E. Vickers, Supervising Property Agent
Marketing Division

JEV:LMF:lmf

cc: Kathy Hasenauer, Park & Recreation
Dan Tolino, Park & Recreation