

Councilmember _____ introduced the following resolution and moved for its adoption:

RESOLUTION #15-__-__

**RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY
OF A FIRST AMENDMENT TO DEVELOPMENT AGREEMENT**

WHEREAS, the City of Ramsey (the "City"), The Housing and Redevelopment Authority in and for the City of Ramsey, Minnesota (the "HRA") F&C Ramsey, LLC, an Indiana limited liability company, ("F&C Ramsey") and F&C Ramsey Member, LLC, an Indiana limited liability company, ("F&C Borrower") are parties to a Development Agreement dated March 9, 2012 and recorded in the Office of the Anoka County Registrar of Titles on May 3, 2012 as Document No. 508341.004 (the "Development Agreement"). On or about March 9, 2012, F&C Ramsey assigned certain rights and obligations under the Development Agreement to F&C Apartments, LLC, an Indiana limited liability company, ("F&C Apartments").

WHEREAS, pursuant to the terms of the Development Agreement, the HRA loaned \$6,916,000 to F&C Borrower ("Loan No. 2"), which loan is evidenced by a Promissory Note dated April 30, 2012 ("Note No. 2"), and the HRA loaned F&C Borrower \$1,420,000 ("Loan No. 1"), which loan is evidenced by a Promissory Note dated April 30, 2012 ("Note No. 1"). Note No. 1 and Note No. 2 are secured by a Loan Agreement and a Membership Interest Pledge Agreement. Note No. 1 is also secured by a Corporate Guaranty of Flaherty & Collins Construction, Inc., and Note No. 2 is also secured by a Personal Guaranty of David M. Flaherty. The Membership Interest Pledge Agreement grants the HRA a security interest in 100% of the membership interests in F&C Borrower, and the HRA filed a Financing Statement with the Indiana Secretary of State to perfect its security interest. (Note No. 1, Note No. 2, the Loan Agreement, the Membership Interest Pledge Agreement, the Corporate Guaranty, the Personal Guaranty and the Financing Statement are referred to herein, collectively, as the "Loan Documents.")

WHEREAS, under the terms of the Development Agreement and Note No. 2, F&C Borrower is obligated to repay the entire outstanding principal amount of Loan No. 2 and all accrued, unpaid interest in full on June 1, 2015. F&C Apartments and F&C Borrower are in the process of refinancing the "Project Loan," as defined in the Development Agreement. As a part of that refinancing, they are borrowing additional funds to finance the repayment of Note No. 2. Under the terms of Note No. 1, upon a refinancing of the Project Loan, F&C Borrower is required to make a prepayment on Note No. 1 in an amount equal to 20% of the difference between the amount of the new Project Loan and the outstanding principal balance of the Project Loan being refinanced. As a result of that requirement and of F&C Apartments and F&C Borrower's decision to borrow against the equity in the project to repay Note No. 2, F&C Borrower is required to pay Note No. 1 in full upon the closing of its refinancing.

WHEREAS, to facilitate its refinancing in an amount sufficient to allow F&C Apartments and F&C Borrower to repay the current Project Loan in full and repay Loan No. 2 and Loan No. 1 in full, F&C Apartments and F&C Borrower have asked the City, in its

individual capacity and in its capacity as a successor-in-interest to the HRA, to amend the Development Agreement to remove therefrom provisions which allow the City to cancel and terminate the "TIF Note," as defined in the Development Agreement, as a remedy for certain defaults by F&C Apartments under the terms of the Development Agreement.

WHEREAS, upon F&C Borrower's repayment of Note No. 2 in full, the City is obligated, under the terms of the Development Agreement, to issue the "TIF Note," as defined in the Development Agreement, to F&C Ramsey.

WHEREAS, upon F&C Borrower's repayment of Note No. 1 and Note No. 2, in full, the City, both in its individual capacity and as successor-in-interest to the HRA, will be required to return the original Note No. 1 and the original Note No. 2 to F&C Borrower and to release, of record, the security interest which the HRA holds in the membership interest in F&C Borrower.

WHEREAS, in Section 11.4 of the Development Agreement, F&C Apartments, as the successor to F&C Ramsey, covenants and agrees to lease not less than 50% of the apartment units in the Project to tenants whose family income is equal to or less than 130% of the median family income. Section 11.4 of the Development Agreement provides that after Note No. 2 has been repaid, in full, the City's and the HRA's sole remedy for a breach of Section 11.4 would be to terminate the "TIF Note." The First Amendment to Development Agreement deletes Section 11.4 from the Development Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA:

- 1) That the City Council, in its capacity as the governing body of the City and in its capacity as the successor-in-interest to the Board of the HRA, hereby authorizes the Mayor and City Administrator to execute and deliver the First Amendment to Development Agreement, in the form attached hereto as Exhibit A, to F&C Ramsey, F&C Borrower and F&C Apartments contemporaneously with F&C Borrower's repayment in full of Note No. 1 and Note No. 2, and authorizes the recording of the Amendment to Development Agreement in the Anoka County Land records.
- 2) That the City Council authorizes the Mayor and City Administrator to execute and deliver the TIF Note, as defined in the Development Agreement, in the original principal amount of \$3,000,000 to F&C Ramsey, contemporaneously with F&C Borrower's payment, in full, of Loan No. 1 and Loan No. 2.
- 3) That the City Council, in its capacity as the governing body of the City and in its capacity as the successor-in-interest to the Board of the HRA, hereby authorizes and directs the Mayor and City Administrator to return the originals of Note No. 1 and Note No. 2 to F&C Borrower and to execute and deliver to F&C Borrower such documents and instruments as may be necessary to evidence the termination of the security interest granted to the HRA in the membership interests of F&C Borrower and the release of the other Loan Documents, all upon F&C Borrower's repayment, in full, of Note No. 1 and Note No. 2.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember _____, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

Whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this 10th day of February, 2015.

Mayor Sarah Strommen

ATTEST:

City Clerk Jo Ann M. Thieling