

RESOLUTION NO. 2008-003

Adopted by the Redevelopment Agency
of the City of Sacramento

January 22, 2008

CASA DE ANGELO APARTMENTS: APPROVAL OF \$1,900,000 LOAN COMMITMENT (REDEVELOPMENT PROJECT AREA FUNDS); EXECUTION OF LOAN COMMITMENT AND RELATED DOCUMENTS WITH DAWSON HOLDINGS, INC., OR RELATED ENTITY

BACKGROUND

- A. Dawson Holdings, Inc., has applied for an allocation of One Million Nine Hundred Thousand Dollars (\$1,900,000) in City Aggregated Low/Mod Tax Increment funds (TI) to assist in funding the acquisition and rehabilitation of the 100-unit Casa de Angelo Apartments ("Project");
- B. The Agency desires to utilize aggregated Redevelopment Project Area funds for the development of the Project;
- C. The Agency finds that the Project will preserve the community's supply of low income housing available at an affordable housing cost to persons that are extremely low, very low and low income households and is located outside of a project area but within the City's jurisdiction;
- D. The Agency finds that the Tax Increment set-aside funds used to fund the Project are needed to make the housing units affordable. Therefore, the project is not required to provide Art in Public Places.
- E. The project is exempt from environmental review under CEQA Guidelines Section 15301. The project is Categorically Excluded from environmental review under National Environmental Policy Act (NEPA) regulations at 24 CFR Section 58.35 (a) subsection (3)(i).

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

- Section 2. It is found and determined that the use of Project Area funds to develop the Project will benefit extremely low, very low, and low income individuals.
- Section 3. It is found and determined that the Tax Increment housing set-aside funds that will be used for the project are needed to make the units affordable and therefore the Project is exempt from providing Art in Public Places.
- Section 4. The Loan Commitment, attached to and incorporated in this resolution by this reference (Exhibit A), for financing the Casa de Angelo Apartments project with TI Funds not to exceed \$1,900,000 (a total of loan commitment not more than \$3,100,000 including not more than \$1,200,000 in HOME Funds) is approved and the Agency is authorized to execute and transmit the Loan Commitment to Dawson Holdings, Inc., or related entity.
- Section 5. The Agency is authorized to make technical amendments to said commitment letter with approval of Agency Counsel, which amendments are in accordance with Agency policy, with this resolution, with good legal practices for making of such a loan.
- Section 6. An Owner Participation Agreement shall be prepared and returned for consideration.

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Exhibit A – Commitment Letter

Adopted by the Redevelopment Agency of the City of Sacramento on January 22, 2008 by the following vote:

- Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters.
- Noes: None.
- Abstain: None
- Absent: Mayor Fargo.


Steve Cohn, Vice-Chair

Attest:


Shirley Concolino, Secretary

January 22, 2008

Thomas Dawson
Dawson Holdings, Inc.
3 Harbor Drive, Suite 302
Sausalito, CA 94965

RE: Conditional funding commitment, Casa de Angelo Apartments

Dear Mr. Dawson:

On behalf of the Sacramento Housing and Redevelopment Agency and the Redevelopment Agency of the City of Sacramento (Together "Agency"), we are pleased to advise you of the commitment of construction and permanent loan funds ("Loan") from City HOME Investment Partnership Program (HOME) and Tax Increment (TI) funds for the purpose of financing the acquisition and rehabilitation of that certain real property located at 3151 Notre Dame Drive, Sacramento, California ("Property"). 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 January 22, 2009.

1. PROJECT DESCRIPTION: The project is the acquisition and rehabilitation of the Casa de Angelo Apartments, 3151 Notre Dame Drive, Sacramento, California, which is a 100-unit senior apartment project.
2. BORROWER: The name of the Borrower for the Loan is DHI Casa de Angelo Associates, L.P., or another entity formed by Dawson Holdings, Inc., for the project.

3. PURPOSE OF LOAN: The Loan is to be used by Borrower solely to pay the costs of acquisition and construction 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 sources for the Loan.
4. PRINCIPAL AMOUNT: The combined principal amount of the Loan will be the lesser of (a) Three Million One Hundred Thousand Dollars (\$3,100,000), 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 ninety 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 438 months (36.5 years) from date of closing.
6. INTEREST RATE: The Loan will bear interest at Four Percent (4.0%) 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 in "Monthly Payment."
8. MONTHLY PAYMENT: Monthly payments are based on the anticipated income from HAP rents upon renewal of the HAP contract. 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 204 months. Beginning in month 205, monthly installments shall be made according to the following schedule:

Months 205-216	\$2,049.06 monthly
Months 217-228	\$2,270.01 monthly
Months 229-240	\$2,480.73 monthly
Months 241-252	\$3,239.78 monthly
Months 253-264	\$3,427.55 monthly
Months 265-276	\$3,602.53 monthly
Months 277-288	\$3,763.77 monthly
Months 289-300	\$3,910.31 monthly
Months 301-312	\$4,041.11 monthly
Months 313-324	\$4,155.09 monthly
Months 325-336	\$4,251.13 monthly
Months 337-348	\$4,328.04 monthly
Months 349-360	\$4,384.60 monthly
Months 361-372	\$4,419.49 monthly
Months 373-384	\$4,431.38 monthly
Months 385-396	\$4,418.85 monthly
Months 397-408	\$4,380.41 monthly
Months 409-420	\$4,314.51 monthly
Months 421-432	\$4,219.54 monthly

Months 433-437	\$4,093.81 monthly
Month 438	All outstanding principal and interest due and payable

In the event that the Housing Assistance Payment contract is not renewed after approximately 20 years, the monthly payment schedule will be as follows:

Months 241-252	\$2,389.21 monthly
Months 253-264	\$2,555.71 monthly
Months 265-276	\$2,708.89 monthly
Months 277-288	\$2,847.80 monthly
Months 289-300	\$2,971.44 monthly
Months 301-312	\$3,078.76 monthly
Months 313-324	\$3,168.69 monthly
Months 325-336	\$3,240.07 monthly
Months 337-348	\$3,291.70 monthly
Months 349-360	\$3,322.35 monthly
Months 361-372	\$3,330.69 monthly
Months 373-384	\$3,315.36 monthly
Months 385-396	\$3,274.92 monthly
Months 397-408	\$3,207.88 monthly
Months 409-420	\$3,112.67 monthly
Months 421-432	\$2,987.66 monthly
Months 433-437	\$2,831.13 monthly
Month 438	All outstanding principal and interest 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: HOME (up to \$1,200,000) and Tax Increment (up to \$1,900,000) 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 subordinate lien upon the Property and Improvements subject only to liens and 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 no less than \$3,300,000 in the following manner: Low Income Housing Tax Credit (LIHTC) equity.

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 construction liens senior to the Agency's lien and for a term of not less than 36.5 years from closing 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 may retain up to ten percent (10.0%) as retention from each disbursement, not to exceed a total of ten percent (10.0%) 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 February 1, 2009.
25. COMPLETION OF CONSTRUCTION: Borrower shall complete the construction of the Improvements no later than August 1, 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, and during construction, 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 first 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. FEDERAL HOME LOAN BANK AFFORDABLE HOUSING GRANT: Not applicable.
36. 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.
37. 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.
38. 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.

39. 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.

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

La Shelle Dozier
Interim Executive Director

REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

La Shelle Dozier
Interim Executive Director

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

Dated:

BORROWER:

By: _____

Name:

Title: