

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



ITEM: 11.3
(ID # 22865)

MEETING DATE:

Tuesday, October 03, 2023

FROM : FLOOD CONTROL DISTRICT:

SUBJECT: FLOOD CONTROL DISTRICT: Approval of Right of Entry and Maintenance Agreement Between the Riverside County Flood Control and Water Conservation District and the Riverside County Regional Park and Open-Space District for the Maintenance of the Mural on the Prado Dam Spillway, CEQA Exempt per CEQA Guidelines Sections 15301 and 15061(b)(3), District 2. [\$125,000 Not-to-Exceed Cost – District Funds 100%] (Companion Item to MT Item No. 22373)

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that the Right of Entry and Maintenance Agreement ("Agreement") is exempt from the California Environmental Quality Act ("CEQA") pursuant to the CEQA Guidelines Section 15301, Existing Facilities, and Section 15061(b)(3), the "Common Sense" exemption;

Continued on Page 2

ACTION:Policy

Jason Uhley, GENERAL MGR-CHF FLD CNTRL ENG

9/20/2023

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Perez, seconded by Supervisor Gutierrez 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: October 3, 2023
xc: Flood, Parks

Kimberly A. Rector
Clerk of the Board

By:
Deputy

(Companion Item 13.1)

**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:

2. Approve the Agreement between the Riverside County Regional Park and Open-Space District, a special district created pursuant to the California Public Resources Code Division 5, Chapter 3, Article 3 ("RivCoParks"), and the Riverside County Flood Control and Water Conservation District, a body corporate and politic ("Flood Control"), and authorize the Chair of Flood Control's Board of Supervisors ("Board") to execute the Agreement documents on behalf of Flood Control;
3. 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;
4. 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 Flood Control; and
5. Direct the Clerk of the Board to return one (1) fully executed Agreement to Flood Control and one (1) fully executed Agreement to RivCoParks.

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 25,000	\$ 25,000	\$ 125,000	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: See Source of Funds below			Budget Adjustment: No	
			For Fiscal Year: 23/24 – 27/28	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

On February 28, 2023 (Agenda Item No. 11.5), Flood Control's Board approved the License Agreement between the United States of America, Acting By and Through the U.S. Army Corps of Engineers, Los Angeles District ("Corps"), and Flood Control, which set forth the terms and conditions by which the Corps granted Flood Control a license for the design, installation, operation and maintenance of the Prado Dam bicentennial mural ("Mural"). To accomplish the repainting of the Mural, Flood Control entered into a Right of Entry and Copyright Conveyance Agreement with the Bicentennial Freedom Mural Conservancy for the design and installation of the Mural, which was approved by Flood Control's Board on March 7, 2023 (Agenda Item No. 11.1).

Now, in order to carry out the maintenance of the Mural, Flood Control intends to enter into this Agreement with RivCoParks to set forth the terms and conditions by which RivCoParks will maintain the Mural. To support RivCoParks efforts to maintain the Mural, Flood Control will

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

contribute a total not-to-exceed amount of One Hundred Twenty-Five Thousand Dollars (\$125,000) over the term of the Agreement.

County Counsel has approved the Agreement as to legal form. A companion item appears on the RivCoPark's agenda this same date.

Prev. Agn. Ref.: MT#21321 11.5 of 02/28/2023
MT#21331 11.1 of 03/07/2023

Environmental Findings

The Agreement is exempt from CEQA pursuant to the 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 RivCoParks will maintain the Mural on the existing Prado Dam Spillway.

Additionally, the Agreement is exempt from CEQA pursuant to 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 maintained 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 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

Flood Control is providing a not-to-exceed amount of \$125,000 in funding to RivCoParks. Sufficient funding is included in Flood Control's budget for FY 2023-2024. Additional funding will be included in the proposed budgets for fiscal years 2024-2025, 2025-2026, 2026-2027 and 2027-2028, as appropriate.

SOURCE OF FUNDS:

25120 947420 536200 - Zone 2 Contribution to Non-County Agency (100%)

ATTACHMENT:

1. Vicinity Map

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

2. Right Of Entry and Maintenance Agreement between the Riverside County Regional Park and Open-Space District and the Riverside County Flood Control and Water Conservation District.

RMG:blm
P8/252428



Jason Farin, Principal Management Analyst 9/27/2023



Aaron Gettis, Deputy County Counsel 9/27/2023

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, a body corporate and politic (herein referred to as "DISTRICT"), and

RIVERSIDE COUNTY REGIONAL PARK AND OPEN-SPACE DISTRICT, a special district created pursuant to the California Public Resources Code Division 5, Chapter 3, Article 3 (herein referred to as "GRANTEE")

Project: Prado Dam Bicentennial Mural (Maintenance)

RIGHT OF ENTRY AND MAINTENANCE AGREEMENT

This Right of Entry and Maintenance Agreement ("Agreement") is made by and between the RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT ("District"), a body corporate and politic ("DISTRICT"), and the RIVERSIDE COUNTY REGIONAL PARK AND OPEN-SPACE DISTRICT, a special district created pursuant to the California Public Resources Code Division 5, Chapter 3, Article 3 ("GRANTEE"). DISTRICT and GRANTEE are sometimes collectively referred to as "Parties".

RECITALS

- A. The United States of America ("USA") is the owner of certain real property located in the County of Riverside, State of California, which includes the Prado Dam Spillway, as identified in Exhibit "A" ("Property"). Exhibit "A" is attached and incorporated herein.
- B. The U.S. Army Corps of Engineers ("USACE") operates Property on behalf of the USA and has entered into a license agreement with DISTRICT for the purpose of designing, installing, and maintaining artwork on the Prado Dam Spillway ("License").
- C. Pursuant to the License, DISTRICT has the right to contract with GRANTEE to enter upon and use Property for the purposes of maintaining artwork installed (hereinafter referred to as "Artwork") on Property.
- D. GRANTEE desires to obtain DISTRICT's permission, and DISTRICT desires to accommodate GRANTEE's request to enter upon and use Property on a temporary basis to maintain Artwork on Property.
- E. GRANTEE understands that this right to use Property is non-exclusive, and DISTRICT may still use Property for any purpose deemed necessary by DISTRICT. If DISTRICT has a need to use Property in such manner or time as would conflict with the rights granted to GRANTEE, DISTRICT and GRANTEE intend to coordinate as needed to minimize delays or disruption.
- F. DISTRICT wishes to support GRANTEE's efforts to maintain Artwork by providing a financial contribution toward the maintenance of Artwork, hereinafter called "DISTRICT CONTRIBUTION". DISTRICT CONTRIBUTION shall not to exceed the total sum of One Hundred Twenty-Five Thousand Dollars (\$125,000) over the term of this Agreement.

OCT 3 2023 11.3/13.1

NOW, THEREFORE, for good and valuable consideration, DISTRICT and GRANTEE do hereby agree as follows:

1. RECITALS. All the above recitals are true and correct and by this reference are incorporated herein.
2. PERMITTED USE. GRANTEE's permitted use of Property is solely for the maintenance (to include cleaning, removing, repainting, graffiti removal, etc.) of Artwork on the Prado Dam Spillway ("Permitted Use").
 - a. GRANTEE shall maintain Artwork in accordance with this Agreement.
 - b. GRANTEE shall not proceed with any maintenance, removal, relocation, alteration, or modification of Artwork until and unless DISTRICT approves the materials to be used and authorizes in writing the maintenance, removal, relocation, or alteration of Artwork on Property as set forth in Section 3.a.
 - c. Access to Property may be granted or denied by DISTRICT on a case-by-case basis and all such access is subject to the prior approval of the DISTRICT in each instance.
3. PURPOSE. The non-exclusive right is hereby granted to GRANTEE, who is permitted to enter Property for Permitted Use. This Agreement includes the right of ingress and egress, over, across, in, and upon Property for Permitted Use. The location of Artwork is set out on Exhibit "A." Artwork design is shown in concept in Exhibit "B", which is attached and incorporated herein.
 - a. GRANTEE shall obtain DISTRICT's written approval before performing any maintenance, removal, relocation, or alteration of Artwork. GRANTEE shall notify DISTRICT of its intent to enter Property at least thirty (30) days prior to any anticipated maintenance, removal, relocation, or alteration activities. Identification of the materials being used and any subcontractors or any other persons or entities maintaining, removing, relocating, or altering Artwork shall be included in this notification. DISTRICT may request that GRANTEE provide a schedule for maintenance, removal, relocation, or alteration of Artwork. Email correspondence submitted to DISTRICT's email identified in Section 5 shall be deemed sufficient for this coordination and approval.
 - b. GRANTEE will not, nor will GRANTEE allow anyone else to, remove, relocate, alter, or modify any existing portion of Property or Artwork, nor attach, affix, or permit to be attached or affixed anything upon or to Property, nor relocate, replace, alter, or modify any part of Property or any Artwork, equipment, materials, or fixtures that form a part of or are considered a part of Property, without the prior written consent of DISTRICT in each instance, which consent may be granted or withheld in DISTRICT's sole and absolute discretion. Such approval shall be sought in writing from DISTRICT no less than thirty (30) days before the proposed action in accordance with Section 3.a.
 - c. GRANTEE accepts Permitted Use of Property in its "AS IS" and "WITH ALL FAULTS" condition. DISTRICT shall have no obligation to repair, mitigate, or clean Property.
4. CONSIDERATION. This permission is granted in consideration of the benefits which may accrue at Property as a result of Artwork and the grant, waiver, and disclaimer of all

of GRANTEE's right, title, and interest in and to Artwork, in accordance with the terms and conditions hereinafter set forth in this Agreement.

5. NOTICES. Parties agree to the following minimum noticing requirements with respect to use of Property.

GRANTEE shall provide written notice to DISTRICT at least thirty (30) days prior to the entry onto Property for Permitted Use. Pursuant to Sections 2 and 3, prior to maintaining, removing, relocating, or altering Artwork, GRANTEE must obtain DISTRICT's approval of Artwork, the materials being used, and any subcontractors or any other persons or entities maintaining, removing, relocating, or altering Artwork. During periods of active use of the site by GRANTEE, DISTRICT agrees to notify GRANTEE at least twenty-four (24) hours prior to any planned activities by DISTRICT on the site to allow coordination of the activities and to minimize delays and/or interference with each other.

Notices shall be sent to:

RIVERSIDE COUNTY REGIONAL PARK
AND OPEN-SPACE DISTRICT:
Gaby Adame
Bureau Chief, Planning, Development and Interpretation
4600 Crestmore Road
Jurupa Valley, CA 92509
951.955.1395
gabyadame@rivco.org

RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT:
Julianna Adams
Chief of Emergency Management and Government Affairs Division
1995 Market Street
Riverside, CA 92501
951.955.1299
jadams@rivco.org

6. TERM AND TERMINATION. The term of this Agreement shall become effective on the date this Agreement is executed by DISTRICT's Board of Supervisors ("Effective Date") and shall run concurrently with the term of the License, unless terminated earlier pursuant to the terms and conditions in this Section 6.
- a. This Agreement may be terminated by DISTRICT at any time and for any or no reason, with or without notice.
 - b. This Agreement may be terminated by GRANTEE upon thirty (30) calendar days advance written notice to DISTRICT for any or no reason. GRANTEE shall restore the conditions of Property as set forth herein prior to termination.
 - c. This Agreement will be automatically terminated in the event the License is terminated.
7. Before delinquency, GRANTEE shall be responsible for paying all taxes, assessments, and similar charges applicable to Permitted Use or this Agreement. The term "taxes" as

used in this Agreement shall include, but is not limited to, any and all taxes associated with the Permitted Use, the Agreement, or any of GRANTEE's activities or use of Property.

8. INTELLECTUAL PROPERTY RIGHTS.

- a. To the extent GRANTEE has any intellectual property rights in Artwork, GRANTEE hereby irrevocably assigns, transfers, and conveys to DISTRICT, and DISTRICT hereby accepts, all of GRANTEE's right, title, and interest in and to Artwork, including, but not limited to:
- i. 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;
 - ii. All of GRANTEE's right, title, and interest in and to all copies and other tangible embodiments of Artwork in all languages and in all forms and media now or hereafter known or developed, if any;
 - iii. All licenses and similar contractual rights or permissions, whether exclusive or nonexclusive, related to any of Artwork, if any;
 - iv. All royalties, fees, income, payments, and other proceeds now or hereafter due or payable to GRANTEE with respect to any of the foregoing;
 - v. 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
 - vi. All other rights, privileges, and protections of any kind whatsoever of GRANTEE accruing under any of the foregoing provided by any applicable law, treaty, or other international convention throughout the world.
- b. To the extent that any rights of paternity, integrity, attribution, disclosure, withdrawal, and any other rights that may be known as "Moral Rights" may be vested in GRANTEE as an author (sole or joint) of any of Artwork, GRANTEE hereby absolutely and irrevocably waives and/or disclaims, in favor of DISTRICT, to the extent permitted by applicable law, any and all claims GRANTEE may now or hereafter have in any jurisdiction to all such Moral Rights in relation to Artwork. To the extent GRANTEE develops, negotiates, and/or administers any contracts and/or agreements entered into with any third parties for the purpose of performing or carrying out Permitted Use, such agreements shall include provisions expressly conveying any right, title, and interest in Artwork, as well as disclaiming any remaining legal rights of ownership, use or control of, or moral rights in Artwork.
- c. This Section 8 shall survive the termination or expiration of this Agreement.

9. PROTECTION OF PROPERTY. GRANTEE shall keep Property in good order and in a clean, safe condition by and at the expense of GRANTEE. GRANTEE shall be responsible for any damage that may be caused to Property by the activities of GRANTEE under this Agreement and shall exercise due diligence in the protection of all property located on Property against fire or damage from any and all other causes.

- a. Any Property damaged or destroyed by GRANTEE incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by GRANTEE to the prior condition satisfactory to DISTRICT, or at the election of DISTRICT, reimbursement made therefore by GRANTEE in an amount necessary to restore or replace Property to the prior condition.
 - b. If Property 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 DISTRICT, GRANTEE 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 Property, including, but not limited to, Artwork.
 - c. GRANTEE will not, nor will GRANTEE allow anyone else to, use hazardous materials or hazardous wastes on Property, 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 and Safety Code.
10. CONDITION UPON EXPIRATION. At the termination of the period of use of Property by GRANTEE, but before its relinquishment to DISTRICT, Property shall be restored as near as feasible to the original and neat condition.
11. INDEMNIFICATION. GRANTEE shall indemnify and hold harmless DISTRICT and its directors, officers, Board of Supervisors, elected and appointed officials, employees, agents, and representatives (individually and collectively hereinafter referred to as "Indemnified Parties") from any liability whatsoever, based or asserted upon any act or omission of GRANTEE, its officers, employees, agents, or representatives arising out of or in any way relating to this Agreement, including, but not limited to, property damage, bodily injury or death, or any other element of any kind or nature whatsoever arising from the arising from the performance of GRANTEE, its officers, employees, subcontractors, agents, or representatives from this Agreement. GRANTEE shall defend, at its sole cost and expense, all costs and fees, including, but not limited to, attorney fees, cost of investigation, defense, and settlements or awards, the Indemnified Parties in any claim or action based upon such alleged acts or omissions.

With respect to any action or claim subject to indemnification herein by GRANTEE, GRANTEE shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of DISTRICT; provided, however, that any such adjustment, settlement, or compromise in no manner whatsoever limits or circumscribes GRANTEE's indemnification to the Indemnified Parties as set forth herein.

GRANTEE's obligation hereunder shall be satisfied when GRANTEE has provided to the Indemnified Parties the appropriate form of dismissal relieving the Indemnified Parties from any liability for the action or claim involved.

The specified insurance limits required in this Agreement shall in no way limit or circumscribe GRANTEE's obligations to indemnify and hold harmless the Indemnified Parties herein from third party claims.

In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve GRANTEE from indemnifying the Indemnified Parties to the fullest extent allowed by law.

This indemnification provision shall survive termination or expiration of this Agreement until such a time as the statute of limitations shall run for any claims that may arise out of this Agreement.

a. GRANTEE fully recognizes the dangers of participating in the activity, and it voluntarily assumes all risks associated with its participation pursuant to the Agreement. GRANTEE expressly agrees that no warranty or representation of any kind whatsoever has been given regarding the condition of the site or any facilities or equipment thereon or any means of transportation to and from the site, and agrees furthermore, that DISTRICT and its respective agents shall not be liable for any alleged negligence or other acts or omissions pertaining thereto. GRANTEE assumes full liability for any injury to or death of any person arising by reason of its participation in the activity presence on the site or travel to or from the site or for any damage to or loss or destruction of property on the site caused by it.

12. NO LIENS. GRANTEE shall ensure for itself and for each of its subcontractors that no liens or encumbrances of any kind are placed or attempted to be placed on Property or Artwork as a result of, relating to or caused by the Permitted Use or any of the rights or privileges exercised by GRANTEE under this Agreement. In the event of filing of any such liens or encumbrances, GRANTEE shall promptly cause such liens and encumbrances to be removed at its sole cost, liability and expense.
13. NO LEASE. No legal title, leasehold interest, or other interest in or to Property or lands, buildings, or other areas appurtenant thereto shall be construed to have been created or vested in GRANTEE as a result of this Agreement, or the use or occupancy of Property by GRANTEE or anyone else. Parties acknowledge, accept, and agree that this Agreement is not a lease and no property rights or interests are granted herein.
- a. Parties do not intend to create rights in, or to grant remedies to, any third party as a beneficiary of this Agreement or of any duty, covenant, obligation, or undertaking established herein.
14. NON-DISCRIMINATION.
- a. The Agreement shall not discriminate against any person or persons or exclude them from participation in GRANTEE's operations, programs, or activities conducted on Property because of race, color, religion, sex, age, handicap, or national origin. GRANTEE 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. GRANTEE, by acceptance of this Agreement, 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.

15. ENVIRONMENTAL. Within the limits of their respective legal powers, Parties to this Agreement shall protect Property against pollution of its air, ground and water. GRANTEE 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 Agreement. GRANTEE shall not discharge waste or effluent from Property in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.
 - a. GRANTEE will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs from GRANTEE's activities or that of any of its subcontractors, then GRANTEE shall be liable and responsible for restoring the damaged resources in full compliance with all applicable local, state and federal laws.
16. DISTRICT hereby warrants that they have permission to enter onto Property described above and that they have the right to grant GRANTEE permission to enter upon and use Property.
17. This Agreement is the result of negotiations between Parties hereto. Each party acknowledges that in executing this Agreement, such party has had the opportunity to seek the advice of independent legal counsel and has read and understood all of the terms and provisions of this Agreement. This Agreement is intended by Parties as a final expression of their understanding with respect to the matters herein and is a complete and exclusive statement of the terms and conditions thereof. This Agreement shall not be changed, modified, or amended except upon the written consent of Parties hereto.
18. This Agreement supersedes any and all other prior agreements or understanding, oral or written, between Parties. No agreement, amendment, modification, understanding, or waiver of or with respect to this Agreement or any term, provision, covenant, or condition hereof, nor any approval or consent given under or with respect to this Agreement, shall be effective for any purpose unless agreed to in writing and signed by authorized representatives of both Parties to this Agreement.
19. PREVAILING WAGE. All contracted workers shall be paid not less than the general prevailing rate of wages and benefits for work of a similar character in the locality in which the work is performed, as provided in Labor Code Sections 1770 et seq. DISTRICT has obtained from the Director of the Department of Industrial Relations, State of California, the determinations of general prevailing rates of per diem wages applicable to the work and for holiday and overtime work, including employer payments for health and welfare, pension, vacation, apprentices and similar purposes for each craft, classification or type of workman needed, as set forth on the schedule, which is on file at DISTRICT's office.

20. SEVERABILITY. If any term, covenant, condition, or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the terms, covenants, conditions, or provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
21. AGREEMENT CONTROLS. GRANTEE and its sub-parties, including, but not limited to, any officers, employees, agents, representatives, affiliates, volunteers, contractors, or any other persons or entities maintaining, removing, relocating, or altering Artwork, assigns and successors in interest shall be bound by all the terms and conditions contained in this Agreement.
22. GOVERNING LAW AND VENUE. This Agreement shall be governed by the laws of the State of California. Any action at law or in equity brought by either of Parties hereto for the purpose of enforcing a right or rights provided for by this Agreement shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and Parties hereto hereby waive all provisions of law providing for a change of venue of such proceedings to any other county.
23. INSURANCE. At all times during the Term, GRANTEE 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 Agreement by this reference. GRANTEE shall provide proof of such coverage, in a form reasonably acceptable to DISTRICT, within ten (10) days of the Effective Date of this Agreement.
24. COMPLIANCE. GRANTEE shall at all times comply with all applicable local, state, and federal laws, including safety and health rules, regulations, and guidance promulgated by the Secretary, including, but not limited to, Part 327 of Title 36 of the Code of Federal Regulations, and all local, state, and federal requirements addressing those topics and subject matter set out in Exhibit "D", attached hereto and made a part of this Agreement by this reference. As applicable, GRANTEE shall obtain and pay for all permits, licenses, and approvals that may be or are required for Permitted Use of Property.
25. MAINTENANCE CONTRIBUTION.
- a. The total amount to be paid to GRANTEE pursuant to this Agreement shall not exceed Twenty-Five Thousand Dollars (\$25,000) in any fiscal year and shall not exceed the sum of One Hundred Twenty-Five Thousand Dollars (\$125,000) for the entire term of this Agreement. DISTRICT CONTRIBUTION shall be used by GRANTEE solely for the purpose of maintaining Artwork as set forth herein, including, but not limited to, associated personnel costs, equipment, supplies, waste disposal, and other expenses related to maintaining Artwork as agreed upon by DISTRICT and GRANTEE.
 - b. Invoicing.
 - i. For Fiscal Year 2023/24, GRANTEE shall submit an invoice to DISTRICT within thirty (30) days of the Effective Date of this Agreement for a lump sum amount of Twenty-Five Thousand Dollars (\$25,000.00).
 - ii. For all subsequent Fiscal Years, GRANTEE shall submit an invoice to DISTRICT at the beginning of the Fiscal Year for a lump sum amount of Twenty-Five Thousand Dollars (\$25,000.00).

- iii. DISTRICT shall pay within thirty (30) days after receipt of appropriate invoice from GRANTEE. DISTRICT shall not pay interest or finance charges on any outstanding balance(s).
- c. GRANTEE shall maintain records of the costs incurred in accordance with reasonable accounting standards and agrees to maintain such records for possible audit for a minimum of three (3) years after final payment. GRANTEE agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records.
- d. If the Agreement is terminated prior to the expiration of the Agreement term, DISTRICT shall not be obligated to make any further payments.

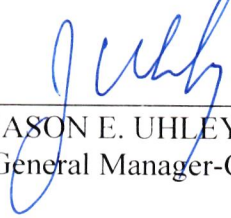
[Signature provisions on next page]

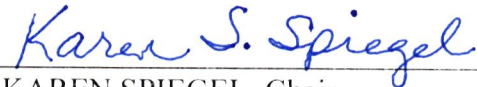
This Agreement may be signed in counterpart or duplicate copies and any signed counterpart or duplicate copy shall be equivalent to a signed original for all purposes. No obligation other than those set forth herein will be required.

Date: 10/3/2023
(Date to be filled in by the Clerk of the Board)

RECOMMENDED FOR APPROVAL:


**RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT,**
a body corporate and politic

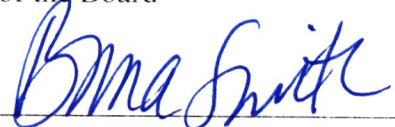
By 
JASON E. UHLEY
General Manager-Chief Engineer

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

APPROVED AS TO FORM:
MINH C. TRAN
County Counsel

ATTEST:
KIMBERLY RECTOR
Clerk of the Board

By 
RYAN YABKO
Deputy County Counsel

By 
Deputy


(SEAL)

Project: Prado Dam Bicentennial Mural (Maintenance)
08/22/23
RMG:blm

RIVERSIDE COUNTY REGIONAL PARK AND OPEN-SPACE DISTRICT,
a special district created pursuant to the California Public Resources Code Division 5, Chapter 3, Article 3

RECOMMENDED FOR APPROVAL:

By 
KYLIA BROWN
General Manager

By 
CHUCK WASHINGTON, Chair
Riverside County Regional Park and Open-Space District

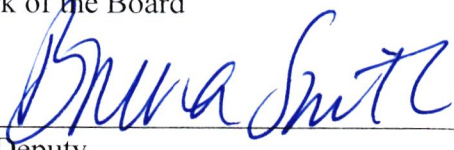
APPROVED AS TO FORM:

MINH C. TRAN
County Counsel

ATTEST:

KIMBERLY RECTOR
Clerk of the Board

By 
KRISTINE BELL-VALDEZ
Supervising Deputy County Counsel

By 
Deputy

(SEAL)

Project: Prado Dam Bicentennial Mural (Maintenance)
08/22/23
RMG:blm

OCT 3 2023 11.3/13.1

EXHIBIT "A"



EXHIBIT "B"



EXHIBIT "C"

Insurance Requirements

As a condition to this Agreement, without limiting or diminishing GRANTEE's obligation to indemnify or hold Indemnified Parties harmless, GRANTEE shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverages during the term of this Agreement. As respects to the insurance section only, DISTRICT herein refers to the Riverside County Flood Control and Water Conservation District, the County of Riverside, its agencies, districts, special districts and departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents, or representatives as Additional Insureds.

- a. Workers' Compensation. If GRANTEE has employees as defined by the State of California, GRANTEE shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than **\$1,000,000** per person per accident. The policy shall be endorsed to waive subrogation in favor of DISTRICT. Policy shall name DISTRICT as Additional Insureds.
- b. Commercial General Liability. Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed

operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of GRANTEE's performance of its obligations hereunder. Policy shall name DISTRICT as Additional Insureds. Policy's limit of liability shall not be less than **\$2,000,000** per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit.

- c. Vehicle Liability. If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then GRANTEE shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than **\$1,000,000** per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit. Policy shall name DISTRICT as Additional Insureds.
- d. General Insurance Provisions - All lines.
 - i. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by DISTRICT's Risk Manager. If DISTRICT's Risk Manager waives a requirement

for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

- ii. GRANTEE must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds \$500,000 per occurrence each such retention shall have the prior written consent of DISTRICT Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to DISTRICT, and at the election of the DISTRICT's Risk Manager, GRANTEE's carriers shall either: 1) reduce or eliminate such self-insured retention as respects this Agreement with DISTRICT, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.
- iii. GRANTEE shall cause GRANTEE's insurance carrier(s) to furnish DISTRICT with either 1) a properly executed original certificate(s) of insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by DISTRICT's Risk Manager, provide original certified copies of policies, including all endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said certificate(s) and policies of insurance shall contain the covenant of the

insurance carrier(s) that a minimum of thirty (30) days written notice shall be given to DISTRICT prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. If GRANTEE's insurance carrier(s) policies do(es) not meet the minimum notice requirement found herein, GRANTEE shall cause GRANTEE's insurance carrier(s) to furnish a 30 day Notice of Cancellation Endorsement.

- iv. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless DISTRICT receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverages set forth herein and the insurance required herein is in full force and effect. ***GRANTEE shall not commence entry onto Property until DISTRICT has been furnished original Certificate(s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf***

shall sign the original endorsements for each policy and the Certificate of Insurance. DISTRICT reserves the right to require complete certified copies of all policies of GRANTEE's contractors and subcontractors, at any time.

- v. It is understood and agreed to by the Parties hereto that the GRANTEE's insurance shall be construed as primary insurance, and DISTRICT's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.
- vi. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of the Agreement; or, there is a material change in the equipment to be used in the performance of the scope of work (such as the use of aircraft, watercraft, cranes, etc.); or the term of this Agreement, including any extensions thereof, exceeds five (5) years, DISTRICT reserves the right to adjust the types of insurance and the monetary limits of liability required under this Agreement, if in DISTRICT's Risk Manager's reasonable judgment, the amount or type of insurance carried by GRANTEE has become inadequate.
- vii. GRANTEE shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

- viii. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to DISTRICT.
- ix. GRANTEE agrees to notify DISTRICT of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

EXHIBIT "D"

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.

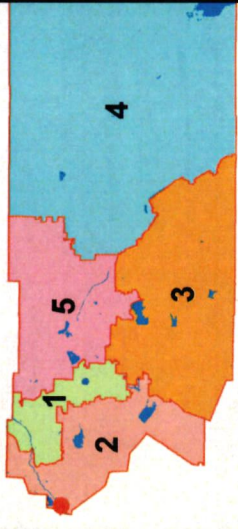
1. Any requirement for a spill prevention and emergency response plan, including any requirement to address measures to prevent sewage spills; procedures for spill control and containment, notifications, emergency response, cleanup, and spill and damage reporting.
2. Any requirement pertaining to storm 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.



Legend

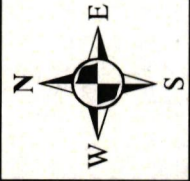
- Supervisorial District
- Project Vicinity

Description

Prado Dam Bicentennial Mural



VICINITY MAP



Attachment 1