RESOLUTION NO. 2007-502

Adopted by the Sacramento City Council

June 26, 2007

BROADWAY SENIOR CENTER APARTMENTS: APPROVAL OF $2,013,000 LOAN; EXECUTION OF LOAN AGREEMENT AND RELATED DOCUMENTS WITH DAWSON HOLDINGS, INC.; RELATED BUDGET AMENDMENT

BACKGROUND

A. Dawson Holdings, Inc. has applied for an allocation of Two Million Thirteen Thousand Dollars ($2,013,000) in the City HOME Funds (HOME) to assist in funding the costs of acquisition and rehabilitation of the 120 unit Broadway Senior Center Apartments.

B. The Broadway Senior Center Apartments project qualifies for HOME funding under Sacramento Housing and Redevelopment Agency guidelines.

C. The Sacramento Housing and Redevelopment Agency has determined that the project is exempt from environmental review under CEQA Guidelines Section 15301. The project is Categorically Excluded from environmental review under NEPA regulations at 24 CFR Section 58.35 (a) subsection (3)(i) and converts to exempt per 58.34(a)(12) because it does not require any mitigation for compliance with any listed statues or authorities, nor requires any formal permit or license.

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

Section 1. The exemption adequately considered the environmental impacts of the project and the mitigation measures adopted pursuant to the CEQA and NEPA exemptions are adequate to mitigate the significant environmental impacts of the project to a less significant level; and therefore, the exemption is approved and adopted for the actions contained in this resolution.

Section 2. The Sacramento Housing and Redevelopment Agency ("Agency") is authorized to amend the Agency Budget to transfer $2,013,000 from City HOME Funds to the Broadway Senior Center Apartments project.

Section 3. The Loan Commitment, attached to and incorporated in this resolution by this reference, for financing the Broadway Senior Center Apartments project with HOME Funds in the amount of $2,013,000 is approved and

the Agency is authorized to execute and transmit the Loan Commitment to Dawson Holdings, Inc.

Section 4. Subject to the satisfaction of conditions in the Loan Commitment, the Agency is authorized to prepare and execute all Loan documents required for making the $2,013,000 Loan for a term of 30 years, with an interest rate of 4% (simple), and a loan repayment schedule as detailed in the Loan Commitment, with Dawson Holdings, Inc. to fund the acquisition and construction of Broadway Senior Center Apartments.

Section 5. The Agency is authorized to enter into and execute other documents and perform other actions necessary to fulfill the intent of the staff report and the Loan Commitment that accompany this resolution, in accordance with their respective terms, and to ensure proper repayment of the Agency funds including without limitation, subordination, extensions, and restructuring of such a loan, and with the staff report that accompanies this resolution.

Section 6. 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 Commitment, with Agency policy, with this resolution, with good legal practices for making of such a loan, and with the staff report that accompanies this resolution.

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Exhibit A – Loan Commitment Letter

Adopted by the City of Sacramento City Council on June 26, 2007 by the following vote:

Ayes: Councilmembers, Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters, and Mayor Fargo.

Noes: None.

Abstain: None.

Absent: None.

Heather Fargo

Mayor, Heather Fargo

Attest:

Shirley Concolino

Shirley Concolino, City Clerk

Exhibit A

June 6, 2007

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 ("Agency"), we are pleased to advise you of its commitment of acquisition, construction and permanent loan funds ("Loan") from City HOME 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 60 days prior to close of escrow for the Property.

This commitment will expire June 30, 2008.

1. PROJECT DESCRIPTION: The project is the acquisition and rehabilitation of a 120 unit senior apartment complex. A total of 12 units will be affordable to households earning less than 30 percent Area Median Income (AMI), 60 units will be affordable to households earning less than 45 percent AMI, 24 units will be affordable to households

earning less than 50 percent AMI, and 23 units will be affordable to households earning less than 60 percent AMI. One unit will remain an unrestricted managers unit.

2. BORROWER: The name of the Borrower for the Loan is Dawson Holdings, Inc.

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 funding source for the Loan.

4. PRINCIPAL AMOUNT: The combined principal amount of the Loan will be the lesser of (a) Two Million Thirteen Thousand Dollars ($2,013,000), 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.

5. TERM OF LOAN: The unpaid balance of the Loan will be all due and payable in month 360.

6. INTEREST RATE: The Loan will bear simple 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: The Loan shall be amortized over 360 months.

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 132 months. Beginning in the month 133, monthly installments shall be made according to the following schedule:

Months 133-144	$ 1,796 monthly
Months 145-156	$ 3,027 monthly
Months 157-168	$ 3,246 monthly
Months 169-180	$ 3,458 monthly
Months 181-192	$ 3,662 monthly
Months 193-204	$ 3,859 monthly
Months 205-216	$ 4,047 monthly
Months 217-228	$ 4,226 monthly
Months 229-240	$ 4,395 monthly
Months 241-252	$ 12,525 monthly
Months 253-264	$ 12,673 monthly
Months 265-276	$ 12,810 monthly
Months 277-288	$ 12,934 monthly
Months 289-300	$ 13,045 monthly

Months 301-312	$ 13,143 monthly
Months 313-324	$ 13,227 monthly
Months 325-336	$ 13,295 monthly
Months 337-348	$ 13,348 monthly
Months 349-360	$ 13,394 monthly
Month 361	$ 2,563,253 loan balance all due and payable

In the event that the Housing Assistance Payments are not renewed in Month 240, the monthly payment schedule will be as follows:

Months 241-252	$ 680 monthly
Months 253-264	$ 591monthly
Months 265-276	$ 486 monthly
Months 277-288	$ 364 monthly
Months 289-300	$ 224 monthly
Months 301-312	$ 65 monthly
Months 313-324	payment deferred
Months 325-336	payment deferred
Months 337-348	payment deferred
Months 349-360	payment deferred
Month 361	$ 4,098,533 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: $2,013,000 in City HOME 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. 327-332). (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 senior debt 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 construction 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 no less than $8,686,000 in Low Income Housing Tax Credits and no less than $810,000 in 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 30 years with a 30 year amortization.

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 Loan Agreement.

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 soils report prepared by a licensed soils engineer and 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 judgment 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 SPECIFICATION: 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 disbursal 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") 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. APPROVAL OF DISBURSEMENTS: Borrower shall submit all disbursement requests to the Agency simultaneous to lender, tax credit investor, and/or any other funding source for the project for approval. Agency shall have five business days from the date of a complete disbursement request to approve or deny, in whole or part, such disbursement request. Borrower shall ensure that appropriate language to this effect is included in lender and partnership documents.

Agency shall only approve disbursements of the Loan based on a cost breakdown that restricts disbursements to line items in cost categories in Agency approved budget. Agency shall require that Borrower provide documentation supporting all requests for disbursement of Loan funds. Agency shall conduct inspections of the Property prior to disbursing, or approving disbursement requests, of Loan funds.

If the Agency does not approve a draw request, in whole or part, or the Borrower fails to submit a draw request to the Agency for approval, the Agency loan shall be reduced by the same amount of the disallowed draw item(s).

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. If there is an aggregate savings in the total of all such cost breakdown items based on the original approved budget for the project, 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 and the original approved budget for the project.

24. CONSTRUCTION CONTIGENCY: Within the Development Budget there will be 5% construction contingency. This contingency can only be spent by change order request with Agency approval. Any unspent funds will be split between the Developer (50%) and the Agency (50%).

25. 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 December 1, 2007.

26. COMPLETION OF CONSTRUCTION: Borrower shall complete the construction of the Improvements no later than June 30, 2009.

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: Bodily injury liability of $1,000,000 each occurrence and $1,000,000 Aggregate, Products and Completed Operations; Property damage liability of $1,000,000 each occurrence, $1,000,000 single limit and $1,000,000 aggregate; 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 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 a 1970 or 1987 ALTA LP-10 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. In addition, Borrower must submit an organizational chart indicating the number of employees currently employed by the management company that will operate the project and an organizational chart of the management organization.

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. TENANT SERVICES PLAN: Prior to the closing of the Loan the Borrower will submit to the Agency for approval a Tenant Services Plan. The Tenant Services Plan must provide a description of the services or activities to be provided as well as their goals and objectives. Additional information such as the name of the service provider, the number of staff persons facilitating the services, and how regularly the services will be offered must be included.

36. SECURITY AND LIGHTING: Project shall include a security camera system approved by the Agency and lighting adequate to properly light the parking area and all common spaces

37. 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.

38. 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.

39. 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.

40. 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,

Anne M. Moore
Executive Director

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

Dated:

BORROWER:

By:_____
Tom Dawson