

ORDINANCE NO. 09-19

AN ORDINANCE OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, MODIFYING THE EXISTING REDEVELOPMENT TRUST FUND AND BOUNDARIES TO INCLUDE AN EXPANSION AREA; PROVIDING FOR LEGISLATIVE FINDINGS; DEFINITIONS; REDEVELOPMENT TRUST FUND; AMENDING ORDINANCE NO. 05-19 SECTION 3 ESTABLISHMENT OF THE REDEVELOPMENT TRUST FUND; PROVIDING FOR THE FUNDING OF A REDEVELOPMENT TRUST FUND FOR COMMUNITY REDEVELOPMENT WITHIN THE COMMUNITY REDEVELOPMENT AREA; PROVIDING FOR ADMINISTRATION OF THE REDEVELOPMENT TRUST FUND; DETERMING THE TAX INCREMENT TO BE DEPOSITED IN THE REDEVELOPMENT TRUST FUND; ESTABLISHING THE BASE YEAR FOR DETERMINING ASSESSED VALUES OF PROPERTY IN THE COMMUNITY REDEVELOPMENT AREA FOR TAX INCREMENT PURPOSES; PROVIDING FOR THE ANNUAL APPROPRIATION OF THE TAX INCREMENT BY TAXING AUTHORITIES IN THE COMMUNITY REDEVELOPMENT AREA; APPOINTING THE GOVERNING BODY OF THE COMMUNITY REDEVELOPMENT AGENCY AS THE TRUSTEE OF THE REDEVELOPMENT TRUST FUND; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Fellsmere, Florida, has, by Resolution No. 05-KK adopted a Community Redevelopment Plan for the City; and

WHEREAS, Resolution No. 09-CC, adopted by the City Council of the City of Fellsmere, Florida on September 17, 2009, determined the existence of blight in a certain area (the "Expansion Area") of the City of Fellsmere, Florida and that such area was in need of redevelopment and needed to be added to and incorporated in the existing Community Redevelopment Area as provided in Section 163.361, Florida Statutes; and

WHEREAS, by Resolution No. 09-JJ, adopted by the City Council of the City of Fellsmere, Florida on _____, 2009, the City Council adopted a modified Community Redevelopment Plan for the entire Community Redevelopment Area, that included the Expansion Area (the "Modified Plan") as fully described in Resolution No. 09-JJ and in Exhibit "A" attached hereto and made a part hereof (the "Community Redevelopment Area"); and

WHEREAS, the City Council desires to provide for the removal of such blighted areas and redevelop such areas, within the Community Redevelopment Area, pursuant to the Community Redevelopment Act of 1969, as amended, or the “Act”, as contained in Florida Statutes, Chapter 163, Part III; and

WHEREAS, in order to plan and implement community redevelopment within the Community Redevelopment Area it is necessary to reaffirm the Community Redevelopment Trust Fund as established and created in accordance with Section 163.387, Florida Statutes; and

WHEREAS, notice of the City Council’s intention to reaffirm the Community Redevelopment Trust Fund has been given to all “taxing authorities” (as hereinafter defined) in accordance with Section 163.346, Florida Statutes.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Fellsmere, Indian River County, Florida, as follows:

SECTION 1. LEGISLATIVE FINDINGS. The recitals set forth above and the recitals as set forth in Resolution Nos. 05-AA and 09-CC are hereby ratified, adopted and incorporated herein as legislative findings of the City Council relative to the provisions of this Ordinance.

SECTION 2. DEFINITIONS The terms contained in this Ordinance shall have the meanings set forth in Part III of Chapter 163, Florida Statutes (the Community Redevelopment Act of 1969, as amended, or the “Act”) specifically Section 163.340.

SECTION 3. REDEVELOPMENT TRUST FUND. That the Community Redevelopment Trust Fund as established and set forth in Ordinance No. 05-19 is hereby reaffirmed and designated as the repository of revenues for the Community Redevelopment Area, including the Expansion Area.

SECTION 4. AMENDMENT OF ORDINANCE NO. 05-19 SECTION 3 ESTABLISHMENT OF THE REDEVELOPMENT TRUST FUND. That Section 3 Establishment of Redevelopment Trust Fund of Ordinance No. 05-19 is hereby amended to read as follows:

SECTION 3. Redevelopment Trust Fund.

A. There is hereby established and created, in accordance with the provisions of Section 163.387, Florida Statutes, a Community Redevelopment Trust Fund (the "Trust Fund") for the use and benefit of the Community Redevelopment Agency, which Trust Fund shall be used by the Agency to finance and refinance any community redevelopment it undertakes pursuant to and in accordance with the Community Redevelopment Plan (the "Plan"), including any amendments or modifications thereto approved by City Council, and including any "community redevelopment", as that term is defined in Section 163.340(9), Florida Statutes, under the Plan.

B. The monies to be allocated to and deposited into the Trust Fund shall be used to finance "community redevelopment" within the Community Redevelopment Area, including the Expansion Area as added by Resolution No. 09-CC, (the "Community Redevelopment Area" or "Area") according to tax increment revenues attributed to the Area, which shall be appropriated by the Agency. The Agency shall utilize the funds and revenues paid into and earned by the Trust Fund for community redevelopment purposes as provided in the Plan and as permitted by law. The Trust Fund shall exist for the duration of the "community redevelopment" undertaken by the Agency pursuant to the Plan to the extent permitted by the Community Redevelopment Act of 1969 or the "Act", as contained in Florida Statutes, Chapter 163, Part III.

C. There shall be paid into the Trust Fund each year by each of the "taxing authorities", as that term is defined in Section 163.340(2) and 163.340(24), Florida Statutes, levying ad valorem taxes within the Community Redevelopment Area, a sum equal to ninety-five percent (95%) of the incremental increase in ad valorem taxes levied each year by that taxing authority, as calculated in accordance with Section 3.E. hereof and the Act, based on the base tax year established in Section 3.D. hereof (such annual sum being hereinafter referred to as the "tax increment").

D. 1. For the land area included within the original Community Redevelopment Plan created by Resolution No. 05-KK, the assessment roll used in connection with the taxation of property shall be the preliminary assessment roll of taxable real property in Indian River County, Florida, prepared by the Property Appraiser of Indian River County, Florida and filed with the Department of Revenue pursuant to Section 193.1142, Florida Statutes, reflecting valuation of real property for purposes of ad valorem taxation as of January 1, 2005 (the "base year value"), and all deposits into the Trust Fund shall be in the amount of tax increment calculated as provided in Section 3.E. hereof based upon increases in valuation of taxable real property from the base year value.

2. For the Expansion Area, the tax roll used in connection with the taxation of property shall be the preliminary assessment roll of taxable real property in Indian River County, Florida, prepared by the Property Appraiser of Indian River County, Florida and filed with the Department of Revenue pursuant to Section 193.1142, Florida Statutes, reflecting valuation of real property for purposes of ad valorem taxation as of January 1, 2009 (the "base year value"), and all deposits into the Trust Fund shall be in the amount of tax increment calculated as provided in Section 3.E. hereof based upon increases in valuation of taxable real property from the base year value.

E. The tax increment shall be determined and appropriated annually by each taxing authority, and shall be an amount equal to ninety-five percent (95%) of the difference between:

1. That amount of ad valorem taxes levied each year by all taxing authorities, exclusive of any amount from any debt service millage, on taxable real property located within the geographic boundaries of the Community Redevelopment Area; and
2. That amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for all taxing authorities, exclusive

of any debt service millage, upon the total of the assessed value of the taxable real property in the Community Redevelopment Area as show upon the assessment roll used in connection with the taxation of such property by all taxing authorities, prior to the effective date of Ordinance No. 05-19 and prior to the effective date of Ordinance No. 09-19 for the Expansion Area.

The tax increment shall be computed by using the assessed value of taxable property in the Community Redevelopment Area for the applicable base year, and in subsequent years using the assessment value of property in the Community Redevelopment Area for that current year as the second factor in determining the amount of tax increment in that year.

F. All taxing authorities shall annually appropriate to and cause to be deposited in the Trust Fund the tax increment determined pursuant to the Act and Section 3.E. hereof at the beginning of each fiscal year thereof as provided in the Act. The obligation of each taxing authority to annually appropriate the tax increment for deposit in the Trust Fund shall commence immediately upon the effective date of Ordinance No. 05-19 and continue for thirty (30) years from the effective date of Ordinance No. 09-19 or such other time as extended or shortened by law.

G. The Trust Fund shall be established and maintained as a separate Trust Fund by the Agency so that the Trust Fund may be promptly and effectively administered and utilized by the Agency expeditiously and without any undue delay for its statutory purpose pursuant to the Plan.

H. The governing body of the Agency shall be the trustees of the Trust Fund and shall be responsible for the receipt, custody, disbursement, accountability, management, investments and proper application of all monies paid into the Trust Fund.

SECTION 5. SEVERABILITY. If any section, part of a sentence, paragraph, phrase or word of this Ordinance is for any reason held to be unconstitutional, invalid, inoperative or void, such holding shall not effect the validity of the remaining portions hereof and it shall be construed to

have been the legislative intent to pass this Ordinance without such unconstitutional, invalid, inoperative or void part, thereby causing said remainder to remain in full force and effect.

SECTION 6. CONFLICTS. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed but only to the extent necessary to give this Ordinance full force and effect; however the provisions of Ordinance No. 05-19 shall continue to be in full force and effect except where in direct conflict with the provisions of this Ordinance.

SECTION 7. EFFECTIVE DATE. This Ordinance shall take effect immediately upon adoption.

The foregoing ordinance was moved for adoption by Council Member _____ . The motion was seconded by Council Member _____ and, upon being put to a vote, the vote was as follows:

- Mayor Susan P. Adams _____
- Councilman Fernando Herrera _____
- Councilman Joel Tyson _____
- Councilwoman Sara J. Savage _____
- Councilman Daniel Naranjo _____

The Mayor thereupon declared this Ordinance fully passed and adopted this ____ day of _____, 2009.

CITY OF FELLSMERE, FLORIDA

Susan P. Adams, Mayor

Attest:

Deborah C. Krages, City Clerk

I HEREBY CERTIFY that Notice of the public hearing on this Ordinance was published in the Press Journal, as required by State Statute, that the foregoing Ordinance was duly passed and adopted on the ____ day of _____, 2009, and the first reading was held on the ____ day of _____, 2009, and that public hearing was held on the ____ day of _____, 2009, and that the second and final reading was held on the ____ day of _____, 2009.

Deborah C. Krages, City Clerk

(S E A L)