

**FIRST AMENDMENT TO
DEVELOPMENT AGREEMENT**

DATED: _____, 2015 (the “Amendment Effective Date”)

1. **Parties.** The parties to this First Amendment to Development Agreement (this “First Amendment”) are:

a. The City of Ramsey, Minnesota, a home rule charter city organized and existing under the constitution and laws of the State of Minnesota, both for itself and as successor-in-interest to The Housing and Redevelopment Authority in and for the City of Ramsey, Minnesota (the “HRA”) (collectively, the “City”);

b. F&C Ramsey, LLC, an Indiana limited liability company (“F&C Ramsey”);

c. F&C Ramsey Apartments, LLC, an Indiana limited liability company (“F & C Apartments”); and

d. F&C Ramsey Member, LLC, an Indiana limited liability company (“F & C Borrower”).

e. This First Amendment sometimes refers to the City, F&C Ramsey, F & C Apartments, and F & C Borrower, collectively, as the “Parties.”

RECITALS

A. City, F&C Ramsey, and F & C Borrower are parties to the Development Agreement dated March 9, 2012 (the “Development Agreement”) and recorded in the office of the Anoka County Registrar of Titles on May 3, 2012 as Document No. 508341.004, relating to certain real property defined as the “Development Property” in Article II of the Development Agreement.

B. Pursuant to that unrecorded Assignment and Assumption of Contracts entered into by F&C Ramsey and F & C Apartments dated March 9, 2012, **[Date left blank in document]** F&C Ramsey assigned all of its right, title and interest in, to and under the Development Agreement except the rights and obligations of F&C Ramsey under Article VI of the Development Agreement relating to the TIF financing.

C. Pursuant to Minnesota Statutes Section 469.033, Subd. 7, HRA Resolution #14-11-236 dated November 12, 2014, the City (the “HRA Resolution”), and City Resolution #14-12-262 dated December 9, 2014, the HRA transferred all of its assets, including its rights under the Development Agreement, to the City and the City approved the transfer of all of the HRA’s assets to the City and dissolved the HRA (the ‘City Resolution”).

D. Sections 6.6, 11.3, 11.4, 11.5(b)(iii), 13.2(d), and Exhibit B of the Development Agreement reference the City’s ability to cancel, rescind and/or terminate the TIF Note as a remedy to the Events of Default defined in Sections 13.1(a), (b), (c), (d), (e), (f), (g) or (l) of the

Development Agreement or as a consequence of the Project Mortgage holder treating the Development Agreement as subordinate to the Project Mortgage.

E. In consideration of F & C Apartments' election to refinance the Project Loan in an amount that results in the prepayment of Loan No. 1, the City, has agreed to amend the Development Agreement to eliminate the City's right to cancel, rescind or terminate the TIF Note as a remedy for an Event of Default under the Development Agreement or as a consequence of the Project Mortgage holder treating the Development Agreement as subordinate to the Project Mortgage, all as set forth in this First Amendment.

AGREEMENT

1. **Conditions Subsequent.** Section 6.6 of the Development Agreement is deleted in its entirety.

2. **Subordination of Development Agreement to Project Mortgage and Extension of Time to Cure.** Section 11.3 of the Development Agreement is deleted in its entirety and replaced with the following:

The City will, upon the request of the holder of a Project Mortgage, execute and record a subordination agreement pursuant to which the City agrees that, upon a default by Developer under a Project Mortgage, the holder of the Project Mortgage may elect, in an instrument to be recorded in the Anoka County land records and delivered to the City before the commencement of proceedings to foreclose the Project Mortgage, to either (1) treat this Development Agreement as being subordinate to the lien of the Project Mortgage such that the foreclosure of the Project Mortgage and the failure of any owner to redeem the Development Property from such foreclosure will extinguish and terminate this Development Agreement (but not the Assessment Agreement or the TIF Note); or (2) to treat this Development Agreement as having priority over the Project Mortgage in which case this Development Agreement will survive the foreclosure of the Project Mortgage and this Development Agreement will be binding upon the holder of the Sheriff's Certificate issued in conjunction with the foreclosure of the Project Mortgage. If the holder of the Project Mortgage fails to notify the City of its election under this Section 11.3 on or before the commencement of foreclosure proceedings, the holder of the Project Mortgage shall be deemed to have elected to treat this Development Agreement as being subordinate to the lien of the Project Mortgage such that the foreclosure of the Project Mortgage and the failure of any owner to redeem the Development Property from such foreclosure will extinguish and terminate this Development Agreement (but not the Assessment Agreement or the TIF Note). The City further agrees that if the holder of the Project Mortgage elects to treat this Development Agreement as having priority over the Project Mortgage, the City will, upon the completion of the foreclosure without redemption by Developer or any junior creditor, amend this Development Agreement to extend the time for the completion of the Minimum Improvements to a date 12 months following the expiration of all applicable redemption periods.

3. **Rental Restrictions.** Section 11.4 of the Development Agreement is deleted in its entirety.

4. **Permitted Assignment to F & C Ramsey Apartments, LLC.** Section 11.5(b)(iii) of the Development Agreement is deleted in its entirety and replaced with the following:

F & C Ramsey, LLC acknowledges that the City's obligation to execute the TIF Note and deliver the TIF Note to F & C Ramsey, LLC pursuant to Section 6.1 of this Agreement is subject to all of the terms and conditions of this Agreement including all of the terms and conditions of the TIF Note.

5. **Remedies on Default.** Section 13.2(d) of the Development Agreement is deleted in its entirety.

6. **Exhibit B.** Exhibit B of the Development Agreement is deleted in its entirety and replaced with the document that is attached to this Amendment and Labeled "**EXHIBIT B.**"

7. **Defined Terms.** The term "Development Agreement" as used in the Development Agreement and in this First Amendment the Development Agreement as modified by this First Amendment. Capitalized terms not otherwise defined in this First Amendment have the meaning given to such terms in the Development Agreement.

8. **No Further Modifications.** Except as expressly modified in this First Amendment, the Development Agreement is unmodified and in full force and effect.

9. **Counterparts.** This First Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

10. **Effective Date.** This First Amendment is effective as of the Amendment Effective Date.

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment to be effective as of the day and year first written above.

F&C RAMSEY, LLC,
an Indiana limited liability company:

By _____
Its _____

STATE OF INDIANA)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2015 by _____, the _____ of F&C RAMSEY, LLC, an Indiana limited liability company.

Notary Public

**Signature Page to First Amendment to Development Agreement
(F&C RAMSEY, LLC)**

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment to be effective as of the day and year first written above.

F&C RAMSEY APARTMENTS, LLC,
an Indiana limited liability company:

By _____
Its _____

STATE OF INDIANA)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2015 by _____, the _____ of F&C RAMSEY APARTMENTS, LLC, an Indiana limited liability company.

Notary Public

**Signature Page to First Amendment to Development Agreement
(F&C RAMSEY APARTMENTS, LLC)**

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment to be effective as of the day and year first written above.

F&C RAMSEY MEMBER, LLC,
an Indiana limited liability company:

By _____
Its _____

STATE OF INDIANA)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2015 by _____, the _____ of F&C RAMSEY MEMBER, LLC, an Indiana limited liability company.

Notary Public

**Signature Page to First Amendment to Development Agreement
(F&C RAMSEY MEMBER, LLC)**

EXHIBIT B

FORM OF TIF NOTE

No. _____

\$ _____

**UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ANOKA
CITY OF RAMSEY**

**TAX INCREMENT REVENUE NOTE
(F & C DEVELOPMENT, INC. PROJECT)**

The City of Ramsey, Minnesota (the "City"), hereby acknowledges itself to be indebted and, for value received, hereby promises to pay the amounts hereinafter described (the "Payment Amounts") to F & C Ramsey, LLC, an Indiana limited liability company ("Developer") or any Successor Holder (as defined below), but only in the manner, at the times, from the sources of revenue, and to the extent hereinafter provided. This Note is being issued pursuant to the terms of that certain Development Agreement by and between the Housing and Redevelopment Authority in and for the City of Ramsey, Minnesota (the "HRA"), the City, Developer and F & C Ramsey Member, LLC 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 as amended by that First Amendment to Development Agreement dated _____, 2015 and recorded in the office of the Anoka County Registrar of Titles on _____, 2015 as Document No. _____ (collectively, the "Development Agreement"). All capitalized terms used in this Note that are not expressly defined in this Note have the meanings given to such terms in the Development Agreement.

The principal amount of this Note is \$ _____, as reduced to the extent that principal shall have been paid in whole or in part pursuant to the terms hereof. The unpaid principal amount of this Note shall bear simple, non-compounding interest from the date of issuance of this Note at 6.25% per annum Interest shall be computed on the basis of a 360 day year consisting of twelve (12) 30-day months.

The amounts due under this Note shall be payable on October 1, 2015, February 1, 2016 and on each August 1 and February 1 thereafter through and including February 1, 2038, or, if such date is not a Business Day (as defined in the Development Agreement), the next succeeding Business Day (each a "Payment Date" and collectively the "Payment Dates"). On each Payment Date the City shall pay, by check or draft mailed to the person that was Developer or a Successor Holder of this Note at the close of the last business day of the City preceding such Payment Date, an amount equal to the sum of the Tax Increments (as defined in the Development Agreement) received by the City (i) since January 1, 2015, in the case of the first Payment Date, and (ii) since the prior Payment Date in the case of subsequent Payment Dates; provided, however, if Developer has sought a reduction of the Assessed Value of the Development Property is provided for in Section 10.1(d) of the Development Agreement, the amount of the Tax Increments the City will pay to Developer is determined in accordance with said Section 10.1(d).

All payments made by the City under this Note shall be applied first to pay accrued, unpaid interest and then to principal.

The Payment Amounts due hereon shall be payable solely from Tax Increments (as defined in the Development Agreement) the City receives on or after January 1, 2015. This Note shall terminate and be of no further force and effect following the last Payment Date defined above, on the date the Tax Increment District is terminated, or on the date that all principal and interest payable hereunder shall have been paid in full, whichever occurs earliest.

The City makes no representation or covenant, express or implied, that the Tax Increments the City receives from and after January 1, 2015, will be sufficient to pay, in whole or in part, the amounts which are or may become due and payable hereunder.

This Note is a special, limited revenue obligation and not a general obligation of the City and is payable by the City only from the sources and subject to the qualifications stated or referenced herein. This Note is not a general obligation of the City, and neither the full faith and credit nor the taxing powers of the City are pledged to the payment of the principal of this Note and no property or other asset of the City, save and except Tax Increments the City receives on or after January 1, 2015 shall be a source of payment of the City's obligations hereunder.

This Note is issued by the City in aid of financing a project pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including the Tax Increment Act.

This Note may be assigned only to transferees permitted or deemed to be permitted pursuant to the Development Agreement (each such permitted successor is referred to as "Successor Holder"), and any permitted assignment of the rights and obligations of the Development Agreement shall be deemed to be an assignment of the benefits of Developer pursuant to this Note. In order to assign the Note, the assignee shall surrender the same to the City either in exchange for a new fully registered note or for transfer of this Note on the registration records for the Note maintained by the City. Each permitted assignee shall take this Note subject to the foregoing conditions and subject to all provisions stated or referenced herein.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions, and things required by the Constitution and laws of the State of Minnesota to be done, to have happened, and to be performed precedent to and in the issuance of this Note have been done, have happened, and have been performed in regular and due form, time, and manner as required by law; and that this Note, together with all other indebtedness of the City outstanding on the date hereof and on the date of its actual issuance and delivery, does not cause the indebtedness of the City to exceed any constitutional or statutory limitation thereon.

IN WITNESS WHEREOF, the City of Ramsey, Minnesota, by its City Council, has caused this Note to be executed by the manual signatures of its Mayor and City Administrator and has caused this Note to be dated as of _____, 20_____.

Mayor

City Administrator