

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



ITEM: 11.4
(ID # 17725)

MEETING DATE:

Tuesday, December 14, 2021

FROM : FLOOD CONTROL DISTRICT:

SUBJECT: FLOOD CONTROL DISTRICT: Approval of the Assignment and Assumption Agreement Between the Riverside County Flood Control and Water Conservation District, the County of Riverside, SR Conestoga, LLC and D.R. Horton Los Angeles Holding Company, Inc. for Winchester Hills – Line 3, Stage 3 (Tract Map No. 31633), Project No. 4-0-00577, District 3. [\$0] (Companion Item to MT Item No. 17846)

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Assignment and Assumption Agreement between the Riverside County Flood Control and Water Conservation District (District), the County of Riverside (County), SR Conestoga, LLC (Assignor) and D.R. Horton Los Angeles Holding Company, Inc. (Assignee);
2. Authorize the General Manager-Chief Engineer or designee to take all necessary steps to implement the Assignment and Assumption Agreement, including, but not limited to, negotiating, approving and executing any non-substantive amendments and any assignment and assumption associated with change of ownership of the property, subject to approval by County Counsel;

Continued on page 2

ACTION:Policy

Jason Uhley, GENERAL MGR-CHF FLD CNTRL ENG

12/2/2021

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: December 14, 2021
xc: Flood, Trans.

(Companion Item 3.63)

Kecia R. Harper
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:

3. Authorize the Chair of the Board of Supervisors for the District to execute the Assignment and Assumption Agreement documents on behalf of the District; and
4. Direct the Clerk of the Board to return four (4) executed Assignment and Assumption Agreements to the District and one (1) executed Assignment and Assumption Agreement to the Riverside County Transportation Department.

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: The Assignee is funding all construction and construction inspection costs (100%)			Budget Adjustment: No	
			For Fiscal Year: N/A	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Assignment and Assumption Agreement (Agreement) transfers the rights and responsibilities established by the cooperative agreement executed on October 17, 2017 (District Board Agenda Item No. 11.4) from SR Conestoga, LLC (Assignor) to D.R. Horton Los Angeles Holding Company, Inc. (Assignee). Once executed, the Assignee will assume responsibility for the construction of the storm drain facilities, as originally required as a condition of development for Tract No. 31633.

Upon completion of the facility's construction, the Assignee will assume ownership, operation and maintenance of the mainline storm drains until such time as District assumes ownership, operation and maintenance in accordance the terms and conditions as set forth in the cooperative agreement. The Assignee will retain ownership, operation and maintenance of the water quality basin within its rights of way. The County will assume ownership and responsibility for the project's associated graded earthen channel, catch basins, inlets, outlets, connector pipes, curbs and gutters, access roads and various lateral storm drains that are thirty-six inches (36") or less in diameter that are located within County rights of way.

County Counsel has approved the Agreement as to legal form, and the Assignor and Assignee have executed the Agreement. A companion item appears on the Riverside County Transportation Department's agenda this same date.

Environmental Findings

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

The transfer of rights and responsibilities from the Assignor to the Assignee is not a "project" pursuant to Section 15378(b)(5) of the California Environmental Quality Act (CEQA) Guidelines, which state that a "project" does not include "Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment."

The transfer of rights and responsibilities will not, in and of itself, result in a physical change to the environment and does not authorize to any extent whatsoever actual physical development. Any future development, if it occurs at all, will be the result of subsequent actions subject to further CEQA review. Therefore, the transfer of rights and responsibilities is not a project within the meaning of CEQA. No further CEQA analysis is required.

Impact on Residents and Businesses

Assignee's planned development will benefit from the storm drain facilities that are to be constructed by the Assignee. Ancillary benefits will accrue to the public who will utilize the tract's roadways.

Prev. Agn. Ref.: MT Item No. 5488, 11.4 of 10/17/17


Additional Fiscal Information

The Assignee is funding all construction and construction inspection costs. Future operation and maintenance costs associated with said mainline storm drain facility will accrue to the District.

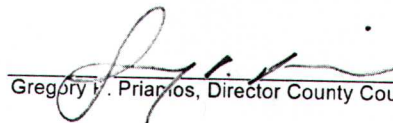
ATTACHMENTS:

1. Vicinity Map
2. Assignment and Assumption Agreement

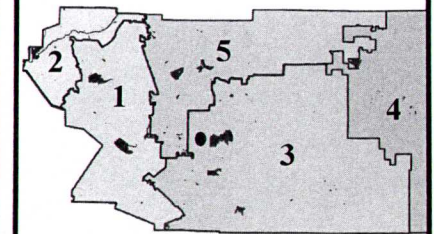
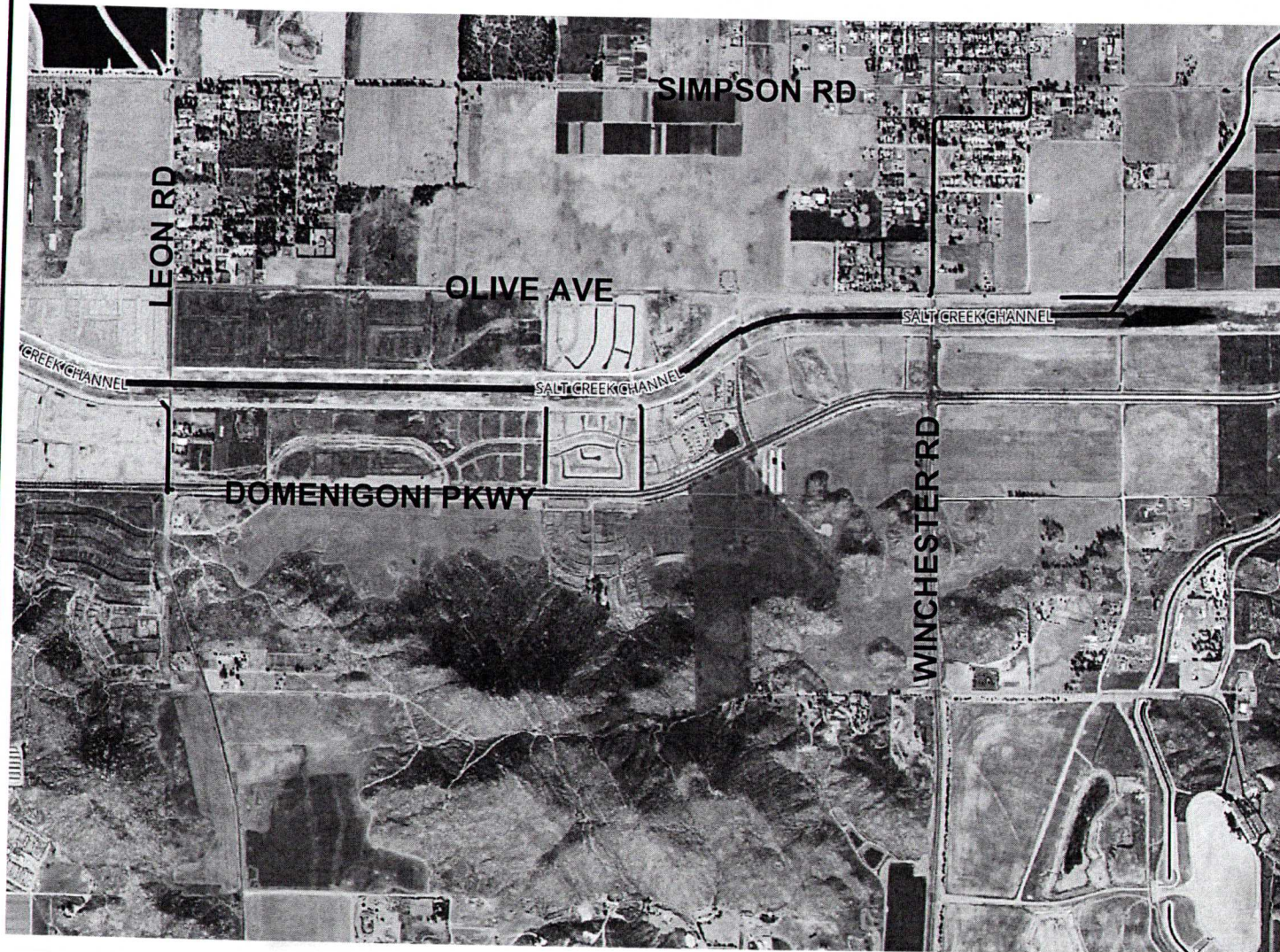
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P8/241264



Jason Farin, Principal Management Analyst 12/8/2021



Gregory L. Priamos, Director County Counsel 12/7/2021



Supervisor Districts

LEGEND:

- Existing Facilities
- Project Vicinity
- Supervisorial District

DESCRIPTION:

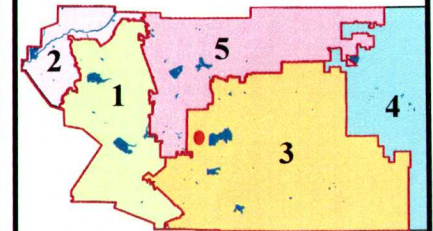
Winchester Hills Line 3, Stage 3
 Project No. 4-0-00577
 Tract No. 31633



VICINITY MAP



Attachment 1



Supervisor Districts

LEGEND:

- Existing Facilities
- Project Vicinity
- Supervisorial District

DESCRIPTION:

Winchester Hills Line 3, Stage 3
 Project No. 4-0-00577
 Tract No. 31633



VICINITY MAP



Attachment 1

ASSIGNMENT AND ASSUMPTION AGREEMENT

Winchester Hills – Line 3, Stage 3

Project No. 4-0-00577

Tract No. 31633

COPY

This Assignment and Assumption Agreement ("ASSIGNMENT") is made by and between (i) the Riverside County Flood Control and Water Conservation District, a body politic ("DISTRICT"); (ii) the County of Riverside, a political subdivision of the State of California ("COUNTY"); (iii) SR Conestoga, LLC, a Delaware limited liability company ("ASSIGNOR"); and (iv) D.R. Horton Los Angeles Holding Company, Inc., a California corporation ("ASSIGNEE"), together, referred to as the "Parties" and individually as "Party". The Parties hereto agree as follows:

RECITALS

A. DISTRICT, COUNTY and ASSIGNOR have previously entered into that certain Agreement which was executed on October 17, 2017 (DISTRICT Board Agenda Item No. 11.4), and recorded as Document No. 2017-0479086 in the Official Records of the County of Riverside ("AGREEMENT"), setting forth the Parties' respective rights and obligations concerning ASSIGNOR's proposed design and construction of certain flood control and drainage facilities required as a condition of approval for Tract No. 31633, located in an unincorporated area of western Riverside County in the State of California, hereinafter called "PROPERTY"; and

B. Subsequent to the execution of said AGREEMENT, ASSIGNEE has acquired fee title to PROPERTY pursuant to a certain Grant Deed dated August 18, 2021, and plans to proceed in accordance with AGREEMENT; and

C. A true and correct copy of AGREEMENT has been provided to ASSIGNEE. AGREEMENT describes the terms and conditions by which those certain flood control and drainage improvements that are required in connection with the development of Tract No. 31633

DEC 14 2021 3:03:11.4

are to be designed and constructed by ASSIGNOR and inspected and accepted for operation and maintenance by DISTRICT, COUNTY and ASSIGNOR; and

D. Section IV.16 of AGREEMENT stipulates that ASSIGNOR may assign its rights and responsibilities as set forth therein subject to the written consent of the Parties thereto; and

E. The totality of ASSIGNOR's rights, title, interests, benefits and privileges pursuant to AGREEMENT are hereinafter collectively called "ASSIGNOR RIGHTS", and the totality of ASSIGNOR's obligations or responsibilities pursuant to AGREEMENT are hereinafter collectively called "ASSIGNOR OBLIGATIONS"; and

F. ASSIGNOR RIGHTS and ASSIGNOR OBLIGATIONS are hereinafter altogether called "RIGHTS AND OBLIGATIONS"; and

G. ASSIGNOR, ASSIGNEE, COUNTY and DISTRICT intend that, by execution of this ASSIGNMENT, ASSIGNEE shall assume and agrees to perform all RIGHTS AND OBLIGATIONS as stated in AGREEMENT; and

H. Section IV.18 of AGREEMENT specifies that AGREEMENT may be changed or modified subject to the written consent of the Parties thereto.

NOW, THEREFORE, in consideration of the preceding Recitals and the mutual covenants hereinafter contained, the Parties hereto do hereby mutually agree as follows:

1. The above Recitals are true and correct and incorporated into the terms of this ASSIGNMENT in their entirety.

2. By execution of this ASSIGNMENT, ASSIGNOR hereby assigns all of its RIGHTS AND OBLIGATIONS to ASSIGNEE, and ASSIGNEE accepts RIGHTS AND OBLIGATIONS.

3. For the benefit of DISTRICT and COUNTY, ASSIGNEE hereby agrees to be fully bound by the terms of AGREEMENT that are stated and imposed on ASSIGNOR in AGREEMENT. ASSIGNOR is referred to as DEVELOPER in AGREEMENT.

4. In regard to the assignment of RIGHTS AND OBLIGATIONS set forth herein, DISTRICT and COUNTY hereby consent and agree to (i) the assignment of RIGHTS AND OBLIGATIONS in favor of ASSIGNEE; and (ii) the assumption by ASSIGNEE of said RIGHTS AND OBLIGATIONS. In further clarification of the intent of the Parties, ASSIGNEE and ASSIGNOR specifically agree with DISTRICT that access and/or grant of real property interests required by DISTRICT pursuant to AGREEMENT, if any, shall be satisfied by ASSIGNEE, and in regard to all financial obligations, DISTRICT shall invoice ASSIGNEE for all charges incurred pursuant to AGREEMENT.

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

6. In the event that any action or suit by the Party hereto is brought against another Party hereunder by reason of any breach of any of the covenants, conditions, agreements or provisions on the part of the other Party arising out of this ASSIGNMENT, the prevailing Party shall be entitled to have and recover of and from the other Party all costs and expenses of the action or suit, including reasonable attorneys' fees.

7. This ASSIGNMENT is to be construed in accordance with the laws of the State of California.

8. If any provision in this ASSIGNMENT is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

9. Nothing in the provisions of this ASSIGNMENT is intended to create duties or obligations to or rights in third parties who are not Party to this ASSIGNMENT.

10. This ASSIGNMENT may be changed or modified only upon the written consent of the Parties hereto.

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

RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT
1995 Market Street
Riverside, CA 92501
Attn: Contract Services Section

COUNTY OF RIVERSIDE
4080 Lemon Street, 8th Floor
Riverside, CA 92502-1090
Attn: Transportation Department
Plan Check Section

SR CONESTOGA, LLC
41391 Kalmia Street, Suite 200
Murrieta, CA 92562
Attn: Jim Lytle

D.R. HORTON LOS ANGELES
HOLDING COMPANY, INC.
2280 Wardlow Circle, Suite 100
Corona, CA 92880
Attn: Vlad Burce

12. The individuals executing this ASSIGNMENT on behalf of ASSIGNEE hereby certify that they have the authority within their respective companies to enter into and execute this ASSIGNMENT, and have been authorized to do so by any and all boards of directors, legal counsel and/or any other board, committee or other entity within their respective companies which have the authority to authorize or deny entering into this ASSIGNMENT.

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

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IN WITNESS WHEREOF, the Parties hereto have executed this ASSIGNMENT on

December 14, 2021
(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

By: [Signature]
JASON E. UHLEY
General Manager-Chief Engineer

**RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT**

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

APPROVED AS TO FORM:

GREGORY P. PRIAMOS
County Counsel

By: [Signature]
SARAH K. MOORE
Deputy County Counsel

ATTEST:


KECIA HARPER
Clerk of the Board

By: [Signature]
Deputy

(SEAL)

Assignment and Assumption Agreement:
Winchester Hills – Line 3, Stage 3
Tract No. 31633
Project No. 4-0-00577
AMR:blm
11/04/21

RECOMMENDED FOR APPROVAL:


By: 
MARK LANCASTER
Director of Transportation

COUNTY OF RIVERSIDE

By: 
KAREN SPIEGEL, Chair
Board of Supervisors

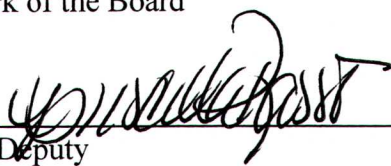
APPROVED AS TO FORM:

GREGORY P. PRIAMOS
County Counsel

By: 
STEPHANIE K. NELSON
Deputy County Counsel

ATTEST:

KECIA HARPER
Clerk of the Board

By: 
Deputy

(SEAL)

Assignment and Assumption Agreement:
Winchester Hills – Line 3, Stage 3
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ASSIGNOR

SR CONESTOGA, LLC,
a Delaware limited liability company

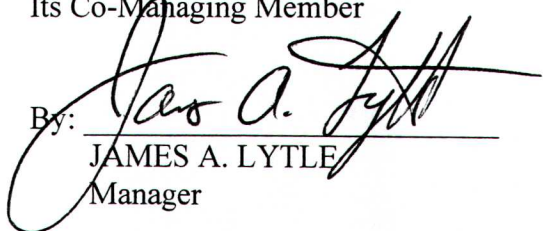
By: Strata Conestoga, LLC,
a Delaware limited liability company
Its Co-Managing Member

By: Strata Equity RES, LLC,
a California limited liability company
Its Managing Member

By: 

DAVID C. MICHAN
Manager

By: Conestoga Development LLC,
a California limited liability company
Its Co-Managing Member

By: 

JAMES A. LYTLE
Manager

(ATTACH NOTARY WITH CAPACITY
STATEMENT)

Assignment and Assumption Agreement:
Winchester Hills – Line 3, Stage 3
Tract No. 31633
Project No. 4-0-00577
AMR:blm
11/04/21

ACKNOWLEDGMENT

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 San Diego)

On November 8, 2021 before me, Maria F. Tenorio, a Notary Public
(insert name and title of the officer)

personally appeared David. C Michan,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) 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  (Seal)



CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

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 NOVEMBER 9, 2021
Date

before me,

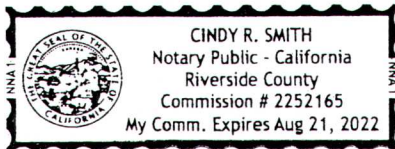
Cindy R Smith, Notary Public
Here Insert Name and Title of the Officer

personally appeared

JAMES A. LITTLE

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) 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

[Signature]
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____

Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: _____

Signer is Representing: _____

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: _____

Signer is Representing: _____

ASSIGNEE

**D.R. HORTON LOS ANGELES HOLDING
COMPANY, INC.,**
a California corporation

By: 
BARBARA M. MURAKAMI
Vice-President

By: 
JENNIFER L. O'LEARY
Authorized Signatory

(ATTACH NOTARY WITH CAPACITY
STATEMENT)

Assignment and Assumption Agreement:
Winchester Hills – Line 3, Stage 3
Tract No. 31633
Project No. 4-0-00577
AMR:blm
11/04/21

CALIFORNIA NOTARY ACKNOWLEDGEMENT (INDIVIDUAL)

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

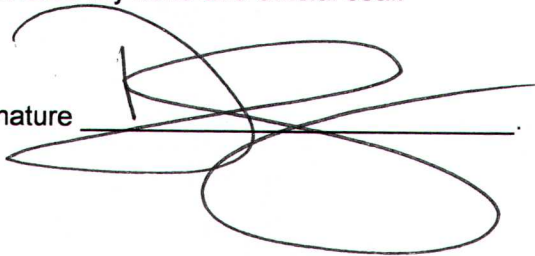
County of Riverside

On November 12, 2021 before me, Desirae Dawn Savaria, NOTARY PUBLIC (insert name and title of the officer), personally appeared JENNIFER L. O'LEARY and BARBARA M. MURAKAMI, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that ~~he~~ ~~she~~ they executed the same in ~~his~~ ~~her~~ their authorized capacity(ies), and that by ~~his~~ ~~her~~ their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) 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



(Seal)

