

**FIRST AGREEMENT BETWEEN THE ERIE COUNTY GAMING REVENUE
AUTHORITY
AND
BRIDGEWAY CAPITAL, INC.
FOR
AN EMERGENCY CORONAVIRUS COVID-19 LOAN FUND**

THIS AGREEMENT, entered this ___ day of _____, 2020 by and between the:

Erie County Gaming Revenue Authority, a body corporate and politic organized and existing under the provisions of the Pennsylvania Economic Development Financing Law, 73 P.S. §§ 371 et seq., with offices at 5340 Fryling Road, Suite 201, Erie, Pennsylvania 16510, hereinafter referred to as “ECGRA,”

AND

Bridgeway Capital, Inc., a 501(c)(3) nonprofit corporation, organized and existing under the laws of the Commonwealth of Pennsylvania, with offices at 707 Grant Street, Suite 1920, Pittsburgh, Pennsylvania 15219, hereinafter referred to as “Bridgeway Capital.”

WHEREAS, the World Health Organization has declared the Coronavirus COVID-19 outbreak to be a global pandemic; and

WHEREAS, the President of the United States, the Governor of Pennsylvania and the County Executive of Erie County, Pennsylvania, have all declared a state of emergency in their respective jurisdictions due to the coronavirus COVID-19 outbreak; and

WHEREAS, the Governor and the County Executive have independently ordered that non-essential stores and certain other businesses be shut down, and that citizens practice social distancing, all of which are necessary public health strategies to limit the spread of coronavirus COVID-19, but which have an associated negative economic effect on Erie County businesses and economy; and

WHEREAS, ECGRA and Bridgeway Capital have partnered to develop a coronavirus COVID-19 Emergency Loan Fund (the “Emergency Loan Fund”) to provide loans to small businesses within Erie County that have demonstrated actual negative economic impact due to effects of coronavirus COVID-19; and

WHEREAS, pursuant to this Agreement and the CDFI Note and Credit Agreement, ECGRA has determined to loan Eight Hundred Thousand Dollars (\$800,000.00) to Bridgeway Capital to create the Emergency Loan Fund to assist those Erie County small businesses negatively affected by the effects of coronavirus COVID-19.

NOW THEREFORE, on the date first identified above, and in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt of

which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows.

1. Incorporation. The recitations above are incorporated hereby as if more fully set forth herein.
2. Relationship of the Parties. ECGRA and Bridgeway Capital are separate and distinct entities who intend to act independent of one another as parties to the within contract. Employees of Bridgeway Capital shall not be considered the employees, agents or ostensible agents of ECGRA. The employees of ECGRA shall not be considered employees, agents or ostensible agents of Bridgeway Capital.
3. Term. This Agreement shall commence upon the date of the last party to sign the Agreement, and shall continue until the maturity date as determined by the CDFI Note and Credit Agreement entered into between the parties.
4. Activities.
 - a. Bridgeway Capital will use funds received from ECGRA to create the coronavirus COVID-19 Emergency Loan Fund to provide low interest loans to small businesses that have fifty (50) or less employees, that are located in Erie County, and which have demonstrated actual negative economic impact on their business as a result of coronavirus COVID-19's effect on the business and the economy ("Qualified Businesses"). Bridgeway Capital shall determine, in its sole discretion, whether a business is qualified for funding. The funds provided by the Emergency Loan Fund shall be used to fund operating expenses.
 - b. All such lending shall be made, and Bridgeway Capital shall utilize funds provided by ECGRA, pursuant to the following Covenants:
 - (i) Terms by ECGRA. The following terms, and those contained within the CDFI Note and Credit Agreement, apply to the loan made to Bridgeway Capital:
 - i. Repayment. All Principal must be paid back to ECGRA within seventy-eight (78) months of the date of this Agreement.
 - ii. Interest Rate. 0%.
 - (ii) Terms by Bridgeway Capital. The following terms apply to loans made by Bridgeway Capital to Qualified Businesses:
 - iii. Repayment. Three (3) months of no principal or interest payments; one (1) year of interest only payments; up to sixty (60) months of principal and interest payments.

- iv. Interest Rate. The interest rate that may be charged by Bridgeway Capital may not exceed ____%.
 - v. Loan Ceiling. Loans may not exceed \$50,000 to any one (1) Qualified Business without written approve by ECGRA's Executive Director.
 - vi. Loan Disbursement. Bridgeway Capital shall close on all loans within one-hundred and twenty (120) days of the date of this Agreement. Excess funds not disbursed shall be returned to ECGRA within thirty (30) days.
- (iii) Use Restriction. Bridgeway Capital shall not utilize funds supplied by ECGRA to: (1) acquire or finance the acquisition of a project which shall cause the removal of a plant, facility or other business from one area of the Commonwealth to another area of the Commonwealth, unless the secretary of the Department of Community and Economic Development has found that relocation of the plant, facility or other business is necessary in order for the plant, facility or other business to remain competitive or to prevent the plant, facility or other business from leaving this Commonwealth; (2) enter into any agreement to finance the acquisition of a project in excess of the cost of the project; (3) engage in business, trade or commerce for a profit as an owner or lessee of a project, or otherwise; (4) finance any project which will be used in whole or in part for illegal activities; and, (5) finance any project which is not located within Erie County, Pennsylvania.
- (iv) Geographic Limitation. Bridgeway Capital shall only provide financial assistance with funds provided by ECGRA to those businesses primarily located in Erie County, Pennsylvania, and with the specific condition that such funds shall only be invested within the geographic boundaries of Erie County, Pennsylvania, and may not be invested in any business locations or operations outside of Erie County, Pennsylvania.
5. Performance Monitoring. In order to assess Bridgeway Capital's performance in accordance with the goals and standards stated herein, Bridgeway Capital shall, in addition to any other documentation reasonably requested by ECGRA, provide the following documentation to ECGRA:
- a. Audits.
 - (i) Bridgeway Capital's annual audited financial statements shall be provided annually throughout the term of this Agreement and within thirty days of receipt by Bridgeway Capital.
 - (ii) Bridgeway Capital shall hire and pay for an independent CPA to conduct a project audit of Bridgeway Capital provided through this

Agreement. The audit shall, at a minimum, certify compliance with this Agreement, with all CDFI requirements and with all covenants of other lenders. The audit shall be presented to the ECGRA Board of Directors as part of the final performance report.

b. Disbursement Reports.

(i) Bridgeway Capital shall submit to ECGRA a Disbursement Report every thirty (30) days during the one hundred and twenty (120) day disbursement period that contains:

- Number of loans closed with list of loan recipients by organization's name & contact person, or, if loan recipients object to public disclosure of their financial relationship with Bridgeway Capital, an anonymous but unique identifier and a non-identifying description of the recipient;
- Amount of each loan and repayment terms.
- Location verification for each Qualified Business that was funded
- Total number of loans applications received, in underwriting with proposed closing dates and rejected.

c. Bi-Annual Performance Reports

(i) Bi-annual reports shall, at a minimum, indicate the following information pertaining to loans made pursuant to this Agreement:

- job creation/retention attributed to loans made pursuant to this Agreement;
- list of loan recipients by organization's name & contact person, or, if loan recipients object to public disclosure of their financial relationship with Bridgeway Capital, an anonymous but unique identifier and a non-identifying description of the recipient;

(ii) Performance reports shall be provided to ECGRA until such time that Bridgeway Capital has loaned all of the funding provided by ECGRA pursuant to this Agreement, the Credit Agreement and the CDFI Note, and, until such point, shall be due on or before February 1st, and August 1st of each year.

d. Final performance report. Within 60 days of the Agreement Term or Termination (whichever is earliest), a final report shall be submitted containing all information included in the bi-annual report along with a summary of the final portfolio balance indicating how Bridgeway Capital met program objectives.

The final performance report shall, at the request of the Executive Director, be accompanied by a presentation to the ECGRA Board.

6. ECGRA Grant in Event of Default by Bridgeway Capital Debtor. In the event a third party defaults (the "Third Party in Default") on a loan made by Bridgeway Capital pursuant to the terms of this Agreement (the "Sub-Note"), and after Bridgeway Capital undertakes commercially reasonable efforts to collect such outstanding debt from the Third Party in Default, the outstanding principal balance of the Sub-Note related to such debt in default and owed by the Third Party in Default, and the value of the reasonable costs of collection incurred by Bridgeway Capital, shall be forgiven by ECGRA to Bridgeway Capital (the "Forgiven Debt"). The Forgiven Debt shall be determined to have been a grant from ECGRA to Bridgeway Capital. The amount of principal of the unpaid Forgiven Debt shall be credited towards the total principal amount then outstanding under the terms of the Note between ECGRA and Bridgeway Capital. To initiate the transformation of the loan from ECGRA to Bridgeway Capital to a grant, Bridgeway Capital shall certify to ECGRA, in writing, the efforts made to collect on the debt and that the debt has been determined to be uncollectable. After such certification, if Bridgeway Capital collects on the debt in default, Bridgeway Capital shall remit total principal amount collected to ECGRA within sixty (60) days of such collection.

7. Drawdown. Bridgeway Capital shall submit to ECGRA a drawdown request on a weekly basis for the total value of each loan to be closed in the next week. The drawdown request shall be submitted no later than 12:00 p.m. on Thursday of each week. ECGRA shall review each drawdown request, and once approved, electronically transfer the funds to Bridgeway Capital no later than 5:00 p.m. on Friday of each week.

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8. Federal or State Relief. In the event that the federal or state government approves and issues a stimulus or other relief package in response to the COVID-19 national emergency, and such funds are distributed to Bridgeway Capital for the purpose of deployment to businesses, including those within Erie County, and the intent of those funds is to provide funding in a manner and for a purpose substantially similar to the funding provided by this Agreement, the CDFI Note and the Credit Agreement, ECGRA reserves the right to provide Bridgeway Capital with a ten (10) day written notice of cancellation of further distributions pursuant to this Agreement, the CDFI Note and the Credit Agreement. Any closings for which a drawdown has been requested by Bridgeway Capital prior to the issuance of the above referenced notice shall be processed by ECGRA.

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~~7.9.~~ Default. Failure to meet any provision of this Agreement shall constitute a Default by Bridgeway Capital. In the event of Default, ECGRA will shall utilize the Default procedures contained within the Credit Agreement and CDFI Note.

~~8.10.~~ Suspension and Termination. If Bridgeway Capital fails to correct substandard performance and thus cure the Default within the period of time stated by ECGRA, the Agreement may be Suspended or Terminated at ECGRA's sole discretion pursuant to the terms and conditions of the CDFI Note and Credit Agreement.

~~9-11.~~ Cooperation. Bridgeway Capital shall cooperate in every reasonable way with ECGRA to facilitate the purposes and intent of this Agreement. ECGRA shall cooperate in every reasonable way to facilitate the purposes and intent of this Agreement.

~~10-12.~~ Indemnification. Bridgeway Capital hereby agrees to release, indemnify and hold ECGRA harmless from any claims, damages, losses, law suits, causes of action or demands arising out of the good faith provision of services by ECGRA hereunder, except to the extent that such claims, losses, lawsuits, causes of action or demands are based on the negligence, recklessness, or intentional misconduct of ECGRA and/or its agents, employees, and/or personnel.

~~11-13.~~ Right-to-Know Law. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101 - 67.3104, applies to this Agreement. (the “RTKL”). Upon notification to Bridgeway Capital that ECGRA has received a request for records under the RTKL, Bridgeway Capital shall fully assist ECGRA in responding to the request. Such assistance shall include, at a minimum, providing ECGRA, within three (3) days, access to, and copies of, any document or information arising out of the Agreement in Bridgeway Capital’s possession that ECGRA deems a Public Record (“Requested Information”) and providing such other assistance as ECGRA may request. If Bridgeway Capital fails to provide the Requested Information to ECGRA within the required time period, the failure shall be considered an event of default, and Bridgeway Capital shall pay, indemnify and hold ECGRA harmless for any damages, penalties, detriment or harm that ECGRA may incur as a result of Bridgeway Capital’s failure, including reasonable attorney’s fees incurred by ECGRA in the administration of the Right-to-Know Request and any appeal therefrom. If Bridgeway Capital refuses to supply the Requested Information, and the Pennsylvania Office of Open Records, or the Pennsylvania Courts, determines that a record in the possession of Bridgeway Capital is a public record, in addition to the foregoing, liquidated damages of \$200 per day will be assessed for each calendar day beyond the date Bridgeway Capital was required to provide the record by the Pennsylvania Office of Open Records, or, upon appeal, the Pennsylvania Courts. Bridgeway Capital’s duties under this section survive the termination of this Agreement and as long as Bridgeway Capital has Requested Information in its possession.

~~12-14.~~ Entire Contract. This Agreement, the CDFI Note and Credit Agreement constitute the entire contract between the parties hereto and there are no other understandings, oral or written, relating to the subject matter hereof. This Agreement may not be changed, modified or amended, in whole or in part, except in writing, signed by all parties.

~~13-15.~~ Binding Effect. This Agreement and all of its terms and conditions shall extend to and be binding upon the parties hereto, and upon their respective heirs, executors, administrators, successors, and assigns.

~~14-16.~~ Prohibition against Assignment. This agreement shall not be assigned by either party without written consent of the other being first obtained.

~~15-17.~~ Severability. If any provision of this Agreement shall be held invalid under any applicable laws, such invalidity shall not affect any other provision of this Agreement that can be given effect without the invalid provision and, to this end, the provision hereof is severable.

~~16-18.~~ Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.

~~17-19.~~ Governing Law. This Agreement shall be constructed under the laws of the Commonwealth of Pennsylvania. The venue for any litigation relating hereto shall be the Erie County, Pennsylvania Court of Common Pleas.

~~18-20.~~ Notices. Communications and details concerning this contract shall be directed to the following contract representatives:

ECGRA
Tom Maggio, Grants Manager
Erie County Gaming Revenue Authority
5340 Fryling Road, Suite 201
Erie, PA 16510
814-897-2690

With a copy to:

Timothy S. Wachter, Esq.
Knox McLaughlin Gornall & Sennett,
P.C.
120 West 10th Street
Erie, PA 16501

Fund
Matt Madia, Chief Strategy & Dev Officer
Bridgeway Capital, Inc.
707 Grant Street, Suite 1920,
Pittsburgh, Pennsylvania 15219
412-201-2450

With a copy to:

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have set their hands and seals on the date first above written.

ERIE COUNTY GAMING REVENUE
AUTHORITY

BRIDGEWAY CAPITAL, INC

By _____
Michael Paris,
Board Chairman

By _____
Mark Peterson
President and CEO

Attest: _____
David Sample, Secretary

Attest: _____
Assistant Secretary

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