

**SUBMITTAL TO THE FLOOD CONTROL AND  
WATER CONSERVATION DISTRICT  
BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM: 11.5  
(ID # 21321)

**MEETING DATE:**

Tuesday, February 28, 2023

**FROM :** FLOOD CONTROL DISTRICT:

**SUBJECT:** FLOOD CONTROL DISTRICT: Approval of License Agreement By and Between the United States of America, Acting By and Through the Department of the Army, and the Riverside County Flood Control and Water Conservation District for the Design, Installation and Maintenance of the Mural on the Prado Dam Spillway, CEQA Exempt per State CEQA Guidelines Section 15301 and 15061(b)(3), District 2. [\$0]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Find that the License Agreement is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301, Existing Facilities, and Section 15061(b)(3), the "Common Sense" exemption;
2. Approve the License Agreement ("Agreement") By and Between the United States of America, Acting By and Through the Department of the Army, and the Riverside County Flood Control and Water Conservation District ("District") and authorize the Chair of the District's Board of Supervisors ("Board") to execute the Agreement documents on behalf of the District;
3. Approve the Certificate of Authority ("Certificate"), contained within the Agreement, and authorize the General Manager-Chief Engineer to sign the Certificate on behalf of the District;

Continued on Page 2

**ACTION:Policy**

Jason Unley, GENERAL MGR-CHF FLD CNTRL ENG

2/23/2023

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Spiegel seconded by Supervisor Perez and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Gutierrez  
Nays: None  
Absent: None  
Date: February 28, 2023  
xc: Flood

Kimberly Rector  
Clerk of the Board

By:   
Deputy

**SUBMITTAL TO THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD  
OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

**RECOMMENDED MOTION:** That the Board of Supervisors:

4. Authorize the General Manager-Chief Engineer or designee to take all necessary steps to implement the Agreement, including, but not limited to, negotiating, approving and executing any future non-substantive amendments to the Agreement that do not materially change the provisions of the Agreement, subject to approval as to form by County Counsel;
5. Authorize the General Manager-Chief Engineer, at his sole discretion, to terminate the Agreement in accordance with the terms and conditions of the Agreement if such action is desired by the District; and
6. Direct the Clerk of the Board to return three (3) copies of the executed Agreements to the District.

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: N/A			Budget Adjustment: No	
			For Fiscal Year: N/A	

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

The original Prado Dam bicentennial mural was completed on June 17, 1976 by 30 students from Corona High School as part of the Nation's bicentennial celebration to honor the 200<sup>th</sup> anniversary of our Nation – from 1776 to 1976 ("Mural"). It has since become a source of civic pride for local residents and a landmark for traffic on one of the area's most heavily traveled thoroughfares – the 91 Highway.

Now, after successful coordination between the U.S. Army Corps of Engineers Los Angeles District ("Corps") and its partners, the aging Mural is getting safely removed to make way for a new one. With help from the Office of U.S. Rep. Ken Calvert (CA-42), the Corps secured \$2.5 million in federal dollars and removed the lead-based paint on the spillway, clearing the way for the repainting of the Mural in the same dimensions as the original Mural.

This License Agreement ("Agreement") sets forth the terms and conditions by which the United States of America, acting by and through the Department of the Army, will grant the District a license for the installation, operation and maintenance of the Mural. With the removal of the lead-based paint, this Agreement allows for the repainting of the Mural as it first existed in 1976 and for its ongoing maintenance. To accomplish the repainting and maintenance of the Mural,

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the District will be entering into sub agreements that will be brought to its Board for approval in the near future.

County Counsel has approved the Agreement as to legal form.

**Environmental Findings**

The Agreement is exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Existing Facilities), which exempts the "minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use." The Agreement sets forth the terms and conditions by which the Department of the Army, will grant the District a license for the installation, operation and maintenance of the Mural on the existing Prado Dam Spillway. The sub agreements merely implement the repainting and maintenance of the Mural pursuant to the Agreement.

Additionally, the Agreement is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3) (Common Sense Exemption), which provides, "The activity is covered by the common-sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." The Agreement establishes the terms by which the original Mural will be restored on the existing dam spillway. Accordingly, because it can be seen with certainty that there is no possibility that the execution of the Agreement in question may have a significant effect on the environment, Section 15061(b)(3) of the State CEQA Guidelines applies.

**Impact on Residents and Businesses**

The proposed action entails no new fees, taxes or bonded indebtedness to residents or businesses. The Mural serves as a beacon of pride and patriotism for the surrounding communities.

**Additional Fiscal Information**

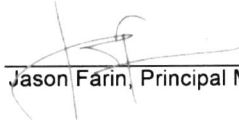
The Mural will be restored using funds raised by the Friends of the Prado Dam Mural, the Bicentennial Freedom Mural Conservancy and contributions from local businesses.

**ATTACHMENT:**

1. Vicinity Map
2. License Agreement

RMG:ju  
P8/249570

SUBMITTAL TO THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD  
OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



Jason Farin, Principal Management Analyst 2/23/2023



Aaron Gettis, Deputy County Counsel 2/23/2023

WHEN DOCUMENT IS FULLY EXECUTED RETURN  
**CLERK'S COPY**  
to Riverside County Clerk of the Board, Stop 1010  
Post Office Box 1147, Riverside, Ca 92502-1147  
Thank you.

**LICENSE AGREEMENT  
BY AND BETWEEN  
THE UNITED STATES OF AMERICA,  
ACTING BY AND THROUGH  
THE DEPARTMENT OF THE ARMY,  
AND  
THE RIVERSIDE COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT**

**THE SECRETARY OF THE ARMY**, hereinafter referred to as the Secretary, under authority of Title 10 United States Code, Section 2668, hereby grants to the Riverside County Flood Control and Water Conservation District, a body corporate and politic, hereinafter referred to as the Licensee, a license for the design, installation, and maintenance of artwork, hereinafter referred to as the Artwork, including the right of ingress and egress thereto, over, across, in and upon lands of the United States of America ("United States"), on the Prado Dam Spillway, as identified in **Exhibit A**, attached hereto and made a part hereof, hereinafter referred to as the Premises, for the purposes of installing and maintaining artwork, hereinafter referred to as the Artwork, on the Premises. This agreement is hereinafter referred to as the "License." Secretary and Licensee may be collectively referred to as "Parties."

**RECITALS**

**WHEREAS**, the Parties each acknowledge and agree that the Secretary's compliance with the applicable requirements of the National Environmental Policy Act ("NEPA") (42 U.S.C. §§ 4321 *et seq.*) and Licensee's compliance with the applicable requirements of the California Environmental Quality Act ("CEQA") (Cal. Pub. Res. Code § 21000 *et seq.*) are condition precedents to this License, and without first having complied with both NEPA and CEQA, this License may not be executed by the Parties;

**NOW, THEREFORE**, as consideration for the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree to enter into this License subject to the foregoing and the following terms, conditions and provisions:

**LICENSE**

**1. CONSIDERATION**

The consideration for this License shall be the design, installation, and maintenance of the Artwork on the Premises for the benefit of the general public and grant of all of Licensee's right, title, and interest in and to the Artwork to the United States, in accordance with the terms and conditions hereinafter set forth.

**2. TERM AND TERMINATION**

a. This limited, non-exclusive, non-transferrable, non-assignable, and temporary license is granted for a term of five (5) years, beginning 2 March, 2023 ("Effective Date"), and ending 1 March, 2028, but revocable by either Party pursuant to Sections 2(b) or 2(c) of this License.

b. This License may be terminated by the Secretary at any time and for any or no reason, with or without notice. To the extent possible, thirty (30) calendar days advance written notice shall be provided to Licensee prior to termination.

c. This License may be terminated by the Licensee upon thirty (30) calendar days advance written notice to the Secretary for any or no reason. The Licensee shall restore the conditions of the Premises as set forth herein prior to termination pursuant to Section 15 of this License.

**3. PERMITTED USE**

Licensee's permitted use of the Premises is solely for the design, installation and maintenance (to include cleaning, removing, repainting, graffiti removal, etc.) of Artwork on the Prado Dam Spillway (the "Permitted Use").

The Artwork shall not be installed on the Premises until and unless the Secretary approves the Artwork design and materials to be used and authorizes in writing the installation and/or maintenance (as applicable) of the Artwork on the Premises as set forth in Section 5. The location of the Artwork is set out on **Exhibit "A"**.

**4. NOTICES**

a. All correspondence and notices to be given pursuant to this License shall be addressed, if to the Licensee, to General Manager-Chief Engineer, Riverside County Flood Control and Water Conservation District, 1995 Market Street, Riverside, California 92501; and if to the United States, to the Real Estate Contracting Officer, U.S. Army Corps of Engineers, Real Estate Division, 915 Wilshire Boulevard, Suite 930, Los Angeles, California 90017; or as may from time to time otherwise be directed by the Parties.

b. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope or wrapper addressed as aforesaid, and deposited, postage prepaid, in a post office regularly maintained by the United States Postal Service.

c. Notices erroneously received by one Party shall be timely forwarded to the other Party at the address listed in Section 4.a.

**5. AUTHORIZED REPRESENTATIVES**

Except as otherwise specifically provided, any reference herein to "Secretary", or "Real Estate Contracting Officer", or "said officer" (as defined in Section 6) shall include their duly authorized representatives. Any reference to "Licensee" shall also include any representatives of the Licensee ("Licensee Representatives") duly authorized by Licensee to perform that function on behalf of the Licensee. Licensee may contract with approved third parties to install and maintain the Artwork, who are included in "Licensee Representatives" and shall be included in the right of ingress and egress, over, across, in and upon the Premises for the Permitted Use.

**6. SUPERVISION BY THE SECRETARY**

The use and occupation of the Premises shall be subject to the general supervision and approval of the Secretary and her duly authorized representatives, hereinafter referred to as "said officer", and to such rules and regulations as may be prescribed from time to time by said officer.

**7. APPLICABLE LAWS AND REGULATIONS**

Licensee and each of the Licensee Representatives shall at all times comply and are jointly and severally liable and responsible for complying with all applicable local, state and federal laws, including safety and health rules, regulations, and guidance promulgated by the Secretary and all local, state and federal requirements addressing those topics and subject matter set out in **Exhibit "B"**, attached hereto and made a part of this License by this reference.

**8. INSURANCE**

At all times during the Term, Licensee shall, at its own expense, maintain, at a minimum, insurance or self-insurance consistent with the requirements set out in **Exhibit "C"**, attached hereto and made a part of this License by this reference. Licensee shall provide proof of such coverage, in a form reasonably acceptable to the Secretary within ten (10) days of the Effective Date of this License.

**9. INDEMNITY**

The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property of the Licensee, or for damages to the property or injuries to the person of the Licensee's officers, agents, or employees or others who may be on the Premises at their invitation or the invitation of any one of them, and the Licensee shall hold the United States harmless from any and all such claims, not including damages due to the fault or negligence of the United States or its contractors, to the extent allowed by law.

**10. CONDITIONAL USE BY LICENSEE**

a. The Licensee hereby represents, warrants and covenants, solely for the benefit of the Secretary:

1. Licensee shall ensure for itself and for each of the Licensee Representatives that Licensee and the Licensee Representatives shall comply strictly with all terms and conditions of this License and all of the Secretary's policies, guidance, directives, rules, regulations and determinations at all times during the Term, including but not limited to Part 327 of Title 36 of the Code of Federal Regulations.

2. The Premises will be used by Licensee and Licensee Representatives only for the Permitted Use authorized herein in full compliance with all terms and conditions of this License and for no other purpose without the prior written consent of the Secretary, whose consent may be granted or withheld in the Secretary's sole and absolute discretion.

3. Licensee and the Licensee Representatives shall bear the sole responsibility and liability for furnishing and paying for all labor, materials, equipment and supplies used in conjunction with the exercise by the Licensee of any right granted hereunder. This provision does not prohibit Licensee from contracting with approved third parties who can furnish or pay for labor, materials, equipment, and supplies. Approval of third parties shall be sought in writing from the Secretary no less than thirty (30) days before the proposed action in accordance with Section 11. Approval of third parties shall not be unreasonably withheld by the Secretary.

4. Licensee shall obtain and pay for all permits, licenses and approvals that may be or are required for the Permitted Use of the Premises and require that all Licensee Representatives (as applicable) do the same during the Term. Licensee shall be solely responsible and liable for compliance with CEQA.

5. Licensee will not, nor will Licensee allow anyone else to, use hazardous materials or hazardous wastes on the Premises, including but not limited to any hazardous substance under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9601 *et seq.*) and its implementing regulations, or pursuant to Sections 25140 and 25316 of the California Health & Safety Code.

6. Licensee and Licensee Representatives will not, nor will Licensee and Licensee Representatives allow anyone else to, remove, relocate, alter or modify any existing portion of the Premises or the Artwork, nor attach, affix, or permit to be attached or affixed anything upon or to the Premises, nor relocate, replace, alter or modify any part of the Premises or any Artwork, equipment, materials or fixtures that form a part of or are considered a part of the Premises, without the prior written consent of an authorized representative of the Secretary in each instance, which consent may be



granted or withheld in the Secretary's sole and absolute discretion. Such approval shall be sought in writing from the Secretary no less than thirty (30) days before the proposed action in accordance with Section 11.

7. To the extent Licensee has any intellectual property rights in the Artwork, Licensee hereby irrevocably assigns, transfers, and conveys to the Secretary, and the Secretary hereby accepts, all of Licensee's right, title, and interest in and to the Artwork, including, but not limited to:

A. All copyrights in the works of authorship, whether registered or unregistered, arising under any applicable law of any jurisdiction throughout the world or any treaty or other international convention; registrations and applications for registration of such copyrights, copyrights in the works of authorship; and issuances, extensions, and renewals of such registrations and applications, if any;

B. All of Licensee's and Licensee Representatives' right, title, and interest in and to all copies and other tangible embodiments of the Artwork in all languages and in all forms and media now or hereafter known or developed, if any;

C. All licenses and similar contractual rights or permissions, whether exclusive or nonexclusive, related to any of the Artwork, if any;

D. All royalties, fees, income, payments, and other proceeds now or hereafter due or payable to Licensee with respect to any of the foregoing;

E. All claims and causes of action with respect to any of the foregoing, whether accruing before, on, or after the date hereof/accruing on or after the date hereof, including all rights to and claims for damages, restitution, and injunctive and other legal and equitable relief for past, present, and future infringement, misappropriation, violation, breach, or default; and,

F. All other rights, privileges, and protections of any kind whatsoever of Licensee accruing under any of the foregoing provided by any applicable law, treaty, or other international convention throughout the world.

8. To the extent that any rights of paternity, integrity, attribution, disclosure, withdrawal, and any other rights that may be known as "Moral Rights" are vested in Licensee as an author (sole or joint) of any of the Artwork, Licensee hereby absolutely and irrevocably waives and/or disclaims, in favor of the Secretary, to the extent permitted by applicable law, any and all claims Licensee may now or hereafter have in any jurisdiction to all such Moral Rights in relation to the Artwork.

9. To the extent Licensee develops, negotiates, and/or administers any contracts and/or agreements entered into with any Licensee Representatives for the purpose of performing or carrying out the Permitted Use, such agreements shall include provisions expressly conveying any right, title, and interest in the Artwork to the

Secretary, as well as disclaiming any remaining legal rights of ownership, use or control of, or moral rights in the Artwork.

10. Licensee shall collaborate with the Secretary on a joint public ceremony celebrating the installation of the Artwork. Licensee shall pay for all expenses related to the ceremony.

#### **11. OTHER LICENSOR RESPONSIBILITIES**

The Secretary will provide Licensee and, as requested on a case-by-case basis, certain Licensee Representatives access to the Premises for the purpose of carrying out the Permitted Use. Access to the Premises may be granted or denied by the Secretary on a case-by-case basis and all such access is subject to the prior approval of the Secretary in each instance.

Licensee shall obtain the Secretary's written approval before design, installation, maintenance, removal, relocation or alteration of the Artwork. Licensee shall submit its request for Design approval within ten (10) days execution of this License and the Secretary shall respond within ten (10) days receipt of the request. Licensee shall Notify the Secretary of its intent to enter the Premises thirty (30) days prior to any anticipated installation and maintenance activities. Approval of Licensee Representatives shall be included in this Notification and the Secretary shall respond within fifteen (15) days of receipt of Notification. Email correspondence submitted to the Los Angeles District Operations email inbox: splops@usace.army.mil shall be deemed sufficient for this coordination and approval.

#### **12. CONDITION OF PREMISES**

a. The Licensee acknowledges that it has inspected the Premises, knows its condition, and understands that the same is granted without any representations or warranties whatsoever and without any obligation on the part of the United States.

b. Licensee accepts the Permitted Use of the Premises in its "AS IS" and "WITH ALL FAULTS" condition. The Secretary shall have no obligation to repair, mitigate or clean the Premises prior to the Effective Date of this License or during the Term, regardless of the condition, hazard or risk.

#### **13. PROTECTION OF PROPERTY**

a. The Licensee shall keep the Premises in good order and in a clean, safe condition by and at the expense of the Licensee. The Licensee shall be responsible for any damage that may be caused to property of the United States by the activities of the Licensee under this License, and shall exercise due diligence in the protection of all property located on the Premises against fire or damage from any and all other causes.

b. Any property of the United States damaged or destroyed by the Licensee incident to the exercise of the privileges herein granted shall be promptly repaired or

replaced by the Licensee to a condition satisfactory to said officer, or at the election of said officer, reimbursement made therefore by the Licensee in an amount necessary to restore or replace the property to a condition satisfactory to said officer.

**14. DESTRUCTION OR DAMAGE**

If the Premises or Artwork, in whole or in part, are destroyed or damaged due to routine or emergency maintenance, force majeure, third party mischief, or by any other cause incidental to operation of the Prado Dam or beyond the reasonable control of the Secretary, Licensee shall have no right to claim reimbursement for costs or expenses associated with or relating to any improvements, repairs or other work performed on or about the Premises, including but not limited to the Artwork.

**15. RESTORATION**

a. On or before the expiration of this License or its termination, the Licensee shall vacate the Premises, remove the property of the Licensee, and restore the Premises to a condition satisfactory to said officer. If, however, this License is revoked, the Licensee shall vacate the Premises, remove said property and restore the Premises to the aforesaid condition within such time as the Real Estate Contracting Officer may designate. In either event, if the Licensee shall fail or neglect to remove said property and restore the Premises, then, at the option of said officer, the property shall either become the property of the United States without compensation therefore, or said officer may cause the property to be removed and no claim for damages against the United States or its officers or agents shall be created by or made on account of such removal and restoration work. The Licensee shall also pay the United States, on demand, any sum which may be expended by the United States after the expiration, revocation, or termination of this License in restoring the Premises.

b. Within the sole discretion of the Secretary, the Artwork installed and maintained pursuant to this License may remain in place after the expiration, revocation, or termination of this License or may be removed at the sole expense of the Licensee.

c. Licensee and the Licensee Representatives shall not remove or replace the Artwork without the express written authorization of the Secretary, and Licensee and the Licensee Representatives acknowledge, accept and agree that the Artwork is the sole and exclusive property of the Secretary.

**16. NO LIENS**

Licensee shall ensure for itself and for each of the Licensee Representatives that no liens or encumbrances of any kind are placed or attempted to be placed on the Premises or the Artwork or against any of the Secretary's other property wherever located as a result of, relating to or caused by the Permitted Use or any of the rights or privileges exercised by Licensee under this License. In the event of filing of any such liens or encumbrances, Licensee shall promptly cause such liens and encumbrances to be removed at its sole cost, liability and

expense. In no event shall the removal of any such lien or encumbrance take more than forty-five (45) days to accomplish, without the express written consent of the Secretary.

**17. UTILITIES AND FACILITIES**

The Secretary shall be under no obligation to furnish utilities or services for the Permitted Use.

**18. TAXES**

Before delinquency, Licensee shall be responsible for paying all taxes, assessments and similar charges applicable to the Permitted Use or this License. The term "taxes" as used in this License shall include, but is not limited to, any and all taxes associated with the Permitted Use, the License or any of Licensee's activities or use of the Premises. The term "taxes" shall also include all personal property taxes levied on or associated with the property used in the design, installation, use or maintenance of the Artwork; and, taxes of every kind and nature levied and assessed in lieu of, in substitution for, or in addition to, existing or additional real or personal property taxes associated with or relating to the Premises, the License, the Permitted Use or the Artwork, whether or not now customary or within the contemplation of either party.

**19. RELATIONSHIP OF THE PARTIES**

a. The Parties acknowledge and agree that nothing set forth in this License shall be deemed or construed to render the Secretary and Licensee, or the Secretary and any of the Licensee Representatives, as joint venturers, partners, associations, master-servant, agents, a joint enterprise, employer-employee, lender-borrower or contractors of each other or of any of their representatives. Neither Licensee nor any of the Licensee Representatives shall have any authority to employ any person as employee or agent on behalf of the Secretary for any purpose.

b. Neither Licensee nor any person using or involved in or participating in any actions or inactions relating to the Premises or this License shall be deemed an employee or agent of the Secretary, nor shall any such person or entity represent himself, herself or itself to others as an employee or agent of the Secretary. Licensee's status, as well as the status of the Licensee Representatives, shall be in an independent capacity and not as an employee or agent of the Secretary.

**20. NO THIRD PARTY RIGHTS**

Licensee intends to enter into separate agreements with third parties to carry out the Permitted Use, referred to as the Licensee Representatives, including, but not limited to, the painting and maintenance of the Artwork.

The Parties do not intend to create rights in, or to grant remedies to, any third party as a beneficiary of this License or of any duty, covenant, obligation, or undertaking established herein. This License shall not be construed as nor deemed to be an

agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action herein for any cause whatsoever. Furthermore, no member of or delegate to the United States Congress or resident commissioner shall be admitted to any share or part of this License or to any benefits to arise therefrom.

**21. NO LEASE**

No legal title, leasehold interest or other interest in or to the Premises or lands, buildings, or other areas appurtenant thereto shall be construed to have been created or vested in Licensee or the Licensee Representatives as a result of this License, or the use or occupancy of the Premises by Licensee or anyone else. The Parties acknowledge, accept and agree that this License is not a lease and no property rights or interests are granted herein.

**22. NON-DISCRIMINATION**

a. The Licensee shall not discriminate against any person or persons or exclude them from participation in the Licensee's operations, programs or activities conducted on the leased Premises, because of race, color, religion, sex, age, handicap, or national origin. The Licensee will comply with the Americans with Disabilities Act and attendant Americans with Disabilities Act Accessibility Guidelines (ADAAG) published by the Architectural and Transportation Barriers Compliance Board.

b. The Licensee, by acceptance of this License, is receiving a type of federal assistance and, therefore, hereby gives assurance that it will comply with the provisions of Title VI of the Civil Rights Act of 1964 as amended (42 U.S.C. § 2000d); the Age Discrimination Act of 1975 (42 U.S.C. § 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 C.F.R. Part 300) issued as Department of Defense Directive 5500.11 and 1020.1, and Army Regulation 600-7.

**23. ENVIRONMENTAL PROTECTION**

a. Within the limits of their respective legal powers, the Parties to this License shall protect the Premises against pollution of its air, ground and water. Licensee shall comply with all laws, regulations, conditions, or instructions affecting the activity hereby authorized if and when issued by the United States Environmental Protection Agency, or any federal, state, interstate or local governmental agency, department or entity having jurisdiction to abate or prevent pollution. Such regulations, conditions, or instructions in effect or prescribed by the Environmental Protection Agency, or any federal, state, interstate or local governmental agency, department or entity are hereby made a condition of this License. Licensee shall not discharge waste or effluent from the Premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

b. Licensee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs from Licensee's activities or that of any of the Licensee's Representatives, then Licensee shall be liable and responsible for restoring the damaged resources in full compliance with all applicable local, state and federal laws.

c. Licensee shall first obtain approval in writing from the Secretary before using any pesticides, fungicides or herbicides on or about the Premises.

**24. HISTORIC PRESERVATION**

Licensee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archeological, architectural or other cultural artifacts, relics, remains or objects of antiquity. In the event such items are discovered on the Premises, Licensee shall immediately notify the Secretary and protect the site and the material from further disturbance until the Secretary gives clearance to proceed with any of the Permitted Use.

**25. NO FUNDING OBLIGATION**

a. The Parties do not intend for this License to result in the transfer of funds, or other financial obligations, from the Secretary to Licensee or to any third party. This License neither authorizes, nor intends to obligate the Secretary to expend, exchange, or reimburse funds, services, or supplies, or transfer or receive anything of value (except as specifically outlined elsewhere in this License). Furthermore, no provision of this License will be interpreted to require an obligation or payment of funds in violation of 31 U.S.C. § 1341 or any other applicable law.

b. This License is not a contract for goods, services or other deliverables.

c. Nothing in this License may be construed to obligate the Secretary to any current or future expenditure of resources. Licensee will handle its own activities and use its own resources, including the expenditure of its own funds when legally appropriate, in pursuing the objectives enumerated in this License. This License does not create or support a gift of public funds.

**26. ENTIRE LICENSE; GOVERNING LANGUAGE**

This License constitutes the entire agreement by and between the Parties with respect to the subject matters hereof, and supersedes all prior understandings and agreements relating thereto. This License comprises the complete and final expression of the rights, obligations, duties, and undertakings of the Parties and sets forth all consideration, covenants, understandings and inducements pertaining thereto.

**27. WRITTEN MODIFICATIONS**

No agreement, amendment, modification, understanding or waiver of or with respect to this License or any term, provision, covenant or condition hereof, nor any approval or consent given under or with respect to this License, shall be effective for any purpose unless agreed to in writing and signed by authorized representatives of both Parties to this License.

**28. DISCLAIMER**

This License is effective only insofar as the rights of the United States in the Premises are concerned; and the Licensee shall obtain any permit or license which may be require by federal, state, or local statute in connection with the use of the Premises.

**29. REPRESENTATION BY COUNSEL**

Licensee acknowledges, agrees and represents that it knowingly and voluntarily enters into this License after having consulted with and having received the advice of Licensee's own independent and competent legal counsel in the negotiation, drafting and execution of this License.

**30. 10 U.S.C. § 2662 NOT APPLICABLE**

This License is not subject to Title 10, United States Code, Section 2662, as amended.

**IN WITNESS WHEREOF**, I have hereunto set my hand by authority of the Secretary of the Army, this 2<sup>nd</sup> day of March, 2023.



CHERYL CONNETT  
Real Estate Contracting Officer  
Los Angeles District

**IN WITNESS WHEREOF**, I have hereunto set my hand by authority of the Riverside County Flood Control and Water Conservation District, this 28<sup>th</sup> day of February, 2023.

Karen S. Spiegel

KAREN SPIEGEL  
Chair  
Riverside County Flood Control and Water Conservation  
District Board of Supervisors

ATTEST:  
KIMBERLY A. RECTOR, Clerk

By Bruna Smith  
DEPUTY

RECOMMENDED FOR APPROVAL:

J. Uhley

JASON E. UHLEY  
General Manager-Chief Engineer

FORM APPROVED COUNTY COUNSEL

BY Caroline Monroy 2-22-23  
CAROLINE K. MONROY DATE



**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )

: ss

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me the undersigned Notary Public, personally appeared (NAME), Chief, Real Estate Division, U.S. Army Engineer District, City, State, known to me to be the person described in the foregoing instrument, who acknowledged that (s)he executed the same in the capacity therein stated and for the purposes therein contained.

**IN WITNESS WHEREOF**, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

}  
§  
}

On February 28 2023, before me, Breanna Smith, Board Assistant, personally appeared Karen Spiegel, Chair of the Board of Supervisors, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument; and that a copy of this paper, document or instrument has been delivered to the chairperson.

I certify under the penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Kimberly A. Rector  
Clerk of the Board of Supervisors

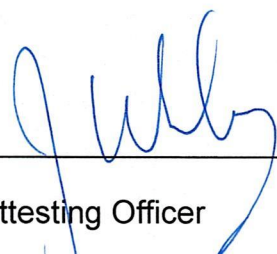
By: Breanna Smith  
Deputy Clerk

(SEAL)

**CERTIFICATE OF AUTHORITY**

I, Jason E. Uhley, certify that I am the Attesting Officer of the Riverside County Flood Control and Water Conservation District, named as Licensee herein; that Karen Spiegel, who signed this Agreement on behalf of the Riverside County Flood Control and Water Conservation District, was then Chair of the Board of Supervisors of the Agency; and that said Agreement was duly signed for and on behalf of the Riverside County Flood Control and Water Conservation District by authority of its governing body and is within the scope of its statutory powers.

**IN WITNESS WHEREOF**, I have hereunto set my hand on this 1st day of March, 2023.

  
\_\_\_\_\_  
Attesting Officer

**(The person that signed the attached instrument cannot sign Certificate.)**

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )

: **ss**

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me the undersigned Notary Public, personally appeared Karen Spiegel, Chair of Board of Supervisors, Riverside County Flood Control and Water Conservation District, known to me to be the person described in the foregoing instrument, who acknowledged that (s)he executed the same in the capacity therein stated and for the purposes therein contained.

**IN WITNESS WHEREOF**, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

**CERTIFICATE OF AUTHORITY**

I, (NAME), certify that I am the (SECRETARY or ATTESTING OFFICER) of the Riverside County Flood Control and Water Control District, named as Licensee herein; that Karen Spiegel, who signed this Agreement on behalf of Riverside County Flood Control and Water Control District, was then Chair of the Board of Supervisors of the Agency; and that said Agreement was duly signed for and on behalf of the Riverside County Flood Control and Water Control District by authority of its governing body and is within the scope of its statutory powers.

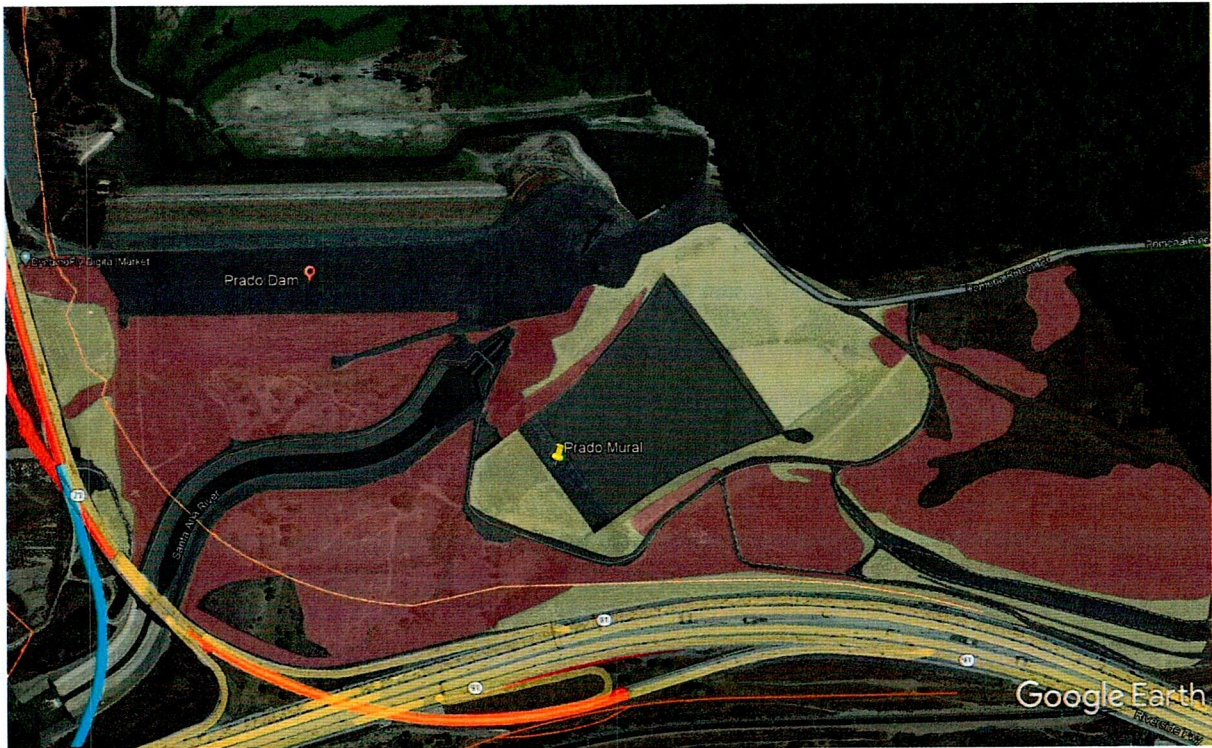
**IN WITNESS WHEREOF**, I have hereunto set my hand on this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_

(SECRETARY or ATTESTING OFFICER)

**(The person that signed the attached instrument cannot sign Certificate)**

EXHIBIT A



**EXHIBIT B**

**Environmental Regulations and Standards**

As applicable, any and all requirements, statutes, rules, regulations, guidelines, ordinances, codes, advisory circulars, policies, as well as licensing and permitting requirements, of local, state or federal environmental regulatory or permitting agencies, departments, offices, cities, counties, special districts or other municipalities, including but not limited to California Environmental Protection Agency (CalEPA); the Department of Toxic Substance Control (DTSC), the Certified Unified Program Agencies (CUPAs); Regional Water Quality Control Boards, and the South Coast Air Quality Management District. Those requirements may include, but are not limited to:

- Permits for any renovation, installation, construction, demolition, and/or remediation activities.
- Developing and providing, if required based on hazardous materials stored quantities, a business emergency/contingency plan.
- Filing a California Accidental Release Prevention Program form, and preparing and providing a risk management plan (RMP).
- Submitting the proper application and obtaining the proper permits for installation, operation or removal of any debris, fill, other materials, aboveground storage tanks (AST's), or underground storage tanks (USTs).
- Filing a petroleum storage statement with the CUPA and developing and implementing a Spill Prevention Control and Countermeasures plan (SPCC) required of certain facilities storing certain quantities of petroleum products, where applicable.

**Air Pollution Control**

1. Rules, Laws or Regulations pertaining to the discharge of smoke, dust equipment exhaust, or any other air contaminants into the atmosphere in such quantity as will violate any federal, state or local regulations.
2. Rules, Laws or Regulations pertaining to the abatement of dust nuisance (e.g. cleaning, sweeping and spraying with water or other means).
3. Any requirement for proper permits or registrations from the governing agencies for construction, demolition, and/or renovation activities. These activities may include but are not limited to asbestos abatement, and the installation, testing, operation, or removal of mobile and/or stationary equipment.

Dust

- a. Any requirement for removing from the Premises and other public areas, excavated materials and debris resulting from the project work.

- b. Any requirement for vehicles exiting the Premises to have dirt clods and mud removed from their tires.
- c. Any requirement to contain dust and remove it from the Premises at intervals sufficient to prevent contamination outside work limits and as directed. Any requirement for adequate watering techniques to alleviate accumulation of construction-generated dust.
- d. Any requirement for containment of dust emissions from all construction, transport, storage or handling activities, in accordance with South Coast Air Quality Management District (SCAQMD) Rule 403: Fugitive Dust, or other applicable requirements.
- e. Any requirement to comply with California Vehicle Code 23114, as amended, or other requirements pertaining to the regulation of spillage or the prevention of spillage from vehicles driving on streets or highways.
- f. Any requirements for complying with vehicle speed limits while traveling on unpaved construction sites and requirements to maintain at least six (6) inches of freeboard on haul vehicles.

#### Fuel

- a. Any requirement for the use of "cleaner burning diesel" fuel and exhaust emission controls. Any requirement for the use of alternative fuel or low emission vehicles.

#### Non-Road Mobile Source Controls

- a. Any requirement that prohibits staging or parking of construction vehicles (including workers' vehicles) on streets adjacent to schools, daycare centers, and hospitals.
- b. Any requirement that prohibits construction diesel vehicles or equipment from idling in excess of the idling restrictions as defined in any California Air Resources Board (CARB) Vehicle Idling Rules.
- c. Stationary Point Source Controls
- d. Any requirement for the use of any combination of electricity from power poles and electricity from portable diesel- or gasoline-fueled generators using "cleaner burning diesel" fuel and exhaust emission controls.
- e. Any limitations or requirements pertaining to the use of internal combustion engine water pumps, power generators, air compressors and other related construction equipment.

#### **Noise Control**

- 1. Any requirements pertaining to noise control or generation.
- 2. Any local sound control and noise level rules, regulations and ordinances which may apply.



**Spill Prevention and Emergency Response Plan.**

1. Any requirement for a spill prevention and emergency response plan, including any requirement to address measures to prevent sewage spills; procedures for spill control and containment, notifications, emergency response, cleanup, and spill and damage reporting.
2. Any requirement pertaining to storm drain systems and water courses within the vicinity of the project that could be affected by a sewage spill. Any sewage containment or prevention requirements.

**Historic, Archeological or other Site Standards:**

1. Any requirement to address, mitigate or avoid impacts to historic, archeological or other resources.

**CEQA:**

1. Any requirements to comply with the California Environmental Quality Act (CEQA) must be completed before the License is executed by Licensee or any of the Licensee Representatives.

**EXHIBIT C**

**INSURANCE REQUIREMENTS**

Within ten (10) calendar days from the Effective Date of this License, the Licensee shall provide the Secretary with certificates of insurance or self-insurance demonstrating that the following insurance is adequate, valid, and current.

- Workmen's Compensation & Employer's Liability Insurance                      \$100,000 or in an amount as required by California law, whichever is greater.
  
- General Liability Insurance    \$500,000 per occurrence
  
- Automobile Liability Insurance    \$200,000 per person and per vehicle
  
- Bodily injury    \$500,000 per occurrence
  
- Property damage    \$100,000 per occurrence

Licensee shall, at its own expense, provide and maintain during the Term of this License no less than the kinds and minimum amounts of insurance set out herein above.

Before commencing any of the Permitted Use, Licensee shall notify the Secretary's authorized representatives (as identified in this License) in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation of required insurance or any material change adversely affecting the Secretary's interest as an additional insured shall not be effective (1) for such period as the laws of the State in which this contract is to be performed prescribe or (2) until 30 days after the insurer or Licensee gives written notice to the Secretary, whichever period is longer.

The Licensee shall impose the same insurance requirements into its contracts with third parties who will be performing or carrying out any of the Permitted Use. The Licensee shall maintain a copy of all contractor and subcontractor proof of required insurance, and shall make copies of such insurance or certificates of insurance available to the Secretary upon request.

**LICENSE AGREEMENT  
BY AND BETWEEN  
THE UNITED STATES OF AMERICA,  
ACTING BY AND THROUGH  
THE DEPARTMENT OF THE ARMY,  
AND  
THE RIVERSIDE COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT**

**THE SECRETARY OF THE ARMY**, hereinafter referred to as the Secretary, under authority of Title 10 United States Code, Section 2668, hereby grants to the Riverside County Flood Control and Water Conservation District, a body corporate and politic, hereinafter referred to as the Licensee, a license for the design, installation, and maintenance of artwork, hereinafter referred to as the Artwork, including the right of ingress and egress thereto, over, across, in and upon lands of the United States of America ("United States"), on the Prado Dam Spillway, as identified in **Exhibit A**, attached hereto and made a part hereof, hereinafter referred to as the Premises, for the purposes of installing and maintaining artwork, hereinafter referred to as the Artwork, on the Premises. This agreement is hereinafter referred to as the "License." Secretary and Licensee may be collectively referred to as "Parties."

**RECITALS**

**WHEREAS**, the Parties each acknowledge and agree that the Secretary's compliance with the applicable requirements of the National Environmental Policy Act ("NEPA") (42 U.S.C. §§ 4321 *et seq.*) and Licensee's compliance with the applicable requirements of the California Environmental Quality Act ("CEQA") (Cal. Pub. Res. Code § 21000 *et seq.*) are condition precedents to this License, and without first having complied with both NEPA and CEQA, this License may not be executed by the Parties;

**NOW, THEREFORE**, as consideration for the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree to enter into this License subject to the foregoing and the following terms, conditions and provisions:

**LICENSE**

**1. CONSIDERATION**

The consideration for this License shall be the design, installation, and maintenance of the Artwork on the Premises for the benefit of the general public and grant of all of Licensee's right, title, and interest in and to the Artwork to the United States, in accordance with the terms and conditions hereinafter set forth.

**2. TERM AND TERMINATION**

a. This limited, non-exclusive, non-transferrable, non-assignable, and temporary license is granted for a term of five (5) years, beginning \_\_\_\_\_, \_\_\_\_\_ ("Effective Date"), and ending \_\_\_\_\_, \_\_\_\_\_, but revocable by either Party pursuant to Sections 2(b) or 2(c) of this License.

b. This License may be terminated by the Secretary at any time and for any or no reason, with or without notice. To the extent possible, thirty (30) calendar days advance written notice shall be provided to Licensee prior to termination.

c. This License may be terminated by the Licensee upon thirty (30) calendar days advance written notice to the Secretary for any or no reason. The Licensee shall restore the conditions of the Premises as set forth herein prior to termination pursuant to Section 15 of this License.

**3. PERMITTED USE**

Licensee's permitted use of the Premises is solely for the design, installation and maintenance (to include cleaning, removing, repainting, graffiti removal, etc.) of Artwork on the Prado Dam Spillway (the "Permitted Use").

The Artwork shall not be installed on the Premises until and unless the Secretary approves the Artwork design and materials to be used and authorizes in writing the installation and/or maintenance (as applicable) of the Artwork on the Premises as set forth in Section 5. The location of the Artwork is set out on **Exhibit "A"**.

**4. NOTICES**

a. All correspondence and notices to be given pursuant to this License shall be addressed, if to the Licensee, to General Manager-Chief Engineer, Riverside County Flood Control and Water Conservation District, 1995 Market Street, Riverside, California 92501; and if to the United States, to the Real Estate Contracting Officer, U.S. Army Corps of Engineers, Real Estate Division, 915 Wilshire Boulevard, Suite 930, Los Angeles, California 90017; or as may from time to time otherwise be directed by the Parties.

b. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope or wrapper addressed as aforesaid, and deposited, postage prepaid, in a post office regularly maintained by the United States Postal Service.

c. Notices erroneously received by one Party shall be timely forwarded to the other Party at the address listed in Section 4.a.

**5. AUTHORIZED REPRESENTATIVES**

Except as otherwise specifically provided, any reference herein to "Secretary", or "Real Estate Contracting Officer", or "said officer" (as defined in Section 6) shall include their duly authorized representatives. Any reference to "Licensee" shall also include any representatives of the Licensee ("Licensee Representatives") duly authorized by Licensee to perform that function on behalf of the Licensee. Licensee may contract with approved third parties to install and maintain the Artwork, who are included in "Licensee Representatives" and shall be included in the right of ingress and egress, over, across, in and upon the Premises for the Permitted Use.

**6. SUPERVISION BY THE SECRETARY**

The use and occupation of the Premises shall be subject to the general supervision and approval of the Secretary and her duly authorized representatives, hereinafter referred to as "said officer", and to such rules and regulations as may be prescribed from time to time by said officer.

**7. APPLICABLE LAWS AND REGULATIONS**

Licensee and each of the Licensee Representatives shall at all times comply and are jointly and severally liable and responsible for complying with all applicable local, state and federal laws, including safety and health rules, regulations, and guidance promulgated by the Secretary and all local, state and federal requirements addressing those topics and subject matter set out in **Exhibit "B"**, attached hereto and made a part of this License by this reference.

**8. INSURANCE**

At all times during the Term, Licensee shall, at its own expense, maintain, at a minimum, insurance or self-insurance consistent with the requirements set out in **Exhibit "C"**, attached hereto and made a part of this License by this reference. Licensee shall provide proof of such coverage, in a form reasonably acceptable to the Secretary within ten (10) days of the Effective Date of this License.

**9. INDEMNITY**

The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property of the Licensee, or for damages to the property or injuries to the person of the Licensee's officers, agents, or employees or others who may be on the Premises at their invitation or the invitation of any one of them, and the Licensee shall hold the United States harmless from any and all such claims, not including damages due to the fault or negligence of the United States or its contractors, to the extent allowed by law.

**10. CONDITIONAL USE BY LICENSEE**

a. The Licensee hereby represents, warrants and covenants, solely for the benefit of the Secretary:

1. Licensee shall ensure for itself and for each of the Licensee Representatives that Licensee and the Licensee Representatives shall comply strictly with all terms and conditions of this License and all of the Secretary's policies, guidance, directives, rules, regulations and determinations at all times during the Term, including but not limited to Part 327 of Title 36 of the Code of Federal Regulations.

2. The Premises will be used by Licensee and Licensee Representatives only for the Permitted Use authorized herein in full compliance with all terms and conditions of this License and for no other purpose without the prior written consent of the Secretary, whose consent may be granted or withheld in the Secretary's sole and absolute discretion.

3. Licensee and the Licensee Representatives shall bear the sole responsibility and liability for furnishing and paying for all labor, materials, equipment and supplies used in conjunction with the exercise by the Licensee of any right granted hereunder. This provision does not prohibit Licensee from contracting with approved third parties who can furnish or pay for labor, materials, equipment, and supplies. Approval of third parties shall be sought in writing from the Secretary no less than thirty (30) days before the proposed action in accordance with Section 11. Approval of third parties shall not be unreasonably withheld by the Secretary.

4. Licensee shall obtain and pay for all permits, licenses and approvals that may be or are required for the Permitted Use of the Premises and require that all Licensee Representatives (as applicable) do the same during the Term. Licensee shall be solely responsible and liable for compliance with CEQA.

5. Licensee will not, nor will Licensee allow anyone else to, use hazardous materials or hazardous wastes on the Premises, including but not limited to any hazardous substance under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9601 *et seq.*) and its implementing regulations, or pursuant to Sections 25140 and 25316 of the California Health & Safety Code.

6. Licensee and Licensee Representatives will not, nor will Licensee and Licensee Representatives allow anyone else to, remove, relocate, alter or modify any existing portion of the Premises or the Artwork, nor attach, affix, or permit to be attached or affixed anything upon or to the Premises, nor relocate, replace, alter or modify any part of the Premises or any Artwork, equipment, materials or fixtures that form a part of or are considered a part of the Premises, without the prior written consent of an authorized representative of the Secretary in each instance, which consent may be

granted or withheld in the Secretary's sole and absolute discretion. Such approval shall be sought in writing from the Secretary no less than thirty (30) days before the proposed action in accordance with Section 11.

7. To the extent Licensee has any intellectual property rights in the Artwork, Licensee hereby irrevocably assigns, transfers, and conveys to the Secretary, and the Secretary hereby accepts, all of Licensee's right, title, and interest in and to the Artwork, including, but not limited to:

A. All copyrights in the works of authorship, whether registered or unregistered, arising under any applicable law of any jurisdiction throughout the world or any treaty or other international convention; registrations and applications for registration of such copyrights, /copyrights in the works of authorship; and issuances, extensions, and renewals of such registrations and applications, if any;

B. All of Licensee's and Licensee Representatives' right, title, and interest in and to all copies and other tangible embodiments of the Artwork in all languages and in all forms and media now or hereafter known or developed, if any;

C. All licenses and similar contractual rights or permissions, whether exclusive or nonexclusive, related to any of the Artwork, if any;

D. All royalties, fees, income, payments, and other proceeds now or hereafter due or payable to Licensee with respect to any of the foregoing;

E. All claims and causes of action with respect to any of the foregoing, whether accruing before, on, or after the date hereof/accruing on or after the date hereof, including all rights to and claims for damages, restitution, and injunctive and other legal and equitable relief for past, present, and future infringement, misappropriation, violation, breach, or default; and,

F. All other rights, privileges, and protections of any kind whatsoever of Licensee accruing under any of the foregoing provided by any applicable law, treaty, or other international convention throughout the world.

8. To the extent that any rights of paternity, integrity, attribution, disclosure, withdrawal, and any other rights that may be known as "Moral Rights" are vested in Licensee as an author (sole or joint) of any of the Artwork, Licensee hereby absolutely and irrevocably waives and/or disclaims, in favor of the Secretary, to the extent permitted by applicable law, any and all claims Licensee may now or hereafter have in any jurisdiction to all such Moral Rights in relation to the Artwork.

9. To the extent Licensee develops, negotiates, and/or administers any contracts and/or agreements entered into with any Licensee Representatives for the purpose of performing or carrying out the Permitted Use, such agreements shall include provisions expressly conveying any right, title, and interest in the Artwork to the

Secretary, as well as disclaiming any remaining legal rights of ownership, use or control of, or moral rights in the Artwork.

10. Licensee shall collaborate with the Secretary on a joint public ceremony celebrating the installation of the Artwork. Licensee shall pay for all expenses related to the ceremony.

#### **11. OTHER LICENSOR RESPONSIBILITIES**

The Secretary will provide Licensee and, as requested on a case-by-case basis, certain Licensee Representatives access to the Premises for the purpose of carrying out the Permitted Use. Access to the Premises may be granted or denied by the Secretary on a case-by-case basis and all such access is subject to the prior approval of the Secretary in each instance.

Licensee shall obtain the Secretary's written approval before design, installation, maintenance, removal, relocation or alteration of the Artwork. Licensee shall submit its request for Design approval within ten (10) days execution of this License and the Secretary shall respond within ten (10) days receipt of the request. Licensee shall Notify the Secretary of its intent to enter the Premises thirty (30) days prior to any anticipated installation and maintenance activities. Approval of Licensee Representatives shall be included in this Notification and the Secretary shall respond within fifteen (15) days of receipt of Notification. Email correspondence submitted to the Los Angeles District Operations email inbox: splops@usace.army.mil shall be deemed sufficient for this coordination and approval.

#### **12. CONDITION OF PREMISES**

a. The Licensee acknowledges that it has inspected the Premises, knows its condition, and understands that the same is granted without any representations or warranties whatsoever and without any obligation on the part of the United States.

b. Licensee accepts the Permitted Use of the Premises in its "AS IS" and "WITH ALL FAULTS" condition. The Secretary shall have no obligation to repair, mitigate or clean the Premises prior to the Effective Date of this License or during the Term, regardless of the condition, hazard or risk.

#### **13. PROTECTION OF PROPERTY**

a. The Licensee shall keep the Premises in good order and in a clean, safe condition by and at the expense of the Licensee. The Licensee shall be responsible for any damage that may be caused to property of the United States by the activities of the Licensee under this License, and shall exercise due diligence in the protection of all property located on the Premises against fire or damage from any and all other causes.

b. Any property of the United States damaged or destroyed by the Licensee incident to the exercise of the privileges herein granted shall be promptly repaired or



replaced by the Licensee to a condition satisfactory to said officer, or at the election of said officer, reimbursement made therefore by the Licensee in an amount necessary to restore or replace the property to a condition satisfactory to said officer.

**14. DESTRUCTION OR DAMAGE**

If the Premises or Artwork, in whole or in part, are destroyed or damaged due to routine or emergency maintenance, force majeure, third party mischief, or by any other cause incidental to operation of the Prado Dam or beyond the reasonable control of the Secretary, Licensee shall have no right to claim reimbursement for costs or expenses associated with or relating to any improvements, repairs or other work performed on or about the Premises, including but not limited to the Artwork.

**15. RESTORATION**

a. On or before the expiration of this License or its termination, the Licensee shall vacate the Premises, remove the property of the Licensee, and restore the Premises to a condition satisfactory to said officer. If, however, this License is revoked, the Licensee shall vacate the Premises, remove said property and restore the Premises to the aforesaid condition within such time as the Real Estate Contracting Officer may designate. In either event, if the Licensee shall fail or neglect to remove said property and restore the Premises, then, at the option of said officer, the property shall either become the property of the United States without compensation therefore, or said officer may cause the property to be removed and no claim for damages against the United States or its officers or agents shall be created by or made on account of such removal and restoration work. The Licensee shall also pay the United States, on demand, any sum which may be expended by the United States after the expiration, revocation, or termination of this License in restoring the Premises.

b. Within the sole discretion of the Secretary, the Artwork installed and maintained pursuant to this License may remain in place after the expiration, revocation, or termination of this License or may be removed at the sole expense of the Licensee.

c. Licensee and the Licensee Representatives shall not remove or replace the Artwork without the express written authorization of the Secretary, and Licensee and the Licensee Representatives acknowledge, accept and agree that the Artwork is the sole and exclusive property of the Secretary.

**16. NO LIENS**

Licensee shall ensure for itself and for each of the Licensee Representatives that no liens or encumbrances of any kind are placed or attempted to be placed on the Premises or the Artwork or against any of the Secretary's other property wherever located as a result of, relating to or caused by the Permitted Use or any of the rights or privileges exercised by Licensee under this License. In the event of filing of any such liens or encumbrances, Licensee shall promptly cause such liens and encumbrances to be removed at its sole cost, liability and

expense. In no event shall the removal of any such lien or encumbrance take more than forty-five (45) days to accomplish, without the express written consent of the Secretary.

**17. UTILITIES AND FACILITIES**

The Secretary shall be under no obligation to furnish utilities or services for the Permitted Use.

**18. TAXES**

Before delinquency, Licensee shall be responsible for paying all taxes, assessments and similar charges applicable to the Permitted Use or this License. The term "taxes" as used in this License shall include, but is not limited to, any and all taxes associated with the Permitted Use, the License or any of Licensee's activities or use of the Premises. The term "taxes" shall also include all personal property taxes levied on or associated with the property used in the design, installation, use or maintenance of the Artwork; and, taxes of every kind and nature levied and assessed in lieu of, in substitution for, or in addition to, existing or additional real or personal property taxes associated with or relating to the Premises, the License, the Permitted Use or the Artwork, whether or not now customary or within the contemplation of either party.

**19. RELATIONSHIP OF THE PARTIES**

a. The Parties acknowledge and agree that nothing set forth in this License shall be deemed or construed to render the Secretary and Licensee, or the Secretary and any of the Licensee Representatives, as joint venturers, partners, associations, master-servant, agents, a joint enterprise, employer-employee, lender-borrower or contractors of each other or of any of their representatives. Neither Licensee nor any of the Licensee Representatives shall have any authority to employ any person as employee or agent on behalf of the Secretary for any purpose.

b. Neither Licensee nor any person using or involved in or participating in any actions or inactions relating to the Premises or this License shall be deemed an employee or agent of the Secretary, nor shall any such person or entity represent himself, herself or itself to others as an employee or agent of the Secretary. Licensee's status, as well as the status of the Licensee Representatives, shall be in an independent capacity and not as an employee or agent of the Secretary.

**20. NO THIRD PARTY RIGHTS**

Licensee intends to enter into separate agreements with third parties to carry out the Permitted Use, referred to as the Licensee Representatives, including, but not limited to, the painting and maintenance of the Artwork.

The Parties do not intend to create rights in, or to grant remedies to, any third party as a beneficiary of this License or of any duty, covenant, obligation, or undertaking established herein. This License shall not be construed as nor deemed to be an

agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action herein for any cause whatsoever. Furthermore, no member of or delegate to the United States Congress or resident commissioner shall be admitted to any share or part of this License or to any benefits to arise therefrom.

**21. NO LEASE**

No legal title, leasehold interest or other interest in or to the Premises or lands, buildings, or other areas appurtenant thereto shall be construed to have been created or vested in Licensee or the Licensee Representatives as a result of this License, or the use or occupancy of the Premises by Licensee or anyone else. The Parties acknowledge, accept and agree that this License is not a lease and no property rights or interests are granted herein.

**22. NON-DISCRIMINATION**

a. The Licensee shall not discriminate against any person or persons or exclude them from participation in the Licensee's operations, programs or activities conducted on the leased Premises, because of race, color, religion, sex, age, handicap, or national origin. The Licensee will comply with the Americans with Disabilities Act and attendant Americans with Disabilities Act Accessibility Guidelines (ADAAG) published by the Architectural and Transportation Barriers Compliance Board.

b. The Licensee, by acceptance of this License, is receiving a type of federal assistance and, therefore, hereby gives assurance that it will comply with the provisions of Title VI of the Civil Rights Act of 1964 as amended (42 U.S.C. § 2000d); the Age Discrimination Act of 1975 (42 U.S.C. § 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 C.F.R. Part 300) issued as Department of Defense Directive 5500.11 and 1020.1, and Army Regulation 600-7.

**23. ENVIRONMENTAL PROTECTION**

a. Within the limits of their respective legal powers, the Parties to this License shall protect the Premises against pollution of its air, ground and water. Licensee shall comply with all laws, regulations, conditions, or instructions affecting the activity hereby authorized if and when issued by the United States Environmental Protection Agency, or any federal, state, interstate or local governmental agency, department or entity having jurisdiction to abate or prevent pollution. Such regulations, conditions, or instructions in effect or prescribed by the Environmental Protection Agency, or any federal, state, interstate or local governmental agency, department or entity are hereby made a condition of this License. Licensee shall not discharge waste or effluent from the Premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

b. Licensee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs from Licensee's activities or that of any of the Licensee's Representatives, then Licensee shall be liable and responsible for restoring the damaged resources in full compliance with all applicable local, state and federal laws.

c. Licensee shall first obtain approval in writing from the Secretary before using any pesticides, fungicides or herbicides on or about the Premises.

#### **24. HISTORIC PRESERVATION**

Licensee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archeological, architectural or other cultural artifacts, relics, remains or objects of antiquity. In the event such items are discovered on the Premises, Licensee shall immediately notify the Secretary and protect the site and the material from further disturbance until the Secretary gives clearance to proceed with any of the Permitted Use.

#### **25. NO FUNDING OBLIGATION**

a. The Parties do not intend for this License to result in the transfer of funds, or other financial obligations, from the Secretary to Licensee or to any third party. This License neither authorizes, nor intends to obligate the Secretary to expend, exchange, or reimburse funds, services, or supplies, or transfer or receive anything of value (except as specifically outlined elsewhere in this License). Furthermore, no provision of this License will be interpreted to require an obligation or payment of funds in violation of 31 U.S.C. § 1341 or any other applicable law.

b. This License is not a contract for goods, services or other deliverables.

c. Nothing in this License may be construed to obligate the Secretary to any current or future expenditure of resources. Licensee will handle its own activities and use its own resources, including the expenditure of its own funds when legally appropriate, in pursuing the objectives enumerated in this License. This License does not create or support a gift of public funds.

#### **26. ENTIRE LICENSE; GOVERNING LANGUAGE**

This License constitutes the entire agreement by and between the Parties with respect to the subject matters hereof, and supersedes all prior understandings and agreements relating thereto. This License comprises the complete and final expression of the rights, obligations, duties, and undertakings of the Parties and sets forth all consideration, covenants, understandings and inducements pertaining thereto.

#### **27. WRITTEN MODIFICATIONS**

No agreement, amendment, modification, understanding or waiver of or with respect to this License or any term, provision, covenant or condition hereof, nor any approval or consent given under or with respect to this License, shall be effective for any purpose unless agreed to in writing and signed by authorized representatives of both Parties to this License.

**28. DISCLAIMER**

This License is effective only insofar as the rights of the United States in the Premises are concerned; and the Licensee shall obtain any permit or license which may be require by federal, state, or local statute in connection with the use of the Premises.

**29. REPRESENTATION BY COUNSEL**

Licensee acknowledges, agrees and represents that it knowingly and voluntarily enters into this License after having consulted with and having received the advice of Licensee's own independent and competent legal counsel in the negotiation, drafting and execution of this License.

**30. 10 U.S.C. § 2662 NOT APPLICABLE**

This License is not subject to Title 10, United States Code, Section 2662, as amended.

**IN WITNESS WHEREOF**, I have hereunto set my hand by authority of the Secretary of the Army, this \_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
CHERYL CONNETT  
Real Estate Contracting Officer  
Los Angeles District

**IN WITNESS WHEREOF**, I have hereunto set my hand by authority of the Riverside County Flood Control and Water Conservation District, this 28<sup>th</sup> day of February, 2023.

Karen S. Spiegel

KAREN SPIEGEL  
Chair  
Riverside County Flood Control and Water Conservation  
District Board of Supervisors

ATTEST:  
KIMBERLY A. RECTOR, Clerk  
By Bruna Smith  
DEPUTY

RECOMMENDED FOR APPROVAL:

J. Uhley

JASON E. UHLEY  
General Manager-Chief Engineer

FORM APPROVED COUNTY COUNSEL

BY: Caroline Monroy 2-22-23  
CAROLINE K. MONROY DATE

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )

: ss

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me the undersigned Notary Public, personally appeared (NAME), Chief, Real Estate Division, U.S. Army Engineer District, City, State, known to me to be the person described in the foregoing instrument, who acknowledged that (s)he executed the same in the capacity therein stated and for the purposes therein contained.

**IN WITNESS WHEREOF**, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_





**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )

: **ss**

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me the undersigned Notary Public, personally appeared Karen Spiegel, Chair of Board of Supervisors, Riverside County Flood Control and Water Conservation District, known to me to be the person described in the foregoing instrument, who acknowledged that (s)he executed the same in the capacity therein stated and for the purposes therein contained.

**IN WITNESS WHEREOF**, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

**CERTIFICATE OF AUTHORITY**

I, (NAME), certify that I am the (SECRETARY or ATTESTING OFFICER) of the Riverside County Flood Control and Water Control District, named as Licensee herein; that Karen Spiegel, who signed this Agreement on behalf of Riverside County Flood Control and Water Control District, was then Chair of the Board of Supervisors of the Agency; and that said Agreement was duly signed for and on behalf of the Riverside County Flood Control and Water Control District by authority of its governing body and is within the scope of its statutory powers.

**IN WITNESS WHEREOF**, I have hereunto set my hand on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(SECRETARY or ATTESTING OFFICER)

**(The person that signed the attached instrument cannot sign Certificate)**

**EXHIBIT A**



**EXHIBIT B**

**Environmental Regulations and Standards**

As applicable, any and all requirements, statutes, rules, regulations, guidelines, ordinances, codes, advisory circulars, policies, as well as licensing and permitting requirements, of local, state or federal environmental regulatory or permitting agencies, departments, offices, cities, counties, special districts or other municipalities, including but not limited to California Environmental Protection Agency (CalEPA); the Department of Toxic Substance Control (DTSC), the Certified Unified Program Agencies (CUPAs); Regional Water Quality Control Boards, and the South Coast Air Quality Management District. Those requirements may include, but are not limited to:

- Permits for any renovation, installation, construction, demolition, and/or remediation activities.
- Developing and providing, if required based on hazardous materials stored quantities, a business emergency/contingency plan.
- Filing a California Accidental Release Prevention Program form, and preparing and providing a risk management plan (RMP).
- Submitting the proper application and obtaining the proper permits for installation, operation or removal of any debris, fill, other materials, aboveground storage tanks (AST's), or underground storage tanks (USTs).
- Filing a petroleum storage statement with the CUPA and developing and implementing a Spill Prevention Control and Countermeasures plan (SPCC) required of certain facilities storing certain quantities of petroleum products, where applicable.

**Air Pollution Control**

1. Rules, Laws or Regulations pertaining to the discharge of smoke, dust equipment exhaust, or any other air contaminants into the atmosphere in such quantity as will violate any federal, state or local regulations.
2. Rules, Laws or Regulations pertaining to the abatement of dust nuisance (e.g. cleaning, sweeping and spraying with water or other means).
3. Any requirement for proper permits or registrations from the governing agencies for construction, demolition, and/or renovation activities. These activities may include but are not limited to asbestos abatement, and the installation, testing, operation, or removal of mobile and/or stationary equipment.

Dust

- a. Any requirement for removing from the Premises and other public areas, excavated materials and debris resulting from the project work.

- b. Any requirement for vehicles exiting the Premises to have dirt clods and mud removed from their tires.
- c. Any requirement to contain dust and remove it from the Premises at intervals sufficient to prevent contamination outside work limits and as directed. Any requirement for adequate watering techniques to alleviate accumulation of construction-generated dust.
- d. Any requirement for containment of dust emissions from all construction, transport, storage or handling activities, in accordance with South Coast Air Quality Management District (SCAQMD) Rule 403: Fugitive Dust, or other applicable requirements.
- e. Any requirement to comply with California Vehicle Code 23114, as amended, or other requirements pertaining to the regulation of spillage or the prevention of spillage from vehicles driving on streets or highways.
- f. Any requirements for complying with vehicle speed limits while traveling on unpaved construction sites and requirements to maintain at least six (6) inches of freeboard on haul vehicles.

#### Fuel

- a. Any requirement for the use of “cleaner burning diesel” fuel and exhaust emission controls. Any requirement for the use of alternative fuel or low emission vehicles.

#### Non-Road Mobile Source Controls

- a. Any requirement that prohibits staging or parking of construction vehicles (including workers’ vehicles) on streets adjacent to schools, daycare centers, and hospitals.
- b. Any requirement that prohibits construction diesel vehicles or equipment from idling in excess of the idling restrictions as defined in any California Air Resources Board (CARB) Vehicle Idling Rules.
- c. Stationary Point Source Controls
- d. Any requirement for the use of any combination of electricity from power poles and electricity from portable diesel- or gasoline-fueled generators using “cleaner burning diesel” fuel and exhaust emission controls.
- e. Any limitations or requirements pertaining to the use of internal combustion engine water pumps, power generators, air compressors and other related construction equipment.

#### **Noise Control**

- 1. Any requirements pertaining to noise control or generation.
- 2. Any local sound control and noise level rules, regulations and ordinances which may apply.

**Spill Prevention and Emergency Response Plan.**

1. Any requirement for a spill prevention and emergency response plan, including any requirement to address measures to prevent sewage spills; procedures for spill control and containment, notifications, emergency response, cleanup, and spill and damage reporting.
2. Any requirement pertaining to storm drain systems and water courses within the vicinity of the project that could be affected by a sewage spill. Any sewage containment or prevention requirements.

**Historic, Archeological or other Site Standards:**

1. Any requirement to address, mitigate or avoid impacts to historic, archeological or other resources.

**CEQA:**

1. Any requirements to comply with the California Environmental Quality Act (CEQA) must be completed before the License is executed by Licensee or any of the Licensee Representatives.

**EXHIBIT C**

**INSURANCE REQUIREMENTS**

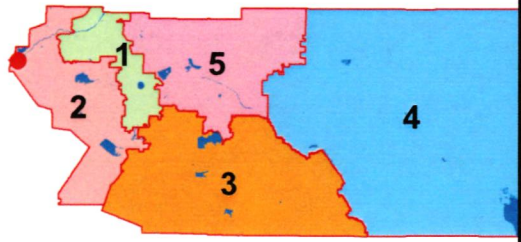
Within ten (10) calendar days from the Effective Date of this License, the Licensee shall provide the Secretary with certificates of insurance or self-insurance demonstrating that the following insurance is adequate, valid, and current.

- Workmen's Compensation & Employer's Liability Insurance                      \$100,000 or in an amount as required by California law, whichever is greater.
- General Liability Insurance    \$500,000 per occurrence
- Automobile Liability Insurance    \$200,000 per person and per vehicle
- Bodily injury    \$500,000 per occurrence
- Property damage    \$100,000 per occurrence

Licensee shall, at its own expense, provide and maintain during the Term of this License no less than the kinds and minimum amounts of insurance set out herein above.

Before commencing any of the Permitted Use, Licensee shall notify the Secretary's authorized representatives (as identified in this License) in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation of required insurance or any material change adversely affecting the Secretary's interest as an additional insured shall not be effective (1) for such period as the laws of the State in which this contract is to be performed prescribe or (2) until 30 days after the insurer or Licensee gives written notice to the Secretary, whichever period is longer.

The Licensee shall impose the same insurance requirements into its contracts with third parties who will be performing or carrying out any of the Permitted Use. The Licensee shall maintain a copy of all contractor and subcontractor proof of required insurance, and shall make copies of such insurance or certificates of insurance available to the Secretary upon request.



**Legend**

- Supervisorial District
- Project Vicinity

**Description**

Prado Dam Bicentennial Mural License Agreement



# VICINITY MAP

