

ASSIGNMENT AND ASSUMPTION OF, AND AMENDMENT TO COOPERATIVE  
AGREEMENT

Quincy Street Channel, Stage 4  
Project No. 4-0-00143  
Tract Map No. 37544

This Assignment and Assumption of, and Amendment to Cooperative Agreement ("ASSIGNMENT") is made by and between (i) the Riverside County Flood Control and Water Conservation District, a body corporate and politic ("DISTRICT"); (ii) the City of Moreno Valley, a municipal corporation of the State of California ("CITY"); FH II, LLC, a California limited liability corporation ("FIRST ASSIGNOR"); (iv) Richard Lopez Construction, Inc. a California Corporation ("SECOND ASSIGNOR") and (v) Brodiaea 45, LLC, a California limited liability corporation ("ASSIGNEE"), (together, referred to as the "Parties" and individually as "Party").

The Parties hereto agree as follows:

RECITALS

A. DISTRICT, CITY and FIRST ASSIGNOR have previously entered into that certain Cooperative Agreement which was executed on May 23, 2022, (DISTRICT Board Agenda April 23, 2022; Item No. 11.2), and recorded as Document No. 2022-0258589 in the Official Records of the County of Riverside ("AGREEMENT"), setting forth the respective rights and obligations concerning FIRST ASSIGNOR's proposed design and construction of certain flood control and drainage facilities required as a condition of approval for Tract Map No. 37544, located in the city of Moreno Valley in the State of California and hereinafter called ("PROPERTY");

B. Subsequent to the execution of said AGREEMENT, SECOND ASSIGNOR acquired fee title to PROPERTY from FIRST ASSIGNOR, pursuant to a certain Grant Deed dated April 23, 2024, and recorded as Document No. 2024-0118213 in the Official Records of the County of Riverside;

C. Subsequent to the execution of said AGREEMENT, ASSIGNEE has acquired fee title to PROPERTY from SECOND ASSIGNOR, pursuant to a certain Quitclaim Deed dated May

8, 2024 and recorded as Document No. 2024-0134344 in the Official Records of the County of Riverside, and plans to proceed in accordance with AGREEMENT;

D. A true and correct copy of AGREEMENT has been provided to ASSIGNEE. The 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. 37544 are to be designed, constructed, inspected and accepted for operation and maintenance;

E. Section IV.19 of AGREEMENT stipulates that FIRST ASSIGNOR may assign its rights and responsibilities as set forth therein subject to the written consent of the parties thereto;

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

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

H. Concurrently with the assignment and assumption of AGREEMENT, DISTRICT desires to make certain amendments to AGREEMENT in its entirety, which together encompass ASSIGNMENT;

I. Section IV.21 of AGREEMENT provides that AGREEMENT 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 incorporated into the terms of this ASSIGNMENT.

2. By execution of this ASSIGNMENT, FIRST ASSIGNOR hereby assigns all of its RIGHTS AND OBLIGATIONS to SECOND ASSIGNOR, who in turn 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 FIRST ASSIGNOR in AGREEMENT. FIRST ASSIGNOR is referred to as DEVELOPER in AGREEMENT.

4. AGREEMENT is hereby amended as follows:

I. Section I.4 of AGREEMENT is amended to read:

Provide CITY, upon execution of this Agreement or not less than twenty (20) calendar days prior to recordation of the final map for Tract Map No. 37544 or any phase thereof, whichever occurs first, provide CITY with faithful performance and payment bonds in accordance with CITY's municipal code including any amendments thereto, for the estimated cost for construction of (i) DISTRICT FACILITIES as determined by DISTRICT and (ii) CITY FACILITIES as determined by CITY. The surety, amount and form of the bonds, shall list CITY as an obligee and shall be subject to approval of DISTRICT (Attention: Contract Services Section) and CITY. The bonds shall remain in full force and effect until DISTRICT FACILITIES are accepted by DISTRICT for operation and maintenance and CITY FACILITIES are accepted by CITY as complete, at which time the bond amount may be reduced to ten percent (10%) for a period of one (1) year to guarantee against any defective work, labor or materials. Both bonds shall be subscribed by an Admitted Surety Insurer, which is authorized to transact surety insurance business in the State of California with a policy holder's rating of A or higher and a Financial Class of VIII or larger. Should any bond or surety become

insufficient, DEVELOPER shall furnish a new bond within ten (10) calendar days after receiving notice from CITY.

II. Section III.2 of AGREEMENT is amended to read:

Accept CITY and DISTRICT approved faithful performance and payment bonds submitted by DEVELOPER, which meet the requirements of CITY's municipal code or ordinances, including any amendments thereto, as set forth in Section I.4., for the estimated cost for construction of DISTRICT FACILITIES as determined by DISTRICT and CITY FACILITIES as determined by CITY and hold said bonds as provided in this Agreement. The bonds shall list CITY as obligee and be subject to the approval of DISTRICT (Attention: Contract Services Section) and CITY. The bonds shall remain in full force and effect until DISTRICT FACILITIES are accepted by DISTRICT for operation and maintenance, at which time the bond amount may be reduced to ten percent (10%) for a period of one (1) year to guarantee against any defective work, labor or materials. Both bonds shall be subscribed by an Admitted Surety Insurer, which is authorized to transact surety insurance business in the State of California with a policy holder's rating of A or higher and a Financial Class of VIII or larger. Should any bond or surety become insufficient, DEVELOPER shall furnish a new bond within ten (10) calendar days after receiving notice from CITY. CITY shall not release said bonds until DISTRICT provides CITY with a reproducible duplicate copy of "record drawings" and written notification that PROJECT is complete, as set forth in Section II.13.

III. Section IV.4 of AGREEMENT is amended to read:

DEVELOPER shall complete construction of PROJECT within twelve (12) months after commencement of construction of PROJECT, unless CITY and DISTRICT agree to extend the time to complete construction. Failure of DEVELOPER to perform the work within the agreed upon time shall constitute authority for (i) DISTRICT to terminate the Agreement and (ii) CITY to perform the remaining work on PROJECT and require DEVELOPER's surety to pay to CITY the penal sum of any and all bonds. Should CITY perform the remaining work on PROJECT under this section, DEVELOPER grants to CITY and CITY's officers, deputies, employees, agents, representatives, contractors and other designees the irrevocable permission to enter upon the Tract Map No. 37544 to complete construction and remaining work on PROJECT. This right of entry shall terminate when such construction and remaining work is complete. CITY shall subsequently reimburse DISTRICT from the funds paid by DEVELOPER's surety for any DISTRICT costs incurred.

5. In regard to the assignment of RIGHTS AND OBLIGATIONS set forth herein, DISTRICT and land use 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 FIRST ASSIGNOR, and SECOND 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.

6. 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.

7. 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.

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

9. 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.

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 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

CITY OF MORENO VALLEY  
14177 Frederick Street  
Moreno Valley, CA 92552  
Attn: Harold Zamora

FH II, LLC  
2151 E. Convention Center Way, Suite 114  
Ontario, CA 91764  
Attn: Cinthia De La Torre

RICHARD LOPEZ CONSTRUCTION, INC.  
495 E Rincon Street, Suite 120  
Corona, CA 92879  
Attn: Richard Lopez

BRODIAEA 45, LLC  
495 E Rincon Street, Suite 120  
Corona, CA 92879  
Attn: Jacob Fenn

13. 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.

14. 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.

15. 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.

16. 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

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

**RIVERSIDE COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT,**  
a body corporate and politic

By \_\_\_\_\_  
JASON E. UHLEY  
General Manager-Chief Engineer

APPROVED AS TO FORM:

MINH C. TRAN  
County Counsel

By \_\_\_\_\_  
RYAN YABKO  
County Counsel

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1/28/25

RECOMMENDED FOR APPROVAL:

**CITY OF MORENO VALLEY**

By \_\_\_\_\_  
BRIAN MOHAN  
City Manager

By \_\_\_\_\_  
ULISES CABRERA  
City Mayor

APPROVED AS TO FORM:

ATTEST:

By \_\_\_\_\_  
STEVE QUINTANILA  
City Attorney

By \_\_\_\_\_  
M. PATRICIA RODRIGUEZ  
City Clerk

DRAFT

(SEAL)

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**FIRST ASSIGNOR**

**FH II, LLC,**  
a California limited liability corporation

By \_\_\_\_\_  
RICHARD MUNKVOLD  
Its: Chief Financial Officer

By \_\_\_\_\_  
MARK HICKS  
Its: Division President

(ATTACH NOTARY WITH CAPACITY  
STATEMENT)

DRAFT

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**SECOND ASSIGNOR**

**RICHARD LOPEZ CONSTRUCTION, INC**  
a California corporation

By \_\_\_\_\_  
RICHARD LOPEZ  
President

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**ASSIGNEE**

**BRODIAEA 45, LLC,**  
A California limited liability company

By \_\_\_\_\_  
RICHARD LOPEZ  
President

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