

**2020-094 EXHIBIT D**  
**LOAN AGREEMENT**

THIS **LOAN AGREEMENT** (this “Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2020 (the “Effective Date”), by and among the **COUNTY OF SUMMIT, OHIO**, an Ohio charter County (“Lender”) and **GREATER AKRON CHAMBER OF COMMERCE**, an Ohio non-profit corporation (“Borrower”).

WHEREAS, of even date herewith, the Lender and Borrower have entered into a certain Agreement whereby the Lender will grant to Borrower the sum of \$530,000 out of Lender’s General Fund for distribution by Borrower to eligible small businesses located in Summit County through the Summit County COVID-19 Small Business Emergency Relief Grant Program (the “Program”); and

WHEREAS, of even date herewith, the Lender and Borrower have entered into a certain Agreement whereby the Lender will grant to Borrower the sum of \$220,000 out of Lender’s Community Development Block Grant Funds (“CDBG Funds”) for distribution by Borrower to eligible small businesses in Summit County (“CDBG-eligible Businesses”) through the Program (“CDBG Agreement”); and

WHEREAS, pursuant to the CDBG Agreement, the Borrower must first make any grant distributions to CDBG-eligible Businesses out of its own funds and then seek reimbursement out of CDBG Funds from the Lender for all grants properly made under the CDBG Agreement; and

WHEREAS, Lender desires to provide Borrower with a certain line of credit funded by Lender’s General Fund of the sum of \$220,000, in addition to the grant funds identified above, that Lender may draw upon in order to advance grants to CDBG-eligible Businesses that will be reimbursed by the CDBG Funds under the CDBG Agreement, and Borrower desires to borrow the same.

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **The Loan.** Lender hereby establishes for a period of ten (10) months a line of credit for Borrower in the amount of Two Hundred Thirty (\$220,000.00) (the “Loan”), evidenced by the promissory note in the form attached hereto as **EXHIBIT A** (the “Note”) the proceeds of which shall strictly be used by the Borrower to provide grants to CDBG-eligible Businesses under the Program that will be reimbursed with CDBG Funds. So long as there has not been an Event of Default, Lender will make the Loan available to Borrower up to \$220,000, beginning on the Effective Date and ending on the Maturity Date. If Borrower shall request any draw on the Loan, other than the initial draw, then Borrower shall certify to Lender in writing that there are no Defaults and that all representations and warranties of Borrower hereunder are true, complete, and accurate.
2. **Lender Costs and Fees.** There shall be no costs or fees associated with the Loan that will be owed by Borrower to Lender.

3. Default. For purposes of this Agreement and all documents delivered in connection herewith (collectively, the “Loan Documents”), any one or more of the following shall be considered an “Event of Default”: (i) failure by Borrower to make any payment of principal, interest, and/or any late fees incurred in connection therewith, when and as due under the Note, if such nonpayment remains uncured for a period of three (3) days after Borrower has given written notice of the same; (ii) a material breach by Borrower of any term, condition, representation, warranty, or covenant contained in this Agreement, or (iii) Borrower shall be generally not paying debts as they become due, or shall admit in writing its inability to pay such debts generally, or shall make a general assignment for the benefit of creditors; or any proceeding shall be instituted by or against Borrower, seeking to adjudicate Borrower bankrupt or insolvent, or seeking dissolution, liquidation, winding up, reorganization, arrangement, adjustment, protection, relief or composition of Borrower or the debts of Borrower under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian or other similar official for Borrower or for any substantial part of the property of Borrower, and, in the case of any such proceeding instituted against Borrower, or Borrower shall take any action to authorize or effect any of the actions set forth above in this subsection. Time shall be considered of the essence with respect to this Agreement and all instruments delivered in connection herewith. Borrower shall reimburse Lender for any costs, expenses, legal fees, and other out-of-pocket costs incurred by Lender as a result of, or in connection with, an Event of Default, including any litigation to enforce this Agreement and/or the Note.
4. Indemnity. Borrower agrees to indemnify, defend, and hold harmless Lender, its partners, directors, officers, managers, employees, attorneys, and agents from any and all claims, damages, causes of action, lawsuits, costs, and expenses (including reasonable attorney’s fees) arising from Borrower’s Default and/or any breach of any of the representations, acknowledgements, warranties, or covenants contained in any Loan Document. If Borrower shall default under the terms of this Agreement or under the Note, Borrower hereby agrees to pay and/or reimburse Lender hereof for any costs, expenses and/or fees (including, but not limited to, reasonable attorney’s fees) which Lender incurs in enforcing the terms thereof and/or collecting the underlying indebtedness.
5. Conditions to Loan. This Agreement and Lender’s obligation to make the Loan to Borrower hereunder shall become effective once the following conditions precedent shall have been satisfied in a manner satisfactory to Lender (the “Effective Date”):
  - a. Representations and Warranties; No Default. The following statements shall be true and correct: (i) the representations and warranties of Borrower contained in this Agreement and in each other Loan Document and certificate or other writing delivered to Lender on or before the Effective Date are true and correct on and as of the Effective Date; and (ii) on the Effective Date, no Default or Event of Default has occurred and is continuing under this Agreement.
  - b. Legality. The obligations of Lender under this Agreement shall not contravene

any law, rule or regulation applicable to Lender.

- c. Delivery of Documents. Lender shall have received each of the Loan Documents referenced herein.
  - d. Proceedings; Receipt of Documents. All proceedings in connection with the transactions contemplated by this Agreement, and all documents incidental thereto, shall be reasonably satisfactory to Lender, and Lender shall have received all such information and such counterpart originals or certified or other copies of such documents as Lender may reasonably request.
  - e. Material Adverse Effect. Since March 1, 2020, there has not been a “Material Adverse Effect,” defined as material adverse effect on any of (a) the assets, properties or financial condition of the Borrower or (b) the legality, validity or enforceability of this Agreement or any of the other Loan Documents or (c) the aggregate rights and remedies of the Lender under this Agreement or any of the other Loan Documents.
6. Representations and Warranties of Borrower. Borrower represents and warrants to Lender as follows:
- a. Capacity. Borrower has the legal capacity to execute, deliver and perform this Agreement and each other Loan Document to which Borrower is a party.
  - b. No Violation. The execution, delivery and performance by Borrower of each Loan Document to which Borrower is a party (i) do not and will not contravene any law or any contractual restriction binding on or otherwise affecting Borrower, or any of the properties of Borrower, and (ii) do not and will not result in or require the creation of any lien, security interest or other charge or encumbrance upon or with respect to any of the properties of Borrower, other than the security interests created by the Loan Documents.
  - c. Approvals. No authorization or approval or other action by, and no notice to or filing with, any governmental authority or other regulatory body, and no consent of any other person or entity, is required for the due execution, delivery and performance by Borrower of any Loan Document to which Borrower is or will be a party.
  - d. Enforceability of Loan Documents. Each Loan Document to which Borrower is a party constitutes, and each Loan Document to which Borrower will be a party, when delivered hereunder, will constitute, a legal, valid and binding obligation of Borrower, enforceable against Borrower in accordance with its respective terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or other laws affecting creditors’ rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

- e. Litigation. There is no pending or, to the knowledge of Borrower, threatened action, suit or proceeding affecting Borrower before any court or other governmental authority or any arbitrator, which (i) is reasonably likely to have a Material Adverse Effect or (ii) purports to affect the legality, validity or enforceability of any Loan Document or the consummation of any transaction contemplated hereby.
  - f. Compliance with Law, Etc. Borrower is not in violation of any law or any term of any material agreement or instrument binding on or otherwise affecting Borrower or any of the properties of Borrower, the violation of which could reasonably be expected to have a Material Adverse Effect.
  - g. Taxes, Etc. All federal, state and local tax returns and other reports required by applicable law to be filed by Borrower have been filed, and all taxes and assessments imposed upon Borrower or any property of Borrower and which have become due and payable on or prior to the date hereof have been paid, except to the extent contested in good faith by proper proceedings which stay the imposition of any penalty or fine or stay the foreclosure of any lien resulting from the non-payment thereof and with respect to which adequate reserves have been set aside for the payment thereof.
  - h. Full Disclosure. Neither this Agreement nor any Loan Document contains any material misstatement of fact or omits to state a material fact or any fact necessary to make the statements contained herein or therein not misleading in any material respect in light of the circumstances under which they were made. There is no fact known to Borrower that materially adversely affects the financial condition of Borrower, or that otherwise is reasonably likely to have a Material Adverse Effect, that has not been disclosed to Lender in writing prior to the Effective Date.
7. Affirmative Covenants. So long as any principal of or interest on the Loan or any other obligations (whether or not due) shall remain unpaid or Lender shall have any Commitment hereunder, Borrower will, unless Lender shall otherwise consent in writing:
- a. Reporting Requirements. Furnish to Lender:
    - i. promptly after the commencement thereof but in any event not later than five (5) business days after service of process with respect thereto on, or the obtaining of knowledge thereof by, Borrower, notice of each action, suit or proceeding at law, in equity, in arbitration or before any other governmental authority or other regulatory body or arbitrator that could reasonably be expected to have a Material Adverse Effect;
    - ii. promptly but in any event not more than five (5) business days after the occurrence thereof, notice of the occurrence of either any Default or Event of Default under this Agreement, which notice shall contain a brief

description of the nature of such Default or Event of Default and any action with respect thereto taken or contemplated to be taken by Borrower;

iii. promptly but in any event not more than five (5) business days after the occurrence thereof, notice of the occurrence of either any default or event of default under any agreement, which notice shall contain a brief description of the nature of such default or event of default and any action with respect thereto taken or contemplated to be taken by Borrower; and

iv. promptly upon request, such other information concerning the financial condition of Borrower as Lender from time to time may reasonably request.

- b. Compliance with Laws, Etc. Comply in all respects with all applicable laws, rules, regulations and orders, such compliance to include, without limitation, (i) paying before the same become delinquent all taxes, assessments and governmental charges or levies imposed upon Borrower or upon Borrower's income or profits or upon any of Borrower's properties and (ii) paying all lawful claims which if unpaid might become a lien or charge upon any of Borrower's properties, except in each case to the extent contested in good faith by proper proceedings which stay the imposition of any penalty or fine or stay the foreclosure of any lien resulting from the non-payment thereof and with respect to which adequate reserves have been set aside for the payment thereof, unless the failure to so comply could not reasonably be expected to have a Material Adverse Effect.
- c. Further Assurances. Do, execute, acknowledge and deliver, at the sole cost and expense of Borrower (provided such costs and expenses are reasonable and customary), all such further acts and assurances as Lender may reasonably require from time to time in order to better assure, convey, grant, assign, transfer and confirm unto Lender the rights now or hereafter intended to be granted to Lender under this Agreement, any Loan Document or any other instrument under which any Borrower may be or may hereafter become bound to effect the intention or facilitate the performance of the terms of this Agreement.
8. Negative Covenants. So long as any principal of or interest on the Loan or any other Obligations (whether or not due) shall remain unpaid or Lender shall have any Commitment hereunder, Borrower will not, without the prior written consent of Lender:
- a. Indebtedness. Create, incur or suffer to exist any Indebtedness that is senior in priority to the Promissory Note issued in connection herewith, other than indebtedness owing to Lender;
- b. Guaranties, Etc. Assume, guarantee, endorse or otherwise become directly or contingently liable for indebtedness of any other Person, other than:
- i. guaranties by endorsement of negotiable instruments for deposit or

collection in the ordinary course of business;

ii. guaranties existing on the date hereof; and

iii. guaranties in favor of Lender.

9. Changes to Agreements. Agree or consent to any amendment, modification, supplement or waiver of any provision of any agreement if such amendment, modification, supplement or waiver could reasonably be expected to have a Material Adverse Effect.
10. No Partnership or Agency. Except as explicitly set forth in this Agreement or any instrument delivered in connection herewith, nothing contained herein shall be construed to imply a joint venture, partnership, or principal-agent relationship between or among the parties, and no party shall have the right, power, or authority to obligate or bind the other party in any manner whatsoever.
11. Notices. Any notice required or permitted under this Agreement shall be sent via registered or certified mail to the following:

<b>Borrower</b>	<b>Lender</b>
Greater Akron Chamber 388 S. Main St. Suite 205 Akron, OH 44311	County of Summit, Ohio 175 S. Main St. 8 <sup>th</sup> Floor Akron, OH 44308  with a copy to:  Deborah S. Matz Director of Law & Risk Management 175 S. Main St. 8 <sup>th</sup> Floor Akron, OH 44308

12. Authority of Borrower. Borrower represents and warrants to Lender that it is duly authorized to execute this Agreement and enter into the transaction contemplated herein.
13. Choice of Law; Jurisdiction; Venue. This Agreement will be construed under Ohio law without regard to the principles of the conflicts of laws. The parties agree that any dispute may be litigated only in state or federal courts situated in Summit County, Ohio. The parties agree to submit to personal jurisdiction in such courts and waive all questions of jurisdiction and venue with respect thereto.
14. Assignment. No party may assign its rights under this Agreement without the prior

written consent of all parties hereto.

15. Entire Agreement. This Agreement and the documents and instruments delivered in connection herewith constitute the entire and sole agreement between the parties with respect to the Loan. For the avoidance of doubt, it shall not be construed to amend or alter Borrower's obligations to Lender under any other debt or equity instrument or agreement executed prior to the Effective Date.
16. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
17. Waiver; Remedies. No failure on the part of Lender to exercise, and no delay in exercising, any right hereunder or under any of the Loan Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right under any Loan Document preclude any other or further exercise thereof or the exercise of any other right. The rights and remedies of Lender provided herein and in the other Loan Documents are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law. The rights and remedies of Lender under any Loan Document against any party thereto are not conditional or contingent on any attempt by Lender to exercise any of its rights and remedies under any other Loan Document against such party or against any other person or entity.
18. Severability. In case one or more of the provisions contained herein shall for any reason be unenforceable, invalid, or illegal in any respect, such unenforceability, invalidity, or illegality shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such unenforceable, invalid, or illegal provisions had not been contained herein or if it is equitable under the circumstances, such unenforceable, invalid, or illegal provisions shall be reformed, amended, and/or construed so as to be enforceable, valid, and legal.

[signature page follows]

IN WITNESS WHEREOF, the parties have executed this Loan Agreement as of the Effective Date.

**LENDER:**  
COUNTY OF SUMMIT, OHIO

By: \_\_\_\_\_  
Ilene Shapiro, Executive

**BORROWER:**  
GREATER AKRON CHAMBER OF COMMERCE

By: \_\_\_\_\_  
Steve Millard, President & CEO

DRAFT



**EXHIBIT A**

Note – See attached.

DRAFT

**PROMISSORY NOTE**

\$220,000.00

Akron, Ohio  
\_\_\_\_\_, 2020  
(the "Effective Date")

FOR VALUE RECEIVED, the undersigned ("Maker") promises to pay to the order of **THE COUNTY OF SUMMIT, OHIO**, an Ohio charter county ("Holder"), the sum of Two Hundred Twenty Thousand and 00/100 Dollars (\$220,000.00), or so much as has been advanced by Holder, with interest on the unpaid principal balance at a rate of Zero Percent (0.00%) per annum. All principal and interest shall be paid, together with interest and any late fees, no later than January 31, 2021. Holder shall not be required to advance any sum hereunder in increments of less than Five Thousand Dollars (\$5,000.00) per advance, and the Lender shall be given five (5) business days' prior written notice of any such advance.

If any amount is not paid when due, then: i) Maker shall pay a late payment fee of five percent (5.00%) of the amount due and owing for each thirty (30) day period that the payment is late and unpaid, and ii) the outstanding principal balance shall accrue interest at a rate of one and one-half percent (1.5%) per month. All payments made hereunder will be applied in the following order: i) late payment fees, ii) accrued default interest, iii) accrued regular interest, and iv) principal balance. If Maker shall default under the terms of this Note or the Loan Agreement with which it was delivered, Maker hereby agrees to pay and/or reimburse Holder hereof for any costs, expenses and/or fees (including, but not limited to, reasonable attorney's fees) which the holder hereof incurs in enforcing the terms of this Note, the Loan Agreement, and collecting the underlying indebtedness.

This Note may be prepaid in whole or in part at any time or times without penalty. Any such prepayment shall not defer, delay, or excuse the payment of any subsequent installments due hereunder. Failure to exercise any right contained in this Note by the holder shall not constitute a waiver of the right to exercise such right in the event of any subsequent default.

In case one or more of the provisions contained herein shall for any reason be unenforceable, invalid, or illegal in any respect, such unenforceability, invalidity, or illegality shall not affect any other provisions of this Note, but this Note shall be construed as if such unenforceable, invalid, or illegal provisions had not been contained herein or if it is equitable under the circumstances, such unenforceable, invalid, or illegal provisions shall be reformed, amended, and/or construed so as to be enforceable, valid, or legal. This Note shall be construed and given effect in accordance with the laws of the State of Ohio.

The Makers and endorsers hereof hereby waive presentment, demand, notice of dishonor, protest, and notice of non-payment and protest. Maker acknowledges this Note was made as part of a commercial transaction.

**MAKER:**  
GREATER AKRON CHAMBER OF  
COMMERCE

By: \_\_\_\_\_  
Steve Millard, President & CEO