

This AGREEMENT OF PROGRAM SUBSIDY TO TEMPORARILY HOUSE INDIVIDUALS EXPERIENCING HOMELESSNESS is made and entered into this the 18th day of August, 2021 by and between the TOWN OF WAYNESVILLE, a North Carolina municipal corporation, herein known as "the Town", and HELPING HANDS OF HAYWOOD, a North Carolina nonprofit corporation, herein known as "Helping Hands".

1. Amount of Grants

The Town shall incrementally grant Helping Hands a total sum of \$70,000 over a period of two years for the purpose of subsidizing Helping Hands' program to temporarily house individuals experiencing homelessness. The increments of which the Town will subsidize Helping Hands are specified in table 1 below. This agreement relies solely upon the Federal and State disbursement of American Rescue Plan funds to the Town of Waynesville. If for any reason the Federal government or the North Carolina State government fails to disburse American Rescue Plan funds to the Town of Waynesville, then this agreement shall be considered void.

Table 1

	Month of Disbursement	Amount of Disbursement
Increment 1	October, 2021	\$8,750
Increment 2	January, 2022	\$8,750
Increment 3	April, 2022	\$8,750
Increment 4	July, 2022	\$8,750
Increment 5	October, 2022	\$35,000

2. Requirements

Following increment 1, in order to be considered eligible for the next increment of funding disbursement Helping Hands shall present to the Board of Aldermen a written report which outlines 1) how much money Helping Hands received in the prior increment of funding disbursement, 2) how Helping Hands spent any money that was received in the prior increment of funding disbursement, 3) if Helping Hands did not spend all of the money received in the prior increment of funding disbursement then this report shall indicate why that money was not spent and Helping Hands shall outline their plan to spend the money in the future. Helping Hands shall provide the Town with receipts of every transaction made using money awarded through the American Rescue Plan. All money awarded to helping hands for the purpose temporarily housing individuals experiencing homelessness shall be spent by July 1, 2023. Any money awarded by the Town to Helping Hands which is not spent by July 1, 2023 shall be reimbursed to the Town.

3. Failure to Provide Program

If for any reason Helping Hands ceases to provide the service of temporarily housing individuals experiencing homelessness, then the Town shall withhold disbursement of American Relief Plan funds until that service is continued by Helping Hands. Helping Hands shall use funding provided by the Town solely for the purpose of temporarily housing individuals experiencing homelessness. If any amount of funding provided by the Town is used for programs, activities, or ventures other than the temporary housing of individuals experiencing homelessness, then Helping Hands shall reimburse the Town for the full amount of money spent outside the terms of this agreement.

4. Public Purpose

Helping Hands and the Town acknowledge that all monies the Town appropriates and expends to temporarily house individuals experiencing homelessness, as provided in this agreement, are for a *bona fide* public purpose and are expended in good faith reliance on the Act. If this agreement or the grants are challenged or are threatened to be challenged, (i) the Town will promptly notify Helping Hands in writing, (ii) Helping Hands will have the right to participate in the defense of any challenge at its own expense and with counsel of its choosing, and (iii) the Town will defend this Agreement and the Grants from those challenges. Helping Hands will provide reasonable assistance (excluding financial assistance) the Town requests in connection with any such defense.

5. Right to Terminate by Helping Hands

Helping Hands may terminate this agreement at any time. Upon termination of this agreement by Helping Hands, Helping Hands shall reimburse the Town for any money which had been disbursed to, but not spent by Helping Hands.

6. No Pledge of Faith or Delegation of Powers

No provision of this Agreement will be construed or interpreted as creating a pledge of the faith and credit of the Town within the meaning of any constitutional debt limitation. The parties acknowledge that the scope, term and duration of this Agreement are in all events reasonable. No provision of this Agreement shall be construed or interpreted as delegating governmental powers or as a donation or a lending of the credit of the Town within the meaning of the North Carolina Constitution.

7. Equivalent Incentives

If the Grants, or any portion of the Grants, are deemed by a court of competent jurisdiction to be *ultra vires* or not authorized by the laws or Constitution of the State of North Carolina, then the Town shall not be considered obligated to provide equivalent services to Helping Hands as allowed by law.

8. Confidentiality

The parties expressly acknowledge that the Town is an entity covered by N.C.G.S. Chapter 132, the Public Records Act, N.C.G.S. 132-1.1 regarding "confidential information." Provided Helping Hands complies with N.C.G.S. 132-1.1 regarding the designation of confidential or trade secret information, the Town will keep confidential and will not disclose or publish any of Helping Hands' confidential information as defined in N.C.G.S. 132-1.2, will keep all records evidencing such trade secrets marked as "confidential trade secrets," and will keep all such records segregated in the Town's files. If the Town receives a request, subpoena, or court order to disclose any information or records Helping Hands or its representatives have provided or provide in the future relating to this Agreement, the Town will give Helping Hands prompt written notice of the request, subpoena or court order and will discuss any proposed disclosure of such information or records with Helping Hands (and, to the extent possible, give Helping Hands the opportunity to contest any disclosure of information or records believes should not be disclosed) before

making any such disclosure. **The Town will not be liable in damages for the disclosure of any information that is a public record or when such disclosure is pursuant to the order of a court of competent jurisdiction.**

9. Non-Discrimination

During the performance of this agreement Helping Hands shall not discriminate against any employee, applicant for employment, or applicant considered for temporary housing because of race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. Helping Hands shall take affirmative action to ensure that applicants for employment, employees, and applicants considered for temporary housing are treated equally, without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. Such action shall include but not be limited to the following: selection for program, employment, upgrading, demotion, transfer, recruitment or advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

Helping Hands shall in all solicitations or advertisement for employees placed by or on behalf of Helping Hands, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap.

10. ASSIGNMENT, SUCCESSORS AND ASSIGNS

Without the Town's written consent, which the Town may choose to give or not give in its sole discretion, Helping Hands shall not assign (which includes to delegate) any of its rights or duties that arise out of this Agreement. The Town Manager and Town Attorney, jointly, may consent to an assignment without action by the Town Board. Unless the Town otherwise agrees in writing, Helping Hands and all assignees shall be subject to all of the Town's defenses and shall be liable for all of Helping Hands' duties that arise out of this Agreement and all of the Town's claims that arise out of this Agreement. Without granting Helping Hands the right to assign, it is agreed that the duties of Helping Hands that arise out of this Agreement shall be binding upon it and its successors, and assigns.

11. CHOICE OF LAW AND FORUM

This Agreement shall be deemed made in Waynesville, Haywood County, North Carolina. This Agreement shall be governed by and construed in accordance with the law of North Carolina. The exclusive forum and venue for all actions arising out of this Agreement shall be the North Carolina General Court of Justice, in Haywood County. Such actions shall neither be commenced in nor removed to federal court. This subsection shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this section.

12. MODIFICATIONS AND ENTIRE CONTRACT

A modification of this Agreement is not valid unless signed by both parties and otherwise in accordance with requirements of law. Further, a modification is not enforceable against the Town unless the Town Manager signs it for the Town. This contract contains the entire agreement between the parties pertaining

to the subject matter of this Agreement. With respect to that subject matter, there are no promises, agreements, conditions, inducements, warranties, or understandings, written or oral, expressed or implied, between the parties, other than as set forth or referenced in this contract.

13. PERFORMANCE OF GOVERNMENT FUNCTIONS

Nothing contained in this contract shall be deemed or construed so as to in any way estop, limit, or impair the Town from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions.

STATE OF NORTH CAROLINA
COUNTY OF HAYWOOD
TOWN OF WAYNESVILLE

I, Esther Coulter, a Notary Public of said County and State, certify that Eddie Ward personally came before me this day and acknowledged that she is the Town Clerk for the Town of Waynesville, and that by authority duly given and as the act of the body politic, the foregoing instrument was signed in its name by its Mayor Gary Caldwell, sealed with its corporate seal and attested by herself as its Clerk.

WITNESS my hand and seal this the 18th day of August, 2021.

Esther G. Coulter

Notary Public

My Commission Expires July 26, 2025

My commission expires:



HELPING HANDS OF HAYWOOD

I, Eddie Ward, a Notary Public of said County and State, certify that - Nicole Kott personally came before me this day and acknowledged that he/she is Executive Director for HELPING HANDS OF HAYWOOD a nonprofit 501(c)(3) corporation and that he/she being authorized to do so, executed the foregoing instrument on behalf of HELPING HANDS OF HAYWOOD.

WITNESS my hand and seal this the 18th day of August, 2021.

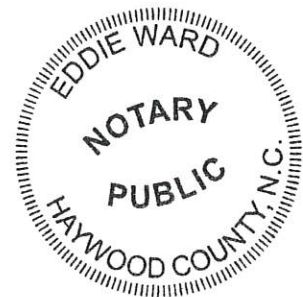
Eddie Ward

Notary Public

My commission expires:

4-18-25

NOTARIAL SEAL)



Entered into this 18 day of August, 2021.

TOWN OF WAYNESVILLE:

BY: Gary Caldwell
Gary Caldwell, Mayor

HELPING HANDS OF HAYWOOD

BY: [Signature]
Nicole Kott, Executive Director

ATTEST:

Eddie Ward
Eddie Ward, Town Clerk
(SEAL)

