

**FORT LAUDERDALE
EMERGENCY BUSINESS INVESTMENT PROGRAM
LOAN AGREEMENT**

This Loan Agreement is entered into by and between the City of Fort Lauderdale, a Florida municipal corporation (the "City") D&J Marketing, Inc (the "Company" or "Borrower") whose principal place of business is located at **2161 SW 38th Ave, Fort Lauderdale, 33312.**

RECITALS

- A. WHEREAS, the United States Department of Housing and Urban Development has notified the City of an award of funding under the Community Development Block Grant (CDBG-CV) as authorized by the Coronavirus Aid, Relief and Economic Security (CARES) Act (Public Law 116-136); and
- B. WHEREAS, the funding is provided to respond to the challenges of the COVID-19 crisis; and
- C. WHEREAS, in response to the COVID-19 pandemic, the City seeks to create a business incentive to stabilize small businesses by providing working capital for short term needs; and
- D. WHEREAS, on June 16, 2020, the Board of Commissioners of the City of Fort Lauderdale adopted and approved underwriting and eligibility guidelines and criteria (the "Program Guidelines") for the Fort Lauderdale Emergency Business Investment Program (the "Program"), which program provide business loans to qualified businesses in an amount not to exceed Ten Thousand and No/100 Dollars (\$10,000).

ARTICLE 1 - TERMS

NOW THEREFORE, the parties hereto agree as follows:

1.1 TERM. The City shall provide a forgivable loan to the Company in an amount as set forth in the Note but shall not exceed Ten Thousand and No/100 Dollars (\$10,000) (the "Forgivable Loan") subject to the terms and conditions set forth herein and in the Note. Interest shall accrue on the loan at zero (0%) percent, except in the event of default in which case, interest shall accrue at the maximum rate permitted by law. The proceeds of the loan shall only be used for eligible uses described in the Program. In addition to other terms and conditions, the Borrower shall continue its business operations for a minimum of two years from the date of the Note. If not, then the loan shall be due in full upon an Event of Default, as defined below, including, without limitation, termination or cessation of business operations during the term of the loan.

1.2 Borrower's Representations, Certifications, Warranties and Covenants. The Borrower hereby certifies, represent, warrants and covenants to the City as follows;

- (a). The application completed by the Borrower and submitted to the City along with all supporting documentation is true, correct and complete and no misstatement or misrepresentation of material fact are contained in the materials provided to the City.
- (b). The proceeds of the Forgivable Loan shall be used only for eligible uses under the Fort Lauderdale Emergency Business Investment Program adopted by the City's Board of Commissioners on June 16, 2020 and shall not be used for personal or consumer purposes.
- (c). The Borrower has reviewed the Program Guidelines and, in all respects, shall comply with the terms thereof during the term of the loan and shall comply with the terms and conditions described in Exhibit A attached hereto.
- (d). During the term of the loan, the Borrower shall not use the proceeds of the loan for personal or capital improvements or to issue dividends or repay any loans to the Company from the shareholders, members, affiliates or principals of the Company.
- (e). The Borrower is not engaged in any illegal activity under any federal, state or local law.
- (f). The Borrower meets all eligibility criteria under the Program Guidelines.
- (g). Borrower has not received any other assistance from any other federal, state, local or private source.
- (h). The Borrower is in good standing in the state of incorporation and is duly qualified to conduct its business in such state where qualification is necessary.
- (i). The Agreement and the Note have been duly authorized, executed and delivered by Borrower to the City.
- (j). The person executing the instruments on behalf of the Borrower is duly

authorized and has the power and authority to enter into a binding agreement on behalf of the Borrower and as such, the documents are valid, binding and enforceable against the Borrower.

- (k). The execution, delivery and performance of this Loan Agreement and Note and consummation of the transaction herein will not (1) violate any law applicable to the Borrower, (2) violate or result in the breach of any material agreement to which Borrower is a party nor (3) violate Borrower's charter, bylaws, articles of incorporation, operating agreement or other similar formation or governing documents. No consent, approval, license or permit or other authorization of any third party or any governmental body or officer is required for the valid and lawful execution and delivery of the instruments related to this loan.
- (l). Borrower represents that Borrower is not subject to any material claim, dispute or litigation which has not been previously disclosed to the City.
- (m). The principals of Borrower shall not sell, transfer or convey its interest in the Company or the assets of the business without the City's consent.
- (n). The Borrower agrees to submit to the City not more than 45 days nor less than 30 days after the end of the term of the Forgivable Loan a statement certifying that it is in compliance with the Program and in particular, its business has been in continuous operations from the date of the Note, The certified statement shall include such additional information, documentation and/or records as the City may require.

ARTICLE 2 - EVENTS OF DEFAULT, REMEDIES & OFFSET

The occurrence of any of the following shall constitute an Event of Default:

2.1 The Borrower shall fail to perform or comply with any provision of this Agreement, the Note and Program Guidelines and such failure is a material breach or violation of the Program Guidelines as determined by the City in its sole discretion.

2.2 The Borrower breaches or violates the certifications, representations, covenants or warranties contained in this Agreement or if the representations are untrue or misstate a material fact.

2.3 The Borrower uses the proceeds of the loan for an ineligible use.

2.4 The Borrower fails to operate the business in a continuous fashion for two (2) years from the date of the Note.

2.5 The Borrower's failure to disclose a material fact or misstate or omit a material fact in its application and supporting materials provided to the City.

2.6 Borrower failure to pay as and when it comes due all principal amount plus interest owed under the loan.

2.7 The Borrower sells or otherwise transfers its interest in the business or the assets of the business prior to the expiration of the two (2) year term as described in this Agreement.

2.8 The Borrower fails to comply with the rules and regulations described in Exhibit A attached hereto.

2.9 If any Event of Default shall occur and be continuing for a period of five (5) days after notice of such Event of Default has been given to the Borrower, then the City may declare the outstanding unpaid principal balance of the Forgivable Loan to be forthwith due and payable, whereupon the Forgivable Loan shall immediately become due and payable, in each case without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived, anything in this Agreement to the contrary notwithstanding. Notice by the City shall be given at the address of Borrower stated in the preamble.

2.10 Audit. The City shall have the right to audit the books, records, and accounts of Borrower that are related to this transaction. Borrower shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement. All books, records, and accounts of Borrower shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Borrower shall make same available at no cost to City in written form. Borrower shall preserve and make available, at reasonable times for examination and audit by City in Broward County, Florida, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida public records law, Chapter 119, Florida Statutes, as may be amended from time to time, if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida public records law is determined by City to be applicable, Borrower shall comply with all requirements thereof; however, Borrower shall violate no confidentiality or non-disclosure requirement of either federal or state law. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for City disallowance and recovery of any payment upon such entry. The Borrower shall maintain during the term of the contract all books of account, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract.

2.11 Public Records. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Chapter 119, Florida Statutes, as same may be amended from time to time and any resultant award of attorney's fees for non-compliance with that law. Borrower shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not

disclosed except as authorized by law and as to Borrower for the duration of the Agreement. If Borrower has questions regarding the application of Chapter 119, Florida Statutes, to Borrower's duty to provide public records relating to its contract, contact the City's custodian of public records by telephone at 954-828-5002 or by e-mail at PRRCONTRACT@FORTLAUDERDALE.GOV or by mail at 100 North Andrews Avenue, Fort Lauderdale, FL 33301 Attention: Custodian of Public Records.

2.12 Not A General Obligation. Neither this Agreement nor the obligations imposed upon the City hereunder shall be or constitute an indebtedness or general obligation of the City or other governmental authority within the meaning of any constitutional, statutory or charter provisions requiring the City or other governmental authority to levy ad valorem taxes nor a lien upon any properties or funds of the Agency or other governmental authority. The Borrower agrees that the obligation of the City to make any payments by the City to the Borrower pursuant to this Agreement shall be subordinate to the obligations of the City to pay debt service on any bonds or debt issued or to be issued by the City and to general and administrative expenses and overhead of the City.

ARTICLE 3 - MISCELLANEOUS PROVISIONS

3.1 This Agreement may not be amended or assigned by either party without the written consent of the other party.

3.2 This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

3.3 This Agreement shall be deemed to be a contract made under the laws of the State of Florida and for all purposes shall be governed by and construed in accordance with laws of the State of Florida. Venue for any legal proceedings shall lie in Broward County, Florida, 17th Judicial Circuit.

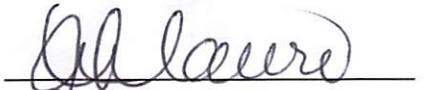
3.4 This Agreement shall remain in full force and effect during the time period (the "Term") commencing with the date first written above and termination upon compliance with the Program Guidelines.

3.5 In the event of litigation to enforce this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and costs including through the appellate level and bankruptcy.

The City and the Company have caused this Agreement to be signed, in their names and on their behalf by their duly authorized officers, as of the dates set forth below.

WITNESSES:

CITY OF FORT LAUDERDALE, a Florida
municipal corporation



Almee Claurio
Print Name



Donna Varisco
Print Name

By 

Christopher J. Lagerbloom, ICMA-CM
City Manager

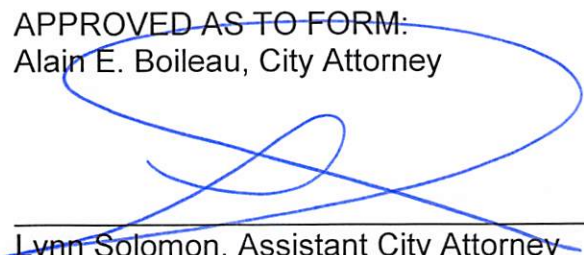
Date: FEB 8, 2020

ATTEST:



Jeffrey A. Modarelli, City Clerk

APPROVED AS TO FORM:
Alain E. Boileau, City Attorney



Lynn Solomon, Assistant City Attorney

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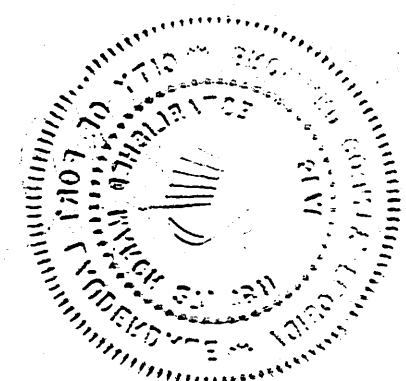
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WITNESSES:

[Signature]
Print Name

Ahilah Grant
Print Name

D B J MARKETING INC

Write name of COMPANY above

By [Signature]
(Signature Above)
Title: VP

Date: 01/19/2021

SIGNATURE PAGE TO
FORT LAUDERDALE
EMERGENCY BUSINESS INVESTMENT
PROGRAM
LOAN AGREEMENT



COMMISSION AGENDA ITEM
DOCUMENT ROUTING FORM

12
2/8/2021

Today's Date: February 4, 2021

DOCUMENT TITLE: Fort Lauderdale Community Redevelopment Agency Emergency
Emergency Business Investment Program Loan Agreement- D&J Marketing, Inc

COMM. MTG. DATE: 06/21/2020 CAM #: 20-0445 ITEM #: R-1 CAM attached: ☒ YES ☐ NO

Routing Origin: HCD Router Name/Ext: Simone Flores/ 4516 Action Summary attached: ☒ YES
☐ NO

Capital Investment / Community Improvement Projects defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, or fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, or real.

CIP FUNDED: ☐ YES ☒ NO

1) Dept: HCD Router Name/Ext: Simone / 4516 # of originals routed: 1 Date to CAO: 2/4/2021

2) City Attorney's Office: Documents to be signed/routed? ☒ YES ☐ NO # of originals attached: 1

Is attached Granicus document Final? ☒ YES ☐ NO Approved as to Form: ☒ YES ☐ NO

Date to CCO: 2/4/2021 Lynn Solomon LS
Attorney's Name Initials

3) City Clerk's Office: # of originals: 1 Routed to: Donna V./Aimee L./CMO Date: 2-5-21

4) City Manager's Office: CMO LOG #: Feb 13 Document received from: _____

Assigned to: CHRIS LAGERBLOOM ☐ TARLESHA SMITH ☐ GREG CHAVARRIA ☐
CHRIS LAGERBLOOM as CRA Executive Director ☐

☐ APPROVED FOR C. LAGERBLOOM'S SIGNATURE ☐ N/A FOR C. LAGERBLOOM TO SIGN

PER ACM: T. Smith (Initial/Date) PER ACM: G. Chavarria (Initial/Date)

☐ PENDING APPROVAL (See comments below)

Comments/Questions: _____

Forward ___ originals to ☐ Mayor ☐ CCO Date: _____

5) Mayor/CRA Chairman: Please sign as indicated. Forward ___ originals to CCO for attestation/City seal (as applicable) Date: _____

6) City Clerk: Forward ___ originals to CAO for FINAL APPROVAL Date: _____

7) CAO forwards ___ originals to CCO Date: _____

8) City Clerk: Scan original and forwards X originals to: Simone Flores

Attach X certified Reso #20-0445 HCD ☐ YES ☐ NO Original Route form to _____