

## MEMORANDUM

To: Honorable Mayor and Council Members

From: Christine Davis, Finance Director 

Date: January 21, 2009

Re: Authorization to borrow up to \$750,000 for the construction of Sparkman Ave.

### **Purpose:**

By adopting Ordinance No. 377, the City Council, the City Manager, the Mayor and other authorized officers and employees of the City are formally authorized to negotiate the terms and provisions of a loan agreement for the purpose of constructing the missing link of South Sparkman Avenue between W. Ohio Avenue and W. Rhode Island.

### **Background:**

In April 2008, the City Council approved the Sparkman Ridge R-PUD, which included the dedication of right-of-way for S. Sparkman Avenue from W. Ohio Avenue to W. Rhode Island, a portion of which is owned by Sparkman LLC and another portion owned by the Volusia County School Board (VCSB). Council has accepted the necessary right-of-way from both Sparkman LLC and the VCSB.

Further the Sparkman Ridge R-PUD indicated that Sparkman LLC was responsible for the construction of the S. Sparkman Avenue road and utility that would link W. Ohio Avenue and W. Rhode Island to provide adequate traffic circulation for the Sparkman Ridge subdivision. As a result of the current economic situation the developer is not in a position to construct this section of S. Sparkman Avenue. Sparkman LLC has agreed to work with the city to have the road and utility constructed and for the costs to be repaid through the imposition of a special assessment district (SAD).

The city recognizes the importance of the link between Ohio Avenue and Rhode Island to provide adequate traffic circulation that will immediately serve the greater good of the general public and ultimately provide access to the Sparkman Ridge subdivision.

The city's financial advisor D.A. Davidson & Co. (Jeff Larson) and staff prepared and issued a Request for Proposals (RFP) on 1/9/09 soliciting financing proposals with a cut-off date of 1/21/09. The results of the RFP will be brought to Council at the 1/27/09 meeting.

### **Recommendation:**

Staff respectfully requests Council's approval of Ordinance No. 377, which authorizes the City to take any and all necessary actions in connection with the loan and to negotiate the terms and provisions of a loan agreement for the purpose of constructing the missing link of South Sparkman Avenue between W. Ohio Avenue and W. Rhode Island.

## ORDINANCE NO. 377

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA, AUTHORIZING THE BORROWING OF MONEY IN AN AMOUNT NOT TO EXCEED SEVEN HUNDRED FIFTY THOUSAND DOLLARS FOR THE PURPOSE OF FINANCING A PORTION OF THE CITY'S COSTS OF CERTAIN ROAD AND UTILITY IMPROVEMENTS WITHIN THE SPARKMAN RIDGE RESIDENTIAL PLANNED UNIT DEVELOPMENT PROJECT; AND PROVIDING AN EFFECTIVE DATE.**

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**WHEREAS**, the City Council (the "Council") of the City of Orange City, Florida, (the "City") has determined that it is necessary and desirable to borrow funds to finance a portion of the City's costs of providing certain road and utility improvements (the "Project") located within the Sparkman Ridge Residential Planned Unit Development Project (the "Project Area");

**WHEREAS**, the City wishes to borrow funds from a financial institution (the "Loan") in an aggregate principal amount not to exceed \$750,000 for the purpose of financing the cost of the Project, paying capitalized interest on the Loan during and for a reasonable period of time after construction; and paying the related fees and costs of entering into the Loan;

**WHEREAS**, it is in the City's best interest to enter into the Loan in order to encourage the development of the lands within the Project Area;

**WHEREAS**, the City's repayment obligations under the Loan shall be evidenced by a promissory note which shall be payable solely from and secured by a lien on non-ad valorem special assessments to be levied by the City on lands within the Project Area including, without limitation, amounts received from any foreclosure proceeding for the enforcement of collection of such special assessments (the "Pledged Revenues");

**WHEREAS**, in order to induce the financial institutions to enter into the Loan with the City and to the extent Pledged Revenues are insufficient in any fiscal year, the City shall covenant to budget and appropriate legally available non-ad valorem revenues in the amount of the deficiency;

**WHEREAS**, the Loan shall bear a fixed rate of interest not to exceed 6.0% per annum and have a final maturity no later than 25 years from the date of delivery;

**WHEREAS**, the City Council now wishes to authorize the Loan;

**WHEREAS**, Section 5.01 of the City Charter requires the City Council to authorize the borrowing of money by ordinance; and

**NOW THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA:**

**SECTION 1.** The above stated recitals are hereby incorporated as part of this Ordinance.

**SECTION 2.** The City Council is hereby authorized to borrow funds in an amount not to exceed seven hundred fifty thousand dollars (\$750,000) for the purpose of financing the cost of the Project, paying capitalized interest on the Loan during and for a reasonable period of time after construction; and paying the related fees and costs of entering into the Loan.

**SECTION 3.** The City Council, the City Manager, the Mayor and other authorized officers and employees of the City are hereby authorized to take any and all necessary actions in connection with the Loan and to negotiate the terms and provisions of a loan agreement, in a form consistent with the terms of the hereof and to submit such loan agreement to the City Council for approval by supplemental resolution; provided, the Loan bears a fixed rate of interest not to exceed 6.0% per annum and has a final maturity no later than 25 years from the date of delivery. THE LOAN AUTHORIZED UNDER THIS ORDINANCE AND THE OBLIGATION EVIDENCED THEREBY SHALL NOT CONSTITUTE A LIEN UPON ANY PROPERTY OF THE CITY, INCLUDING, WITHOUT LIMITATION, THE PROJECT OR ANY PORTION THEREOF IN RESPECT OF WHICH THE LOAN IS BEING ENTERED INTO, OR ANY PART THEREOF, BUT SHALL CONSTITUTE A LIEN ONLY ON THE PLEDGED REVENUES. NOTHING AUTHORIZED UNDER THIS ORDINANCE SHALL BE CONSTRUED AS OBLIGATING THE CITY TO REPAY THE LOAN OR THE INTEREST THEREON EXCEPT FROM THE PLEDGED REVENUES, OR AS PLEDGING THE FAITH AND CREDIT OF THE CITY, VOLUSIA COUNTY, FLORIDA OR THE STATE OF FLORIDA OR ANY OTHER POLITICAL SUBDIVISION THEREOF, OR AS OBLIGATING THE CITY, VOLUSIA COUNTY, FLORIDA OR THE STATE OF FLORIDA OR ANY OTHER POLITICAL SUBDIVISION, DIRECTLY OR INDIRECTLY OR CONTINGENTLY, TO LEVY OR TO PLEDGE ANY FORM OF TAXATION WHATEVER THEREFOR

**SECTION 4.** All ordinances, resolutions, charter provisions or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 5.** If any section, subsection, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion thereto.

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**SECTION 6.** This Ordinance shall become effective immediately upon its enactment.

**ROLL CALL VOTE AS FOLLOWS:**

First Reading this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

Jim Mahoney	_____	Donald C. Sherrill	_____
Tom Laputka	_____	Tom Abraham	_____
Donald Sandford	_____	Jeff H. Allebach, Vice Mayor	_____
Harley Strickland, Mayor	_____		

**ROLL CALL VOTE AS FOLLOWS:**

Second Reading this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

Jim Mahoney	_____	Donald C. Sherrill	_____
Tom Laputka	_____	Tom Abraham	_____
Donald Sandford	_____	Jeff H. Allebach, Vice Mayor	_____
Harley Strickland, Mayor	_____		

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**ATTEST:**

**AUTHENTICATED:**

\_\_\_\_\_  
Deborah J. Renner, CMC, City Clerk

\_\_\_\_\_  
Harley Strickland, Mayor

Approved as to form and legal sufficiency:

\_\_\_\_\_  
William E. Reischmann, Jr., City Attorney