

**MEMORANDUM OF UNDERSTANDING
REGARDING PUBLIC BENEFIT CONTRIBUTIONS**

THIS MEMORANDUM OF UNDERSTANDING (“Agreement”) is entered into as of June 11, 2024 (“Effective Date”), by and between SAN BERNARDINO COUNTY, a public body, corporate and politic (“County”), and 215 TABLE TOP, LLC, a California limited liability company (“Land Owner”). County and Land Owner are sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

This Agreement is made and entered into with regard to the following facts, each of which is acknowledged as true and correct by the Parties to this Agreement:

A. Concurrent with the approval of this Agreement, the County Board of Supervisors approved Land Owner’s applications for text amendments to the Glen Helen Specific Plan, Tentative Parcel Map No. 20748, and a Planned Development Permit (collectively and including any ancillary approvals, “Approvals”) to authorize the construction and operation of a commercial shopping center on an approximate 33-acre site (the “Project”). The County Board of Supervisors also certified a Subsequent Environmental Impact Report (“SEIR”) analyzing the Project’s impacts on the environment pursuant to the California Environmental Quality Act (“CEQA”) and, in doing so, adopted CEQA Facts and Findings and a Statement of Overriding Considerations.

B. As set forth in the CEQA Facts and Findings and the Statement of Overriding Considerations, the County Board of Supervisors has found that the Project will result in substantial public benefits sufficient to outweigh its impacts on the environment. The Project’s public benefits include, but are not limited to, significant economic benefits for the Glen Helen Specific Plan area.

C. The purpose of this Agreement is to memorialize additional public benefits that Land Owner has voluntarily committed to provide as part of the Project, including, but not limited to, a lump sum payment that will enhance County services in the Glen Helen Specific Plan area.

D. Land Owner agrees and acknowledges that the County’s action on the Agreement, while acting in its capacity as the permitting agency for the Project Approvals, shall not be interpreted or otherwise construed by the Land Owner as a commitment or agreement from the County, acting in its capacity as a property owner of a portion of the site (APNs 0239-031-04 and -32), to sell and/or exchange the County-owned properties to the Land Owner or otherwise participate in the Project as a land owner in any manner.

E. The Agreement is in the best interests of the County, Land Owner and the community, and for good and valuable consideration, the County and Land Owner desire to enter into the Agreement pursuant to the following provisions.

AGREEMENT

NOW, THEREFORE, based on the forgoing Recitals, which are incorporated by reference as if fully set forth herein, the Parties hereto agree as follows:

1. Monetary Contribution for Enhancing County Services in Glen Helen Specific Plan Area. Land Owner agrees to make a contribution in the total amount of Three-Hundred Thirty Thousand and 00/100 Dollars (\$330,000.00) (“Community Enhancement Fee”), which shall be paid to the County in three installments, as follows: (a) One-Hundred Ten Thousand and 00/100 Dollars (\$110,000.00) thirty-days following the date that Land Owner has graded and exported from the Project site, in the aggregate, a total of one million cubic yards of soil, (b) One-Hundred Ten Thousand and 00/100 Dollars (\$110,000.00) thirty-days following the date that Land Owner has graded and exported from the Project site, in the aggregate, a total of one million three hundred thousand cubic yards of soil, and (c) One-Hundred Ten Thousand and 00/100 Dollars (\$110,000.00) thirty-days following the date that Land Owner has graded and exported from the Project site, in the aggregate, a total of one million six hundred thousand cubic yards of soil. This contribution is in addition to infrastructure improvements and development impact fees (“DIF”) identified in, and required by, the Project Approvals and the San Bernardino County Code. The County shall use the Community Enhancement Fee for service enhancement activities for the Glen Helen Specific Plan area, with the specific service enhancement activities to be determined by the County in its sole discretion. Allowable uses of the Community Enhancement Fee shall include, but not be limited to, code enforcement, recreational programming, park operations and maintenance and enhanced public safety specifically for the Glen Helen Specific Plan area. Land Owner shall have no obligation or liability regarding the disbursement of the Community Enhancement Fee by the Community Enhancement Fee by the County.

2. Notices. Any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to any of the Parties shall, unless otherwise required by law, be in writing and be deemed duly served and given (a) when personally delivered to the Party to whom it is directed, (b) when deposited to a regularly scheduled overnight delivery carrier for next day delivery, or (c) when sent by registered or certified U.S. Mail, postage prepaid, return receipt requested. Notices shall be addressed to the respective parties as set forth below or to such other address and to such other persons as the Parties may hereafter designate by written notice to the other party hereto:

Land Owner:
215 Table Top, LLC
c/o UCR Group, LLC
P.O. Box 9716
Redlands, CA 92375
Attention: James Mauge, President

County:
San Bernardino County
Community Development & Housing Agency
385 N. Arrowhead Avenue, 3rd Floor
San Bernardino, CA 92415
Attn: Deputy Executive Officer

Send Community Enhancement Fee to:
San Bernardino County
Real Estate Services Department

385 N. Arrowhead Avenue, 2nd Floor
San Bernardino, CA 92415
Attn: Administrative Manager

Each notice shall be deemed delivered on the date delivered if by personal delivery or by overnight courier service, or on the date of receipt as disclosed on the return receipt if by mail. By giving to the other parties written notice as provided above, the Parties to this Agreement and their respective successors and assigns shall have the right from time to time, and at any time during the term of this Agreement, to change their respective addresses.

3. Integration. This Agreement represents and contains the entire agreement and understanding among the parties hereto with respect to the subject matter of this Agreement, as of the Effective Date, and supersedes any and all prior written and oral agreements and understandings. This Agreement may be amended or modified only through a writing executed by all the Parties.

4. Governing Law and Venue. This Agreement shall be deemed executed and delivered within the State of California. The rights and obligations of the Parties hereunder shall be governed, construed and enforced in accordance with the laws of the State of California. The venue for any dispute arising from or related to this Agreement, its performance, and its interpretation shall be the Superior Court of California, County of San Bernardino.

5. Severability. If any provision of this Agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and remain in effect.

6. No Presumption Against Drafting Party. This Agreement shall be construed as a whole according to its fair meaning, and not strictly for or against any Party. The Parties acknowledge that this Agreement documents a negotiated agreement and it shall not be construed or interpreted in favor of any Party due to the fact that one of the Party's attorneys drafted this Agreement.

7. Further Assurances. From and after the Effective Date, the Parties shall cooperate in good faith with the each other in taking such actions and executing such instruments as may be reasonably necessary to effectuate the purposes of entering into this Agreement and to perfect the rights granted hereunder.

8. Successors and Assigns. This Agreement shall be binding upon all successors and assigns of Land Owner that own any portion of the Project. If Land Owner assigns its entire or partial interest in this Agreement to a successor owner of all or a portion of the Project, Land Owner shall provide the County with written notice of such assignment and a copy of the assignment agreement. In order for Land Owner or any successor to be released of its obligations under this Agreement from and after the date of such assignment, the assignee in such written assignment and assumption agreement must agree, for the benefit of the County, to assume all obligations of the assignor hereunder with respect to the portion of the Project transferred from and after the date of such assignment.

9. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement, with the same effect as if all parties had signed the same signature page. Any signature page of this Agreement may be detached from any counterpart of this Agreement and reattached to any other counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages. Duly executed signatures to this Agreement may be executed and/or delivered by electronic means, and signature pages executed and/or delivered by such methods shall be deemed equivalent to, and of the same force and effect as, original signature pages.

10. Termination. This Agreement shall have no force or effect if: (a) the land use entitlements for the Project are overturned by a court of law or rescinded by the County or if (b) Land Owner abandons the Project for any reason whatsoever.

11. Time is of the Essence. Time is of the essence for each provision of this Agreement for which time is an element.

12. Defaults. A Party's failure to perform or observe any of the covenants, provisions or conditions contained in this Agreement on its part to be performed or observed shall constitute a default hereunder: (a) for monetary obligations, if such failure has not been cured within fifteen (15) days after the breaching party's receipt of written notice from the other party respecting such failure and such failure is not cured within such fifteen (15) day period; (b) for non-monetary obligations, if such failure can reasonably be cured within thirty (30) days after the breaching party's receipt of written notice from the other party respecting such failure and such failure is not cured within such thirty (30) day period; or (c) for non-monetary obligations, if such failure cannot reasonably be cured within said thirty (30) day period and the breaching party fails to promptly commence to cure such failure upon receipt of the other party's written notice with respect to the same, or thereafter fails to continue to make diligent and reasonable efforts to cure such failure.

13. Attorneys' Fees. In the event that litigation is filed to interpret or enforce any provision of this Agreement, each party shall bear its own cost and attorney fees, regardless of who is the prevailing party in such litigation. This Section 14 shall not apply to those costs and attorney fees directly arising from a third-party legal action under indemnification requirements in Section 15.

14. Indemnification Against Third Party Claims. The Land Owner hereby agrees to defend, indemnify, and save harmless the County, its Board of Supervisors, commissions, officers, employees and agents, from and against any and all claims, suits, actions, liability, loss, damage, expense, cost (including, without limitation, attorneys' fees, costs and fees of litigation) of every nature, kind or description, which may be brought by a third party against, or suffered or sustained by, the County, or its Board of Supervisors, commissions, officers, employees and agents, from and against any and all claims, suits, actions, commissions, officers, employees or agents to challenge or void this Agreement. In the event that any person should bring an action to attack, set aside, void or annul the County's approval of this Agreement, the Land Owner shall defend, indemnify and hold harmless the County and/or its agents, officers and employees from any claim, action, or proceeding against the County and/or its agents, officers and employees with counsel selected by the Land Owner and reasonably approved by the County.

15. Board of Supervisors Approval. This Agreement is subject to, and shall have no force or effect until and unless first approved by the San Bernardino County Board of Supervisors.

IN WITNESS THEREOF, the Parties hereto have executed this Agreement as of the date first above written.

LAND OWNER:

215 Table Top, LLC,
a California limited liability company

By: Wynnhower MGT, LLC
a California limited liability company,
its managing member

By: _____
Name: Bolivar Rodriguez
Title: Managing Member

APPROVED AS TO FORM FOR LANDOWNER:

By: _____

COUNTY:

SAN BERNARDINO COUNTY
a political subdivision of the State of California

By: _____
Dawn Rowe, Chair,
Board of Supervisors
Dated:

SIGNED AND CERTIFIED THAT A
COPY OF THIS DOCUMENT HAS BEEN
DELIVERED TO THE CHAIRMAN OF THE BOARD

Lynna Monell,
Clerk of the Board of Supervisors

By _____
Deputy

APPROVED AS TO FORM FOR COUNTY:

TOM BUNTON
COUNTY COUNSEL

By _____
Jason M. Searles
Supervising Deputy County Counsel