

City of Ramsey
Agenda
Housing and Redevelopment Authority (HRA)
Special Session
Tuesday August 15, 2011
Immediately Following HRA Work Session
Lake Itasca Room, 7550 Sunwood Drive NW

1. **Call to Order**
2. **Citizen Input**
3. **Approve Agenda**
4. **HRA Business**
 1. Consider Extension to Purchase Agreement - The Residence at The COR
5. **Executive Director's Report**
6. **Commissioner Input**
7. **Adjournment**

HRA Special Session

4. 1.

Meeting Date: 08/15/2011**By:** Darren Lazan, Housing &
Redevelopment Authority**Title:**

Consider Extension to Purchase Agreement - The Residence at The COR

Background:

The current purchase agreement, as amended by previous HRA actions, has a date of August 15th, 2011 as the final date for the buyer to waive it's contingencies and proceed to close.

Prior to this meeting, the HRA will consider the current deal structure proposed, as well as several options for the construction financing on the project.

Recommendation:

Based on discussions in the work session, the HRA could chose to either extend the contingency to allow for further discussions on the project, or to allow the contingency to expire. There are no financial impacts to the extension, and the completed extension document is enclosed for your consideration which extends the contingency date to November 1, 2011.

Funding Source:

n/a

Council Action:

Approve the proposed extension as presented, and direct the development team to execute the extension.

Attachments3rd Amendment to PA4th Amendment to PA5th Amendment to PA**Form Review****Inbox**
Heidi Nelson**Reviewed By**
Heidi Nelson

Form Started By: Darren Lazan

Date
08/12/2011 01:33 PM
Started On: 08/12/2011 11:08 AM

Final Approval Date: 08/12/2011

THIRD AMENDMENT TO PURCHASE AGREEMENT

THIS THIRD AMENDMENT TO PURCHASE AGREEMENT ("**Amendment**") is dated August _____, 2011 ("**Effective Date**"), by and between The Housing and Redevelopment Authority in and for the City of Ramsey, Minnesota, a public body politic and corporate under the laws of the State of Minnesota (the "**Seller**") and TOTI Holdings, LLC, a Minnesota limited liability company (the "**Buyer**").

Recitals

A. Seller and Buyer are parties to that certain Purchase Agreement dated September 15, 2010 (the "**Purchase Agreement**") pursuant to which Seller has agreed to sell and Buyer has agreed to purchase certain real property located in Outlot M, RAMSEY TOWN CENTER ADDITION, and Outlot A, RAMSEY TOWN CENTER FIFTH ADDITION, Anoka County, Minnesota, which legal description shall change to Lot 5, Block 1, COR ONE, Anoka County, Minnesota upon the recordation of the Final Plat, as that term is defined in the First Amendment (the "**Property**"). The Purchase Agreement was amended by that certain Amendment to Purchase Agreement by and between Seller and Buyer dated January 18, 2011 ("**First Amendment**"). The Purchase Agreement was amended by that certain Reinstatement of and Second Amendment to Purchase Agreement by and between Seller and Buyer dated April 21, 2011 ("**Second Amendment**").

B. Under the terms of the Purchase Agreement, the Date of Closing was to have been August 15, 2011. Buyer is not ready to close on August 15, 2011.

C. Buyer has now proposed that the Date of Closing be extended and certain other terms of the Purchase Agreement be amended. Seller has agreed to extend the Date of Closing in exchange for a non-refundable extension fee to be paid in connection with the execution of this Third Amendment and has agreed to such other amendments.

D. Buyer and Seller desire to enter into this Third Amendment to memorialize their agreements with regard to the above items.

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer hereby agree as follows:

1. All capitalized terms not expressly defined herein shall have the meanings ascribed to them in the Purchase Agreement, First Amendment and the Second Amendment.

2. The Date of Closing shall be amended from August 15, 2011 to _____, 2011.

3. At or prior to the execution of this Third Amendment, and as a condition precedent to the effectiveness of this Third Amendment, Buyer shall have paid a one-time, non-refundable extension fee in the amount of \$_____ ("**Extension Fee**"). Such Extension Fee shall be wholly earned when received, shall not be construed as Earnest Money, and shall

not be applicable towards payment of the Purchase Price. Failure by Buyer to pay the Extension Fee when due constitutes a Buyer default under the Purchase Agreement.

4. Commencing on the first day of September and on the first day of each month thereafter, Buyer shall provide to Seller a brief, written update as to Buyer's progress in securing financing and the status of the architectural plans for Buyer's Project, as that term is defined in the Purchase Agreement.

5. Except as expressly modified hereby, the terms and conditions set forth in the Purchase Agreement shall remain in full force and effect. To the extent that the Purchase Agreement and this Amendment conflict, the terms and conditions of this Amendment shall govern and control.

6. This Amendment may be executed in two or more counterparts, each one of which may be construed as an original.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the undersigned has executed this Third Amendment as of the Effective Date.

SELLER:

**THE HOUSING AND REDEVELOPMENT
AUTHORITY IN AND FOR THE CITY OF
RAMSEY, MINNESOTA, A PUBLIC
BODY, POLITIC AND CORPORATE,
UNDER THE LAWS OF THE STATE OF
MINNESOTA**

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

IN WITNESS WHEREOF, the undersigned has executed this Third Amendment as of the Effective Date.

BUYER:

TOTI HOLDINGS, LLC,
a Minnesota limited liability company

By: _____
Brian R. Wings
Its: Chief Manager

FOURTH AMENDMENT TO PURCHASE AGREEMENT

This Fourth Amendment to Purchase Agreement dated this ___ day of August, 2011 by The Housing and Redevelopment Authority in and for the City of Ramsey, Minnesota, a public body politic and corporate under the laws of the State of Minnesota (“Seller”), the City of Ramsey, Minnesota, a home rule charter city organized and existing under the constitution and laws of the State of Minnesota (“City”) and F&C Ramsey, LLC, an Indiana limited liability company (“Buyer”).

WHEREAS, the following facts are true:

A. The Seller, the City and the Buyer have previously entered into that certain “Purchase Agreement For The Portions of Lot 1, Block 1, Lot 2, Block 1 and Outlot A, Ramsey Town Center 5th Addition To Be Replatted As Lot 3, Block 1, COR ONE,” as amended by that certain undated First Amendment to Purchase Agreement, that certain Second Amendment to Purchase Agreement dated May 16, 2011 and that certain Third Amendment to Purchase Agreement dated _____, 2011 (collectively, the “Purchase Agreement”).

B. The parties now wish to amend the Purchase Agreement to provide additional time for completion of one contingency.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Seller, the City and the Buyer agree:

1. Paragraph 14 of the Purchase Agreement is modified to extend the contingency exercise date for Paragraph 14(f) from August 15, 2011 to and including November 1, 2011.

2. Except as specifically modified herein, the Purchase Agreement is ratified and confirmed in all respects.

Executed as of the date first above written.

(Signature pages follow)

THE HOUSING AND REDEVELOPMENT
AUTHORITY IN AND FOR THE CITY OF
RAMSEY, MINNESOTA, A PUBLIC BODY
POLITIC AND CORPORATE UNDER THE
LAWS OF THE STATE OF MINNESOTA

By: _____
Its: Chair

By: _____
Its: Executive Secretary

(Separate Signature Page for Fourth Amendment to Purchase Agreement)

THE CITY OF RAMSEY, MINNESOTA, A
HOME RULE CHARTER CITY ORGANIZED
AND EXISTING UNDER THE CONSTITUTION
AND THE LAWS OF THE STATE OF
MINNESOTA

By: _____
Its: Mayor

By: _____
Its: City Administrator

(Separate Signature Page for Fourth Amendment to Purchase Agreement)

F&C RAMSEY, LLC

By: _____
David M. Flaherty, Manager

(Separate Signature Page for Fourth Amendment to Purchase Agreement)

FIFTH AMENDMENT TO PURCHASE AGREEMENT

This Fifth Amendment to Purchase Agreement dated this ___ day of August, 2011 by The Housing and Redevelopment Authority in and for the City of Ramsey, Minnesota, a public body politic and corporate under the laws of the State of Minnesota ("Seller"), the City of Ramsey, Minnesota, a home rule charter city organized and existing under the constitution and laws of the State of Minnesota ("City") and F&C Ramsey, LLC, an Indiana limited liability company ("Buyer").

WHEREAS, the following facts are true:

A. The Seller, the City and the Buyer have previously entered into that certain "Purchase Agreement For The Portions of Lot 1, Block 1, Lot 2, Block 1 and Outlot A, Ramsey Town Center 5th Addition To Be Replatted As Lot 3, Block 1, COR ONE," as amended by that certain undated First Amendment to Purchase Agreement, that certain Second Amendment to Purchase Agreement dated May 16, 2011, that certain Third Amendment to Purchase Agreement dated _____, 2011 and that certain Fourth Amendment to Purchase Agreement dated August ___, 2011 (collectively, the "Purchase Agreement").

B. The parties now wish to amend the Purchase Agreement to certain terms of the Purchase Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Seller, the City and the Buyer agree:

1. The first sentence of Section 5 is deleted in its entirety and replaced with the following: "The purchase price of the Property is \$750,000.00 (the "Purchase Price")."

2. Paragraph 6 of the Purchase Agreement is hereby modified to extend the closing date from September 15, 2011 to November 1, 2011.

3. Paragraph 14 of the Purchase Agreement is modified to extend the contingency exercise date for Paragraph 14(f) from September 10, 2011 to and including October 15, 2011.

4. New Section 14(h) is added to the Purchase Agreement to read as follows:

(h) Buyer's receipt of an Amended and Restated Development Agreement, acceptable to Buyer in Buyer's reasonable determination, which has also been approved by Seller and the City, on or before October 15, 2011. Buyer may exercise the contingency described in this subsection (h) and terminate this Agreement pursuant to Section 18 on or before October 16, 2011.

5. New Section 15(d) is added to the Purchase Agreement to read as follows:

(d) Seller's receipt of an Amended and Restated Development Agreement, acceptable to Seller in Seller's reasonable determination, which has also been approved by Buyer and the City, on or before October 15, 2011. Seller may exercise the contingency described in this subsection (d) and terminate this Agreement pursuant to Section 18 on or before October 16, 2011.

6. The sentence beginning with "Buyer is deemed to have commenced construction..." set forth in Section 6(b)(ii)(E) of the Purchase Agreement is amended and restated in its entirety to read as follows: "Buyer is deemed to have commenced construction when Buyer has: (a) obtained all building permits from the City necessary for the construction of the "Minimum Improvements," as defined in the Development Agreement, and (b) undertaken work on the Property which work would constitute "the actual and visible beginning of improvement on the ground," as that phrase is used in Minnesota Statutes, Section 514.05 and interrupted by the Minnesota Courts."

7. Except as specifically modified herein, the Purchase Agreement is ratified and confirmed in all respects.

Executed as of the date first above written.

(Signature pages follow)

THE HOUSING AND REDEVELOPMENT
AUTHORITY IN AND FOR THE CITY OF
RAMSEY, MINNESOTA, A PUBLIC BODY
POLITIC AND CORPORATE UNDER THE
LAWS OF THE STATE OF MINNESOTA

By: _____
Its: Chair

By: _____
Its: Executive Secretary

(Separate Signature Page for Fifth Amendment to Purchase Agreement)

THE CITY OF RAMSEY, MINNESOTA, A
HOME RULE CHARTER CITY ORGANIZED
AND EXISTING UNDER THE CONSTITUTION
AND THE LAWS OF THE STATE OF
MINNESOTA

By: _____
Its: Mayor

By: _____
Its: City Administrator

(Separate Signature Page for Fifth Amendment to Purchase Agreement)

F&C RAMSEY, LLC

By: _____
David M. Flaherty, Manager

(Separate Signature Page for Fifth Amendment to Purchase Agreement)