

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
Charlotte Division**

IN RE:

Chapter 11

BRD LAND & INVESTMENT, et al.

Case No. 26-30215

Debtors.¹

(Jointly Administered)

DEBTOR’S MOTION FOR AN ENTRY OF AN ORDER (I) AUTHORIZING AND APPROVING PROCEDURES TO ASSUME AND ASSIGN EXECUTORY CONTRACTS AND (II) GRANTING RELATED RELIEF

BRD Land & Investment (the “Debtor”), debtor-in-possession in the above-captioned case, hereby moves (the “Motion”) the Court pursuant to sections 105(a), 363, 365, and 554 of title 11 of the United States Bankruptcy Code (the “Bankruptcy Code”), Rules 2002, 6004, 6006, and 6007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) for entry of an Order authorizing and approving procedures to assume and assign executory contracts and granting related relief. In support of the relief requested, the Debtor asserts the following:

JURISDICTION

1. The Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The statutory and legal predicates for the relief requested herein are sections 105(a), 363, 365, and 554 of the Bankruptcy Code and Rules 2002, 6004, 6006, and 6007 of the Bankruptcy Rules.

¹ The Debtors in these jointly administered cases are the following entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): BRD Land & Investment, a South Carolina partnership (6940), BRDL Warden Station Holding Co LLC (0184), and BRDL Warden Station, LLC (4687). The Debtors’ address is 6433 Bannington Road, Charlotte, NC 28226.



BACKGROUND

2. On February 24, 2026 (the “Petition Date”), the Debtor filed its voluntary petition for relief under chapter 11 of the Bankruptcy Code (the “Chapter 11 Case”). The Debtor is operating its business and managing its property as debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner or statutory committee has yet been appointed in this Chapter 11 Case.

3. The Debtor is an entitlement and permitting company focusing on selling shovel-ready land to national and regional homebuilders. As part of its ordinary course, pre-petition operations, the Debtor entered into land purchase agreements with landowners to perform entitlement work on the landowners’ real property (the “LPAs” or an “LPA”) along with purchase and sale contracts with homebuilders (the “LSAs” and with the Contracts, the “Contracts”, or an “LSA” and along with an LPA, the “Contract”).

4. Upon the completion of the entitlement work along with other conditions and requirements or otherwise by some date certain, the Debtor purchased the real property from the landowners. Often, the Debtor had also coordinated the sale of the real property to a national or regional homebuilder, creating a same-day closing.

5. However, during 2025, the Debtor faced a liquidity challenge that prevented it from carrying its entitlement work forward, leaving the Debtor with several contracts to purchase real property but unable to reach the closing dates. As of the Petition Date, the Debtor was party to several such contracts to purchase real property in North Carolina, South Carolina, Texas and Georgia.

6. With the filing of the Chapter 11 Case, the Debtor is reviewing the Contracts to determine those that may be assumed and assigned to third parties while also communicating with

the counterparties to the Contracts to negotiate amendments and extensions if needed in an effort to maintain the valuable contracts and maximize the value of the Debtor's estate. The Debtor is also in the process of retaining Great Neck Realty Company of North Carolina, LLC; Iron Horse Auction Co., Inc.; and Iron Horse Commercial Properties, LLC, to provide advisory, marketing, brokerage and auction services related to the Contracts.

7. The Debtor seeks the relief herein to establish an efficient, streamlined process to assume the Contracts and then assign them to interested purchasers while giving notice and providing other parties an opportunity to overbid the proposed assignment price. Should the relief not be granted, the Debtor would then be forced to file individual motions for each potential assumption and assignment, thereby creating inefficiency throughout the process. Instead, the Debtor intends to establish baseline procedures here, which provide for an efficient process by which the Debtor may assign the Contracts to interested parties in exchange for consideration.

PROPOSED ASSUMPTION AND ASSIGNMENT PROCEDURES

8. The Debtor seeks the entry of an Order authorizing and approving the following procedures for the assumption and assignment of the Contracts (the "Procedures"):

- a. *Assumption and Assignment Notice*: The Debtor shall file one or more notices, substantially in the form attached hereto as **Exhibit A**, indicating the Debtor's intent to assume and assign one or more of the contracts pursuant to section 365. The Assumption and Assignment Notice shall set forth the following: (i) each Contract be assumed and assigned (the "Transaction"); (ii) the name and address of each counter-party to the Contract (the "Assumption Counterparty"); (iii) the identity of the proposed assignee of each Contract (the "Proposed Assignee"); (iv) the purchase price (the "Proposed Purchase Price") to be paid by the assignee to the Debtor for the assignment of the Contract; (v) the proposed cure amount, if any, for such Contract; and (vi) any other material information related to the assumption and the assignment.
- b. *Service of the Assumption and Assignment Notice*. The Debtor will file the Assumption and Assignment Notice and serve it by (i) overnight delivery (and email, if known) upon each Assumption Counterparty and Proposed Assignee

along with the Assumption Counterparty's and Proposed Assignee's counsel, if known, and (ii) first-class mail or email upon the Master Service List.

- c. *Objection Procedures.* Parties objecting to a Transaction, including as to the cure amount, as applicable, must file and serve a written objection so that such objection is filed with the Court on the docket of the Debtor's chapter 11 case no later than fourteen (14) days after the date that the Debtor filed the relevant Assumption and Assignment Notice. Should an objection be timely filed and served, the Debtor shall work to resolve the objection, but failing such resolution, the Debtor shall request the Court to schedule a hearing on such objection and shall provide at least fourteen (14) days' notice of such hearing to the applicable Assumption Counterparty.
- d. *Bid, Auction and Selection Procedures.* To appropriately market test the Proposed Purchase Price and to provide additional parties an opportunity to place their own bids on any Transaction (the "Market Test Procedures"), the Debtor proposes to establish procedures so that it may maximize the value of its Contracts. The Debtor's proposed Market Test Procedures are as follows:
 - i. *Stalking Horse Bid.* The Proposed Assignee shall be the Stalking Horse Bidder while the Proposed Purchase Price shall be a Stalking Horse Bid. The Stalking Horse Bid shall be considered a Qualified Bid without regard to any of the requirements or conditions set forth herein and without any other or further action by the Stalking Horse Bidder. The Stalking Horse Bidder may participate in any Auction as defined below.
 - ii. *Bid Procedures.* No later than on the fourteenth (14th) day following the filing of the Assumption and Assignment Notice (the "Bid Deadline"), parties, if any, interested in overbidding on the Transaction in an amount greater than the Proposed Purchase Price (a "Bidder") must (a) provide an executed Assignment Agreement and provide notice by email or letter to the Debtor's counsel, Matthew Tomsic, mtomsic@rcdlaw.net; the Debtor's Chief Restructuring Officer, Andy Barbee, andy.barbee@greerwalker.com; and the Debtor's brokers (the "Brokers"), Will Lilly, will@ironhorseauction.com, and Rob Tramantano, rtramantano@greatneckrealtyco.com of their interest (an "Interest Notice"); (b) must execute non-disclosure agreement in form and substance satisfactory to the Debtor unless the Bidder has previously executed a non-disclosure agreement; (c) complete an Offer and Qualified Bidder Form in a form provided by the Debtor; (d) provide a deposit (the "Deposit") by cashier's check in an amount equal to five percent (5%) of the purchase price set forth in the Qualified Bid or \$25,000, whichever is greater; and (e) provide evidence of proof of funds and ability to perform pursuant to the Contract along with bidder's resume and/or additional supporting documents supporting adequate assurance of future performance related to the Contract. Satisfaction of the requirements of 8(d)(ii)(a)-(e) shall constitute a "Qualified Bid". In the event the Bid Deadline falls on a

weekend or a holiday, then it shall be moved to first business day on the calendar.

- iii. *Auction Procedures.* The Debtor shall schedule an auction or final bid event (the “Auction”) within five (5) business days following the Bid Deadline, or if that date falls on a weekend, the first business day on the calendar. The Auction shall be conducted by the Brokers in a format of the brokers’ choosing. The Brokers shall notify the Stalking Horse and each party that submitted a Qualified Bid of the format of the Auction, in addition to the highest Qualified Bid received, in advance of the Auction. The Auction will continue in the manner determined by the Brokers provided, however, additional bids must be Qualified Bids and must be made in higher increments of at least \$25,000 (the “Minimum Bid Increment”). The Debtors and Brokers may, at their discretion, adjust the Minimum Bid Requirement during the Auction.
- iv. *Selection of the Prevailing and Backup Bids.* At the conclusion of the Auction, the Debtor shall: (a) announce the highest and best Qualified Bid (the “Prevailing Bid”) and the next highest or otherwise best Qualified Bid (the “Backup Bid”); (b) file a notice with the Bankruptcy Court identifying the Prevailing Bid and the Backup Bid; and (c) file a notice with the Bankruptcy Court upon closing and thereafter provide an order to the Bankruptcy Court for entry authorizing the assumption and assignment. Should any bidder submit the Prevailing Bid or the Backup Bid in an amount greater than its first Qualified Bid, then such bidder shall provide to Debtor’s counsel the supplemental Deposit required by the Prevailing Bid or Backup Bid within one (1) business day.
- v. *Form Assignment Agreement.* In connection with the Auction Procedures, the Debtor has prepared a form assignment agreement (the “Form Assignment Agreement”), which is attached hereto as **Exhibit B**.
- e. *No Objection Filed or Qualified Bid Received.* If no objection to the Transaction is timely filed and if no Qualified Bid is received, then the Debtor shall submit to the Court a proposed order authorizing the assumption and assignment of such Contract to the Proposed Assignee, and each Contract shall be assumed and assigned as of the date of entry of the order approving such assumption and assignment. The proposed cure amount shall be binding on all counterparties to such Contract, and no amount in excess thereof shall be paid for cure purposes.

9. Pursuant to 105(a) and 363(f), the Debtor requests the assignment of any Contract pursuant to the Procedures be free and clear of all liens, if any, with any liens attaching to the proceeds of the Transaction.

RELIEF REQUESTED

10. By this Motion, the Debtor requests entry of any order authorizing and approving procedures to assume and assign executory contracts and granting related relief.

BASIS FOR RELIEF REQUESTED

I. The Procedures are in the best interests of the Debtor's estate.

11. The Debtor has numerous Contracts for which it now is examining and marketing to determine whether other individuals or entities may be interested in paying for assignment of those Contracts. The Procedures will establish a uniform playing field for this facet of the Chapter 11 Case, providing certainty to the Court, creditors, potential assignees and purchasers, and interested parties. The Procedures will also provide transparency to the Transactions, allowing parties to object and overbid in public on the Court's docket. The Debtor's goal with this public process is to maximize the value of the Contracts through a streamlined and efficient process. Finally, the Procedures will assist in the efficient administration, marketing and sale of the Contracts, minimizing the cost and burden imposed on the Debtor's estate by re-drafting longform motions to assume and assign each Contract on an *ad hoc* basis.

II. Assumption and Assignment is an exercise of the Debtor's business judgment.

12. The Bankruptcy Code provides in relevant part that a debtor, "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." 11 U.S.C. § 365(a); see In re Univ. Med. Ctr., 973 F.2d 1065, 1075 (3d Cir. 1992). The assumption and assignment of an executory contract or unexpired lease is subject to review under the business judgment standard. In re Byung Mook Cho, 581 B.R. 452, 456 (Bankr. D. Md. 2018) ("A debtor in possession's decision to assume or reject an executory contract or unexpired lease is subject to a business judgment standard, and should be accorded the deference mandated by the sound

business judgment rule[.]”); Lubrizol Enters. v. Richmond Metal Finishers, Inc., 756 F.2d 1043, 1046-47 (4th Cir. 1985). The Court should accept a debtor’s decision to reject an executory contract or unexpired lease “except upon a finding of bad faith or gross abuse of [the debtor’s] business discretion.” Lubrizol Enters., at 1047; see also Byung Mook Cho, 581 B.R. at 456 (“Courts generally refrain from second-guessing a debtor in possession’s business judgment regarding a proposed assumption or rejection of an executory contract or unexpired lease.”). “More exacting scrutiny would slow the administration of the Debtor’s estate and increase its cost, interfere with the Bankruptcy Code’s provision for private control of administration of the estate, and threaten the court’s ability to control [its] case impartially.” Richmond Leasing Co. v. Capital Bank, N.A., 762 F.2d 1303, 1311 (5th Cir. 1985).

13. To determine whether a contract is an executory contract, the Fourth Circuit has adopted the Countryman test: “By that test, a contract is executory if the ‘obligations of both the bankrupt and the other party to the contract are so far unperformed that the failure of either to complete the performance would constitute a material breach excusing the performance of the other.’” Byung Mook Cho, 581 B.R. at 461 (citations omitted). In other words, “unperformed obligations on the part of both parties to the contract, and a breach of any those obligations must be material in the sense that it would allow the non-breaching party to rescind, or cease performing under, the contract under applicable nonbankruptcy law.” Id.

14. Here, the Contracts are executory contracts because they each have unperformed obligations for which failure to perform would constitute a breach of the Contract. For example, the Contracts require the Debtor to provide entitlement, surveying, permitting or other services as the case may be in exchange for purchase of the real property. Conversely, the Contracts require the landowners to provide access and other rights so that the Debtor may complete its work. Should

either party fail to complete its obligations, then the counterparty would be excused from performing. In other words, such failure would constitute a material breach.

15. The Debtor has determined in its sound business judgment that the assumption and assignment of the Contracts in accordance with the Procedures is and will be in the best interest of the Debtor's estate, allowing the Debtors to maximize the value of the Contracts for which it seeks to assume and assign. The Procedures will avoid duplicative legal cost and unnecessary delays should the Debtor otherwise be required to file serial motions to assume and assign Contracts on an *ad hoc* basis. The Debtor also anticipates different potential assignees requesting different procedures for assumption and assignment, which may cause additional time and delay in negotiating assumptions and assignments and ultimately cost the Debtor valuable time to quickly monetize these assets.²

III. The Debtor should be permitted to assign the Contracts free and clear of interests

16. The Bankruptcy Code allows a debtor to sell property free and clear of another party's interest in such property if: (a) applicable nonbankruptcy law permits a free and clear sale; (b) the holder of the interest consents; (c) the interest is a lien and the sale price of the property exceeds the value of all liens on the property; (d) the interest is in bona fide dispute; or (e) the holder of the interest could be compelled in a legal or equitable proceeding to accept a monetary satisfaction of its interest. 11 U.S.C. § 363(f).

17. First and foremost, the Debtor is unaware of any liens or interests related to the Contracts but seeks this relief out of an abundance of caution. With that in mind, the Debtor believes several bases exist to allow the sale free and clear of liens and interests. First, the Debtor

² Importantly, the Motion does not seek assumption of assignment of any particular Contract but instead seeks to establish the Procedures as identified herein. Analysis of the proper assumption and assignment of contracts, though, is pertinent to a review of the Procedures whereby the Debtor will assume and assign contracts. As to any Contract, the substantive arguments regarding assumption and assignment are preserved by the Procedures.

anticipates that holders may consent to the assignment. The Debtor intends to work collaboratively with all interested parties upon the identification of a potential assignee to reach consensus related for the assumption and assignment. Also, the Debtor anticipates the purchase price of the Contracts will exceed the value of any lien related to an Contract to the extent any such lien exists.

IV. The Debtor requests that the Court waive the stay period required by Rule 6004(h).

18. Pursuant to Bankruptcy Rule 6004(h), unless the Court orders otherwise, all orders authorizing the sale of property of the Bankruptcy Code are automatically stayed for fourteen (14) days after entry of the order. See Fed. R. Bankr. P. 6004(h). Out of an abundance of caution and to the extent any party may argue Rule 6004 applies, the Debtor hereby requests a waiver of Rule 6004(h) so that the Debtor may immediately implement the Procedures. Specifically, the Debtor respectfully requests that the 14-day stay under Bankruptcy Rule 6004(h) be waived and any order be effective immediately.

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CONCLUSION

WHEREFORE, based on the foregoing, the Debtor respectfully requests that the Court enter an order substantially in the form attached hereto as **Exhibit C** authorizing and approving procedures to assume and assign executory contracts and granting related relief.

This the 16th day of March, 2026.

RAYBURN COOPER & DURHAM, P.A.

By: /s/ Matthew L. Tomsic
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Proposed Counsel to the Debtors

Exhibit A

Assumption and Assignment Notice

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
Charlotte Division**

IN RE: BRD LAND & INVESTMENT, et al. Debtors. ³	Chapter 11 Case No. 26-30215 (Jointly Administered)
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**NOTICE OF ASSUMPTION AND ASSIGNMENT OF
CERTAIN EXECUTORY CONTRACTS**

PARTIES RECEIVING THIS NOTICE SHOULD LOCATE THEIR NAMES AND THEIR CONTRACTS ON ADDENDUM B ATTACHED HERETO AND READ THE CONTENTS OF THIS NOTICE CAREFULLY.

PLEASE TAKE NOTICE that on [**], 2025, the United States Bankruptcy Court for the Western District of North Carolina (the “Court”) entered an order on the Motion (the “Motion”) of BRD Land & Investment (the “Debtor”) (i) authorizing and approving procedures to assume and assign executory contracts and (ii) granting related relief [Docket No. **] (the “Procedures Order”), attached hereto as Addendum A.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Procedures Order and this written notice (the “Assumption and Assignment Notice”), the Debtor hereby notifies you that it has determined, in the exercise of its business judgment, that each Contract set forth on Addendum B attached hereto is hereby assumed and assigned effective as of the date of entry of the Assumption and Assignment Order, or such other date as the Debtor, any Proposed Assignee, and the applicable Assumption Counterparty agree (the “Assumption and Assignment Date”).

³ The Debtors in these jointly administered cases are the following entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): BRD Land & Investment, a South Carolina partnership (6940), BRDL Warden Station Holding Co LLC (0184), and BRDL Warden Station, LLC (4687). The Debtors’ address is 6433 Bannington Road, Charlotte, NC 28226.

PLEASE TAKE FURTHER NOTICE that the Debtor or the Proposed Assignee, as applicable, has the financial wherewithal to meet all future obligations under the Contract, and the Debtor will serve evidence of adequate assurance of future performance with this Assumption and Assignment Notice demonstrating that the Proposed Assignee has the ability to comply with the requirements of adequate assurance of future performance.

PLEASE TAKE FURTHER NOTICE that parties seeking to object to the proposed assumption and assignment of any of the Contracts must file and serve a written objection so that such objection is filed with the Court on the docket of the Debtor's chapter 11 case and thereafter served as required by the Bankruptcy Code.

PLEASE TAKE FURTHER NOTICE that parties seeking to bid on a Contract must follow the procedures set forth in the paragraph 8(d)(ii) of the Motion.

PLEASE TAKE FURTHER NOTICE that, pursuant to the terms of the Procedures Order, if no objection is filed and no party seeks to bid as allowed by the Motion, the Debtor will include and file with the Court a list of the Contract in an assumption and assignment exhibit attached to the proposed form of order, substantially in the form attached hereto as Addendum C (the "Assumption and Assignment Order").

PLEASE TAKE FURTHER NOTICE that the proposed cure amount under the Contract is set forth in Addendum B. If a written objection to the proposed amount is not timely filed, then the cure amount shall be binding on all parties and no amount in excess thereof shall be paid for cure purposes.

PLEASE TAKE FURTHER NOTICE that, if an objection to the assumption and assignment of any Contract is timely filed and not withdrawn or resolved, the Debtor shall file a notice for a hearing to consider the objection for the Contract or Contracts to which such objection

relates. If such objection is overruled or withdrawn, such Contract or Contracts shall be assumed and assigned as of the applicable Assumption Date.

RAYBURN COOPER & DURHAM, P.A.

By: /s/ Matthew L. Tomsic
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N.C. State Bar No. 52431
Natalie Kutcher
N.C. State Bar No. 54888
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Charlotte, NC 28202
(704) 334-0891

Proposed Counsel to the Debtors

Addendum A
Procedures Order

Addendum B

Assumed and Assigned Contracts

Contract	Assumption Counterparty	Proposed Assignee	Purchase Price	Cure Amount	Additional Material Information, if needed

Addendum C

Proposed Assumption and Assignment Order

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
Charlotte Division**

IN RE:

BRD LAND & INVESTMENT, et al.

Debtors.⁴

Chapter 11

Case No. 26-30215

(Jointly Administered)

**ORDER APPROVING THE ASSUMPTION AND ASSIGNMENT
OF CERTAIN EXECUTORY CONTRACTS**

Pursuant to the order approving procedures for the assumption and assignment of the Debtor’s executory contracts, and granting related relief [Docket No. **] (the “Procedures Order”); it appearing to the Court that the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); the Court finding that (a) the notice given by the Debtors under the circumstances was sufficient; it appearing that the relief requested is in the best interest of the Debtor, its estate, its creditors and other parties in interest; and the Debtor having properly filed and served an Assumption and Assignment Notice to each applicable party, in accordance with the terms of the Procedures Order; and no timely

⁴ The Debtors in these jointly administered cases are the following entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): BRD Land & Investment, a South Carolina partnership (6940), BRDL Warden Station Holding Co LLC (0184), and BRDL Warden Station, LLC (4687). The Debtors’ address is 6433 Bannington Road, Charlotte, NC 28226.

objections having been filed and no bids having been received related to such Contracts listed on Addendum B to the Assumption and Assignment Notice; and due and proper notice of the Procedures Order and the Assumption and Assignment Notice having been provided to each applicable counterparty, and it appearing that no other notice need be provided; it is HEREBY ORDERED THAT:

1. The assumption and assignment of the Contracts as set forth in the Assumption and Assignment Notice is hereby approved, effective on the date of this Order or such other date to which the Debtor, the applicable Assumption Counterparty, and the Proposed Assignee agree.

2. With regard to Contracts to be assigned, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, the assignment of the Contracts shall be free and clear of all liens and interests and any such liens shall attach to the proceeds of such assignment in the same order and priority subject to all existing defenses, claims, setoffs and rights.

3. Subject to and conditioned upon the occurrence of a closing with respect to the assumption and assignment of any Contract, and subject to the other provisions of this Order (including the aforementioned Procedures), the Debtors are hereby authorized in accordance with sections 365(b) and (f) of the Bankruptcy Code to (a) assume and assign to any Assignees the applicable Contracts, with any applicable Assignee being responsible only for the post-closing liabilities under the applicable Contracts except as otherwise provided for in this Order and (b) execute and deliver to any applicable Assignee such assignment documents as may be reasonably necessary to sell, assign and transfer such Contract. For the avoidance of doubt, the occurrence of a closing with respect to the assumption and assignment of any Contract shall mean the date on which such assumption and assignment is effective.

4. The Debtor is authorized to take any action necessary to implement the terms of this Order and the assumption and/or assignment without further order from this Court.

5. The cure amount listed under Section 365(b) of the Bankruptcy Code in connection with the assumption of the Contracts is hereby final as set forth in the Assumption and Assignment Notice, or as otherwise agreed by the parties or ordered by the Court. The Debtor or Proposed Assignee, as applicable, shall pay the cure amounts in connection with the assumption and assignment by the Assumption Date. Any claims for additional amounts as a cure obligation with respect to the Contracts are forever barred.

6. Any amendments to a Contract made with the prior written consent of the applicable Assumption Counterparty as set forth in an Assumption and Assignment Notice are hereby approved pursuant to Section 363(b) of the Bankruptcy Code.

7. The 14-day stay required of any assignment of any Contract pursuant to Bankruptcy Rule 6006(d) is hereby waived.

8. The Court shall retain exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation and enforcement of this Order.

This Order has been signed electronically. The judge's signature and court's seal appear at the top of the Order.

United States Bankruptcy Court

Exhibit B

Form Assignment Agreement

Assignment Agreement

This Assignment Agreement (the “Agreement”), dated [**], 2026, (the “Effective Date”) entered into among BRD Land & Investment, a South Carolina Partnership (the “Assignor”) and [**] (the “Assignee” and together with the Assignor, the “Parties”).

Background

Assignor is the debtor-in-possession with respect to that bankruptcy proceeding initiated by the Assignor with the filing of that voluntary petition under chapter 11 of the United States Bankruptcy Code, as amended, (the “Bankruptcy Code”) on February 24, 2026, (the “Petition Date”) in the Bankruptcy Court for the Western District of North Carolina (the “Bankruptcy Court”), Case Number 26-30215 (the “Bankruptcy Proceeding”).

Assignor intends to assign certain of its executory contracts pursuant to procedures ordered by the Bankruptcy Court, and Assignee agrees to purchase such executory contracts on the terms and conditions set forth in this Agreement. The Assignor’s obligations hereunder are subject to approval of this Agreement by the Bankruptcy Court.

Agreement

The Parties to this Agreement, intending to be legally bound, agree as follows:

1. **Assignment**. Assignor hereby transfers and assigns to Assignee all of Assignor’s right, title, and interest in and to the Assigned Contracts (attached hereto as Schedule 1 and incorporated herein by reference) free and clear of all security interests, liens, claims and other encumbrances as provided by the Bankruptcy Code and the Order by the Bankruptcy Court with all such liens attaching to the proceeds of the sale. Such assignment (the “Assignment”) shall be irrevocable and shall include all of the Assignor’s rights and obligations as set forth in the Assigned Contracts as of the Petition Date. The Parties agree that the Assignment is “as is, where is” with all faults.
2. **No Assumed Liabilities**. Except as expressly provided in this Agreement, the Assignee will not assume or be responsible for any liabilities of the Assignor related to the Assignment and the Assigned Contracts.
3. **Purchase Price**. The purchase price (the “Purchase Price”) for the Assigned Contract shall be [**]. The Purchase Price shall be paid as follows:
 - a. Assignee shall provide to Assignor’s attorney a cashier’s check in an amount of five percent (5%) of the Purchase Price or \$25,000.00, whichever is greater, upon the filing of an Assumption and Assignment Notice for the Assigned Contract to be held in escrow pending closing and approval of the Bankruptcy Court in the Bankruptcy Proceeding.

- b. At Closing, the Assignee shall pay the remaining amount of the Purchase Price in cash.

4. **Closing.** The Closing of the sale of the Assigned Contract to the Assignee (the “Closing”) shall take place a location mutually convenient to the Parties (or by electronic delivery and exchange of executed documents by the Parties and/or their counsel) within five (5) business days after final approval of the Assignment by Bankruptcy Court in the Bankruptcy Proceeding. At Closing:

- a. The Assignor shall duly execute and deliver such other documents, agreements, instruments, consents, and undertakings as the Assignor reasonably deems necessary and appropriate to vest in the Assignee all right, title, and interest in, to, and under the Assigned Contracts;
- b. The Assignee shall authorize the release from escrow, if any, of the Purchase Price to the Assignor; and
- c. The Parties shall duly execute and deliver such other documents, agreements, instruments, and undertakings as may be necessary to finalize this Agreement.

5. **Condition Precedent to Closing.** The Assignor’s obligation to assign the Assigned Contracts and the Assignee’s obligation to purchase the Assigned Contracts and to take other actions required of the Parties at Closing is subject to the entry of a final, non-appealable order in the Bankruptcy Case authorizing the Assignment pursuant to the Procedures or any other corresponding order approving any motion to be filed by the Debtor in the Bankruptcy Proceeding to seek approval of this Agreement.

6. **Other Provisions**

- a. All notices for which provision is made in this Agreement shall be given in writing either by actual delivery of the notice into the hands of the party entitled to the notice or by mailing the notice by registered or certified mail, return receipt requested, in which case the notice shall be deemed to be given on the date of its mailing, addressed as follows:

If to Assignee:

BRD Land & Investment
c/o William A. Barbee, Chief Restructuring Officer
The Carillon
227 West Trade Street, Suite 1100
Charlotte, North Carolina, 28202

with a copy to Debtor’s counsel:

Matthew L. Tomsic
Rayburn Cooper & Durham, P.A.
227 W. Trade St., Ste. 1200
Charlotte, North Carolina, 28202

If to Assignee:

[**]

- b. The terms and provisions hereof shall inure to the benefit of and be binding upon the undersigned and each of them and their respective successors and assigns.
- c. If any legal action or other legal proceeding relating to this Agreement or any of the agreements contemplated herein or the enforcement of any provision of this Agreement or any of the agreements contemplated herein is brought against any Party hereto, the prevailing Party shall be entitled to recover reasonable attorneys' fees, costs, and expenses (in addition to any other relief to which the prevailing Party may be entitled).
- d. The invalidity or unenforceability of any of the provisions hereof shall not affect the validity or enforceability of the remainder hereof.
- e. This Agreement may be executed in several counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement.

This Agreement is intended to be performed in the State of North Carolina, shall be governed by and construed and enforced in accordance with the laws of North Carolina, and any disputes related to this Agreement shall be litigated in the Bankruptcy Court for the Western District of North Carolina with the parties to this Agreement specifically consenting to the jurisdiction of the Bankruptcy Court.

This Agreement is intended for the benefit of the parties hereto and is not intended to benefit any third party.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, as of the date and year first above written.

ASSIGNOR:

BRD LAND & INVESTMENT

By: _____
Its: _____

ASSIGNEE:

[**]

By: _____
Its: _____

Exhibit C

Proposed Order

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
Charlotte Division**

IN RE: BRD LAND & INVESTMENT, et al. Debtors. ⁵	Chapter 11 Case No. 26-30215 (Jointly Administered)
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**ORDER (I) AUTHORIZING AND APPROVING PROCEDURES TO ASSUME AND
ASSIGN EXECUTORY CONTRACTS AND (II) GRANTING RELATED RELIEF**

THIS MATTER coming before the Court on BRD Land & Investment’s (the “Debtor”), debtor-in-possession in the above-captioned case, motion (the “Motion”) pursuant to sections 105(a), 363, 365, and 554 of title 11 of the United States Bankruptcy Code (the “Bankruptcy Code”), Rules 2002, 6004, 6006, and 6007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) for entry of an Order authorizing and approving procedures to assume and assign executory contracts and granting related relief. Based upon a review of the record, the contents of the Motion, the statements and arguments of counsel, and the evidence offered at the hearing on the Motion, the Court finds and concludes that the relief requested in the Motion is in

⁵ The Debtors in these jointly administered cases are the following entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): BRD Land & Investment, a South Carolina partnership (6940), BRDL Warden Station Holding Co LLC (0184), and BRDL Warden Station, LLC (4687). The Debtors’ address is 6433 Bannington Road, Charlotte, NC 28226.

the best interests of the Debtors, their estates, and their creditors; proper and adequate notice under the circumstances has been given to all parties entitled to notice; and good cause exists to grant the Motion herein, IT IS HEREBY ORDERED THAT:

1. The following Procedures are approved in connection with the assumption and assignment of Contracts.

- a. *Assumption and Assignment Notice*: The Debtor shall file one or more notices, substantially in the form attached hereto as **Exhibit A**, indicating the Debtor's intent to assume and assign one or more of the contracts pursuant to section 365. The Assumption and Assignment Notice shall set forth the following: (i) each Contract be assumed and assigned (the "Transaction"); (ii) the name and address of each counter-party to the Contract (the "Assumption Counterparty"); (iii) the identity of the proposed assignee of each Contract (the "Proposed Assignee"); (iv) the purchase price (the "Proposed Purchase Price") to be paid by the assignee to the Debtor for the assignment of the Contract; (v) the proposed cure amount, if any, for such Contract; and (vi) any other material information related to the assumption and the assignment.
- b. *Service of the Assumption and Assignment Notice*. The Debtor will file the Assumption and Assignment Notice and serve it by (i) overnight delivery (and email, if known) upon each Assumption Counterparty and Proposed Assignee along with the Assumption Counterparty's and Proposed Assignee's counsel, if known, and (ii) first-class mail or email upon the Master Service List.
- c. *Objection Procedures*. Parties objecting to a Transaction, including as to the cure amount, as applicable, must file and serve a written objection so that such objection is filed with the Court on the docket of the Debtor's chapter 11 case no later than fourteen (14) days after the date that the Debtor filed the relevant Assumption and Assignment Notice. Should an objection be timely filed and served, the Debtor shall work to resolve the objection, but failing such resolution, the Debtor shall request the Court to schedule a hearing on such objection and shall provide at least fourteen (14) days' notice of such hearing to the applicable Assumption Counterparty.
- d. *Bid, Auction and Selection Procedures*. To appropriately market test the Proposed Purchase Price and to provide additional parties an opportunity to place their own bids on any Transaction (the "Market Test Procedures"), the Debtor proposes to establish procedures so that it may maximize the value of its Contracts. The Debtor's proposed Market Test Procedures are as follows:
 - i. *Stalking Horse Bid*. The Proposed Assignee shall be the Stalking Horse Bidder while the Proposed Purchase Price shall be a Stalking Horse Bid. The Stalking Horse Bid shall be considered a Qualified Bid without regard

to any of the requirements or conditions set forth herein and without any other or further action by the Stalking Horse Bidder. The Stalking Horse Bidder may participate in any Auction as defined below.

- ii. *Bid Procedures.* No later than on the fourteenth (14th) day following the filing of the Assumption and Assignment Notice (the “Bid Deadline”), parties, if any, interested in overbidding on the Transaction in an amount greater than the Proposed Purchase Price (a “Bidder”) must (a) provide an executed Assignment Agreement and provide notice by email or letter to the Debtor’s counsel, Matthew Tomsic, mtomsic@rcdlaw.net; the Debtor’s Chief Restructuring Officer, Andy Barbee, andy.barbee@greerwalker.com; and the Debtor’s brokers (the “Brokers”), Will Lilly, will@ironhorseauction.com, and Rob Tramantano, rtramantano@greatneckrealtyco.com of their interest (an “Interest Notice”); (b) must execute non-disclosure agreement in form and substance satisfactory to the Debtor unless the Bidder has previously executed a non-disclosure agreement; (c) complete an Offer and Qualified Bidder Form in a form provided by the Debtor; (d) provide a deposit (the “Deposit”) by cashier’s check in an amount equal to five percent (5%) of the purchase price set forth in the Qualified Bid or \$25,000, whichever is greater; and (e) provide evidence of proof of funds and ability to perform pursuant to the Contract along with bidder’s resume and/or additional supporting documents supporting adequate assurance of future performance related to the Contract. Satisfaction of the requirements of 8(d)(ii)(a)-(e) shall constitute a “Qualified Bid”. In the event the Bid Deadline falls on a weekend or a holiday, then it shall be moved to first business day on the calendar.
- iii. *Auction Procedures.* The Debtor shall schedule an auction or final bid event (the “Auction”) within five (5) business days following the Bid Deadline, or if that date falls on a weekend, the first business day on the calendar. The Auction shall be conducted by the Brokers in a format of the brokers’ choosing. The Brokers shall notify the Stalking Horse and each party that submitted a Qualified Bid of the format of the Auction, in addition to the highest Qualified Bid received, in advance of the Auction. The Auction will continue in the manner determined by the Brokers provided, however, additional bids must be Qualified Bids and must be made in higher increments of at least \$25,000 (the “Minimum Bid Increment”). The Debtors and Brokers may, at their discretion, adjust the Minimum Bid Requirement during the Auction.
- iv. *Selection of the Prevailing and Backup Bids.* At the conclusion of the Auction, the Debtor shall: (a) announce the highest and best Qualified Bid (the “Prevailing Bid”) and the next highest or otherwise best Qualified Bid (the “Backup Bid”); (b) file a notice with the Bankruptcy Court identifying the Prevailing Bid and the Backup Bid; and (c) file a notice with the

Bankruptcy Court upon closing and thereafter provide an order to the Bankruptcy Court for entry authorizing the assumption and assignment. Should any bidder submit the Prevailing Bid or the Backup Bid in an amount greater than its first Qualified Bid, then such bidder shall provide to Debtor's counsel the supplemental Deposit required by the Prevailing Bid or Backup Bid within one (1) business day.

- v. *Form Assignment Agreement.* In connection with the Auction Procedures, the Debtor has prepared a form assignment agreement (the "Form Assignment Agreement"), which is attached hereto as **Exhibit B**.
- vi. *No Objection Filed or Qualified Bid Received.* If no objection to the Transaction is timely filed and if no Qualified Bid is received, then the Debtor shall submit to the Court a proposed order authorizing the assumption and assignment of such Contract to the Proposed Assignee, and each Contract shall be assumed and assigned as of the date of entry of the order approving such assumption and assignment. The proposed cure amount shall be binding on all counterparties to such Contract, and no amount in excess thereof shall be paid for cure purposes.

2. The assignment of Contracts shall be free and clear of all liens and interests with any liens to attach to the proceeds in the same order and priority subject to all existing defenses, claims, setoffs, and rights. For the avoidance of doubt, all provisions of the applicable assigned Contract, including any provision limiting assignment, shall be binding on the applicable Proposed Assignee.

3. The Debtor's right to assert that any provisions in the Contract that expressly or effectively restrict, prohibit, condition, or limit the assignment of or the effectiveness of the Contract to a Proposed Assignee or any other third party are unenforceable *ipso facto* clauses is fully reserved.

4. The Debtor is hereby authorized, pursuant to section 363(b) of the Bankruptcy Code, to enter into consensual amendments as set forth in an Assumption and Assignment Notice with the prior written consent of the applicable Assumption Counterparty.

5. Approval of the Procedures and this Order will not prevent the Debtor from seeking to reject, assume, or assume and assign a Contract by separate motion.

6. The 14-day stay required of any assignment of any Contract pursuant to Bankruptcy Rule 6006(d) is hereby waived.

7. All rights and defenses of the Debtor are preserved, including all rights and defenses of the Debtor with respect to a claim for damages arising as a result of a Contract rejection, including any right to assert an offset, recoupment, counterclaim, or deduction. In addition, nothing in this Order or the Motion shall limit the Debtor's ability to subsequently assert that any particular Contract is terminated and is no longer an executory contract.

8. Notwithstanding the relief granted herein and any actions taken pursuant to such relief, nothing in the Motion or this Order shall be deemed (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion or any order granting the relief requested by the Motion or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; (g) a waiver or limitation of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law; or (h) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in the Motion are

valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

9. Notice of the Motion as provided therein is hereby deemed good and sufficient notice of such Motion, and the requirements of Bankruptcy Rule 6004(a) are satisfied.

10. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

11. The Debtor is authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion and the Assumption and Assignment Notice, as applicable.

12. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

This Order has been signed electronically. The judge's signature and court's seal appear at the top of the Order.

United States Bankruptcy Court