

# **General Terms and Conditions: CEDAC Development Assistance Loans**

*These terms and conditions apply to CEDAC's  
Technical Assistance Advances, Front Money Loans, and Site Control Loans*

## **General Terms and Conditions**

**Loan Commitments** - CEDAC loan commitments expire six months after the date of the CEDAC Board's authorizing vote unless the borrower is able to deliver to CEDAC, in a form acceptable to it, all documents needed to close the loan.

**Interest** - In most cases, CEDAC loans approved on or after January 29, 2001 accrue 7% simple interest which is generally due and payable at the construction loan closing. However, if (a) the principal repayment is delinquent, (b) the project fails to achieve the stipulated affordability objective, or (c) the borrower fails to proceed with a feasible project, CEDAC charges interest on outstanding principal or interest at a rate equal to the prime rate reflected in the money section of the Wall Street Journal, plus three points.

**Term** - CEDAC loans are generally due at construction loan closing.

**Security** - On *Site Control Loans* CEDAC will require the original purchase and sale or option agreement, as well as an executed assignment. It will record the assignment.

On all CEDAC loans if the borrower or the developer owns or acquires the property to be developed prior to the construction loan closing, CEDAC will take a mortgage on the property.

## **Loan Documentation**

**Loan Commitment Letter** – This letter notes the amount authorized by CEDAC's board of directors that may be drawn for the project. The letter also specifies any special conditions pertaining to the amount of the commitment.

**Loan Agreement** - Borrowers must enter into a loan agreement with CEDAC. The corporation employs a standard loan agreement form. This master agreement is designed to be easily amended to cover anticipated subsequent CEDAC loan commitments to the borrower for the same project. This master agreement is used regardless of whether CEDAC makes *Site Control Loan, Technical Assistance Advance, Front Money Loan*, or a combination of these loans.

The loan amount appearing in the loan agreement's "Background" section reflects the maximum amount CEDAC might lend over time to the project, according to its loan guidelines. In almost all cases this will exceed the amount of the initial loan amount authorized by the board which appears in Section 1.1 of the agreement. Thus, the agreement anticipates the possibility of future authorizations. Preparing documents with this expectation reduces transaction costs on future loans to the same project.

In those cases when the borrower and the developer are separate legal entities, both the borrower and developer are required to sign the loan agreement. In addition, the developer, as the recipient of the construction loan proceeds that will retire CEDAC's loan, must guarantee repayment. In some cases the CEDAC loan will be closed prior to the creation of the entity that will serve as developer. In such cases the loan agreement stipulates that the borrower will have a separate developer agreement and guarantee executed when the development entity is formed.

**Disclosures** - Sections 6.7 and 6.8 of the Loan Agreement, if applicable, require the borrower to prepare and attach to the Loan Agreement a Schedule 6.7 disclosing any pending legal actions and a Schedule 6.8 disclosing any conflicts of interest.

**Promissory Note** - The note is the evidence of indebtedness. This document contains the maximum amount for which the borrower may qualify.

**Clerk's Certificate** - The board of directors of the borrowing organization must authorize the borrowing of these funds, as well as the granting of mortgages or assignments if required, and must authorize an individual to sign the documents with CEDAC on the borrower's behalf. A clerk's certificate containing these votes is required. CEDAC supplies a clerk's certificate that reflects the form these votes should take. Again, to reduce transaction costs, the certificate should authorize borrowing up to the maximum loan amount that CEDAC might eventually authorize.

**Other Due Diligence Requirements** – To keep legal costs at a minimum, CEDAC offers the option to borrowers to submit all of the following documents:

- ◆ A certification by your Board Treasurer that your organization is in good standing with the Massachusetts Department of Revenue;
- ◆ Current copies of your Articles of Organization and By-laws;
- ◆ A certification by the Clerk of the Corporation that the copies of the Articles and By-laws are true and correct; and that the corporation is in good standing with the Secretary of State. All Clerk certifications are included in CEDAC's standard Clerk's Certificate.

**OR**

An Opinion of Legal Counsel in the form of the specimen letter contained among the exhibits attached to the loan agreement. The developer may also be required to provide a similar opinion. Please note that in CEDAC's sole discretion, the Opinion of Legal Counsel may be required.

#### **Increases in the Authorized Amount**

If CEDAC's board of directors approves an increase in the amount it has authorized on behalf of the project, CEDAC will execute a Loan Increase Commitment Letter. The letter revises the schedule of approved costs and disbursements contained in Exhibit A of the loan agreement, and serves functionally as a loan amendment.

#### **Consultant Agreements**

In the case of *Technical Assistance Advances* the borrower will be selecting consultants to provide the services. Selection must be consistent with CEDAC's policy on consultant selection. These selections are subject to CEDAC approval. CEDAC and the borrower must enter into a standard form 3-party consultant agreement with each of the consultants to be paid using the proceeds to the loan.

#### **Disbursements**

**Requisitions** - To obtain loan funds, the borrower must requisition funds in writing and attach invoices approved for payment by the borrower, as well as work products and other documentation. If all or part of the disbursement will cover the cost of an application or commitment fee, instead of an invoice, attach a copy of the document indicating the amount to be paid, the date when payment is required and the name and address of the payee. A copy of CEDAC's invoice standards is included with each loan packet. An original invoice certification form must accompany all requisitions. In the case of *Technical Assistance Advances*, where CEDAC makes direct payments to consultants, CEDAC requires the original invoice. In addition, it is the borrower's responsibility to provide written authorization to pay uncontested invoices.

**Disbursements** - *Front Money Loan* disbursements require the same documentation but checks are made payable directly to the borrower. Disbursements on *Technical Assistance Advances* are made directly to third party consultants. In the case of commitment or application fees, checks prepared in the name of the institution or agency requiring the fee will be returned to the borrower for payment. Checks for *Site Control Loans* are made payable to the seller and, unless otherwise agreed to by CEDAC and the borrower, the check is forwarded to the borrower.

The borrower must submit a complete, signed requisition for funds with adequate documentation (invoices, etc.) before CEDAC will process a payment. CEDAC prepares checks on a two-week cycle. The borrower is responsible for submitting invoices to CEDAC at least two full days before checks are written to allow for approval of requisitions. Furthermore, in planning cash requirements, the borrower should allow at least a week after the scheduled check preparation day for signatures to be gathered and check mailed.