



PO Box 664 - Concord, NH 03301-0664
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BANK / CRDC AGREEMENT

Agreement made this _____ day of _____, 20____ by and between _____, ("Bank") and Capital Regional Development Council, ("CRDC"), with respect to a SBA 504 loan on behalf of _____.

The Bank and CRDC agree upon the following:

- 1.) Third Party Lender Fee is a one-time fee equal to 0.50% of the Bank Participation (loan amount) in a 504 project. The Bank shall pay _____% and CRDC will pay _____% towards this fee.
Temporarily Waived under the 2009 Recovery Act
- 2.) Bank must certify that there is no material adverse change in the condition of the Borrower and Operating Company since the date of the loan application to the Interim Lender.
- 3.) CRDC will review the borrower and operating company current financial statements (120 days or less) within 7 days of 504 loan closing. If a material adverse change exists SBA will not authorize the sale of the Debenture to fund the SBA 504 loan.
- 4.) Bank must certify that construction is complete, all funds have been disbursed and no lien waivers are outstanding. Bank must provide a copy of the Occupancy Certificate.
- 5.) Bank must provide evidence of borrower's equity injection into the project.
- 6.) CRDC will provide templates of the Credit Elsewhere Letter, Third Party Lender Agreement and Certification of Interim Lender for the Bank's completion. These templates will be emailed directly to the lender.
- 7.) Bank to provide a copy of the Flood Hazard Determination (FEMA Form 81-93).
- 8.) Bank shall provide copies of the Third Party Lender and Interim Lender documents to include: Promissory Note, Mortgage, Assignment of Leases and Rents, Subordination Agreement, Security Agreement and UCC Financing Statement.
- 9.) Bank shall notify CRDC of attorney's name representing Bank in the closing: _____.
CRDC is represented by Cleveland, Waters & Bass, P.A., (Tim Britain).
- 10.) CRDC has attached hereto copies of:
 - a. Environmental Requirements for SBA 504 Loans.
 - b. Appraisal Requirements for SBA 504 Loans.
- 11.) CRDC will provide Bank with a signed copy of the Authorization for Debenture Guarantee.
- 12.) Title search, UCC search (if applicable) as well as issuance of title insurance will be completed by:

Bank:

CRDC:

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Environmental Requirements for SBA 504 Loans

SBA requires an environmental investigation of all commercial property which is offered as security for a 504 loan. The type and depth of an environmental investigation to be performed varies with the risks of contamination. CRDC must submit all the environmental investigation reports to the SBA for review. **All Transaction Screens, Phase I and Phase II ESAs must be performed by an environmental professional and be accompanied with a Reliance Letter.**

Steps of an Environmental Investigation

For all property except units in a multi-unit building, CRDC must determine the **NAICS** code(s) for the property's **current and known prior uses** and compare the NAICS code(s) to the SBA's list of environmentally sensitive industries. For units in a multi-unit building, proceed to paragraph 2 below.

1. **If there is a NAICS code match** to an environmentally sensitive industry, the Environmental Investigation must begin with a Phase I, regardless of the amount of the loan. If the NAICS code begins with 447 (gas stations), CRDC must comply with the SBA's special requirements pertaining to gas station loans.
2. **If there is not a NAICS code match** to an environmentally sensitive industry, CRDC must proceed as follows: (i) If the 504 loan amount is up to and including \$150,000, the environmental investigation may begin with an environmental questionnaire; (ii) If the loan amount is more than \$150,000, the environmental investigation must, at a minimum, begin with an environmental questionnaire and records search with risk assessment.
3. **Environmental Questionnaire Results:** If the report reveals no further investigation is warranted, the report may be submitted to SBA for concurrence. If the report reveals further investigation is warranted, CRDC must obtain, at a minimum, a Transaction Screen.
4. **Environmental Questionnaire & Records Search with Risk Assessment Results:** If the report reveals no further investigation is warranted and the Records Search with Risk Assessment concludes the property is a "low risk" for contamination, the report may be submitted to SBA for concurrence. If the Records Search with Risk Assessment concludes the property is an "elevated risk" or "high risk" for contamination, CRDC must obtain a Phase I ESA.
5. **Transaction Screen Results:** If the environmental professional conducting the Transaction Screen concludes no further investigation is warranted, the report may be submitted to SBA for concurrence. If the environmental professional conducting the Transaction Screen concludes further investigation is warranted, CRDC must obtain a Phase I ESA.
6. **Phase I ESA Results:** If the environmental professional conducting the Phase I ESA concludes no further investigation is warranted, the report may be submitted to SBA for concurrence. If the environmental professional conducting the Phase I ESA concludes further investigation is warranted (typically a Phase II), CRDC must proceed as recommended by the environmental professional. In general, SBA will require compliance with all of an environmental professional's recommendations.
7. **Phase II ESA Results:** If the environmental professional conducting the Phase II ESA concludes no further investigation is warranted, the report may be submitted to SBA for concurrence. If the Phase II ESA reveals contamination, CRDC must ensure the environmental professional has documented: (1) whether the contamination quantities exceed the reportable or actionable levels; (2) whether remediation is necessary; (3) an estimate of any remediation costs; and (4) the projected completion date of any remediation. Additionally, if the Phase II ESA reveals contamination, CRDC needs to determine if 504 loan disbursement is appropriate under SBA contamination guidelines.

Special Use Facilities

Prudent lending practices dictate that specific additional environmental assessments be performed for certain special use facilities. SBA requires lead risk assessments for child care facilities and residential care facilities constructed prior to 1978. SBA also requires that on-site dry cleaners in operation for more than five years undergo a Phase II ESA. Gas stations also present significant clean-up costs if contaminated and SBA has specific environmental requirements for these loans.

For more information, contact your CRDC loan officer before ordering an environmental investigation.

Appraisal Requirements for SBA 504 Loans

When confirming property values for SBA 504 loans, Capital Regional Development Council (“CRDC”) must have an appraisal that meets SBA guidelines. The following standards outline some of the basic issues we need to consider in ordering appropriate appraisals:

1. **Size Standard for Requiring Appraisals:** SBA will require a real estate appraisal if the estimated value of the project property is greater than \$250,000. If the estimated value is \$250,000 or less, the SBA might accept an evaluation in lieu of an appraisal. Contact CRDC for more details about using an evaluation.
2. **Appraiser Qualifications:** The appraiser must be (i) independent and have no appearance of a conflict of interest and (ii) either State-licensed or State-certified with the following exception: when the project property’s estimated value is over \$1,000,000, the appraiser must be State-certified.
3. **Appraisal requirements:** The appraisal report must be prepared in compliance with Uniform Standards of Professional Appraisal Practice (USPAP) and use one of the following options: (i) a self-contained appraisal report or (ii) a summary appraisal report. The SBA will not accept restricted appraisals.
4. **Appraisal Addressee:** The appraisal must be addressed to CRDC in addition to the Third Party Lender. CRDC’s address should be noted as follows: Capital Regional Development Council, P.O. Box 664, Concord, NH 03302-0664.
5. **New Construction:** When the project collateral will be new construction or involve substantial renovation of an existing building, the appraisal must estimate what the market value will be at completion of construction. (“Substantial” means rehabilitation expenses of more than one-third of the purchase price or fair market value at the time of application.) After construction is completed, CRDC must obtain a statement from the appraiser of the “as completed” value. If the value is less than 90% of the original estimated value, the appraiser must state the reason for the change value, i.e. market conditions or deviations from original plans.
6. **Existing Building:** When the project collateral is an existing building that does not require construction, the appraiser should estimate the market value on an as-is basis. If the appraiser estimates the value other than on an as-is basis, the narrative must include an explanation of why the as-is basis was not used.
7. **Going Concern Value:** If the appraisal engagement letter asks the appraiser for a business enterprise or going concern value, the appraiser must allocate separate values to the individual components of the transaction including land, building, equipment, and business (“blue sky”). When the collateral is a special purpose property, the appraiser must be experienced in the particular industry.
8. **Appraisal Timing and Value:** An appraisal must be submitted and approved by SBA prior to closing. If the appraisal comes in: (1) at 90% or more of the estimated value, CRDC may close the 504 loan but must include a written explanation in the loan file if the appraisal is less than the estimated value or (ii) at less than 90% of estimated value, the 504 loan must be reduced or CRDC must secure additional collateral from the borrower and/or guarantors that will be added to the required borrower’s equity contribution and will be sufficient to address the gap in value.

For more information, contact your CRDC loan officer before completing the appraisal order.