

CONSENT TO SUBLEASE
(Advenco LLC)

THIS CONSENT TO SUBLEASE ("Consent") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("City"), and PYRAMID ENTERPRISES, INC., d/b/a Rocky Mountain Recreation Co., a California corporation ("Concessionaire"), to be effective upon the respective authorized representatives of City and Concessionaire all signing this Consent and the form of this Consent being approved by the San Diego City Attorney. This Consent is made and entered into in reference to the following facts:

RECITALS

- A. City and Concessionaire are parties to that certain Concession Agreement, dated February 20, 2018, and filed in the Office of the City Clerk, San Diego, California, as Document No. 00-20895 ("Agreement"), for the purpose of operating concessions at City reservoirs, including El Capitan Reservoir, Hodges Reservoir, Otay Reservoir, San Vicente Reservoir, Sutherland Reservoir, Murray Reservoir, and Miramar Reservoir, as more particularly described in the Agreement ("Premises").
- B. Concessionaire now desires to sublease the Premises to Advenco LLC, a Delaware limited liability company ("Sub-Concessionaire"), for the operation of a snack bar; selling fishing tackle, bait, State of California fishing licenses, license stamps, and daily recreations use permits; renting motorboats, rowboats, kayaks, paddleboats, and bicycles; hosting fishing tournaments, community awareness programs, and classes; and using on-site RV pads for manager housing at El Capitan Reservoir, Hodges Reservoir, Otay Reservoir, San Vicente Reservoir, and Sutherland Reservoir. A true and correct copy of the Sub-Concessionaire Agreement between Concessionaire and Sub-Concessionaire (subject to this Consent being effective) is attached to this Consent as Exhibit "A" ("Sub-Concessionaire Agreement").
- C. The Agreement requires City's consent to the license or sublease of any portion of the Premises by Concessionaire.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are acknowledged, City and Concessionaire agree as follows:

- 1. **City Consent to Sublease.** Subject to the terms and conditions of this Consent and the Agreement, City consents to Concessionaire subleasing to Sub-Concessionaire the Premises. All terms and conditions of the Agreement shall control and supersede all inconsistent or contrary provisions in the Sub-Concessionaire Agreement.
- 2. **Concessionaire's Obligations.** City's consent to the Sub-Concessionaire Agreement is conditioned upon Concessionaire's written agreement in the Sub-Concessionaire Agreement to continue to perform all of its obligations under the Agreement.
- 3. **No Effect on Agreement.** Notwithstanding any provision of this Consent to the contrary, this Consent does not release, discharge, or modify any obligation of Concessionaire under the Agreement.

4. Subsequent Subleasing. This Consent does not constitute City's consent to any subsequent assignment, sublease, or license and does not relieve Concessionaire or any person claiming under or through Concessionaire of the obligation to obtain City's consent to any future assignment, sublease, or license pursuant to the Agreement.
5. Processing Fees. Concessionaire agrees to pay City all applicable processing and/or administrative fee(s) charged by City for processing this Consent.
6. Brokerage Commissions or Finder's Fees. Concessionaire acknowledges and agrees that City will not be liable for any brokerage commission or finder's fee in connection with the consummation of the Sub-Concessionaire Agreement. Concessionaire agrees to protect, defend, indemnify, and hold City harmless from any brokerage commission or finder's fee in connection with the consummation of the Sub-Concessionaire or this Consent, and from any cost or expense (including attorney fees) incurred by City in resisting any claim for any such brokerage commission or finder's fee. The provisions of this Section 6 shall survive the expiration or earlier termination of the Agreement, the Sub-Concessionaire Agreement, or this Consent.
7. Consideration for Sub-Concessionaire Agreement. Concessionaire represents and warrants to City that a true, correct, and complete copy of the Sub-Concessionaire Agreement is attached to this Consent as Exhibit "A."
8. Subordination. The Sub-Concessionaire Agreement is subject to and subordinate to the covenants and conditions of the Agreement. The Sub-Concessionaire Agreement may only be in effect while the Agreement is in effect. Nothing in this Consent modifies the expiration date of the Agreement or Sub-Concessionaire Agreement. Concessionaire represents and warrants to City that Concessionaire provided Sub-Concessionaire a true, correct, and complete copy of the Agreement before Sub-Concessionaire entered into the Sub-Concessionaire Agreement.
9. Concessionaire Estoppels. Concessionaire certifies the following to City as of the date of this Consent:
 - a. Concessionaire has not assigned its interest in the Agreement;
 - b. The Agreement is in full force and effect, there have been no amendments, modifications, changes, or additions to the Agreement since its execution; and
 - c. Concessionaire is not in default under the Agreement and no event has occurred that would constitute a default under the Agreement by Concessionaire, without regard for any requirement to give notice and/or for the passage of time.
10. No Fee Title Encumbrance. Nothing in this Consent or any document referenced in this Consent is intended to create or authorize the creation of any transfer, lien, or encumbrance affecting the fee title to the Premises.

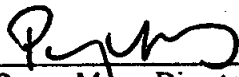
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**SIGNATURE PAGE
TO
CONSENT TO SUBLEASE
(Advenco LLC)**

IN WITNESS WHEREOF, this Consent is made and entered into by and through the signatures of the respective authorized representative(s) of City and Concessionaire, as set forth below:

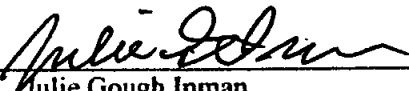
THE CITY OF SAN DIEGO, a California municipal
corporation

Date: 4-30-2021

By: 
Penny Maus, Director
Real Estate Assets Department

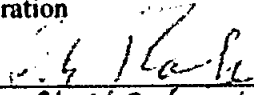
Approved as to form this 30th
day of April, 2021

MARA W. ELLIOT, City Attorney

BY: 
Julie Gough Inman
Deputy City Attorney

PYRAMID ENTERPRISES, INC., d/b/a Rocky
Mountain Recreation Co., a California
corporation

Date: _____

By: 
Name: Chet Roberts
Title: president