

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

305B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:

April 26, 2011

SUBJECT: Eastvale MDP Line F-1, Stage 2 and Eastvale-Viva Drive Storm Drain
Project Nos. 2-0-00345 and 2-0-00362
Tract No. 30971
Assignment and Assumption Agreement

RECOMMENDED MOTION:

- 1) Approve the Assignment and Assumption Agreement (Agreement) between the District, the City of Eastvale, the County of Riverside (County), SC Eastvale Development Corporation, Pardee Homes (Assignors), SC Eastvale Development Company, LLC, Lewis Investment Company, LLC, and KB Home Coastal, Inc. (Assignees); and
- 2) Authorize the Chairman to execute the Agreement documents on behalf of the District.

BACKGROUND:

The Agreement transfers the rights and responsibilities, as established by the original Cooperative Agreement executed on January 23, 2006 (Item 11.3), from the Assignors to the Assignees. Once executed, the Assignees will complete the construction of the drainage facilities necessary for Tract 30971.

Continued on Page 2

WARREN D. WILLIAMS
General Manager-Chief Engineer

FINANCIAL DATA	Current F.Y. District Cost:	N/A	In Current Year Budget:	N/A
	Current F.Y. County Cost:	N/A	Budget Adjustment:	N/A
	Annual Net District Cost:	N/A	For Fiscal Year:	N/A

SOURCE OF FUNDS: N/A

Positions To Be Deleted Per A-30 ☐

Requires 4/5 Vote ☐

C.E.O. RECOMMENDATION:

APPROVE

BY:
Michael R. Shetler

County Executive Office Signature

Dep't Recomm.: ☐ Policy ☐ Policy
Per Exec. Ofc.: ☐ Consent ☐ Consent

Prev. Agn. Ref.:

District: 2nd

Agenda Number:

11.2

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

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BACKGROUND:

The Agreement is necessary to provide for District construction inspection of the referenced facilities associated with Tract No. 30971.

Upon completion of the facilities' construction, the District will assume ownership, operation and maintenance of the facilities except for the associated catch basins, laterals and connector pipes. The City will assume ownership, operation and maintenance of the associated catch basins, laterals and connector pipes located within its rights of way.

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

The Assignees are funding all construction and construction inspection costs.

KEC:blj

ASSIGNMENT AND ASSUMPTION AGREEMENT

Eastvale MDP Line F-1, Stage 2 and
Eastvale Viva Drive Storm Drain

(Tract No. 30971)

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT, hereinafter called "ASSIGNMENT", is made by and between (i) the RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, hereinafter called "DISTRICT"; (ii) the COUNTY OF RIVERSIDE, hereinafter called "COUNTY"; (iii) the CITY OF EASTVALE, hereinafter called "CITY"; (iv) SC EASTVALE DEVELOPMENT CORPORATION, a California corporation and PARDEE HOMES, a California corporation, altogether hereinafter called "ASSIGNORS"; and (v) SC EASTVALE DEVELOPMENT COMPANY, LLC, a Delaware limited liability company, LEWIS INVESTMENT COMPANY, LLC, a California Limited Liability Company, and KB HOME COASTAL, INC., a California Corporation, hereinafter altogether called "ASSIGNEES".

RECITALS

A. DISTRICT, COUNTY and ASSIGNORS previously entered into that certain Agreement which was executed on January 23, 2006, and recorded as Document No. 2007 – 0170128 in the Official Records of the County of Riverside, hereinafter called "AGREEMENT", setting forth the parties' respective rights and obligations concerning ASSIGNORS' proposed design and construction of certain flood control and drainage facilities required as a condition of approval for Tract No. 30971 located in the County of Riverside, State of California (hereinafter, called "PROPERTY"); and

B. Subsequent to the execution of said AGREEMENT, SC EASTVALE DEVELOPMENT COMPANY, LLC, and LEWIS INVESTMENT COMPANY, LLC, have, through the dissolution of SC EASTVALE DEVELOPMENT CORPORATION, acquired fee title to the PROPERTY; and

C. Subsequent to the execution of said AGREEMENT, on October 1, 2010, CITY was incorporated.

1 D. KB HOME COASTAL, INC., anticipates, pursuant to a separate, private
2 agreement, acquiring fee title to PROPERTY from SC EASTVALE DEVELOPMENT
3 COMPANY, LLC and/or LEWIS INVESTMENT COMPANY, LLC; and

4 E. A true copy of AGREEMENT has been provided to CITY and ASSIGNEES and
5 said AGREEMENT describes the terms and conditions by which those certain flood control and
6 drainage improvements that are required in connection with the development of Tract No. 30971
7 are to be designed and constructed by ASSIGNORS, and inspected and accepted for operation and
8 maintenance by DISTRICT and COUNTY; and

9 F. AGREEMENT stipulates that ASSIGNORS may assign their rights and
10 responsibilities as set forth therein subject to the written consent of the parties thereto; and

11 G. The totality of ASSIGNORS' rights, title, interests, benefits and privileges
12 pursuant to AGREEMENT are hereinafter collectively called "ASSIGNORS RIGHTS" and the
13 totality of ASSIGNORS' obligations pursuant to AGREEMENT are hereinafter collectively called
14 "ASSIGNORS OBLIGATIONS"; and

15 H. ASSIGNORS RIGHTS and ASSIGNORS OBLIGATIONS are hereinafter
16 altogether called "RIGHTS AND OBLIGATIONS"; and

17 I. ASSIGNORS, ASSIGNEES, CITY, COUNTY and DISTRICT intend that, by
18 execution of this ASSIGNMENT, ASSIGNEES shall assume all of ASSIGNORS' RIGHTS AND
19 OBLIGATIONS; and

20 J. ASSIGNOR, ASSIGNEE, CITY, COUNTY and DISTRICT intend that, by
21 execution of this ASSIGNMENT, CITY shall assume all rights and obligations under
22 AGREEMENT from COUNTY; and

23 K. Under the terms of a separate services contract, COUNTY will continue to
24 perform, on behalf of CITY, certain duties in respect to AGREEMENT. These duties may
25 include but are not limited to plan review, construction inspection and bond management.

26 NOW, THEREFORE, the parties hereto do hereby mutually agree as follows:

27 1. The above Recitals are true and correct.
28

1 2. By execution of this ASSIGNMENT, ASSIGNORS hereby assign all of their
2 RIGHTS AND OBLIGATIONS to ASSIGNEES.

3 3. For the benefit of CITY, COUNTY and DISTRICT, ASSIGNEES hereby ratify
4 and agree to be bound by the assignment of RIGHTS AND OBLIGATIONS set forth in
5 Paragraph 2 above.

6 4. ASSIGNEES agree to complete construction of PROJECT as detailed in
7 AGREEMENT within twelve (12) consecutive months after execution of this ASSIGNMENT and
8 within one hundred twenty (120) consecutive calendar days after commencing work on
9 PROJECT.

10 5. In regard to the assignment of RIGHTS AND OBLIGATIONS set forth herein,
11 CITY, COUNTY and DISTRICT hereby consent to and hereby agree to be bound by (i) the
12 assignment of RIGHTS AND OBLIGATIONS in favor of ASSIGNEES, and (ii) the assumption
13 by ASSIGNEES of said RIGHTS AND OBLIGATIONS. In further clarification of the intent of
14 the parties, ASSIGNEES and ASSIGNORS specifically agree with DISTRICT that access and/or
15 grant of real property interests required by DISTRICT pursuant to AGREEMENT, if any, shall be
16 satisfied by ASSIGNEES, and in regard to all financial obligations, DISTRICT shall invoice
17 ASSIGNEES for all charges incurred pursuant to AGREEMENT.

18 6. The assignment and assumption of RIGHTS AND OBLIGATIONS pursuant to
19 this ASSIGNMENT shall be binding upon and inure to the benefit of the successors, assigns,
20 personal representatives, heirs and legatees of the respective parties hereto.

21 7. CITY shall assume all rights and obligations under AGREEMENT from
22 COUNTY.

23 8. COUNTY shall not have any responsibilities under this ASSIGNMENT and shall
24 be relieved of all responsibilities set forth in AGREEMENT.

25 9. In the event that any action or suit by any party hereto is brought against another
26 party hereunder by reason of any breach of any of the covenants, conditions, agreements or
27 provisions on the part of the other party arising out of this ASSIGNMENT, the prevailing party
28

1 shall be entitled to have and recover of and from the other party all costs and expenses of the
2 action or suit, including reasonable attorneys' fees.

3 10. This ASSIGNMENT shall be governed by, interpreted under and construed in
4 accordance with the laws of the State of California.

5 11. Any and all notices sent or required to be sent to ASSIGNORS or ASSIGNEES
6 arising from either this ASSIGNMENT, or the obligations contained in AGREEMENT, will be
7 mailed by first class mail, postage prepaid, to the following addresses:

8 RIVERSIDE COUNTY FLOOD CONTROL
9 AND WATER CONSERVATION DISTRICT
10 1995 Market Street
11 Riverside, CA 92501
12 Attn: Administrative Services Section

COUNTY OF RIVERSIDE
Post Office Box 1090
Riverside, CA 92502-1090
Attn: Transportation Department

12 PARDEE HOMES
13 10880 Wilshire Boulevard, Suite 1900
14 Los Angeles, CA 90024
15 Attn: Chuck Curtis

LEWIS INVESTMENT
COMPANY, LLC
1156 North Mountain Avenue
Upland, CA 91786

14 SC EASTVALE DEVELOPMENT COMPANY, LLC
15 c/o Lewis Investment Company
16 1156 North Mountain Avenue
17 Upland, CA 91786

KB HOME COASTAL, INC.
36310 Inland Valley Drive
Wildomar, CA 92595
Attn: Scott Hansen

17 SC EASTVALE DEVELOPMENT CORPORATION
18 c/o Lewis Operating Corporation
19 1156 North Mountain Avenue
20 Upland, CA 91786

CITY OF EASTVALE
6080 Hamner Avenue, Suite 103
Eastvale, CA 91752
Attn: Michael Kashiwagi

20 12. Any action at law or in equity brought by any of the parties hereto for the purpose
21 of enforcing a right or rights provided for by this ASSIGNMENT, shall be tried in a court of
22 competent jurisdiction in the County of Riverside, State of California, and the parties hereto
23 waive all provisions of law providing for a change of venue in such proceedings to any other
24 county.

25 13. The individuals executing this ASSIGNMENT on behalf of ASSIGNORS and
26 ASSIGNEES hereby certify that they have the authority within their respective companies to enter
27 into and execute this ASSIGNMENT, and have been authorized to do so by any and all boards of
28

1 directors, legal counsel and/or any other board, committee or other entity within their respective
2 companies which have the authority to authorize or deny entering into this ASSIGNMENT.

3 14. This ASSIGNMENT may be executed in multiple counterparts, each of which
4 shall be deemed an original, but all of which together shall constitute one and the same
5 instrument.

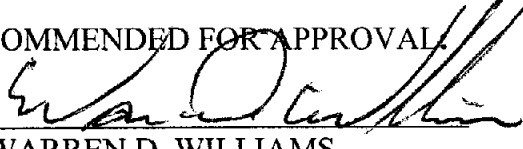
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IN WITNESS WHEREOF, the parties hereto have executed this ASSIGNMENT and

ASSUMPTION AGREEMENT on _____
(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL: **RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT**

By 
WARREN D. WILLIAMS
General Manager-Chief Engineer

By _____
MARION ASHLEY, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By 
NEAL KIPNIS
Deputy County Counsel

By _____
Deputy

(SEAL)

RECOMMENDED FOR APPROVAL:

COUNTY OF RIVERSIDE

By _____
JUAN C. PEREZ
Director of Transportation

By _____
BOB BUSTER, Chairman
County of Riverside Board of Supervisors

ATTEST:

KECIA HARPER-IHEM
Clerk of the Board

By _____
Deputy

(SEAL)

Assignment & Assumption Agreement
Tract No. 30971
10/25/10
KEC:blj

RECOMMENDED FOR APPROVAL:

CITY OF EASTVALE

By


MICHAEL KASHIWAGI
City Engineer

By

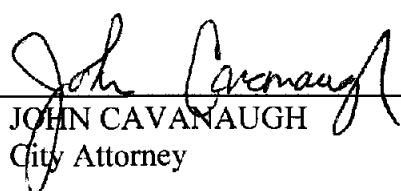

ROBERT VAN NORT
Interim City Manager

APPROVED AS TO FORM:

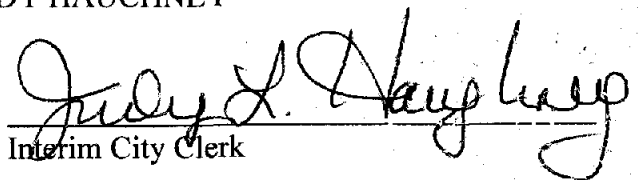
ATTEST:

JUDY HAUCHNEY

By


JOHN CAVANAUGH
City Attorney

By


Judy L. Hauchney
Interim City Clerk


(SEAL)

Assignment & Assumption Agreement
Tract No. 30971
10/25/10
KEC:blj

ASSIGNORS

SC EASTVALE DEVELOPMENT
CORPORATION
a California corporation

By


J. SCOTT CRAWFORD
Vice-President

(ATTACH NOTARY ACKNOWLEDGEMENT
WITH CAPACITY STATEMENT)

Assignment & Assumption Agreement
Tract No. 30971
10/25/10
KEC:blj

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

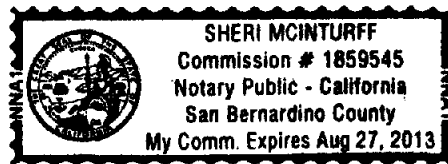
STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

On November 24, 2010, before me, Sheri McInturff, Notary Public, personally appeared J. Scott Crawford, 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 he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

I certify under 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.

Signature Sheri McInturff



My commission expires: 8/27/2013

(Seal)

OPTIONAL

THOUGH THE INFORMATION BELOW IS NOT REQUIRED BY LAW, IT MAY PROVE VALUABLE TO PERSONS RELYING ON THE DOCUMENT AND COULD PREVENT FRAUDULENT REMOVAL AND REATTACHMENT OF THIS FORM TO ANOTHER DOCUMENT.

Description of Attached Document

Title or Type of Document: Assignment & Assumption Agreement

Document Date: _____ Number of Pages: 8

Signer(s) Other Than Named Above: none

Capacity(ies) Claimed by Signer(s)

Signer's Name: J. Scott Crawford

Signer's Name: _____

- ☐ Individual
☒ Corporate Officer – Title(s): Vice President
☐ Partner - ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: Authorized Agent

- ☐ Individual
☐ Corporate Officer – Title(s): _____
☐ Partner - ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Right Thumbprint
Of signer

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Right Thumbprint
Of signer

Top of thumb here

Signer is Representing: SC Eastvale Development Corporation

Signer is Representing: _____