

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

August 5, 2025

FROM

NOEL CASTILLO, Director, Department of Public Works - Transportation

SUBJECT

License Agreement with San Bernardino County Transportation Authority for Nice Avenue Drainage Improvement

RECOMMENDATION(S)

Approve License **Agreement No. 25-593** (SBCTA Contract No. 24-1003157), including non-standard terms, with the San Bernardino County Transportation Authority, for the Nice Avenue Drainage Improvement Project located south of Nice Avenue along the western side of the Zanja By-Pass watercourse in Mentone, for an annual fee of \$1,200, beginning January 1, 2026, and continuing on a month-to-month basis until terminated by either party.
(Presenter: Noel Castillo, Director, 387-7906)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

Ensure Development of a Well-Planned, Balanced, and Sustainable County.

Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). License Agreement No. 24-1003157 (License Agreement) with the San Bernardino County Transportation Authority (SBCTA) will result in an annual administration fee of \$1,200, payable annually in advance, beginning on January 1, 2026, utilizing Gas Tax funds from the Department of Public Works (Department). Sufficient appropriation and revenue are included in the Department's 2025-26 Road Operations budget (6650002000 H15266) and will be included in future recommended budgets.

BACKGROUND INFORMATION

The Department has drainage improvements within SBCTA's property (Assessor's Parcel Number (APN) 0298-061-07) south of Nice Avenue of the inactive Redlands Subdivision in the community of Mentone. Records show that the existing improvements were installed as early as 1996 and include a 24-inch corrugated metal pipe, concrete overside drain, and an asphalt concrete splash pad.

The improvements are not presently maintained under any license, and the License Agreement rectifies the undocumented nature of the improvements. The Department will be responsible for maintaining insurance, the existing improvements, and future weed abatement within the license area. The License Agreement runs month to month and does not have an expiration date but may be terminated by either party with 90 days' written notice.

**License Agreement with San Bernardino County Transportation Authority for Nice Avenue Drainage Improvement
August 5, 2025**

An application fee of \$2,230 has been paid (SBCTA Finance Deposit Reference No. D25-017). Fees paid in accordance with this license include an annual administration fee of \$1,200 imposed under SBCTA's Policy No. 31602 and Resolution No. 14-027. No annual use fees are charged for this license, as it is exempt pursuant to SBCTA Policy No. 31602, Section IX.C.8, due to the licensee being San Bernardino County. The fees described herein will be due annually commencing on January 1, 2026.

The License Agreement with SBCTA contains the following non-standard terms:

1. This is a month-to-month License Agreement with no end date.
 - The standard contract term is five years.
 - Potential Impact: In order to terminate the License Agreement, the County will have to provide 90 days' written notice.
2. County will be required to defend and indemnify SBCTA for failure to restore the premises, and for loss, liability, claims, demands, suits, liens, damages, costs and expenses arising out of the acts or omissions of the County, its personnel or its invitees, bodily injury to or death of any person or damage to or loss of use of property resulting from such acts, or non-performance or breach of any term of the License Agreement.
 - The County standard contract general indemnity provision requires the contractor to indemnify, defend and hold the County harmless from third party claims arising out of the acts, errors or omissions of any person.
 - Potential Impact: The County could be financially responsible for the defense of a claim and any resulting judgment/settlement.
3. SBCTA would be entitled to attorneys' fees and costs arising out of restoring the property, breach, the defense and indemnification, the release of any hazardous materials, or if any liens are placed on property.
 - The County standard contract provides that neither party is responsible to pay for the other party's attorneys' fees and costs except for indemnity obligations.
 - Potential Impact: The County could be financially responsible for the payment of attorneys' fees for SBCTA.
4. The County assumes the risk and waives all claims and demands against SBCTA except where caused by the negligence or willful misconduct of SBCTA or a third party.
 - The County standard contract does not include a limitation of liability.
 - Potential Impact: The County would be waiving any claims it has against SBCTA except caused by negligence or willful misconduct.
5. The License Agreement requires the County to maintain broad form insurance against claims for injuries to persons or damages to property that may arise from, or in connection with, the use of SBCTA property.
 - The County standard contract does not include a limitation of liability.
 - Potential Impact: The County would be waiving any claims it has against SBCTA except caused by negligence or willful misconduct.

**License Agreement with San Bernardino County Transportation
Authority for Nice Avenue Drainage Improvement
August 5, 2025**

6. The Agreement does not require SBCTA to meet the County's insurance standards as required pursuant to County Policies, 11-05, 11-07 and 11-07SP.
 - County policy requires contractors to carry appropriate insurance at limits and under conditions determined by the County's Risk Management Department and as set forth in County policy and in the County standard contract.
 - Potential Impact: The County has no assurance that SBCTA will be financially responsible for claims that may arise under the Agreement, which could result in expenses to the County that exceed the total Agreement amount.

The Department recommends approval of the License Agreement, including non-standard terms, in order to maintain existing drainage improvements and future weed abatement within the license area. Currently, these improvements are not covered under any formal agreement, nor presently maintained under any license. The proposed License Agreement will formalize the County's license, use, and maintenance responsibilities for drainage improvements located on a portion of the inactive Redlands Subdivision near Nice Avenue in the Mentone area.

PROCUREMENT

Not Applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Aaron Gest, Deputy County Counsel, 387-5455) on June 23, 2025; Risk Management (Gregory Ustaszewski, Staff Analyst, 386-9008) on June 26, 2025; and County Finance and Administration (Kathleen Gonzalez, Administrative Analyst, 387-5412) on July 15, 2025.

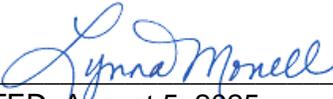
**License Agreement with San Bernardino County Transportation
Authority for Nice Avenue Drainage Improvement
August 5, 2025**

Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Joe Baca, Jr. Seconded: Curt Hagman
Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY  _____
DATED: August 5, 2025



cc: PW/Trans - Castillo w/agree
Contractor - c/o PW/Trans w/agree
File - w/agree
MBA 08/11/2025