

Attachment B
Concession Agreement

**ASSIGNMENT, ASSUMPTION OF PERFORMANCE, AND CONSENT TO
ASSIGNMENT OF CONCESSION AGREEMENT**

THIS ASSIGNMENT, ASSUMPTION OF PERFORMANCE, AND CONSENT TO ASSIGNMENT OF CONCESSION AGREEMENT (hereinafter, "Assignment Agreement"), is made by and between **PYRAMID ENTERPRISES, INC.**, dba Rocky Mountain Recreation Company, as ASSIGNOR, **ADVENCO, LLC**, as ASSIGNEE, and **COUNTY OF SANTA BARBARA** (hereinafter, the "COUNTY").

RECITALS

WHEREAS, on January 10, 2012, the United States of America Department of the Interior, Bureau of Reclamation ("Reclamation") and COUNTY entered into an Agreement for the Administration, Operation, Maintenance, and Development of Recreation at Lake Cachuma ("Master Agreement"); and

WHEREAS, on March 6, 2012, COUNTY and ASSIGNOR entered into the Concession Agreement to allow ASSIGNOR to occupy and use property of the United States of America at Lake Cachuma for the purpose of operating the Camp Store and Marina (hereinafter, the "Concession Agreement"). A copy of the Concession Agreement is attached hereto as Exhibit "A" and incorporated herein by this reference; and

WHEREAS, ASSIGNOR and ASSIGNEE entered into that certain Asset Purchase Agreement dated March 25, 2021 (the "Purchase Agreement"), pursuant to which ASSIGNOR will sell to ASSIGNEE substantially all of the assets used in connection with the operations of ASSIGNOR; and

WHEREAS, ASSIGNEE has expressed a desire to assume the rights, interests, and obligations as CONCESSIONAIRE under the Concession Agreement; and

WHEREAS, Section 6 of the Concession Agreement requires COUNTY's written consent to ASSIGNOR's assignment of the Concession Agreement to ASSIGNEE; AND

WHEREAS, ASSIGNOR has requested that COUNTY consent to the assignment of ASSIGNOR's rights, interests, and obligations as CONCESSIONAIRE under the Concession Agreement to ASSIGNEE (hereinafter, the "Assignment"); and

WHEREAS, COUNTY is willing to consent to the Assignment, subject to the terms and conditions contained herein; and

WHEREAS, Reclamation consents to the Assignment, subject to the terms, conditions, exceptions, and reservations in the Concession Agreement and the Master Agreement; and

WHEREAS, ASSIGNEE represents that it is specially trained, skilled, experienced, and competent to perform the services required by COUNTY according to the terms, covenants, and conditions set forth in the Concession Agreement.

NOW THEREFORE, in consideration of the mutual promises, covenants, and conditions contained herein, the parties hereby agree as follows:

1. **RECITALS:** The above-stated recitals are true and correct and are incorporated into the terms and conditions of this Assignment Agreement as set forth in full herein.

2. **ASSIGNMENT:** ASSIGNOR hereby conveys, assigns, and transfers to ASSIGNEE all of ASSIGNOR's rights, title, and interests in and to the Concession Agreement between ASSIGNOR and COUNTY, effective upon the consummation and closing of the Purchase Agreement that is estimated to take place in April of 2021, or the date the Assignment Agreement is executed by COUNTY, whichever is later (hereinafter, "Effective Date").

3. **ASSUMPTION OF PERFORMANCE:** ASSIGNEE hereby accepts the Assignment and hereby assumes all rights, burdens, and obligations imposed by the Concession Agreement, and agrees to pay and perform any and all duties, liabilities, and obligations of ASSIGNOR with respect to the Concession Agreement and shall be bound by all of the terms, conditions, and covenants thereof, with the same force and effect as its predecessor in interest, ASSIGNOR; provided, however, that it is specifically agreed that ASSIGNEE shall not be responsible for the discharge and performance of any duties, obligations, or liabilities to be performed or discharged in connection with the Concession Agreement prior to the Effective Date hereof. ASSIGNOR shall remain responsible for the discharge and performance of all duties and obligations and liable for all payments arising out of, in connection with, or with respect to the Concession Agreement prior to the Effective Date hereof.

4. **CONSENT TO ASSIGNMENT:** COUNTY hereby consents to the Assignment of ASSIGNOR's rights, title, and interests under the Concession Agreement, and the assumption by ASSIGNEE of any and all

duties, liabilities, and obligations of ASSIGNOR under the Concession Agreement arising on and after the Effective Date.

5. **RELEASE AND DISCHARGE:** As of the Effective Date, ASSIGNOR releases and discharges COUNTY from any and all obligations and liabilities owed to ASSIGNOR under the Concession Agreement. COUNTY agrees to look to ASSIGNEE first for the performance of the Concession Agreement. However, COUNTY does not release ASSIGNOR from its obligations, and if ASSIGNEE fails to perform all its obligations and duties under the Concession Agreement, COUNTY shall have the right to look to ASSIGNOR for performance and ASSIGNOR shall perform in ASSIGNEE'S stead. In the event that ASSIGNOR is required to perform on ASSIGNEE'S behalf, ASSIGNOR shall have all remedies available in law and equity as against ASSIGNEE.

6. **REPRESENTATIONS:**

A. **ASSIGNOR REPRESENTATIONS:** ASSIGNOR hereby represents and warrants that ASSIGNOR: (i) has full power and authority to assign the Concession Agreement to ASSIGNEE; (ii) has not previously transferred or conveyed its interest in the Concession Agreement to any person or entity; and (iii) has full power and authority to enter into this Assignment Agreement.

B. **ASSIGNEE REPRESENTATIONS:** ASSIGNEE hereby represents and warrants that ASSIGNEE has full power and authority to enter into this Assignment Agreement.

7. **NOTICES:** Any notices required or permitted to be given under this Assignment Agreement or Concession Agreement shall be given to the respective party in writing, by personal delivery or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To COUNTY:

Business Manager
Community Services Department, Parks Division
County of Santa Barbara
123 Anapamu Street, 2nd Floor
Santa Barbara, CA 93101

To ASSIGNEE:

Frank Pikus
Advenco, LLC
DBA Rocky Mountain Recreation

13725 Metcalf
Suite 426
Overland Park, Kansas 66223

or at such other address or to such other person that the parties may from time to time designate. If sent by first class mail, notices and consents under this section shall be deemed to be received five (5) days following their deposit in the U.S. mail. This section shall not be construed as meaning that either party agrees to service of process except as required by law.

8. **SECTION HEADINGS:** The headings of the sections shall be solely for convenience of reference and shall not affect the meaning, construction, or effect hereof.

9. **SEVERABILITY:** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal, or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Assignment Agreement shall be construed as if such invalid, illegal, or unenforceable provision is not contained herein.

10. **ENTIRE AGREEMENT AND AMENDMENT:** In conjunction with the matters considered herein, this Assignment Agreement contains the entire understanding and agreement of the parties, and there have been no promises, representations, agreements, warranties, or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Assignment Agreement may be altered, amended, or modified only by an instrument in writing, executed by the parties to this Assignment Agreement and by no other means. Each party waives its future right to claim, contest, or assert that this Assignment Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver, or estoppel.

11. **SUCCESSORS AND ASSIGNS:** All representations, covenants, and warranties set forth in this Assignment Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors, and assigns.

12. **CALIFORNIA LAW AND JURISDICTION:** This Assignment Agreement shall be governed by the laws of the State of California. Any litigation regarding this Assignment Agreement or its contents shall be filed in the County of Santa Barbara if in state court, or in the Federal district court nearest to Santa Barbara County if in Federal court.

13. **EXECUTION OF COUNTERPARTS:** This Assignment Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all

such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

14. **AUTHORITY:** All signatories and parties to this Assignment Agreement warrant and represent that they have the power and authority to enter into this Assignment Agreement in the names, titles, and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or Federal law in order to enter into this Assignment Agreement have been fully complied with. Furthermore, by entering into this Assignment Agreement, ASSIGNOR and ASSIGNEE hereby warrant that neither have breached the terms or conditions of any other contract or agreement to which either is obligated, which breach would have a material effect hereon.

15. **SURVIVAL:** All provisions of this Assignment Agreement which by their nature are intended to survive the termination or expiration of this Assignment Agreement shall survive such termination or expiration.

16. **NO FURTHER AMENDMENT:** In all other respects, the terms and conditions of the Concession Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, COUNTY, ASSIGNOR, and ASSIGNEE have signed this Assignment Agreement by the respective authorized officers as set forth below to be effective on the Effective Date.

"COUNTY"
COUNTY OF SANTA BARBARA

ATTEST:
MONA MIYASATO
CLERK OF THE BOARD

By: _____
Chair, Board of Supervisors

By: _____


Date: _____

"ASSIGNOR"
PYRAMID ENTERPRISES, INC



Chet Roberts

"ASSIGNEE"
ADVENCO, LLC



Frank Pikus

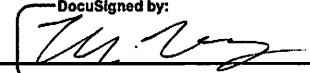
PRESIDENT
Title: _____ Title: President

APPROVED:

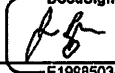


Director, Community Services Dept.

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

DocuSigned by:

By: _____
Mike Muñoz
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:
BETSY M. SCHAFFER, C.P.A.
AUDITOR-CONTROLLER

DocuSigned by:

By: _____
Deputy

APPROVED:
DocuSigned by:



Ray Aramatorio, ARM, AIC
Risk Manager

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By: _____

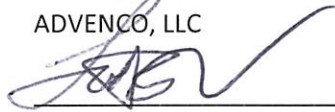
Date: _____

"ASSIGNOR"
PYRAMID ENTERPRISES, INC



Chet Roberts

"ASSIGNEE"
ADVENCO, LLC



Frank Pikus

PRESIDENT

Title: _____

Title: President

APPROVED:



Director, Community Services Dept.

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

By: _____
Mike Munoz
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:
BETSY M. SCHAFFER, C.P.A.
AUDITOR-CONTROLLER

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Deputy

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Chair, Board of Supervisors

By: _____


Date: _____

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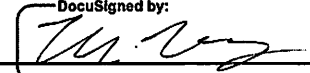
PRESIDENT
Title: _____ Title: President

APPROVED:

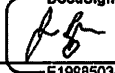


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Mike Muñoz
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Deputy

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Chair, Board of Supervisors

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Date: _____

"ASSIGNOR"
PYRAMID ENTERPRISES, INC



Chet Roberts

"ASSIGNEE"
ADVENCO, LLC



Frank Pikus

PRESIDENT

Title: _____

Title: President

APPROVED:



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Mike Munoz
Deputy County Counsel

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Deputy

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Risk Manager