

**BUSINESS DEVELOPMENT FUND OF TEXAS CDC
DISCLOSURE STATEMENT REGARDING SBA 504 LOAN
CHARGES & REQUIREMENTS**

SBA SECTION 504 ASSISTANCE AGREEMENT

The following disclosures apply to the United States Small Business Administration's (SBA) portion of the permanent "take-out" financing provided under the SBA 504 Loan Program. This statement is not intended to be all-inclusive. Please read this Disclosure Statement carefully and request additional information if there is anything you do not understand. In signing this Disclosure Statement, you acknowledge that you have read, understand, and agree to abide by the provisions set forth.

1. **NO REPRESENTATIONS** - The Certified Development Corporation (CDC) may not and cannot ensure the success of your 504 loan application. The actual funding of the 504 debenture and disbursement of the proceeds to you is subject to SBA's approval of your application and is also subject to your satisfactory compliance with the terms and conditions set forth in SBA's Authorization and Debenture Guaranty (SBA Form 1248). By signing this Disclosure Statement, you acknowledge that the CDC has made no representations to you, and that you have not relied on any representations made by CDC, regarding the assurance of SBA's approval of your loan or the sufficiency of your qualifications to receive a loan through the 504 program.
2. **CREDIT CRITERIA** - Although the 504 loan program is a lending program for healthy and expanding small businesses, start-up businesses may be funded provided they meet SBA's credit criteria. The credit criteria require the small business to be able to demonstrate adequate cash flow from operations to repay debt, adequate working capital, and sufficient collateral. Additionally, by signing this Disclosure Statement you hereby authorize the Certified Development Corporation or any of its affiliates to make all inquiries it deems necessary to verify information to determine credit-worthiness. Further, by signing this Disclosure Statement, you agree that the Certified Development Corporation, or any of its subsidiaries, at any time and in its sole discretion, may disclose the status of the proposed transaction and credit data and other information concerning or relating to the undersigned or the proposed transaction to the SBA, referral sources, franchisers, vendors, loan participants, and agents of both the undersigned and the CDC.
3. **LOAN FEES** - The "net debenture proceeds" is the CDC's percentage of the total project (maximum of 40%) financed by SBA/CDC. The following loan fees will be paid by the Borrower for the SBA portion of the 504 loan. All of these fees are financed in the 504 loan:
 - A. CDC Processing Fee – 1.5% of the net debenture proceeds.
 - B. SBA Reserve/Guaranty Fee - 0.50% of the net debenture proceeds (Subject to change by SBA)
 - C. SBA Funding Fee - 0.25% of the net debenture proceeds
 - D. Underwriting Fee-20 year debentures, the sum of the net debenture amount and a. through d. divided by 0.99600; round this number up to the next highest thousand; multiply this number by 0.00400. For 10-year debentures, the sum of the net debenture amount and a. through d. divided by 0.99625; round this number up to the next highest thousand; multiply this number by 0.00375.

Note: Other closing costs associated with the SBA 504 loan include, but are not limited to, title work (i.e. abstracting, updating of titles, copies, etc.), the title insurance policy premium, lien search fees and survey fees, your attorney's fees, recording and express mail fees. These fees **will be paid by the borrower at closing.** These fees are not included in the 504 financing and are **not** reimbursed to the borrower when the 504 loan is funded. These fees must be paid at the closing table.

4. **CLOSING COSTS** – CDC Attorney Fee- not to exceed \$3,500.

5. **SERVICING, GUARANTY AND PARTICIPATION FEES** - The following servicing fees will be paid by the Borrower on the unpaid balance of the CDC loan, such unpaid balance, to be determined at 5 year intervals at the beginning of such interval. The monthly CDC/SBA note payment amount reported to the Borrower will include these fees as part of the monthly payment. **(These fees are already built into the effective interest rate).**

- ◆ CDC Servicing Fee- .625% per annum
- ◆ CSA Servicing Fee-0.1% per annum
- ◆ Borrower Guaranty Fee-0.9375 per annum.

The senior collateral lender (the bank) will be charged a one-time participation fee which is 50 basis points of the bank loan portion.

6. **INTEREST RATES** - The interest rate on ten (10) and twenty (20) year 504 loans are based on a “spread” over the five (5) and ten (10) year US Treasury rates, respectively. Any interest rate quoted to you is for illustration purposes only and will actually be set by SBA on the date of the debenture sale, which is usually thirty to forty-five days after the execution of the documents for the permanent “take-out” loan. The permanent “take-out” loan will not be funded until the debenture sale. The participating lender may establish its own interest rate, provided that the rate is legal, reasonable, and reflects the prevailing level of interest rates in the market area at the time for loans of similar risk, maturity, location, fixed or variable rate or other relevant factors.
7. **AUTOMATIC DEBT** - The SBA requires a payment program whereby the Borrower’s 504 loan payments are automatically debited each month from the Borrower’s bank account.
8. **LATE CHARGE** - A charge of \$100, or 5% of the late amount, whichever is greater, will be charged to the Borrower in the event funds are insufficient on the debit date.
9. **CDC AUTHORITY** - While the CDC is responsible for the preparation of the loan application sent to the SBA, the SBA sets all loan conditions and any changes to the loan conditions require SBA approval submitted through the CDC.
10. **IDENTITY VERIFICATION** - CDC is required by SBA Policy Notice 5000-901 to request certain documentation of borrowers in order to provide a verification of their identity. Any portion of the information gathered during the loan process may be used in the verification process.
11. **BORROWER’S INJECTION** - The borrower’s equity contribution to the project must be a minimum of 10% of the total project amount (minimum of 15% for companies with less than 2 full years of operations) and must be in the form of cash (first to be spent) or project-related real estate. Should the project being financed involve a limited or single-purpose building or structure, a minimum 15% equity contribution will be required. Additionally, should the project involve a business with less than 2 full years of operations and a limited or single-purpose building or structure, a minimum 20% equity contribution will be required. Borrower must document the equity injection with copies of cancelled checks, paid invoices or other information acceptable to CCDC and SBA. If any of the contribution is borrowed and secured with any of the 504 project assets, such loan must be subordinated to the liens securing the 504 loan and may not be repaid at a faster rate than the 504 loan unless prior written approval is obtained from CDC/SBA. A copy of any debt instrument of such loan must be supplied to the CDC in the application.
12. **MISCELLANEOUS LOAN TERMS** - The closing documents for the 504 loan are likely to contain the following provisions:
- ◆ Prior CDC/SBA approval required for:
 - (A) The reorganization, merger, consolidation or change of ownership of the business of the Borrower;
 - (B) The sale or further encumbrance of the collateral;

(C) The payment of bonuses and/or distributions upon capital stock, including but not limited to the payment of dividends.

- ◆ Hazard insurance, from a carrier with a Best rating of A or better, covering fire, lightning, extended coverage, vandalism, and malicious mischief for the maximum insurable value(s) on all property on which liens are taken, liability insurance, workers' compensation, and (if needed) flood insurance;
- ◆ The requirement for annual financial statements to be submitted by the borrower;
- ◆ Total annual compensation of officers, owner and/or principals of the small business may be subject to limitation under adverse financial conditions as determined by CDC/SBA. It may also be required that all inter-company debt with affiliates and/or officers, directors or shareholders be subordinated to the debt incurred through CDC/SBA.

13. **LEASING AND SQUARE FOOTAGE REQUIREMENTS**

- ◆ Existing Buildings – 504 funds can be used for the purchase and/or renovation of an existing building so long as the small business occupies 51% or more of the building space, and no 504 loan funds are used to renovate any part of the building not used by the small business.
- ◆ New Construction – 504 funds can be used for the construction of industrial and commercial space as long as the small business occupies at least 60% of the building space upon occupancy, and 80% within ten years. The remaining 20% can be permanently leased.

14. **JOB REQUIREMENTS** - The small business must preserve or create, within two years after the loan is funded, one job opportunity per \$65,000 of 504 financing. National objectives may be used in lieu of this requirement.

15. **COLLATERAL ASSIGNMENT OF LIFE AND/OR DISABILITY INSURANCE** - Life and/or disability insurance may be required to insure against the risk of death or disability of a person critical to the success of the small business or one whose continued earning power is being relied upon in making the loan. If it is necessary to require one or more principals of the small business to obtain life and/or disability insurance, the coverage required shall be only in such minimum amounts necessary to protect the loan.

16. **PREPAYMENT** - Payment of the entire outstanding balance may be made prior to the maturity date, but no partial prepayments may be made. Any prepayment during the first half of the stated term must be accompanied by a prepayment premium, which will be a declining percentage of the debenture interest rate applied to the outstanding principal balance of the Note. A schedule of the dollar amount of the premium and the semi-annual payment dates will be provided to you after the funding of the 504 loan. In order to process a request for prepayment, CDC requires written notification at least 60 days prior to the semi-annual prepayment date.

17. **ASSUMPTION FEE** - A fee of 1% of the outstanding principal balance of the loan will be charged by the CDC if the loan is assumed by another borrowing entity. In addition, the borrower must pay all cost and expenses incurred by CDC and/or the SBA in connection with the assumption.

18. **ADDITIONAL COLLATERAL** - Additional collateral may be required. Generally, the value of the assets acquired with the 504 loan proceeds should constitute adequate collateral, however, all 504 loan are to be so secured as to reasonably assure repayment. Should there be a shortfall in the appraised value of the assets being acquired, additional collateral may be required in the form of personal and/or business assets owned by the Borrower and/or small business.

19. **GUARANTEES** - SBA requires the guaranty of any person/corporation owning 20% or more of the small business, irrespective of the form of ownership or entity involved.

20. **PERSONAL HISTORY STATEMENT** - Personal History Statement (SBA Form 912) is required for each officer and director (regardless of ownership) and each proprietor, partner and stockholder with 20% or more ownership of the SBC and, if different, each owner with 20% or more ownership of the EPC.
21. **FINANCING OF MACHINERY AND EQUIPMENT** - The Borrower, prior to the 504 loan closing, must provide CDC with a list of the machinery and equipment purchased satisfactory to CDC/SBA describing the collateral by number and type or item, including brand name and serial number, if applicable, sufficient for identification.
22. **DO-IT-YOURSELF CONSTRUCTION PROJECTS** - Situations where the borrower and/or small business has acted as their own contractor have proved to be generally unsatisfactory and cause considerable problems in the closing process. Such an approach generally shall not be permitted unless the applicant is qualified as a building contractor.
23. **PROJECT COST OVERRUNS** - The Borrower must pay for any additional project costs incurred as a result of overruns or unanticipated expenses in constructing/financing the project. Cost overruns to be funded by any source other than additional equity provided by Borrower must be approved by CDC/SBA prior to the 504 loan closing.
24. **SURVEY** - An "as built" survey sufficient to remove title policy exceptions must be provided by a certified surveyor prior to the 504 loan closing. The survey must include a flood hazard designation along with the physical address of the property. The survey must be certified to CDC, SBA and the Title Company.
25. **CHILD SUPPORT** - Borrower certifies that no principal of the small business who owns at least 50% of the voting interest of the company is delinquent more than 60 days under the terms of any (a) administrative order, (b) court order, or (c) repayment agreement that requires payment of child support.
26. **LOAN FUNDING** - The funding of a 504 loan does not occur at closing. It does, however, occur approximately 30 to 45 days after the closing of the loan provided all requirements set-forth in SBA's Authorization have been satisfied. It is CDC's desire to fund the 504 loan in a timely matter. To do so, we encourage the Borrower to stay in touch with their CDC representative during the construction and/or interim funding period.
27. **CDC SCHEDULE OF FEES** - A good-faith deposit of \$2,500 will be collected prior to processing the loan application. A Balance of 1% of the net debenture (with credit given for the deposit) will be considered earned and payable when the Debenture Authorization is issued by SBA. All payments collected prior to loan funding will be applied toward the debenture closing costs and not considered additional fees.
 - A. Before SBA Loan Approval (Loan Authorization not yet issued):
 - (1) If borrower withdraws the loan request (for any reason), the good-faith deposit will be refunded (less costs incurred with the minimum charge of \$500.)
 - (2) If SBA declines the loan request, the good-faith deposit will be refunded (less costs incurred with the minimum charge of \$500.)
 - B. After SBA Loan Approval (Loan Authorization has been issued):

If borrower withdraws the loan request, CDC will retain the good-faith deposit. Further, 1% of the net debenture is still considered earned by the CDC, due and payable by the borrower/applicant.

- 28. **REPRESENTATION** – _Dan Alaniz or Henry Heffler_ will represent the CDC and serve as its business development officer and loan underwriter.
- 29. **CREDIT REPORTS** - CDC (and/or its representative/agent), Banker, and/or Lender may pull credit reports for each principal. A report may also be pulled on the subject Small Business Concern and affiliates. Any credit information may be discussed and shared among the CDC’s, Bank’s, Lender, SBA, or representatives in the processing of the loan application.
- 30. **FINANCIAL INFORMATION** – Loan applicant authorizes the exchange of financial statements, tax returns, and other information between CDC, Bank, Lender, SBA, loan underwriters, credit analysts, loan packagers, and other associates involved in the loan application process.

THE SUBJECT SMALL BUSINESS CONCERN/APPLICANT (SIGNED BELOW) DOES HEREBY INDEMNIFY AND HOLD the CDC and ITS REPRESENTATIVES HARMLESS FROM ANY AND ALL LIABILITY FOR ANY LOSS, DAMAGE, OR INJURY (INCLUDING, WITHOUT LIMITATION, ATTORNEYS FEES INCURRED WITH ATTORNEYS OF CDC) ARISING OUT OF OR RESULTING FROM THE FAILURE BY THE SMALL BUSINESS CONCERN/APPLICANT TO RECEIVE OR ACCEPT THE SUBJECT LOAN.)

READ AND AGREED TO:

INDIVIDUAL APPLICANT SIGNATURE

DATE

PRINTED NAME AND TITLE

SMALL BUSINESS CONCERN (PRINT)

Acknowledgement:

CDC hereby acknowledges receipt of a good faith deposit of \$ _____, as of _____ 20 _____.

Business Development Fund of Texas

Printed Name and Title