

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

March 11, 2025

**FROM**

**NOEL CASTILLO, Director, Department of Public Works - Surveyor**

**SUBJECT**

Non-Financial Right of Entry License Agreement for Access with State of California Department of Corrections and Rehabilitation for Cypress Channel Survey in the Chino Area

**RECOMMENDATION(S)**

1. Approve a non-financial Right of Entry License **Agreement No. 25-153** for Access with the State of California Department of Corrections and Rehabilitation, which includes non-standard terms, for access to the Cypress Channel, within the State's correctional facility, for a term to commence on the date the Agreement is executed by both parties and to expire on April 30, 2025.
2. Authorize the Director of the Department of Public Works to execute the agreement and any other necessary documents, subject to review by County Counsel.
3. Direct the Department of Public Works to transmit the agreement to the Clerk of the Board within 30 days of execution.

(Presenter: Noel Castillo, Director, 387-7906)

**COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES**

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

**Provide for the Safety, Health and Social Service Needs of County Residents.**

**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. The Right of Entry License Agreement for Access (Agreement) with the State of California Department of Corrections and Rehabilitation (CDCR) is non-financial in nature.

**BACKGROUND INFORMATION**

The Agreement is necessary for the Department of Public Works (Department) to conduct survey work on a section of the Cypress Channel located within the California Institution for Men facility in the Chino area. The survey is part of a larger project aimed at assessing and improving the regional flood control infrastructure. The Cypress Channel is a critical component of this infrastructure, and accurate survey data is essential for planning, designing, and establishing flood control right-of-way and executing any necessary improvements.

The Agreement will grant the County temporary access to the State's property for the purpose of conducting the survey. The term of the license is from the date of execution of the Agreement through April 30, 2025, with the possibility of extension. Should the County and the State agree on an extension, the Department will return to the Board to amend the Agreement. The Agreement includes specific terms and conditions, such as coordination with CDCR officials,

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March 11, 2025**

adherence to any restrictions imposed by the authorities in charge of the facility, and compliance with all applicable laws and regulations.

The Agreement is the CDCR's standard Right of Entry License Agreement for Access and which includes the following non-standard and missing terms:

1. The County is required to waive all claims against the State arising out the Agreement and must indemnify and defend the State against any losses, damages, or liabilities. This includes all legal, expert witness, and consultant fees incurred in responding to, settling, or defending claims. However, this does not apply to claims caused solely by the State's negligence.
  - The County standard contract does not include any indemnification or defense by the County of another party.
  - Potential Impact: By agreeing to indemnify the State, the County could be contractually waiving the protection of sovereign immunity. Claims that may otherwise be barred against the County, time limited, or expense limited could be brought against the State without such limitations and the County would be responsible to defend and reimburse the State for costs, expenses, and damages, which could exceed the total contract amount.
2. The Agreement does not require the State to meet the County insurance standard. Instead, the Agreement requires the County to maintain commercial general liability, workers compensation, and motor vehicle liability insurance policies.
  - The County standard contract requires contractors to carry appropriate insurance at limits and under conditions determined by the County's Risk Management Department.
  - Potential Impact: The Agreement does not include County standard insurance requirements. This means that the County has no assurance that the State will be financially responsible for claims that may arise from the Agreement, which could result in expenses to the County that exceed the total contract amount. In addition, County is required to obtain and maintain commercial general liability, workers compensation, and motor vehicle liability insurance policies.

The Department recommends approval of the Agreement, including non-standard terms, to provide access to complete necessary survey work. The survey work will be conducted during daylight hours, and access to the property may be restricted in the event of emergency conditions, as determined by CDCR.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Aaron Gest, Deputy County Counsel, 387-5455) on February 13, 2025; Risk Management (Gregory Ustaszewski) on February 26, 2025; Finance (Kathy Gonzalez, Administrative Analyst, 387-5442; on February 18, 2025; and County Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer, 387-5423) on February 24, 2025.


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Record of Action of the Board of Supervisors  
San Bernardino County

**APPROVED (CONSENT CALENDAR)**

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

Lynna Monell, CLERK OF THE BOARD

BY   
DATED: March 11, 2025



cc: PW/Surveyor - Hunsicker w/agree for sign  
Contractor - c/o PW/Surveyor w/agree  
File - w/agree  
MBA 03/13/2025