

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number \_\_\_\_\_

Meeting Type: Regular

Meeting Date: 12/19/2013

Action Requested By:  
Community  
Development

Agenda Item Type  
Resolution

Subject Matter:

Resolution to enter into a " Memorandum of Understanding (MOU) with North Alabama Revolving Loan Fund

Exact Wording for the Agenda:

Resolution authorizing the Mayor to enter into a " Memorandum of Understanding (MOU) with North Alabama Revolving Loan Fund to provide financing for microloans utilizing program income from Community Development loan repayments.

**Note: If amendment, please state title and number of the original**

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

The agreement will allow NARLF to utilize program income from Community Development loan repayments to provide financing for microloans for smaller, first stage businesses or bridge the "gap" which exists between the amounts of financing private conventional lending institutions are willing to commit for development and the total sum needed to bring desired economic opportunities to Huntsville communities under terms which enhance their prospects for success.

Associated Cost:

Budgeted Item: Not applicable

MAYOR RECOMMENDS OR CONCURS: Select...

Department Head: \_\_\_\_\_

Date: 12/10/2013

ROUTING SLIP  
CONTRACTS AND AGREEMENTS

Originating Department: Community Development      Council Meeting Date: 12/19/2013

Department Contact: **Ken Benion**      Phone # 5427

Contract or Agreement: **Agreement**

Document Name: **Memorandum of Understanding with North Alabama Revolving Loan Fund**

City Obligation Amount:      0

Total Project Budget:      0

Uncommitted Account Balance:      0

Account Number:      NA

**Procurement Agreements**

<b>Not Applicable</b>	<b>Select...</b>
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**Grant-Funded Agreements**

<b>Not Applicable</b>	<b>Grant Name:</b>
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Department	Signature	Date
1) Originating		12/10/13
2) Legal		12/11/13
3) Finance		12/11/13
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		

**Resolution No. 13-**\_\_\_\_\_

**WHEREAS**, the City of Huntsville Department of Community Development (CITY) is desirous of facilitating economic development throughout the City of Huntsville by providing access to capital to small businesses and entrepreneurs that create preserve or expand job opportunities within the City limits or provide services in underserved communities; and

**WHEREAS**, CITY further desires to utilize a portion of its program income to capitalize microenterprises, i.e., companies with fewer than 5 employees and less than \$250,000 in annual revenue, and small businesses that address these goals; and

**WHEREAS**, North Alabama Revolving Loan Fund (NARLF) was established by Neighborhood Concepts, Inc., a Huntsville-based non-profit corporation, in 2012 for the purpose of supporting north Alabama economic development to include the creation and retention of quality jobs and services for low-to-moderate income persons. NARLF is specifically designed not to be a source of venture capital and not to compete with local lending institutions; and

**WHEREAS**, NARLF is intended to provide financing for microloans for smaller, first stage businesses or bridge the “gap” which exists between the amounts of financing private conventional lending institutions are willing to commit for project development and the total sum needed to bring desired economic opportunities to the communities of north Alabama under terms and conditions which enhance their prospects for success.

**BE IT RESOLVED** by the City Council of the City of Huntsville, Alabama, that the Mayor is hereby authorized, requested and directed to enter into an agreement with North Alabama Revolving Loan Fund, said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Memorandum of Understanding (MOU) with North Alabama Revolving Loan Fund, consisting of five (5) pages with the signature of the Council President or President Pro tem, and the date of 19<sup>th</sup> day of December, 2013 appearing on the margin of the first page, a copy of said document being permanently kept on file in the Office of the City Clerk- Treasurer of the City of Huntsville, Alabama.

**ADOPTED** this the 19th day of December, 2013 .

\_\_\_\_\_  
President of the City Council of the  
City of Huntsville, Alabama

**APPROVED** this the 19th day of December, 2013 .

\_\_\_\_\_  
Mayor of the City of Huntsville, Alabama

## MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into this 19th day of December 2013 (the “Effective Date”) by and between THE CITY OF HUNTSVILLE (“CITY”), an Alabama municipal corporation and NORTH ALABAMA REVOLVING LOAN FUND, LLC. (“NARLF”), an Alabama limited liability company.

### **Introduction:**

CITY is desirous of facilitating economic development throughout the City of Huntsville by providing access to capital to small businesses and entrepreneurs that create preserve or expand job opportunities within the City limits or provide services in underserved communities.

CITY further desires to utilize a portion of its program income to capitalize microenterprises, i.e., companies with fewer than 5 employees and less than \$250,000 in annual revenue, and small businesses that address these goals.

NARLF was established by Neighborhood Concepts, Inc., a Huntsville-based non-profit corporation, in 2012 for the purpose of supporting north Alabama economic development to include the creation and retention of quality jobs and services for low-to-moderate income persons. NARLF is specifically designed not to be a source of venture capital and not to compete with local lending institutions.

NARLF is intended to provide financing for microloans for smaller, first stage businesses or bridge the “gap” which exists between the amounts of financing private conventional lending institutions are willing to commit for project development and the total sum needed to bring desired economic opportunities to the communities of north Alabama under terms and conditions which enhance their prospects for success.

CITY and NARLF are entering into this MOU to set forth their mutual intentions.

### **Revolving Loan Fund Capitalization:**

CITY shall commit an initial capital investment of \$ 250,000 (“RLF FUNDS”) for the sole purpose of carrying out the specific activities defined in this MOU. CITY shall hold the RLF FUNDS in its own account until such time as NARLF has underwritten and approved a loan application. NARLF shall submit a request for funding to CITY no later than ten (10) business days prior to a scheduled loan closing.

At the sole discretion of CITY, additional contributions may be made from time to time based upon performance and demand. Payments of principal and interest generated from any loan fund activities shall be retained by NARLF for the purpose of administering the loan fund and providing loans for additional eligible activities.

12/19/2013

\_\_\_\_\_  
President or President Pro tem,  
City Council Huntsville, Alabama

**Eligible Activities:**

Loans may be made to microenterprises and small businesses that create, preserve or expand employment opportunities for low-to-moderate income persons while encouraging a wage standard that supports an acceptable standard of living. Adequate collateral as security shall be required on all loans. Lending activities will be confined to businesses located or locating within the Huntsville city limits. Preference will be given to credit worthy businesses locating in low-to-moderate income census tracts as defined by U. S. Department of Housing and Urban Development or in Target Areas as defined in the City of Huntsville's Consolidated Plan as published every five (5) years by the City's Department of Community Development.

**Business Development/Technical Assistance:**

As needed, NARLF shall identify business development and technical assistance providers to assist Borrowers with their business needs and shall make referrals as appropriate. Reasonable costs associated with business technical assistance shall be an eligible cost of borrowing.

**Policies & Procedures:**

NARLF has established a Policies and Procedures Manual that includes, but is not be limited to, standards and goals, loan characteristics, loan review criteria, procedures for workouts, delinquencies and defaults. Said manual shall be subject to the approval of the City. NARLF shall provide CITY with a copy of its' Policies & Procedures Manual prior to the advancement of any RLF Funds.

**Loan Committee:**

A Loan Committee containing no less than 5 and no more than 9 members shall be established to review, approve, conditionally approve or disapprove loan recommendations that have been underwritten by NARLF. The composition of the committee shall include representatives with broad expertise and backgrounds as well as professionals with legal, accounting and/or banking experience. Efforts shall be made to ensure racial, economic and gender diversity in the composition of the Loan Committee. CITY shall have the authority to designate up to two members of the Loan Committee.

**Loan Fees:**

Underwriting costs such as the cost of appraisals, title searches and credit reports shall be paid by the borrower prior to being ordered. A schedule of other loan fees, such as commitment fees, origination fees, business technical assistance and servicing fees, and whether or not those fees may be financed into the loan, shall be included in NARLF Policies and Procedures Manual.

**Management Fee:**

In compensation for its' management of the RLF Funds, NARLF shall be entitled to an annual management fee equal to 2% of the value of the outstanding loans in portfolio.

**Reporting Requirements:**

NARLF shall submit semi-annual reports on its' activities to CITY no later than July 31<sup>st</sup> and January 31<sup>st</sup> of each year. Reports shall include the number of loans made and at what rates and terms, any delinquencies and the status of any workout agreements. NARLF shall also provide CITY with annual financial statements no later than May 15<sup>th</sup> of each year.

**Records, Access & Maintenance:**

NARLF shall maintain all direct information and such records as are reasonably related to the administration of NARLF for a period of at least five (5) years from the termination of this agreement. Records specific to lending activity shall also be maintained for a period of at least five (5) years after the last activity has occurred related to the applicant, loan or borrower. CITY shall be allowed access to any records of NARLF by providing three (3) days written notice and upon receipt of an executed Confidentiality Agreement.

**Fairness in Lending:**

NARLF shall not discriminate against any applicant for credit, who has the capacity to contract, because of race, religion, color, gender, national origin, marital or family status, disability, age or ancestry. Further, NARLF shall take affirmative action to ensure that all applicants for credit, who have the capacity to contract, will receive equal consideration and will be afforded the same courtesies without regard to race, religion, color, gender, national origin, marital or family status, disability, age or ancestry. NARLF may ask for voluntary disclosure of this information for purposes of monitoring compliance with funding sources.

**Terms of Agreement:**

This MOU shall begin on the Effective Date and shall remain in effect until such time that either party elects to terminate. Termination notices must be made in writing at least sixty (60) days prior to termination. If NARLF or CITY elects to terminate, any unutilized loan funds must be returned to CITY and NARLF shall assign all loan receivables to CITY or such other agency as may be designated by CITY.

**Limitation of Liability:**

NARLF shall make reasonable efforts to obtain repayment of approved loans. NARLF shall not be liable for uncollectable accounts.

No present or future affiliate, partner, director, officer, board member, shareholder, manager, member, employee, advisor, agent, attorney or asset manager of or in NARLF or CITY shall have any personal liability, directly or indirectly, under or in connection with this MOU, any

amendments to this MOU or any of the transactions contemplated by this MOU, and NARLF and CITY waive any such personal liability.

**Interpretation and Jurisdiction:**

This MOU shall be governed by and interpreted in accordance with the laws of the State of Alabama, without regard to the conflicts of law provisions. NARLF and CITY agree that the exclusive venue for any action instituted under this Agreement shall be in the state courts of Madison County, Alabama or the federal courts for the Northern District of Alabama, Northeast Division.

**Legal Status of the Parties:**

Each Party is entering into this MOU and performing its duties under this MOU as an independent contractor of the other Party and nothing in this MOU will be deemed to create a partnership, joint venture, franchise, agency or employment relationship between the Parties. No officer, director, trustee, employee or other agent of one Party shall be deemed to be an employee or agent of, or have the authority to bind the other Party.

**Notices:**

Notices to CITY:

Mr. Ken Benion  
Community Development Department  
CITY OF HUNTSVILLE  
P. O. Box 308  
Huntsville, AL 35804

w/copy to

Mr. Peter Joffrion  
City Attorney  
CITY OF HUNTSVILLE  
P. O. Box 308  
Huntsville, AL 35804

Notices to NCI:

Ms. Mary Ellen Judah  
NORTH ALABAMA REVOLVING LOAN FUND  
116 S. Jefferson Street, Ste 207  
Huntsville, AL 35801

This MOU constitutes the entire agreement between the CITY and NARLF with respect to the subject matter of this MOU and supersedes all previous written or oral communications with respect to the subject matter.

**Agreement Modification:**

As this MOU constitutes the entire MOU between the parties, it may only be modified in writing and signed by both parties.

IN WITNESS WHEREOF, the parties have caused this MOU to be executed by their duly authorized representatives as of the date first written above.

CITY OF HUNTSVILLE

NORTH ALABAMA REVOLVING LOAN FUND

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_