

ORDINANCE NO. 1122

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MAITLAND, FLORIDA, APPROVING THE FORM OF THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF MAITLAND, FLORIDA AND THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF MAITLAND, FLORIDA; AUTHORIZING THE MAYOR TO EXECUTE AND DELIVER SAID INTERLOCAL AGREEMENT AND TO TAKE ANY AND ALL NECESSARY ACTIONS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Maitland, Florida, (the "City") has agreed to the terms of an Interlocal Agreement governing the City's obligation to covenant and appropriate non-ad valorem revenues, with the Community Redevelopment Agency of the City of Maitland, Florida, (the "CRA"); and

WHEREAS, the Interlocal Agreement provides that the City will budget and appropriate certain non-ad valorem revenues to be deposited in the Redevelopment Trust Fund in the event that the CRA's tax increment revenues (the "Pledged Revenues") are not sufficient to pay the principal and interest on the Series 2005 Community Redevelopment Revenue Bonds (the "Series 2005 Bonds"); and

WHEREAS, the Interlocal Agreement further provides that the CRA shall reimburse the City for all amounts on non-ad valorem revenues transferred by the City to the Redevelopment Trust Fund (the "Transferred Funds"); and

WHEREAS, the City Council now wishes to approve the Interlocal Agreement;

NOW, THEREFORE BE IT ENACTED by the City Council of the City of Maitland, Florida, that:

SECTION 1. All of the above listed recitals are hereby incorporated as a part of this Ordinance.

SECTION 2. All capitalized terms not herein defined are given the meaning assigned in the Interlocal Agreement.

SECTION 3. The Mayor is hereby authorized to execute and deliver the Interlocal Agreement in substantially the form attached hereto as Exhibit A together with such omissions, insertions and deletions as the Mayor shall approve, such approval being evidenced by the execution of the Interlocal Agreement.

SECTION 4. The Mayor is further authorized to take any and all necessary actions in connection with the execution and delivery of the Interlocal Agreement.

SECTION 5. All ordinances, resolutions or parts thereof in conflict herewith are hereby superseded and repealed to the extent of such conflict.

SECTION 6. This Ordinance shall be in full force and effect immediately upon its passage.

ADOPTED by the City Council of the City of Maitland, Florida, this 10th day of October, 2005.

CITY OF MAITLAND



MAYOR

ATTEST:

Ronda L. Williams
CITY CLERK

EXHIBIT A

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT was made and entered into this 10th day of October 2005, by and between the City of Maitland, Florida, a municipal corporation organized and existing under the laws of the State of Florida (hereinafter referred to as "City"), and the Community Redevelopment Agency of the City of Maitland, Florida, a public body corporate and politic organized and existing under the laws of the State of Florida (hereinafter referred to as the "CRA");

WITNESSETH:

WHEREAS, the City created the CRA pursuant to Part III, Chapter 163, Florida Statutes, as amended, by adopting Resolution No. 2003-M-30 on August 19, 2003; and

WHEREAS, the CRA is charged with implementing the Maitland Downtown Community Redevelopment Plan (the "Plan") adopted by the City in Resolution No. 13-2003, on August 25, 2003; and

WHEREAS, the CRA has determined that in order to implement the Plan it is desirable to finance the construction, acquisition, renovation, improvement and equipping of Plan Projects; and

WHEREAS, the City established the Community Redevelopment Trust Fund in Ordinance No. 1066 enacted on August 25, 2003, thereby providing for the collection and deposit of Tax Increment Revenues (the "Pledged Revenues") to be used for the sole benefit of the CRA; and

WHEREAS, the CRA has adopted Resolution #15-2005 on September 26, 2005 (the "Resolution"), authorizing the issuance of not to exceed \$15,000,000 principal amount Community Redevelopment Revenue Bonds, Series 2005 (the "Series 2005 Bonds"); and

WHEREAS, the CRA has requested that the City enter into an Interlocal Agreement pursuant to which the City will covenant to budget and appropriate certain legally available non-ad valorem revenues of the City as a secondary pledge to secure the CRA's financial obligations under the Resolution.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties hereby agree as follows:

Section 1. Incorporation of Recitals. The above set forth recitals are hereby incorporated into the terms of this Interlocal Agreement.

Section 2. Covenant to Budget and Appropriate Non-Ad Valorem Revenues. The City agrees that it will deposit or cause to be deposited non-ad valorem tax revenues into the Redevelopment Trust Fund (the "Transferred Funds"). When advised by the CRA that the Pledged Revenues will not be sufficient to pay the principal of and interest on the Series 2005 Bonds, the City will make or cause to be made such deposits in an amount necessary to cover such shortfall, but only to the extent that non-ad valorem revenues are available for such purpose.

Subject to the provisions of this Section 2, the City hereby acknowledges, covenants and agrees to budget and appropriate, by amendment, if necessary, from non-ad valorem revenues lawfully available in each Fiscal Year, as promptly as said revenues become available, directly to the Redevelopment Trust Fund amounts sufficient to pay the principal of and interest on the Series 2005 Bonds. The City's covenant to budget and appropriate shall be cumulative and shall continue until the Pledged Revenues or in the event the Pledged Revenues are insufficient, such legally available non-ad valorem revenues in amounts sufficient to fully defease the Series 2005 Bonds.

The covenant to budget and appropriate in the City's general annual budget for the purposes and in the manner stated herein shall have the effect of making available in the manner described herein non-ad valorem revenues and placing on the City a positive duty to budget and appropriate, by amendment, if necessary, amounts sufficient to meet its obligations hereunder; subject, however, in all respects to the restrictions of Section 166.241(3), Florida Statutes, which provides in part, that the governing body of each municipality make appropriations for each Fiscal Year which, in any one year shall not exceed the amount to be received from taxation or other revenues sources; and subject further, to the payment of services

and programs which are for essential public purposes affecting the health, welfare and safety of the inhabitants of the City or which are legally mandated by applicable law.

Notwithstanding the foregoing, the City does not covenant to maintain any services or programs, now provided or maintained by the City, which generate non-ad valorem revenues.

Furthermore, such covenant to budget and appropriate does not create any lien upon or pledge of such non-ad valorem revenues, nor does it preclude the City from pledging in the future its non-ad valorem revenues, nor does it require the City to levy and collect any particular non-ad valorem revenues, nor does it grant the CRA a prior claim on the non-ad valorem revenues as opposed to claims of general creditors of the City. Such covenants to budget and appropriate non-ad valorem revenues is subject in all respects to the payment of obligations secured by a pledge of such non-ad valorem revenues heretofore and hereinafter entered into (including the payment of debt service on bonds and other debt instruments).

The obligation of the City to deposit any amounts required for the payment of the principal of and interest on the Series 2005 Bonds under the Resolution, in the event of a shortfall in the Pledged Revenues, shall be absolute and unconditional in all events except as otherwise expressly provided in this Section 2.

Nothing herein shall be deemed to pledge ad valorem taxation revenues or to permit or constitute a mortgage or lien upon any assets owned by the City and no Bondholder nor any other person, including the CRA may compel the levy of ad valorem taxes on real or personal property within the boundaries of the City. The obligations hereunder do not constitute indebtedness of the City within the meaning of any constitutional, statutory or charter provision or limitation, and neither the CRA, Series 2005 Bondholders, or any other person shall have the right to compel the exercise of the ad valorem taxing power of the City or taxation of any real or personal property therein for the payment by the City of its obligations hereunder.

Section 3. Future Obligations Payable From the Non-Ad Valorem Revenues. The City will not hereafter issue any obligations payable from the non-ad valorem revenues or portions thereof, unless there shall have been filed with the Secretary of the CRA a certificate of the

Finance Manager of the City to the effect that available non-ad valorem revenues (average of actual receipts over any 12 consecutive months out of the previous 18 months) exceed maximum annual debt service on the Series 2005 Bonds and any other debt payable solely from the non-ad valorem revenues by at least 1.5 times.

Section 4. CRA Covenant to Reimburse the City. The CRA covenants that it shall reimburse the City for all Transferred Funds deposited by the City in the Redevelopment Trust Fund. Said reimbursement shall be subject to and limited by the following priority for CRA expenditures. To the extent permitted by Part III, Chapter 163, Florida Statutes, any and all other applicable provisions of law, the CRA shall apply all Pledged Revenues: (i) to the payment of principal and interest on the Series 2005 Bonds; (ii) to pay for all necessary expenses incurred directly by the CRA, including, but not limited to administrative and overhead costs, design, planning, and construction of redevelopment projects; and (iii) to reimburse the City for all amounts of Transferred Funds deposited by the City into the Redevelopment Trust Fund pursuant to this Interlocal Agreement.

Section 5. No General Obligation or Pledge of Full Faith and Credit. The Series 2005 Bonds shall not constitute a general obligation of the City or the CRA within the meaning of any constitutional, statutory, or charter provision or limitation or a pledge of City's or CRA's full faith and credit, but shall be payable as to principal and interest on the Series 2005 Bonds solely from the Pledged Revenues and from the Transferred Funds as defined and in the manner described in the Resolution.

Section 6. Duration. This Interlocal Agreement shall remain in full force and effect for so long as all or a portion of the Series 2005 Bonds remain outstanding or until such time when the Series 2005 Bonds are legally or economically defeased.

Section 7. Modification. No modification or amendment of the terms hereof shall be valid unless in writing, and executed by the parties hereto.

Section 8. No Third Party Beneficiaries. This Interlocal Agreement is for the sole benefit of the parties hereto; and there are no third party beneficiaries of this Interlocal Agreement.


IN WITNESS WHEREOF, the parties have caused this Interlocal Agreement to be executed and their signatures to be affixed hereto.

(SEAL)

CITY OF MAITLAND, FLORIDA

ATTEST:

Donna L. Williams
CITY CLERK


By: 
MAYOR
Date: 10/10/05

(SEAL)

COMMUNITY REDEVELOPMENT
AGENCY OF THE CITY OF MAITLAND,
FLORIDA

ATTEST:


SECRETARY

By: 
CHAIRPERSON
Date: 10/10/05