

MEMORANDUM OF UNDERSTANDING REGARDING PUBLIC BENEFIT CONTRIBUTIONS

THIS MEMORANDUM OF UNDERSTANDING (“Agreement”) is entered into as of September 9, 2025 (“Effective Date”), by and between SAN BERNARDINO COUNTY, a public body, corporate and politic (“County”), and PHARRIS SYCAMORE FLATS LLC, a California limited liability company, TDC GLEN HELEN OWNER, L.L.C., a Delaware limited liability company, and OLD DOMINION FREIGHT LINE, INC., a Virginia corporation (each, an “Owner” and, collectively, the “Owners”). County and Owners 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 Owners’ Glen Helen Specific Plan application to rezone a total of 142.3 acres and continuance of 19.2 acres within the Devore Subarea for future consideration, as follows: 81.5 acres within the North Glen Helen Planning Sub-area from Destination Recreation (DR) to Corridor Industrial (CI); 19.2 acres within the Devore Planning Sub-area from Commercial/Traveler Services (C/TS) to Corridor Industrial (CI); 48.7 acres within the Sycamore Flatts Planning Sub-area from Single-Family Residential-Sycamore Flatts (SFR-SF) to Single-Family Residential-Sycamore Flatts (SFR-SF) and Corridor Industrial Overlay (CI-O); and 12.1 acres from Commercial/Traveler Services (C/TS) and High Density Residential Overlay (HDR-O) to Corridor Industrial (CI), along with text amendments related to the addition of the Corridor Industrial Overlay (CI-O) zone, accessory uses in the Corridor Industrial (CI) zone, and general clarifications and corrections resulting from rezoning 142.3 acres and continuance of 19.2 acres within the Devore Subarea for future consideration of the Land Use Plan (the “Project”). The County Board of Supervisors also adopted an Addendum (the “Addendum”) to the Glen Helen Specific Plan Environmental Impact Report (“EIR”)(State Clearinghouse (SCH) No. 2000011093) as required pursuant to the provisions of the California Environmental Quality Act (“CEQA”) (Public Resources Code Section 21000 et seq.) and the State CEQA Guidelines. The Addendum was prepared in compliance with State CEQA Guidelines Section 15162 and 15164 and determined that no supplemental or subsequent EIR is required to evaluate the proposed Project as it would not create new significant impacts or substantially increase the severity of previously analyzed impacts.

B. The purpose of this Agreement is to memorialize the commitment to prepare a Focused Devore Heights Community Cut-Through Traffic Study as a public benefit that Owners have voluntarily committed to provide as part of the Project.

C. The Agreement is in the best interests of the County, Owners and the community, and for good and valuable consideration, the County and Owners 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. Focused Devore Heights Community Cut-Through Traffic Study. Upon any Owner's submittal of either (i) a discretionary land use application for any parcel located within the 81.5 acres in the Glen Helen subarea; 19.2 acres within the Devore subarea; or 12.1 acres in the Sycamore Flats subarea rezoned as Corridor Industrial as part of the Project, or (ii) a discretionary land use application for an industrial development for any parcel located within the 48.7 acres in the Sycamore Flats subarea rezoned as Corridor Industrial Overlay as part of the Project, the Owners shall retain a certified traffic engineer, with said engineer reasonably approved by the Director of the Department of Public Works, to prepare a Focused Devore Community Cut-Through Traffic Study (the "Traffic Study"). The scope of the Traffic Study shall include the following:

a. Obtain peak hour traffic counts, with vehicle classification, at the following four intersections:

- i. Devore Road/I-215 NB Ramp;
- ii. Devore Road/Nedlee Avenue;
- iii. Devore Road/Kenwood Avenue; and
- iv. I-215 NB Ramp/Kenwood Avenue.
- v. Kimbark Avenue/Kenwood Avenue
- vi. Woodlawn Avenue/Kenwood Avenue
- vii. Greenwood Avenue/Kenwood Avenue

b. License plate surveys shall be obtained during the AM and PM peak periods at Devore Road/I-215 NB Ramp and I-215 NB Ramp/Kenwood Avenue to identify the specific vehicles cutting-through Devore Heights to avoid congestion on I-215. Additionally, 24-hour classification counts would be taken on up to five roadway segments within the Devore Heights community to identify the types of vehicles traveling on the roadways on every hour of a typical weekday. Using the traffic count data, the existence of cut-through traffic will be identified and the streets being used to avoid I-215.

c. The Traffic Study shall include levels of service at all analysis intersections, identification of the number of truck trips at each count location, and the identification of cut-through trips using the license plate survey data. Mitigation will be proposed to reduce commercial and truck traffic cut-through trips if applicable. The types of measures that would be evaluated for feasibility and effectiveness include but are not limited to roundabouts to discourage truck traffic, roadway narrowing/neckdowns/chockers, and curb extensions/bulb outs.

d. The cost of the Traffic Study shall be shared by the Owners proportionally, with each owner responsible for one-third (1/3) each of the total cost. The total cost of the Traffic Study shall not exceed Thirty Thousand Dollars (\$30,000.00), and accordingly, no Owner shall be required to contribute more than Ten Thousand Dollars (\$10,000.00) toward such cost. If one or more of the Owners engages a certified traffic engineer to prepare the Traffic Study and pays for the cost of such Traffic Study ("Paying Owner(s)"), the other Owner(s) ("Non-Paying Owner(s)") shall reimburse the Paying Owner(s) for 100% of its proportional share of the cost of the Traffic Study, within thirty (30) days of the Non-Paying Owner(s) receipt of a written request ("Request") for payment thereof from the Paying Owner(s). If the Non-Paying Owner(s) fail to reimburse the Paying Owner(s) as required under this Section, then interest at an annual rate of nine percent (9%) (or, if less, the highest rate of interest permitted by law) will accrue on the unpaid amount commencing as of the date that is thirty-one (31) days after the Non-Paying Owner(s) receipt of the Request and continuing until the unpaid amount, together with all interest having accrued thereon, has been paid in full. The Owners acknowledge that the County may require proof of payment of its proportionate share of the Traffic Study prior to its approval of any required entitlements regarding each Owners' respective portion of the Project. A Non-Paying Owner(s) obligations under this Section 1(d) will survive the termination of this Agreement.

Prior to scheduling a discretionary land use application for any public hearing, the Owners shall coordinate with the County's Public Works Department to review the Traffic Study findings. The Owners shall also hold at least one community meeting to review the Traffic Study findings with the Devore Heights Rural Protection Association and property owners within the County's municipal code noticing requirements for the land use application that is the subject of the public hearing. Nothing in this Section shall be interpreted as waiving or limiting an Owner's obligation to pay required fees under the County Fee Ordinance for a traffic study required as part of the discretionary land use application, as opposed to the agreed upon contribution toward the voluntary Traffic Study.

2. Estoppel. The County shall, at any time and from time to time within ten (10) days' of its receipt of a written request from any Owner, execute, acknowledge and deliver to Owners a statement (a) certifying this Agreement, including all of the terms and conditions herein, are unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Agreement, as so modified, is in full force and effect); and (b) acknowledging that there are not, to the actual knowledge of the County, any uncured defaults on the part of the Owners (or specifying such defaults if any are claimed). Said written statement or deemed agreement shall be binding upon the County in favor of any persons relying on the statement in good faith.

3. 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 be sent by (a) FedEx or other national recognized overnight courier service, or (b) 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:

Owners:

Pharris Sycamore Flats LLC:

2050 Main Street Suite 250

Irvine, CA 92614

Attention: Ron Pharris

Phone: 949.313.5808

TDC Glen Helen Owner L.L.C.:

c/o Transwestern Development Company

3501 Jamboree, Suite 4400

Newport Beach, California 92660

Attention: Stephen Batcheller

Phone: 949.351.5186

Old Dominion Freight Line, Inc.

500 Old Dominion Way

Thomasville, NC 27360

Attention: J. Craig Kiser

Phone: 336.822.1291

County:

San Bernardino County

Land Use Service Department

385 N. Arrowhead Avenue, 1st Floor

San Bernardino, CA 92415

Attn: Planning Director

County Copy To:

San Bernardino County Counsel

385 N. Arrowhead Avenue, 4th Floor

San Bernardino, CA 92415

Each notice shall be deemed delivered on the date delivered by the overnight courier or on the date of receipt as disclosed on the return receipt if by registered or certified 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. Successors and Assigns. This Agreement shall be binding upon all successors and assigns of any Owner that owns any portion of the Project. If an Owner assigns its entire or partial interest in this Agreement to a successor owner of all or a portion of the Project, such Owner shall provide the County with written notice of such assignment and a copy of the assignment agreement. In order for any 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.

10. 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.

11. Termination. This Agreement shall have no force or effect if the Project is overturned by a court of law or rescinded by County.

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

13. 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.

14. 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.

15. Indemnification Against Third Party Claims. The Owners hereby agree 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 or the Project. In the event that any person should bring an action to attack, set aside, void or annul the County's approval of this Agreement or the Project, the Owners 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 Owners and reasonably approved by the County.

16. 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.

OWNERS:

PHARRIS SYCAMORE FLATS LLC,
a California limited liability company

By: _____

Name: Ron Pharris

Title: Authorized Signatory

TDC GLEN HELEN OWNER, L.L.C.,
a Delaware limited liability company

By: _____
Name: Jeff Knowles
Title: Authorized Signatory

OLD DOMINION FREIGHT LINES, INC.,
a Virginia corporation

By: _____
Name: Cecil Overbey Jr.
Title: Authorized Signatory

COUNTY:

SAN BERNARDINO COUNTY

Dawn Rowe, Chairman,
Board of Supervisors

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