



## Legislation Text

File #: 17-0077, Version: 1

**Dept/ Agency:** Economic and Housing Development

**Action:** ( ) Ratifying (X) Authorizing ( ) Amending

**Type of Service:** Affordable Housing Agreement Loan

**Purpose:** A resolution authorizing the execution of an Affordable Housing Agreement to New Horizons Phase I Urban Renewal Associates, L.P. for the construction of the mixed-use New Horizons Project consisting of eighty nine (89) residential units, four (4) of which shall be HOME affordable housing units, parking spaces, a community room, a leasing/management office, and commercial retail space.

**Entity Name:** New Horizons Phase I Urban Renewal Associates, L.P.

**Entity Address:** 3 East Stow Road, Suite 100, P.O. Box 994, Marlton, New Jersey 08053

**Grant Amount:** \$500,000.00

**Funding Source:** Federal HOME Funds

**Contract Period:** Date of Adoption to remain in effect for the period of affordability of 50 years. HOME program funds must be expended within 48 months from the date of adoption

**Contract Basis:** ( ) Bid ( ) State Vendor ( ) Prof. Ser. ( ) EUS

( ) Fair & Open ( ) No Reportable Contributions ( ) RFP ( ) RFQ

( ) Private Sale ( ) Grant ( ) Sub-recipient ( ) n/a

**List of Property:**

**(Address/Block/Lot/Ward)**

220-280 Irvine Turner Boulevard/Block 2580.1, Lot 2.04/ Central Ward

**Additional Information:**

Resolution 7R3-h(A.S.) May 22, 2013

**WHEREAS**, the City of Newark, New Jersey (the "City"), desires to enter into and execute a Deed Restrictive Affordable Housing Agreement (the "Agreement") with New Horizons Phase I Urban Renewal Associates, L.P. (the "Entity"), having its principal place of business at 3 East Stow Road, Suite 100, P.O. Box 994, Marlton, New Jersey 08053; and

**WHEREAS**, the City desires to provide the Entity with Federal HOME Program funds in the form of an interest bearing deferred payment loan for a period of fifty (50) years pursuant to the Federal HOME Loan Program (24 CFR part 92) and any amendments thereto; and

**WHEREAS**, the Agreement is for the amount of Five Hundred Thousand Dollars and Zero Cents (\$500,000.00), in Federal HOME Program funds for the New Horizons project to be located at 220-280 Irvine Turner Boulevard, Newark, New Jersey (collectively, the "Property"), consisting of the construction of the New Horizons Project consisting of eighty nine (89) residential units, four (4) of which shall be HOME affordable housing units, parking spaces, a community room, a leasing/management office, commercial retail space (collectively, the "Project"). Units assisted with HOME Program funds must be occupied by low and moderate income households; and

**WHEREAS**, it is in the best interest of the City and the Department of Economic and Housing Development to establish contractual guarantees and procedures by which the City will ensure the Entity's compliance with the requirements of the federal HOME Program for the time and in the manner set forth in the Agreement for the receipt of said HOME program funds.

**NOW, THEREFORE BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW**

**JERSEY, THAT:**

1. The Mayor and/or his designee, the Deputy Mayor/Director of the Department of Economic and Housing Development are hereby authorized to enter into and execute a Deed Restrictive Affordable Housing Agreement (the "Agreement") with New Horizons Phase I Urban Renewal Associates, L.P. (the "Entity"), having its principal place of business at 3 East Stow Road, Suite 100, P.O. Box 994, Marlton, New Jersey 08053, for Federal HOME Program funds in the amount of Five Hundred Thousand Dollars and Zero Cents (\$500,000.00), to subsidize the acquisition, construction and predevelopment costs of eighty nine (89) residential units, four (4) of which shall be HOME affordable housing units, to be constructed within the project known as the "New Horizons Phase I" (the "Project"). The site of the Project will be located at 220-280 Irvine Turner Boulevard, Newark New Jersey (also referred to as Block 2580.01, Lot 2.04).
2. The Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized, directed and empowered to establish a declaration of covenants, conditions and restrictions to ensure that the Project remains affordable for a period of fifty (50) years. Said covenants, conditions and restrictions shall run with the land and bind the Entity and any subsequent purchasers and owners, their heirs, executors, administrators and assigns and all persons claiming by, through or under their heirs, executors, administrators and assigns with this Agreement for a period of fifty (50) years.
3. The Department of Economic and Housing Development shall be responsible for the recordation of the final fully executed Agreement, Mortgage and Security Agreement, the Note and any amendments thereto in the Office of the Essex County Register's Office.
4. The Mortgage and Mortgage Note given by the Entity in favor of the City of Newark shall ensure compliance with all of the requirements of the HOME Program, pursuant to the HOME Program statute and regulations (24 CFR Part 92).
5. Subject to the satisfaction in the sole discretion of the City of all of the terms, covenants and other conditions set forth in the Agreement, the Mortgage Note, the Mortgage and other documents and agreements executed and delivered by the Entity in connection herewith and the Project, the Mortgage made in favor of the City shall be discharged by the City upon the expiration of the fifty (50) year affordability period. Notwithstanding the foregoing, the loan will be required to be repaid in full earlier together with accrued interest thereon if any of the terms, covenants and other conditions of the Agreement, the Mortgage Note, the Mortgage and/or other documents and agreements executed and delivered by the Entity in connection herewith and the Project have been violated and/or breached by the Entity or the Entity otherwise defaults with respect to their respective terms, covenants and/or conditions as provided therein.
6. The Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized, directed and empowered to effectuate certain business terms and conditions related to the Agreement annexed hereto as permitted by New Jersey Law and may enter into subordination agreements, access and right of entry agreements, mortgages and other relevant documents related to this fund allocation in a form subject to the approval of the Acting Corporation Counsel. In addition, the Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized to enter into a maximum of two six-month extensions of the term of the contract and any contract timelines and milestones, provided that any contract timelines and milestones are not extended beyond the two (2) permitted six (6) month extensions, subject to full written disclosure (in the form of a signed memorandum to be submitted prior to adoption) to the Newark Municipal Council by the Deputy Mayor/Director of the Department of Economic and Housing Development and the approval of the Acting Corporation Counsel.
7. Disbursement of the federal HOME program funds for the Project in the amount of Five Hundred Thousand Dollars and Zero Cents (\$500,000.00) shall be subject to the terms and conditions set forth in the Agreement, which is attached hereto and a made a part hereof.
8. The Entity must adhere to all milestones and timelines in the Project Schedule approved by the Department of Economic and Housing Development. The project completion is further defined in the Agreement in Exhibit D. The property must conform to the City of Newark Design and Construction Standards Guidelines for New Home Construction, including standards for environmental sustainability and energy efficiency, as established by the Department of Economic and Housing Development. Should the Entity fail to complete the project within the specified time frame, then the City, in its sole discretion, in addition to any other remedy available by the Agreement or as allowed by law, may direct the Entity to repay all HOME program funds expended on the project back to the City.

9. The term of the Agreement shall be for a period of two years from the date of adoption of this authorizing resolution by the Newark Municipal Council. HOME program funds must be expended within 48 months from the date of adoption.

10. The Entity must remain in compliance with municipal, State and Federal laws Including, but not limited to the City of Newark's Minority Set-Aside Ordinance (6S&Fd April 5, 1995) and its Affirmative Action Plan (7Rbp March 30, 1995) and Federal Executive Order 11246 (as amended by Executive Orders 1137 and 12086) with respect to the award of goods and services. The Entity has agreed to ensure that a minimum of 40% of the workers employed during the construction of the project shall be Newark residents and that 30% of all contractors, subcontractors and suppliers shall be Newark companies.

11. Units assisted with HOME Program funds must be designated upon execution of the Agreement and must remain fixed units for the duration of the afford ability period. Households seeking to occupy a HOME Program assisted unit must be certified prior to occupancy and recertified annually.

12. Attached hereto is a Certification from the Municipal Comptroller of the City of Newark which states:

- a) there are sufficient funds in the amount of Five Hundred Thousand Dollars and Zero Cents (\$500,000.00), for the purpose set forth herein and above; and
- b) that the line appropriation of official budget which shall be charged as follows:

Business Unit	Department	Division/Proj.	Activity	Account	Budget Ref.	Amount
NW0051	G11	D11DO	A	72090	B2011	\$500,000.00

### **STATEMENT**

This Resolution authorizes the Mayor and/or his designee, or the Deputy Mayor/Director of the Department of Economic and Housing Development to enter into and execute an Affordable Housing Agreement with New Horizons Phase I Urban Renewal Associates, L.P. for Federal HOME program funds in the amount of Five Hundred Thousand Dollars and Zero Cents (\$500,000.00), to subsidize the construction of the mixed-use New Horizons Project consisting of eighty nine (89) residential units, four (4) of which shall be HOME affordable housing units, parking spaces, a community room, a leasing/management office, commercial retail space located at 220-280 Irvine Turner Boulevard, Newark, New Jersey (Block 2580.01, Lot 2.04). The HOME Program assisted units must remain affordable for a period of fifty (50) years pursuant to the requirements under the HOME Program (24 CFR Part 92).