

MOUNTAIN COMMUNITY CAPITAL FUND AND MANAGEMENT &
TECHNICAL ASSISTANCE PROGRAM
ALLOCATION OF SERVICES AND DUTIES AGREEMENT

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MOUNTAIN COMMUNITY CAPITAL FUND AND MANAGEMENT &
TECHNICAL ASSISTANCE PROGRAM (THE "PROGRAM")
ALLOCATION OF SERVICES AND DUTIES AGREEMENT

This Allocation of Services and Duties Agreement (the "Agreement") is related to the creation and operation of the Mountain Community Capital Fund, (the "Fund"). The City of Asheville ("City"), a North Carolina [municipal corporation] as Fund Sponsor/Note Holder, Buncombe County ("County"), body politic and corporate organized under the laws of the state of North Carolina as Note Holder, Self-Help Ventures Fund ("Self-Help"), Carolina Small Business Development Fund ("CSB"), and Mountain BizWorks ("MBW"), all three North Carolina nonprofit corporations, (each a "Participating Lender" and collectively with City and County, the "Parties"), enter into this agreement as of October 18, 2018.

PRELIMINARY STATEMENTS

WHEREAS, the Parties are committed to supporting the growth and development of small business enterprises located within the City of Asheville;

WHEREAS, Participating Lenders have experience in providing financing to small businesses in underserved areas and markets, and are committed to assisting the growth and development of small business enterprises, especially minority-owned enterprises, located within Buncombe County;

WHEREAS, the Parties desire to work together to continue a small business enterprise revolving loan fund to provide debt financing to small business enterprises within Buncombe County (the "Program"), as more fully described in this Agreement; and

WHEREAS, North Carolina General Statute 160A-456 Community Development Programs and Activities allows local governments to expend funds for community development programs and related activities;

WHEREAS, the City will make a loan to Self-Help in the amount of \$250,000 (the "City Loan") and the County will make a loan to Self-Help in the amount of \$200,000 (the "County Loan" and, together with the City Loan, the "Fund Loans"); the proceeds of the Fund Loans will be used by the Participating Lenders to provide additional collateral for loans to small businesses as part of the Program, which will enable the Participating Lenders to make loans that they would otherwise not have made, and which will be used solely for the purposes described in this Agreement;

WHEREAS, Asheville City Council passed Resolution No. 18-241 authorizing the City Manager to execute this Allocation of Services and Duties Agreement and release funds for the associated Deposit Note;

WHEREAS, the Board of Buncombe County Commissioners passed Resolution No. [18-10-11] authorizing the County Manager to execute this Allocation of Services and Duties Agreement and release funds for the associated Deposit Note

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the Parties agree as follows:

ARTICLE I

THE PROGRAM PARTICIPANTS

Section 1.01 The Custodian. Self-Help in its role as Custodian shall maintain the Collateral Accounts (as herein defined) and shall use the Fund Loans solely for the purposes described in this Agreement.

Section 1.02 The Fund Sponsor. City in its role as Fund Sponsor shall work with the Participating Lenders to market the availability of the Program, which shall include but not be limited to, the activities outlined in Article III, *Marketing of the Fund*.

Section 1.03 The Note Holders. Holders of the 0% Interest Notes shall be referred to collectively as “Note Holders”.

Section 1.04 Participating Lenders. Self-Help, MBW, and CSB, in their capacity as Participating Lenders, shall make loans to Borrowers under the Program in accordance with provisions contained in this Agreement. Each Participating Lender shall be the owner of all title, rights and interests in and to any Loans made by that Participating Lender, except as otherwise provided in this Agreement. One or more additional lenders (“Additional Participating Lenders”) may participate in Fund as Participating Lenders, if approved by the Operating Committee. All Additional Participating Lenders may make Loans to borrowers subject to approval by the Operating Committee, as described in this Agreement.

Section 1.05 The Loans. The Loans mean any and all loans made by any Participating Lender to a small business as part of the Fund, and made in accordance with this Agreement.

Section 1.06 The Loan Servicer. With respect to each Participating Lender Loan, the Loan Servicer shall be such Participating Lender, or a third party designated by the Participating Lender with the consent of the Operating Committee and in accordance with this Agreement. Loan Servicer shall document and service the Loans made under the Program in accordance with this Agreement.

Section 1.07 The Operating Committee. The Operating Committee shall be comprised of Note Holders, the Participating Lenders and other stakeholders designated by the Fund Sponsor, and shall govern and monitor the Fund in accordance with the *MCCF Operating Committee Rules of Procedure* (the “Rules of Procedure”), attached hereto as Exhibit A, and Article VII. *Operating Committee*.

Section 1.08 MCCF Online Portal Administrator. Program transparency will be supported via an MCCF online portal (to include a social media component) for access to funding applications, housing of technical assistance data and information, reporting of success metrics and sharing of ideas and success stories. The City’s Community and Public Engagement Department shall administer and manage the online portal.

Section 1.09 MCCF Program Metrics Data Collection. Each participating lender collects impact data on their borrowers including items related to demographic status, businesses and jobs created, etc. MCCF lenders will collect and maintain this same data on MCCF borrowers and will make such data available to the City and County to ensure expectations and metrics are being met.

ARTICLE II

DEPOSIT NOTES

Section 2.01 Description of Notes.

<i>Class:</i>	0% Interest Note A (Forgivable Loan/Grant) (“Note A”)
<i>Investors:</i>	City of Asheville
<i>Issuer:</i>	Self-Help
<i>Risk:</i>	Highest Risk, First Loss

Amount: \$250,000
Interest Rate: 0.0%
Maturity: Coterminous with the Fund, unless otherwise specified
Priority: *Pari passu*
Funding: Collateral Account A, which shall be used to offset only those losses incurred in the Program, as described in the MCCF Allocation of Services and Duties Agreement.

Class: **0% Interest Note B** (Forgivable Loan/Grant) ("Note B")
Investors: Buncombe County
Issuer: Self-Help
Risk: Highest Risk, First Loss
Amount: Buncombe County \$200,000
Interest Rate: 0.0%
Maturity: Coterminous with the Fund, unless otherwise specified
Priority: *Pari passu*
Funding: Collateral Account B, which shall be used to offset only those losses incurred in the Program, as described in the MCCF Allocation of Services and Duties Agreement.

Section 2.02 Use of Proceeds. Self-Help shall use the proceeds of the 0% Interest Notes solely for the purposes described in this Agreement.

Section 2.03 Leverage of Proceeds. Participating Lenders agree to use commercially reasonable efforts to attempt to lend under the Program an amount up to \$[530,000] (the "Target Funding Amount") to businesses ("Borrowers") located in the Asheville and Buncombe County area as defined and approved by the Operating Committee; provided, however, that this shall be a non-binding target, and the actual amount lent by Participating Lenders to Borrowers under the Program may be more or less than the Target Funding Amount. The actual amount of funds lent by Participating Lenders under the Program may differ substantially from the Target Funding Amount due to local and national economic trends and conditions, the availability of creditworthy Borrowers, and other conditions.

Section 2.04 The Collateral Accounts.

- a. The Collateral Accounts shall serve as a loan loss reserve fund for the Loans to be made under the Program, subject to section 9.04 and the other terms of this Agreement.
- b. Proceeds of Note A shall be held in Collateral Account A. Proceeds of Note B shall be held in Collateral Account B.

ARTICLE III

MARKETING AND TECHNICAL ASSISTANCE

Section 3.01 Marketing Program. The Fund Sponsor shall actively market the availability of the Program. Marketing shall include, but not be limited to, the following activities:

- Compiling a list of potential Borrowers;
- Developing a list of Borrower referral sources;
- Preparing brochures, application materials and other marketing-related publications that describe information about the Program, application procedures and requirements, and related information;
- Distributing information about the Program to referral sources and other interested parties;
- Creating and advertising public workshops designed to inform potential borrowers about the program; and
- Engaging in other activities as the Fund Sponsor may determine from time to time.

Section 3.02 Technical Assistance. Each Lender will promote the Program and will coordinate business training and capital access logistics for those Program participants with whom it is working. Participants will be able to leverage the Program's resources to accelerate the growth of their business. The Lender will provide one-on-one assistance targeted to the individual business needs, and may use or refer to a local classroom environment to (i) sponsor forums and peer group sessions that cover general subjects such as finance/accounting, marketing, human resources, and operations management, as well as other specific topics and (ii) provide coaching, guest speakers, and online training.

ARTICLE IV

LOAN UNDERWRITING

Section 4.01 Underwriting Guidelines. The Operating Committee shall adopt the Underwriting Guidelines attached hereto as Exhibit B. The Operating Committee shall review Loan underwriting parameters on an on-going basis and shall modify the Underwriting Guidelines when necessary to better meet market demands. Said Underwriting Guidelines shall include a provision that loans shall only be awarded to recipients that would not be able to take on an undertaking that will contribute to the City and/or County's economic development but for the availability of the loan.

The parties agree and acknowledge that the Underwriting Guidelines are generally less stringent than the loan underwriting guidelines Participating Lenders currently apply to loans they make in their regular course of business outside of this Agreement and other agreements that provide for credit enhancement. Although Participating Lenders intend to make Loans under the Program that would not meet its regular underwriting guidelines, nothing in this Agreement prohibits any Participating Lender from making Loans to Borrowers that would qualify for loans under such Participating Lender's regular loan underwriting guidelines.

Section 4.02 Underwriting Procedures. Participating Lenders shall underwrite Loans to be made under the Program, pursuant to policies and procedures as each lender may determine in its discretion. Underwriting activities may include, but are not limited to, evaluating credit applications, conducting credit checks on applicants, analyzing applicants' financial history and prospects, evaluating applicants' management abilities, and other tasks reasonably related to loan underwriting.

ARTICLE V

ADMINISTRATION AND SERVICING OF THE FUND

Section 5.01 Administration of the Loans. Each Participating Lender shall document, close and service the Loans made under the Program, following substantially the same procedures that they use to service loans made outside of the Program, and in accordance with the Servicing Standard (defined below), including, without limitation, documenting, or hiring an attorney(s) to document (at Borrower's expense),

all Loans on the terms approved by the Committee; maintaining Loan files; mailing bills or payment coupons to Borrowers; receiving payments from Borrowers and accounting for allocation of principal and interest on loans; maintaining appropriate fiscal controls for cash and checks received in connection with Loans; filing (including magnetic tape filing) of required reports to the Internal Revenue Service and state and local tax authorities as applicable; reporting relevant tax information to Borrowers, as applicable; responding to Borrower inquiries regarding account status; working to collect delinquent payments (pursuant to Section 8.03); reporting Borrowers to credit bureaus; and responding to reasonable City, County, and/or Note Holder inquiries regarding Borrowers' accounts, subject to all applicable laws, rules and regulations.

Section 5.02 Closing Loans. Each Participating Lender shall close, or hire an attorney to close, all Loans and file all deeds of trust and security instruments; draft all documents to evidence the Loans that it believes to be reasonable or necessary; disburse funds to Borrowers; retain copies of all relevant application materials and originals of Loan documentation needed by such Participating Lender so that it can properly service the Loans; and conduct periodic site visits and monitor the existence and condition of Loan collateral, as necessary. Each Participating Lender may charge Borrowers for any or all costs and expenses they incur related to closing Loans, including, but not limited to, attorneys' fees and costs.

Section 5.03 Servicing Standard. The Loan Servicer shall service and administer the Loans for which it is responsible hereunder (a) in the same manner in which, and with the same care, skill, prudence and due diligence with which, the Loan Servicer generally services and administers similar loans held in its own portfolio, and (b) with a view to maximum recovery on such Loans.

Section 5.04 Collection of Loan Payments. Each Loan Servicer shall undertake reasonable efforts to collect all payments required under the terms and provisions of the Loans it is obligated to service hereunder and shall, to the extent such procedures shall be consistent with this Agreement, follow such collection procedures in accordance with the Servicing Standard.

Section 5.05 Sale of Loans. Subject to the approval of the Operating Committee, which shall not be unreasonably withheld, conditioned or delayed, Participating Lender may sell or otherwise transfer any or all Loans, or parts thereof, to any third party and subject to terms and conditions determined by Participating Lender in its discretion from time to time.

Section 5.06 Sub-Servicing Agreements. Subject to the prior consent of the Operating Committee, Loan Servicer may enter into one or more agreements with third parties to provide for the performance of any or all of its Loan servicing obligations hereunder; provided, however, that such consent of the Operating Committee shall not be required for Participating Lender to enter into any such agreement with one or more of its affiliates. For purposes of this Agreement, "affiliate" shall mean any entity that controls, is controlled by, or is under common control with Participating Lender.

Section 5.07 Resignation of Loan Servicer. Upon the resignation of a Loan Servicer, this Agreement shall continue in full force and effect, and each remaining Loan Servicer shall maintain its rights and obligations pursuant to this Agreement.

Section 5.08 Events of Default; Removal of Loan Servicer.

- a. Any failure on the part of Loan Servicer duly to observe or perform in any material respect any covenants or agreements on the part of the Loan Servicer contained in this Agreement which continues uncured for a period of 30 days after written notice thereof, shall be deemed an Event of Default.
- b. If any Event of Default described in subsection (a) above shall occur with respect to the Loan Servicer (for purposes of this Section 5.08(b), the "Defaulting Party") and shall be continuing after any applicable cure period, then, and in each and every such case, so long as such Event of Default shall not have been remedied, the Operating Committee may upon written consent of at least 50% of the Note Holders and by notice in writing to the Defaulting Party terminate all of the rights and

obligations (but not the liabilities for actions and omissions occurring prior thereto) of the Defaulting Party under this Agreement.

ARTICLE VI

REPORTING

Section 6.01 Periodic Reports. Within one month after the end of each calendar quarter following the effective date of this Agreement, each Participating Lender shall provide to MBW, in its capacity as the MCCF Program Metrics Data Manager, a report describing the financial performance and Program Metrics of that Participating Lender's Loans outstanding, in substance and in a consistent form to be agreed upon by the Parties. MBW shall then prepare a similar report for the Fund Sponsor and members of the Operating Committee, including data for all of the Participating Lenders.

Section 6.02 Reports by Independent Public Accountants.

- a. Upon ten days prior written notice from City, the County, or any member of the Credit Underwriting Committee (a subcommittee of the Operating Committee), Participating Lenders shall make available its most recently audited financial statements and annual report to the requesting party.
- b. The City, the County, or any Member of the Credit Underwriting Committee, may at its own expense, request an audit of the Program by an independent public accountant and/or the City and/or the County's internal and/or external auditor(s). Each Participating Lender shall make reasonable effort to comply within a reasonable amount of time with requests for information and other items pertinent to performing such audit(s).

Section 6.03 Access to Certain Information. Upon ten days prior written notice from City, the County, or any Member of the Credit Underwriting Committee, each Participating Lender shall make available, at its office primarily responsible for administration of the Loans, originals or copies of the following items: (a) this Agreement and any amendments thereto, (b) any reports prepared pursuant to Section 6.01, and (c) any materials and documents on file related to Loans made under the Program.

ARTICLE VII

OPERATING COMMITTEE

Section 7.01 Composition of Operating Committee. The Operating Committee shall be comprised of (i) two (2) member of City staff to be appointed by the City of Asheville, (ii) two (2) member of County staff to be appointed by Buncombe County, (iii) two (2) community stakeholders to be appointed by the City of Asheville and two (2) community stakeholder to be appointed by Buncombe County, and (iv) representatives of Participating Lenders. The Operating Committee shall include the above in its Rules of Procedure.

Section 7.02 Designation and Replacement of Members. The initial Members of the Operating Committee are listed below and shall serve for six (6) months and until replaced or re-appointed by the respective institution or organization referred to in Section 7.01. The Operating Committee shall include the above in its Rules of Procedure.

City of Asheville: Sam Powers (City of Asheville Staff Member)
Rosanna Mulcahy (City of Asheville Staff Member)

Buncombe County: Rachael Nygaard (Buncombe County Staff Member)
Timothy Love (Buncombe County Staff Member)

Representatives of
Participating Lenders: Patrick Fitzsimmons (Mountain Bizworks)
Jane Hatley (Self-Help)
Patrick Doran (Carolina Small Business Development Fund)

Subsequent and reappointed Members shall serve two (2) year terms. Members may be replaced at any time at the sole discretion of the respective institution or organization referred to in Section 7.01.

Section 7.03 Duties of Operating Committee. The Operating Committee shall govern and monitor the Fund in accordance with the Rules of Procedure.

ARTICLE VIII

IMPAIRED ASSET MANAGEMENT

Section 8.01 Loan Defaults. Each Loan Servicer shall use its customary and commercially reasonable standards to determine whether or not a Loan is delinquent or is in default of its respective loan agreement.

Section 8.02 Notice of Defaults. Each Loan Servicer shall provide to Members of the Operating Committee notices of defaults no less than once per quarter.

Section 8.03 Collections. In the event that any Loan made pursuant to this Program becomes delinquent or in default under its respective loan agreement, such Loan shall be known as an "Impaired Asset," and each Loan Servicer shall apply to such Loan the collection practices in accordance with the Servicing Standard.

Section 8.04 Participating Lender Losses. If a Participating Lender incurs a loss due to a Borrower Default on a Loan under the Program (a "Participating Lender Loss") after following the terms and conditions of this Agreement, then such Participating Lender may apply to the Credit Underwriting Committee ("CUC") of the Operating Committee for reimbursement of such Participating Lender Loss. The Participating Lender shall submit to the CUC all documents and materials reasonably requested by the CUC to demonstrate the amount of the Participating Lender Loss. Upon approval of such documents and materials, the Operating Committee shall notify Self-Help and Self-Help shall pay to such Participating Lender the amount of the Participating Lender Loss that is an Eligible Loss, as set forth in Section 9 below.

ARTICLE IX

ALLOCATION OF ELIGIBLE LOSSES

Section 9.01 Participating Lender Losses. Participating Lender Losses shall include the following:

- The amount of all principal, interest, fees and other amounts due to Participating Lender under an Impaired Asset, less the net recovery from the liquidation of any available collateral;
- Any and all reasonable costs and expenses, including but not limited to attorney's fees and costs, incurred by the Participating Lender during the collection process.

Section 9.02 Eligible Losses.

- As approved by the Operating Committee, that portion of a Participating Lender Loss that is up to and including 85% of the Participating Lender Loss for that Loan shall be an Eligible Loss. The remaining 15% of the Participating Lender Loss for such Loan shall be charged to the Participating Lender.
- Self-Help may debit the Collateral Accounts as set forth in Section 9.03 below, for an amount equal to any Eligible Losses, and Self-Help shall then pay those amounts to the Participating Lender who has experienced such Eligible Loss.

Section 9.03 Allocation of Debits for Eligible Losses. Eligible Losses shall be allocated between the Collateral Accounts as follows:

- a. Fifty-six percent (56%) of each Eligible Loss authorized by the Operating Committee for payment shall be paid from Collateral Account A ("Debit A").
- b. Forty-four percent (44%) of each Eligible Loss authorized by the Operating Committee for payment shall be paid from Collateral Account B ("Debit B").

Upon receiving notice of the amount of the Eligible Loss for a Loan, Self-Help may withdraw Debit A from Collateral Account A and Debit B from Collateral Account B, thereby reducing the principal due under the 0% Interest Notes. In no event shall the total of Debit A plus Debit B in respect to any Self-Help or Participating Lender Loan exceed 85% of the Participating Lender Loss for that Loan.

Section 9.04 Operating Expenses. For the purposes of this Program, operating expenses and administrative costs associated with the administration of the Fund shall not be included in calculating Eligible Losses.

ARTICLE X

PAYMENTS TO DEPOSIT NOTE HOLDERS

Section 10.01 Payments to Note Holders. No payments shall be due under the Notes prior to the Termination of this Agreement.

Section 10.02 Statements to Note Holders. Self-Help shall provide a statement of account to Note Holders, in substance, form and in a manner to be agreed upon by the Parties; such statement to be issued no more frequently than once per calendar quarter.

ARTICLE XI

MORATORIUM OF FUND ACTIVITIES

Section 11.01 Trigger Points. The Operating Committee shall define certain "Trigger Points" with respect to annual loan origination volume, portfolio-wide delinquencies as a percentage of principal outstanding and credit loss defaults as a percentage of principal outstanding.

Section 11.02 Imposition of Moratoriums. In the event that any one or more of the "Trigger Point" parameters are exceeded at any time, the Operating Committee may impose a moratorium on the Program. The Operating Committee shall have the authority to lift the moratorium at any time prior to termination of the Fund. Notwithstanding any of the foregoing, in the event that portfolio-wide delinquencies exceed Twenty percent ([20]%) and average annual credit loss defaults exceed Five percent ([5]%) of principal outstanding, the Operating Committee may impose a moratorium on further lending activities under the Program.

ARTICLE XII

TERMINATION OF THE AGREEMENT

Section 12.01 Maturity of the Fund. This Agreement shall be effective on the date it is signed by all parties. Unless terminated sooner, this Agreement shall terminate [February 1, 2020].

Section 12.02 Termination Prior to Maturity. This Agreement may be terminated, in addition to termination for cause as described in this Agreement, for convenience by:

- a. City, but only after a duly authorized, valid vote of the City Council, and by providing written notice of termination to the Custodian and the Participating Lenders at least 30 days in advance of termination;
- b. County, through its manger or the manger's designee, by providing written notice of termination to the Custodian and the Participating Lenders at least 30 days in advance of termination;
- c. Any Participating Lender, as to that Participating Lender, by providing written notice of termination to City and Self-Help at least 30 days in advance of termination; or
- d. The Operating Committee, by a valid vote of no less than two-thirds of the total eligible votes of the Operating Committee and by providing written notice of termination to the City, and the Participating Lenders at least 30 days in advance of termination.

Upon termination pursuant to Sections 12.02(a) and (c) above, Participating Lenders shall make no new Loans pursuant to this Agreement, but shall continue to perform its obligations (including as Loan Servicer) under this Agreement until the end of the term of each of the outstanding Loans. Termination by a Participating Lender pursuant to Section 12.02(b) shall not result in termination of this Agreement and each remaining Loan Servicer shall maintain its rights and obligations pursuant to this Agreement. The provisions of Article IX. *Allocation of Eligible Losses* shall remain in effect for all Loans outstanding under the Program. The sum of the Credit Loss Exposure for Loans made prior to this Agreement and outstanding at the time of termination, and the sum of no more than 85% of the outstanding principal balance of all Loans made subsequent to this Agreement and outstanding at the time of termination, shall remain in the Collateral Accounts.

Section 12.03 Redemption of Deposit Notes. Within 30 days of the termination of this Agreement and the termination or expiration of all outstanding Loans made pursuant to the Program, Self-Help shall redeem the Notes by returning to the Deposit Note Holders any and all funds remaining in the Collateral Account, after subtracting all Eligible Losses and any sums due to it pursuant to this Agreement.

ARTICLE XIII

MISCELLANEOUS

Section 13.01 Assignment. Self-Help may assign any or all of its rights or obligations under this Agreement, including but not limited to funding Loans made pursuant to this Agreement and servicing any or all Loans made pursuant to this Agreement, to one or more of its affiliates. Any other assignment by any Party of all or part of this Agreement must be approved in advance by the other Parties, such approval not to be unreasonably withheld or delayed.

Section 13.02 Confidentiality. "Confidential Information" shall mean:

- a. Information about Borrowers' (and potential and applicant Borrowers') business plans and financial condition;
- b. Information about any Participating Lender's business goals, workplans, strategies, and initiatives;
- c. Any information marked by any Participating Lender as confidential or otherwise identified as confidential; and
- d. Any media used to store, communicate, transmit, record, embody, or otherwise memorialize such Confidential Information.

Provided, however, that "Confidential Information" shall not include any information that City and/or County is legally required to disclose pursuant to laws, rules and regulations pertaining to public information.

The Parties shall maintain the confidentiality of all Confidential Information in their possession and to which they have access, and shall not disclose to any third party any Confidential Information, except as is required for the performance of their obligations pursuant to this Agreement, and then such disclosure shall be limited in scope only to the extent such disclosure is required. Upon the termination of this Agreement for any reason, each party will return to the other Parties all Confidential Information related to the other Parties or Borrowers, including all files, documents, computer files, and any other media or forms containing Confidential Information.

Section 13.03 Limitation of Liability. No party shall be liable to any other party for any indirect, incidental, special, punitive or consequential damages of any kind.

Section 13.04 Notices. Any notices sent pursuant to this Agreement shall be in writing and shall be delivered by certified U.S. Mail, return receipt requested; by nationally recognized overnight courier service; or by other method that provides receipt of delivery. Notices shall be effective upon receipt and shall be addressed to:

If to City: City Manager
 P.O. Box 7148
 Asheville, NC 28803

If to Self-Help: MCCF Manager
 Self-Help Ventures Fund
With a copy to: General Counsel
 Self-Help Ventures Fund
 301 W. Main Street
 Durham, NC 27701

If to MBW: Mountain BizWorks
 153 S. Lexington Avenue
 Asheville, NC 28801

If to CSB: Amber Bond
 Vice President, Strategic Initiatives
 Carolina Small Business Development Fund
 3128 Highwoods Boulevard, Suite 170
 Raleigh, NC 27604

If to County: County Manager
 200 College Street
 Asheville, NC 28805

Section 13.05 Miscellaneous. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina. Any modification to this Agreement must be in writing and signed by all Parties in order to be effective. No waiver of any provision of this Agreement shall be effective unless in writing and signed by the party granting such waiver.

[signatures on following page]

To show their assent to this Allocation of Services and Duties Agreement, the authorized representatives of the parties have signed below.

CITY OF ASHEVILLE

BUNCOMBE COUNTY

By: Cathy D. Ball
Name: Cathy D. Ball
Title: Interim City Manager
11-16-18

By: George A. Wood
Name: George A. Wood
Title: Interim County Manager

SELF-HELP VENTURES FUND

MOUNTAIN BIZWORKS

By: Karen O. Maudley
Name: Karen O. Maudley
Title: Vice President

By: P. Fitzsimmons
Name: P. Fitzsimmons
Title: Exec. Director

CAROLINA SMALL BUSINESS DEVELOPMENT FUND

By: Leroy V. Long, Sr.
Name: Leroy V. Long, Sr.
Title: President/CEO

This Instrument has been preaudited
in the Manner required by
Local Government Budget and
Fiscal Control Act,

Frank McGowan 11/21/18
Buncombe County CFO

THIS INSTRUMENT HAS BEEN PREAUDITED
IN A MANNER REQUIRED BY THE
LOCAL GOVERNMENT BUDGET
AND FISCAL CONTROL ACT

for City of Asheville
Frank McGowan 11/1/18

CFO Designee
Frank McGowan
Financial & Strategic
Services Manager

CFO Signature

RESOLUTION NO. 18- 241

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE MOUNTAIN COMMUNITY CAPITAL FUND AND TECHNICAL ASSISTANCE PROGRAM ALLOCATION OF SERVICES AND DUTIES AGREEMENT AND RELEASE FUNDS FOR THE ASSOCIATED DEPOSIT NOTE

WHEREAS, the City of Asheville has authority to expend funds for community development programs and related activities pursuant to North Carolina General Statute 160A-456 Community Development Programs and Activities; and

WHEREAS, as part of Asheville City Council's Strategic Operating Plan/Vision 2036 in the Thriving Local Economy focus area, City Council adopted a goal to develop and implement a Buncombe Community Capital loan program with an emphasis on small and minority-owned businesses; and

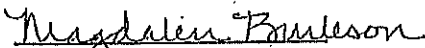
WHEREAS, the City of Asheville has partnered with Buncombe County City, Mountain BizWorks, Self Help Ventures Fund, and the Carolina Small Business Development Center to design a program to help small and minority-owned businesses gain access to funds to start or grow a business; and

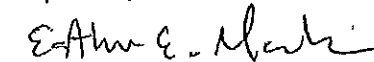
WHEREAS, the City of Asheville and its partners worked with Trade Street Advisors, LLC, a financial services advisory group, to design the Mountain Community Capital Fund and Technical Assistance Program, including the program's governance and reporting requirements, legal documents, roles and responsibilities, and key services, as summarized in the Allocation of Services and Duties Agreement.;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:


The City Manager is hereby authorized to execute the Mountain Community Capital Fund and Technical Assistance Program Allocation of Services and Duties Agreement and to release budgeted funds for the Deposit Note as a 0% forgivable loan to Self Help in the amount of \$250,000 to provide additional collateral for loans to small businesses as part of the program, which will enable the participating lenders to make loans that they would otherwise not have made.

Read, approved and adopted this the 11th day of September, 2018.


City Clerk


Mayor

Approved as to form:


City Attorney

RESOLUTION # 18-10-11

Resolution for the County Manager to execute the Mountain Community Capital Fund Agreement and release funds for the associated Deposit Note

- Whereas, the Board of Commissioners for Buncombe County has established a strategic priority to cultivate a robust, inclusive local economy featuring a diverse workforce and implementing pipelines to jobs and educational opportunities for all; and
- Whereas, one of the goals related to this strategic priority is to support small businesses with an emphasis on historically underserved populations; and
- Whereas, Buncombe County has partnered with the City of Asheville and three Community Development Financial Institutions (Carolina Small Business Development Fund, Mountain BizWorks, and Self-Help Credit Union) to design a program to help small and minority-owned businesses gain access to funds to start or grow a business; and
- Whereas, This partnership is named Mountain Community Capital Fund and is based on successful models from other communities that have demonstrated less than 5% loan loss, and is designed with guidance from a financial services advisory group through a contract with the City of Asheville; and
- Whereas, Mountain Community Capital Fund is a small business loan fund that will be managed and administered by partner Community Development Financial Institutions (CDFIs) to provide debt financing to small business enterprises that will contribute to economic development and would not be able to grow their business but for the availability of the loan; and
- Whereas, The partner CDFIs would not be able to make loans to certain existing small businesses but for the existence of the Mountain Community Capital Fund and the loan guarantee documented in the Allocation of Services and Duties Agreement; and
- Whereas, The Allocation of Services and Duties Agreement includes information about program participants and roles, fund structure and administration, and other operational components for the program; and
- Whereas, The Agreement also establishes an operating committee, which will be comprised of County staff, City staff, participating lenders, and community stakeholders for the purpose of program oversight; and
- Whereas, Buncombe County Government has allocated \$200,000 for a one-time investment in launching this small business development program.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners for the County of Buncombe as follows:

1. That it authorizes the County Manager to execute the Mountain Community Capital Fund Allocation of Services and Duties Agreement.

Sign-Off Cover Sheet -- Agreement/Partnership MOU, MOA, Grant
(NOT for Encumbered Contracts)

Revised 11-2017

Department: <u>CEB</u>	Division: <u>CD</u>	Date: <u>10-30-18</u>
Document Type: <u>Allocation of Services & Duties Agreement</u>		
Brief Description: <u>Mountain Community Capital Fund: 0% interest for sale loan of \$250,000 to create this fund and begin operating.</u>		

Complete the Department section and then deliver document to Tom Downing in Finance for routing.

Department

This document was reviewed at the department level and is recommended for approval. Any required signatures at the department level have been obtained.

Department Director (or designee): [Signature] Date: 10-30-18

Staff member responsible for managing this agreement: Michael Blair

1. Risk Management

This document was reviewed by the Risk Management Division and includes appropriate insurance terms/documents.

No insurance or indemnification provisions - ok if Legal agrees...

Risk Management Division: [Signature] Date: 10-30-18

2. Purchasing/Contracting

This document and any purchasing/contracting arising from this agreement/partnership or grant has been reviewed by the Purchasing & Contracting Division of the Finance Department.

Purchasing & Contracting Division: NOT APPLICABLE Date: _____

3. Budget

Fiscal Impact: \$ 250,000.00

G/L Account

<input checked="" type="checkbox"/> Charge Expense Acct:	<u>11000060-528999</u>	<input type="checkbox"/> Apply to Revenue Acct:	
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The expenditures in the attached documents have been fully provided for in the current annual or capital budget.

Budget/Research Office: [Signature] Date: 11/1/18

4. Finance

This document was pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

CFO Designee
Frank McGowan

Finance Director (or designee): [Signature] Financial & Strategic Services Manager Date: 11/1/18

5. Legal

This document is approved as to form by the City Attorney's Office and it is okay for the City Manager to sign.

City Attorney's Office: [Signature] Date: 11/16/18

6. AFTER CITY MANAGER HAS SIGNED, RETURN THIS DOCUMENT TO: Tom Downing PHONE 5588

Questions? Contact: Tom Downing, Financial & Programmatic Compliance Specialist - THANK YOU!

Contract Status Tracking Form

Department/Program: Strategic Partnerships

Supplier Name: Mountain Community Capital Fund c/o Self-Help Ventures Fund

Description: Mountain Community Capital Fund

Contract Administrator: Rachael Nygaard & Tim Love

Start & End Date (including potential renewals): Effective upon execution through 2/1/2020

Contract Value: \$200,000 This is a Contract Renewal

Department Level Certification

The Contract Administrator above certifies that:

- This Contract complies with or, is not affected by, North Carolina bidding requirements.
- Administrator has consulted Risk for initial review or Risk Review not required (explain why below).
County legal negotiated with City legal and other partners on indemnification/risk language
- Administrator has consulted Legal for initial review or Legal Review not required (explain why below).
County legal closely involved in contract negotiation
- This Contract has been pre-audited or pre-audit is not required (i.e. contract will be obligated by P.O.)
- This Contract has been signed by the other party.

Comments (include concerns raised by Risk, Legal, or any others): _____

Signature of Contract Administrator: _____ Date: _____

Signature of Dept. Head (if not Contract Administrator): Rachael Nygaard Date: 11/21/18

Final Legal Review

The undersigned county staff attorney does hereby certify that after a final review, this Contract appears ready for the Board Chair, the County Manager, or the appropriate designee's signature.

This the 3rd day of DECEMBER, 2018. Comments: _____

J. Brandon Freeman
J. BRANDON FREEMAN

> Details

2 Items

Fund	Cost Center	Project	Project Hierarchy	Project Group	Program	Ledger Account	Revenue Category	Spend Category	Budget	Commitments	Obligations	Actuals	Sum of Commitments, Obligations, and Actuals	Remaining Budget	Percentage Remaining
224 Special Programs	Strategic Partnership Grants	Small Business Development	Fund 224 Miscellaneous Hierarchy	(Blank)		5220/Program Support	(Blank)	Small Business Development	200,000.00	0.00	0.00	0.00	0.00	200,000.00	100.00%
Total									200,000.00	0.00	0.00	0.00	0.00	200,000.00	100.00%