


MEMORANDUM

To: Honorable Mayor and Council Members

From: Christine Davis, Finance Director 

Date: January 21, 2009

Re: Revised Ordinance No. 377

As recommended by bond counsel (Bryant, Miller and Olive) and approved by the City Attorney, attached is a revised copy of Ordinance No. 377.

If you have any questions, feel free to submit them to me.

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 ONSITE AND OFFSITE ROAD AND UTILITY IMPROVEMENTS WITHIN BENEFITTING THE SPARKMAN RIDGE RESIDENTIAL PLANNED UNIT DEVELOPMENT PROJECT; AND PROVIDING AN EFFECTIVE DATE.

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 onsite and offsite road and utility improvements (the "Project") ~~located within~~ benefitting 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 (i) 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 ~~(, (ii) the moneys on deposit in the funds and accounts established under the loan agreement providing the terms and provisions of the Loan, and (iii) the earnings from the investment of moneys on deposit in said funds and accounts~~ (collectively, 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; funding a deposit to a debt service reserve fund, 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.

[Remainder of page intentionally left blank]

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

CITY OF ORANGE CITY, FLORIDA

Harley Strickland, Mayor

ATTEST:

Chester Murray, Interim City Manager Deborah Renner, City Clerk

APPROVED AS TO FORM AND LEGALITY:

William Reischmann, City Attorney

ROLL CALL VOTE AS FOLLOWS:

Passed on first reading on the First Reading this 27th day of January, 2009.

<u>Jim Mahoney</u>	<u>Donald C. Sherrill</u>
<u>Tom Laputka</u>	<u>Tom Abraham</u>
<u>Donald Sandford</u>	<u>Jeff H. Allebach, Vice Mayor</u>
<u>Harley Strickland, Mayor</u>	

ROLL CALL VOTE AS FOLLOWS:

Second Reading this 10th day of February, 2009.

<u>Jim Mahoney</u>	<u>Donald C. Sherrill</u>
<u>Tom Laputka</u>	<u>Tom Abraham</u>
<u>Donald Sandford</u>	<u>Jeff H. Allebach, Vice Mayor</u>
<u>Harley Strickland, Mayor</u>	

Passed and enacted on second reading on the PASSED and ADOPTED this 10th day of February, 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