

Jim
10-17-16

**CITY OF MANITOWOC AND PROGRESS LAKESHORE, INC.
REVOLVING LOAN FUND ADMINISTRATIVE SERVICES AGREEMENT**

This Administrative Services Agreement (AGREEMENT) is entered into by and between City of Manitowoc, with its principal office located at 900 Quay Street, Manitowoc, WI 54220 (CITY), and PROGRESS LAKESHORE, Inc., with its principal office located at 202 N 8th Street, Ste., 101, Manitowoc, Wisconsin 54220 (PROGRESS LAKESHORE).

WHEREAS, CITY has received economic development grants from the Wisconsin Department of Administration (DOA) Community Development Block Grant (CDBG) program, specifically, the Industrial Revolving Loan Fund and Downtown Revolving Loan Fund (PROGRAMS), for the purpose of helping businesses create jobs in the City of Manitowoc by providing them with low interest loans; and

WHEREAS, PROGRESS LAKESHORE believes that the ability to offer loans through the Revolving Loan Fund (RLF) programs would significantly enhance its mission and would be of great benefit to the community; and

WHEREAS, CITY has determined that it would be beneficial to CITY and the business community to enter into an agreement with PROGRESS LAKESHORE under which PROGRESS LAKESHORE will administer, market, and promote the RLF program in an efficient, economical, and effective manner;

NOW, THEREFORE, in consideration of the premises set forth above, and the mutual agreements, covenants, promises, and obligations set forth below, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. TERM, RENEWAL, AND TERMINATION.

- (a) This Agreement is effective on the date that it is signed by all parties or on December 1, 2016, whichever is later, and will continue in effect for an initial term ending on December 31, 2019.
- (b) This Agreement will run congruent with the Administrative Service Agreement three-year term, unless this Agreement has been terminated pursuant to section (c).
- (c) This Agreement may be terminated by either party upon 60 days written notice to the other party. Termination will not relieve either party of any obligation incurred or deprive either party of any benefit accrued prior to the termination date. Within 15 days of termination, PROGRESS LAKESHORE will provide CITY any and all items in its possession that are related to the CDBG and RLF programs, including, but not limited to, any agreement, amortization schedule, cash, documents, file, filing statement, instrument, investment, or loan in PROGRESS LAKESHORE's possession or under PROGRESS LAKESHORE's control.

2. PROGRESS LAKESHORE OBLIGATION.

PROGRESS LAKESHORE shall serve as advisory Staff to the Industrial Development

Corporation of the City of Manitowoc (IDC) and the Community Development Authority of the City of Manitowoc (CDA) governing committees (COMMITTEES) in conjunction with CITY Staff. PL will provide current loan reporting, loan approval recommendations, and monthly performance reporting through a mutually agreed upon Revolving Loan Tracking System to each respective committee: to the IDC for the Industrial RLF and to the CDA for the Downtown RLF. DOA CDBG required data shall be gathered, tracked and reported monthly to CITY for required DOA CDBG reporting. Monthly reports with required information to complete DOA reporting shall be supplied to CITY within 15 days after end of previous month. RLF current balance reports shall be reviewed on regular basis by respective COMMITTEES.

3. PROGRESS LAKESHORE AUTHORITY AND OBLIGATIONS.

- (a) PROGRESS LAKESHORE shall assist CITY with administration and management of the PROGRAMS.
- (b) PROGRESS LAKESHORE shall market and promote the PROGRAMS.
- (c) PROGRESS LAKESHORE shall screen potential borrowers and projects and receive and review all application materials.
- (d) PROGRESS LAKESHORE shall present to the COMMITTEES, in cooperation with CITY staff, recommendations on potential loans and on other relevant aspects of PROGRAM management.
- (e) Upon loan approval by the respective COMMITTEE, PROGRESS LAKESHORE shall draft, revise, execute, file, record, and perfect the required loan documents in accordance with rules and regulations established by DOA and the Federal Government.
- (f) PROGRESS LAKESHORE shall monitor compliance of all active RLF loans in accordance with the applicable agreements and contracts with DOA and the borrowers. PROGRESS LAKESHORE will supply CITY with RLF information needed to report on CITY's outstanding CDBG grants to complete DOA reports.
- (g) PROGRESS LAKESHORE shall establish an administrative reporting system that will be used to account for all transactions associated with CDBG and RLF activity separate and distinct from any other PROGRESS LAKESHORE activity. The CITY's Comptroller/Auditor or the Comptroller/Auditor's designee will be permitted to inspect, monitor, or review the administrative reporting system at any time during normal business hours or by appointment outside normal business hours.
- (h) PROGRESS LAKESHORE shall make available any and all of its PROGRAM documents necessary for CITY's external auditors to audit, review, and provide an opinion on management and its accounting of CDBG and RLF activity. The cost of any such audit will be borne by CITY.

4. CITY OBLIGATIONS.

- (a) CITY agrees to provide assistance to PROGRESS LAKESHORE during the transition to PROGRESS LAKESHORE taking over operating the RLF PROGRAMS on behalf of the CITY. CITY shall then continue to cooperate with PROGRESS LAKESHORE on the administration and management of the PROGRAMS.
- (b) CITY agrees to promptly provide to PROGRESS LAKESHORE copies of its original RLF PROGRAM files, as maintained by its Comptroller/Auditor and/or PROGRAM Manager,

for any outstanding RLF loans.

- (c) CITY will prepare and post COMMITTEE meeting notices in accordance with the Wisconsin Open Meetings law based on the information provided by PROGRESS LAKESHORE pursuant to this AGREEMENT.
- (d) CITY and the respective COMMITTEES shall retain control of all RLF cash balances and shall invoice borrowers, collect loan payments, disburse loan funds, and maintain account journals. CITY will report to PROGRESS LAKESHORE at least monthly on the status of the related account journals.
- (e) The CITY and respective COMMITTEES shall continue to have review and final approval authority of all RLF PROGRAM loans.
- (f) COMMITTEES shall have responsibility for CITY's PROGRAM Manuals. COMMITTEES may amend their respective Manuals provided that any amendment is made in accordance with DOA guidelines.
- (g) COMMITTEES shall comply with the Wisconsin open meeting law for any meeting, at which action, discussion, or information regarding the CDBG and RLF programs take place or is presented. COMMITTEES shall provide timely information about all such meetings to the Manitowoc CITY Clerk for preparation and publication of the meeting notices.

5. ADMINISTRATIVE COMPENSATION.

- (a) Compensation from CITY to PROGRESS LAKESHORE for administration of the PROGRAMS, as defined herein, shall reimburse actual labor costs for eligible work and related eligible expenses. PROGRESS LAKESHORE shall submit monthly reimbursement requests and supporting documentation of eligible labor and eligible expenses for Administrative Compensation.
- (b) PROGRESS LAKESHORE shall receive Administrative Compensation up to a maximum amount of 50% of allowed PROGRAM Administrative Funds during a calendar year under CDBG and RLF program rules and regulations. Provided that no payment reduces the corpus of the original grant amounts received from the State of Wisconsin.

6. INDEMNIFICATION.

- (a) PROGRESS LAKESHORE agrees to defend, hold harmless, and indemnify CITY, including its agents, boards, commissions, committees, departments, employees, officials, and officers, and COMMITTEES and their members and agents from any and all liability, including actions, causes of action, costs, charges, claims, damages, demands, expenses, fees, liens, losses, obligations, penalties, proceedings, and settlements of every kind and character for injury to persons (including Workers Compensation and death) or damage to property arising in connection with this AGREEMENT because of any improper or negligent act or conduct by PROGRESS LAKESHORE or any of PROGRESS LAKESHORE's agents, boards, employees, officials, and officers. PROGRESS LAKESHORE agrees that its duty to defend, hold harmless, and indemnify CITY and COMMITTEES will survive the termination of this AGREEMENT.
- (b) CITY agrees to defend, hold harmless, and indemnify PROGRESS LAKESHORE, including its agents, boards, committees, employees, officials, and officers, from any and all liability, including actions, causes of action, costs, charges, claims, damages, demands,

expenses, fees, liens, losses, obligations, penalties, proceedings, and settlements of every kind and character for injury to persons (including Workers Compensation and death) or damage to property arising in connection with this AGREEMENT because of any improper or negligent act or conduct by CITY or any of CITY's agents, boards, commissions, committees, departments, employees, officials, and officers or COMMITTEES or their members or agents while acting within the scope of their employment where protection is afforded by Wis. Stat. §§ 895.46(1) and 893.82. CITY agrees that its duty to defend, hold harmless, and indemnify PROGRESS LAKESHORE will survive the termination of this AGREEMENT.

7. NOTICE.

- (a) Any notice given under this AGREEMENT must be in writing and delivered in person, or by certified mail, delivery service, email, or facsimile transmission addressed as follows:

To CITY for meeting notices:

Jennifer Hudon
Manitowoc City Clerk
900 Quay Street
Manitowoc, WI 54220
Email: jhudon@manitowoc.org
Fax: 920-686-6959

To CITY, COMMITTEES:

Nicolas Sparacio, City of Manitowoc
Community Development
Director
900 Quay Street
Manitowoc, WI 54220
Email: nsparacio@manitowoc.org
Fax: 920-686-6939

To PROGRESS LAKESHORE:

Peter Wills
Progress Lakeshore, Inc.
202 N 8th Street, Ste., 101
Manitowoc, WI 54220
Email:
peter@progresslakeshore.org
Fax: 920-684-1915

- (b) Notice in person is complete at the time of delivery. Notice by certified mail is complete at the time of mailing. Notice by delivery service is complete at the time the notice is given to the delivery service. Notice by email or facsimile is deemed given at the time of transmission. The party giving notice has the burden of proving when notice was given.

(c) Either party may, in writing, designate another person or address where notice is to be given.

8. COMPLIANCE WITH LAWS.

Each party will, at its sole expense and at all times during the term of this AGREEMENT, promptly comply with all orders, laws, regulations, and rules of any and all federal, state, and local governments, including any agent, board, commission, committee, department, employee, official, or officer, now or hereinafter in effect that is applicable to this AGREEMENT.

9. WAIVER.

No condition, covenant, or term of this AGREEMENT may be waived unless the waiver is made in writing and signed by a duly authorized representative of each party. The waiver of a breach by a party of any condition, covenant, or term of this AGREEMENT will not constitute a waiver of that condition, covenant, or term or of any subsequent breach of the same or any other condition, covenant, or term of this AGREEMENT.

10. ENTIRE AGREEMENT.

This AGREEMENT constitutes the entire AGREEMENT between the parties and supersedes any and all other agreements, oral or written, between the parties with respect to its subject matter. Each party acknowledges that no agreement, inducement, promise, or representation has been made by or on behalf of any party except as specifically set forth herein. Each party agrees that no agreement, promise, or statement that is not contained in this AGREEMENT shall be binding on any party. Each party acknowledges and agrees it has relied on its own judgment in entering into this AGREEMENT.

11. MODIFICATIONS.

This AGREEMENT may not be altered, amended, or modified except by a written agreement which expressly states that it constitutes an amendment to this AGREEMENT and which has been signed by duly authorized representatives of the parties.

12. ASSIGNMENT.

Neither party may assign or in any other manner convey, license, sell, or transfer this AGREEMENT or any duty, interest, or right under this AGREEMENT to any other person, including any successor-in-interest, without the prior written consent of the other party.

13. SIGNATURE AUTHORITY.

The persons signing this AGREEMENT warrant that they have been authorized to enter into this AGREEMENT by and on behalf of their respective parties and that they have full and complete authority to bind their respective parties by executing this AGREEMENT.

14. CITY AUTHORITY.

CITY warrants and represents it has full authority from the Wisconsin Department of Administration, Community Development Block Grant program to enter this AGREEMENT.

IN WITNESS WHEREOF, the parties, intending to be legally bound, has executed this Agreement.

City of Manitowoc

Progress Lakeshore, Inc.

By: _____
Justin M. Nickels, Mayor

By: _____
Mark Herzog, President

Date: _____

Date: _____

By: _____
Jennifer Hudon, City Clerk

By: _____
Peter Wills, Executive Director

Date: _____

Date: _____