



**Sacramento  
Housing &  
Redevelopment  
Agency**

**REPORT TO COUNCIL,  
REDEVELOPMENT AGENCY,  
AND HOUSING AUTHORITY**

**City of Sacramento  
915 I Street, Sacramento, CA 95814-2671  
[www.CityofSacramento.org](http://www.CityofSacramento.org)**

**Staff Report  
September 9, 2008**

**Honorable Mayor and Members of the City Council  
Chair and Members of the Redevelopment Agency and Housing Authority**

**Title: Approval of Bond Documents, Owner Participation Agreement (OPA), and  
Permanent Financing for Broadway Senior Center Apartments**

**Location/Council District: 5200 Broadway, Sacramento, Council District 5**

**Recommendation:** Adopt: 1) a **Housing Authority Resolution** a) approving an authorization of up to \$6,569,500 in tax-exempt bonds to finance the acquisition and rehabilitation of the 120-unit Broadway Senior Center Apartments (Project), and b) authorizing the Interim Executive Director, or her designee, to execute all documents necessary to issue the bonds; 2) a **City Resolution** a) authorizing the Sacramento Housing and Redevelopment Agency (Agency) to transfer City Home Investment Partnership Program (HOME) funds for an Agency loan of up to \$1,100,000 for the Project, and b) authorizing the Interim Executive Director, or her designee, to execute loan documents with DHI Broadway Associates, L.P. (Developer); and 3) a **Redevelopment Agency Resolution** a) approving funding from Low/Moderate Tax Increment (TI) funds for an Agency loan of up to \$1,660,000 for the Project, b) authorizing the Agency to transfer TI funds for an Agency loan of up to \$1,660,000 for the Project, and c) authorizing the Interim Executive Director, or her designee, to execute an Owner Participation Agreement (OPA) and loan documents with the Developer.

**Contact:** Lisa Bates, Deputy Executive Director, 440-1330; Christine Weichert, Assistant Director, Housing and Community Development, 440-1353

**Presenters:** Jeree Glasser-Hedrick, Housing Finance Program Manager;  
Bernadette Austin, Housing Finance Analyst,

**Department:** Sacramento Housing and Redevelopment Agency



Approval of Bond Documents, OPA, and Permanent Financing for Broadway Senior Center Apartments

**Description/Analysis**

**Issue:** The Broadway Senior Center Apartments (Project) is an existing 120-unit affordable senior housing project which DHI Broadway Associates, L.P. (Developer) plans to acquire and renovate. The Project was originally presented to the Council on January 22, 2008. At that time, the City Council approved a loan commitment of up to \$2,100,000, and the Housing Authority adopted a resolution authorizing the issuance of tax exempt mortgage revenue bonds for the Project. Following these approvals, the California Debt Limit Allocation Committee (CDLAC) awarded the bond allocation on May 28, 2008. Further background about the project can be found in Attachment 1. A location map is included as Attachment 2, and a site map is included as Attachment 3.

Since the funding approvals obtained last January, uncertainty in the financial markets has caused a steep decline in the value of tax credits. For this Project, the result has been a loss of approximately 20% of the value of the tax credits. To fill this gap, the Developer is deferring an additional \$400,000 in developer fees and requesting \$1,660,000 in Agency funds. Staff is seeking Council approval for an additional \$1,660,000 in TI funds to be added to the approved Agency loan commitment for a total loan amount of \$2,760,000. If the tax credit market recovers prior to the transaction closing and the Developer can secure an increased amount of tax credit equity investment, the Agency loan will be reduced accordingly.

The project is proposed to be funded with tax-exempt mortgage revenue bonds, 4% Low Income Housing Tax Credits (LIHTC's), the Agency loan, and a deferred developer fee. The bonds and Agency loan together will require 24 units to be affordable to individuals earning 50 percent or less than the Area Median Income (AMI) and 95 units to be affordable to individuals earning 60 percent or less than AMI for a period of 55 years. The existing project is further made affordable by a project based Housing Assistance Payment (HAP) contract with the U.S. Department of Housing and Urban Development (HUD) that covers all 120 units.

A project summary, including a proposed sources and uses of funds, is included as Attachment 4, and a project cash flow proforma is included as Attachment 5. A schedule of maximum rents and incomes is included as Attachment 6.

The Agency loan will be partially funded from TI funds. These funds require an executed Owner Participation Agreement (OPA) with the partnership that will own and operate the project. The OPA is included in Exhibit A to the resolution. The Loan Commitment Letter reflecting the new loan amount of \$2,760,000 is included as Exhibit B.

**Policy Considerations:** While the recommended actions are consistent with approved Agency tax-exempt bond and multi-family loan policies, the term of the Agency loan is recommended to be extended to be consistent with the term of the senior loan. Regulatory restrictions on the property will be specified in bond and loan regulatory agreements with the Housing Authority and the Agency,

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respectively. Compliance with the regulatory agreements will be monitored by the Agency on a regular basis. As an affordable housing project, Broadway Senior Center Apartments is exempt from the Art in Public Places requirement usually associated with projects funded with TI funds.

**Environmental Considerations:**

**California Environmental Quality Act (CEQA):** The proposed action is exempt from environmental review under California Environmental Quality Act (CEQA) Guidelines Sections 15310 and 15301(a) and (d) which exempts bond and loan financing and rehabilitation of existing facilities where the use remains unchanged.

**Sustainability Considerations:** The Broadway Seniors Project has been reviewed for consistency with the goals, policies and targets of the Sustainability Master Plan and the 2030 General Plan. If approved, the contents of this report will advance the following goals, policies and targets as follows: the project supports Goal number five – Public health and Nutrition, specifically Target number five which calls for the redevelopment or rehabilitation of areas within the city or aged city facilities that were constructed based on old, wasteful, and/or dysfunctional designs to achieve better results for people and the environment.

**Other:** The project consists of the rehabilitation of a multi-family residential complex in which the unit density will not be changed and the estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation. Therefore, the proposed action is categorically excluded from environmental review under the National Environmental Policy Act (NEPA) pursuant to 24 CFR Section 58.35(a)(3).

**Committee/Commission Action:** At its meeting of June 25, 2008, the Sacramento Housing and Redevelopment Commission considered the staff recommendation for this item. The votes were as follows:

AYES: Burruss, Dean, Fowler, Gore, Mohr, Morgan, Otto, Shah, Stivers

NOES: None

ABSENT: Chan, Coriano

**Rationale for Recommendation:** The actions recommended in this report enable the Agency to continue to fulfill its mission to provide a range of affordable housing opportunities in the City.

Approval of Bond Documents, OPA, and Permanent Financing for Broadway Senior Center Apartments

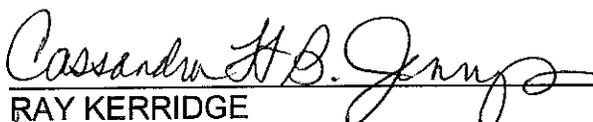
**Financial Considerations:** Staff recommends approval of the issuance of up to \$6,596,500 in tax-exempt bonds and an Agency Loan up to \$2,760,000 (consisting of \$1,100,000 from City HOME and \$1,660,000 from aggregated Low/Moderate TI funds). This loan will be repaid with interest.

The Developer has paid the California Debt Limit Allocation Committee (CDLAC) processing fee and posted the performance deposit required by CDLAC. The proposed bond issuance will not be an obligation of the City, the Housing Authority, or the Sacramento Housing and Redevelopment Agency. The bonds will be an obligation solely of the Project and the owner who will bear all costs associated with issuing the bonds. The Agency will receive a one-time issuance fee of .25 percent of the bond issuance amount, which is payable at bond closing. The Agency will also collect an annual payment of .15 percent of the total bond issuance amount for monitoring of the regulatory restrictions and administration of the bonds. This fee is payable in advance in semi-annual installments for the entire period of the regulatory agreement. The law firm of Jones Hall is acting as bond counsel for the Housing Authority. Copies of the bond documents are on file with the Agency Clerk.

**M/WBE Considerations:** Minority and Women’s Business Enterprise requirements will be applied to all activities to the extent required by federal funding.

Respectfully Submitted by:   
LA SHELLE DOZIER  
Interim Executive Director

Recommendation Approved:

  
RAY KERRIDGE  
City Manager

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## **Broadway Senior Center Apartments Project Background Information**

DHI Broadway Associates, L.P. proposes to acquire and rehabilitate Broadway Senior Center Apartments, an existing 120-unit affordable senior housing project located at 5200 Broadway. The developer is requesting issuance of up to \$6,569,500 in tax exempt bonds and a \$2,760,000 Agency loan comprised of \$1,100,000 in City Home Investment Partnership (HOME) funds and \$1,660,000 in aggregated Tax Increment (TI) funds. City Council approved a commitment of \$1,100,000 in HOME funding and \$1,000,000 in TI on January 22, 2008. Award of this loan will be contingent upon the allocation of mortgage revenue bonds and of 4% Low-Income Housing Tax Credits to the project.

Project History: The project was initially proposed to be financed with 9% Low Income Housing Tax Credits (LIHTC's) and an Agency loan of approximately \$2,000,000 which was requested and approved in June of 2007 for the project. The competition for 9% LIHTC's proved formidable and the project did not obtain financing at that time. In response to the setback, the developer restructured the project to make it feasible utilizing the tax exempt bonds, 4% LIHTC's and an Agency loan. On January 22, 2008, a loan commitment for the restructured project was approved in the amount of \$2,100,000. Since that time continued uncertainty in the financial markets and a decrease in demand for tax credits has caused the value of tax credits to decrease. As a result of the decreased value to the tax credit equity, the developer is deferring an additional \$400,000 of the developer fee (the maximum deferral allowed by federal tax code) and requesting additional funding of \$660,000. This will increase the Agency's loan to the project to \$2,760,000. If the tax credit market recovers prior to the transaction closing and the Developer can secure an increased amount of tax credit equity investment, the Agency loan will be reduced accordingly.

Description of Development: Broadway Senior Center Apartments was built in 1979 and needs substantial improvements. It consists of 120 one- and two-bedroom apartments in 26 one-story residential buildings and one office/community building. The 112 one-bedroom units are approximately 593 square feet in size, and the 8 two-bedroom units are approximately 800 square feet in size. The office/community building houses the community room, laundry facility, management/leasing office, and maintenance shop.

All apartment interiors will be renovated and upgraded as needed with replacement of countertops, garbage disposals, appliances, refaced or replaced cabinetry in the bathrooms, vinyl flooring, toilets, and bath tubs. Exterior work will include replacement and painting of deteriorating siding and surrounding fencing, installation of dual-pane windows, and all buildings will have concrete entry ramps and walkways from the

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property entrance. Site work will include improvements to landscaping, modification of sidewalks to correct problematic drainage issues, and upgraded ADA accessibility throughout the complex. Security cameras and enhanced lighting will also be installed. A site plan is included as Attachment 3.

Broadway Senior Center Apartments is an existing housing project made affordable by a project-based Housing Assistance Payment (HAP) contract with the U.S. Department of Housing and Urban Development (HUD) that covers all 120 units. The manager's unit is covered by the contract but can be rented to the manager at market rate if necessary. Under the HAP contract, tenants pay 30 percent of their income for rent and the balance of the rent is paid by HUD. The current contract is subject to annual renewal and the owner is willing to sell to a market-rate developer. Instead, the Developer intends to secure a new long-term HAP contract that would ensure continued rent subsidies for residents for a 20-year period. The Agency will require the Developer to renew the HAP contract on the property after expiration of the initial contract as long as extensions are available.

Relocation: There will be no permanent relocation of any current residents. The developer has submitted a temporary relocation plan with a budget of \$50,000. Agency staff has reviewed and approved the temporary relocation plan.

Developer: Dawson Holdings, Inc., has developed numerous affordable apartment projects. Their current portfolio includes 3,338 apartments in 25 projects in California, Oregon, Colorado and Missouri. The company is based in Sausalito, and many of the company's apartment projects are in Sacramento and the San Francisco Bay Area. Local projects include the Willow Pointe Apartments, Florin Meadows, Rancho Cordova Apartments, Bryte Gardens, Sunnyslope Apartments, Willow Tree, and Roswood Manor. The general contractor will be Precision General Commercial Contractors, Inc., which is experienced in apartment construction and rehabilitation. The firm is affiliated with the Developer.

Property Management: Sackett Corporation, the current property manager, will continue in that function. The company has managed commercial and multi-family residential properties since 1977. Over the past 25 years, Sackett Corporation has managed approximately 20,000 residential units in California and Arizona. Their experience includes conventional apartments, tax-exempt bond financed-apartments, senior housing, and HUD subsidized housing.

Agency staff has reviewed the management plan, including daily operations, leasing procedures, maintenance, and eviction procedures, and has found that the proposed management company meets the Agency's requirements for property management.

Social Services Plan: Social Services will be provided to the residents by Community Resident Services, Inc., a nonprofit 501(c)(3) corporation. Community Resident Services proposes to offer instructional programs in areas such as exercise, nutrition, financial planning, computer training, and English as a Second Language, along with coordinating social activities for the residents.

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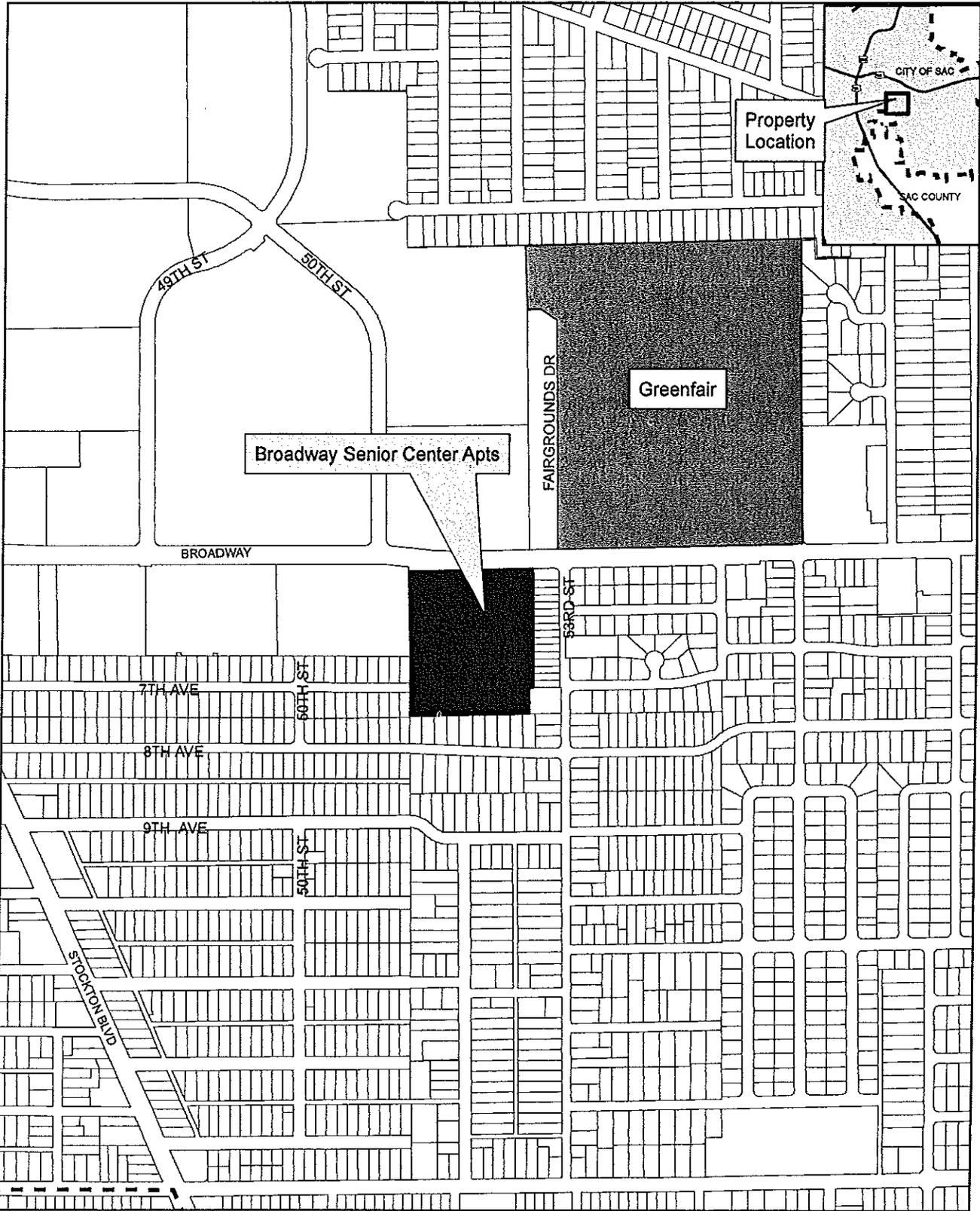
Project Financing: The Developer proposes to finance the Broadway Senior Center Apartments project with tax-exempt mortgage revenue bonds issued by the Housing Authority, Low Income Housing Tax Credits, a deferred developer fee, and a \$2,760,000 Agency loan using \$1,100,000 in City HOME funds and \$1,660,000 in TI funds.

Low-income Set-aside Requirements: The project will be layered with affordability requirements required by the various public funding sources. These sources and their affordability requirements are summarized in the following table.

<b>Funding</b>	<b>Affordability Restrictions</b>	<b>No. Units Covered</b>	<b>Regulatory Term</b>
<b>HAP Contract</b>	Very Low-Income (50% AMI)	120	20 years
<b>Tax Exempt Bonds, Low Income Housing Tax Credits, and Agency Loan</b>	Very Low-Income (50% AMI)	24	55 years
	Low-Income (60% AMI)	95	55 years
<b>Manager's Unit</b>	Unrestricted (HAP optional)	1	
<b>Total Units</b>		120	



# Broadway Senior Center Apartments

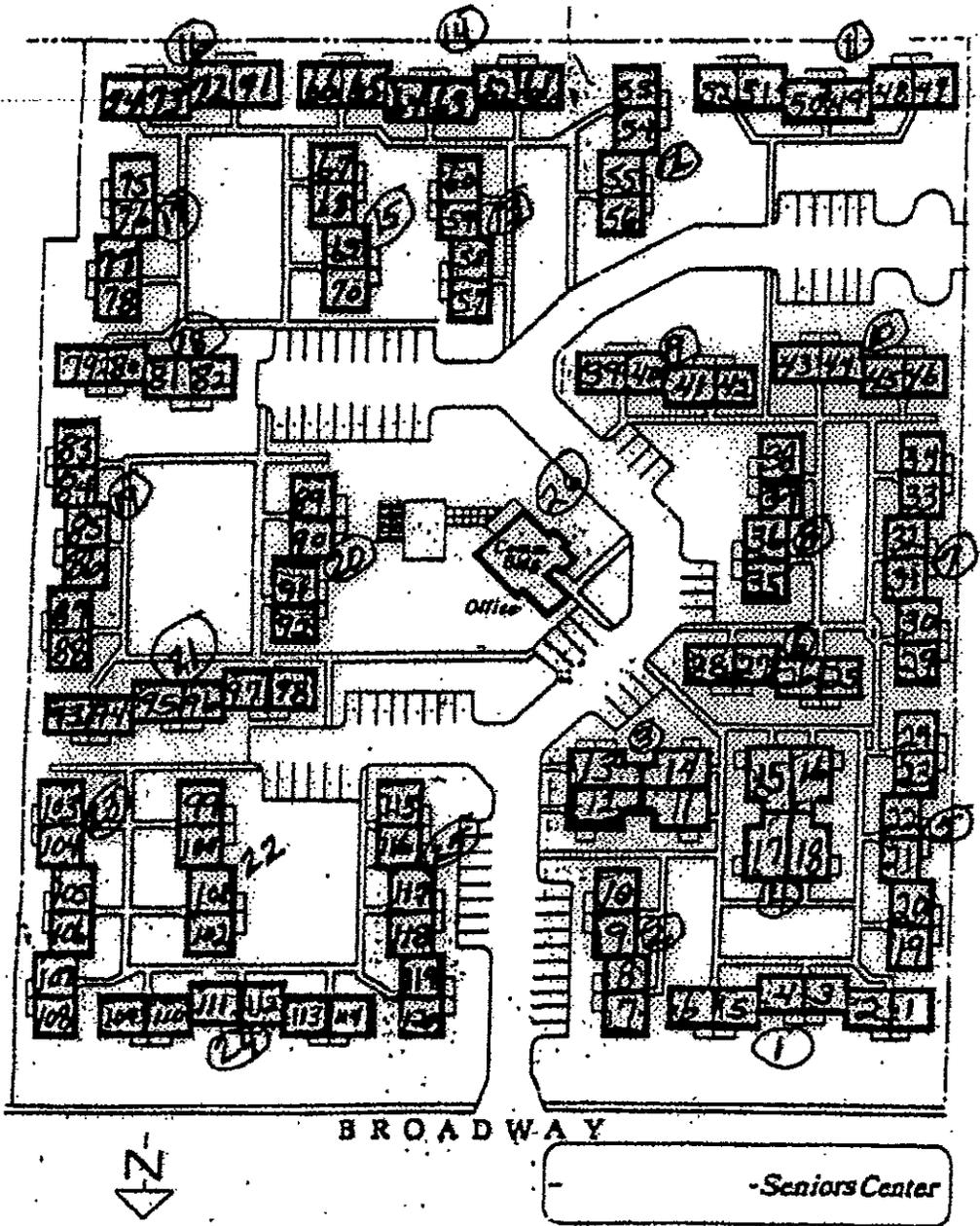


 Broadway Senior Center Apartments

0 500 1,000 Feet



SHRA GIS  
June 10, 2008



## Broadway Senior Center Apartments

<b>Address</b>	5200 Broadway, Sacramento		
<b>Number of Units</b>	120		
<b>Year Built</b>	1979		
<b>Acreage</b>	7.45 acres		
<b>Affordability</b>	24 units (20%) at or below 50% of median income 95 units (80%) at or below 60% of medium 1 manager's unit at market rate		
<b>Unit Mix and Rents</b>	(50% AMI)	(60% AMI)	Market
1 Bedroom	23	89	0
2 Bedroom	1	6	1
Total	24	95	1
<b>Unit Square Footage</b>	1 Bedroom 593 square feet 2 Bedroom 800 square feet Total 75,416 square feet, including 2,600 for the community space		
<b>Resident Facilities</b>	The site includes a community room with a full kitchen and two restrooms.		
<b>Permanent Sources</b>	<i>Total</i>	<i>Per Unit</i>	<i>Per Square Foot</i>
Tax Credit Equity	\$ 3,359,000	\$ 27,992	\$ 44.54
Tax Exempt Bonds	\$ 5,119,000	\$ 42,658	\$ 67.88
SHRA Loan	\$ 2,760,000	\$ 23,000	\$ 36.60
Developer Fee Loan	\$ 1,081,000	\$ 9,008	\$ 14.33
Net Operating Cash Flow	\$ 131,000	\$ 1,092	\$ 1.74
<b>TOTAL SOURCES</b>	<b>\$ 12,450,000</b>	<b>\$ 103,750</b>	<b>\$ 165</b>
<b>Permanent Uses</b>			
Acquisition Costs	\$ 7,056,000	\$ 58,800	93.56
Construction Costs	\$ 2,907,000	\$ 24,225	38.55
Architecture and Engineering	\$ 10,000	\$ 83	0.13
Contingency	\$ 252,000	\$ 2,100	3.34
Financing Costs	\$ 277,000	\$ 2,308	3.67
Reserves	\$ 196,000	\$ 1,633	2.60
Legal	\$ 102,000	\$ 850	1.35
Relocation	\$ 50,000	\$ 417	0.66
Developer Fee	\$ 1,430,000	\$ 11,917	18.96
Insurance, Marketing, Reports, Other	\$ 170,000	\$ 1,417	2.25
<b>TOTAL USES</b>	<b>\$ 12,450,000</b>	<b>\$ 103,750</b>	<b>\$ 165</b>
<b>Management / Operations</b>	Proposed Developer: Dawson Holdings, Inc Property Management Company: Sackett Corporations Operations Budget: \$399,898 \$3,332 per unit Replacement Reserves: \$36,000 \$300 per unit		

**Broadway Senior Center Apartments  
Project Cash Flow Proforma**

Unit Type	Number	Square Feet	Total Sq Feet	Gross Rent	Utility Allowance		Net Rent		Total Mo. Rent		Annual Rent		2033		2038		2043		
					2009	2010	2011	2012	2013	2018	2023	2028	2033	2038	2043	Year 15	Year 20	Year 25	Year 30
1 BD / 1 BA @ 50% AMI	23	593	13,639	\$ 629	\$ 26	\$ 603	\$ 13,869	\$ 166,428											
1 BD / 1 BA @ 60% AMI	89	593	52,777	\$ 629	\$ 26	\$ 603	\$ 53,667	\$ 644,004											
2 BD / 1 BA @ 50% AMI	1	800	800	\$ 730	\$ 31	\$ 699	\$ 699	\$ 8,388											
2 BD / 1 BA @ 60% AMI	6	800	4,800	\$ 730	\$ 31	\$ 699	\$ 4,194	\$ 50,328											
Managers Units	1	800	800	\$ 830	\$ -	\$ 830	\$ 830	\$ 9,960											
<b>Totals</b>	<b>120</b>		<b>72,816</b>				<b>\$ 73,259</b>	<b>\$ 878,108</b>											
<b>Income</b>	<b>rate</b>	<b>annual increase</b>	<b>per unit</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2018</b>	<b>2023</b>	<b>2028</b>	<b>2033</b>	<b>2038</b>	<b>2043</b>					
Potential Gross Income				\$ 79,108	\$ 90,186	\$ 923,613	\$ 946,703	\$ 970,371	\$ 1,097,885	\$ 1,242,157	\$ 1,405,386	\$ 1,590,065	\$ 1,795,013	\$ 2,035,418					
Other Income				13,920	14,268	14,625	14,990	15,365	17,384	19,669	22,253	25,177	28,486	32,229					
Less Vacancy				(44,651)	(45,768)	(46,912)	(48,085)	(49,287)	(55,763)	(63,091)	(71,392)	(80,762)	(91,375)	(103,382)					
Effective Gross Income	5.00%			\$ 348,377	\$ 369,566	\$ 389,326	\$ 393,609	\$ 398,449	\$ 1,059,506	\$ 1,198,794	\$ 1,356,257	\$ 1,534,481	\$ 1,736,124	\$ 1,964,265					
<b>Operating Expenses</b>																			
Assessments				\$ 346,863	\$ 359,003	\$ 371,568	\$ 384,573	\$ 398,033	\$ 472,739	\$ 561,465	\$ 666,845	\$ 792,002	\$ 940,650	\$ 1,117,197					
Property Management				\$ 27,530	\$ 28,081	\$ 28,642	\$ 29,215	\$ 29,799	\$ 32,901	\$ 36,325	\$ 40,106	\$ 44,280	\$ 49,889	\$ 53,977					
Replacement Reserves				\$ 33,935	\$ 34,783	\$ 35,653	\$ 36,544	\$ 37,458	\$ 42,380	\$ 47,949	\$ 54,250	\$ 61,379	\$ 69,445	\$ 78,571					
Total Expenses				\$ 300	\$ 300	\$ 300	\$ 300	\$ 300	\$ 36,000	\$ 36,000	\$ 36,000	\$ 36,000	\$ 36,000	\$ 36,000					
<b>Net Operating Income</b>				<b>\$ 404,049</b>	<b>\$ 411,719</b>	<b>\$ 419,462</b>	<b>\$ 427,276</b>	<b>\$ 435,158</b>	<b>\$ 475,486</b>	<b>\$ 516,994</b>	<b>\$ 559,057</b>	<b>\$ 600,819</b>	<b>\$ 641,140</b>	<b>\$ 678,520</b>					
<b>Debt Service</b>																			
Bank Loan				\$ 204,756	\$ 267,318	\$ 329,878	\$ 329,878	\$ 329,878	\$ 329,878	\$ 329,878	\$ 329,878	\$ 329,878	\$ 329,878	\$ 329,878					
HA Monitoring Fee				9,854	9,854	9,854	9,854	9,854	9,854	9,854	9,854	9,854	9,854	9,854					
Debt Service Subtotal				\$ 214,610	\$ 277,172	\$ 339,733	\$ 339,733	\$ 339,733	\$ 339,733	\$ 339,733	\$ 339,733	\$ 339,733	\$ 339,733	\$ 339,733					
DCR on Senior Bonds						1.23	1.26	1.28	1.40	1.52	1.65	1.77	1.89	2.00					
<b>Other Operating Expenses</b>																			
PILOT Fee				19,151	19,151	19,151	19,821	20,515	24,365	28,938	34,370	40,820	48,482	57,581					
Real Estate Taxes				76,906	38,453	0	0	0	0	0	0	0	0	0					
Social Services				19,100	19,789	20,460	21,177	21,918	26,031	30,917	36,720	43,612	51,797	61,518					
Other Operating Expenses Subtotal				\$ 115,157	\$ 77,372	\$ 39,611	\$ 40,996	\$ 42,433	\$ 50,397	\$ 59,855	\$ 71,089	\$ 84,432	\$ 100,279	\$ 119,099					
<b>Priority Distributions</b>																			
Asset Management Fee (GP)				5,000	5,050	5,101	5,152	5,203	5,468	5,747	6,041	6,349	6,673	7,013					
Partnership Management Fee (LP)				5,000	5,050	5,101	5,152	5,203	5,468	5,747	6,041	6,349	6,673	7,013					
Priority Distributions Subtotal				10,000	10,100	10,201	10,303	10,406	10,937	11,495	12,082	12,698	13,342	14,026					
Net Cash after Priority Distributions				\$ 64,281	\$ 47,074	\$ 29,917	\$ 36,243	\$ 42,587	\$ 74,420	\$ 105,911	\$ 142,194	\$ 170,306	\$ 194,456	\$ 212,670					
<b>Deferred Developer Fee</b>																			
Principal Balance				\$ 1,081,422	\$ 1,081,422	\$ 1,081,422	\$ 1,051,505	\$ 1,015,262	\$ 738,674	\$ 303,290	\$ 0	\$ 0	\$ 0	\$ 0					
Payment						29,917	36,243	42,587	74,420	105,911	142,194	170,306	194,456	212,670					
Balance				\$ 1,081,422	\$ 1,081,422	\$ 1,051,505	\$ 1,015,262	\$ 972,675	\$ 664,253	\$ 197,379	\$ 0	\$ 0	\$ 0	\$ 0					
Net Cash after Deferred Developer Fee				\$ 64,281	\$ 47,074	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 142,194	\$ 170,306	\$ 194,456	\$ 212,670					
<b>SHIRA HOME loan</b>																			
Principal Balance				\$ 2,760,000	\$ 2,760,000	\$ 2,760,000	\$ 2,760,000	\$ 2,760,000	\$ 2,760,000	\$ 2,760,000	\$ 2,760,000	\$ 2,760,000	\$ 2,760,000	\$ 2,760,000					
Interest for Period				110,400	110,400	110,400	110,400	110,400	110,400	110,400	110,400	110,400	110,400	110,400					
Accumulated Interest				110,400	220,800	331,200	441,600	552,000	1,104,000	1,656,000	2,056,384	2,225,428	2,282,073	2,245,873					
Payment				0	0	0	0	0	0	0	66,907	90,590	110,985	126,446					
Balance				\$ 2,870,400	\$ 2,980,800	\$ 3,091,200	\$ 3,201,600	\$ 3,312,000	\$ 3,864,000	\$ 4,416,000	\$ 4,749,457	\$ 4,894,838	\$ 4,931,088	\$ 4,879,426					
Combined Debt Coverage Ratio				1.12	1.14	1.16	1.25	1.35	1.20	1.20	1.20	1.20	1.20	1.20					
Net Cash After HOME Loan Repayment				\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 75,287	\$ 79,716	\$ 83,471	\$ 86,224					

### MAXIMUM RENT AND INCOME LEVELS

**Mortgage Revenue Bond Program**  
(Rents @ 50% of AMI)

Maximum Income Limits:		50% AMI
<u>Family Size</u>	<u>Max. Income</u>	
1 person	\$	24,850
2 person	\$	28,400
3 person	\$	31,950

Maximum Rent Limits:		
<u>Unit Size</u>	<u>Gross Rent</u>	
1 Bedroom	\$	710
2 Bedroom	\$	799

**4% Low-Income Housing Tax Credit Program**  
(Rents @ 60% of AMI)

Maximum Income Limits:		60% AMI
<u>Family Size</u>	<u>Max. Income</u>	
1 person	\$	29,820
2 person	\$	34,080
3 person	\$	38,340

Maximum Rent Limits:		
<u>Unit Size</u>	<u>Gross Rent</u>	
1 Bedroom	\$	750
2 Bedroom	\$	894

**HOME Funds**

(Rents @ 50% and 65% of AMI)

Maximum Income Limits:		
	Low HOME 50% AMI	High HOME 65% AMI
<u>Family Size</u>	<u>Max. Income</u>	<u>Max. Income</u>
1 person	\$ 24,850	\$ 32,305
2 person	\$ 28,400	\$ 36,920
3 person	\$ 31,950	\$ 41,535

Maximum Rent Limits:		
	Gross Rent	Gross Rent
<u>Unit Size</u>		
1 Bedroom	\$ 665	\$ 798
2 Bedroom	\$ 798	\$ 958

## **RESOLUTION NO. 2008 \_\_\_\_\_**

**Adopted by the Housing Authority of the City Of Sacramento**

on date of

**AUTHORIZING THE ISSUANCE, EXECUTION AND DELIVERY OF  
MULTIFAMILY HOUSING REVENUE BONDS, AUTHORIZING THE  
EXECUTION AND DELIVERY OF A MASTER PLEDGE AND  
ASSIGNMENT, A MASTER AGENCY AGREEMENT, A REGULATORY  
AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS  
AND OTHER DOCUMENTS RELATING THERETO; AND APPROVING  
OTHER ACTIONS AND MATTERS RELATING THERETO**

### BACKGROUND

- A. The Housing Authority of the City of Sacramento (the "Authority") is authorized pursuant to Chapter 1 of Part 2 of Division 24 of the California Health and Safety Code (the "Act") to issue revenue bonds and make loans for the purpose of financing multifamily rental housing projects to be occupied in whole or in part by persons of low and very low income; and
- B. DHI Broadway Associates, L.P., a California limited partnership (the "Borrower"), has requested the Authority to issue revenue bonds designated as the Housing Authority of the City of Sacramento Multifamily Housing Revenue Bonds (Broadway Senior Center Apartments) 2008 Issue G (the "Bonds") and to loan the proceeds from the sale thereof to the Borrower to finance the acquisition, rehabilitation and development of a 120-unit multifamily rental housing development located in the City of Sacramento, California and commonly known as the Broadway Senior Center Apartments (the "Project"); and
- C. On January 22, 2008, the City Council of the City of Sacramento held public hearings on the proposed issuance of the Bonds, as required under the Internal Revenue Code of 1986, following published notice of such hearings, and, following such public hearings approved the issuance of the Bonds; and
- D. The Authority hereby finds and declares that this resolution is being adopted pursuant to the powers granted by the Act; and
- E. All conditions, things and acts required to exist, to have happened and to have been performed precedent to and in connection with the issuance of the Bonds as contemplated by this resolution and the documents referred to herein will exist, have happened and have been performed in due time, form and manner as required by the laws of the State of California, including the Act;

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE HOUSING AUTHORITY OF THE CITY OF SACRAMENTO RESOLVES AS FOLLOWS:**

- Section 1. The Authority hereby finds and declares that the above recitals are true and correct.
- Section 2. Pursuant to the Act and the Pledge and Assignment (as defined below), the issuance of the Bonds, in an aggregate principal amount not to exceed \$6,569,000, is hereby authorized. The Chairperson or Executive Director of the Authority, or their designee (the "Authorized Officer"), each acting alone, are hereby authorized and directed to execute the Bonds for and in behalf of the Authority by manual or facsimile signature, in the form set forth in the Pledge and Assignment (defined below), with such changes, deletions and insertions as may be approved by such Authorized Officers and legal counsel to the Authority, such approvals being conclusively evidenced by the execution and delivery thereof, and the Clerk of the Sacramento Housing and Redevelopment Agency or her designee (the "Clerk") is hereby authorized and directed, if required, to attest the Bonds in said form and otherwise in accordance with the Pledge and Assignment.
- Section 3. The Master Pledge and Assignment by and among the Authority, U.S. Bank National Association, as Agent, and U.S. Bank National Association, as Holder (the "Pledge and Assignment"), in the form on file with the Clerk, is hereby approved. The Authorized Officers, each acting alone, are hereby authorized for and in behalf of the Authority to execute and deliver the Pledge and Assignment with such changes, additions or deletions as may be approved by such Authorized Officer and legal counsel to the Authority, such approvals to be conclusively evidenced by the execution and delivery thereof.
- Section 4. The Master Agency Agreement by and among the Authority and U.S. Bank National Association, as Agent (the "Agency Agreement"), in the form on file with the Clerk, is hereby approved. The Authorized Officers, each acting alone, are hereby authorized for and in behalf of the Authority to execute and deliver the Agency Agreement with such changes, additions and deletions as may be approved by such Authorized Officer and legal counsel to the Authority, such approvals to be conclusively evidenced by the execution and delivery thereof.
- Section 5. The Regulatory Agreement and Declaration of Restrictive Covenants by and between the Authority and the Borrower (the "Regulatory Agreement"), in the form on file with the Clerk, is hereby approved. The Authorized Officers, each acting alone, are hereby authorized for and in behalf of the Authority to execute and deliver the Regulatory Agreement with such changes, additions or deletions as may be approved by such

Authorized Officer and legal counsel to the Authority, such approvals to be conclusively evidenced by the execution and delivery thereof.

- Section 6. The Bonds, when executed, shall be delivered to U.S. Bank National Association, as the initial holder thereof, upon the funding of the Loan (as defined in the Pledge and Assignment) with the purchase price for the Bonds.
- Section 7. All actions heretofore taken by the officers and agents of the Authority with respect to the sale and issuance of the Bonds are hereby approved, confirmed and ratified, and the proper officers of the Authority, including the Authorized Officers, are hereby authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions and execute any and all certificates, agreements and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Bonds in accordance with this Resolution, including but not limited to those certificates, agreements and other documents described in the Pledge and Assignment, the Agency Agreement, the Regulatory Agreement, and other documents herein approved.
- Section 8. This Resolution shall take effect immediately upon its adoption.

**RESOLUTION NO. 2008 – \_\_\_\_\_**

**Adopted by the Sacramento City Council**

on the date

**BROADWAY SENIOR CENTER APARTMENTS: APPROVAL OF A \$1,100,000 LOAN (CITY HOME INVESTMENT PARTNERSHIP FUNDS); EXECUTION OF LOAN DOCUMENTS AND RELATED DOCUMENTS WITH DHI BROADWAY ASSOCIATES, L.P.; RELATED BUDGET AMENDMENT**

**BACKGROUND**

- A. The 120-unit Broadway Senior Center Apartments project ("Project") qualifies for City Home Investment Partnership Funds (HOME) under Sacramento Housing and Redevelopment Agency ("Agency") guidelines and would be an appropriate use of these funds.
- B. On January 22, 2008, the Sacramento City Redevelopment Agency and City Council approved a \$2,100,00 loan commitment which consisted of \$1,100,000 in Tax Increment and \$1,100,00 in HOME funds to assist in funding the costs of acquisition and rehabilitation of the Project and authorized the Agency to execute and transmit a loan commitment to Dawson Holdings, Inc., or related entity.
- C. The proposed action is exempt from environmental review under California Environmental Quality Act (CEQA) Guidelines Sections 15310 and 15301(a) and (d) which exempts bond and loan financing and rehabilitation of existing facilities where the use remains unchanged. The project consists of the rehabilitation of a multi-family residential complex in which the unit density will not be changed and the estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation. Therefore, the proposed action is categorically excluded from environmental review under the National Environmental Policy Act (NEPA) pursuant to 24 CFR Section 58.35(a)(3).

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

- Section 1. The above recitals are true and correct and the proposed action is exempt from environmental review under CEQA Guidelines Sections 15310 and 15301(a) and (d). The project is Categorical Excluded from environmental review under National Environmental Policy Act regulations at 24 CFR Section 58.35 (a) subsection (3)(i).

September 9, 2008

Approval of Bond Documents, OPA, and Permanent Financing for Broadway Senior Center Apartments

- Section 2: The Agency is authorized to amend the Agency Budget to transfer One Million One Hundred Thousand Dollars (\$1,100,000) from the City Home Investment Funds to the Broadway Senior Center project. The Project will provide affordable housing which serves and benefits the Project Area.
- Section 3: The Loan Documents attached to and incorporated in this resolution by this reference are approved. The Agency is authorized to execute the Loan Documents and related documents.
- Section 4: The Agency is authorized to make technical amendments to said agreements and documents with approval of Agency Counsel, which amendments are in accordance with the loan, with Agency policy, with this resolution, with good legal practices for making of such a loan.

**RESOLUTION NO. 2008 –**

**Adopted by the Redevelopment Agency of the City of Sacramento**

on the date

**BROADWAY SENIOR CENTER APARTMENTS: APPROVAL OF A \$1,660,000 LOAN (REDEVELOPMENT PROJECT AREA FUNDS); EXECUTION OF AN OWNER PARTICIPATION AGREEMENT AND RELATED DOCUMENTS WITH DHI BROADWAY ASSOCIATES, L.P.; RELATED BUDGET AMENDMENT**

**BACKGROUND**

- A. The 120-unit Broadway Senior Center Apartments project ("Project") qualifies for Tax Increment funding under Sacramento Housing and Redevelopment Agency ("Agency") guidelines and would be an appropriate use of these funds.
- B. On June 24, 2008, the Sacramento City Redevelopment Agency and City Council approved a \$2,760,000 loan commitment of Tax Increment and HOME funds to assist in funding the costs of acquisition and rehabilitation of the Project and authorized the Agency to execute and transmit a loan commitment to DHI Broadway Associates, L.P., or related entity.
- C. The Agency finds that the Tax Increment housing set aside funds that will be used to fund the Project are needed to make these housing units affordable. Therefore, the Project is not required to provide funding for Art in Public Places.
- D. The proposed action is exempt from environmental review under California Environmental Quality Act (CEQA) Guidelines Sections 15310 and 15301(a) and (d) which exempts bond and loan financing and rehabilitation of existing facilities where the use remains unchanged. The project consists of the rehabilitation of a multi-family residential complex in which the unit density will not be changed and the estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation. Therefore, the proposed action is categorically excluded from environmental review under the National Environmental Policy Act (NEPA) pursuant to 24 CFR Section 58.35(a)(3).

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO RESOLVES AS FOLLOWS:**

- Section 1. The above recitals are true and correct and the proposed action is exempt from environmental review under CEQA Guidelines Sections 15310 and 15301(a) and (d). The project is Categorically Excluded from

Approval of Bond Documents, OPA, and Permanent Financing for Broadway Senior Center Apartments

environmental review under National Environmental Policy Act regulations at 24 CFR Section 58.35 (a) subsection (3)(i).

Section 2: The Interim Executive Director is authorized to amend the Agency Budget to transfer One Million Six Hundred Sixty Thousand Dollars (\$1,660,000) from the City Aggregated Tax Increment—Low/Moderate Income Housing Fund to the Broadway Senior Center Apartments project. The Project will provide affordable housing which serves and benefits the Project Area.

Section 3: It is found and determined that the Tax Increment housing set aside funds that will be used to fund the Project are needed to make these housing units affordable and that therefore the Project is not required to provide funding for Art in Public Places.

Section 4: The Owner Participation Agreement (“OPA”) attached to and incorporated in this resolution by this reference is approved. The Interim Executive Director is authorized to execute the OPA and related documents, including a loan agreement, substantially in the form attached to this resolution and to enter into other agreements, execute other documents, and perform other actions necessary in relation to the OPA to provide said funding assistance to the Project, consistent with the OPA and the staff report that accompanies this resolution and as may be necessary to ensure proper repayment of Agency funds in accordance with the OPA, all as approved by Agency Counsel.

Section 5: The Interim Executive Director is authorized to make technical amendments to said agreements and documents with approval of Agency Counsel, which amendments are in accordance with the OPA, with Agency policy, with this resolution, with good legal practices for making of such a loan.

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**OWNER PARTICIPATION AGREEMENT**

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**Redevelopment Agency of the City of Sacramento**

Broadway Senior Center Apartments  
5200 Broadway, Sacramento, CA 95820

## **OWNER PARTICIPATION AGREEMENT**

**Tax Increment Housing Set- Aside Fund and HOME funds, under the federal HOME Investment Partnership Program**

### **Redevelopment Agency of the City of Sacramento**

Broadway Senior Center Apartments  
5200 Broadway, Sacramento, CA 95820

THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO, and DHI BROADWAY ASSOCIATES, L.P. also called Agency and Developer, respectively, enter into this Owner Participation Agreement, also called OPA, as of \_\_\_\_\_, 2008 (“Effective Date”). For purposes of this Agreement, the capitalized terms shall have the meanings assigned in Section 14.

### **RECITALS**

- A. Developer is the owner of real property located at 5200 Broadway, Sacramento, CA 95820, in the City of Sacramento, California, more particularly described in attached Exhibit 1: Legal Description, which is incorporated into this OPA by this reference.
- B. This OPA is made in accordance with provisions of the Redevelopment Plan for participation by property owners in redevelopment of the project area (adopted in accordance with California Health & Safety Code Section 33339).
- C. The Agency is participating in this OPA because this OPA is consistent with, and furthers, the Redevelopment Plan and the Implementation Plan. Specifically and without limitation, the Agency has determined that the Project will increase and improve supply of low- or moderate-income housing in the community and will eliminate the following blighting influences: low or stagnant property values and impaired investment in the Project Area, high number of property vacancies, low rents, and a high number of vacant lots, deficient buildings and social deterioration. The Agency has also determined that the Project will meet the following goals of the current “Implementation Plan” adopted for the Project Area: improving blighting conditions and improving and preserving affordable housing. Although though Project is not in the Project Area, the Project will benefit the Project Area in that workers in the Project area live in the area which includes the Project.
- D. In order to accomplish such Agency goals and purpose, the OPA provides that the Developer will redevelop the Property in the manner and for the uses described in this OPA. Therefore, Developer desires to develop the Property, and Agency desires to assist development of the Property, on the terms and conditions in this OPA.

## AGREEMENT

**NOW THEREFORE**, in consideration of the following mutual covenants, obligations and agreements and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. **PROJECT DESCRIPTION.** The Project being assisted with the Agency Funding is the following: Acquisition and rehabilitation of one hundred units of affordable senior housing in twenty residential buildings. The Project also includes a community building. The Project shall also include installation of a security camera system at the vehicular driveways and/or major points of congregation as well as additional, exterior lighting.
2. **AGENCY FUNDING.** Agency is providing funding to the Project under the Funding Agreement for development of the Project as described in Section 1. If Developer fails to develop the Project as and when required by this OPA, Developer must repay the Agency Funding as provided in the Funding Agreement. As a condition of Agency's obligation to provide the Agency Funding and in consideration of the Agency Funding, Agency is purchasing from Developer, and Developer is selling to Agency, an operating covenant to assure the operation of the Project as described in Section 1, as well as other obligations and restrictions, including without limitation, use restrictions and restrictions on amounts that can be charged on sale or rental of the Property, as evidenced by the Regulatory Agreement.
3. **PREPARATION AND APPROVAL OF PLANS AND RELATED DOCUMENTS.** This OPA is a financing document of the Agency and not a land use or planning document. Approval of the Project under this OPA by the Agency is not and shall not be considered an approval of land use entitlements or structural design of the Project, or the aesthetic design of the Project except as an approval by the Agency of the Project design concept as presented in this OPA. Developer shall comply with all applicable land use, planning and design laws, rules and regulations of each governmental agency acting in proper exercise of their respective jurisdictions, including without limitation, departments, staff, boards and commissions of the City. The Agency shall have the right, but not the obligation, to review Plans to assure their conformity with the provisions of this OPA and approvals given under this OPA. Based upon such review, the Agency shall have the right to approve or reject the Plans for reasonable cause. Agency's right of review includes, without limitation, the right to review architectural and engineering plans and specifications, off-site plans and specifications, and landscaping designs and specifications. Agency's approval of Plans is not an assurance of their adequacy or correctness. Agency has reserved approval rights solely: (a) to assure that the Plans further the Redevelopment Plan; (b) to assure that the Final Plans conform to the Preliminary Plans; and (c) to assure that any Agency funds which may be obligated under this OPA are used as intended by the Agency.

3.1. **CONCURRENT REVIEW.** Agency agrees that its review of the Final Plans shall occur prior to or concurrently with City's review of such plans, so as not to delay the commencement and progress of Project development. Agency agrees that its review of the Final Plans is strictly limited to making a determination that the Final Plans conform to the architectural designs (but not the detailed schematics, if any) presented in the Plans, the Scope of Development, the uses permitted on the Property and the Redevelopment Plan.

**3.2. PRELIMINARY PLANS.** Developer has provided Agency with Preliminary Plans, and the Agency has approved the Preliminary Plans concurrently with this OPA. The Agency has been induced to undertake its obligations under this OPA by Developer's promise to develop the Project in accordance with the Plans, the Scope of Development and the provisions of this OPA.

**3.3. PREPARATION OF FINAL PLANS AND RELATED DOCUMENTS.** Developer shall prepare the Final Plans that shall include all construction plans, drawings, specifications and other documents necessary to obtain all required building permits for the construction of the Project. Developer shall submit the Final Plans to the Agency for Agency's review. The Final Plans shall conform in all material respects to the Preliminary Plans and the Scope of Development. To the extent that the Preliminary Plans and Scope of Development have insufficient detail or are unclear, the Preliminary Plans shall be deemed to provide that the Project shall contain high-quality materials, and shall conform to all applicable zoning, design and usage guidelines. The Final Plans shall be considered to include all changes or corrections approved as provided in this OPA. The Final Plans shall incorporate all related mitigation measures required for compliance with CEQA approvals, as stated in the Mitigation Monitoring Plan. Developer agrees that it will comply with the requirements of the Design Review Board to the extent of its jurisdiction.

**3.4. DELIVERY.** Developer shall deliver the Final Plans or changes to the Final Plans for Agency review as soon as available. Said delivery shall be made to the office of the Sacramento Housing and Redevelopment Agency, 630 I Street, Sacramento, CA, 95814, and shall have clearly marked on its exterior "URGENT: Broadway Senior Center Apartments PROJECT PLAN REVIEW" or the equivalent.

**3.4.1. DEEMED APPROVAL.** The Final Plans or changes to the Final Plans shall be deemed approved unless disapproved in whole or in part, in writing, within fifteen (15) days after their proper delivery to Agency.

**3.4.2. AGENCY DISAPPROVAL.** If Agency disapproves, in whole or in part, the Final Plans or any change to the Final Plans, Agency shall state, specifically and in writing, at the time of disapproval, the reasons for disapproval and the changes which the Agency requests to be made. Agency's reasons for disapproval and such Agency-requested changes shall be consistent with the Preliminary Plans, the Approved Final Plans, the Scope of Development and with any items previously approved under this Section 3. If the Agency rejects the proposed Final Plans, Developer shall obtain no rights to develop the Property under this OPA and Agency shall have no obligations regarding the Project until such time as Developer has modified the proposed Final Plans and received the Agency's approval of the Final Plans as modified.

**3.5. GOVERNMENTAL CHANGES.** If any revisions or corrections of the Final Plans shall be required by any government official, agency, department or bureau in exercise of its proper jurisdiction, the Developer shall inform the Agency. If Agency and Developer concur in writing with the required change, Developer shall incorporate the change and it shall be deemed approved by Agency. If Agency or Developer reasonably disagree with the required change,

they shall reasonably cooperate with the agency requiring the change in efforts to develop a mutually acceptable alternative.

**3.6. APPROVAL OF SUBSTANTIAL CHANGES TO FINAL PLAN.** If the Developer desires to make any substantial changes in the Final Plans as approved by the Agency, the Developer shall submit such proposed changes, in writing, to the Agency for its approval. The Final Plans shall be construed to include any changes approved in the same manner as for approval of the original Final Plans. The Agency shall approve or disapprove the proposed change as soon as practicable. Nothing in this Section shall be construed to relieve Developer of its obligations under all applicable laws regarding such changes.

**3.6.1. SUBSTANTIAL CHANGE.** A substantial change in the Final Plans shall include, without limitation, the following changes, excluding those items generally considered to be tenant improvements. For purposes of this Section 3.6.1, a “material change” is a change that is material to the Agency in accomplishing its purposes under this OPA.

- a) Material changes in the layout, elevation design, square footage.
- b) Material changes in use of exterior finishing materials substantially affecting architectural appearance or functional use and operation.
- c) Material changes in site development items for the Property that are specified in the Final Plans.
- d) Any changes requiring approval of any city, county or state board, body, commission or officer, or any change required by any city, county or state board, body, commission or officer.
- e) Any change which would preclude or materially reduce the ability to use the Project as intended by this OPA.

**3.6.2. MISREPRESENTATION.** If the Agency’s approval of the Final Plans is reasonably based upon a material misrepresentation to Agency by Developer or by anyone on Developer’s behalf, the Agency may, within a reasonable time after discovery of the misrepresentation, take any action permitted by law with regard to any such misrepresentation, notwithstanding Agency’s prior approval, including without limitation, rescission of the approval or such other equitable remedies as may then be appropriate to such rescission.

**4. DEVELOPMENT PROVISIONS.** As stated in detail in this Section 4, Developer shall construct and manage the Project according to the requirements established in this OPA, which includes, without limitation, the Scope of Development, the Schedule of Performances and the Plans. Developer shall promptly begin, diligently prosecute and timely complete the construction of the Project. In interpreting the provisions of this OPA, the provisions that specifically enforce the Redevelopment Plan and the applicable provisions of the California Redevelopment Law [commencing at Health and Safety Code Section 33000] shall control.

**4.1. CONSTRUCTION CONTRACTS.** Developer shall submit to Agency the construction contract for the Project. Agency's review of the construction contract shall be only for determining its compliance with this OPA. If the cost of construction of the Project or any part of the Project exceeds the costs projected by Developer, Developer shall, nevertheless, bear the responsibility to complete, at Developer's cost, the construction of the Project in accordance with this OPA.

**4.2. GOVERNMENTAL REVIEW PROCESS.** Notwithstanding any other provision of this OPA, Developer is subject to all building, planning, design and other plan review requirements that are otherwise applicable to the project, including without limitation those of the City of Sacramento. To assure proper review by the City, Developer shall, within thirty (30) days of the date of this OPA, make an initial deposit toward "plan check fees" with the City's Planning Department. In addition, Developer shall, as applicable, take designs before the Design Review/Preservation Board or its appropriate subcommittee for comment as soon as practicable. Conditions to the project imposed by the City shall be considered obligations of the Developer under this OPA. If a dispute with City staff arises regarding such City conditions, Developer shall accept the decision of the City's Planning Commission interpreting, imposing and enforcing such City conditions, subject to any applicable appeals process of the Planning Commission.

**4.3. SUBSTANTIAL CHANGES.** Developer covenants and agrees that Developer shall not make or permit to be made any construction of the Project which incorporates a substantial change in the Final Plans, as described in Section 3.6, without Agency approval of such changes as provided in Section 3.6.

**4.4. LOCAL, STATE AND FEDERAL LAWS.** The Developer shall assure that the construction of the Project is carried out in conformity with all applicable laws and regulations, including all applicable federal and state labor standards. Developer acknowledges and agrees that all wage and hour laws and other labor laws as applicable, including without limitation prevailing wage requirements, are the sole responsibility of Developer and Developer's contractors and subcontractors. Developer and its contractors and subcontractors have undertaken to ascertain the applicability of such laws prior to preparation of the final Project budget and have included the costs arising from such laws in the final Project budget. Developer shall keep, or cause to be kept, all records and make all payments, of any kind, that may be required for compliance with said laws and regulations. Before commencement of construction or development of any buildings, structures or other work of improvement upon the Property, Developer shall at its own expense secure any and all certifications and permits which may be required by any governmental agency having jurisdiction over such construction, development or work. Developer shall permit only persons or entities which are duly licensed in the State of California, County of Sacramento and City of Sacramento, as applicable, to perform work on or for the Project.

**4.5. PREVAILING WAGES.** In accordance with Labor Code Section 1720(c)(6)(E)), so long as the public subsidy for the Project consists of below market rate loans, and the Project restricts occupancy on at least 40% of the units for at least 20 years to individuals or families earning no more than 80% of the area median income, the Project is not subject to prevailing wages. Developer represents to the Agency that Developer has obtained no public subsidy for the

Project that does not meet such criteria. If Developer obtains another non-qualifying public subsidy, Developer shall pay prevailing wages for the Project. Therefore, Developer indemnifies, holds harmless and defends the Agency from all additional wages, benefits, fees, penalties, fines, legal fees, court costs, arbitration costs, and other costs arising from the improper application of California prevailing wage laws to the Project by Developer or Contractor or both of them. The California Department of Industrial Relations has undertaken the aggressive and expansive enforcement of prevailing wage laws for redevelopment projects. The Agency has advised, and the Developer acknowledges, that the Project is subject to the payment of prevailing wages under the laws of the State of California. Developer has had the opportunity to meet with Developer's legal counsel and to request a determination from the Department of Industrial Relations regarding the applicability of prevailing wage requirements to this Project. Developer has made its independent determination of the applicability of prevailing wage laws and has independently implemented such determination. Developer, therefore, indemnifies, holds harmless and defends the Agency from all additional wages, benefits, fees, penalties, fines, legal fees, court costs, arbitration costs, and other costs arising from Developer's determinations and actions related to prevailing wage obligations for the work of this OPA. If more than eleven (11) units are assisted with the HOME funds under this Loan, Borrower shall comply with Davis-Bacon prevailing wage requirements as described in the Federal Requirements.

**4.6. PUBLIC SAFETY PROTECTIONS.** Developer shall assure that all necessary steps are taken (including the erection of fences, barricades and warning devices) to protect private contractors and their employees and the public from the risk of injury arising out of the condition of the Property or Developer's activities in connection with the Property, including without limitation, fire, or the failure, collapse or deterioration of any improvements or buildings.

**4.7. NONDISCRIMINATION IN CONTRACTING AND EMPLOYMENT.** Developer for itself, Manager, the General Contractor and their respective successors and assigns, agrees that the following provisions shall apply to, and be contained in all contracts and sub-contracts for the construction of the Project.

**4.7.1. EMPLOYMENT.** Developer shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, creed or national origin. The Developer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, sex, marital status, national origin, ancestry, familial status, or disability. Such action shall include, but not limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Agency setting forth the provisions of this nondiscrimination clause.

**4.7.2. ADVERTISING.** Developer will, in all solicitations or advertisements for employees placed by or on behalf of the Developer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, sex, marital status, national origin, ancestry, familial status, or disability.

4.8. **PUBLIC IMPROVEMENTS.** Developer shall, at Developer's expense as a Project cost, undertake and complete any modification, construction, relocation or improvement of public facilities, improvements and utilities for the development of the Property.

4.9. **AGENCY ACCESS TO THE PROPERTY.** Developer shall permit Agency representatives access, without charge, to the entire Property at any time and for any purpose which Agency reasonably considers necessary to carry out its obligations and protect its interests under the OPA. Purposes for Agency entry may include, without limitation, inspection of all work being performed in connection with the construction of the Project.

4.10. **PROJECT SIGN.** If Developer places a sign on the Property during construction stating the names of the Project participants, it shall also name "Sacramento Housing and Redevelopment Agency" as a participant in the Project. The Agency name on the sign shall be in letters not less than size of letters used to name any of the other participants.

4.11. **CERTIFICATE OF COMPLETION.** After the Agency has determined that Developer has completed the construction of the Project in accordance with the Final Plans and Developer's obligations under this OPA, the Agency will furnish the Developer with a "Certificate of Completion" certifying such completion. Such certification shall be a conclusive determination of satisfaction and termination of the agreements and covenants in the OPA with respect to the obligations of the Developer to construct the Project as of the Completion Date, subject to any qualifications or limitations stated in such certification. Agency shall prepare and execute each Certificate of Completion in a form suitable for recording in the Official Records of Sacramento County.

4.11.1. Such certification and such determination shall not constitute evidence of compliance with any governmental requirements regarding the Project other than those of Agency or satisfaction of any obligation of the Developer to any holder of a mortgage, or any insurer of a mortgage, securing money loaned to finance all or any part of the Project. Such certification and such determination shall not constitute evidence of compliance with or satisfaction of any provision of this OPA that is not related to construction of the Project.

4.11.2. If the Agency fails to provide a Certificate of Completion within fifteen (15) days after written request by Developer, the Agency shall, within an additional fifteen (15) days after a second written request by the Developer, provide the Developer with a written statement, indicating in adequate detail in what respects the Developer has failed to complete the Project in accordance with the provisions of the OPA, or is otherwise in default, and what measure or acts it will be necessary, in the opinion of the Agency, for the Developer to take or perform in order to obtain such certification.

4.12. **CONSTRUCTION PERIOD EXTENSION FEE.** If Developer does not complete the construction of the Project on or before the Completion Date stated in the Schedule of Performances, Developer shall pay to Agency, monthly, in advance, on the first day of each month beginning the calendar month following the Completion Date, a construction period extension fee of Twenty-Five Dollars and No Cents Dollars (\$25.00) for each day by which the

completion of construction is delayed beyond said completion date. Construction Extension Fees due for days of delay occurring prior to the first payment date shall be paid in arrears at the time of the first payment under this Section 1. The number of days used in computation of the Construction Extension Fee shall be reduced by the number of days of Unavoidable Delay. Failure to pay Construction Extension Fees when due is a material default of this OPA. Any unearned portion of an advance payment of any such extension fee shall be refunded by the Agency within thirty (30) days of completion of construction, or of termination of the OPA. Agency shall have the option to terminate, upon ten (10) days prior written notice, Developer's rights to unpaid Construction Extension Fees and to declare Developer in material default of this OPA. In any event, Construction Extension Fees shall not be accepted for a time period greater than six months, at which time Developer shall be deemed in material default of this OPA

**4.13. REPORTS.** During the period of construction, the Developer shall submit to the Agency a written report of the progress of the work as and when reasonably requested by the Agency, but not more often than once each month.

**4.14. MINORITY/WOMEN'S BUSINESS.** Federal money is included in the funding for this Project. Therefore, to the extent necessary to maintain that federal funding, provisions of this OPA related to the Property are subject to Agency's minority-owned and women-owned business enterprises ("M/WBE") requirements and Developer shall comply with the requirements of the Agency's M/WBE Policy, a copy of which has been previously received by Developer.

**4.15. NOTIFICATION OF GENERAL CONTRACTORS, ARCHITECTS AND ENGINEERS.** Developer shall assure that the respective parties through the Project Documents have the responsibility of notifying the Project contractors, architects and engineers for the Project of the requirements of this OPA. Developer shall include, where applicable, the provisions of this OPA in construction contracts and subcontracts for the Project, and Developer shall undertake the enforcement of such provisions.

**4.16. PROPERTY CONDITION.** Except as provided in this OPA, if the condition of the Property is not in all respects entirely suitable for the use or uses to which the Property will be put, it is the sole responsibility and obligation of the Developer to take such reasonable actions as may be necessary to place the condition of the Property in a condition which is entirely suitable for its development in accordance with the construction plans and drawings approved by Agency.

**4.17. ZONING OF THE PROPERTY.** Agency exercises no authority with regard to zoning of the Property. Developer shall assure that zoning of the Property at the time of development shall be such as to permit the development and construction, use, operation and maintenance of the Project in accordance with the provisions of this OPA.

**4.18. NO WORK PRIOR TO CLOSE OF ESCROW.** Prior to Close of Escrow, Developer shall not commence any work or take any action that might be construed as commencement of the work of the Project for establishment of mechanic's lien rights.

**5. DEVELOPMENT FINANCING.** Developer shall be responsible for and shall pay all costs of developing the Project except as otherwise provided in this OPA. As a condition precedent to Agency's obligation to provide the Agency Funding, Developer shall provide the Agency with a complete and firm Project budget including all proposed sources and uses of funds, all "hard" and "soft" costs and contingencies and reflecting, as possible, firm bids or accepted contracts and with evidence of sufficient funds to meet all budget requirements. To the extent that funds specified in this OPA for the Project are insufficient to fully fund the Project, the Developer shall provide evidence, satisfactory to the Agency, of the additional required construction and permanent financing. Except as expressly provided in this OPA, no party shall have the right of reimbursement for any funds expended by them for the Project. Agency is not obligated by this OPA or otherwise to make any contribution beyond its obligations stated in this OPA.

**5.1. EVIDENCE OF AVAILABLE FUNDS.** Unless otherwise approved by the Agency, Developer's evidence of available funds must include only the following: (a) Developer equity (as provided in Section 5.3); (b) firm and binding loan commitments (as provided in Section 5.2) from each Lender, in form and content acceptable to Agency; and (c) Agency contribution, if any, as specified in this OPA. Within ten (10) days after Agency's request, Developer shall provide all additional information requested by the Agency for evaluation of the actual availability of funds included in such evidence, including without limitation, requests for clarification, further evidence or audited financial reports.

**5.2. COMMITMENT AND LOAN REQUIREMENTS.** As a material obligation under this OPA, Developer shall assure that the loan documents for the Project are consistent with the Lender's commitment approved by the Agency and comply, in all respects, with this OPA. The Agency may reject a loan commitment unless such commitment: (a) is subject only to Lender's reasonable conditions of title and Developer's execution of standard loan documents (copies of which have been previously provided to and approved by the Agency); (b) contains only usual, customary, and commercially reasonable loan terms; (c) continues in effect until a time when subject financing is reasonably expected to be required; and (d) for construction financing, provides for an Agency Funding term not less than that specified in the Schedule of Performances for completion of construction and any additional time necessary to fulfill all conditions precedent to funding of permanent financing. The Agency may also reject any commitment if it is based upon sources and uses of Project funds that are different from those approved by Agency for the Project. The Agency may also reject any commitment that requires changes to the Project which conflict with this OPA, that requires amendment of this OPA or that requires the Agency to enter into agreements with any Lender, guarantor, equity partner or any other third-party.

**5.3. EVIDENCE OF DEVELOPER EQUITY.** Unless otherwise agreed in writing by the Agency, Developer may provide evidence of equity by any one or more of the following actions: (a) a deposit of the required equity in a joint account with the Agency, which funds shall be released only upon the joint signatures of the Agency and the Developer; (b) delivery to Agency of an unconditional, irrevocable letter of credit in the amount of the required equity, in form and content as provided by the Agency, which letter of credit shall provide that the Agency may draw to fulfill any Developer obligation related to the development of the Project and necessary to assure its timely and proper completion; or (c) Developer's provision of financial statements

prepared by a certified public accountant that show liquid assets available to the Project (and not subject to other existing or contingent claims) in the amount of One Hundred and Fifty Percent (150%) of the amount of the required equity. Developer shall not provide evidence of equity that includes funds not available at the commencement of construction or that claims as equity any funds to be generated by development of the Project, including without limitation, anticipated Developer profit or fees or Developer contribution of services to the Project. The Agency may reject any submitted evidence of equity if the Agency has any reason to believe that such funds may not be available to the Project.

**6. USE COVENANTS.** Developer shall own and manage the Property in accordance with the provisions of this OPA.

**6.1. NONDISCRIMINATION.** Developer covenants by and for itself, its heirs, executors, administrators and assigns, and all persons claiming under or through it, that there shall be no discrimination against or segregation of, any person or group of persons on the basis of race, color, religion, creed, sex, marital status, national origin, ancestry, familial status, or disability, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property and the Project, nor shall the Developer or any person claiming under or through it, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in Property and the Project. The foregoing covenants shall run with the land.

**6.2. REGULATORY AGREEMENT.** Developer covenants by and for itself, its heirs, executors, administrators, and all persons claiming under or through it, that the Property shall be used strictly in accordance with the provisions of the Regulatory Agreement.

**7. INDEMNIFICATION.** Developer shall indemnify, protect, defend and hold harmless Agency, its officers, directors, commission members, employees, advisory committee members, and agents from any and all liability from bodily injury, death and property damage caused by or resulting from the acts or omissions of Developer, its officers, employees, agents or independent contractors and for any and all costs incurred by Agency in defending against such liability claims, including attorney's fees, except for injury, death or property damage caused by the negligent act or willful misconduct of Agency.

Agency shall indemnify, protect, defend and hold Developer harmless from any and all liability from bodily injury, death and property damage caused by or resulting from the acts or omissions of Agency, its officers, commission members, employees, advisory committee members or agents and for any and all costs incurred by Developer in defending against such liability claims, including attorney's fees, except for injury, death or property damage caused by the negligent act or willful misconduct of Developer.

This indemnification provision shall survive the termination of this agreement.

**8. INDEMNIFICATION FOR HAZARDOUS SUBSTANCES.** Developer shall indemnify, protect and defend Agency, its respective officers, directors, commission members, employees, advisory committee members, and agents, and hold them harmless from any and all liability, costs, fees,

penalties and claims related to: (a) the removal, discharge or release of Hazardous Substances on the Property after Developer has taken possession of the Property; or (b) the existence of Hazardous Substances on the Property, which were not on the Property prior to Developer's taking possession of the Property.

**9. LIABILITY INSURANCE.** With regard to this OPA, the Developer shall obtain and maintain, and require the contractor and subcontractors for the Project to obtain and maintain, such insurance as will protect them, respectively, from the following claims which may result from the operations of the Developer, any contractor, subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable: (a) claims under workers' compensation benefit acts; (b) claims for damages because of bodily injury, occupational sickness or disease, or death of its employees; (c) claims for damages because of bodily injury, sickness or disease, or death of any person other than its employees; (d) claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Developer, or (2) by any other person; claims for damages, other than to the construction itself, because of injury to or destruction of tangible property, including resulting loss of use; (e) claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle; and (f) claims for contractual liability arising from the Developer's obligations under this OPA.

**9.1. LIABILITY INSURANCE POLICY LIMITS.** Developer shall assure that the insurance required by this Section shall be written with a deductible of not more than TWENTY-FIVE THOUSAND DOLLARS (\$25,000).

**9.2. WORKER'S COMPENSATION.** Worker's compensation coverage shall be written for the statutory limits as required by the California Labor Code (commencing with Section 3700, as it may, from time to time, be amended) and having an employer's liability of not less than \$1,000,000 or statutory limits, whichever are greater.

**9.3. COMPREHENSIVE GENERAL LIABILITY.** Commercial general liability coverage shall include premises-operations, independent contractor's protective, products and completed operation (for four years), broad form property damage, and contractual liability coverage (or such other substantially similar coverage as may be approved by Agency Counsel). Such insurance shall have limits of liability which are not less than \$2,000,000, each occurrence, for bodily injury coverage; \$2,000,000 aggregate, for products and completed operations coverage; \$1,000,000 each occurrence for property damage coverage, single limit and aggregate; and which is the same as the foregoing coverages.

**9.4. COMPREHENSIVE AUTOMOBILE LIABILITY.** Comprehensive automobile liability coverage for any vehicle used for, or in connection with, the Project (owned, nonowned, hired, leased) having limits of liability which are not less than \$1,000,000.

**9.5. FIRE, HAZARD AND EXTENDED COVERAGE INSURANCE.** For the duration of OPA, Developer shall obtain and maintain fire and hazard insurance to the full insurable value of the Property with endorsements of extended coverage, vandalism, and malicious mischief, and with

such other endorsements and in such amounts as the Agency may reasonably require to protect the Project. In the event of damage to the Project and subject to the requirements of Lender, Developer shall use the proceeds of such insurance to reconstruct the Project and the public improvements.

**9.6. INSURANCE PROVISIONS.** Each policy of insurance required under this OPA shall be obtained from a provider licensed to do business in California and having a current Best's Insurance Guide rating, or such other equivalent rating, as may reasonably be approved by Agency's legal counsel. Each policy shall contain the following provisions as applicable:

**9.6.1. ADDITIONAL INSURED.** During the term of construction, Agency shall be additional insured on all insurance policies, except the fire and hazard insurance and the worker's compensation policy, unless otherwise approved by Agency's legal counsel in writing.

**9.6.2. SINGLE PROJECT INSURANCE.** It is the intent of the parties that the Project have available all the specified insurance coverages. Developer shall not provide insurance coverages that are considered in aggregate with other Projects which Developer or its contractor might have concurrently under construction. The Agency may at its discretion permit an aggregate policy if and only if Developer or the respective contractor has fully disclosed to Agency other projects which will or may be considered in aggregate with the Project, and thereafter, Developer shall immediately inform Agency of the change in or addition to any such projects. Nevertheless, Agency may, at any time require that the insurance coverage be provided solely for the Project.

**9.6.3. CANCELLATION.** Each policy shall bear an endorsement precluding cancellation or termination of the policy or reduction in coverage unless the Agency has been given written notice of such intended action at least thirty (30) days prior to its effective date.

**9.6.4. FAILURE TO MAINTAIN.** If Developer fails to obtain or maintain, or cause to be obtained and maintained, any insurance required by this OPA, the Agency shall have the right to purchase the insurance on Developer's behalf, and Developer shall promptly reimburse the full cost of such insurance to the Agency. If Developer fails to reimburse the Agency for insurance, the amount of unpaid reimbursement shall bear interest, at the maximum rate permissible under the law, until paid.

**9.6.5. BLANKET COVERAGE.** Developer's obligation to carry insurance as required under this Section 9 may be satisfied by coverage under a "blanket" policy or policies of insurance (as the term is customarily used in the insurance industry); provided, however, that the Agency shall nevertheless be named as an additional insured under such blanket policy or policies to the extent required by this Section, the coverage afforded the Agency will not be reduced or diminished thereby, and all of the other requirements of this Section 10 with respect to such insurance shall otherwise be satisfied by such blanket policy.

**10. DEFAULTS AND REMEDIES.** Except as otherwise provided in the OPA, if either party defaults in its obligations under this OPA, the defaulting party shall immediately commence and diligently proceed to cure the default within thirty (30) days after written notice of default from the other party or, if reasonable, such longer time as is reasonably necessary to remedy such

default if such default cannot reasonably be cured within thirty (30) days for reasons beyond the control of the defaulting party, provided that the defaulting party shall promptly begin and diligently pursue such cure to completion. If the defaulting party does not promptly begin and diligently cure the default within a reasonable time, the other party may institute proceedings to cure the default, including without limitation, proceedings to compel specific performance by the defaulting party. Subject to any extension of time permitted by this OPA, a failure or delay by a party to perform any term or provision of this OPA constitutes a default of this OPA. As a condition precedent to termination of the OPA under this Section, each party shall first tender the return of all property or funds received from or on behalf of the other party, other than funds properly retained as liquidated damages. After such return of property and funds and termination of the OPA, neither Agency nor Developer shall have any further rights against or liability to the other under the OPA except as expressly set forth in this OPA to the contrary

**10.1. LIQUIDATED DAMAGES.** IF DEVELOPER FAILS TO COMPLETE THE PROJECT AS PROVIDED IN THIS AGREEMENT BY REASON OF ANY DEFAULT OF DEVELOPER, AGENCY MAY PROCEED AGAINST DEVELOPER UPON ANY CLAIM OR REMEDY THAT AGENCY MAY HAVE IN LAW OR EQUITY; PROVIDED, HOWEVER, THAT, BY INITIALING THIS SECTION 11. DEVELOPER AND AGENCY AGREE THAT IN EVENT OF DEFAULT BY DEVELOPER: (A) IT WOULD BE IMPRACTICAL OR EXTREMELY DIFFICULT TO FIX ACTUAL DAMAGES; AN AMOUNT EQUAL FIFTY THOUSAND DOLLARS AND NO CENTS (\$50,000.00) SHALL CONSTITUTE LIQUIDATED DAMAGES PAYABLE TO AGENCY; (B) THE PAYMENT OF THE LIQUIDATED DAMAGES TO SELLER SHALL CONSTITUTE THE EXCLUSIVE REMEDY OF AGENCY FOR DEVELOPER'S FAILURE TO COMPLETE THE PROJECT; AND (C) PAYMENT OF THOSE SUMS TO AGENCY AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT INSTEAD, IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO AGENCY PURSUANT TO SECTIONS 1671, 1676 AND 1677 OF THE CALIFORNIA CIVIL CODE.

\_\_\_\_\_ Developer's Initials  
\_\_\_\_\_ Agency's Initials

**10.2. OTHER RIGHTS AND REMEDIES.** Upon the occurrence of any default by Developer subject to the liquidated damages provision, Agency's sole remedy therefore shall be as liquidated damages. Upon the occurrence of any default by any party other than subject to liquidated damages, and the expiration of any applicable notice and cure period without a cure having occurred within the specified cure period, the non-defaulting party shall have the right to institute such actions as it may deem desirable to remedy a default of this OPA as allowed under this OPA, at law or in equity.

**10.3. NONLIABILITY OF AGENCY OFFICIALS AND EMPLOYEES.** No member, official or employee of Agency shall be personally liable to Developer, or any successor in interest, in the event of any default or breach by Agency or for any amount which may become due to Developer or its successors, or on any obligations under the terms of this OPA.

**10.4. ATTORNEY'S FEES AND RELATED COSTS.** If an action is commenced between the parties, the prevailing party in that action shall be entitled to recover from the non-prevailing party all reasonable attorney fees and costs, witness fees, arbitrator's fees, and court and

arbitration costs. The term "prevailing party" shall include without limitation, the party who receives performance from the other party for an alleged breach of contract or a desired remedy where the performance is substantially equal to the relief sought in an action; the party who receives any award for relief through arbitration; or the party determined to be the prevailing party by a court of law. In any event, the prevailing party shall mean the party receiving a judgment, ruling or award that is more favorable than the last firm offer of settlement made by such party. Any award of damages following judicial remedy or arbitration as a result of the breach of this Agreement or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum amount of interest allowed by law.

**11. ENCUMBRANCE OF PROPERTY AND LENDER PROTECTIONS.** Before issuance of a Certificate of Completion, the Developer may, upon written Agency approval, obtain a Loan and encumber the Property as security for the Loan, provided either that the proceeds of the Loan are used solely for construction of the Project improvements upon usual and customary and commercially reasonable terms or that the Loan is permanent project financing made upon usual and customary and commercially reasonable terms. After issuance of a Certificate of Completion, the Agency shall have no rights of approval regarding financing secured by the Property. As a condition to Agency's approval of a Loan, Developer shall provide the Agency with a conformed copy of all documents related to the Loan. Agency acknowledges that a Lender will rely upon this OPA in making the Loan and that Agency's obligations under this OPA are inducements to Lender's making of the Loan.

**11.1. NOTICES.** If the Agency gives any notice of default to Developer under this OPA, the Agency shall contemporaneously give a copy of such notice to each Lender who has requested such notice in the following form of request for notice at the address stated in the request for notice. Any such default notice that is not so delivered to Lender shall not be effective or binding with regard to Lender or otherwise affect Lender, but failure to deliver such default notice to Lender shall not affect its validity with respect to Developer. Lender shall use the following form for requesting notice:

[Date]

The undersigned, whose address for notices is stated immediately below its signature, does hereby certify that it is the Lender as such term is defined in that certain Owner Participation Agreement dated \_\_\_\_\_ between the Redevelopment Agency of the City of Sacramento and **DHI Broadway Associates, L.P.** ("OPA"). Lender requests, in accordance with Section 21.1 of the OPA, that if any default notice shall be given to Developer under the OPA, a copy of such default notice shall be given to Lender.

[Lender Name and Address for Notice]

**11.2. ASSIGNMENTS AND TRANSFERS OF THE LOAN.** Agency shall not be bound to recognize any assignment of the Loan or related encumbrance of the Property unless and until Lender has given Agency written notice of the name and address of the assignee (and if more than one person is an assignee, the designated name and address for notices) and such assignee qualifies as a Lender under this OPA. Thereafter, such assignee shall be considered a Lender with respect to the Loan and the related encumbrance on the Property.

**11.3. LENDER NOT OBLIGATED TO CONSTRUCT.** Notwithstanding any of the provisions of the OPA, Lender shall not be obligated by the provisions of the OPA to construct or complete the Project. Nothing in this Section or any other provision of the OPA shall be construed to permit or authorize Lender to devote the Property to any uses, or to construct any improvements on the Property, other than those uses or improvements provided or permitted in the OPA.

**11.4. LENDER'S OPTION TO CURE DEFAULTS.** After any default of Developer's obligations under the OPA, each Lender shall have the right, at its option, to cure or remedy such default, within the time for cure allowed to Developer, and to add the cost of such cure to the debt and the lien secured by the Property. The Agency shall accept such performance as if it had been performed by Developer; provided, however, that such Lender shall not be subrogated to the rights of the Agency by undertaking such performance. If the breach or default relates to construction of the Project, however, Lender shall not undertake or continue the construction of the Project (beyond the extent necessary to conserve or protect Project or construction already made) unless Lender assumes, in writing satisfactory to the Agency, Developer's obligations to complete the Project on the Property in the manner provided in the OPA. Any Lender who properly completes the Project as provided in the OPA shall be entitled, upon written request made to the Agency, to Certificate of Completion from the Agency in a manner provided in the OPA. Such certification shall mean that any remedies or rights with respect to the Property that the Agency may have because of Developer's failure to cure any default with respect to the construction of the Project on other parts of the Property, or because of any other default of the OPA by the Developer shall not apply to the part of the Property to which such Certification relates. Nothing in this Section shall be deemed to limit, modify or release any claim or remedy that the Agency may have against the Developer for such default.

**11.5. DEFAULT BY DEVELOPER.** In the event of a default by Developer, Agency shall not terminate this OPA unless and until the Agency has given notice to Lender of such default, as provided in this Section 11.5 and Lender has failed to cure such default as provided in Section 11.5 provided, however that if such default cannot practicably be cured by the Lender without taking possession of the Property, then the Schedule of Performances (and, therefore, the Agency's right to terminate this OPA) shall be tolled if and so long as:

11.5.1. Lender has delivered to the Agency, prior to the date on which Agency is entitled to give notice of termination of this OPA, a written instrument satisfactory to Agency in which Lender or its designee unconditionally agrees that it will commence the cure of such default immediately upon Lender or its designee taking possession of the Property and will thereafter diligently pursue such cure to completion; provided, however, that neither the Lender nor its designee shall be obligated to pay damages to the Agency on account of such default, except to the extent of any monies due and unpaid from Developer.

11.5.2. Lender or its designee has rights to obtain possession of the Property (including possession by receiver) through foreclosure, deed in lieu of foreclosure or otherwise, and Lender or its designee promptly commences and diligently proceeds to obtain possession of the Property, and if Lender is prevented by court action or by any statutory stay from prosecuting foreclosure proceedings, that Lender is diligently seeking relief from such action or stay; and

11.5.3. Upon receiving possession of the Property, Lender or its designee promptly commences and diligently proceeds to cure such default.

11.5.4. From and after the cure of such Developer default, Lender or its designee is not required to obtain possession or to continue in possession of the Property. Nothing in this Section shall preclude the Agency from exercising any of its rights or remedies with respect to Developer during any period of such forbearance.

11.6. **FORECLOSURE.** Foreclosure of any encumbrance securing the Loan, or any sale under such encumbrance, whether by judicial proceedings or by virtue of any power contained in such encumbrance, or any conveyance of the Property from the Owner to the Lender or its designee through, or in lieu of, foreclosure or other appropriate proceedings in the nature of foreclosure, shall not require the consent of the Agency. Upon such foreclosure, sale or conveyance, the Agency shall recognize the resulting purchaser or other transferee as the Developer under this OPA, provided that such purchaser or transferee expressly assumes each and every obligation of the Developer under this OPA (except for the obligation to pay damages except to the extent of any monies due and unpaid from Developer under this OPA) by assumption agreement satisfactory to the Agency. If any Lender or its designee acquires Developer's right, title and interest under this OPA as a result of a judicial or nonjudicial foreclosure under any power contained in such encumbrance, or any conveyance of the Property from the Owner to the Lender or its designee through, or in lieu of, foreclosure or other appropriate proceedings in the nature of foreclosure, such Lender or its designee shall have the right to assign or transfer Developer's right, title and interest under this OPA to an assignee; provided, however, that the assignee or transferee shall thereafter be subject to all of the terms and conditions of this OPA.

11.7. **MODIFICATIONS.** No modification or amendment to the OPA which materially and adversely affects the Lender's interest in the Property shall be valid and effective unless the Lender's written consent to such modification or amendment has first been obtained, which consent shall not be unreasonably withheld.

11.8. **FURTHER ASSURANCES TO LENDERS.** Agency and Developer shall in good faith consider making such reasonable modifications to this OPA and executing such further instruments and agreements between them as a Lender may reasonably request, provided such modifications, instruments and agreements do not materially, adversely affect any party's expectations or benefit, rights or obligations under this OPA and provided such modifications, instruments, and agreements serve a material economic purpose.

11.9. **ESTOPPEL CERTIFICATE.** Any party may, at any time, request in writing of any other party to certify in writing that, to the knowledge of the certifying party, (i) this OPA is in full force and effect and a binding obligation of the parties; (ii) this OPA has not been amended or modified either orally or in writing, or, if so amended, identifying the amendments; and (iii) the requesting party is not in default in the performance of its obligations under this OPA, or, if in default, describing the nature and extent of any such defaults. A party receiving such a request shall execute and return such certificate to the requesting party, or give a detailed written response explaining why it will not do so, within ten (10) days following its receipt. The City

Manager (as Agency's designee) shall be authorized to execute any such certificate requested by Developer from the Agency.

**11.10. PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER.** In reliance on the financial capability and experience of Developer, substantial public financing and other public aids have been made available by law and by the federal and local governments to make development of the Property possible. Developer shall not, prior to issuance of a Certificate of Completion, assign Developer's interests or obligations under this OPA or undertake any act or transaction resulting in a significant change in the interests of the principals of Developer or the degree of their control of Developer without the prior written consent of Agency. The transfer or assignment, pursuant to this Section, requires the transferee or assignee to execute and deliver to Agency a valid, binding, written assumption of all obligations of Developer. Such a transfer as permitted in this Section 11 shall not relieve Developer, or any other party bound in any way by the OPA, from any of its obligations under the OPA. With respect to this provision, the Developer and the parties signing the OPA on behalf of the Developer represent that they have the authority of all of Developer's principals to agree to and bind them to this provision.

**12. DOCUMENT INTERPRETATION.** This OPA shall be interpreted in accordance with the following rules.

**12.1. INTEGRATED DOCUMENTS; SEVERABILITY.** This OPA and the documents incorporated in this OPA are to be considered as one document and default of any of them shall be considered a default of all of them. This OPA, including the incorporated documents, integrates all of the terms and conditions related or incidental to its subject matter, and supersedes all negotiations or previous agreements between the parties with respect to its subject matter. If any term or provision of this OPA shall, to any extent, be held invalid or unenforceable, the remainder of this OPA shall remain in full force and effect and the invalid or unenforceable provision shall be valid and enforceable as to any other person or circumstance.

**12.2. CONFLICTING PROVISIONS.** If conflicts are discovered in provisions of this OPA and such incorporated documents, this OPA shall control with regard to plan review and construction terms, the Funding Agreement shall control with regard to funding terms and the Regulatory Agreement shall control with regard to affordability restrictions. In any event, the conflicts shall be construed so as to meet the intent of this OPA.

**12.3. WAIVERS AND AMENDMENTS.** All waivers of the provisions of this OPA must be in writing and signed by Agency or Developer, as applicable, and all amendments to this OPA must be in writing and signed by Agency and Developer. Any delay by Agency in asserting any rights under this Section shall not operate as a waiver of such rights or to deprive Agency of or limit such rights in any way. Any waiver in fact made by Agency with respect to any specific default by Developer under this Section shall not be considered as a waiver of the rights of Agency with respect to any other defaults by Developer under this Section or with respect to the particular default except to the extent specifically waived in writing.

**12.4. CAPTIONS, GENDER AND NUMBER.** The section headings, captions and arrangement of this OPA are for the convenience of the parties to this OPA. The section headings, captions and

arrangement of this instrument do not in any way affect, limit, amplify or modify the terms and provisions of this OPA. The singular form shall include plural, and vice versa, and gender references shall be construed to include all genders.

12.5. **DRAFTER.** This OPA shall not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. Unless otherwise indicated, all references to sections are to this OPA. All exhibits referred to in this OPA are attached to it and incorporated in it by this reference.

12.6. **MERGER.** All of the terms, provisions, representations, warranties, and covenants of the parties under this OPA shall survive the Close of Escrow and shall not be merged in the Grant Deed or other documents.

12.7. **TIME FOR PERFORMANCE.** In determining time for performance, it shall be construed that Agency and Developer shall each do the actions required of them, promptly and when specified in this OPA, and that each action specified in the Schedule of Performances shall be performed by the responsible party on or before the date scheduled for its completion.

12.8. **GOVERNING LAW.** This OPA shall be governed and construed in accordance with California law.

12.9. **INSPECTION OF BOOKS AND RECORDS.** Agency has the right, at all reasonable times, to inspect the books and records of Developer regarding the Property as reasonably necessary to carry out its purposes under this OPA.

12.10. **OWNERSHIP OF DATA.** If this OPA is terminated, for any reason, prior to the completion of the Project, Developer shall deliver to Agency any and all data acquired for development of the Property. Agency shall have full ownership and rights to use such data.

12.11. **SUCCESSORS.** This OPA shall inure to the benefit of and shall be binding upon the parties to this OPA and their respective heirs, successors, and assigns.

13. **NOTICES.** All notices to be given under this OPA shall be in writing and sent to the following addresses by one or more of the following methods:

13.1. Addresses for notices are as follows:

13.1.1. Agency: Redevelopment Agency of the City of Sacramento, 630 I Street, Sacramento, California 95814, Attention: Bernadette Austin.

13.1.2. Developer: DHI Broadway Associates, L.P., 3 Harbor Drive, Suite 302, Sausalito, CA 94965; Attention: Tim Fluetsch.

13.2. Notices may be delivered by one of the following methods:

13.2.1. Certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States Mail;

13.2.2. A nationally recognized overnight courier, by priority overnight service, in which case notice shall be deemed delivered one (1) business day after deposit with that courier;

13.2.3. Hand delivery with signed receipt for delivery from a person at the place of business of the receiving party and authorized to accept delivery for the receiving party, in which case notice shall be deemed delivered upon receipt, or

13.2.4. Telecopy, if a copy of the notice is also sent the same day by United States Certified Mail, in which case notice shall be deemed delivered one (1) business day after transmittal by telecopier, provided that a transmission report is automatically generated by the telecopier reflecting the accurate transmission of the notices to receiving party at the "Fax Number" given in the Escrow Attachment or to such other address as Developer or Agency may respectively designate by written notice to the other.

#### 14. DEFINITIONS.

14.1. "Agency" is the Redevelopment Agency of the City of Sacramento. The Agency is a public body, corporate and politic, exercising governmental functions and powers, and organized and existing under the Community Redevelopment Law of the State of California. The principal office of the Agency is located at 630 I Street, Sacramento, California 95814. Agency as used in this OPA includes the Redevelopment Agency of the City of Sacramento and any assignee of or successor to its rights, powers, and responsibilities. The Sacramento Housing and Redevelopment Agency is a joint powers agency which provides staffing for the operation of the Agency.

14.2. "Agency Funding" is the funding provided by the Agency under this OPA to Developer for the Project.

14.3. "Agency Funding Agreement" is the Construction and Permanent Loan Agreement.

14.4. "Certificate of Completion" is the certificate issued by the Agency certifying Developer's completion of the construction of the Project.

14.5. "CEQA" is the California Environmental Quality Act (commencing at Public Resources Code Section 21000), together with all rules and regulations promulgated under the statutes.

14.6. "City" is the City of Sacramento, a political subdivision of the State of California.

14.7. "Community Redevelopment Law" is the law governing redevelopment in the State of California and is found commencing at Health and Safety Code Section 33000.

14.8. "Completion Date" is the date on or before which Developer must complete the construction of the Project. The Complete Date for the Project is June 30, 2010.

14.9. "Construction Extension Fee" is the fee payable by Developer for each day by which the completion of construction is delayed beyond the date for completion of construction.

14.10. "Contractor" is the general contractor or contractors with whom Developer has contracted for the construction of the Project.

14.11. "Developer" is DHI Broadway Associates, L.P., a California limited partnership. Notwithstanding any other provision of this OPA, Developer may assign this OPA to a single asset entity in which Developer has a substantial interest and is the managing member, the general partner or the controlling shareholder and chief operations officer; provided (i) that the entity form and organizational documents have been approved by Agency Counsel, (ii) that the new entity has agreed in writing to be bound by all the provisions of this OPA and all agreements related to this OPA, and (iii) that the entity has been approved in writing, in advance, by the Agency's Executive Director. The principal office of the Developer is located at 3 Harbor Drive, Suite 302, Sausalito, CA 94965.

14.12. "Escrow" is the escrow for the transactions contemplated by this OPA.

14.13. "Escrow Instructions" means the escrow instructions for the close of the Escrow.

14.14. "Final Plans" are the full and final plans, drawings and specifications for the Project as described in, and approved by the Agency under, Section 3, which shall include all construction plans, drawings, specifications and other documents required to obtain all required building permits for the construction of the Project. The Final Plans may refer, as the context may indicate, to partial Final Plans prepared and submitted in accordance with this OPA. The Final Plans shall incorporate any related mitigation measures that may be required for compliance with CEQA. The Final Plans shall specifically include changes or corrections of the Final Plans approved as provided in this OPA. The Final Plans shall include all landscaping, on- and off-site work and artwork related to the Project. Except as approved by the Agency, the Final Plans shall conform in all material respects to all provisions of this OPA, including without limitation, the Preliminary Plans and the Scope of Development.

14.15. "Hazardous Substances" as used in this OPA shall include, without limitation to, all substances, wastes and materials designated or defined as hazardous or toxic pursuant to any of the following statutes, as they may be amended or superseded, from time to time: the Clean Water Act (33 U.S.C.1321 et. seq.); the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.); the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.); the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101); the Environmental Protection Agency list of hazardous materials (40 CFR Part 302) and California Health and Safety Code Sections 25115, 25117, 25122.7, 25140 (Hazardous Waste Control Law), 25316 (Carpenter-Presley-Tanner Hazardous Substances Account Act), 25501 (Hazardous Materials Release Response Final Plans and Inventory) and

25281 (Underground Storage of Hazardous Substances); all applicable local regulations; and all regulations and promulgations pursuant to said laws.

14.16. "Legal Description" is the legal description of the various parcels of real property affected by this OPA. The Legal Description is attached as **Exhibit 1 Legal Description**.

14.17. "Lender" shall include all holders of any lien or encumbrance as security for a loan on all or any part of the Property. Each lender shall be a federal or state chartered financial institution, a pension fund, an insurance company or such other lender which Agency may approve in writing in advance, which approval Agency may withhold in exercise of its reasonable discretion and in consideration of the commercially reasonable protection of its interests under this OPA.

14.18. "Loan" is the loan or loans obtained from third parties for the construction or permanent financing, or both, of the Project.

14.19. "OPA" is this Owner Participation Agreement between Agency and Developer, including all documents incorporated in this OPA by reference.

14.20. "Rescission of Regulatory Agreement" is the document that may be recorded upon the happening of certain events to remove the regulatory restriction related to the funding source.

14.21. "Preliminary Plans" are the Project designs prepared by the Project architect, **\*\*\*Architect name\*\*\***, dated **\*\*\*Preliminary Plan Date\*\*\***, a portion of which (consisting of various elevations) is attached as **Exhibit 2 Preliminary Plans**. Agency has approved the Preliminary Plans concurrently with the approval of this OPA.

14.22. "Plans" shall mean either or both Preliminary Plans and Final Plans as the context may indicate.

14.23. "Project" is all of the work to be accomplished under this OPA.

14.24. "Redevelopment Plan" is the redevelopment plan for the Project Area (as it may be amended from time to time) as adopted by the City Council of the City on June 17, 1986, by City Ordinance Nos. 86-064, 86-065, 86-066 and 86-067, Fourth Series. A copy of the Redevelopment Plan as initially adopted was recorded on July 29, 1986, in the Official Records of the County of Sacramento, in Book 86-07-29, beginning at pages 1633, 1738, 1690 and 1787, respectively.

14.25. "Regulatory Agreement" is the agreement containing covenants, conditions and restrictions, including without limitation, use restrictions, that run with the Property as a condition of Agency Funding.

14.26. "Schedule of Performances" is the schedule that establishes the dates by which obligations of the parties under this OPA must be performed and conditions of the OPA must be satisfied. The Schedule of Performances is attached as **Exhibit 3: Schedule of Performances**.

14.27. "Scope of Development" is the detailed description of the work to be done under this OPA for the Project. The Scope of Development attached as **Exhibit 4: Scope of Development**.

14.28. "Property" is that real property to be developed under this OPA, as more particularly described in the Legal Description. The Property includes all improvements contained within the Property.

14.29. "Unavoidable Delay" is a delay in the performance by a party of any obligation which delay is unforeseeable and beyond the control of such party and without its fault or negligence. Unavoidable Delay shall include acts of God, acts of the public enemy, acts of the Federal Government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, a general moratorium on financing for projects of the same type, and unusually severe weather (as for example, floods, tornadoes, or hurricanes) or delays of subcontractors due to such causes. In the event of the occurrence of any such enforced delay, the time or times for performance of such obligations of Agency and Developer shall be extended for the period of the enforced delay, as determined by Agency, provided that the party seeking the benefit of the provisions of this Section shall, within thirty (30) days after Developer has or should have knowledge of any such enforced delay, have first notified the other party, in writing, of the delay and its cause, and requested an extension for the period of the enforced delay.

**THE PARTIES HAVE EXECUTED THIS OPA** in Sacramento, California as of the date first written above.

**DEVELOPER :**  
**DHI BROADWAY ASSOCIATES, L.P.**  
a California limited partnership

By: Community Resident Services, Inc.  
a California non-profit public benefit  
corporation,  
Its Co-Managing General Partner

By: \_\_\_\_\_  
Bryan Alexander  
Chief Operations Officer

By: DHI Broadway Associates, LLC, a  
California limited liability company  
Its Co-Managing General Partner

By: \_\_\_\_\_  
Tim S. Fluetsch  
Vice President

**AGENCY: THE REDEVELOPMENT AGENCY  
OF THE CITY OF SACRAMENTO /  
SACRAMENTO HOUSING AND  
REDEVELOPMENT AGENCY**

By: \_\_\_\_\_  
LaShelle Dozier, Interim Executive  
Director

Approved as to form:

\_\_\_\_\_  
Agency Counsel

Owner Participation Agreement

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By: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Developer Counsel

**Exhibit 1 Legal Description.**

City of Sacramento

PARCEL 1, as shown on the Parcel Map entitled "Lots 2 & 3 of Gage Tract (3B M. 8) a portion of the West 1/2 of the Southwest 1/4 of Section 16, T 8 N, R 5 E, M D M", recorded in Book 51 of Parcel Maps, at page 35, records of said County

Being further described as:

That portion of Lots 2 and 3 of Gage Tract as shown on the official Plat thereof filed in the office of the Recorder of Sacramento County in Book 3 of Maps, Map No 8, described as follows:

Beginning at the Southwest corner of said Lot 3, thence along the Westerly line of said Lots 3 and 2, North 00°15'31" West 621 57 feet to a point in the Southerly line of Broadway, a public roadway granted to the City of Sacramento by Deed recorded in Book 89°26'33" East 526 33 feet, thence leaving said Southerly line, parallel with the Easterly line of said Lot 3, South 89°28'18" West 20.00 feet; thence parallel with the Easterly line of said Lot 3, South 00°12'30" East 120.00 feet to a point in the Southerly line of said Lot 3; thence along said Southerly line, South 89°28'18" West 505 79 feet to the point of beginning

APN 015-0041-009

**Exhibit 2 Preliminary Plans**

Not applicable

**Exhibit 3: Schedule of Performances**

January 2008	Agency approves funding for HOME and TI Low-Mod Funds
January 2008	Developer submits application for MRB to CDLAC
March 2008	Developer submits application for 4% tax credits to TCAC
May 2008	CDLAC awards bonds for Project
June 2008	California TCAC reserves 4% tax credits for the Project
June 2008	Construction begins
June 2010	Construction completed
June 2010	Project units placed in service

**Exhibit 4: Scope of Development**

The developer, DHI Broadway Associates, L.P., will acquire and rehabilitate the 120-unit Broadway Senior Center Apartments. The total development budget is \$11,622,000 including acquisition and all hard and soft costs. Total construction costs are \$3,195,517 broken out as follows:

Building Exterior Repairs	\$ 844,250
Sitework and Common Areas	\$ 488,300
Unit Interior Repairs	\$1,184,940
General Requirements	\$ 148,870
Contractor Overhead & Profit	\$ 276,968
Contingency	\$ 251,789
<b>Total</b>	<b>\$3,195,517</b>

The following details the work to be done under the budget line items above:

**Building Exterior Repairs**

- New Hardiplank siding
- Replace all existing windows with dual-pane vinyl windows
- Install new front doors
- Replace wood damaged from dry rot
- Paint exteriors
- New patio fencing
- Replace attic insulation
- Repair downspouts

**Sitework and Common Area Repairs**

- Remodel community room, including kitchen and bathrooms, for ADA accessibility
- Upgrade and refurnish community room
- Remodel leasing/management office
- Replace and repair perimeter fencing
- Upgrade landscaping and drainage
- Trim and remove trees as needed
- Replace masonry trash enclosures
- Remove and replace damaged asphalt in parking lot
- Install concrete ramps to transition between parking lot and sidewalks
- Add ADA entry ramps to all building entryways
- Install new monument sign at entrance
- Replace unit and building signage
- Remove and replace concrete walkways
- Seal, coat, and re-stripe parking lot
- Install new porch light fixtures
- Install new central hallway lighting

**Unit Interior Repairs**

- Replace and strap new hot water heaters
- Install new HVAC units (P-tack through-wall units)
- Remove and replace existing condenser
- Install GFCIs in kitchen and bathroom
- Install hardwired smoke detectors
- Replace all kitchen cabinetry
- Replace kitchen countertops with Granite countertops
- Install new ranges, range hoods, garbage disposals, and refrigerators
- Replace kitchen sink, supply lines, and waste traps
- Replace all bathroom cabinetry
- Replace bathroom mirrors
- Replace all toilets and tubs
- Replace bathroom sink, supply lines, and waste traps
- Replace bathroom exhaust fans with timer
- Replace bathroom ceiling heaters
- Replace vinyl flooring
- Replace carpets
- Repair drywall as needed
- Paint interiors
- Replace window blinds

Date: June 25, 2008

Tom Dawson  
Dawson Holdings, Inc.  
3 Harbor Drive, Suite 301  
Sausalito, CA 94965

RE: Conditional funding commitment, Broadway Senior Center Apartments

Dear Mr. Dawson,

On behalf of the Sacramento Housing and Redevelopment Agency and the Redevelopment Agency of the City of Sacramento ("Agency"), we are pleased to advise you of its commitment of acquisition, construction, and permanent loan funds ("Loan") from the City Home Investment Partnership ("HOME") and Tax Increment ("TI") Funds for the purpose of financing the acquisition and rehabilitation of that certain real property at 5200 Broadway, Sacramento, California ("Property"). The Agency's decision is based on your application, and all representations and information supplied by you to it. If these representations and information change in a material manner without written approval of Agency, this commitment is void. Agency's obligation to make the Loan is subject to satisfaction of all the following terms and conditions and Borrower's execution of documentation that is in a form and in substance satisfactory to the Agency.

The Loan shall be made on standard Agency loan documents. No loan terms not in this funding commitment and the attached loan document forms shall be included in the final loan documents without additional environmental review and governing board approval. In the event of any discrepancies between terms stated in this commitment and the loan documents, the terms stated in the loan commitment letter shall be deemed to be terms of this commitment.

Unless otherwise agreed in writing by the Agency in exercise of its absolute discretion, the following shall be considered conditions to Agency approval of a financing commitment. The Agency may, in exercise of its absolute discretion, modify its requirements upon written notice to Borrower given at least sixty days prior to close of escrow for the Property.

This commitment will expire June 30, 2009.

1. **PROJECT DESCRIPTION:** The project is a 120-unit senior apartment complex. A total of 24 units will be affordable to households earning less than 50 percent AMI and 95 units will be affordable to households earning less than 60 percent AMI. One unit will remain an unrestricted manager's unit.

2. BORROWER: The name of the Borrower for the Loan is DHI Broadway Associates, L.P.
3. PURPOSE OF LOAN: The Loan is to be used by Borrower solely to pay the costs of acquisition, construction, and permanent financing or for such other purposes as Agency expressly agrees to in the loan agreement for the Loan, and such other agreements as may be generally required by the Agency for the use of the funding source for the Loan.
4. PRINCIPAL AMOUNT: The combined principal amount of the Loan will be the lesser of (a) Two Million One Hundred Thousand Dollars (\$2,760,000), or (b) an amount to be determined prior to close of the Loan based on a project budget approved by Agency. However, the combined indebtedness of the Property must not exceed 90 percent of the appraised value as determined by the Agency.
5. TERM OF LOAN: The unpaid balance of the Loan will be all due and payable on month 420 (35 years) from the date of closing.
6. INTEREST RATE: The Loan will bear interest at Four Percent (4%) per annum. Interest shall be calculated on the basis of a 365-day year and actual days elapsed.
7. AMORTIZATION: Loan payments shall be made according to the payment schedule outlined in Section 8 of this Loan Commitment Letter.
8. MONTHLY PAYMENT: Payments shall be applied first to outstanding interest accrued and unpaid and then to principal. Interest and principal payments shall be deferred from the date of the loan for the first 192 months. Beginning in the month 193, monthly installments shall be made according to the following schedule:

Months 193-204	\$ 2,744 monthly
Months 205-216	\$ 4,734 monthly
Months 217-228	\$ 5,158 monthly
Months 229-240	\$ 5,576 monthly
Months 241-252	\$ 5,987 monthly
Months 253-264	\$ 6,390 monthly
Months 265-276	\$ 6,786 monthly
Months 277-288	\$ 7,173 monthly
Months 289-300	\$ 7,549 monthly
Months 301-312	\$ 7,915 monthly
Months 313-324	\$ 8,269 monthly
Month 325	\$ 4,879,426 loan balance all due and payable

9. **SOURCE OF LOAN FUNDS:** Agency is making the Loan from the following sources of funds, and the Loan is subject to all requirements related to the use of such, whether Agency requirements or otherwise: \$2,760,000 in City HOME and TI funds. This Loan is conditioned upon Borrower's acceptance of Agency's requirements and conditions related to such lending programs and funding sources, including among others, the required forms of agreements for the Loan; the requirements for covenants, conditions and restrictions upon the Property; and insurance and indemnity requirements.

**Borrower acknowledges that, as a condition of the Agency's making of the Loan, the Property will be subject to restrictions on future sales and rentals which may result in less income to Borrower than could otherwise be realized, and that such restrictions run with the land, and during their operational term, will bind all successors in interest.**

\_\_\_\_\_ (Borrower Initial)

**Borrower acknowledges that every contract for new construction or rehabilitation construction of housing that includes 12 or more units assisted with HOME funds will contain a provision requiring the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-5), to all laborers and mechanics employed in the development of any part of the housing. Such contracts must also be subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708); (24 C.F.R. 92.354). Borrower also acknowledges that any project containing a "subsidy" may be subject to state prevailing wages, which are the responsibility of the Borrower and Borrower's contractor.**

\_\_\_\_\_ (Borrower Initial)

10. **ACCELERATION:** Agency shall have the right to accelerate repayment of the Loan in the event of a default under any Loan Document or upon sale, transfer or alienation of the Property except as specifically provided for in the Loan documents.
11. **SECURITY:** The Loan shall be evidenced by promissory note(s) secured by a deed of trust with assignment of rents against the fee and/or leasehold interest in the Property and Improvements, which shall be a second lien upon the Property and Improvements subject only to the construction and permanent loans by US Bank and such other items as the Agency may approve in writing. The Loan shall also be secured by security agreements. The Agency may subordinate said deeds of trust in order to accommodate completion of rehabilitation of the Property.

12. LEASE AND RENTAL SCHEDULE: All leases of the Property and Improvements shall be subject to Agency's approval prior to execution. Borrower shall not deviate from the rental schedule presented in Borrower's application for the Loan without Agency's prior written approval.

13. PROOF OF EQUITY: Borrower shall provide proof of equity for the Property and Improvements in the amount of \$4,440,000 in the following manner: Low Income Housing Tax Credit Equity and deferred developer fee.

14. OTHER FINANCING: Borrower, as a requirement of the Loan, shall procure and deliver to Agency evidence satisfactory to Agency that Borrower has obtained the following described financing which may be secured by a lien upon the Property and Improvements superior or subordinate to Agency's liens, and which shall be otherwise on terms and conditions acceptable to Agency:

Construction Financing from a private lender(s) in an amount(s) sufficient to complete rehabilitation of the Property according to a scope of work as approved by Agency and made for a term not less than that specified in the Schedule of Performances for completion of construction, and in any event not less than the time necessary to fulfill all conditions precedent to funding of the permanent financing.

Commitments for permanent financing sufficient to "take out" all liens senior to the Agency's lien and for a term of not less than 35 years and fully amortized.

Such commitments for financing shall not require modification of Agency loan documents, or any term of this commitment letter.

Such commitments shall not be based upon sources and uses of Project funds that are different from those approved by Agency for the project or be subject to conditions which require amendment of the DDA, OPA or other agreements.

15. EVIDENCE OF FUNDS: Prior to the first disbursement of the Loan, Borrower must demonstrate evidence of adequate and assured funding to complete the development of the Project in accordance with the Agency's requirements. Borrower's evidence of available funds must include only one or more of the following: a) Borrower equity; b) firm and binding commitments for the Project from financial institution(s) or from other lender(s) approved by Agency in its absolute discretion; and c) Agency's contribution, provided, however, that Agency is not obligated by this letter to make any contribution not stated in the terms of the letter.

16. SOILS AND TOXIC REPORTS: Borrower must submit to Agency a hazardous substances report made in accordance with the American Society for Testing and Materials "Standard Practice for Environmental Site Assessments; Phase I Environmental

Site Assessment Process" (Designation E1527-93) prepared by a licensed or registered environmental engineer or other qualified party prior to Loan closing. Borrower must, as a condition of disbursement of Loan funds, give assurances satisfactory to the Agency that hazardous materials are not present on the Property or that any hazardous materials on the Property have been remediated and that no further remediation is then required by the environmental agency having responsibility for monitoring such remediation.

17. LOAN IN BALANCE: Borrower will be required to maintain the Loan "in balance". The Loan is "in balance" whenever the amount of the undisbursed Loan funds, the remaining sums to be provided by the Borrower and the loan funds from other project lenders are sufficient, in the sole judgement of the Agency, to pay for the remainder of the work to be done on the project as required by written agreement with the Agency. Should the Agency determine that the Loan is not "in balance", the Agency may declare the Loan to be in default.
18. PLANS AND SPECIFICATIONS: Final plans and specifications for the project must be in accord with the proposal approved as part of the Loan application. Final plans and specifications will be subject to Agency's final approval prior to the disbursement of Agency Loan funds. Borrower must obtain Agency's prior written consent to any change in the approved plans and specifications or any material deviation in construction of the project.
19. ARCHITECTURAL AGREEMENT: The architectural agreement ("Agreement"), if any, for the preparation of the plans and specifications and other services shall be subject to Agency's approval. Agency may require an assignment of Borrower's interest in and to the Agreement as security for the Loan.
20. CONSTRUCTION CONTRACT: The construction contract ("Contract"), and any change orders issued thereunder, and the contractor ("Contractor") to be retained by Borrower to construct the Improvements shall be subject to Agency's approval. Agency may require an assignment of Borrower's interest in and to the Contract as security for the Loan. Agency shall require Contractor to provide a performance and payment bond in a form acceptable to Agency for the amount of the Contract.
21. RETENTION AMOUNT: The Agency shall retain ten percent (10%) as retention from each disbursement, not to exceed a total of ten percent (10%) of the total amount of the Loan.
22. COST BREAKDOWN: Borrower shall deliver to Agency for Agency's approval prior to commencement of work a detailed cost breakdown of the cost of constructing, financing and other costs of developing the Improvements, which breakdown conforms to the project plans and specification and the budget approved with this commitment. Borrower shall also deliver a list of all contractors and subcontractors to be employed in connection with the construction of the Improvements. If required by the Agency, Borrower shall

also submit copies of all bids received for each item of work to be performed as well as copies of executed contracts and subcontracts with acceptable bidders.

All contracts, subcontracts, contractors, and subcontractors shall be subject to Agency's approval prior to close of the Loan. Agency also reserves the right to require performance and material payment bonds on any or all contractors, or in lieu of bond a letter of credit acceptable to Agency.

Agency shall make disbursements of the Loan based on a cost breakdown that lists line items in cost categories. Agency shall require that Borrower provide documentation supporting all requests for disbursement of Loan funds, including proof of work done and actual expenditure. Agency shall conduct inspections of the Property to assure that the work was done before making a disbursement.

23. COST SAVINGS: At completion of construction, Borrower shall submit to Agency a cost certification prepared by a qualified, independent auditor acceptable to Agency, which cost certification shall indicate the amounts actually spent for each item in the cost breakdown and shall indicate the projected final sources of funding. If there is an aggregate savings, net of any increases or decreases in sources of funding, from the original budget approved by the Agency, that results in a reduction in the amount of deferred fees payable to the developer, the Agency shall withhold for itself as loan repayment, one-half of such savings from the amount of retention then held by the Agency, and the Loan balance shall be reduced by the amount so withheld. The Agency, in its sole discretion, shall determine any reduction and/or repayment of the Agency loan based upon this cost certification, the projected final sources of funding, and the original approved budget for the project.
24. START OF CONSTRUCTION: Borrower shall commence construction at the earliest possible date subject to the conditions of this Agency and other involved lenders, but no later than June 30, 2009.
25. COMPLETION OF CONSTRUCTION: Borrower shall complete the construction of the Improvements no later than December 31, 2010.
26. SECURITY CAMERAS AND OUTSIDE LIGHTING. Project shall include installation of a security camera system at vehicular driveways and/or major points of congregation and additional exterior lighting, all as approved by the Agency.
27. HAZARD INSURANCE: Borrower shall procure and maintain fire and extended coverage insurance or in lieu such insurance, Builder's Risk completed value insurance in a form and substance approved by Agency. Coverage shall be for protection against loss of, or damage to the Improvements or materials for their construction to their full insurable value. Borrower shall also procure and maintain insurance against specific

hazards affecting Agency's security for the Loan as may be required by Agency, governmental regulations, or any permanent lender. All such policies shall contain a standard mortgagee loss payable clause in favor of Agency. The insurance required shall be written with a deductible of not more than TEN THOUSAND DOLLARS (\$10,000.00).

28. PUBLIC LIABILITY AND OTHER INSURANCE: Borrower must procure and maintain public liability and property damage insurance (with Agency named as additional insured) in a form approved by Agency. Coverage must be approved by Agency and must be in at least the following limits of liability: (1) Commercial General Liability insurance in Insurance Services Office ("ISO") policy form CG 00 01 Commercial General Liability (Occurrence) or better with limits of liability, which are not less than \$1,000,000, per occurrence limit; \$5,000,000 general aggregate limit, and \$5,000,000 products and completed operations aggregate limit, all per location of the Project; (2) Property damage liability of \$1,000,000 each occurrence, \$1,000,000 single limit and \$1,000,000 aggregate; (3) Contractual liability for Bodily Injury of \$1,000,000 each occurrence, for Property Damage of \$1,000,000 each occurrence and \$1,000,000 aggregate, and Personal Injury with Employment Exclusion Deleted of \$1,000,000 aggregate; and (4) Comprehensive Automobile Liability for any vehicle used for or in connection with the Work of \$1,000,000. The insurance required shall be written with a deductible of not more than TEN THOUSAND DOLLARS (\$10,000). Borrower must also procure and maintain workers' compensation and all other insurance required under applicable law, as required by law and as approved by Agency.
29. TITLE INSURANCE: Borrower must procure and deliver to Agency an ALTA Lender's Policy of Title Insurance, together with such endorsements as Agency may require, including but not limited to CLTA endorsement nos. 100, 116, and 102.5/102.7 insuring Agency in an amount equal to the principal amount of the Loan, that Agency's Deeds of Trust constitutes a second lien or charge upon the Property and Improvements subject only to such items as shall have been approved by Agency. There must be no exceptions permitted for mechanics liens. Title insurance for the Loan must be issued by a title insurer approved by Agency.
30. ORGANIZATIONAL AGREEMENTS: Borrower must submit to Agency certified copies of all of Borrower's organizational documents, including all amendments, modifications or terminations: if a corporation, Borrower's Articles of Incorporation and By-Laws; if a partnership, its Partnership Agreement and, as applicable, Certificate of Limited Partnership or Statement of Partnership; if a Limited Liability Company, its Articles of Organization and its Operating Agreement; and in all cases with all exhibits and amendments to such documents, fictitious business name statements, other related filings or recorded documents and such related documents as Agency may request. If it is a corporation, Borrower must submit a corporate borrowing resolution referencing this

Loan. If Borrower is other than a corporation, Borrower must submit such proof of authority to enter this Loan as may be required under the organizational documents.

31. PURCHASE OF PROPERTY: Borrower shall provide Agency with copies of all documents relating to Borrower's purchase of the Property.
32. FINANCIAL INFORMATION: During the term of the Loan, Borrower shall deliver to Agency within 120 days of the end of each fiscal year an audited income and expense statement, a balance sheet, and a statement of all changes in financial position signed by authorized officers of Borrower. Prior to close of the Loan and during its term, Borrower must deliver to Agency such additional financial information as may be requested by Agency. Agency reserves the right to review and approve financial statements and other credit information and references prior to closing. During the term of the Loan, Borrower must deliver to Agency a monthly rent-roll including household composition information, and operating statements with respect to the Property and Improvements, as Agency may request.
33. MANAGEMENT AGREEMENT: Prior to execution, Borrower must submit to Agency any agreement providing for the management or operation of the Property or Improvements by a third party which agreement is subject to Agency Approval.
34. LOW INCOME HOUSING TAX CREDITS("LIHTC"): Borrower represents that as a condition of closing this Loan it is applying for an allocation of LIHTCs and agrees to perform all actions and to meet all requirements to maintain the LIHTC allocation if granted.
35. DOCUMENTATION: This letter is not intended to describe all of the requirements, terms, conditions and documents for the Loan, which shall also include customary provisions and documents for an Agency transaction of this type. All documents to be delivered to or approved by Agency must be satisfactory to Agency in all respects. Borrower must promptly deliver to Agency any further documentation that may be required by Agency.
36. CONSISTENCY OF DOCUMENTS: As a material obligation under this commitment letter, Borrower shall assure that the loan documents for the Project are consistent with lender's commitment approved by the Agency and comply, in all respects, with this commitment letter.
37. CHANGES OR AMENDMENTS: No documents or contracts which are to be delivered to Agency or are subject to Agency's review or approval shall be modified or terminated without the prior written approval of Agency.

38. ACCEPTANCE OF THIS COMMITMENT: Borrower's acceptance of this Commitment shall be evidenced by signing and delivering to Agency the enclosed copy of this letter. Until receipt of such acceptance by Agency, Agency shall have no obligation under this letter. Agency may withdraw this commitment at any time prior to Borrower's acceptance.

Yours truly,

LaShelle Dozier  
Interim Executive Director

The undersigned acknowledges and accepts the foregoing Commitment and its terms and conditions.

Dated:

BORROWER:

By: \_\_\_\_\_  
Tom Dawson  
President  
Dawson Holdings, Inc.