

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM: 3.29
(ID # 18959)

MEETING DATE:

Tuesday, May 10, 2022


FROM : TLMA-TRANSPORTATION:

SUBJECT: TRANSPORTATION AND LAND MANAGEMENT/TRANSPORTATION: Approval of the Assignment and Assumption Agreement between the County of Riverside, the Riverside County Flood Control and Water Conservation District, RG Harvill Riv Co LLC, and Harvill Avenue Associates, LLC for the Perris Valley MDP – Lateral J-9, Stage 3 and Perris Valley MDP –Lateral J-9.1, Stage 2 (Plot Plan No. 190005), Project Nos. 4-0-00456 and 4-0-00476. Not a Project under CEQA, District 1. [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that the Agreement is not a project pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15378(b)(5);
2. Approve the Assignment and Assumption between the County of Riverside (County), the Riverside County Flood Control and Water Conservation District (District), RG Harvill Riv Co LLC (Assignor), and Harvill Avenue Associates, LLC (Assignee);
3. Authorize the Chair of the Board of Supervisors to execute the Assignment and Assumption Agreement on behalf of the County; and
4. Authorize the Director of Transportation 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 as to form by County Counsel.

ACTION:Policy


Mark Lancaster, Director of Transportation

4/26/2022


Aaron Gettis, Deputy County Counsel

4/27/2022

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Washington seconded by Supervisor Jeffries 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: May 10, 2022
xc: Trans.

Kecia R. Harper
Clerk of the Board

By: 
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

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: Developer funded 100%. No General Funds will be used on this project.			Budget Adjustment: No	
			For Fiscal Year: 21/22	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Assignment and Assumption Agreement (Agreement) transfers the rights and responsibilities as established by the Cooperative Agreement executed on December 8, 2020 (Board Agenda Item No. 3.34), from RG Harvill Riv Co LLC (Assignor) to Harvill Avenue Associates, LLC (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 Plot Plan No. 190005.

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 to 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.

Environmental Findings

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 CEQA analysis is required.

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
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Impact on Residents and Businesses

The 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.

Additional Fiscal Information

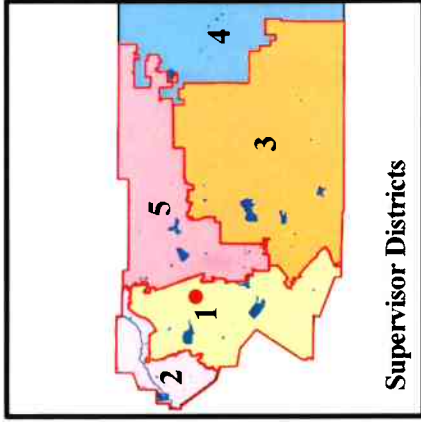
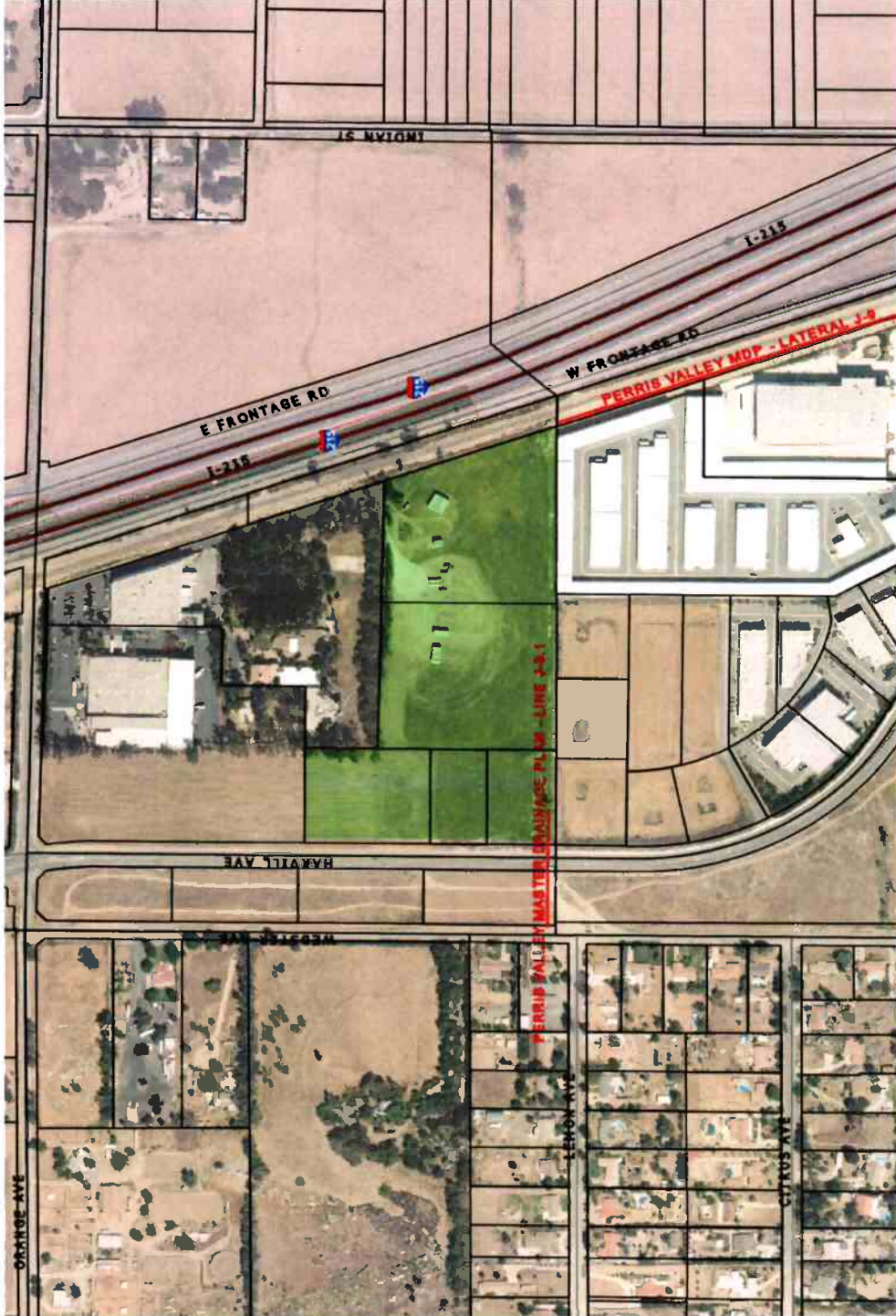
The Assignee is funding all construction and construction inspection costs. Future operation and maintenance costs of the County maintained roads and storm drains within the County right of way will accrue to the Transportation Department. Future operations and maintenance costs of the District maintained storm drain system will accrue to the District.

ATTACHMENTS:




Assignment and Assumption Agreement
Vicinity Map



Jason Farin, Principal Management Analyst 5/5/2022

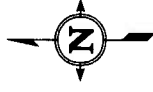


LEGEND:

-  Existing Facilities
-  Project Vicinity
-  Supervisorial District

DESCRIPTION:

Perris Valley MDP – Lateral J-9, Stage 3
 Perris Valley MDP – Lateral J-9.1, Stage 2
 Project Nos. 4-0-00456 and 4-0-00476
 Plot Plan No. 190005



VICINITY MAP



ASSIGNMENT AND ASSUMPTION AGREEMENT

Perris Valley MDP Lateral J-9, Stage 3
 Perris Valley MDP Lateral J-9.1, Stage 2
 Project Nos. 4-0-00456 and 4-0-00476
 Plot Plan No. 190005

This Assignment and Assumption Agreement ("ASSIGNMENT") is made by and between the Riverside County Flood Control and Water Conservation District, a body politic ("DISTRICT"), the County of Riverside, a political subdivision of the State of California ("COUNTY"), RG Harvill Riv Co LLC, a Delaware limited liability company ("ASSIGNOR"), and Harvill Avenue Associates, LLC, a Delaware limited liability company ("ASSIGNEE"), together, the "Parties", or individually, the "Party". The Parties hereto agree as follows:

RECITALS

A. On December 8, 2020 [DISTRICT's Board Agenda Item No. 11.2], DISTRICT, COUNTY and ASSIGNOR entered into that certain Cooperative Agreement ("AGREEMENT"), which set 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 Plot Plan No. 190005, 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 acquired fee title to PROPERTY pursuant to a certain Grant Deed dated September 24, 2021 (Document No. 2021-0571721); and

C. PROPERTY construction is completed per the plans and specifications and has been accepted by DISTRICT, COUNTY and ASSIGNOR for operation and maintenance; and

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

190005 are to be designed and constructed by ASSIGNOR and inspected and accepted for operation and maintenance by DISTRICT, COUNTY and ASSIGNOR; and

D. 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 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 of ASSIGNOR's RIGHTS AND OBLIGATIONS as stated in AGREEMENT; and

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.
2. By execution of this ASSIGNMENT, ASSIGNOR hereby assigns all of its RIGHTS AND OBLIGATIONS to ASSIGNEE.
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.
4. In regard to the assignment of RIGHTS AND OBLIGATIONS set forth herein, DISTRICT hereby consents to and hereby agrees to be bound by (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. For the avoidance of doubt, ASSIGNOR is hereby expressly released from any obligations under the AGREEMENT arising from and after the execution of this ASSIGNMENT.

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

9. 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:

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

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

To ASSIGNOR: RG HARVILL RIV CO LLC
4 Park Plaza, Suite 840
Irvine, CA 92614
Attn: Michael Sajjadi

To ASSIGNEE: HARVILL AVENUE ASSOCIATES, LLC
300 Robbins Lane
Syosset, NY 11791
Attn: David Blumenfeld

10. The individuals executing this ASSIGNMENT on behalf of ASSIGNOR and 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.

11. 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

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

By: 

JASON E. UHLEY
General Manager-Chief Engineer

APPROVED AS TO FORM:
COUNTY COUNSEL

By: 

AARON C. GETTIS
Supervising Deputy County Counsel

Assignment and Assumption Agreement
Perris Valley MDP Lateral J-9, Stage 3
Perris Valley MDP Lateral J-9.1, Stage 2
Project Nos. 4-0-00456 and 4-0-00476
Plot Plan No. 190005
03/23/22
AMR:blm

RECOMMENDED FOR APPROVAL:

COUNTY OF RIVERSIDE

By: Mark Lancaster
MARK LANCASTER
Director of Transportation

By: Jeff Hewitt
JEFF HEWITT, Chair
Board of Supervisors

APPROVED AS TO FORM:
COUNTY COUNSEL

ATTEST:

KECIA HARPER
Clerk of the Board

By: Steph Nelson
STEPHANIE K. NELSON
Deputy County Counsel

By: July Martinez
Deputy

(SEAL)


Assignment and Assumption Agreement
Perris Valley MDP Lateral J-9, Stage 3
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Project Nos. 4-0-00456 and 4-0-00476
Plot Plan No. 190005
03/23/22
AMR:blm

ASSIGNOR

RG HARVILL RIV CO LLC,
a Delaware limited liability company

By: RG Capital LLC,
a Delaware limited liability company,
its Operating Manager

By: Michael Sajjadi
VP Construction

By: 
MICHAEL SAJJADI
Vice President

(ATTACH NOTARY WITH CAPACITY STATEMENT)

Assignment and Assumption Agreement
Perris Valley MDP Lateral J-9, Stage 3
Perris Valley MDP Lateral J-9.1, Stage 2
Project Nos. 4-0-00456 and 4-0-00476
Plot Plan No. 190005
03/23/22
AMR:blm

ASSIGNEE

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 Orange)

On March 24, 2022 before me, Robbie P. Wittman
(insert name and title of the officer)

personally appeared Michael M. Sajjadi,
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.

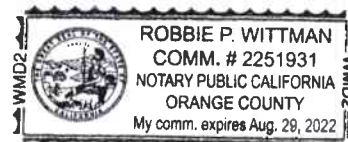
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

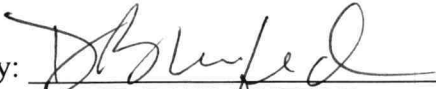
Robbie P. Wittman

(Seal)



HARVILL AVENUE ASSOCIATES, LLC,
a Delaware limited liability company

By: Harvill Member, LLC,
a Delaware limited liability company

By: 

DAVID BLUMENFELD
Authorized Signatory

(ATTACH NOTARY WITH CAPACITY
STATEMENT)

Assignment and Assumption Agreement
Perris Valley MDP Lateral J-9, Stage 3
Perris Valley MDP Lateral J-9.1, Stage 2
Project Nos. 4-0-00456 and 4-0-00476
Plot Plan No. 190005
03/23/22
AMR:blm

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.

Acknowledgement Form

State of New York)

) SS.:

County of Nassau)

On the 20th day of March in the year 2022, before me, the undersigned notary Public, personally appeared David Blumenfeld, personally know to me or proved to me on the basis of satisfactory evidence to be the individual(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 capacity(ies), and that by his/ her/ their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

 Notary Public

DENISE ZAINO
Notary Public - State of New York
NO. 012A6254175
Qualified in Suffolk County
My Commission Expires 1/17/24