

**MEMORANDUM**

**TO:** City of Ramsey  
Attn: Mr. Kurt Ulrich

**FROM:** Thomas L. Bray

**DATE:** February 5, 2015

**RE:** **Resolution Ratifying Certificate of Completion and Release and Resolution Authorizing execution of First Amendment to Development Agreement and other actions.**

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Attached to this Memorandum are two Resolutions that the Developer of the F & C Project is requesting. Both Resolutions relate to the Development Agreement among and between the City, the HRA, F & C Ramsey, LLC and its assignee F & C Ramsey Apartments, LLC (collectively, the “Developer” and F & C Ramsey Member, LLC (the “Borrower”) (the “Development Agreement”).

The first Resolution ratifies the Certificate of Completion and Release of Forfeiture that the City and the HRA executed in October to evidence that the Developer has completed the “Minimum Improvements” described in the Development Agreement. The Development Agreement is recorded in the Anoka County Land records, and therefore, the Developer wants to record the Certificate of Completion and Release. The County will not record the Certificate without a supporting Resolution adopted by the City Council.

The second Resolution authorizes the Mayor and City Administer to (1) execute a proposed First Amendment to Development Agreement in the form attached to the Resolution, (2) execute and deliver the TIF Note in the amount of \$3,000,000.00, and (3) authorized the City to return to the Borrower the originals of Note No. 1 and Note No. 2; and to execute such documents as may be necessary to release the Security Interest the City, as successor to the HRA, holds in the membership interest of Borrower as security for the repayment of Note No. 1 and Note No. 2, all upon and only upon the Borrower’s payment of all principal and interest due under both Note No. 1 and Note No. 2.

When the Borrower repays Note No. 2, the City is obligated to issue the TIF Note described in the Development Agreement to the Developer. The TIF Note is in the amount of \$3,000,000.00

Developer is refinancing its initial construction loan with PNC Bank (the “Project Loan”). Developer will use the proceeds of the refinancing to, among other things, repay the original Project Loan and payoff Note No. 2. The Developer may also use all or a portion of the proceeds of the new loan to repay Note No. 1. The repayment of Note No. 1 represents a prepayment that is required because of the amount of the new Project Loan. Note No. 1 requires Borrower to make a prepayment in an amount equal to 20% of the difference between the amount of the new Project Loan and the outstanding principal balance of the existing Project Loan. In this case, because Developer is using the new Project Loan to borrow funds for the payment of Note No. 2, the amount of the required prepayment exceeds the balance due on Note No. 1 and Note No. 1 will be repaid in full.

To induce the new lender (which is also PNC) to loan Developer a sufficient amount to both pay of the original Project Loan and pay-off Note No. 2, Developer will both grant PNC a mortgage on the Project and pledge the TIF Note to PNC.

As a condition of PNC Bank’s acceptance of the TIF Note as partial collateral for the new loan, PNC Bank requires that the Development Agreement be amended so that the City may no longer terminate the TIF Note as a remedy for a default by the Developer under the terms of the Development Agreement.

Upon the repayment of Note No. 1 and Note No. 2, the Developer will have performed substantially all of the Developer’s obligations under the Development Agreement. The remaining obligations of the Developer include the obligation to pay real estate taxes on the development of property, certain rental restrictions which were included in the Development Agreement in connection with the City’s issuance of bonds to finance Loan No. 2, and certain indemnification obligations.

If the City approves the First Amendment to Development Agreement, the City will still have the right to sue the Developer for damages if the Developer defaults in its obligation to pay real estate taxes or to indemnify and defend the City. The First Amendment will terminate the rental restriction.

As a result of the rental restriction, 50% of the Project qualified as a Housing Development Project and the bonds the City issued to finance Loan No. 2 supported that Housing Development Project. The City will repay those bonds with the funds the City receives from the Developer in repayment of Note No. 2, and, therefore, the restriction, is no longer required.

To facilitate a refinancing that results in the prepayment of Note No. 1 at this time, staff recommends that the council approve the First Amendment to Development Agreement.

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