Technical Issues Memo 25-20

To: NADCO Members (Please disseminate to all appropriate personnel)

From: Wayne Williams, EVP, Regulatory Affairs & Training

Subject: SBA Procedural Notice – Additional Guidance on 504 Certifications of No Adverse Change for July, August, and September 2020 Debenture Sales

Date: May 19, 2020

SBA has issued Procedural Notice 5000-20027 effective May 18, 2020 to provide additional guidance on 504 certifications of No Adverse Change for the July, August, and September 2020 debenture sales during the COVID-19 emergency including the release of an updated COVID-19 Agreement (Rev May 2020) for use in these debenture sales if required (see below for details).

As stated in the Notice, “[d]ue to the continuing adverse economic effects caused by the pandemic, SBA continues to be concerned about the financial ability of Borrowers to repay the Project financing.” Regardless of the date that the Authorization was issued, CDCs may proceed with closing 504 Loans for the July, August, and September 2020 debenture sales under conditions and requirements set forth in the Notice –

- **No Substantial Adverse Change** – If the CDC concludes there is no unremedied substantial adverse change in the Borrower’s ability to repay the Project financing (including no substantial adverse change as a result of the COVID-19 emergency), the CDC would complete SBA Form 2101 (with no changes), must document and retain its determination in its loan file, and notify SBA District Counsel of its conclusion when it submits the closing package for SBA District Counsel review.

- **Substantial Adverse Change related to the COVID-19 emergency** – If the CDC concludes that there has been a substantial adverse change in the Borrower’s ability to repay the Project financing and the COVID-19 emergency is the immediate and direct cause of that substantial adverse change, closing and funding of the 504 Loan may proceed if all parties execute the newly-released COVID-19 Agreement (rev May 2020) attached to the Procedural Notice. The CDC must include the executed Agreement when it submits the closing package for SBA District Counsel review for debenture funding.

The COVID-19 Agreement (rev May 2020) contains an immediate 90-day deferment on both the 504 Loan and the Third Party Loan following debenture sale; a requirement that the Interim Lender (if applicable), Third Party Lender, and the CDC make good faith efforts to assist the Borrower with additional remedial measures as outlined in the Notice and Agreement; and an agreement from the Borrower (and Operating Company, if applicable) to pursue certain remedial measures. **Six months of CARES Act Section 1112 payment subsidies on the 504 Loan will begin after the 90-day deferment period.**

If you would like to access this TI Memo, or the SBA Procedural Notice via the NADCO website, please click below.

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SBA Procedural Notice 5000-20027