

**SUMMARY REPORT PREPARED PURSUANT TO
CALIFORNIA HEALTH AND SAFETY CODE SECTION 33433
ON A
LAND DISPOSITION, DEVELOPMENT AND FUNDING AGREEMENT
BETWEEN
THE COUNTY OF SAN BERNARDINO;
BLOOMINGTON I HOUSING PARTNERS, L.P.;
AND
BLOOMINGTON LIBRARY DEVELOPER, LLC**

The following Summary Report has been prepared pursuant to California Health and Safety Code Section 33433. The reports sets forth certain details of the proposed Disposition, Development and Funding Agreement (Agreement) between the County of San Bernardino Redevelopment (County); Bloomington I Housing Partners, L.P., a California limited partnership (Affordable Developer); and Bloomington Library Developer, LLC, a California limited liability company (Library Developer). The Affordable Developer and the Library Developer are sometimes referred to collectively as the “Developers”.

The purpose of the Agreement is to effectuate the replacement housing requirements imposed on the former San Sevaire Redevelopment Project Area. To that end, the Agreement calls for the County to convey to the Developers a six-acre portion of nine acres of County-owned property in the unincorporated Bloomington area of San Bernardino County. The proposed Agreement calls for the nine-acre property to be subdivided into three parcels that can be described as follows:

1. Phase I of the project will be developed on approximately six acres of land. This property will be subdivided into the following two condominium parcels:
 - a. A 106-unit income-restricted multi-family and intergenerational apartment project that will be developed by the Affordable Developer on the “Affordable Development Parcel”; and
 - b. An approximately 6,600 square foot public library that will be developed by the Library Developer on the “Library Parcel”.
2. An approximately three-acre parcel that will be developed in a subsequent development phase (Phase II Development Parcel).

The Agreement is focused on the disposition, development and funding of the Affordable Development Parcel and the Library Parcel. These Parcels include the following properties:

1. Approximately 5.8 acres of land that the County acquired using Neighborhood Stabilization Program 3 (NSP 3) funds distributed by the United States Housing and Urban Development Department (HUD).
2. An approximately 13,000 square foot improved property that the County acquired using tax-exempt bond proceeds that are secured by Property Tax Increment Housing Set-Aside (Set-Aside) funds.

Under the terms of the Agreement, these Parcels will be conveyed in the form of separate ground leases that will each remain in effect for 57 years. In addition, the County will provide financial assistance to the Developers to fill the financial gaps created by the requirements imposed by the Agreement.

Due to the fact that a portion of the County-owned property was acquired with Property Tax Increment funds, the proposed conveyance of the Affordable Development Parcel and the Library Parcel are subject to the reporting requirements imposed by Section 33433. Specifically, Section 33433 requires the conveying entity to prepare a report that summarizes the financial terms associated with the proposed disposition transaction. The following Summary Report is based upon the information contained within the Agreement, and is organized into the following seven sections:

- I. **Salient Points of the Agreement:** This section summarizes the major responsibilities imposed on the Affordable Developer, the Library Developer and the County by the Agreement.
- II. **Cost of the Agreement to the County:** This section details the total cost to the County associated with implementing the Agreement.
- III. **Estimated Value of the Interests to be Conveyed Determined at the Highest Use Permitted under the Property's Zoning:** This section estimates the values of the interests to be conveyed determined at the highest use permitted under the requirements imposed by the zoning in place on the Affordable Development Parcel and the Library Parcel.
- IV. **Estimated Reuse Value of the Interests to be Conveyed:** This section summarizes the valuation estimate for the Affordable Development Parcel and the Library Parcel based on the required scope of development, and the other conditions and covenants required by the Agreement.
- V. **Consideration Received and Comparison with the Established Value:** This section describes the compensation to be received by the County, and explains any difference between the compensation to be received and the established value of the Affordable Development Parcel and the Library Parcel.

- VI. **Blight Elimination:** This section describes the existing blighting conditions on the Affordable Development Parcel and the Library Parcel, and explains how the Agreement will assist in alleviating the blighting influence.
- VII. **Conformance with the AB1290 Implementation Plan:** This section describes how the Agreement achieves goals identified in the adopted AB1290 Implementation Plan for the former San Sevaire Redevelopment Project Area.

This report and the Agreement are to be made available for public inspection prior to the approval of the Agreement.

I. SALIENT POINTS OF THE AGREEMENT

A. Project Description

Affordable Development

The Affordable Development includes 106 apartment units (Affordable Development Improvements). The Affordable Development Improvements can be described as follows:

1. The Affordable Development consists of the following unit mix:
 - a. Senior Citizen Units:
 - i. Sixty-five (65) one-bedroom units; and
 - ii. Five (5) two-bedroom units.
 - b. Family Units:
 - i. Three (3) two-bedroom units; and
 - ii. Thirty-two (32) three-bedroom units; and
 - c. One (1) two-bedroom unit to be provided for an on-site manager.
2. Community center space totaling approximately 3,600 square feet will be provided.

Library Development

The Library Development consists of approximately 6,600 square feet of gross building area (Library Improvements). The Library Developer will be responsible for constructing the Library Improvements.

Parking

The Affordable Development and the Library Development will be served by 204 surface parking spaces.

B. Financial Assistance Package

The financial assistance package identified in the Agreement can be summarized as follows:

Affordable Development Parcel:

1. The Affordable Development Parcel is being conveyed to the Affordable Developer in the form of a long-term ground lease that carries nominal payments of \$1.00 per year. The costs the County incurred to acquire the properties can be described as follows:
 - a. The County used NSP 3 funds to acquire the 5.8-acre vacant property for \$1,295,000. The Agreement calls for these costs to be structured as a loan to be repaid from the cash flow generated by the Affordable Development (Residual Receipts Loan).
 - b. The County used tax-exempt bonds secured by Set-Aside funds to acquire the 13,000 square foot improved property for \$366,000. The Agreement calls for these costs to be treated as a grant to the Affordable Development.
2. The County has already provided the Affordable Developer with a \$1.1 million predevelopment loan that was provided using NSP 3 funds. The predevelopment loan will be included in the Residual Receipts Loan.
3. The County will with fund \$1.46 million in water line impact fees associated with providing the water improvements required to serve the Affordable Development. These costs will be included in the Residual Receipts Loan, and will be funded from the following sources:
 - a. NSP 3 funds will be used to pay for \$1,163,410 in costs; and
 - b. County Housing Funds will be used to pay for \$300,000 in costs.
4. The County will pay for sewer line construction costs totaling approximately \$2.01 million. These costs will be included in the Residual Receipts Loan, and will be paid using the following sources:
 - a. NSP 3 funds will be used to pay for \$405,250 in costs; and
 - b. County Housing Funds will be used to pay \$1,607,340 in costs.

5. The County will provide an approximately \$6.56 million grant to fill the construction cost gap associated with the Affordable Development Improvements. This grant will be provided using tax-exempt bond proceeds that were secured with Set-Aside funds.
6. Using tax-exempt bond proceeds that were secured with Set-Aside funds, the County will provide a grant to fund a \$512,000 "Supplemental Operating Expense Reserve" account. This account will be maintained in an interest bearing account held by the California Housing Finance Agency (CalHFA) over the life of the Agreement.

Library Parcel:

1. The Library Parcel is being conveyed to the Library Developer in the form of long-term ground lease that carries nominal payments of \$1.00 per year.
2. The County will provide the Library Developer with approximately \$2.71 million in grant assistance to construct the Library Improvements. This assistance will be provided using Neighborhood Stabilization 1 (NSP 1) funds and Community Development Block Grant (CDBG) funds.

The County financial assistance packages to be provided to the Affordable Development and the Library Development are summarized in the following table:

	Residual Receipts Loan	Grant	Total
<u>Affordable Development</u>			
Property Acquisition	\$1,295,000	\$366,000	\$1,661,000
Predevelopment Loan	1,100,000	--0--	1,100,000
Water Line Impact Fees	1,463,410	--0--	1,463,410
Sewer Line Construction	2,012,590	--0--	2,012,590
Construction Cost Gap	--0--	6,563,817	6,563,817
Supplemental Operating Exp Reserve	--0--	512,000	512,000
Total Financial Assistance:			
Affordable Development	\$5,871,000	\$7,441,817	\$13,312,817
Library Development Assistance	--0--	\$2,705,000	\$2,705,000
Grand Total Financial Assistance	\$5,871,000	\$10,146,817	\$16,017,817

The \$5,871,000 Residual Receipts Loan will be provided on an interest-free basis, and will be repaid by the Affordable Developer over a 57-year term.. The repayment will be derived from the cash flow remaining each year after payment of the following obligations:

1. General Operating Expenses:
 - a. Typical property management fees and reimbursements;
 - b. Utilities costs paid for by the Affordable Developer;
 - c. Maintenance and repair costs;
 - d. Premium payments for property damage and liability insurance;
 - e. Annual licenses and fees required to operate the Affordable Development;
 - f. Security services;
 - g. Advertising and marketing costs;
 - h. Reasonable accounting and legal fees; and
 - i. Annual audit, inspection and monitoring fees
2. Property taxes and assessments imposed on the Affordable Development.
3. The costs incurred to provide social services.
4. Required debt service payments on the Mental Health Services Act (MHSA) funds that are being provided by CalHFA to finance a portion of the Affordable Development's costs;
5. Cash deposited into capital replacement and operating reserve accounts in amounts approved by the County;
6. An asset management fee for the first 15 years of the Affordable Development's operation in amounts approved by the County;
7. One-time payments of insurance deductibles associated with casualty losses not normally paid from reserves, and the cost to replace, repair or restore uninsured losses no normally paid from reserves;
8. Other ordinary and extraordinary operating expenses approved by the County.

The Affordable Developer must commit 50% of the Affordable Development's cash flow to the repayment of the County's \$5,871,000 Residual Receipts Loan and the MHSA funds being used to assist the Affordable Development. The allocation of the debt service payments between the County and CalHFA will be determined after the final Capital Operating Subsidy Reserve (COSR) amount to be provided by CalHFA has been established.

C. Developers' Responsibilities

The Developers must adhere to the following requirements:

1. Development Plans:
 - a. The Affordable Developer and Library Developer must comply with all government entities' regulatory and administrative processes related to the land use approvals required for the Affordable Development and Library Development.
 - b. The County has approved the Conceptual Site Plan submitted by the Developers for the Affordable Development Improvements and Library Improvements. These Conceptual Site Plans must serve as the basis for the plans submitted by the Developers to receive government approvals for the development.
 - c. The Developers and the County must collectively create a condominium, parcel, or subdivision map that identifies the Affordable Development Parcel, the Library Parcel and the Phase II Development Parcel. The Developers and the County must also execute a Reciprocal Easement Agreement that covers the Affordable Development and Library Parcels.
 - d. The Developers must obtain building permits for the Affordable Development and the Library Development in accordance with the timeline set forth in the Schedule of Performance attachment to the Agreement.
2. Financial Requirements:
 - a. A financing plan that identifies all the sources and uses of funds required to develop the Affordable Development and the Library Development is provided as an attachment to the Agreement. Any proposed modifications to the approved financing plan must be submitted to the County for approval.
 - b. The Developers must submit a construction completion guaranty for the Affordable Development and Library Development, executed by The Related Companies, L.P., a New York limited partnership.
 - c. The Developers must submit to the County evidence that insurance coverage has been obtained that meets the requirements imposed by the Agreement.

- d. The Developers may not apply to the State Board of Equalization to obtain a welfare exemption from the property taxes applicable to the Affordable Development or the Library Development.

3. Labor Requirements:

- a. To the extent required by law, the Developer shall pay all contractors and subcontractors engaged to construct the Affordable Development and Library Development the greater of the wage rates required by the federal Davis-Bacon Act and California Labor Code Section 1720.
- b. The Developers are prohibited from any form of discrimination on the basis of race, color, creed, religion, sex, sexual orientation, marital status, national origin or ancestry, or source of income, in the hiring, firing, promoting or demoting of any person engaged in the construction of the Affordable Development and the Library Development.

D. Affordable Developer Responsibilities

The Agreement requires the Affordable Developer to accept the following responsibilities:

- 1. The Affordable Developer must accept conveyance of the Affordable Development Parcel in the form of a ground lease:
 - a. The Affordable Developer must accept the Affordable Development Parcel in an “as is” condition.
 - b. The ground lease term is set at 57 years; and
 - c. The annual ground lease payment is set at \$1.00.
- 2. In accordance with the schedule of performance attachment to the Agreement, the Affordable Developer must submit evidence that the financing and funding identified in the financing plan will be available for disbursement prior to the close of escrow for the construction of the Affordable Development. These financing sources are comprised of:
 - a. 9% Low Income Housing Tax Credits (Tax Credits) awarded on a competitive basis by the California Tax Credit Allocation Committee (TCAC);¹
 - b. MHSA Funds awarded by CalHFA; and

¹ The Agreement requires the Developer to submit a Tax Credit application in first application period offered by TCAC in 2014. If Tax Credits are not awarded to the Affordable Development in the first round, the Agreement allows the Affordable Developer to apply in the following two rounds.

- c. Project Based Housing Vouchers that are allocated by Housing Authority of the County of San Bernardino.
3. The Affordable Developer is entitled to receive a Developer Fee in return for providing development and construction management services. The restrictions imposed by the Agreement on the Developer Fee are as follows:
 - a. The maximum Developer Fee amount is set at \$2 million;
 - b. The Affordable Developer must defer payment of at least \$900,000 of the Developer Fee until the construction of the Affordable Development has been completed; and
 - c. The Affordable Developer must use \$120,000 of the Developer Fee to capitalize and fund operating and reserve accounts to be used by the Library Developer.
4. The costs to develop the Affordable Development are being funded in part with NSP 3 funds. The Affordable Developer is required to comply with all applicable laws and regulations pertaining to the use of the NSP 3 funds over the course of the 20-year NSP term.
5. The Affordable Developer must construct a 106-unit apartment development in accordance with the Scope of Development and Schedule of Performance attachments to the Agreement.
6. The rent limits that must be imposed on the Affordable Development must comply with the most stringent of the requirements imposed on the use of Set-Aside funds, NSP funds, Tax Credit funds, MHSA funds, and Project Based Housing Vouchers. Based on these requirements, the rents must be based on the following standards:
 - a. One (1) unit must be rented to an on-site manager. This unit is not subject to income and affordability restrictions.
 - b. Sixteen (16) units must be rented to households earning less than 30% of the Tax Credit median income.
 - c. Twenty (20) units must be rented to households earning less than 40% of the Tax Credit median income.
 - d. Fifty-eight (58) units must be rented to households earning less than 50% of the San Bernardino County median income published by the California Housing and Community Development Department (HCD).
 - e. Eleven (11) units must be rented to households earning less than 60% of the median income published by HCD.

7. Each year, the Affordable Developer must submit to the County a certification of compliance with the income and affordable housing cost covenants imposed by the Agreement. The monitoring document must comply with the requirements imposed by California Health and Safety Code Section 33418.
8. The Affordable Developer must operate and maintain the Affordable Development in conformance with the standards imposed in the Agreement over the entire 55-year covenant period. Specifically, the Developer must comply with the following requirements:
 - a. The Affordable Developer must submit a Management Plan and a Marketing Plan to the County for approval.
 - b. Throughout the term of the Agreement, the on-site manager must participate in the San Bernardino County Sheriff-Coroner Department's Crime Free Multi-Housing Unit Program.
 - c. The Affordable Developer must keep the Affordable Development free from all graffiti, accumulation of shopping carts, debris and waste material.
 - d. The Affordable Developer shall employ crime prevention measures such as maintaining adequate lighting in parking areas and pathways, and by providing dead-bolt locks and solid-core doors for every entry door in the Affordable Development.
9. For the entire term of the Agreement, the Affordable Developer must contract with the County for the provision of social services to the children residing in the Affordable Development.
10. The Affordable Developer must pay all real and personal property taxes, assessments and charges; and all franchise, income, employment, old age benefit, withholding, sales and other taxes applicable to the Affordable Development.
11. The Affordable Developer must repay the Residual Receipts Loan in accordance with the terms set forth in the Promissory Note attachment to the Agreement.

E. Library Developer Responsibilities

The Agreement imposes the following responsibilities on the Library Developer:

1. The Library Developer must accept conveyance of the Library Development Parcel in the form of a ground lease:
 - a. The Library Developer must accept the Library Development Parcel in an "as is" condition.

- b. The ground lease term is set at 57 year; and
 - c. The annual ground lease payment is set at \$1.00.
2. The Library Developer must maintain the exterior of the Library Improvements.

F. County Responsibilities

The Agreement imposes the following responsibilities on the County:

- 1. The County must convey the County Parcel to the Developers in accordance with the ground-lease terms set forth in the Agreement.
- 2. Financial Assistance:
- 3. The County must provide \$13.31 million in financial assistance to the Affordable Developer and \$2.71 million in assistance to the Library Developer. The total assistance package equals \$16.02 million. Key requirements associated with the financial assistance package are:
 - a. The County must disburse the funds in accordance with the Schedule of Performance attachment to the Agreement.
 - b. The County has the right to participate in meetings in which the Developers present requests to draw down assistance funds being provided by the County. The County has five business days in which to provide written notification that a draw request is being denied. If notice is not provided within that timeframe, the draw request is deemed accepted by the County.
- 4. The County must provide the Developers with "Certificates of Completion" for the Affordable Development and the Library Development.
- 5. The County must provide social services programs to the Affordable Development that comply with the requirements imposed by TCAC.
- 6. The County must agree to lease the interior space of the Library Improvements from the Library Developer (Library Facility Lease). The basic terms associated with the Library Facility Lease are as follows:
 - a. The rent payment will be set at the amount required to maintain the Library Improvements and to make the deposits to any reserve accounts required under the Library Facility Lease.
 - b. The County must accept responsibility for the costs associated with the day-to-day operation of the interior of the library space.

- c. Over the term of the Library Facility Lease, the County shall be entitled to operate a public library and shall be entitled to receive all revenue generated by the operation.

II. COST OF THE AGREEMENT TO THE COUNTY

The costs incurred by the County to implement the Agreement are estimated as follows:

<u>Affordable Development</u>	
NSP 3 Funds	
Vacant Property Acquisition	\$1,295,000
Predevelopment Loan	1,100,000
Water Line Impact Fees	1,163,410
Sewer Line Construction	405,250
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Total NSP 3 Funds	\$3,963,660
County Housing Monies	
Water Line Impact Fees	\$300,000
Sewer Line Construction	1,607,340
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Total County Housing Monies	\$1,907,340
Tax-Exempt Bond Funds	
Construction Cost Gap	\$6,563,817
Improved Property Acquisition	366,000
Supplemental Operating Expense Reserve	512,000
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Total Tax Exempt Bond Funds	\$7,441,817
Total Affordable Housing Development Funds	\$13,312,817
Library Development:	
NSP 1 and CDBG Funds	\$2,705,000
Total Cost to the County	\$16,017,817

The assistance package is allocated to a \$5.87 million Residual Receipts Loan and a \$10.15 million grant. The total cost to the County equals \$16.02 million.

It is anticipated that the \$5.87 million Residual Receipts Loan will be fully repaid by the end of the loan term. However, given that the debt service on the Residual Receipts Loan is completely dependent on the cash flow produced by the Affordable Development over time, it is too speculative to predict the net present value of the debt service payments that will be made over the term of the Residual Receipts Loan.

III. ESTIMATED VALUE OF THE INTERESTS TO BE CONVEYED DETERMINED AT THE HIGHEST USE PERMITTED UNDER THE REDEVELOPMENT PLAN

California Health and Safety Code Section 33433 requires the County to identify the value of the interests being conveyed at the highest use permitted under the zoning in place on the Affordable Development Library Parcels. The valuation must be based on the assumption that the property is vacant, and that near-term development is required. The valuation does not take into consideration any extraordinary use, quality and/or income restrictions being imposed on the development by the County.

The properties to be developed include a 5.776-acre vacant property that was acquired by the County for \$1,295,000 or \$5.15 per square foot of land area. Based on the assumption that the vacant property was acquired at a price based on the highest and best use value of the property, the value of the approximately 6.07-acre Affordable Development and Library Development Parcels equals \$1.36 million.

IV. ESTIMATED REUSE VALUE OF THE INTERESTS TO BE CONVEYED

Keyser Marston Associates, Inc. (KMA), the County's financial consultant, prepared a reuse valuation analysis of the Affordable Development and the Library Development Parcels based on the financial terms and conditions imposed by the Agreement. The KMA analysis concluded that the fair reuse value of the Parcels is negative \$14.36 million.² This means that the Parcels would need to be conveyed to the Affordable Development and Library Development at no cost, and that \$14.36 million in direct financial assistance would need to be provided, to make the scope of development required by the Agreement financially feasible.

It is important to note that the amount of the County assistance package identified in the Agreement is predicated on the assumption that the Affordable Development will receive the competitively awarded 9% Tax Credits, MHSA funds, and Project Based Housing Vouchers. If any of these sources are not received by the Affordable Development, the fair reuse valuation conclusion will need to be re-evaluated.

² The negative reuse value is comprised of the \$11.65 million financial gap associated with the Affordable Development and the \$2.71 million financial gap associated with the Library Developments.

V. CONSIDERATION RECEIVED AND COMPARISON WITH THE ESTABLISHED VALUE

The Agreement imposes extraordinary controls on the Affordable Development and Library Development Parcels. The impacts created by these requirements reduce the value of the Affordable Development and Library Development Parcels from \$1.36 million at the highest use permitted under the Parcels zoning, to the established fair reuse value of negative \$14.36 million.

The Agreement treats \$5.87 million of the costs incurred by the County as a Residual Receipts Loan that must be repaid out of the cash flow generated by the Affordable Development over time. At the end of the covenant period, the Affordable Developer must repay any outstanding balance on the Residual Receipts Loan. Given that the repayment proceeds received by the County will be greater than the established fair reuse value of negative \$14.36 million, it can be concluded that the County is receiving fair consideration for the interests being conveyed to the Developers.

VI. BLIGHT ELIMINATION

The Affordable Development includes the development of 106 residential units, of which 105 units are subject to long-term income and affordability restrictions. In accordance with California Redevelopment Law, as portrayed in the California Health and Safety Code Section 33433, the conveyance of property that results in the provision of housing for low or moderate income persons satisfies the blight elimination criteria imposed by Section 33433. Thus, the scope of development required by the Agreement fulfills the blight elimination requirement.

VII. CONFORMANCE WITH THE AB1290 IMPLEMENTATION PLAN

The proposed Affordable Development fulfills replacement housing obligations that have been imposed on the County. These replacement housing obligations were identified in the Implementation Plans for redevelopment project areas within San Bernardino County. Thus, it can be concluded that the Affordable Development furthers the goals established by the AB1290 Implementation Plan.