

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



ITEM: 3.43
(ID # 19796)

MEETING DATE:
Tuesday, October 18, 2022

FROM : TLMA-TRANSPORTATION:

SUBJECT: TRANSPORTATION AND LAND MANAGEMENT AGENCY/TRANSPORTATION:
Approval of the Assignment and Assumption Agreement to Cooperative Agreement between the County of Riverside, the Riverside County Flood Control and Water Conservation District, Ranchos Property and BRPLD LLC for Winchester Hills – Line C, Stage 2 and Winchester Hills Line C Detention Basin (Tract Map No. 34677), Project Nos. 4-0-00580 and 4-0-00585, Nothing Further is Required under CEQA. District 3. [\$0] (Companion Item to MT Item No. 19874)

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that the approval of the Assignment and Assumption Agreement will not have a significant adverse effect on the environment and that any potentially significant environmental effects have been adequately analyzed in the Environmental Impact Report No. 380 (State Clearinghouse No. 1991082004) that was previously certified and prepared by the County of Riverside; adopted by the Lead Agency (Riverside County) on July 23, 2019; for the Winchester Hills Specific Plan No. 293; nothing further is required under the California Environmental Quality Act (CEQA);

Continued on page 2

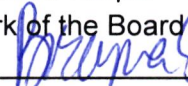
ACTION:Policy


Mark Lancaster, Director of Transportation 10/3/2022

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Jeffries, seconded by Supervisor Perez and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended and that Resolution 440-9295 is adopted as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: October 18, 2022
xc: Trans., Flood

Kecia R. Harper
Clerk of the Board
By: 
Deputy

(Companion Item 11.2)

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

RECOMMENDED MOTION: That the Board of Supervisors:

2. Approve the Assignment and Assumption Agreement to the Cooperative Agreement between the County of Riverside (County), the Riverside County Flood Control and Water Conservation District (District), Ranchos Properties (Assignor), and BRPLD LLC (Assignee);
3. 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; and
4. Authorize the Chair of the Board of Supervisors to execute the Cooperative Agreement documents on behalf of the County.

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 Funds 100%. No General Funds will be used on this project.			Budget Adjustment: No	
			For Fiscal Year: 22/23	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Assignment and Assumption Agreement (Assignment) transfers the rights and responsibilities as established by the cooperative agreement (Agreement) executed on August 6, 2019, (Board Agenda Item No. 3.41) from Ranchos Property (Assignor) to BRPLD 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 Tract No. 34677. Upon completion of the facility's construction, the County will assume ownership and responsibility for the project's associated catch basins, inlets, outlets, curbs and gutters, connector pipes, riprap and various lateral storm drains that are thirty-six inches (36") or less in diameter that are located within County held easements or rights of way. The District will assume ownership, operation and maintenance of the mainline storm drain greater than 36-inches in diameter and a detention basin for the Winchester Hills – Line C, Stage 2 and Winchester Hills Line C Detention Basin facilities.

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 Flood Control and Water Conservation District agenda this same date.

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STATE OF CALIFORNIA**

Environmental Findings

The County previously approved the Environmental Impact Report No. 380 (State Clearinghouse No. 1991082004) prepared for the Winchester Hills Specific Plan No. 293. The County acting as CEQA lead agency finds that the inspection, acceptance, operation, and maintenance as described in the Agreement are adequately addressed by the Environmental Impact Report. The terms of ownership, operation, and maintenance between the County and District as described in this Agreement will not have a significant impact on the environment. Therefore, no further analysis is required under CEQA. None of the triggers under Section 15162 of the State CEQA Guidelines applies. Therefore, no further analysis is required under CEQA.

Additionally, the transfer of rights and responsibilities from the Assignor to the Assignee in the Assignment is not a "project" pursuant to Section 15378(b)(5) of the State CEQA Guidelines which states 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 significant environmental effect 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 for this action.

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.

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:

Vicinity Map
Assignment and Assumption Agreement

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



Jason Farin, Principal Management Analyst 10/12/2022



Aaron Gettis, Deputy County Counsel 10/5/2022

ASSIGNMENT AND ASSUMPTION AGREEMENT

Winchester Hills – Line C, Stage 2
Winchester Hills Line C Detention Basin
Winchester Hills – Line C, Stage 4
Project Nos. 4-0-00580 and 4-0-00585
Tract Map No. 34677

This Assignment and Assumption Agreement ("ASSIGNMENT"), dated as of October 18, 22, 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) Ranchos Property, a California general partnership ("ASSIGNOR"); and (iv) BRPLD, LLC, a Delaware limited liability company ("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 Agreements, which were executed on August 6, 2019 (DISTRICT Board Agenda Item No. 11.1) and recorded as Document No. 2019-0314184 and Document No. 2019-0314185 in the Official Records of the County of Riverside, ("AGREEMENTS") 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 Map No. 34677 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 February 4, 2022, and plans to proceed in accordance with AGREEMENTS; and

C. Pursuant to a certain Assignment and Assumption of Cooperative Agreement, which was executed on May 18, 2021 (DISTRICT Board Agenda Item No. 11.1) by and between

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DISTRICT and KB HOMES Coastal Inc., KB HOMES Coastal Inc. constructed or caused to be constructed the required Winchester Hills - Line C, Stage 3 facility as shown on DISTRICT's Drawing No. 4-1126; and

D. A true and correct copy of AGREEMENTS 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 Map No. 34677 are to be designed and constructed by ASSIGNOR and inspected and accepted for operation and maintenance by DISTRICT, COUNTY and ASSIGNOR; and

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

F. The totality of ASSIGNOR's rights, title, interests, benefits and privileges pursuant to AGREEMENTS 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

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

H. 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 AGREEMENTS; and

I. Section IV.18 of AGREEMENTS specify that AGREEMENTS may be changed or modified subject to the written consent of the Parties thereto; 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 and are 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 AGREEMENTS that are stated and imposed on ASSIGNOR in AGREEMENTS. ASSIGNOR is referred to as DEVELOPER in AGREEMENTS. As such, upon execution of this ASSIGNMENT, ASSIGNEE will become the new "DEVELOPER" under the terms of AGREEMENTS.

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 and COUNTY that access and/or grant of real property interests required by DISTRICT and COUNTY pursuant to AGREEMENTS, if any, shall be satisfied by ASSIGNEE, and in regard to all financial obligations, DISTRICT and/or COUNTY shall invoice ASSIGNEE for all charges incurred pursuant to AGREEMENTS. Further, in executing this ASSIGNMENT, neither DISTRICT or COUNTY are waiving their rights to seek redress or relief from ASSIGNOR, in addition to ASSIGNEE, for any breach of AGREEMENTS that may have accrued prior to the effective date 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. 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. Any action at law or in equity brought by any of the Parties hereto for the purpose of enforcing a right or rights provided for by ASSIGNMENT shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the Parties hereto waive all provisions of law providing for a change of venue in such proceedings to any other county.

10. Nothing in the provisions of this ASSIGNMENT is intended to create duties or obligations to or rights in third parties not Parties to this ASSIGNMENT.

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

12. Any and all notices sent or required to be sent to ASSIGNEE arising from either this ASSIGNMENT or the obligations contained in AGREEMENTS 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

RANCHOS PROPERTY
41391 Kalmia Street, Suite 200
Murrieta, CA 92562
Attn: Jim Lytle

BRPLD, LLC
3200 Park Center Drive, Suite 1000
Costa Mesa, CA 92626
Attn: Shaun Bowen

13. This ASSIGNMENT is the result of negotiations between the Parties hereto and the advice and assistance of their respective counsel. The fact that this ASSIGNMENT was

prepared as a matter of convenience by DISTRICT shall have no importance or significance. Any uncertainty or ambiguity in this ASSIGNMENT shall not be construed against DISTRICT because DISTRICT prepared this ASSIGNMENT in its final form.

14. The individuals executing this ASSIGNMENT on behalf of ASSIGNEE and ASSIGNOR 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.

15. 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

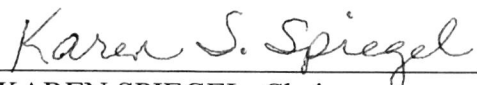
10/18/22

(to be filled in by the Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By 
JASON E. UHLEY
General Manager-Chief Engineer

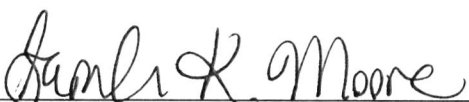
By 
KAREN SPIEGEL, Chair
Riverside County Flood Control and Water
Conservation District Board of Supervisors


APPROVED AS TO FORM:

ATTEST:

MINH TRAN
County Counsel

KECIA HARPER
Clerk of the Board

By 
SARAH K. MOORE
Deputy County Counsel

By 
Deputy

(SEAL)

Assignment and Assumption Agreement:
Winchester Hills – Line C, Stage 2
Winchester Hills Line C Detention Basin
Project Nos. 4-0-00580 and 4-0-00585
Tract Map No. 34677
AMR:blm
08/18/22

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RECOMMENDED FOR APPROVAL:

COUNTY OF RIVERSIDE

By 
MARK LANCASTER
Director of Transportation


By 
JEFF HEWITT, Chairman
Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

MINH TRAN
County Counsel

KECIA HARPER
Clerk of the Board

By 
STEPHANIE K. NELSON
Deputy County Counsel

By 
Deputy


(SEAL)

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ASSIGNOR

RANCHOS PROPERTY,
a California general partnership

By 

NANCY MURAKAMI
General Partner

(ATTACH NOTARY WITH CAPACITY
STATEMENT)

Assignment and Assumption Agreement:
Winchester Hills – Line C, Stage 2
Winchester Hills Line C Detention Basin
Project Nos. 4-0-00580 and 4-0-00585
Tract Map No. 34677
AMR:blm
08/18/22

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 Los Angeles

On 9/9/2022 before me, Eun Young Lee, Notary Public
(insert name and title of the officer)

personally appeared Nancy 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 [Handwritten Signature] (Seal)

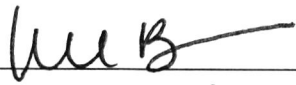


ASSIGNEE

BRPLD LLC,
a Delaware limited liability company

By: Brookfield Southern California Land LLC,
its Sole Member

By: 
Name: **Dave E. Bartlett**
Title: **Vice President**

By: 
Name: **Nicole Burdette**
Title: **President**

(ATTACH NOTARY WITH CAPACITY
STATEMENT)

Assignment and Assumption Agreement:
Winchester Hills – Line C, Stage 2
Winchester Hills Line C Detention Basin
Project Nos. 4-0-00580 and 4-0-00585
Tract Map No. 34677
AMR:blm
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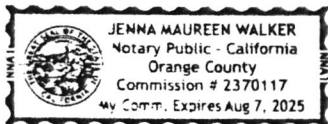
CALIFORNIA ACKNOWLEDGMENT

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 Orange }
On September 12, 2022 before me, Jenna Maureen Walker, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared David E. Bartlett and Nicole Burdette
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.



Place Notary Seal and/or Stamp Above

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 Jenna Maureen Walker
Signature of Notary Public

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: _____