



Effective: March 6, 2019

**A RESOLUTION
OF THE CITY COUNCIL OF THE CITY OF NEW CARROLLTON
AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE
PRINCE GEORGE'S FINANCIAL SERVICES CORPORATION TO ADMINISTER A
REVOLVING LOAN FUND TO BE KNOWN AS THE CITY OF NEW CARROLLTON
ECONOMIC DEVELOPMENT INCENTIVE REVOLVING LOAN FUND**

WHEREAS, the City desires to help retain its corporate constituents and help them to expand and reinvest in the community, and to attract businesses to the City that will enhance the City's commercial tax base and create jobs by establishing a revolving loan fund to encourage and nurture commercial revitalization in the City of New Carrollton, which fund will be called the City of New Carrollton Economic Development Incentive Revolving Loan Fund; and

WHEREAS, the City of New Carrollton Economic Development Incentive Revolving Loan Fund will be available to established businesses located in or wishing to locate in a commercial zone within the corporate limits of the City and that have at least three years of profitable operating history. The Loan Fund may also be used as an incentive for the annexation of commercial property into the corporate limits of the City provided that the property owner seeking to annex property into the City has met the other requirements of the Program (as that term is hereinafter defined); however, funds may not be distributed until the annexation is complete; and

WHEREAS, the City does not have a non-profit development corporation designated to develop and implement the City's Economic Development Incentive Revolving Loan Fund; and

WHEREAS, Prince George's Financial Services Corporation ("FSC") is designated as a Community Development Financial Institution (CDFI) by the U.S. Treasury Department; and

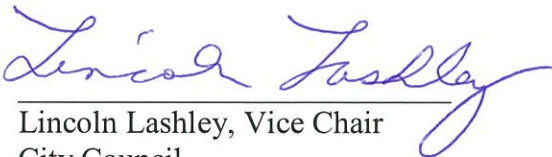
WHEREAS, FSC is a lender of non-traditional financing for small and minority-owned businesses in Prince George's County; and

WHEREAS, FSC, as a CDFI, is able to furnish administrative, accounting, legal and business services with capabilities of packaging, processing, closing and servicing local economic development loans; and

WHEREAS, the City desires to engage the services of FSC to administer the City's revolving loan program under the terms and conditions set forth in the Agreement attached hereto as Exhibit A, and FSC desires to serve as the City's revolving loan fund program administrator in accordance with the terms and conditions of the Agreement attached as Exhibit A.

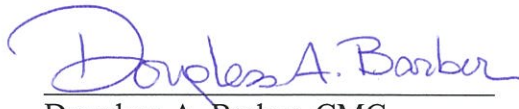
NOW THEREFORE BE IT RESOLVED by the City Council of the City of New Carrollton that the Mayor is authorized to sign an Agreement with the Prince George's Financial Services Corporation in substantially similar form to that which was presented to Council and is attached hereto as Exhibit A.

ADOPTED AND ENACTED BY THE CITY COUNCIL OF NEW CARROLLTON THIS 6th DAY OF MARCH, 2019.

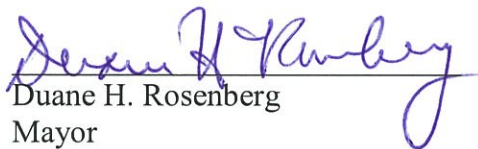

Lincoln Lashley, Vice Chair
City Council

[SEAL]

ATTEST:


Douglass A. Barber, CMC
City Clerk

APPROVED:


Duane H. Rosenberg
Mayor

Date: MARCH 6, 2019

CITY OF NEW CARROLLTON REVOLVING LOAN FUND AGREEMENT

This Agreement is made and entered into this 20th day of March, 2019 by between the Prince George's Financial Services Corporation (hereinafter "FSC"), a nonprofit corporation, with its principal place of business located at 1801 McCormick Drive, Suite 300, Largo, Maryland 20774 and the City of New Carrollton (hereinafter "The City") a Maryland Municipal Corporation with its principal place of business located at 6016 Princess Garden Parkway, New Carrollton, Maryland 20784.

RECITALS:

WHEREAS, the City desires to help retain its corporate constituents and help them to expand and reinvest in the community, and to attract businesses to the City that will enhance the City's commercial tax base and create jobs by establishing a revolving loan fund to encourage and nurture commercial revitalization in the City of New Carrollton, which fund will be called the City of New Carrollton Economic Development Incentive Revolving Loan Fund ("Loan Fund"); and

WHEREAS, the City previously established an economic development fund in the amount of \$1,000,000.00, from which the City desires to establish the Loan Fund in an amount up to \$700,000.00, as well as a grant program in an amount up to \$300,000.00; and

WHEREAS, the City does not have a non-profit development corporation designated to develop and implement the City's Loan Fund; and

WHEREAS, FSC is an established certified development company (CDC) under the provisions of Section 504 of the Small Business Investment Act (1958), hereinafter referred to as the "Act"; and

WHEREAS, FSC is a designated Community Development Financial Institution (CDFI) whose primary purpose is to serve as the premier lender of non-traditional financing for economic development and small and minority-owned businesses in Prince George's County; and

WHEREAS, FSC has an adopted mission to provide access to creative, flexible and innovative economic development financing solutions for small and minority-owned businesses by utilizing various State, Federal and local financing programs to complement loans and credit facilities provided by commercial lending institutions; and

WHEREAS, FSC, as a CDC, is required to market, furnish administrative, accounting, legal and business services with capabilities of packaging, processing, closing and servicing of loans under the U. S. Small Business Administration (SBA) Section 504 loan programs; and

WHEREAS, FSC is also authorized to administer non-SBA financing programs which are part of the overall effort to stimulate local economic development; and

WHEREAS, the City desires to utilize those technical services of FSC for the purposes of certain administrative and underwriting services in connection to the Loan Fund under the terms and conditions set forth herein; and

WHEREAS, FSC agrees to provide such services (as that term is defined in the Agreement) to the City of New Carrollton for the Loan Fund under the terms and conditions herein.

1. **NOW THEREFORE**, in consideration of the premises and the mutual agreements and covenants hereinafter set forth, and intending to be legally bound, the Parties, FSC and the City agree, as follows: Recitals. The Recitals are hereby incorporated by reference as operative provisions of this Agreement.

2. Term. The term of this Agreement is continuous from the execution of the Agreement and shall automatically be renewed from year to year; unless cancelled by the Parties pursuant to the provisions for giving notice under this Agreement.

3. Services. FSC shall serve as the City's Loan Fund program administrator and shall provide loan administration services to borrowers seeking loans under the City Loan Fund in accordance with the terms and conditions set forth herein. The Loan Funds will be used for the purpose of funding exterior improvements to commercial buildings, interior improvements to commercial buildings, reconstruction or remodeling of existing buildings, construction of new commercial buildings, furniture, fixtures and equipment, inventory and working capital. Additionally, Loan Funds may also be used as an incentive for the annexation of commercial property into the corporate limits of the City provided that the property owner seeking to annex property into the City has met the other requirements of the Loan Fund program; however, funds may not be distributed until the annexation is complete. The services will include the following:

- (a) FSC shall assist the City in marketing the program and publicizing the availability and eligibility requirements of the program;
- (b) FSC shall consult with the City to ensure that applicants have a City business license, are current on all license fees and taxes, and do not have any outstanding City Code violations.
- (c) FSC will submit loan applications for approval to the FSC Internal Loan Review Committee;
- (d) FSC shall be generally responsible for all loan underwriting, settlements and servicing activities for the program this shall include, but not be limited to, loan underwriting, loan collections and the maintenance of complete and accurate

automated records of the status of all loan accounts. FSC shall protect the City's interest in the promissory notes, deeds of trust and loan account that it has contracted to service.

- (e) FSC responsibilities include the assumption of full accountability for the actions taken by any service bureaus or company's utilized by, or acting for, FSC. The City will consider any action performed by such companies as having been undertaken by FSC itself. FSC shall maintain internal audit control systems to guard against dishonest, fraudulent or negligent acts, as well as errors and omissions, on the part of their officers, employees or other persons authorized by FSC to act on behalf of FSC. Accurate records of activities under these systems, including action taken as a result of information which is developed through the system, should be maintained and made available to the City upon request. FSC shall take prompt and appropriate corrective action, including notification to the City, when the internal audit or control system indicate that the circumstances so warrant.
- (f) Upon acceptance of a loan, FSC shall be responsible for the continued maintenance and custody on behalf of the City, of all loan, financial and construction documents and underwriting files for a period of seven (7) years from the time the loan is paid in full.
- (g) FSC shall maintain an individual record on each loan being underwritten and/or serviced for the City in which shall be retained the following: the original deed of trust, promissory note, and assignments there of; any documents or agreements changing the terms there of; all other original and copies of Loan, financial, construction documents including evidence of title (if applicable) which were

transmitted to FSC; all relevant servicing and liquidation documents; any correspondence originated during the servicers custody of the loan; and related documentation.

(h) FSC shall provide loan analysis and underwriting of potential applicants which will include analysis of:

a. Credit Worthiness of the Applicant

- i. Evaluate the Applicant's Personal Credit Reports and/or Dun & Bradstreet Reports;
- ii. Conduct a "clean hands" test by searching public Court records to determine if any liens or judgments have been filed against the Applicant's property by any municipality or government agency; and
- iii. Determine the extent of any current indebtedness.

b. Total Project Cost

- i. Determine the Total Project Costs; and
- ii. Determine if the Total Project Costs are justifiable and reasonable relative to the amount of funds being requested.

c. Sources and Uses

- i. Confirm the Sources and Uses of funds supporting the project;
- ii. Confirm that commitments for all other funds have been considered and properly documented; and

d. Repayment Sources and Supplemental Collateral

- i. Determine the primary and secondary sources of income that will repay the loan;

- ii. Analyze the cash flow or net operating income to determine if it is adequate to cover all combined debt service;
- iii. Determine if the detailed assumptions support the cash flow projections;
- iv. Determine if the primary and supplemental collateral coverage is adequate to secure the City's interest in the deal, and disclose any recommended collateral coverage below 100%;
- v. Determine if the financial strength and commitment of the guarantors are adequate to mitigate the risks associated with the loan;
- vi. Determine specific repayment terms and conditions.

e. Project Feasibility

- i. Determine if the return on investment is reasonable;
- ii. Evaluate the Applicant's market study and determine sustainability throughout the life of the loan (loan term);

f. Project File with Evaluations and Recommendations

FSC will collect and compile the project file, including:

- i. A written narrative of the project underwriting details;
- ii. Amortization Schedule of Loan Repayments for Applicant prepared by FSC or the contracted Loan Underwriter;
- iii. Exhibits and collateral materials supporting the funding request: including, but not limited to:
 - 1. Appraisal(s);
 - 2. Business Plan;

3. Financial Commitment Letters (from all participating lenders, equity investors, grantors, etc.);
4. Detailed Project Costs & Estimates;
5. Leases and/or Contract of Sale;
6. Market Study ;
7. Tax Returns, Financial Statements, and Credit Reports; and
8. Vicinity Map, Sketches Design Plans, and similar materials; and
9. Insurance documents.

(i) FSC shall provide the borrower with a commitment letter outlining the terms and conditions of the loan approval.

(j) FSC shall provide loan settlement services that include:

- i. Collect all necessary loan documentation to satisfy (SBA, Federal, State and local government banking) requirements to settle and fund loan request.
- ii. Prepare and coordinate funding request for our Bank Pool partners to received funds used to settle LRC approved loan request.
- iii. Coordinate loan closing activities between borrower, closing attorneys and title companies to settle and fund loan request.

(k) FSC shall perform servicing and asset management duties for each loan account that include, but are not limited to:

- i. **Collections/Payment Tracking:** Billing, collection and management of principal and interest payments and late fees. Track delinquent/defaulted borrowers and take necessary action. Work with attorneys to initiate legal action when necessary and initiate relationship with collections agency and manage those accounts.

Manage the loss mitigation, liquidation or workout process in the case of delinquencies.

- ii. **Monitoring Delinquency/Default:** Monitor delinquency/default of both individual borrowers and of the portfolio as a whole. For individual borrowers, track each borrower's payment history. For the portfolio, run aging reports monthly and track overall levels of delinquency. Provide information on the status of loan payments of current client's monthly and post-loan technical assistance.
- iii. **Loan Workouts:** Workout, loss mitigation & liquidation analysis and implementation. Manage loan workout activities including loan restructuring, asset liquidation, and all other negotiations with clients for non-performing loans.
- iv. Property inspections
- v. Financial statement, rent roll and tax return collection, review and analysis
- vi. Lease review, recommendation and approval
- vii. Assumption processing and recommendation
- viii. Partial releases or substitution of collateral
- ix. Researching and processing corrective legal documents related to the loan
- x. Easement processing and recommendation
- xi. Loan modification (default, term, etc.) request review, analysis and processing
- xii. Financial, legal and loan document covenant monitoring
- xiii. Processing of debtor additional requests (entity transfer, separation agreements, change of ownership, etc.)
- xiv. Risk rating

- xv. Property taxes compliance monitoring
- xvi. Administration & monitoring of insurance renewals, insurance loss and collection of proceeds
- xvii. Payoff processing
- xviii. Review, analysis and processing of subordination and forbearance agreements
- xix. UCC monitoring, continuations, releases, etc.
- xx. Letter of credit monitoring/renewals/releases
- xxi. Administration, monitoring and processing of assignments of collateral

(l) Provide the City with a monthly portfolio report on loan payments received in the reporting period and the current status of each account; including the trial balance, which includes new loans added, loans paid off, delinquencies and any legal action including notice of liens, bankruptcies, condemnations, foreclosures, probate proceedings, decedent's estates or any other legal action that effects the City's security interest. This report is due within fifteen (15) business days after the end of the month.

(m) FSC shall follow the best practices for portfolio management, servicing and loss mitigation as outlined in the Loan Administration Policy and Procedure Manual.

4. Fees. The City shall pay FSC an annual retainer of \$1,000.00 for the marketing and website updates and maintenance of the Loan Fund. The City will also pay an initial software and systems set-up fee of \$5,000.00. The annual retainer for marketing and the software and systems set-up fee is due upon the execution of this Agreement by the City. The City shall allow FSC to collect an application/loan packaging/origination fee equivalent to 1% of the loan amount and a 0.5% of the loan amount closing fee payable by the borrower. Any legal or third party report fees

related to the underwriting or closing of the loan is payable by the borrower. The City shall allow FSC to retain seventy-percent (70%) of all interest accrued on the outstanding principal balance. FSC shall remit principal payments and thirty percent (30%) of all interest accrued on the outstanding principal balance to the City on a quarterly basis.

5. Financial Condition. FSC shall have its financial statements independently audited following the close of the each fiscal year.

6. Fidelity Coverage, Direct Surety Bond and Errors and Omissions. FSC will maintain in effect at all time, and at their expense, and errors and omissions policy that protects FSC directors and the City against losses from dishonest, fraudulent or negligent acts errors or omissions by FSC's officers, employees and any other person duly authorized by FSC to act on behalf of FSC. No provision of the section requiring FSC to maintain insurance coverage to operate to diminish, restrict or otherwise limit FSC's responsibilities and obligations as set forth in this agreement.

7. Litigation Against Borrowers or Third Parties. The City shall reimburse FSC for all costs, including attorney's fees arising in connection with any legal action taken, at the City's discretion, by FSC, against a borrower, under the Loan program established by this Agreement, if necessary to recover collateral or remedy borrower defaults under the terms of the borrower's loan; provided, however, that prior to undertaking any such action, FSC will notify the City of the recommended legal action.

8. Ownership of Documents. All financial, settlement and construction documents, tax documents, insurance premium declarations, payment records, insurance claims files and correspondence, and all other papers and records, whether developed or originated by FSC or not, reasonably required to document any program loan or to service any such loan property shall be and remain at all times a property of the City. It is expressly understood that any of these records in the possession of FSC by reason of this Agreement shall immediately vest in the City and maybe retained and maintained by FSC only at the will of the City.

9. Other Payments, Taxes, Expenses. It is expressly understood and acknowledged by the parties hereto that the fees payable hereunder shall be paid in gross amount, without reduction for any Federal or State withholding or other payroll taxes, or any other governmental taxes or charges. The parties recognize and agree that FSC is an independent contractor of the City and is therefore responsible for directly assuming and remitting any applicable Federal or State withholding taxes, estimated tax payments, or any other fees, taxes or expenses whatsoever. In the event that FSC is deemed not to be an independent contractor by any local, state or federal government agency, FSC agrees to indemnify and hold harmless the City for any and all fees, costs and expenses, including but not limited to, attorneys' fees, incurred thereby for actions where FSC is deemed at fault. Except as may be specifically agreed upon by the parties in writing, FSC shall be entitled to no fee, bonuses, contingent payments, or any other amount in connection with the Services to be rendered hereunder, except as specified in Section 4 of this Agreement.

The parties hereto further agree that FSC employees, as independent contractors, shall not be entitled to the benefits and rights of City employees and shall not be entitled to any City fringe benefits, including but not limited to retirement benefits or life insurance. Further, the City shall have no obligation to reimburse, pay directly or otherwise satisfy any expenses of FSC in connection with the performance of its obligations under this Agreement.

10. Binding Effect of Agreement. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors and assigns.

11. Non-assignability. FSC shall not assign or transfer any interest or claim under this Agreement except as may be agreed upon and authorized in writing by the City.

12. Right to Terminate. The Services may be terminated by either party upon thirty (30) days' notice. In the event that the City terminates this Agreement, FSC shall immediately and no event no later than fourteen (14) business days after receipt of notice of termination, turn over to the City all of its files and other documents related to any loans extended under the Loan Program and shall immediately wire transfer to the City all undisbursed amounts remaining in the Loan Fund.


13. Entire Understanding. This Agreement contains the entire understanding between the parties, and any additions or modification hereto may only be made in writing and executed by both parties.

14. Applicable Law. This agreement shall be interpreted in accordance with the laws of the State of Maryland. Any suit to enforce the terms of this Agreement, or for breach, hereof shall be brought and/or maintained exclusively in the courts of the state of Maryland for Prince George's County and the parties expressly consent to the jurisdiction thereof, and waive any right they might otherwise have to bring, transfer, or remove such action in or to the courts of any other jurisdiction.

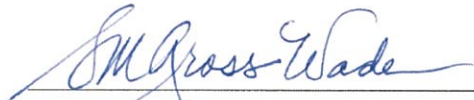
15. Severability. If any term or provision of this Agreement shall be held invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be enforced to the fullest extent permitted by law.

IN WITNESS WHEREOF, of the date hereinabove set forth, the parties hereto have executed this Agreement and caused these presents to be executed by the undersigned authorized officers of the respective Parties.

WITNESS:



PRINCE GEORGE'S FINANCIAL
SERVICES CORPORATION (FSC)



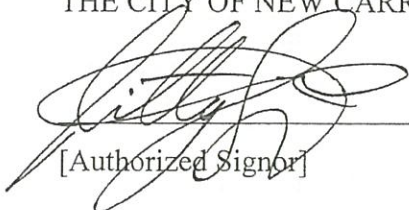
Shelly Gross-Wade, President & CEO

DATE: March 20, 2019

WITNESS:



THE CITY OF NEW CARROLLTON



[Authorized Signor]

DATE: MARCH 20, 2019