

**City of Ramsey**  
**Agenda**  
**Special City Council**  
**Tuesday May 15, 2012**

**5:30 p.m.**  
**Lake Itasca Room, 7550 Sunwood Drive NW**

- 1. Call to Order**
- 2. Citizen Input**
- 3. Approve Agenda**
- 4. Council Business**
  - 1. Consider Party Wall Agreement - COR ONE**
- 5. Mayor/Council/Staff Input**
- 6. Adjournment**

**CC Special Session**

4. 1.

**Meeting Date:** 05/15/2012**By:** Darren Lazan, Housing &  
Redevelopment Authority**Title:**

Consider Party Wall Agreement - COR ONE

**Background:**

Lot 2, Block 1, COR ONE is the parcel of property on which the existing expanded municipal parking structure is constructed. The City of Ramsey is the fee owner of this parcel.

Lot 3, Block 1, COR ONE is the parcel recently conveyed to Flaherty and Collins for the construction of The Residence at The COR.

As part of the design of the ramp addition, the footings were sized to allow the east wall of The Residence to sit on a shared footing, as opposed to constructing a separate footing and creating a separation between the walls.

While the ramp and The Residence technically have their own walls, they share a footing, and are treated as one wall when constructed. Water proofing and maintenance will be addressed by Flaherty and Collins, as well as the individual vestibule connections at each floor.

**Notification:****Observations:**

This condition is commonly called a 'Party Wall' and there is typically an encroachment easement and agreement that accompany this condition.

Attached for your consideration is the draft agreement establishing encroachment easement and addressing the issues related to the construction of the party wall. The development team would like to execute this agreement now, and monitor the construction over the next twelve-eighteen months to identify any ongoing items that should be added to the final agreement. Following the construction, the final agreement will be prepared and presented for the council's consideration.

Because the use on the ramp side requires very little maintenance, and because the firewall constructed as part of the ramp is a relatively simple structure, the responsibility for the ongoing maintenance of the party wall will be placed on the owner of Lot 3. This agreement will outline those items.

**Recommendation:**

The development team recommends the City Council approve the attached encroachment easement agreement, and direct staff to finalize, execute, and record the easement with related exhibits.

**Funding Source:**

N/A

**Council Action:**

Approve the attached encroachment easement agreement, and direct staff to finalize, execute, and record the easement with related exhibits.

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## Attachments

### Party Wall Agreement

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#### Form Review

Inbox	Reviewed By	Date
Kurt Ulrich	Kurt Ulrich	05/10/2012 03:30 PM
Form Started By: Darren Lazan		Started On: 05/10/2012 02:17 PM
	Final Approval Date: 05/10/2012	

## GRANT OF ENCROACHMENT EASEMENT

This **GRANT OF ENCROACHMENT EASEMENT** (this "Grant of Easement") is executed as of the \_\_\_ day of May, 2012 by the City of Ramsey, Minnesota, a charter city organized and existing under the constitution and laws of the State of Minnesota (the "Grantor").

### RECITALS

- A.** Grantor owns the real property located in Anoka County, Minnesota legally described on the attached **Exhibit A** (the "Burdened Property"), on which Grantor has constructed a municipal parking ramp.
- B.** F & C Development, Inc., an Indiana corporation (the "Grantee") owns real property located in Anoka County, Minnesota legally described on the attached **Exhibit B** (the "Benefited Property") that is adjacent to the Burdened Property and on which Grantee intends to construct a residential apartment building.
- C.** In preparation for and in anticipation of the building improvements, Grantor constructed footings on the Burdened Property with the intention that such footings would provide support for both the municipal parking ramp constructed by Grantor and the residential apartment building constructed by Grantee.
- D.** As a result of how the footings were constructed, Grantee's residential apartment building will encroach onto the Burdened Property. Grantor has therefore agreed to grant an easement for the encroachment to Grantee, subject to the terms set forth below.

In consideration of the foregoing, Grantor hereby declares:

### GRANT OF EASEMENT

1. **Easement.** Grantor hereby grants, for the benefit of Grantee and Grantee's tenants, a perpetual, non-exclusive appurtenant easement over, under, and across that portion of the Burdened Property described on **Exhibit C** (the "Easement Area"). The easement is appurtenant to the Benefited Property. The purpose of the easement is to give Grantee the right to use the Easement Area and the footings located within the Easement Area for the construction, use, maintenance, repair and replacement of a portion of the residential apartment building that Grantee is constructing on Benefited Property.

2. **Enforcement.** The Grantor and Grantee have the right to enforce the terms of this Grant of Easement in a legal or equitable action brought in a court of competent jurisdiction, and the prevailing party in any such action is entitled to recover from the opposing party the prevailing party's attorney's fees and costs. No waiver by either party of any default under this Grant of Easement shall be effective or binding upon such party unless made in writing. No waiver of any default shall be deemed a waiver of any other or subsequent default hereunder.
3. **Amendment or Termination.** No amendment, modification or termination of this Grant of Easement shall be effective unless made by written instrument signed by Grantor and Grantee or their respective successors and assigns.
4. **Run With Title.** The Easement and covenants described herein run with title to the Burdened and Benefited Properties and inure to the benefit of and are binding upon all owners of the Burdened and Benefited Properties, their heirs, personal representatives and successors in title.
5. **Non-Merger.** It is the intent of the Grantor that if, at any time, the Burdened Property and the Benefited Property come under common ownership, the Easement created herein shall not merge into any successor owner's ownership.
6. **Counterparts.** This Grant of Easement may be executed in separate counterparts, all of which may subsequently be assembled into one agreement for recording or other purposes.
7. **Headings.** The headings of sections in this Grant of Easement are for convenience only. They form no part of this Grant of Easement and shall not affect its interpretation. All schedules, exhibits, addenda or attachments referred to are incorporated and made a part of this Grant of Easement.
8. **Integration.** This Grant of Easement sets forth the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior negotiations, understandings and agreements, whether written or oral.
9. **Recording.** This Grant of Easement shall be recorded against the title to each of the properties.
10. **Governing Law.** This Grant of Easement shall be governed by and construed under the laws of the State of Minnesota.

*(Remainder of page intentionally left blank; signature page follows)*

**GRANTOR:**

**CITY OF RAMSEY**

By:

\_\_\_\_\_  
Its: Mayor

By:

\_\_\_\_\_  
Its: City Administrator

STATE OF MINNESOTA )  
  ) ss  
COUNTY OF HENNEPIN )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2012, by \_\_\_\_\_, the Mayor, and \_\_\_\_\_, the City of Administrator, of the City of Ramsey, a Minnesota municipal corporation on behalf of said corporation.

\_\_\_\_\_  
Notary Public

Drafted By:

Briggs and Morgan, P.A.  
Christie J. Cirilli  
80 S Eighth Street  
Minneapolis, MN 55402  
(612) 977-8926

*Separate Signature Page to Grant of Easement*

**EXHIBIT A**

(Legal Description of Burdened Property)

**EXHIBIT B**

(Legal Description of Benefited Property)



**EXHIBIT C**

(Legal Description of Easement)