

**NEW ISSUE - BOOK-ENTRY ONLY  
LIMITED OFFERING**

*In the opinion of Greenberg Traurig, P.A., Bond Counsel, assuming continuing compliance with certain tax covenants, under existing statutes, regulations, rulings and court decisions, interest on the Series 2020 Bonds (as hereinafter defined) is excludable from gross income for federal income tax purposes; and, further, interest on the Series 2020 Bonds will not be an item of tax preference for purposes of the alternative minimum tax imposed on individuals. See "TAX MATTERS" herein for a description of certain other federal tax consequences of ownership of the Series 2020 Bonds. Bond Counsel is further of the opinion that the Series 2020 Bonds and the income thereon are not subject to taxation under the laws of the State of Florida, except as to estate taxes and taxes under Chapter 220, Florida Statutes, on interest, income or profits on debt obligations owned by corporations as defined in said Chapter 220. See "TAX MATTERS" herein.*

**\$6,065,000\***

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT  
(CITY OF WEST PALM BEACH, FLORIDA)  
SPECIAL ASSESSMENT BONDS, SERIES 2020  
(PHASE ONE ASSESSMENT AREA)**

**Dated: Date of Delivery****Due: November 1, as shown on the inside cover**

The Banyan Cay Community Development District Special Assessment Bonds, Series 2020 (Phase One Assessment Area) (the "Series 2020 Bonds") are being issued by the Banyan Cay Community Development District (the "District" or "Issuer") only in fully registered form, without coupons, in denominations of \$5,000 and any integral multiple thereof.

The District is a local unit of special purpose government of the State of Florida, created pursuant to the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes, as amended (the "Act"), and by Ordinance No. 4823-19, enacted by the City Commission of the City of West Palm Beach, Florida (the "City") on January 28, 2019. The District was created for the purpose of delivering certain community development services and facilities for the benefit of District Lands (as hereinafter defined), and has previously determined to undertake the acquisition and/or construction of public improvements and community facilities as set forth in the Act for the special benefit of certain District Lands.

The Series 2020 Bonds will bear interest at the fixed rates set forth on the inside cover, calculated on the basis of a 360-day year comprised of twelve 30-day months, payable semi-annually on each May 1 and November 1, commencing May 1, 2021. The Series 2020 Bonds, when issued, will be registered in the name of Cede & Co., as registered owner and nominee for The Depository Trust Company ("DTC"), New York, New York. Purchases of beneficial interests in the Series 2020 Bonds will be made only in book-entry form. Accordingly, principal of and interest on the Series 2020 Bonds will be paid from sources described below by U.S. Bank National Association, a national banking association duly organized and existing under the laws of the United States and having a designated corporate trust office in Fort Lauderdale, Florida, as trustee (the "Trustee") directly to DTC or its nominee as the registered owner thereof. Disbursements of such payments to the DTC Participants (as hereinafter defined) is the responsibility of DTC and disbursements of such payments to the beneficial owners is the responsibility of the DTC Participants and the Indirect Participants (as hereinafter defined), as more fully described herein. Any purchaser of a beneficial interest in a Series 2020 Bond must maintain an account with a broker or dealer who is, or acts through, a DTC Participant to receive payment of the principal of and interest on such Series 2020 Bond. See "DESCRIPTION OF THE SERIES 2020 BONDS – Book-Entry Only System" herein.

The Series 2020 Bonds are being issued by the District pursuant to the Act, Resolutions No. 2019-25 and No. 2019-31 adopted by the Board of Supervisors of the District (the "Board") on May 21, 2019 and October 15, 2019, respectively (collectively, the "Bond Resolution"), and a Master Trust Indenture, dated as of December 1, 2020 (the "Master Indenture"), as supplemented by a First Supplemental Trust Indenture dated as of December 1, 2020 (the "First Supplemental Indenture"), and together with the Master Indenture, the "Indenture"), each by and between the District and the Trustee. Capitalized terms not defined herein shall have the meanings assigned to them in the Indenture.

Proceeds of the Series 2020 Bonds will be used to provide funds (i) for the payment of the Costs of acquiring or constructing all or a portion of the Phase One Assessment Area Project (as hereinafter defined); (ii) to fund the Series 2020 Reserve Account in an amount equal to the Series 2020 Reserve Requirement; (iii) pay Capitalized Interest (as defined in the First Supplemental Indenture) through at least November 1, 2021; and (iv) to pay the costs of issuance of the Series 2020 Bonds. See "THE CAPITAL IMPROVEMENT PLAN AND THE PHASE ONE ASSESSMENT AREA PROJECT" and "ESTIMATED SOURCES AND USES OF FUNDS" herein.

The Series 2020 Bonds will be secured by a pledge of the Series 2020 Pledged Revenues. "Series 2020 Pledged Revenues" shall mean (a) all revenues received by the District from the Series 2020 Special Assessments levied and collected on the assessable lands within the Phase One Assessment Area within the District, including, without limitation, amounts received from any foreclosure proceeding for the enforcement of collection of such Series 2020 Special Assessments or from the issuance and sale of tax certificates with respect to such Series 2020 Special Assessments, and (b) all moneys on deposit in the Funds and Accounts established under the Indenture created and established with respect to or for the benefit of the Series 2020 Bonds; provided, however, that Series 2020 Pledged Revenues shall not include (A) any moneys transferred to the Series 2020 Rebate Fund and investment earnings thereon, (B) moneys on deposit in the Series 2020 Costs of Issuance Account of the Acquisition and Construction Fund, and (C) "special assessments" levied and collected by the District under Section 190.022 of the Act for maintenance purposes or "maintenance assessments" levied and collected by the District under Section 190.021(3) of the Act (it being expressly understood that the lien and pledge of the Indenture shall not apply to any of the moneys described in the foregoing clauses (A), (B) and (C) of this proviso). See "SECURITY FOR AND SOURCE OF PAYMENT OF THE SERIES 2020 BONDS" herein.

The Series 2020 Bonds are subject to optional, mandatory sinking fund and extraordinary mandatory redemption at the times, in the amounts and at the redemption prices as more fully described herein. See "DESCRIPTION OF THE SERIES 2020 BONDS – Redemption Provisions" herein.

THE SERIES 2020 BONDS ARE LIMITED OBLIGATIONS OF THE DISTRICT PAYABLE SOLELY OUT OF THE SERIES 2020 PLEDGED REVENUES PLEDGED THEREFOR UNDER THE INDENTURE AND NEITHER THE PROPERTY, THE FULL FAITH AND CREDIT, NOR THE TAXING POWER OF THE DISTRICT, THE CITY, PALM BEACH COUNTY, FLORIDA (THE "COUNTY"), THE STATE OF FLORIDA (THE "STATE"), OR ANY OTHER POLITICAL SUBDIVISION THEREOF, IS PLEDGED AS SECURITY FOR THE PAYMENT OF THE SERIES 2020 BONDS, EXCEPT THAT THE DISTRICT IS OBLIGATED UNDER THE INDENTURE TO LEVY AND TO EVIDENCE AND CERTIFY, OR CAUSE TO BE CERTIFIED, FOR COLLECTION, SERIES 2020 SPECIAL ASSESSMENTS TO SECURE AND PAY THE SERIES 2020 BONDS. THE SERIES 2020 BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OF THE DISTRICT, THE CITY, THE COUNTY, THE STATE, OR ANY OTHER POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION OR LIMITATION.

**The Series 2020 Bonds involve a degree of risk (see "BONDOWNERS' RISKS" herein) and are not suitable for all investors (see "SUITABILITY FOR INVESTMENT" herein). The Underwriter named below is limiting this offering to "accredited investors" within the meaning of Chapter 517, Florida Statutes, and the rules of the Florida Department of Financial Services promulgated thereunder. The limitation of the initial offering to accredited investors does not denote restrictions on transfer in any secondary market for the Series 2020 Bonds. The Series 2020 Bonds are not credit enhanced or rated and no application has been made for credit enhancement or a rating with respect to the Series 2020 Bonds.**

This cover page contains information for quick reference only. It is not a summary of the Series 2020 Bonds. Investors must read this entire Limited Offering Memorandum to obtain information essential to the making of an informed investment decision.

The initial sale of the Series 2020 Bonds is subject to certain conditions precedent, including, without limitation, receipt of the opinion of Greenberg Traurig, P.A., West Palm Beach, Florida, Bond Counsel, as to the validity of the Series 2020 Bonds and the excludability of interest thereon from gross income for federal income tax purposes. Certain legal matters will be passed upon for the District by its counsel, Lewis, Longman & Walker, P.A., West Palm Beach, Florida, for the Developer (as defined herein) by its counsel, Cherry, Edgar & Smith, P.A., Palm Beach Gardens, Florida, and for the Underwriter by its counsel, Squire Patton Boggs (US) LLP, Miami, Florida. It is expected that the Series 2020 Bonds will be delivered in book-entry form through the facilities of DTC on or about \_\_\_\_\_, 2020.

**FMSbonds, Inc.**

Dated: \_\_\_\_\_, 2020

\* Preliminary, subject to change.

This Preliminary Limited Offering Memorandum and the information contained herein are subject to completion or amendment without notice. These securities may not be sold nor may an offer to buy be accepted prior to the time the Limited Offering Memorandum is delivered in final form. Under no circumstances shall this Preliminary Limited Offering Memorandum constitute an offer to sell or a solicitation of an offer to buy, nor shall there be any sale of the securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction.

**PRINCIPAL AMOUNTS, INTEREST RATES, MATURITIES,  
PRICES AND CUSIP NUMBERS**

**\$6,065,000\***

**Banyan Cay Community Development District  
Special Assessment Bonds, Series 2020  
(Phase One Assessment Area)**

\$ \_\_\_\_\_ – \_\_\_\_\_% Series 2020 Term Bond due November 1, 20\_\_\_\_ – Price \_\_\_\_\_ – CUSIP† \_\_\_\_\_  
\$ \_\_\_\_\_ – \_\_\_\_\_% Series 2020 Term Bond due November 1, 20\_\_\_\_ – Price \_\_\_\_\_ – CUSIP† \_\_\_\_\_  
\$ \_\_\_\_\_ – \_\_\_\_\_% Series 2020 Term Bond due November 1, 20\_\_\_\_ – Price \_\_\_\_\_ – CUSIP† \_\_\_\_\_  
\$ \_\_\_\_\_ – \_\_\_\_\_% Series 2020 Term Bond due November 1, 20\_\_\_\_ – Price \_\_\_\_\_ – CUSIP† \_\_\_\_\_

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\* Preliminary, subject to change.

† Neither the District nor the Underwriter shall be responsible for the use of CUSIP numbers, nor is any representation made as to their correctness. They are included solely for the convenience of the readers of this Limited Offering Memorandum.

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT**

**BOARD OF SUPERVISORS†**

Alicia Lewis\*, Chairperson  
Charlie Rimpela\*, Vice Chairperson  
Matthew Kutner\*, Assistant Secretary  
Erika Olivo\*, Assistant Secretary

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† One seat on the Board remains vacant.

\* Employee of, or affiliated with, the Developer.

**DISTRICT MANAGER/METHODOLOGY CONSULTANT**

Special District Services, Inc.  
Palm Beach Gardens, Florida

**DISTRICT COUNSEL**

Lewis, Longman & Walker, P.A.  
West Palm Beach, Florida

**BOND COUNSEL**

Greenberg Traurig, P.A.  
West Palm Beach, Florida

**DISTRICT ENGINEER**

Engenuity Group Inc.  
West Palm Beach, Florida

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NO DEALER, BROKER, SALESPERSON OR OTHER PERSON HAS BEEN AUTHORIZED BY THE DISTRICT TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATIONS, OTHER THAN THOSE CONTAINED IN THIS LIMITED OFFERING MEMORANDUM, AND IF GIVEN OR MADE, SUCH OTHER INFORMATION OR REPRESENTATIONS MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY THE DISTRICT. THIS LIMITED OFFERING MEMORANDUM DOES NOT CONSTITUTE AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY ANY OF THE SERIES 2020 BONDS AND THERE SHALL BE NO OFFER, SOLICITATION, OR SALE OF THE SERIES 2020 BONDS BY ANY PERSON IN ANY JURISDICTION IN WHICH IT IS UNLAWFUL FOR SUCH PERSON TO MAKE SUCH OFFER, SOLICITATION OR SALE.

THE INFORMATION SET FORTH HEREIN HAS BEEN OBTAINED FROM THE DEVELOPER (AS HEREINAFTER DEFINED), THE DISTRICT, PUBLIC DOCUMENTS, RECORDS AND OTHER SOURCES, WHICH SOURCES ARE BELIEVED TO BE RELIABLE BUT WHICH INFORMATION IS NOT GUARANTEED AS TO ACCURACY OR COMPLETENESS BY, AND IS NOT TO BE CONSTRUED AS A REPRESENTATION OF, THE UNDERWRITER NAMED ON THE COVER PAGE OF THIS LIMITED OFFERING MEMORANDUM. THE UNDERWRITER HAS REVIEWED THE INFORMATION IN THIS LIMITED OFFERING MEMORANDUM IN ACCORDANCE WITH, AND AS PART OF, ITS RESPONSIBILITIES TO INVESTORS UNDER THE FEDERAL SECURITIES LAWS AS APPLIED TO THE FACTS AND CIRCUMSTANCES OF THIS TRANSACTION, BUT THE UNDERWRITER DOES NOT GUARANTEE THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. THE INFORMATION AND EXPRESSIONS OF OPINION HEREIN CONTAINED ARE SUBJECT TO CHANGE WITHOUT NOTICE AND NEITHER THE DELIVERY OF THIS LIMITED OFFERING MEMORANDUM, NOR ANY SALE MADE HEREUNDER, SHALL, UNDER ANY CIRCUMSTANCES, CREATE ANY IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE AFFAIRS OF THE DISTRICT OR THE DEVELOPER OR IN THE STATUS OF THE DEVELOPMENT OR THE PHASE ONE ASSESSMENT AREA PROJECT (AS SUCH TERMS ARE HEREINAFTER DEFINED) SINCE THE DATE HEREOF.

THE TRUSTEE HAS NOT PARTICIPATED IN THE PREPARATION OF THIS LIMITED OFFERING MEMORANDUM AND MAKES NO REPRESENTATION WITH RESPECT TO THE ACCURACY OR COMPLETENESS OF ANY OF THE MATERIAL CONTAINED IN THIS LIMITED OFFERING MEMORANDUM. THE TRUSTEE HAS NO DUTY OR OBLIGATION TO PAY THE SERIES 2020 BONDS FROM ITS OWN FUNDS, ASSETS OR CORPORATE CAPITAL OR TO MAKE INQUIRY REGARDING, OR INVESTIGATE THE USE OF, AMOUNTS DISBURSED FROM THE TRUST.

THE SERIES 2020 BONDS HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, NOR HAS THE INDENTURE BEEN QUALIFIED UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, IN RELIANCE UPON CERTAIN EXEMPTIONS SET FORTH IN SUCH ACTS. THE REGISTRATION, QUALIFICATION OR EXEMPTION OF THE SERIES 2020 BONDS IN ACCORDANCE WITH THE APPLICABLE SECURITIES LAW PROVISIONS OF ANY JURISDICTIONS WHEREIN THESE SECURITIES HAVE BEEN OR WILL BE REGISTERED, QUALIFIED OR EXEMPTED SHOULD NOT BE REGARDED AS A RECOMMENDATION THEREOF. NEITHER THE DISTRICT, THE CITY, THE COUNTY, THE STATE, NOR ANY OTHER POLITICAL SUBDIVISIONS THEREOF HAVE GUARANTEED OR PASSED UPON THE MERITS OF THE SERIES 2020 BONDS, UPON THE PROBABILITY OF ANY EARNINGS THEREON OR UPON THE ACCURACY OR ADEQUACY OF THIS LIMITED OFFERING MEMORANDUM.

“FORWARD-LOOKING STATEMENTS” ARE USED IN THIS DOCUMENT BY USING FORWARD LOOKING WORDS SUCH AS “MAY,” “WILL,” “SHOULD,” “INTENDS,” “EXPECTS,” “BELIEVES,” “ANTICIPATES,” “ESTIMATES,” OR OTHERS. THE READER IS CAUTIONED THAT FORWARD-LOOKING STATEMENTS ARE SUBJECT TO A VARIETY OF UNCERTAINTIES THAT COULD CAUSE ACTUAL RESULTS TO DIFFER FROM THE PROJECTED RESULTS. THOSE RISKS AND UNCERTAINTIES INCLUDE GENERAL ECONOMIC AND BUSINESS CONDITIONS, CONDITIONS IN THE FINANCIAL MARKETS AND REAL ESTATE MARKET, THE DISTRICT’S COLLECTION OF THE SERIES 2020 SPECIAL ASSESSMENTS, AND VARIOUS OTHER FACTORS WHICH MAY BE BEYOND THE DISTRICT’S AND THE DEVELOPER’S CONTROL. BECAUSE THE DISTRICT AND THE DEVELOPER CANNOT PREDICT ALL FACTORS THAT MAY AFFECT FUTURE DECISIONS, ACTIONS, EVENTS, OR FINANCIAL CIRCUMSTANCES, WHAT ACTUALLY HAPPENS MAY BE DIFFERENT FROM WHAT IS INCLUDED IN FORWARD-LOOKING STATEMENTS.

THE ACHIEVEMENT OF CERTAIN RESULTS OR OTHER EXPECTATIONS CONTAINED IN SUCH FORWARD-LOOKING STATEMENTS INVOLVE KNOWN AND UNKNOWN RISKS, UNCERTAINTIES AND OTHER FACTORS WHICH MAY CAUSE ACTUAL RESULTS, PERFORMANCE OR ACHIEVEMENTS DESCRIBED TO BE MATERIALLY DIFFERENT FROM ANY FUTURE RESULTS, PERFORMANCE OR ACHIEVEMENTS EXPRESSED OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS. THE DISTRICT AND THE DEVELOPER DO NOT PLAN TO ISSUE ANY UPDATES OR REVISIONS TO THOSE FORWARD-LOOKING STATEMENTS IF OR WHEN ANY OF ITS EXPECTATIONS OR EVENTS, CONDITIONS OR CIRCUMSTANCES ON WHICH SUCH STATEMENTS ARE BASED OCCUR, OTHER THAN AS DESCRIBED UNDER “CONTINUING DISCLOSURE” HEREIN.

THE DISTRICT HAS DEEMED THIS PRELIMINARY LIMITED OFFERING MEMORANDUM “FINAL,” EXCEPT FOR PERMITTED OMISSIONS WITHIN THE CONTEMPLATION OF RULE 15c2-12(b)(1) PROMULGATED BY THE SECURITIES AND EXCHANGE COMMISSION.

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**\$6,065,000\***  
**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT**  
**(CITY OF WEST PALM BEACH, FLORIDA)**  
**SPECIAL ASSESSMENT BONDS, SERIES 2020**  
**(PHASE ONE ASSESSMENT AREA)**

**INTRODUCTION**

The purpose of this Limited Offering Memorandum is to set forth certain information in connection with the offering for sale by the Banyan Cay Community Development District (the “District” or “Issuer”) of its \$6,065,000\* Special Assessment Bonds, Series 2020 (Phase One Assessment Area) (the “Series 2020 Bonds”).

THE SERIES 2020 BONDS ARE NOT A SUITABLE INVESTMENT FOR ALL INVESTORS. PURSUANT TO APPLICABLE STATE LAW, THE UNDERWRITER IS LIMITING THIS INITIAL OFFERING OF THE SERIES 2020 BONDS TO ONLY ACCREDITED INVESTORS WITHIN THE MEANING OF CHAPTER 517, FLORIDA STATUTES, AND THE RULES OF THE FLORIDA DEPARTMENT OF FINANCIAL SERVICES. THE LIMITATION OF THE INITIAL OFFERING TO ACCREDITED INVESTORS DOES NOT DENOTE RESTRICTIONS ON TRANSFER IN ANY SECONDARY MARKET FOR THE SERIES 2020 BONDS. POTENTIAL INVESTORS ARE SOLELY RESPONSIBLE FOR EVALUATING THE MERITS AND RISKS OF AN INVESTMENT IN THE SERIES 2020 BONDS. SEE “BONDOWNERS’ RISKS” AND “SUITABILITY FOR INVESTMENT” HEREIN.

The District was created pursuant to the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes, as amended (the “Act”), and Ordinance No. 4823-19 enacted by the City Commission of the City of West Palm Beach, Florida (the “City”) on January 28, 2019. The District was created for the purpose of financing the acquisition and construction of and managing the maintenance and operation of certain community development services and facilities for the benefit of District Lands (as defined in the herein defined Indenture), and has previously determined to undertake the acquisition and/or construction of public improvements and community facilities as set forth in the Act for the special benefit of certain District Lands. The Act authorizes the District to issue bonds for the purpose of, among others, financing, funding, planning, establishing, acquiring, constructing or reconstructing, enlarging or extending, equipping water management, water supply, sewer and wastewater management, bridges or culverts, public roads, street lights and other basic infrastructure projects within or without the boundaries of the District as provided in the Act.

The boundaries of the District include approximately 95.24+/- acres of land located within the City in the County. The District Lands, which were previously used as two golf courses, are being developed as a mixed-use commercial and residential planned development to be known as “Banyan Cay Resort & Golf” (the “Development”). Two assessment areas have been created to facilitate the District’s financing program and to coincide with the phased development of the Development. The phase one assessment area consists of approximately 92.03+/- gross acres (the “Phase One Assessment Area”) and is planned to contain 74 residential units consisting of 52 estate home units (the “Estate Home Portion”) and 22 resort villa units (the “Villa Portion” and, together with the Estate Home Portion, the “Residential Portion”), a 150-room hotel (the “Hotel”) with a 200-car parking garage, and an 18,243 square foot clubhouse facility (the “Clubhouse” and, together with the Hotel, the “Resort Portion”). The phase two assessment area consists

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\* Preliminary, subject to change.

of approximately 3.21+/- gross acres (the “Phase Two Assessment Area”) and is planned to contain a 179-unit high-rise condominium building (the “Condominium Portion”). See “THE DEVELOPMENT,” “APPENDIX C – ENGINEER’S REPORT” and “APPENDIX D – ASSESSMENT METHODOLOGY” herein. The Series 2020 Bonds are payable from and secured solely by the Series 2020 Pledged Revenues which consist primarily of the Series 2020 Special Assessments (as hereinafter defined). The Series 2020 Special Assessments will be initially levied on the 92.03+/- gross acres of land in the Phase One Assessment Area until such time as property therein is platted. As platting occurs, the Series 2020 Special Assessments will be assigned to the different product types within the Phase One Assessment Area on a first platted, first assigned basis, as set forth in the Assessment Methodology (as defined herein). A portion of the land within the Phase One Assessment Area has already been platted as described in “THE DEVELOPMENT – Zoning and Permitting” herein. See “APPENDIX D – ASSESSMENT METHODOLOGY” herein. See also “SECURITY FOR AND SOURCE OF PAYMENT OF THE SERIES 2020 BONDS” herein.

Banyan Cay Dev. LLC, a Delaware limited liability company, is the land developer and homebuilder of the Estate Home Portion and will be the land developer and builder of the Condominium Portion of the Development. Banyan Cay Villas, LLC, a Delaware limited liability company, is the land developer and homebuilder of the Villa Portion of the Development. Banyan Cay Resort & Golf LLC, a Delaware limited liability company, is the developer and owner of the Resort Portion. Banyan Cay Dev. LLC, Banyan Cay Villas, LLC and Banyan Cay Resort & Golf LLC are herein referred to collectively as the “Developer,” however, each entity is only responsible for the development of its respective portion of the Development. In connection with the operation of the Resort Portion, Banyan Cay Resort & Golf LLC has entered into a franchise agreement with Hyatt Franchising, L.L.C. under the brand “Destination Hotels”. See “THE DEVELOPMENT” and “THE DEVELOPER” herein for more information.

The Series 2020 Bonds are being issued by the District pursuant to the Act, Resolutions No. 2019-25 and No. 2019-31 adopted by the Board of Supervisors of the District (the “Board”) on May 21, 2019 and October 15, 2019, respectively (collectively, the “Bond Resolution”), and a Master Trust Indenture, dated as of December 1, 2020 (the “Master Indenture”), as supplemented by a First Supplemental Trust Indenture dated as of December 1, 2020 (the “First Supplemental Indenture” and, together with the Master Indenture, the “Indenture”), each by and between the District and U.S. Bank National Association, as trustee (the “Trustee”). Capitalized terms not defined herein shall have the meanings assigned to them in the Indenture. See “APPENDIX A – PROPOSED FORMS OF INDENTURE” herein.

Proceeds of the Series 2020 Bonds will be used to provide funds (i) for the payment of the Costs of acquiring or constructing all or a portion of the Phase One Assessment Area Project; (ii) to fund the Series 2020 Reserve Account in an amount equal to the Series 2020 Reserve Requirement; (iii) pay Capitalized Interest (as defined in the First Supplemental Indenture) through at least November 1, 2021; and (iv) to pay the costs of issuance of the Series 2020 Bonds. See “THE CAPITAL IMPROVEMENT PLAN AND THE PHASE ONE ASSESSMENT AREA PROJECT” and “ESTIMATED SOURCES AND USES OF FUNDS” herein.

The Series 2020 Bonds will be secured by a pledge of the Series 2020 Pledged Revenues. “Series 2020 Pledged Revenues” shall mean (a) all revenues received by the District from the Series 2020 Special Assessments levied and collected on the assessable lands within the Phase One Assessment Area within the District, including, without limitation, amounts received from any foreclosure proceeding for the enforcement of collection of such Series 2020 Special Assessments or from the issuance and sale of tax certificates with respect to such Series 2020 Special Assessments, and (b) all moneys on deposit in the Funds and Accounts established under the Indenture created and established with respect to or for the benefit of the Series 2020 Bonds; provided, however, that Series 2020 Pledged Revenues shall not include (A) any moneys transferred to the Series 2020 Rebate Fund and investment earnings thereon, (B) moneys

on deposit in the Series 2020 Costs of Issuance Account of the Acquisition and Construction Fund, and (C) “special assessments” levied and collected by the District under Section 190.022 of the Act for maintenance purposes or “maintenance assessments” levied and collected by the District under Section 190.021(3) of the Act (it being expressly understood that the lien and pledge of the Indenture shall not apply to any of the moneys described in the foregoing clauses (A), (B) and (C) of this proviso). See “SECURITY FOR AND SOURCE OF PAYMENT OF THE SERIES 2020 BONDS” herein.

There follows in this Limited Offering Memorandum a brief description of the District, the Capital Improvement Plan and the Phase One Assessment Area Project, the Development, the Developer, a description of the terms of the Series 2020 Bonds and summaries of certain terms of the Indenture and certain provisions of the Act. All references herein to the Indenture and the Act are qualified in their entirety by reference to such documents and the Act, and all references to the Series 2020 Bonds are qualified by reference to the definitive form thereof and the information with respect thereto contained in the Indenture. The proposed forms of the Master Indenture and First Supplemental Indenture appear in APPENDIX A hereto.

This Limited Offering Memorandum speaks only as of its date and the information contained herein is subject to change.

## **DESCRIPTION OF THE SERIES 2020 BONDS**

### **General Description**

The Series 2020 Bonds are issuable only as fully registered bonds, without coupons, in the denominations of \$5,000 and any integral multiple thereof. The Series 2020 Bonds will mature, subject to the redemption provisions set forth herein, on the dates and in the amounts set forth on the inside cover page hereof.

The Series 2020 Bonds shall be dated as of the date of initial delivery. Interest on the Series 2020 Bonds shall be payable on each Interest Payment Date to maturity or prior redemption in full. “Interest Payment Date” means May 1 and November 1 of each year, commencing May 1, 2021. “Quarterly Redemption Date” means February 1, May 1, August 1 and November 1 of any year. Interest on the Series 2020 Bonds will be payable from the most recent Interest Payment Date next preceding the date of authentication thereof to which interest has been paid, unless the date of authentication thereof is a May 1 or November 1 to which interest has been paid, in which case from such date of authentication, or unless the date of authentication thereof is prior to May 1, 2021, in which case from the date of initial delivery, or unless the date of authentication thereof is between a Record Date and the next succeeding Interest Payment Date, in which case from such Interest Payment Date. Interest on the Series 2020 Bonds will be computed in all cases on the basis of a 360-day year of twelve 30-day months.

Upon initial issuance, the ownership of the Series 2020 Bonds will be registered in the name of Cede & Co., as nominee for The Depository Trust Company (“DTC”), New York, New York, and purchases of beneficial interests in the Series 2020 Bonds will be made in book-entry only form. The Series 2020 Bonds will initially be sold only to “accredited investors” within the meaning under Chapter 517, Florida Statutes, as amended, and the rules of the Florida Department of Financial Services promulgated thereunder, although there is no limitation on resales of the Series 2020 Bonds. See “DESCRIPTION OF THE SERIES 2020 BONDS – Book-Entry Only System” and “SUITABILITY FOR INVESTMENT” below.

U.S. Bank National Association is initially serving as the Trustee, Registrar and Paying Agent for the Series 2020 Bonds.

**Redemption Provisions**

Optional Redemption. The Series 2020 Bonds may, at the option of the District, provided written notice hereof has been sent to the Trustee at least forty-five (45) days prior to the redemption date (unless the Trustee will accept less than forty-five (45) days’ notice), be called for redemption prior to maturity as a whole or in part, at any time, on or after November 1, 20\_\_\_ (less than all Series 2020 Bonds of a maturity to be selected randomly), at a Redemption Price equal to the principal amount of Series 2020 Bonds to be redeemed, plus accrued interest from the most recent Interest Payment Date to the redemption date from moneys on deposit in the Series 2020 Optional Redemption Subaccount of the Series 2020 Bond Redemption Account.

Mandatory Sinking Fund Redemption. The Series 2020 Bonds maturing on November 1, 20\_\_\_ are subject to mandatory sinking fund redemption from the moneys on deposit in the Series 2020 Sinking Fund Account on November 1 in the years and in the mandatory sinking fund redemption amounts set forth below at a redemption price of 100% of their principal amount plus accrued interest to the date of redemption.

<u>Year</u>	<u>Mandatory Sinking Fund Redemption Amount</u>
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\*Maturity

The Series 2020 Bonds maturing on November 1, 20\_\_\_ are subject to mandatory sinking fund redemption from the moneys on deposit in the Series 2020 Sinking Fund Account on November 1 in the years and in the mandatory sinking fund redemption amounts set forth below at a redemption price of 100% of their principal amount plus accrued interest to the date of redemption.

<u>Year</u>	<u>Mandatory Sinking Fund Redemption Amount</u>
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\*Maturity

The Series 2020 Bonds maturing on November 1, 20\_\_\_ are subject to mandatory sinking fund redemption from the moneys on deposit in the Series 2020 Sinking Fund Account on November 1 in the years and in the mandatory sinking fund redemption amounts set forth below at a redemption price of 100% of their principal amount plus accrued interest to the date of redemption.

<u>Year</u>	<u>Mandatory Sinking Fund Redemption Amount</u>
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\*Maturity

The Series 2020 Bonds maturing on November 1, 20\_\_\_ are subject to mandatory sinking fund redemption from the moneys on deposit in the Series 2020 Sinking Fund Account on November 1 in the years and in the mandatory sinking fund redemption amounts set forth below at a redemption price of 100% of their principal amount plus accrued interest to the date of redemption.

<u>Year</u>	<u>Mandatory Sinking Fund Redemption Amount</u>
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\*Maturity

Upon any redemption of the Series 2020 Bonds other than in accordance with scheduled mandatory sinking fund redemptions, the District shall cause to be recalculated and delivered to the Trustee revised mandatory sinking fund redemption amounts recalculated so as to amortize the Outstanding principal amount of Series 2020 Bonds in substantially equal annual installments of principal and interest (subject to rounding to Authorized Denominations of principal) over the remaining term of the Series 2020 Bonds. The mandatory sinking fund redemption amounts as so recalculated shall not result in an increase in the aggregate of the mandatory sinking fund redemption amounts for all Series 2020 Bonds in any year. In the event of a redemption or purchase occurring less than forty-five (45) days prior to a date on which a mandatory sinking fund redemption payment is due, the foregoing recalculation shall not be made to the mandatory sinking fund redemption amounts due in the year in which such redemption or purchase occurs,

but shall be made to the mandatory sinking fund redemption amounts for the immediately succeeding and subsequent years.

Extraordinary Mandatory Redemption in Whole or in Part. The Series 2020 Bonds are subject to extraordinary mandatory redemption prior to maturity by the District in whole or in part, on any date (other than in the case of clause (i) below which extraordinary mandatory redemption in part must occur on a Quarterly Redemption Date), at a Redemption Price equal to 100% of the principal amount of the Series 2020 Bonds to be redeemed, plus interest accrued to the redemption date, as follows:

(i) from Series 2020 Prepayment Principal deposited into the Series 2020 Prepayment Subaccount of the Series 2020 Bond Redemption Account following the Prepayment in whole or in part of the Series 2020 Special Assessments on any assessable property within the District in accordance with the provisions of the First Supplemental Indenture.

(ii) from moneys, if any, on deposit in the Series 2020 Funds, Accounts and subaccounts in the Funds and Accounts (other than the Series 2020 Rebate Fund and the Series 2020 Acquisition and Construction Account) sufficient to pay and redeem all Outstanding Series 2020 Bonds and accrued interest thereon to the redemption date or dates in addition to all amounts owed to Persons under the Indenture.

(iii) upon the Completion Date, from any funds remaining on deposit in the Series 2020 Acquisition and Construction Account not otherwise reserved to complete the Phase One Assessment Area Project and which have been transferred to the Series 2020 General Redemption Subaccount of the Series 2020 Bond Redemption Account.

Notice of Redemption and of Purchase. When required to redeem or purchase Series 2020 Bonds under any provision of the Indenture or directed to do so by the District, the Trustee shall cause notice of the redemption, either in whole or in part, to be mailed by first class mail, postage prepaid, at least thirty (30) but not more than sixty (60) days prior to the redemption or purchase date to all Owners of Series 2020 Bonds to be redeemed or purchased (as such Owners appear on the Bond Register on the fifth (5<sup>th</sup>) day prior to such mailing), at their registered addresses, but failure to mail any such notice or defect in the notice or in the mailing thereof shall not affect the validity of the redemption or purchase of the Series 2020 Bonds for which notice was duly given in accordance with the Indenture.

If at the time of mailing of notice of redemption or purchase, the District shall not have deposited with the Trustee or Paying Agent moneys sufficient to redeem or purchase all the Series 2020 Bonds called for redemption or purchase, such notice shall state that it is subject to the deposit of the redemption or purchase moneys with the Trustee or Paying Agent, as the case may be, not later than the opening of business on the redemption or purchase date, and such notice shall be of no effect unless such moneys are so deposited.

At the written direction of the District, the Trustee shall apply moneys from time to time available in the Series 2020 Sinking Fund Account to the purchase of the Series 2020 Bonds in accordance with the Indenture, at prices not higher than the principal amount thereof, in lieu of redemption, provided that firm purchase commitments can be made before the notice of redemption would otherwise be required to be given.



## **Book-Entry Only System**

*The information in this caption concerning DTC and DTC's book-entry system has been obtained from DTC and neither the District nor the Underwriter make any representation or warranty or take any responsibility for the accuracy or completeness of such information.*

The Depository Trust Company ("DTC"), New York, NY, will act as securities depository for the Series 2020 Bonds. The Series 2020 Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Series 2020 Bond certificate will be issued for each maturity of the Series 2020 Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has an S&P Global Ratings, a division of S&P Global Inc. rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

Purchases of Series 2020 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2020 Bonds on DTC's records. The ownership interest of each actual purchaser of each Series 2020 Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2020 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Series 2020 Bonds, except in the event that use of the book-entry system for the Series 2020 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2020 Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Series 2020 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not affect any change in

beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2020 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Series 2020 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Series 2020 Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Series 2020 Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Series 2020 Bond documents. For example, Beneficial Owners of Series 2020 Bonds may wish to ascertain that the nominee holding the Series 2020 Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Series 2020 Bonds are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such Series 2020 Bonds to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Series 2020 Bonds unless authorized by a Direct Participant in accordance with DTC's MMI procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the District as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Series 2020 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, and principal and interest payments on the Series 2020 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the District or the Paying Agent on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC nor its nominee, the Trustee, or the District, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, and principal and interest payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the District and/or the Paying Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Series 2020 Bonds at any time by giving reasonable notice to the District and the Trustee. Under such circumstances, in the event that a successor depository is not obtained, Series 2020 Bond certificates are required to be printed and delivered.

The District may decide to discontinue use of the system of book-entry only transfers through DTC (or a successor securities depository). In that event, Series 2020 Bond certificates will be printed and delivered to DTC.

## **SECURITY FOR AND SOURCE OF PAYMENT OF THE SERIES 2020 BONDS**

### **General**

THE SERIES 2020 BONDS ARE LIMITED OBLIGATIONS OF THE DISTRICT PAYABLE SOLELY OUT OF THE SERIES 2020 PLEDGED REVENUES PLEDGED THEREFOR UNDER THE INDENTURE AND NEITHER THE PROPERTY, THE FULL FAITH AND CREDIT, NOR THE TAXING POWER OF THE DISTRICT, THE CITY, PALM BEACH COUNTY, FLORIDA (THE "COUNTY"), THE STATE OF FLORIDA (THE "STATE"), OR ANY OTHER POLITICAL SUBDIVISION THEREOF, IS PLEDGED AS SECURITY FOR THE PAYMENT OF THE SERIES 2020 BONDS, EXCEPT THAT THE DISTRICT IS OBLIGATED UNDER THE INDENTURE TO LEVY AND TO EVIDENCE AND CERTIFY, OR CAUSE TO BE CERTIFIED, FOR COLLECTION, SERIES 2020 SPECIAL ASSESSMENTS TO SECURE AND PAY THE SERIES 2020 BONDS. THE SERIES 2020 BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OF THE DISTRICT, THE CITY, THE COUNTY, THE STATE, OR ANY OTHER POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION OR LIMITATION.

The Series 2020 Bonds will be secured by a pledge of the Series 2020 Pledged Revenues. "Series 2020 Pledged Revenues" shall mean (a) all revenues received by the District from the Series 2020 Special Assessments (as defined herein) levied and collected on the assessable lands within the Phase One Assessment Area within the District, including, without limitation, amounts received from any foreclosure proceeding for the enforcement of collection of such Series 2020 Special Assessments or from the issuance and sale of tax certificates with respect to such Series 2020 Special Assessments, and (b) all moneys on deposit in the Funds and Accounts established under the Indenture created and established with respect to or for the benefit of the Series 2020 Bonds; provided, however, that Series 2020 Pledged Revenues shall not include (A) any moneys transferred to the Series 2020 Rebate Fund and investment earnings thereon, (B) moneys on deposit in the Series 2020 Costs of Issuance Account of the Acquisition and Construction Fund, and (C) "special assessments" levied and collected by the District under Section 190.022 of the Act for maintenance purposes or "maintenance assessments" levied and collected by the District under Section 190.021(3) of the Act (it being expressly understood that the lien and pledge of the Indenture shall not apply to any of the moneys described in the foregoing clauses (A), (B) and (C) of this proviso). See "SECURITY FOR AND SOURCE OF PAYMENT OF THE SERIES 2020 BONDS" herein.

The "Series 2020 Special Assessments" shall mean the Special Assessments levied on the assessable lands within the Phase One Assessment Area within the District as a result of the District's acquisition and/or construction of the Phase One Assessment Area Project, corresponding in amount to the debt service on the Series 2020 Bonds and designated as such in the Assessment Methodology. The Assessment Methodology, which describes the methodology for allocating the Series 2020 Special Assessments to the assessable lands within the Phase One Assessment Area within the District is included as APPENDIX D hereto. The Series 2020 Special Assessments will be levied pursuant to Section 190.022 of the Act, and the Assessment Resolutions (as defined in the First Supplemental Indenture) and assessment proceedings conducted by the District (together with the Assessment Resolutions, the "Assessment Proceedings"). Non-ad valorem assessments are not based on millage and are not taxes, but are a lien against the lands receiving special benefit, including, but not limited to, homestead property, as permitted in Section 4, Article X of the Florida State Constitution. The Series 2020 Special Assessments will constitute a lien against the land as to which the Series 2020 Special Assessments are imposed. See "ENFORCEMENT OF ASSESSMENT COLLECTIONS" herein.

## Assessment Methodology / Projected Level of District Assessments

As set forth in the Assessment Methodology (as defined herein), the Series 2020 Special Assessments are initially levied on approximately 92.03+/- gross acres within the Phase One Assessment Area until such time as the property therein is platted. As platting occurs, the Series 2020 Special Assessments will be assigned to the different product types within the Phase One Assessment Area on a first platted, first assigned basis. Assuming that all of the 74 residential units in the Residential Portion, the 150 hotel rooms and all 18,243 square feet of Clubhouse space in the Resort Portion are platted, then the Series 2020 Special Assessments will be allocated to each product type, as set forth below and as set forth in the Assessment Methodology. A portion of the land within the Phase One Assessment Area has already been platted as described in “THE DEVELOPMENT – Zoning and Permitting” herein. Also see “APPENDIX D – ASSESSMENT METHODOLOGY” herein.

<u>Product Type</u>	<u>No. of Units/Sq. Ft.</u>	<u>Annual Series 2020 Special Assessments Per Unit/ Sq.Ft.†</u>
Estate Home	52	\$1,789.00
Hotel Room	150	1,789.00
Resort Villa	22	1,431.00
Clubhouse	18,243*	1.79*

\*The Clubhouse is measured, and the Series 2020 Special Assessments are levied, by square footage rather than by unit.

†Preliminary, subject to change. This amount will be grossed up to include early payment discounts and County collection fees, currently 6%.

The District anticipates levying assessments to cover its operation and maintenance costs that, in the aggregate, are estimated to be approximately \$85,625 annually. Such operation and maintenance costs will be allocated to the Residential Portion and the Resort Portion pursuant to a methodology to be determined by the District. In addition, residents with respect to the Residential Portion will be required to pay homeowners association fees, the amount of which has not yet been determined. The land within the District has been and is expected to continue to be subject to taxes and assessments imposed by taxing authorities other than the District. The total millage rate imposed on taxable properties in the District is currently approximately 21.6368 mills, which is subject to change in future tax years. These taxes would be payable in addition to the Series 2020 Special Assessments and any other assessments levied by the District; which amount is subject to change. In addition, exclusive of voter approved millages levied for general obligation bonds, as to which no limit applies, the County and the School District of Palm Beach County, Florida may each levy ad valorem taxes upon the land in the District. The District has no control over the level of ad valorem taxes and/or special assessments levied by other taxing authorities. It is possible that in future years taxes levied by these other entities could be substantially higher than in the current year. See “THE DEVELOPMENT – Taxes, Fees and Assessments” for more information.

### Additional Obligations

The District covenants not to issue any other Bonds or other debt obligations secured by the Series 2020 Special Assessments. Such covenant shall not prohibit the District from issuing refunding bonds. The District’s covenant described above shall not be applicable if the Series 2020 Special Assessments levied within the Phase One Assessment Area within the District have been Completely Absorbed, or the Majority Holders have consented to such issuance. Notwithstanding any of the foregoing, the District shall not be precluded from imposing other non-ad valorem assessments on such lands within the Phase One Assessment Area in connection with other capital projects that are necessary for health, safety or welfare

reasons or to remediate a natural disaster. “Completely Absorbed” means the date 100% of the principal portion of the Series 2020 Special Assessments have been assigned to residential units within the Phase One Assessment Area within the District that have received certificates of occupancy and both the Hotel and Clubhouse have received certificates of occupancy. The Trustee and the District may rely on a written certificate from the District Manager regarding the Series 2020 Special Assessments being Completely Absorbed.

The District and/or other public entities may impose taxes or other special assessments on the same properties encumbered by the Series 2020 Special Assessments without the consent of the Owners of the Series 2020 Bonds. The District expects to impose certain non-ad valorem special assessments called maintenance assessments, which are of equal dignity with the Series 2020 Special Assessments, on the same lands upon which the Series 2020 Special Assessments are imposed, to fund the maintenance and operation of the District. See “THE DEVELOPMENT – Taxes, Fees and Assessments” and “BONDOWNERS’ RISKS” herein for more information.

### **Covenant Against Sale or Encumbrance**

In the Master Indenture, the District will covenant that (a) except for those improvements comprising the Phase One Assessment Area Project that are to be conveyed by the District to the County, the State Department of Transportation or another governmental entity, and (b) except as otherwise permitted in the Indenture, it will not sell, lease or otherwise dispose of or encumber the Phase One Assessment Area Project or any part thereof. See “APPENDIX A – PROPOSED FORMS OF INDENTURE” herein for more information.

### **Series 2020 Reserve Account**

The Indenture establishes a Series 2020 Reserve Account within the Debt Service Reserve Fund for the Series 2020 Bonds. The Series 2020 Reserve Account will, at the time of delivery of the Series 2020 Bonds, be funded from a portion of the proceeds of the Series 2020 Bonds in an amount equal to the Series 2020 Reserve Requirement. “Series 2020 Reserve Requirement” or “Reserve Requirement” shall mean an amount equal to the maximum annual debt service on the Series 2020 Bonds as of the date of issuance of the Series 2020 Bonds, which amount is \$\_\_\_\_\_. Any amount in the Series 2020 Reserve Account may, upon final maturity or redemption of all Outstanding Series 2020 Bonds, be used to pay principal of and interest on the Series 2020 Bonds at that time.

On each March 15 and September 15 (or, if such date is not a Business Day, on the Business Day next preceding such day), the Trustee shall determine the amount on deposit in the Series 2020 Reserve Account and transfer any excess therein above the Reserve Requirement for the Series 2020 Bonds caused by investment earnings to be transferred to the Series 2020 Acquisition and Construction Account, and after the Completion Date, to the Series 2020 Revenue Account.

Notwithstanding any of the foregoing, amounts on deposit in the Series 2020 Reserve Account shall be transferred by the Trustee, in the amounts directed in writing by the Majority Holders of the Series 2020 Bonds to the Series 2020 General Redemption Subaccount of the Series 2020 Bond Redemption Account, if as a result of the application of Article X of the Master Indenture, the proceeds received from lands sold subject to the Series 2020 Special Assessments and applied to redeem a portion of the Series 2020 Bonds is less than the principal amount of Series 2020 Bonds indebtedness attributable to such lands.

It shall be an event of default under the Indenture if at any time the amount in the Series 2020 Reserve Account is less than the Series 2020 Reserve Requirement as a result of the Trustee withdrawing

an amount therefrom to satisfy the Debt Service Requirement for the Series 2020 Bonds and such amount has not been restored within thirty (30) days of such withdrawal.

### **Deposit and Application of the Series 2020 Pledged Revenues**

Pursuant to the Indenture, the Trustee shall transfer from amounts on deposit in the Series 2020 Revenue Account to the Funds and Accounts designated below, the following amounts, at the following times and in the following order of priority:

FIRST, upon receipt but no later than the Business Day next preceding each May 1 commencing May 1, 2021, to the Series 2020 Interest Account of the Debt Service Fund, an amount equal to the interest on the Series 2020 Bonds becoming due on the next succeeding May 1, less any amount on deposit in the Series 2020 Interest Account and Series 2020 Capitalized Interest Account not previously credited;

SECOND, upon receipt but no later than the Business Day next preceding each November 1 commencing November 1, 2021, to the Series 2020 Interest Account of the Debt Service Fund, an amount equal to the interest on the Series 2020 Bonds becoming due on the next succeeding November 1, less any amounts on deposit in the Series 2020 Interest Account and Series 2020 Capitalized Interest Account not previously credited;

THIRD, no later than the Business Day next preceding each November 1, commencing November 1, 20\_\_, to the Series 2020 Sinking Fund Account of the Debt Service Fund, an amount equal to the principal amount of Series 2020 Bonds subject to sinking fund redemption on such November 1, less any amount on deposit in the Series 2020 Sinking Fund Account not previously credited;

FOURTH, no later than the Business Day next preceding each November 1, which is the principal payment date for any Series 2020 Bonds, to the Series 2020 Principal Account of the Debt Service Fund, an amount equal to the principal amount of Series 2020 Bonds Outstanding maturing on such November 1, less any amounts on deposit in the Series 2020 Principal Account not previously credited;

FIFTH, notwithstanding the foregoing, at any time the Series 2020 Bonds are subject to redemption on a date which is not a May 1 or November 1 Interest Payment Date, the Trustee shall be authorized to transfer from the Series 2020 Revenue Account to the Series 2020 Interest Account, the amount necessary to pay interest on the Series 2020 Bonds subject to redemption on such date;

SIXTH, upon receipt but no later than the Business Day next preceding each Interest Payment Date while Series 2020 Bonds remain Outstanding, to the Series 2020 Reserve Account, an amount equal to the amount, if any, which is necessary to make the amount on deposit therein equal to the Reserve Requirement for the Series 2020 Bonds; and

SEVENTH, subject to the foregoing paragraphs, the balance of any moneys remaining after making the foregoing deposits shall be first deposited into the Series 2020 Costs of Issuance Account to cover any deficiencies in the amount allocated to pay the cost of issuing the Series 2020 Bonds and next, any balance in the Series 2020 Revenue Account shall remain on deposit in such Series 2020 Revenue Account, unless pursuant to the Arbitrage Certificate, it is necessary to make

a deposit into the Series 2020 Rebate Fund, in which case, the District shall direct the Trustee to make such deposit thereto.

Notwithstanding that the District has funded the Series 2020 Capitalized Interest Account to pay interest on the Series 2020 Bonds through at least November 1, 2021, moneys on deposit in the Series 2020 Capitalized Interest Account, including all investment earnings thereon, shall remain on deposit in such Account and be used by the Trustee to pay interest on the Series 2020 Bonds on any subsequent Interest Payment Date if moneys remain after November 1, 2021. When such Account has been depleted of all funds, the Trustee shall be authorized to close such Account.

## **Investments**

The Trustee shall, as directed by the District in writing, invest moneys held in the Accounts in the Debt Service Fund, Accounts in the Debt Service Reserve Fund and the Accounts in the Bond Redemption Fund related to the Series 2020 Bonds only in Investment Securities set forth in the Master Indenture. All deposits in time accounts shall be subject to withdrawal without penalty and all investments shall mature or be subject to redemption by the holder without penalty, not later than the date when the amounts will foreseeably be needed for the purposes set forth in the Indenture. All securities securing investments shall be deposited with a Federal Reserve Bank, with the trust department of the Trustee, as authorized by law with respect to trust funds in the State, or with a bank or trust company having a combined net capital and surplus of not less than \$50,000,000. The interest and income received upon such investments and any interest paid by the Trustee or any other depository of any Fund or Account and any profit or loss resulting from the sale of securities shall be added or charged to the Fund or Account for which such investments are made; provided, however, that if the amount in any Fund or Account equals or exceeds the amount required to be on deposit therein, subject to the provisions of the Indenture, any interest and other income so received shall be deposited in the Series 2020 Revenue Account. Upon request of the District, or on its own initiative whenever payment is to be made out of any Fund or Account, the Trustee shall sell such securities as may be requested to make the payment and restore the proceeds to the Fund or Account in which the securities were held. The Trustee shall not be accountable for any depreciation in the value of any such security or for any loss resulting from the sale thereof. The Trustee shall not be liable or responsible for any loss or failure to achieve the highest return, or entitled to any gain, resulting from any investment or sale. The Trustee may make any permitted investments through its own bond department or investment department. The Trustee shall value the assets in each of the Funds and Accounts forty-five (45) days prior to each Interest Payment Date, and as soon as practicable after each such valuation date (but no later than ten (10) days after each such valuation date) shall provide the District a report of the status of each Fund and Account as of the valuation date. See "APPENDIX A – PROPOSED FORMS OF INDENTURE" hereto.

## **Covenant to Levy the Series 2020 Special Assessments**

The District will covenant to levy the Series 2020 Special Assessments to the extent and in the amount sufficient to pay debt service on the Series 2020 Bonds when due. If any Series 2020 Special Assessment shall be either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the District shall be satisfied that any such Series 2020 Special Assessment is so irregular or defective that the same cannot be enforced or collected, or if the District shall have omitted to make such Series 2020 Special Assessment when it might have done so, the District has additionally covenanted to either (i) take all necessary steps to cause a new Series 2020 Special Assessment to be made for the whole or any part of such improvement or against any property benefited by such improvement, or (ii) in its sole discretion, make up the amount of such Series 2020 Special Assessment from legally available moneys, which moneys shall be deposited into the Series 2020 Revenue Account. In case such second Series 2020 Special

Assessment shall be annulled, the District shall obtain and make other Series 2020 Special Assessments until a valid Series 2020 Special Assessment shall be made.

### **Prepayment of Series 2020 Special Assessments**

Pursuant to the Indenture, at any time any owner of property subject to the Series 2020 Special Assessments may, at its option, or as a result of acceleration of the Series 2020 Special Assessments because of non-payment thereof, or as a result of a true-up payment, shall require the District to reduce or release and extinguish the lien upon its property by virtue of the levy of the Series 2020 Special Assessments by paying or causing there to be paid, to the District all or a portion of the Series 2020 Special Assessment, which shall constitute Series 2020 Prepayment Principal, plus accrued interest to the next succeeding Quarterly Redemption Date (or the second succeeding Quarterly Redemption Date if such Prepayment is made within forty-five (45) calendar days before a Quarterly Redemption Date), attributable to the property subject to the Series 2020 Special Assessments owned by such owner.

Pursuant to the Act, an owner of property subject to the levy of Series 2020 Special Assessments may pay the entire balance of the Series 2020 Special Assessments remaining due, without interest, within thirty (30) days after the Phase One Assessment Area Project has been completed or acquired by the District, and the Board has adopted a resolution accepting the Phase One Assessment Area Project pursuant to Chapter 170.09, Florida Statutes. The Developer, as the owner of property within the Phase One Assessment Area within the District, will covenant to waive this right on behalf of itself and its respective successors and assigns in connection with the issuance of the Series 2020 Bonds pursuant to a “Declaration of Consent to Jurisdiction of Banyan Cay Community Development District and to Imposition of Special Assessments”.

Any prepayment of Series 2020 Special Assessments will result in the extraordinary mandatory redemption of a portion of the Series 2020 Bonds as indicated under “DESCRIPTION OF THE SERIES 2020 BONDS - Redemption Provisions - Extraordinary Mandatory Redemption.” The prepayment of Series 2020 Special Assessments does not entitle the owner of the property to a discount for early payment.

### **Indenture Provisions Relating to Bankruptcy or Insolvency of Certain Landowners**

The following provisions of the Indenture shall be applicable both before and after the commencement, whether voluntary or involuntary, of any case, proceeding or other action by or against the Developer or other Obligated Person (as defined under the Continuing Disclosure Agreement) (hereinafter referred to under this heading as the “Landowner”) under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization, assignment for the benefit of creditors, or relief of debtors (a “Proceeding”). For as long as any Series 2020 Bonds remain Outstanding, in any Proceeding involving the District, any Landowner, or the Series 2020 Special Assessments, the District shall be obligated to act in accordance with direction from the Trustee and the Trustee shall be obligated to act in accordance with the direction from the Beneficial Owners of at least twenty-five percent (25%) of the aggregate principal amount of all Outstanding Series 2020 Bonds with regard to all matters directly or indirectly affecting the Series 2020 Bonds.

In the Indenture, the District acknowledges and agrees that, although the Series 2020 Bonds will be issued by the District, the Beneficial Owners of such Series 2020 Bonds are categorically the party with a financial stake in the repayment of the Series 2020 Bonds and, consequently, the party with a vested interest in a Proceeding. In the event of any Proceeding involving any Landowner (a) the District agrees that it shall not make any election, give any consent, commence any action or file any motion, claim, obligation, notice or application or take any other action or position in any Proceeding or in any action



related to a Proceeding that affects, either directly or indirectly, the Series 2020 Special Assessments, the Series 2020 Bonds or any rights of the Trustee or Bondholders under the Indenture that is inconsistent with any direction from the Trustee, (b) the Trustee shall have the right, but is not obligated to, vote in any such Proceeding any and all claims of the District, relating to the Series 2020 Special Assessments or the Series 2020 Bonds, and, if the Trustee chooses to exercise such right, the District shall be deemed to have appointed the Trustee as its agent and granted to the Trustee an irrevocable power of attorney coupled with an interest, and its proxy, for the purpose of exercising any and all rights and taking any and all actions available to the District in connection with any Proceeding of any Landowner, including without limitation, the right to file and/or prosecute any claims, to vote to accept or reject a plan, and to make any election under Section 1111(b) of the Bankruptcy Code and (c) the District shall not challenge the validity or amount of any claim submitted in such Proceeding by the Trustee in good faith or any valuations of any lands submitted by the Trustee in good faith in such Proceeding or take any other action in such Proceeding, which is adverse to Trustee's enforcement of the District's claim with respect to the Series 2020 Special Assessments or receipt of adequate protection (as that term is defined in the Bankruptcy Code). Without limiting the generality of the foregoing, the District agrees that the Trustee shall have the right (i) to file a proof of claim with respect to the Series 2020 Special Assessments, (ii) to deliver to the District a copy thereof, together with evidence of the filing with the appropriate court or other authority, and (iii) to defend any objection filed to said proof of claim.

### **Events of Default and Remedies**

Events of Default Defined. The Indenture provides that each of the following shall be an "Event of Default" under the Indenture, with respect to the Series 2020 Bonds:

- (a) if payment of any installment of interest on any Series 2020 Bond is not made when it becomes due and payable; or
- (b) if payment of the principal or Redemption Price of any Series 2020 Bond is not made when it becomes due and payable at maturity or upon call or presentation for redemption; or
- (c) if the District, for any reason, fails in, or is rendered incapable of, fulfilling its obligations under the Indenture or under the Act which failure or incapacity may be reasonably determined solely by the Majority Holders; or
- (d) if the District proposes or makes an assignment for the benefit of creditors or enters into a composition agreement with all or a material part of its creditors, or a trustee, receiver, executor, conservator, liquidator, sequestrator or other judicial representative, similar or dissimilar, is appointed for the District or any of its assets or revenues, or there is commenced any proceeding in liquidation, bankruptcy, reorganization, arrangement of debts, debtor rehabilitation, creditor adjustment or insolvency, local, state or federal, by or against the District and if such is not vacated, dismissed or stayed on appeal within ninety (90) days; or
- (e) if the District defaults in the due and punctual performance of any other covenant in the Indenture or in the Series 2020 Bonds and such default continues for sixty (60) days after written notice requiring the same to be remedied shall have been given to the District by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the Majority Holders of the Outstanding Series 2020 Bonds; provided, however, that if such performance requires work to be done, actions to be taken, or conditions to be remedied, which by their nature cannot reasonably be done, taken or remedied, as the case may be, within such sixty (60) day period, no Event of Default shall be deemed to

have occurred or exist if, and so long as the District shall commence such performance within such sixty (60) day period and shall diligently and continuously prosecute the same to completion; or

(f) if at any time the amount in the Series 2020 Reserve Account is less than the Series 2020 Reserve Requirement as a result of the Trustee withdrawing an amount therefrom to satisfy the Debt Service Requirement on the Series 2020 Bonds and such amount has not been restored within thirty (30) days of such withdrawal; or

(g) more than twenty percent (20%) of the “maintenance special assessments” levied by the District pursuant to Section 190.021(3) of the Act on District lands upon which the Series 2020 Special Assessments are levied to secure the Series 2020 Bonds and such “maintenance special assessments” are being collected directly by the District have become due and payable and have not been paid, within ninety (90) days of when due.

The Trustee shall not be required to rely on any official action, admission or declaration by the District before recognizing that an Event of Default under (c) above has occurred.

No Acceleration; Redemption. No Series 2020 Bonds shall be subject to acceleration. Upon the occurrence and continuation of an Event of Default, no optional redemption or extraordinary mandatory redemption of the Series 2020 Bonds pursuant to the Indenture shall occur unless all of the Series 2020 Bonds where an Event of Default has occurred will be redeemed or if 100% of the Holders of the Outstanding Series 2020 Bonds agree to such redemption.

Legal Proceedings by Trustee. If any Event of Default with respect to the Series 2020 Bonds has occurred and is continuing, the Trustee, in its discretion may, and upon the written request of the Majority Holders of the Outstanding Series 2020 Bonds and receipt of indemnity to its satisfaction shall, in its capacity as Trustee:

(a) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Holders of the Series 2020 Bonds, including, without limitation, the right to require the District to carry out any agreements with, or for the benefit of, the Series 2020 Bondholders and to perform its or their duties under the Act;

(b) bring suit upon the Series 2020 Bonds;

(c) by action or suit in equity require the District to account as if it were the trustee of an express trust for the Holders of the Series 2020 Bonds;

(d) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Holders of the Series 2020 Bonds; and

(e) by other proceeding in law or equity, exercise all rights and remedies provided for by any other document or instrument securing the Series 2020 Bonds.

If any proceeding taken by the Trustee on account of any Event of Default is discontinued or is determined adversely to the Trustee, the District, the Trustee, the Paying Agent and the Bondholders shall be restored to their former positions and rights hereunder as though no such proceeding had been taken.

The Majority Holders then subject to remedial proceedings under the Indenture shall have the right to direct the method and place of conducting all remedial proceedings by the Trustee under the Indenture,

provided that such directions shall not be otherwise than in accordance with law or the provisions of the Indenture.

Application of Moneys in Event of Default. Any moneys received by the Trustee or the Paying Agent, as the case may be, in connection with any proceedings brought under Article X of the Master Indenture with respect to the Series 2020 Bonds shall be applied in the following order of priority:

(a) to the payment of the costs of the Trustee and Paying Agent incurred in connection with actions taken under Article X of the Master Indenture with respect to such Series 2020 Bonds, including counsel fees and any disbursements of the Trustee and the Paying Agent and payment of unpaid fees and expenses owed to the Trustee.

(b) then:

FIRST: to payment of all installments of interest then due on the Series 2020 Bonds in the order of maturity of such installments of interest, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any preference or priority of one installment of interest over any other installment; and

SECOND: to payment to the persons entitled thereto of the unpaid principal or Redemption Price of any of the Series 2020 Bonds which shall have become due in the order of their due dates, with interest on such Series 2020 Bonds from the respective dates upon which they become due and, if the amount available shall not be sufficient to pay in full the principal or Redemption Price coming due on such Series 2020 Bonds on any particular date, together with such interest, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto without any preference or priority of one such Series 2020 Bond over another Bond or of any installment of interest over another.

Any surplus remaining after the payments described above shall be paid to the District or to the Person lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

## **ENFORCEMENT OF ASSESSMENT COLLECTIONS**

### **General**

The primary source of payment for the Series 2020 Bonds is the Series 2020 Special Assessments imposed on the assessable lands within the Phase One Assessment Area within the District specially benefited by the Phase One Assessment Area Project pursuant to the Assessment Proceedings. See “ASSESSMENT METHODOLOGY” herein and “APPENDIX D – ASSESSMENT METHODOLOGY.”

The determination, order, levy, and collection of Series 2020 Special Assessments must be done in compliance with procedural requirements and guidelines provided by State law. Failure by the District, the Palm Beach County Constitutional Tax Collector (the “Tax Collector”) or the Palm Beach County Property Appraiser (the “Property Appraiser”) to comply with such requirements could result in delay in the collection of, or the complete inability to collect, Series 2020 Special Assessments during any year. Such delays in the collection of Series 2020 Special Assessments, or complete inability to collect any of the Series 2020 Special Assessments, would have a material adverse effect on the ability of the District to make full or punctual payment of the debt service requirements on such Series 2020 Bonds. See “BONDOWNERS’ RISKS.” To the extent that landowners fail to pay the Series 2020 Special Assessments

or delay payments, the successful pursuance of collection procedures available to the District is essential to continued payment of principal of and interest on the Series 2020 Bonds. The Act provides for various methods of collection of delinquent Series 2020 Special Assessments by reference to other provisions of the Florida Statutes. See “BONDOWNERS’ RISKS” herein. The following is a description of certain statutory provisions of assessment payment and collection procedures appearing in the Florida Statutes but is qualified in its entirety by reference to such statutes.

### **Alternative Uniform Tax Collection Procedure for Series 2020 Special Assessments**

Except as stated below, the District will covenant in the Indenture to collect the Series 2020 Special Assessments through the Uniform Method (as herein defined) with respect to platted lands within the Phase One Assessment Area. Pursuant to the Indenture, the District shall, pursuant to the provisions of the Assessment Resolutions, not collect the Series 2020 Special Assessments pursuant to the Uniform Method levied against the District Lands within the Phase One Assessment Area and will direct bill the Developer for the same either prior to platting of such lands or if the timing for using the Uniform Method will not yet allow for using such method, unless the Trustee at the direction of the Majority Holders of the Series 2020 Bonds directs the District otherwise upon an Event of Default. At such time as the Series 2020 Special Assessments are collected pursuant to the Uniform Method, the provisions under this heading shall become applicable.

The Florida Statutes provide that, subject to certain conditions, non-ad valorem special assessments may be collected by using the uniform method of collection (the “Uniform Method”). The Uniform Method is available only in the event the District complies with statutory and regulatory requirements and enters into agreements with the Tax Collector and Property Appraiser providing for the Series 2020 Special Assessments to be levied and then collected in this manner. The District’s election to use a certain collection method with respect to the Series 2020 Special Assessments does not preclude it from electing to use another collection method in the future. See “Foreclosure” below with respect to collection of delinquent assessments not collected pursuant to the Uniform Method.

If the Uniform Method is utilized, the Series 2020 Special Assessments will be collected together with City, County, school board, special district, and other ad valorem taxes and non-ad valorem assessments, all of which will appear on the tax bill (also referred to as a “tax notice”) issued to each landowner in the District. The statutes relating to enforcement of ad valorem taxes and non-ad valorem assessments provide that such taxes and assessments become due and payable on November 1 of the year when assessed, or as soon thereafter as the certified tax roll is received by the Tax Collector, and constitute a lien upon the land from January 1 of such year until paid or barred by operation of law. Such taxes and assessments (including the Series 2020 Special Assessments, if any, being collected by the Uniform Method) are to be billed, and landowners in the District are required to pay all such taxes and assessments, without preference in payment of any particular increment of the tax bill, such as the increment owing for the Series 2020 Special Assessments.

All City, County, school and special districts, including the District, ad valorem taxes, non-ad valorem special assessments, including the Series 2020 Special Assessments, and voter-approved ad valorem taxes levied to pay principal of and interest on bonds, are payable at one time, except for partial payment schedules as may be provided by Sections 197.374 and 197.222, Florida Statutes. Partial payments made pursuant to Sections 197.374 and 197.222, Florida Statutes, are distributed in equal proportion to all taxing districts and levying authorities applicable to that account. If a taxpayer does not make complete payment of the total amount, he or she cannot designate specific line items on his or her tax bill as deemed paid in full. Therefore, in the event the Series 2020 Special Assessments are to be collected pursuant to the Uniform Method, any failure to pay any one line item, would cause the Series 2020 Special Assessments

to not be collected to that extent, which could have a significant adverse effect on the ability of the District to make full or punctual payment of the debt service requirements on the Series 2020 Bonds.

Under the Uniform Method, if the Series 2020 Special Assessments are paid during November when due or during the following three months, the taxpayer is granted a variable discount equal to 4% in November and decreasing one percentage point per month to 1% in February. All unpaid taxes and assessments become delinquent on April 1 of the year following assessment. The Tax Collector is required to collect the ad valorem taxes and non-ad valorem special assessments on the tax bill prior to April 1 and, after that date, to institute statutory procedures upon delinquency to collect such taxes and assessments through the sale of "tax certificates," as discussed below. Delay in the mailing of tax notices to taxpayers may result in a delay throughout this process.

Neither the District nor the Underwriter can give any assurance to the holders of the Series 2020 Bonds (1) that the past experience of the Tax Collector with regard to tax and special assessment delinquencies is applicable in any way to the Series 2020 Special Assessments, (2) that future landowners and taxpayers within the Phase One Assessment Area within the District will pay such Series 2020 Special Assessments, (3) that a market may exist in the future for tax certificates (as described below) in the event of sale of such certificates for taxable units within the Phase One Assessment Area within the District if the Series 2020 Special Assessments are levied and collected pursuant to the Uniform Method, and (4) that the eventual sale of tax certificates for real property within the Phase One Assessment Area within the District, if any, will be for an amount sufficient to pay amounts due under the Assessment Proceedings to discharge the lien of the Series 2020 Special Assessments and all other liens that are coequal therewith.

Collection of delinquent Series 2020 Special Assessments under the Uniform Method is, in essence, based upon the sale by the Tax Collector of "tax certificates" and remittance of the proceeds of such sale to the District for payment of the Series 2020 Special Assessments due. In the event of a delinquency in the payment of taxes and assessments on real property, the landowner may, prior to the sale of tax certificates, pay the total amount of delinquent ad valorem taxes and non-ad valorem assessments plus the cost of advertising and the applicable interest charge on the amount of such delinquent taxes and assessments. If the landowner does not act, the Tax Collector is required to attempt to sell tax certificates on such property to the person who pays the delinquent taxes and assessments owing, penalties and interest thereon and certain costs, and who accepts the lowest interest rate per annum to be borne by the certificates (but not more than 18%). Tax certificates are sold by public bid. If there are no bidders, the tax certificate is issued to the County. During the pendency of any litigation arising from the contest of a landowner's tax assessment collected through the Uniform Method, which may possibly include non-ad valorem special assessments such as the Series 2020 Special Assessments, it is possible that the tax collector will not sell tax certificates with respect to such property. The County is to hold, but not pay for, the tax certificate with respect to the delinquent property, bearing interest at the maximum legal rate of interest (currently 18%). The Tax Collector does not collect any money if tax certificates are "struck off" (issued) to the County. The County may sell such certificates to the public at any time at the principal amount thereof plus interest at the rate of not more than 18% per annum and a fee. Proceeds from the sale of tax certificates are required to be used to pay taxes and assessments (including the Series 2020 Special Assessments), interest, costs and charges on the real property described in the certificate. The demand for such certificates is dependent upon various factors, which include the rate of interest that can be earned by ownership of such certificates and the underlying value of the land that is the subject of such certificates and which may be subject to sale at the demand of the certificate holder. Therefore, the underlying market value of the property within the District may affect the demand for certificates and the successful collection of the Series 2020 Special Assessments, which are the primary source of payment of the Series 2020 Bonds. Legal proceedings under Federal bankruptcy law brought by or against a landowner who has not yet paid his or her property taxes or assessments would likely result in a delay in the sale of tax certificates.

Any tax certificate in the hands of a person other than the County may be redeemed and canceled, in whole or in part (under certain circumstances), at any time before a tax deed is issued (unless full payment for a tax deed is made to the clerk of court, including documentary stamps and recording fees), at a price equal to the face amount of the certificate or portion thereof together with all interest, costs, charges and omitted taxes due. Regardless of the interest rate actually borne by the certificates, persons redeeming tax certificates must pay a minimum interest rate of 5% to the holders thereof, unless the rate borne by the certificates is zero percent. The proceeds of such a redemption are paid to the Tax Collector who transmits to the holder of the tax certificate such proceeds less service charges, and the certificate is canceled. Redemption of tax certificates held by the County is effected by purchase of such certificates from the County, as described in the preceding paragraph.

Any holder, other than the County, of a tax certificate that has not been redeemed has seven years from the date of issuance of the tax certificate during which to act against the land that is the subject of the tax certificate. After an initial period ending two years from April 1 of the year of issuance of a certificate, during which period actions against the land are held in abeyance to allow for sales and redemptions of tax certificates, and before the expiration of seven years from the date of issuance, the holder of a certificate may apply for a tax deed to the subject land. The applicant is required to pay to the Tax Collector at the time of application all amounts required to redeem or purchase all outstanding tax certificates covering the land, plus interest, any omitted taxes or delinquent taxes and interest, and current taxes, if due (as well as any costs of resale, if applicable). If the County holds a tax certificate on property valued at \$5,000 or more and has not succeeded in selling it, the County must apply for a tax deed two years after April 1 of the year of issuance of the certificate. The County pays costs and fees to the Tax Collector but not any amount to redeem any other outstanding certificates covering the land. Thereafter, the property is advertised for public sale.

In any such public sale conducted by the Clerk of the Circuit Court, the private holder of the tax certificate who is seeking a tax deed for non-homestead property is deemed to submit a minimum bid equal to the amount required to redeem the tax certificate, charges for the cost of sale, including costs incurred for the service of notice required by statute, redemption of other tax certificates on the land, and the amount paid by such holder in applying for the tax deed, plus interest thereon. In the case of homestead property, the minimum bid is also deemed to include, in addition to the amount of money required for the minimum bid on non-homestead property, an amount equal to one-half of the latest assessed value of the homestead. If there are no higher bids, the holder receives title to the land, and the amounts paid for the certificate and in applying for a tax deed are credited toward the purchase price. If there are other bids, the holder may enter the bidding. The highest bidder is awarded title to the land. The portion of proceeds of such sale needed to redeem the tax certificate, and all other amounts paid by such person in applying for a tax deed, are forwarded to the holder thereof or credited to such holder if such holder is the successful bidder. Excess proceeds are distributed first to satisfy governmental liens against the land and then to the former title holder of the property (less service charges), lienholder of record, mortgagees of record, vendees of recorded contracts for deeds, and other lienholders and any other person to whom the land was last assessed on the tax roll for the year in which the land was assessed, all as their interest may appear.

Except for certain governmental liens and certain restrictive covenants and restrictions, no right, interest, restriction or other covenant survives the issuance of a tax deed. Thus, for example, outstanding mortgages on property subject to a tax deed would be extinguished.

If there are no bidders at the public sale, the County may, at any time within ninety (90) days from the date of offering for public sale, purchase the land without further notice or advertising for a statutorily prescribed opening bid. After ninety (90) days have passed, any person or governmental unit may purchase the land by paying the amount of the opening bid. Ad valorem taxes and non-ad valorem assessments

accruing after the date of public sale do not require repetition of the bidding process but are added to the minimum bid. Three years from the date of delinquency, unsold lands escheat to the county in which they are located and all tax certificates and liens against the property are canceled and a deed is executed vesting title in the governing board of such county.

## **Foreclosure**

The Series 2020 Special Assessments on unplatted lands will be initially collected directly by the District. The following discussion regarding foreclosure is not applicable if the Series 2020 Special Assessments are being collected pursuant to the Uniform Method. In the event that the District, itself, directly levies and enforces, pursuant to Chapters 170 and 190, Florida Statutes, the collection of the Series 2020 Special Assessments levied on the land within the District, Section 170.10, Florida Statutes provides that upon the failure of any property owner to pay all or any part of the principal of a special assessment, including a 2020 Special Assessment, or the interest thereon, when due, all of the Series 2020 Special Assessments shall be accelerated and the governing body of the entity levying the assessment, including the Series 2020 Special Assessments, is authorized to commence legal proceedings for the enforcement of the payment thereof, including commencement of an action in chancery, commencement of a foreclosure proceeding in the same manner as the foreclosure of a real estate mortgage, or commencement of an action under Chapter 173, Florida Statutes relating to foreclosure of municipal tax and special assessment liens. Such proceedings would be in rem, meaning that each would be brought against the land not against the owner. In light of the one year tolling period required before the District may commence a foreclosure action under Chapter 173, Florida Statutes, it is likely the District would commence an action to foreclose in the same manner as the foreclosure of a real estate mortgage rather than proceeding under Chapter 173, Florida Statutes.

Enforcement of the obligation to pay Series 2020 Special Assessments and the ability to foreclose the lien of such Series 2020 Special Assessments upon the failure to pay such Series 2020 Special Assessments may not be readily available or may be limited as such enforcement is dependent upon judicial action which is often subject to discretion and delay.

## **BONDOWNERS' RISKS**

There are certain risks inherent in an investment in bonds issued by a public authority or governmental body in the State and secured by special assessments. Certain of these risks are described under other headings in this Limited Offering Memorandum. Certain additional risks are associated with the Series 2020 Bonds offered hereby and are set forth below. Prospective investors in the Series 2020 Bonds should have such knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of an investment in the Series 2020 Bonds and have the ability to bear the economic risks of such prospective investment, including a complete loss of such investment. The information under this heading does not purport to summarize all risks that may be associated with purchasing or owning the Series 2020 Bonds and prospective purchasers are advised to read this Limited Offering Memorandum in its entirety for a more complete description of investment considerations relating to the Series 2020 Bonds.

1. As of the date hereof, the Developer owns all of the lands within the Phase One Assessment Area within the District, which are the lands that will be subject to the Series 2020 Special Assessments securing the Series 2020 Bonds. See "SECURITY FOR AND SOURCE OF PAYMENT OF THE SERIES 2020 BONDS" herein. Payment of the Series 2020 Special Assessments is primarily dependent upon their timely payment by the Developer and subsequent landowners in the District. See "THE DEVELOPER" herein. In the event of the institution of bankruptcy or similar proceedings with respect to the Developer

or any other owner of benefited property, delays could occur in the payment of debt service on the Series 2020 Bonds as such bankruptcy could negatively impact the ability of: (i) the Developer and any other landowner being able to pay the Series 2020 Special Assessments; (ii) the Tax Collector to sell tax certificates in relation to such property with respect to the Series 2020 Special Assessments being collected pursuant to the Uniform Method; and (iii) the District to foreclose the lien of the Series 2020 Special Assessments not being collected pursuant to the Uniform Method. The Uniform Method will be used with respect to any assessable lands which are platted and still owned by the Developer or an entity affiliated with the Developer. In addition, the remedies available to the Owners of the Series 2020 Bonds under the Indenture are in many respects dependent upon judicial actions which are often subject to discretion and delay. Under existing constitutional and statutory law and judicial decisions, the remedies specified by federal, state and local law and in the Indenture and the Series 2020 Bonds, including, without limitation, enforcement of the obligation to pay Series 2020 Special Assessments and the ability of the District to foreclose the lien of the Series 2020 Special Assessments if not being collected pursuant to the Uniform Method, may not be readily available or may be limited. The various legal opinions to be delivered concurrently with the delivery of the Series 2020 Bonds (including Bond Counsel's approving opinion) will be qualified as to the enforceability of the various legal instruments by limitations imposed by bankruptcy, reorganization, insolvency or other similar laws affecting the rights of creditors enacted before or after such delivery. The inability, either partially or fully, to enforce remedies available with respect to the Series 2020 Bonds could have a material adverse impact on the interest of the Owners thereof.

2. The principal security for the payment of the principal and interest on the Series 2020 Bonds is the timely collection of the Series 2020 Special Assessments. The Series 2020 Special Assessments do not constitute a personal indebtedness of the landowners of the land subject thereto, but are secured by a lien on such land. There is no assurance that the landowners will be able to pay the Series 2020 Special Assessments or that they will pay such Series 2020 Special Assessments even though financially able to do so. Beyond legal delays that could result from bankruptcy or other legal proceedings contesting an ad valorem tax or non-ad valorem assessment, the ability of the Tax Collector to sell tax certificates in regard to delinquent Series 2020 Special Assessments collected pursuant to the Uniform Method will be dependent upon various factors, including the interest rate which can be earned by ownership of such certificates and the value of the land which is the subject of such certificates and which may be subject to sale at the demand of the certificate holder after two years. The assessment of the benefits to be received by the benefited land within the District as a result of implementation and development of the Phase One Assessment Area Project is not indicative of the realizable or market value of the land, which value may actually be higher or lower than the benefits received from the Phase One Assessment Area Project. To the extent that the realizable or market value of the land benefited by the Phase One Assessment Area Project is lower than the assessment of benefits, the ability of the Tax Collector to sell tax certificates relating to such land or the ability of the District to realize sufficient value from a foreclosure action to pay debt service on the Series 2020 Bonds may be adversely affected. Such adverse effect could render the District unable to collect delinquent Series 2020 Special Assessments and provided such delinquencies are significant, could negatively impact the ability of the District to make the full or punctual payment of debt service on the Series 2020 Bonds.

3. The value of the lands subject to the Series 2020 Special Assessments could also be adversely impacted by flooding or wind damage caused by hurricanes, tropical storms, or other catastrophic events. In addition to potential damage or destruction to any existing development or construction in or near the District, such catastrophic events could potentially render the District lands unable to support future development. The occurrence of any such events could materially adversely impact the District's ability to pay principal and interest on the Series 2020 Bonds. The Series 2020 Bonds are not insured and the District's casualty insurance policies do not insure against losses incurred on private lands within its boundaries.



4. The development of the Phase One Assessment Area Project is subject to comprehensive federal, state and local regulations and future changes to such regulations. Approval is required from various public agencies in connection with, among other things, the design, nature and extent of planned improvements, both public and private, and construction of the infrastructure in accordance with applicable zoning, land use and environmental regulations. Although all such approvals required to date have been received and any further approvals or renewals are anticipated to be received as needed, failure to obtain any such approvals or renewals in a timely manner could delay or adversely affect the completion of the development of the District Lands. See “THE DEVELOPMENT – Zoning and Permitting,” and “– Environmental” herein for more information. Moreover, the Developer has the right to modify or change its plan for development of the Development, from time to time, including, without limitation, land use changes, changes in the overall land and phasing plans, and changes to the type, mix, size and number of units to be developed, and may seek in the future, in accordance with, and subject to the provisions of the Act, to contract or expand the boundaries of the District.

5. The successful sale of the residential units, once such homes are built, and attaining maximum occupancy levels of the hotel rooms within the Phase One Assessment Area may be affected by unforeseen changes in general economic conditions, fluctuations in the real estate market and other factors beyond the control of the Developer.

6. Neither the Developer nor any other subsequent landowner in the District has any obligation to pay the Series 2020 Special Assessments. As described in paragraph 2 above, the Series 2020 Special Assessments are an imposition against the land only. Neither the Developer nor any other subsequent landowner is a guarantor of payment of any Series 2020 Special Assessment and the recourse for the failure of the Developer or any other landowner to pay the Series 2020 Special Assessments is limited to the collection proceedings against the land as described herein.

7. The willingness and/or ability of an owner of benefited land to pay the Series 2020 Special Assessments could be affected by the existence of other taxes and assessments imposed upon such property by the District, the County or any other local special purpose or general purpose governmental entities. City, County, school, special district taxes and special assessments, and voter-approved ad valorem taxes levied to pay principal of and interest on debt, including the Series 2020 Special Assessments, collected pursuant to the Uniform Method are payable at one time. Public entities whose boundaries overlap those of the District, could, without the consent of the owners of the land within the Phase One Assessment Area within the District, impose additional taxes on the property within the Phase One Assessment Area within the District. The District anticipates imposing operation and maintenance assessments encumbering the same property encumbered by the Series 2020 Special Assessments, which operation and maintenance assessments have a co-equal lien status with respect to the Series 2020 Special Assessments. In addition, lands within the Phase One Assessment Area within the District may also be subject to assessments by property and home owner associations.

8. The Series 2020 Bonds may not constitute a liquid investment, and there is no assurance that a liquid secondary market will exist for the Series 2020 Bonds in the event an Owner thereof determines to solicit purchasers of the Series 2020 Bonds. The Series 2020 Bonds are being sold pursuant to exemptions from registration under applicable securities laws. No secondary market may develop and an owner may not be able to resell the Series 2020 Bonds. Even if a liquid secondary market exists, there can be no assurance as to the price for which the Series 2020 Bonds may be sold. Such price may be lower than that paid by the current Owners of the Series 2020 Bonds, depending on the progress of development of the Phase One Assessment Area, existing real estate and financial market conditions and other factors.

9. In addition to legal delays that could result from bankruptcy or legal proceedings contesting an ad valorem tax or non-ad valorem assessment, the ability of the District to enforce collection of delinquent Series 2020 Special Assessments will be dependent upon various factors, including the delay inherent in any judicial proceeding to enforce the lien of the Series 2020 Special Assessments and the value of the land which is the subject of such proceedings and which may be subject to sale. See “SECURITY FOR AND SOURCE OF PAYMENT OF THE SERIES 2020 BONDS” herein. If the District has difficulty in collecting the Series 2020 Special Assessments, the Series 2020 Reserve Account could be rapidly depleted and the ability of the District to pay debt service would be materially adversely affected. In addition, during an Event of Default under the Indenture, the Trustee may withdraw moneys from the Series 2020 Reserve Account and such other Funds, Accounts and subaccounts created under the Indenture to pay its extraordinary fees and expenses incurred in connection with such Event of Default. If in fact the Series 2020 Reserve Account is accessed for such purpose, the District does not have a designated revenue source for replenishing such account. Moreover, the District may not be permitted to re-assess real property then burdened by the Series 2020 Special Assessments in order to provide for the replenishment of the Series 2020 Reserve Account.

10. The value of the land within the District, the success of the development of the Phase One Assessment Area and the likelihood of timely payment of principal and interest on the Series 2020 Bonds could be affected by environmental factors with respect to the land in the District. Should the land be contaminated by hazardous materials, this could materially and adversely affect the value of the land in the District, which could materially and adversely affect the success of the development of the lands within the District and the likelihood of the timely payment of the Series 2020 Bonds. The District has not performed, nor has the District requested that there be performed on its behalf, any independent assessment of the environmental conditions within the District. However, the Developer has performed assessments of the environmental conditions within the District, the results which are described under “THE DEVELOPMENT – Environmental.” Except as described under “THE DEVELOPMENT – Environmental,” the Developer is not aware of any condition which currently requires, or is reasonably expected to require in the foreseeable future, investigation or remediation under any applicable federal, state or local governmental laws or regulations relating to the environment. See “THE DEVELOPMENT – Environmental” for more information on the Developer’s environmental site assessments. Nevertheless, it is possible that hazardous environmental conditions could exist within the District and that such conditions could have a material and adverse impact upon the value of the benefited lands within the District and no assurance can be given that unknown hazardous materials, protected animals or vegetative species, etc., do not currently exist or may not develop in the future whether originating within the District or from surrounding property, and what effect such may have on the development of the District lands.

11. If the District should commence a foreclosure action against a landowner for nonpayment of Series 2020 Special Assessments if the Series 2020 Special Assessments are not being collected pursuant to the Uniform Method, such landowners may raise affirmative defenses to such foreclosure action, which although such affirmative defenses would likely be proven to be without merit, could result in delays in completing the foreclosure action. In addition, the District is required under the Indenture to fund the costs of such foreclosure. It is possible that the District will not have sufficient funds and will be compelled to request the Bondholders to allow funds on deposit under the Indenture to be used to pay the costs of the foreclosure action. Under the Code, there are limitations on the amounts of Series 2020 Bond proceeds that can be used for such purpose.

12. Under Florida law, a landowner may contest the assessed valuation determined for its property which forms the basis of ad-valorem taxes such landowner must pay. During this contest period, the sale of a Tax Certificate under the Uniform Method will be suspended. If the Series 2020 Special Assessments are being collected along with ad valorem taxes pursuant to the Uniform Method, tax

certificates will not be sold with respect to the Series 2020 Special Assessment even though the landowner is not contesting the amount Series 2020 Special Assessment. However, Section 194.014, Florida Statutes, requires taxpayers to pay all non-ad valorem taxes, including the Series 2020 Special Assessments, and at least 75% of their ad valorem taxes before they become delinquent. Likewise, taxpayers who challenge the denial of an exemption or classification or a determination that their improvements were substantially complete must pay all non-ad valorem assessments, including the Series 2020 Special Assessments, and the amount of ad valorem taxes that they admit in good faith to be owing. In the event a taxpayer fails to pay their property taxes by April 1, the Value Adjustment Board is required to deny their petition by written decision by April 20 of such year.

13. The Internal Revenue Service (the “IRS”) routinely examines bonds issued by state and local governments, including bonds issued by community development districts. In 2016, the IRS concluded its lengthy examination of certain issues of bonds (for purposes of this subsection, the “Audited Bonds”) issued by Village Center Community Development District (the “Village Center CDD”). During the course of the audit of the Audited Bonds, Village Center CDD received a ruling dated May 30, 2013, in the form of a non-precedential technical advice memorandum (“TAM”) concluding that Village Center CDD is not a political subdivision for purposes of Section 103(a) of the Code because Village Center CDD was organized and operated to perpetuate private control and avoid indefinitely responsibility to an electorate, either directly or through another elected state or local government body. Such a conclusion could lead to the further conclusion that the interest on the Audited Bonds was not excludable from gross income of the owners of such bonds for federal income tax purposes. Village Center CDD received a second TAM dated June 17, 2015, which granted relief to Village Center CDD from retroactive application of the IRS's conclusion regarding its failure to qualify as a political subdivision. Prior to the conclusion of the audits, the Audited Bonds were all refunded with taxable bonds. The audit of the Audited Bonds that were issued for utility improvements were closed without change to the tax exempt status of those Audited Bonds on April 25, 2016, and the audit of the remainder of the Audited Bonds (which funded recreational amenity acquisitions from entities related to the principal landowner in the Village Center CDD) was closed on July 14, 2016, without the IRS making a final determination that the interest on the Audited Bonds in question was required to be included in gross income. However, the IRS letter to the Village Center CDD with respect to this second set of Audited Bonds noted that the IRS found that the Village Center CDD was not a “proper issuer of tax-exempt bonds” and that those Audited Bonds were private-activity bonds that did not fall in any of the categories that qualify for tax-exemption. Although the TAMs and the letters to the Village Center CDD from the IRS referred to above are addressed to, and binding only on, the IRS and Village Center CDD in connection with the Audited Bonds, they reflect the audit position of the IRS, and there can be no assurance that the IRS would not commence additional audits of bonds issued by other community development districts raising issues similar to the issues raised in the case of the Audited Bonds based on the analysis set forth in the first TAM or on the related concerns addressed in the July 14, 2016 letter to the Village Center CDD.

On February 23, 2016, the IRS published proposed regulations designed to provide prospective guidance with respect to potential private business control of issuers by providing a new definition of political subdivision for purposes of determining whether an entity is an appropriate issuer of bonds the interest on which is excluded from gross income for federal tax purposes. The proposed regulations require that a political subdivision (i) have the power to exercise at least one sovereign power, (ii) be formed and operated for a governmental purpose, and (iii) have a governing body controlled by or have significant uses of its funds or assets otherwise controlled by a government unit with all three sovereign powers or by an electorate that is not controlled by an unreasonably small number of unrelated electors. On October 4, 2017, the Treasury Department (“Treasury”) announced that it will withdraw the proposed regulations, stating that, “while Treasury and the IRS continue to study the legal issues relating to political subdivisions, Treasury and the IRS believed that these proposed regulations should be withdrawn in their entirety. On

October 20, 2017 a notice of withdrawal was published in the Federal Register. Treasury and the IRS may propose more targeted guidance in the future after further study of the relevant legal issues.

It has been reported that the IRS has closed audits of other community development districts in the State with no change to such districts' bonds' tax-exempt status, but has advised such districts that they must have qualified electors within five years of the issuance of tax-exempt bonds or their bonds may be determined to be taxable retroactive to the date of issuance. Pursuant to the Act, general elections are not held until the later of six years and there are 250 qualified electors in the district. The District, unlike Village Center CDD, was formed with the intent that it will contain a sufficient number of residents to allow for a transition to control by resident landowners unaffiliated with the Developer. Currently, all members of the Board of the District were elected by the Developer and none were elected by qualified electors or resident landowners. The Developer will certify as to its expectations as to the timing of the transition of control of the Board of the District to qualified electors or resident landowners pursuant to the Act, and its expectations as to compliance with the Act by any members of the Board that they elect; thus, if the District does not reach the minimum of 250 qualified electors after the sale of units to homebuyers, although the Board will continue to be elected by landowners, these landowners will be homebuyers, in the District. Such certification by the Developer does not ensure that such certification shall be determinative of, or may influence the outcome of any audit by the IRS, or any appeal from such audit, that may result in an adverse ruling that the District is not a political subdivision for purposes of Section 103(a) of the Code. Further, there can be no assurance that an audit by the IRS of the Series 2020 Bonds will not be commenced. The District has no reason to believe that any such audit will be commenced, or that any such audit, if commenced, would result in a conclusion of noncompliance with any applicable state or federal law.

Owners of the Series 2020 Bonds are advised that, if the IRS does audit the Series 2020 Bonds, under its current procedures, at least during the early stages of an audit, the IRS will treat the District as the taxpayer, and the Owners of the Series 2020 Bonds may have limited rights to participate in those proceedings. The commencement of such an audit could adversely affect the market value and liquidity of the Series 2020 Bonds until the audit is concluded, regardless of the ultimate outcome. In addition, in the event of an adverse determination by the IRS with respect to the tax-exempt status of interest on the Series 2020 Bonds, it is unlikely the District will have available revenues to enable it to contest such determination or enter into a voluntary financial settlement with the IRS. Further, an adverse determination by the IRS with respect to the tax-exempt status of interest on the Series 2020 Bonds would adversely affect the availability of any secondary market for the Series 2020 Bonds. Should interest on the Series 2020 Bonds become includable in gross income for federal income tax purposes, not only will Owners of Series 2020 Bonds be required to pay income taxes on the interest received on such Series 2020 Bonds and related penalties, but because the interest rate on such Series 2020 Bonds will not be adequate to compensate Owners of the Series 2020 Bonds for the income taxes due on such interest, the value of the Series 2020 Bonds may decline.

THE INDENTURE DOES NOT PROVIDE FOR ANY ADJUSTMENT IN THE INTEREST RATE ON THE SERIES 2020 BONDS IN THE EVENT OF AN ADVERSE DETERMINATION BY THE IRS WITH RESPECT TO THE TAX-EXEMPT STATUS OF INTEREST ON THE SERIES 2020 BONDS. PROSPECTIVE PURCHASERS OF THE SERIES 2020 BONDS SHOULD EVALUATE WHETHER THEY CAN OWN THE SERIES 2020 BONDS IN THE EVENT THAT THE INTEREST ON THE SERIES 2020 BONDS BECOMES TAXABLE AND/OR THE DISTRICT IS EVER DETERMINED TO NOT BE A POLITICAL SUBDIVISION FOR PURPOSES OF THE CODE AND/OR SECURITIES ACT (AS HEREINAFTER DEFINED).

14. In addition to a possible determination by the IRS that the District is not a political subdivision for purposes of the Code, and regardless of the IRS determination, it is possible that federal or

state regulatory authorities could also determine that the District is not a political subdivision for purposes of the federal and state securities laws. Accordingly, the District and purchasers of Series 2020 Bonds may not be able to rely on the exemption from registration under the Securities Act of 1933, as amended (the “Securities Act”), relating to securities issued by political subdivisions. In that event the Owners of the Series 2020 Bonds would need to ensure that subsequent transfers of the Series 2020 Bonds are made pursuant to a transaction that is not subject to the registration requirements of the Securities Act.

15. Various proposals are mentioned from time to time by members of the Congress of the United States of America and others concerning reform of the internal revenue (tax) laws of the United States. In addition, the IRS may, in the future, issue rulings that have the effect of changing the interpretation of existing tax laws. Certain of these proposals and interpretations, if implemented or upheld, could have the effect of diminishing the value of obligations of states and their political subdivisions, such as the Series 2020 Bonds, by eliminating or changing the tax-exempt status of interest on certain of such bonds. Whether any of such proposals will ultimately become or be upheld as law, and if so, the effect such proposals could have upon the value of bonds such as the Series 2020 Bonds, cannot be predicted. However, it is possible that any such law or interpretation could have a material and adverse effect upon the availability of a liquid secondary market and/or the value of the Series 2020 Bonds. See also “TAX MATTERS.”

16. There can be no assurance, in the event the District does not have sufficient moneys on hand to complete the Phase One Assessment Area Project, that the District will be able to raise through the issuance of bonds, or otherwise, the moneys necessary to complete the Phase One Assessment Area Project. Further, pursuant to the First Supplemental Indenture, the District covenants not to issue any other Bonds or other debt obligations secured by the Series 2020 Special Assessments. Such covenant shall not prohibit the District from issuing refunding bonds. The District’s covenant described above shall not be applicable if the Series 2020 Special Assessments levied within the Phase One Assessment Area within the District have been Completely Absorbed, or the Majority Holders have consented to such issuance. Notwithstanding any of the foregoing, the District shall not be precluded from imposing other non-ad valorem assessments on such lands within the Phase One Assessment Area in connection with other capital projects that are necessary for health, safety or welfare reasons or to remediate a natural disaster. See “SECURITY FOR AND SOURCE OF PAYMENT OF THE SERIES 2020 BONDS – Additional Obligations” for more information. The Developer will enter into a completion agreement with the District with respect to any unfinished portions of the Phase One Assessment Area Project not funded with the proceeds of the Series 2020 Bonds. Such completion agreement will be an unsecured obligation of the Developer. In addition, the Developer will also execute and deliver to the District a Collateral Assignment and Assumption of Development Rights, pursuant to which the Developer will collaterally assign to the District, to the extent assignable and to the extent that they are solely owned or controlled by the Developer, all of its development rights relating to the Phase One Assessment Area Project as security for the Developer’s payment and performance and discharge of its obligation to pay the Series 2020 Special Assessments. See “THE CAPITAL IMPROVEMENT PLAN AND THE PHASE ONE ASSESSMENT AREA PROJECT” and “THE DEVELOPMENT” herein for more information.

17. It is impossible to predict what new proposals may be presented regarding ad valorem tax reform and/or community development districts during upcoming legislative sessions, whether such new proposals or any previous proposals regarding the same will be adopted by the Florida Senate and House of Representatives and signed by the Governor, and, if adopted, the form thereof. On October 31, 2014, the Auditor General of the State released a 31-page report which requests legislative action to establish parameters on the amount of bonds a community development district may issue and provide additional oversight for community development district bonds. This report renews requests made by the Auditor General in 2011 that led to the Governor of the State issuing an Executive Order on January 11,

2012 (the “Executive Order”) directing the Office of Policy and Budget in the Executive Office of the Governor (“OPB”) to examine the role of special districts in the State. As of the date hereof, the OPB has not made any recommendations pursuant to the Executive Order nor has the Florida legislature passed any related legislation. It is impossible to predict with certainty the impact that any future legislation will or may have on the security for the Series 2020 Bonds. It should be noted that Section 190.16(14) of the Act provides in pertinent part that “The state pledges to the holders of any bonds issued under the Act that it will not limit or alter the rights of the district to levy and collect the ... assessments... and to fulfill the terms of any agreement made with the holders of such bonds ... and that it will not impair the rights or remedies of such holders.”

18. In the event a bank forecloses on property within the Phase One Assessment Area within the District because of a default on a mortgage on such property in favor of such bank and then the bank itself fails, the Federal Deposit Insurance Corporation (the “FDIC”), as receiver will then become the fee owner of such property. In such event, the FDIC will not, pursuant to its own rules and regulations, likely be liable to pay the Series 2020 Special Assessments levied on such property. In addition, the District would require the consent of the FDIC prior to commencing a foreclosure action.

19. The District relies on a technological environment to conduct its operations. The District, its agents and other third parties the District does business with or otherwise relies upon are subject to cyber threats including, but not limited to, hacking, viruses, malware and other attacks on computer and other sensitive digital networks and systems. Entities or individuals may attempt to gain unauthorized access to such parties’ digital systems for the purposes of misappropriating assets or information or causing operational disruption and damage. No assurances can be given that any such attack(s) will not materially impact the operations or finances of the District, which could impact the timely payment of debt service on the Series 2020 Bonds.

20. In addition to the general economic conditions discussed above, the timely and successful completion of the Development, including the construction of the Hotel and the construction and sale of residential units therein, may be adversely impacted by the spread of the novel strain of coronavirus called COVID-19 or by other highly contagious or epidemic or pandemic diseases. Although it is unclear at this time what, if any, potential impacts COVID-19 may have on the Development, it is possible that construction delays, supply chain interruptions, delays in the receipt of permits or other government approvals or other delays could occur as a result of COVID-19 that adversely impact the Development. Further, while the effects of COVID-19 may be temporary, it may alter the future behavior of businesses and people in a manner that could have negative impacts on global and local economies, which could adversely impact the completion of the Development and/or the successful construction of the Hotel and the construction and sale of homes in the Development.

21. In addition to being subject to optional and mandatory sinking fund redemptions, the Series 2020 Bonds are subject to extraordinary mandatory redemption as a result of prepayments of the Series 2020 Special Assessments by the Developer or subsequent owners of the property within the Development. Any such redemptions of the Series 2020 Bonds would be at the principal amount of such Series 2020 Bonds being redeemed plus accrued interest to the date of redemption. In such event, owners of the Series 2020 Bonds may not realize their anticipated rate of return on the Series 2020 Bonds and owners of any Premium Bonds (as defined herein) may receive less than the price they paid for the Series 2020 Bonds. See “DESCRIPTION OF THE SERIES 2020 BONDS – Redemption Provisions” and “SECURITY FOR AND SOURCE OF PAYMENT OF THE SERIES 2020 BONDS – Prepayment of Special Assessments” herein for more information.

## ESTIMATED SOURCES AND USES OF FUNDS

The table that follows summarizes the estimated sources and uses of proceeds of the Series 2020 Bonds:

### Source of Funds

Par Amount of Series 2020 Bonds	\$
<u>[Plus][Less][Net] Original Issue [Premium][Discount]</u>	_____
Total Sources	\$ <u>                    </u>

### Use of Funds

Deposit to Series 2020 Acquisition and Construction Account	\$ _____
Deposit to Series 2020 Capitalized Interest Account <sup>(1)</sup>	
Deposit to Series 2020 Reserve Account	
<u>Costs of Issuance, including Underwriter's Discount</u> <sup>(2)</sup>	_____
Total Uses	\$ <u>                    </u>

<sup>(1)</sup> To be applied to fund interest on the Series 2020 Bonds through at least November 1, 2021.

<sup>(2)</sup> Costs of issuance includes, without limitation, legal fees and other costs associated with the issuance of the Series 2020 Bonds.

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## DEBT SERVICE REQUIREMENTS

The following table sets forth the scheduled debt service on the Series 2020 Bonds:

Period Ending <u>November 1</u>	Principal ( <u>Amortization</u> )	<u>Interest</u>	<u>Total Debt Service</u>
2021	\$	\$	\$
2022			
2023			
2024			
2025			
2026			
2027			
2028			
2029			
2030			
2031			
2032			
2033			
2034			
2035			
2036			
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2039			
2040			
2041			
2042			
2043			
2044			
2045			
2046			
2047			
2048			
2049			
2050			
2051			
<b>TOTALS</b>	<u>\$</u>	<u>\$</u>	<u>\$</u>



## **THE DISTRICT**

### **General Information**

The District was established under the provisions of the Act by Ordinance No. 4823-19 enacted by the City Commission of the City of West Palm Beach, Florida (the “City”) on January 28, 2019, pursuant to the provisions of the Act. The boundaries of the District include approximately 95.24+/- acres of land (the “District Lands”) located entirely within the City in the County.

Two assessment areas have been created to facilitate the District’s financing program and to coincide with the phased development of the Development. The Phase One Assessment Area consists of approximately 92.03+/- gross acres and the Phase Two Assessment Area consists of approximately 3.21+/- gross acres.

### **Legal Powers and Authority**

The District is an independent unit of local government created pursuant to, and established in accordance with, the Act. The Act was enacted in 1980 to provide a uniform method for the establishment of independent districts to manage and finance basic community development services, including capital infrastructure required for community developments throughout the State of Florida. The Act provides legal authority for community development districts (such as the District) to finance the acquisition, construction, operation and maintenance of the major infrastructure for community development pursuant to its general law charter. The District is classified as an independent district under Chapter 189, Florida Statutes.

Among other provisions, the Act gives the District’s Board of Supervisors the authority to, among other things, (a) plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain systems and facilities for, among other things: (i) water management and control for lands within the District and to connect any of such facilities with roads and bridges; (ii) water supply, sewer and wastewater management, reclamation and reuse systems or any combination thereof and to construct and operate connecting intercept or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or ways, and to dispose of any effluent, residue, or other byproducts of such system or sewer system; (iii) District roads equal to or exceeding the specifications of the county in which such District roads are located and street lights, landscaping, hardscaping and undergrounding of electric utility lines; and (iv) with the consent of the local general-purpose government within the jurisdiction of which the power is to be exercised, parks and facilities for indoor and outdoor recreational uses and security; (b) borrow money and issue bonds of the District; (c) impose and foreclose special assessments liens as provided in the Act; and (d) exercise all other powers, necessary, convenient, incidental or proper in connection with any of the powers or duties of the District stated in the Act.

The Act does not empower the District to adopt and enforce any land use plans or zoning ordinances and the Act does not empower the District to grant building permits; these functions are to be performed by general purpose local governments having jurisdiction over the lands within the District.

The Act exempts all property owned by the District from levy and sale by virtue of an execution and from judgment liens, but does not limit the right of any owner of Bonds of the District to pursue any remedy for enforcement of any lien or pledge of the District in connection with its bonds, including the Series 2020 Bonds.

## Board of Supervisors

The governing body of the District is its Board of Supervisors (the “Board”), which is composed of five Supervisors (the “Supervisors”). The Act provides that, at the initial meeting of the landowners, Supervisors must be elected by the landowners with the two Supervisors receiving the highest number of votes to serve for four years and the remaining Supervisors to serve for a two-year term. Three of the five Supervisors are elected to the Board every two years in November. At such election the two Supervisors receiving the highest number of votes are elected to four-year terms and the remaining Supervisor is elected to a two-year term. Until the later of six (6) years after the initial appointment of Supervisors or the year in which there are at least 250 qualified electors in the District, or such earlier time as the Board may decide to exercise its ad valorem taxing power, the Supervisors are elected by vote of the landowners of the District. Ownership of the land within the District entitles the owner to one vote per acre (with fractions thereof rounded upward to the nearest whole number and, for purposes of determining voting interests, platted lots shall be counted individually and rounded up to the nearest whole acre and shall not be aggregated for determining the number of voting units held). Upon the later of six (6) years after the initial appointment of Supervisors or the year in which there are at least 250 qualified electors in the District, the Supervisors whose terms are expiring will be elected (as their terms expire) by qualified electors of the District, except as described below. A qualified elector is a registered voter who is at least eighteen years of age, a resident of the District and the State of Florida and a citizen of the United States. At the election where Supervisors are first elected by qualified electors, two Supervisors must be qualified electors and be elected by qualified electors, both to four-year terms. Thereafter, as terms expire, all Supervisors must be qualified electors and are elected to serve four-year terms. If there is a vacancy on the Board, whether as a result of the resignation or removal of a Supervisor or because no elector qualifies for a seat to be filled in an election, the remaining Board members are to fill such vacancy for the unexpired term.

Notwithstanding the foregoing, if at any time the Board proposes to exercise its ad valorem taxing power, prior to the exercise of such power, it shall call an election at which all Supervisors shall be qualified electors and shall be elected by qualified electors in the District. Elections subsequent to such decision shall be held in a manner such that the Supervisors will serve four-year terms with staggered expiration dates in the manner set forth in the Act.

The Act provides that it shall not be an impermissible conflict of interest under Florida law governing public officials for a Supervisor to be a stockholder, officer or employee of a landowner or of any entity affiliated with a landowner.

The current members of the Board and the expiration of the term of each member are set forth below:

<u>Name</u> †	<u>Title</u>	<u>Term Expires</u>
Alicia Lewis*	Chairperson	November 2023
Charlie Rimpela*	Vice-Chairperson	November 2023
Matthew Kutner*	Assistant Secretary	November 2021
Erika Olivo*	Assistant Secretary	November 2021

† One seat on the Board remains vacant.

\* Employee of, or affiliated with, the Developer.

A majority of the members of the Board constitutes a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. Action taken by the Board shall be upon a

vote of a majority of the members present unless general law or a rule of the District requires a greater number. All meetings of the Board are open to the public under Florida's open meeting or "Sunshine" law.

### **The District Manager and Other Consultants**

The chief administrative official of the District is the District Manager (as hereinafter defined). The Act provides that a district manager has charge and supervision of the works of the District and is responsible for preserving and maintaining any improvement or facility constructed or erected pursuant to the provisions of the Act, for maintaining and operating the equipment owned by the District, and for performing such other duties as may be prescribed by the Board.

The District has retained Special District Services, Inc., Palm Beach Gardens, Florida, to serve as its district manager ("District Manager"). The District Manager's office is located at 2501A Burns Road, Palm Beach Gardens, Florida 33410.

The Act further authorizes the Board to hire such employees and agents as it deems necessary. Thus, the District has employed the services of Greenberg Traurig, P.A., West Palm Beach, Florida, as Bond Counsel; Engenuity Group Inc., West Palm Beach, Florida, as District Engineer; and Lewis, Longman & Walker, P.A., West Palm Beach, Florida, as District Counsel. The Board has also retained the District Manager to serve as Methodology Consultant and to prepare the Assessment Methodology and to serve as dissemination agent for the Series 2020 Bonds.

### **No Existing Indebtedness**

The District has not previously issued any other bonds or indebtedness.

## THE CAPITAL IMPROVEMENT PLAN AND THE PHASE ONE ASSESSMENT AREA PROJECT

Engenuity Group, Inc. (the “District Engineer”) prepared a report entitled Engineer’s Report for Banyan Cay Community Development District, dated June 20, 2019, as amended (the “Engineer’s Report”). The Engineer’s Report sets forth certain public infrastructure improvements associated with the District, including without limitation, onsite and offsite roadway improvements, including related impact fees, stormwater management system, water distribution system, including related impact fees, wastewater collection system, including related impact fees, and earthwork for a cost of \$7,463,830, as more particularly described below (the “Capital Improvement Plan”). The District Engineer, in the Engineer’s Report, estimates that the portion of the Capital Improvement Plan associated with the Phase One Assessment Area totals approximately \$5,500,000 (the “Phase One Assessment Area Project”). The Series 2020 Bonds will fund the acquisition and/or construction of all or a portion of the Phase One Assessment Area Project.

Two assessment areas have been created to facilitate the District’s financing program and to coincide with the phased development of the Development. The Phase One Assessment Area consists of approximately 92.03+/- gross acres and is planned to contain 74 residential units consisting of 52 estate home units and 22 resort villa units, a 150-room hotel with a 200-car parking garage, and an 18,243 square foot clubhouse facility. See “THE DEVELOPMENT – Land Acquisition, Land Development and Finance Plan” herein for more information. The Phase Two Assessment Area consists of approximately 3.21+/- gross acres and is planned to contain an approximately 179-unit high-rise condominium tower.

Capital Improvement Plan	Estimated Costs*
Roadway Construction	\$1,046,000
Water Distribution	1,485,000
Wastewater Collection	1,068,000
Drainage and Stormwater Management	1,402,000
Earthwork (Lake Excavation and Site Preparation)	1,257,130
Impact Fees for County Roads and Parks	180,000
Connection Fees for Water and Sewer	843,800
Installation Fees for Potable Water Only	<u>181,900</u>
<b>Total</b>	<b><u>\$7,463,830</u></b>

\* The portion of the costs of the Capital Improvement Plan associated with the Phase One Assessment Area is approximately \$5,500,000.

Land development for the Phase One Assessment Area, is being completed in phases. Certain land development commenced in August 2015 and is ongoing with final completion expected in the third calendar quarter of 2021. The Developer has spent approximately \$12.8 million on land development, a portion of which includes the costs of the Capital Improvement Plan. The net proceeds from the Series 2020 Bonds available to fund the Phase One Assessment Area Project will be approximately \$5,000,000\*. The Developer will enter into a completion agreement that will obligate the Developer to complete any portions of the Phase One Assessment Area Project not funded with proceeds of the Series 2020 Bonds. See “BONDOWNERS’ RISKS – No. 16” herein.

\* Preliminary, subject to change.

The District anticipates issuing additional bonds in the future to fund the acquisition and/or construction of the portion of the Capital Improvement Plan associated with the Phase Two Assessment Area. Such additional bonds will be secured by special assessments levied against the assessable lands in the Phase Two Assessment Area which are separate and distinct from the lands within the Phase One Assessment Area. However, no assurances can be given that the District will in fact issue additional bonds. See “SECURITY FOR AND SOURCE OF PAYMENT OF THE SERIES 2020 BONDS – Additional Obligations” herein.

The District Engineer has indicated that all permits necessary to construct the Phase One Assessment Area Project that are set forth in the Engineer’s Report have been obtained or will be obtained in the ordinary course of the application process and that it has no reason to believe that the remaining permits will not be received. See “APPENDIX C – ENGINEER’S REPORT” and “THE DEVELOPMENT – Zoning and Permitting” for a more detailed description of the zoning and permitting status in the Phase One Assessment Area within the Development.

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*The information appearing below under the captions “THE DEVELOPMENT” and “THE DEVELOPER” has been furnished by the Developer for inclusion in this Limited Offering Memorandum and, although believed to be reliable, such information has not been independently verified by Bond Counsel, the District or its counsel, the Underwriter or its counsel, or the Developer’s counsel and no persons other than the Developer make any representation or warranty as to the accuracy or completeness of such information supplied by them. The following information is provided by the Developer as a means for the prospective bondholders to understand the anticipated development plan and risks associated with the Development. The Developer is not guaranteeing payment of the Series 2020 Bonds or the Series 2020 Assessments.*

## **THE DEVELOPMENT**

### **General**

The District Lands encompass approximately 95.24+/- gross acres and are located within the City of West Palm Beach (the “City”) in Palm Beach County, Florida (the “County”). The District Lands, which were previously used as two golf courses, are being developed as a mixed-use commercial and residential planned development to be known as “Banyan Cay Resort & Golf” (the “Development”). The Development is located off of Congress Avenue between Palm Beach Lakes Boulevard and 45<sup>th</sup> Street, adjacent to and north of Presidential Way in the City. The Development is adjacent to the Residences at Banyan Cay, which is an existing approximately 94 unit single-family residential development that has sold approximately 70% of such units.



Two assessment areas have been created to facilitate the District’s financing program and to coincide with development of the Development. The Series 2020 Bonds are secured by the Series 2020 Special Assessments which are levied against the land within the Phase One Assessment Area. The Phase One Assessment Area consists of approximately 92.03+/- gross acres and is planned to contain 74 residential units consisting of 52 estate home units (the “Estate Home Portion”) and 22 resort villa units

(the “Villa Portion” and, together with the Estate Home Portion, the “Residential Portion”), a 150-room hotel with a 200-car parking garage (the “Hotel”), and an 18,243 square foot clubhouse facility (the “Clubhouse” and, together with the Hotel, the “Resort Portion”). The Phase Two Assessment Area is planned to contain a 179-unit high-rise condominium building (the “Condominium Portion”). The Development is connected to and a part of the Banyan Cay Golf Course, which was designed by Jack Nicklaus and completed in November 2017. See “Land Acquisition, Land Development and Finance Plan” herein for more information. The Banyan Cay Golf Course is located outside the boundaries of the District.

Banyan Cay Dev. LLC, a Delaware limited liability company, is the land developer and homebuilder of the Estate Home Portion and will be the land developer and builder in the Condominium Portion of the Development. Banyan Cay Villas, LLC, a Delaware limited liability company, is the land developer and homebuilder of the Villa Portion of the Development. Banyan Cay Resort & Golf LLC, a Delaware limited liability company, is the developer and owner of the Resort Portion. Banyan Cay Dev. LLC, Banyan Cay Villas, LLC and Banyan Cay Resort & Golf LLC are herein referred to collectively as the “Developer,” however, each entity is only responsible for the development of its respective portion of the Development. In connection with the operation of the Resort Portion, Banyan Cay Resort & Golf LLC has entered into a franchise agreement with Hyatt Franchising, L.L.C. under the brand “Destination Hotels”.

### **Golf Course Community**

Banyan Cay is planned around an existing 18-hole Jack Nicklaus golf course and the Clubhouse (the “Club”). The golf course was completed in November 2017 and the Clubhouse was completed in March 2019. The total cost to construct the Club was \$13.6 million. The Club is a members-only facility that currently has approximately 186 members and supports approximately 11,000 rounds of golf per annum. To join the Club, members must pay a one-time, upfront, non-refundable fee of \$25,000, annual dues of \$11,175 for a single person, and additional ancillary fees. The Series 2020 Special Assessments are not levied on the golf course.

### **Land Acquisition, Land Development, Vertical Construction and Finance Plan**

The Developer acquired the lands within the District and an additional 94 lots outside of the District on August 15, 2015 for approximately \$26,000,000. The acquisition was financed with \$14,000,000 in cash from the Developer and a purchase money mortgage on the property financed the remainder of the purchase price. The Developer subsequently sold the 94 undeveloped lots to SS Banyan Cay Developer, LLC, a Florida limited liability company affiliated with the Sobel Co. for \$10,000,000. The purchase money mortgage has since been refinanced. On September 30, 2020, the Developer closed on two construction loans in the amount of \$61,000,000 (the “First Construction Loan”) and \$19,000,000 (the “Second Construction Loan”). The First Construction Loan provides funds to finance the construction of the Hotel, which is currently under construction, and to refinance a construction loan used for the construction of the Hotel and the Club. The Second Construction Loan provides up to \$11,000,000 to finance the construction of the Villa Portion and up to \$8,000,000 to finance the completion of the Hotel. Approximately \$30,000,000 is available to be drawn upon under the First Construction Loan and approximately \$19,000,000 is available to be drawn upon under the Second Construction Loan.

The Development is being developed in phases. Earthwork and redevelopment activities began in 2015 and were completed in 2016. Construction on the Banyan Cay golf course began in February 2017, was completed in November 2017 and is currently fully operational. Construction on the Clubhouse is complete. Currently, the entry feature is installed and the backbone roadway system, the stormwater management system and master utilities are substantially complete. Certain roadways, utilities and sitework will need to be completed as development associated with the residential portion of the Development

progresses, with final land development expected to be completed by the third calendar quarter of 2021. Total expected land development costs within the Phase One Assessment Area is approximately \$15,200,000, of which approximately \$12,800,000 has been spent by the Developer to date. The net proceeds from the Series 2020 Bonds will be approximately \$5,000,000\* and such proceeds will be used by the District towards the funding and/or acquisition of the Phase One Assessment Area Project. Any additional moneys needed to complete the development of the Phase One Assessment Area will be paid for by the Developer. See “BONDOWNERS’ RISKS – No. 17” herein.

The components of the Development are set forth below.

*Residential.* The Residential Portion of the Development is planned to contain 74 residential units consisting of 52 estate homes making up the Estate Home Portion and 22 resort villas making up the Villa Portion. The Developer of the Villa Portion will construct and market the 22 resort villas. The Developer of the Estate Home Portion will either (i) construct estate homes on estate home lots or (ii) sell estate homes lots to third party builders, pursuant to a builder program, to construct semi-custom homes. The Developer is in discussions with IMI Resort Properties, LLC, an affiliate of IMI Worldwide Properties, a high-end home marketing company, to market the units in the Villa Portion for sale to homebuyers. As of the date of this Limited Offering Memorandum, the resort villas have been platted on a single folio that will be developed as a condominium and will not be further platted and 21 of the 52 estate home lots have been platted. The total estimated costs to develop the residential parcels is approximately \$4,400,000, of which approximately \$2,900,000 have been spent by the Developer to date. Land development is expected to be completed by the third calendar quarter of 2021. Marketing of residential units commenced in the fourth calendar quarter of 2020. Starting sales prices are approximately \$850,000 for resort villas, approximately \$300,000 for estate home lots without constructed homes sold to third party builders and approximately \$1,500,000 for the constructed estate homes sold to homebuyers. See “- Residential Product Offering” below.

*Hotel.* The Development is planned to contain the Hotel, a 150-room hotel. The total construction cost of the Hotel is approximately \$56,474,000 of which \$18,915,000 has been spent to date. Construction of the Hotel was halted in 2019 due to a dispute with the then current lender. Such dispute has since been resolved and construction has resumed. The Hotel is expected to be completed and opened by December 2021. The Hotel will be operated as a Hyatt branded hotel under its Destination Hotels brand. The Series 2020 Special Assessments to be levied on the Hotel parcel is equal to \$268,350\* per annum.

*Clubhouse.* The approximately 18,243 square foot golf clubhouse facility was completed in March 2019 for a total cost of approximately \$6.3 million. The Series 2020 Special Assessments to be levied on the Clubhouse parcel is equal to \$32,655\* per annum.

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\* Preliminary, subject to change.



## Residential Product Offerings

The Developer plans to sell a portion of the estate home lots to third party builders. The starting price point for developed estate home lots sold to third party builders is approximately \$300,000. The target customers for residential units within the Development are both golf members and non-members. The Developer is in discussions with IMI Resort Properties, LLC, an affiliate of IMI Worldwide Properties, to market the units in the Villa Portion for sale to homebuyers. Below is a summary of the planned types of units and starting price points for units in the Development.

<u>Product Type</u>	<u>Square Footage</u>	<u>Beds/Baths</u>	<u>Starting Price Points</u>
Estate Home	3,500-5,000+	4-6 Bedrooms ,3-5 Baths	\$1,500,000
Resort Villa	1,800	3 Bedrooms, 3.5 Baths	850,000

## Zoning and Permitting

The land within the District, including, without limitation, the land therein subject to the Series 2020 Special Assessments, is zoned to allow for the contemplated residential and commercial uses described herein. All permits have been received by jurisdictional agencies to allow for the development contemplated herein or are reasonably expected to be received in the ordinary course. See “APPENDIX C – ENGINEER’S REPORT” for a more detailed description of the zoning and permitting status in the Phase One Assessment Area within the Development.

As of the date hereof, the Hotel parcel and the Clubhouse parcel in the Resort Portion, the Villa Portion parcel and 21 of the 52 estate home lots in the Estate Home Portion have been platted.

## Environmental

The land in the Development was previously used for two golf courses and a clubhouse. A Phase I Environmental Site Assessment was prepared by Universal Engineering Sciences, dated October 27, 2017 (the “ESA”), covering the land in the Development. Although the ESA concluded that no additional assessments were warranted, the Florida Department of Environmental Protection (the “FDEP”) noted the completion and sale of homes located in the 94 lots sold to an affiliate of Sobel Co. and recently requested that the Developer complete a FDEP Site Assessment Report (the “SAR”) that includes the collection and laboratory analysis on soil, groundwater, surface water and sediment samples across the Development. The laboratory reports have not yielded any materially adverse findings to date. No areas of surface water or sediment impacts for arsenic have been identified on the Development. Soil assessment has identified three minor areas of arsenic soil contamination that has been defined and will be remediated by the Developer after the FDEP has reviewed and approved the SAR. The SAR identified arsenic impacts in the shallow groundwater beneath the Development that exceed the FDEP Groundwater Cleanup Target Level for arsenic in groundwater. Additional assessment of the Development is ongoing to complete the SAR, however, based on the current known conditions of the property as it relates to arsenic impacts, it is anticipated that the Developer will impose a groundwater use restriction prohibiting use for irrigating the residential portion of the Development. Universal Engineering Sciences has been assisting the Developer in preparing the SAR and Universal Engineering Sciences, the Developer and the Developer’s counsel believe that it is highly unlikely that the completion of the SAR or compliance with FDEP requirements will adversely impact the Development.

See “BONDOWNERS’ RISK - No. 10” herein for more information regarding potential environmental risks.

**Utilities**

Potable water, irrigation, wastewater and reclaimed wastewater (reuse services) for the Development are expected to be provided by the City of West Palm Beach Utility Department. Electric power is expected to be provided by Florida Power & Light. Cable television and broadband cable services are expected to be provided by Comcast. All utility services are available to the property.

**Taxes, Fees and Assessments**

As set forth in the Assessment Methodology, the Series 2020 Special Assessments are initially levied on approximately 92.03+/- gross acres within the Phase One Assessment Area until such time as the property therein is platted. As platting occurs, the Series 2020 Special Assessments will be assigned to the different product types within the Phase One Assessment Area on a first platted, first assigned basis. Assuming that all of the 74 residential units in the Residential Portion, the Hotel and Clubhouse in the Resort Portion are platted, then the Series 2020 Special Assessments will be allocated to each product type, as set forth below and as set forth in the Assessment Methodology. A portion of the land within the Phase One Assessment Area has already been platted as described in “THE DEVELOPMENT – Zoning and Permitting” herein. Also see “APPENDIX D – ASSESSMENT METHODOLOGY” herein.

<b>Product Type</b>	<b>No. of Units</b>	<b>Annual Series 2020 Special Assessments Per Unit or SF**/**</b>	<b>Series 2020 Bonds Par Debt Per Unit or SF*</b>	<b>Total Series 2020 Bonds Par Allocation Per Type*</b>
Estate Home	52	\$1,789.00	\$25,500.01	\$1,326,001.00
Hotel Room	150	1,789.00	25,500.01	3,825,002.00
Resort Villa	22	1,431.00	20,400.01	448,800.00
Clubhouse	18,243†	1.79†	25.50†	465,197.00

\*Preliminary, subject to change.

\*\*This amount will be grossed up to include early payment discounts and County collection fees, currently 6%.

† The Clubhouse is measured, and the Series 2020 Special Assessments are levied, by square footage rather than by unit.

The District anticipates levying assessments to cover its operation and maintenance costs that, in the aggregate, are estimated to be approximately \$85,625 annually. Such operation and maintenance costs will be allocated to the Residential Portion and the Resort Portion pursuant to a methodology to be determined by the District. In addition, residents with respect to the Residential Portion will be required to pay homeowners association fees, the amount of which has not yet been determined. The land within the District has been and is expected to continue to be subject to taxes and assessments imposed by taxing authorities other than the District. The total millage rate imposed on taxable properties in the District is currently approximately 21.6368 mills, which is subject to change in future tax years. These taxes would be payable in addition to the Series 2020 Special Assessments and any other assessments levied by the District; which amount is subject to change. In addition, exclusive of voter approved millages levied for general obligation bonds, as to which no limit applies, the County and the School District of Palm Beach County, Florida may each levy ad valorem taxes upon the land in the District. The District has no control over the level of ad valorem taxes and/or special assessments levied by other taxing authorities. It is

possible that in future years taxes levied by these other entities could be substantially higher than in the current year.

### **Competition**

There is currently no other new resort community offering located within the City and the Developer is unaware of any community offering that would compete with the Development in the primary market. The communities detailed in the paragraph below have been identified by the Developer as being competitive with the Development in the secondary market, because they provide a similar degree of amenities, including a championship caliber golf course and either a resort style clubhouse or a hospitality component. All communities are located within the County.

These competing communities include Old Palm Golf Club in Palm Beach Gardens, Trump National Golf Club in Jupiter, Breakers West Country Club in the City, PGA National Golf Club in Palm Beach Gardens and Boca Raton Resort & Club in Boca Raton.

The information under this heading does not purport to summarize all of the existing or planned communities in the area of the Development, but rather provide a description of those that the Developer feels pose primary competition to the Development.

### **THE DEVELOPER**

Banyan Cay Dev. LLC, a Delaware limited liability company, is the land developer and homebuilder of the Estate Home Portion and will be the land developer and builder of the Condominium Portion of the Development. Banyan Cay Villas, LLC, a Delaware limited liability company, is the land developer and homebuilder of the Villa Portion of the Development. Banyan Cay Resort & Golf LLC, a Delaware limited liability company, is the developer and owner of the Resort Portion. Banyan Cay Dev. LLC, Banyan Cay Villas, LLC and Banyan Cay Resort & Golf LLC are, for the purposes of this section only, herein referred to collectively as the “Developers.” The Developers are each a single purpose, privately-held, company responsible for developing its respective portion of the Development. Through various entities, the Developers are commonly owned by Domenic J. Gatto, Jr. (80% ownership) and Lexxcom LLC (20% ownership), a Florida limited liability company. The Developers are the owners of the District Lands.

*Domenic J. Gatto Jr.* is an investor and entrepreneur with ten years of experience working on the New York Stock Exchange (NYSE). After ten years working on the NYSE, Mr. Gatto began focusing on his real estate holdings, including the Development and Eagle Oaks Country Club in Farmingdale, New Jersey. Mr. Gatto transformed the once semi-private golf course, Eagle Oaks Country Club, into a 410-acre members-only golf venue complete with amenities such as an expansive club house and dining facility, golf cottages, a resort pool area and tennis courts. Mr. Gatto also created, and serves as the managing partner and largest single shareholder in, Phoenix Benefits Management, a prescription benefits management company that manages the prescription portion of benefit packages for customers such as the self-insured, third-party administrators and hospitals.

Mr. Gatto is also a former professional golfer on several circuits. As a professional golfer and a member of many golf clubs, he has gained first-hand knowledge of the golfing culture.

*Lexxcom LLC* is a Florida limited liability company managed by its sole member, Donald R. Perry, III. Mr. Perry also serves as the chief executive officer of Jacob Companies, Inc., a Florida corporation (“Jacob Companies”). Jacob Companies is a multifaceted construction firm with a focus on construction,

design-build services, structural concrete and technology. Jacob Companies' construction services span the full spectrum of asset classes to include: hotels, stadiums and athletic facilities, structured parking garages, hospital and healthcare facilities, assisted living facilities, automotive dealerships and high-rise structures. Jacobs Companies is a full-service organization, providing clients with a wide range of design and technical support services for architecture, engineering, technology, land planning and development.

Banyan Cay Resort & Golf LLC has entered into a franchise agreement with Hyatt Franchising, L.L.C. under the brand Destination Hotels.

*Neither the Developer nor any of the other entities listed above are guaranteeing payment of the Series 2020 Bonds or the Series 2020 Special Assessments. None of the entities listed herein, other than the Developer, has entered into any agreements in connection with the issuance of the Series 2020 Bonds.*

## **ASSESSMENT METHODOLOGY**

The Master Special Assessment Methodology Report dated May 21, 2019, revised June 7, 2019 and September 9, 2019 (the "Master Methodology"), as supplemented by the First Supplemental Special Assessment Methodology to be dated the date of sale of the Series 2020 Bonds (the "Supplemental Methodology" and, together with the Master Methodology, the "Assessment Methodology"), describes the methodology for allocation of the Series 2020 Special Assessments to lands within the Phase One Assessment Area within the District, has been prepared by Special District Services, Inc., Palm Beach Gardens, Florida (the "Methodology Consultant"). See "EXPERTS" herein for more information. The Assessment Methodology is included herein as APPENDIX D. Once the final terms of the Series 2020 Bonds are determined, the Supplemental Methodology will be amended to reflect such final terms.

Once levied and imposed, the Series 2020 Special Assessments are a first lien on the land against which assessed until paid or barred by operation of law, co-equal with other taxes and assessments levied by the District and other non-federal units of government. See "ENFORCEMENT OF ASSESSMENT COLLECTIONS" herein.

The Assessment Methodology sets forth a "true-up mechanism" which provides that the debt per lot/unit remaining on the unplatted land is never allowed to increase above its maximum debt per lot/unit level. If the debt per lot/unit remaining on unplatted land increases above the maximum debt per lot/unit level, a debt reduction payment would be made by the Developer so that the maximum debt per lot/unit level is not breached. This debt reduction payment would result in the extraordinary mandatory redemption of a portion of the Series 2020 Bonds. The Developer is expected to enter into a True-up Agreement in connection with its obligations to pay true-up payments in the event that the debt per lot/unit remaining on unplatted land increases above the maximum debt per unit level. See "APPENDIX D – ASSESSMENT METHODOLOGY" herein for additional information regarding the "true-up mechanism".

## **TAX MATTERS**

### **General**

The Internal Revenue Code of 1986, as amended (the "Code"), includes requirements which the District must continue to meet after the issuance of the Series 2020 Bonds in order that the interest on the Series 2020 Bonds be and remain excludable from gross income for federal income tax purposes. The District's failure to meet these requirements may cause the interest on the Series 2020 Bonds to be included in gross income for federal income tax purposes retroactively to the date of issuance of the Series 2020 Bonds. The District has covenanted in the Bond Resolution and Indenture to take the actions required by

the Code in order to maintain the exclusion from gross income for federal income tax purposes of interest on the Series 2020 Bonds.

In the opinion of Greenberg Traurig, P.A., Bond Counsel, assuming the accuracy of certain representations and certifications and continuing compliance by the District with the tax covenants referred to above, under existing statutes, regulations, rulings and court decisions, the interest on the Series 2020 Bonds is excludable from gross income of the holders thereof for federal income tax purposes; and, further interest on the Series 2020 Bonds is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals. Bond Counsel is further of the opinion that the Series 2020 Bonds and the income thereon are not subject to taxation under the laws of the State, except as to estate taxes and taxes under Chapter 220, Florida Statutes, on interest, income or profits on debt obligations owned by corporations as defined in said Chapter 220. Bond Counsel will express no opinion as to any other tax consequences regarding the Series 2020 Bonds. Prospective purchasers of the Series 2020 Bonds should consult their own tax advisors as to the status of interest on the Series 2020 Bonds under the tax laws of any state other than the State.

The above opinion on federal tax matters with respect to the Series 2020 Bonds will be based on and will assume the accuracy of certain representations and certifications of the District and the Developer, and compliance with certain covenants of the District to be contained in the transcript of proceedings and that are intended to evidence and assure the foregoing, including that the Series 2020 Bonds will be and will remain obligations, the interest on which is excludable from gross income for federal income tax purposes. Bond Counsel will not independently verify the accuracy of those certifications and representations. Bond Counsel will express no opinion as to any other consequences regarding the Series 2020 Bonds.

Except as described above, Bond Counsel will express no opinion regarding the federal income tax consequences resulting from the receipt or accrual of the interest on the Series 2020 Bonds, or the ownership or disposition of the Series 2020 Bonds. Prospective purchasers of Series 2020 Bonds should be aware that the ownership of Series 2020 Bonds may result in other collateral federal tax consequences, including (i) the denial of a deduction for interest on indebtedness incurred or continued to purchase or carry the Series 2020 Bonds, (ii) the reduction of the loss reserve deduction for property and casualty insurance companies by the applicable statutory percentage of certain items, including the interest on the Series 2020 Bonds, (iii) the inclusion of the interest on the Series 2020 Bonds in the earnings of certain foreign corporations doing business in the United States for purposes of a branch profits tax, (iv) the inclusion of the interest on the Series 2020 Bonds in the passive income subject to federal income taxation of certain Subchapter S corporations with Subchapter C earnings and profits at the close of the taxable year and (v) the inclusion of interest on the Series 2020 Bonds in the determination of the taxability of certain Social Security and Railroad Retirement benefits to certain recipients of such benefits. The nature and extent of the other tax consequences described above will depend on the particular tax status and situation of each owner of the Series 2020 Bonds. Prospective purchasers of the Series 2020 Bonds should consult their own tax advisors as to the impact of these other tax consequences.

Bond Counsel's opinion is based on existing law, which is subject to change. Such opinion is further based on factual representations made to Bond Counsel as of the date of issuance of the Series 2020 Bonds. Bond Counsel assumes no duty to update or supplement its opinion to reflect any facts or circumstances that may thereafter come to Bond Counsel's attention, or to reflect any changes in law that may thereafter occur or become effective. Moreover, Bond Counsel's opinion is not a guarantee of a particular result, and are not binding on the IRS or the courts; rather, such opinion represents Bond Counsel's professional judgment based on its review of existing law, and in reliance on the representations and covenants that it deems relevant to such opinion.

## **Original Issue Discount and Premium**

Certain of the Series 2020 Bonds (“Discount Bonds”) may be offered and sold to the public at an original issue discount (“OID”). OID is the excess of the stated redemption price at maturity (the principal amount) over the “issue price” of a Discount Bond determined under Code Section 1273 or 1274 (i.e., for obligations issued for money in a public offering, the initial offering price to the public (other than to bond houses and brokers) at which a substantial amount of the obligation of the same maturity is sold pursuant to that offering). For federal income tax purposes, OID accrues to the owner of a Discount Bond over the period to maturity based on the constant yield method, compounded semiannually (or over a shorter permitted compounding interval selected by the owner). The portion of OID that accrues during the period of ownership of a Discount Bond (i) is interest excludable from the owner’s gross income for federal income tax purposes to the same extent, and subject to the same considerations discussed above, as other interest on the Series 2020 Bonds, and (ii) is added to the owner’s tax basis for purposes of determining gain or loss on the maturity, redemption, prior sale or other disposition of that Discount Bond.

Certain of the Series 2020 Bonds (“Premium Bonds”) may be offered and sold to the public at a price in excess of their stated redemption price (the principal amount) at maturity (or earlier for certain Premium Bonds callable prior to maturity). That excess constitutes bond premium. For federal income tax purposes, bond premium is amortized over the period to maturity of a Premium Bond, based on the yield to maturity of that Premium Bond (or, in the case of a Premium Bond callable prior to its stated maturity, the amortization period and yield may be required to be determined on the basis of an earlier call date that results in the lowest yield on that Premium Bond), compounded semiannually (or over a shorter permitted compounding interval selected by the owner). No portion of that bond premium is deductible by the owner of a Premium Bond. For purposes of determining the owner’s gain or loss on the sale, redemption (including redemption at maturity) or other disposition of a Premium Bond, the owner’s tax basis in the Premium Bond is reduced by the amount of bond premium that accrues during the period of ownership. As a result, an owner may realize taxable gain for federal income tax purposes from the sale or other disposition of a Premium Bond for an amount equal to or less than the amount paid by the owner for that Premium Bond.

*Owners of Discount and Premium Bonds should consult their own tax advisers as to the determination for federal income tax purposes of the amount of OID or bond premium properly accruable in any period with respect to the Discount or Premium Bonds and as to other federal tax consequences, and the treatment of OID and bond premium for purposes of state and local taxes on, or based on, income.*

## **Changes in Federal and State Tax Law**

From time to time, there are legislative proposals suggested, debated, introduced or pending in Congress or in the State legislature that, if enacted into law, could alter or amend one or more of the federal tax matters, or state tax matters, respectively, described above including, without limitation, the excludability from gross income of interest on the Series 2020 Bonds, adversely affect the market price or marketability of the Series 2020 Bonds, or otherwise prevent the holders from realizing the full current benefit of the status of the interest thereon. It cannot be predicted whether or in what form any such proposal may be enacted, or whether, if enacted, any such proposal would affect the Series 2020 Bonds. Prospective purchasers of the Series 2020 Bonds should consult their tax advisors as to the impact of any proposed or pending legislation.

## **Information Reporting and Backup Withholding**

Interest paid on tax-exempt bonds such as the Series 2020 Bonds is subject to information reporting to the Internal Revenue Service in a manner similar to interest paid on taxable obligations. This reporting requirement does not affect the excludability of interest on the Series 2020 Bonds from gross income for federal income tax purposes. However, in conjunction with that information reporting requirement, the Code subjects certain non-corporate owners of Series 2020 Bonds, under certain circumstances, to “backup withholding” at the rates set forth in the Code, with respect to payments on the Series 2020 Bonds and proceeds from the sale of Series 2020 Bonds. Any amount so withheld would be refunded or allowed as a credit against the federal income tax of such owner of Series 2020 Bonds. This withholding generally applies if the owner of Series 2020 Bonds (i) fails to furnish the payor such owner’s social security number or other taxpayer identification number (“TIN”), (ii) furnished the payor an incorrect TIN, (iii) fails to properly report interest, dividends, or other “reportable payments” as defined in the Code, or (iv) under certain circumstances, fails to provide the payor or such owner’s securities broker with a certified statement, signed under penalty of perjury, that the TIN provided is correct and that such owner is not subject to backup withholding. Prospective purchasers of the Series 2020 Bonds may also wish to consult with their tax advisors with respect to the need to furnish certain taxpayer information in order to avoid backup withholding.

### **AGREEMENT BY THE STATE**

Under the Act, the State of Florida pledges to the holders of any bonds issued thereunder, including the Series 2020 Bonds, that it will not limit or alter the rights of the District to own, acquire, construct, reconstruct, improve, maintain, operate or furnish the Phase One Assessment Area Project subject to the Act or to levy and collect taxes, assessments, rentals, rates, fees, and other charges provided for in the Act and to fulfill the terms of any agreement made with the holders of such bonds and that it will not in any way impair the rights or remedies of such holders.

### **LEGALITY FOR INVESTMENT**

The Act provides that the Series 2020 Bonds are legal investments for savings banks, banks, trust companies, insurance companies, executors, administrators, trustees, guardians, and other fiduciaries, and for any board, body, agency, instrumentality, county, municipality or other political subdivision of the State of Florida, and constitute securities which may be deposited by banks or trust companies as security for deposits of state, county, municipal or other public funds, or by insurance companies as required or voluntary statutory deposits.

### **SUITABILITY FOR INVESTMENT**

In accordance with applicable provisions of Florida law, the Series 2020 Bonds may initially be sold by the District only to “accredited investors” within the meaning of Chapter 517, Florida Statutes and the rules promulgated thereunder. The limitation of the initial offering to accredited investors does not denote restrictions on transfer in any secondary market for the Series 2020 Bonds. Investment in the Series 2020 Bonds poses certain economic risks. No dealer, broker, salesperson or other person has been authorized by the District or the Underwriter to give any information or make any representations, other than those contained in this Limited Offering Memorandum.

The Series 2020 Bonds will be issued in fully registered form, without coupons, in authorized denominations of \$5,000 and any integral multiple thereof, provided, however, if any initial beneficial owner of Series 2020 Bonds does not purchase at least \$100,000 of the Series 2020 Bonds at the time of

initial delivery of the Series 2020 Bonds, such beneficial owner must execute and deliver to the District and the Underwriter on the date of delivery of the Series 2020 Bonds the investor letter in the form attached to the Indenture or otherwise establish to the satisfaction of the Underwriter that such beneficial owner is an “accredited investor,” as described in Rule 501(a) under Regulation D of the Securities Act of 1933, as amended.

## **ENFORCEABILITY OF REMEDIES**

The remedies available to the Owners of the Series 2020 Bonds upon an event of default under the Indenture are in many respects dependent upon judicial actions which are often subject to discretion and delay. Under existing constitutional and statutory law and judicial decisions, including the federal bankruptcy code, the remedies specified by the Indenture and the Series 2020 Bonds may not be readily available or may be limited. The various legal opinions to be delivered concurrently with the delivery of the Series 2020 Bonds will be qualified as to the enforceability of the remedies provided in the various legal instruments, by limitations imposed by bankruptcy, reorganization, insolvency or other similar laws affecting the rights of creditors enacted before or after such delivery.

## **LITIGATION**

### **The District**

There is no litigation against the District of any nature now pending or, to the knowledge of the District threatened, seeking to restrain or enjoin the issuance, sale, execution or delivery of the Series 2020 Bonds, or in any way contesting or affecting (i) the validity of the Series 2020 Bonds or any proceedings of the District taken with respect to the issuance or sale thereof, (ii) the pledge or application of any moneys or security provided for the payment of the Series 2020 Bonds, (iii) the existence or powers of the District or (iv) the validity of the Assessment Proceedings.

### **The Developer**

There is no litigation of any nature now pending or, to the knowledge of the Developer, threatened, which could reasonably be expected to have a material and adverse effect upon the completion of the Phase One Assessment Area Project or the development of the District Lands, as described herein, materially and adversely affect the ability of the Developer to pay the Series 2020 Special Assessments imposed against the land within the Phase One Assessment Area within the District owned by the Developer or materially and adversely affect the ability of the Developer to perform its various obligations described in this Limited Offering Memorandum.

## **CONTINGENT FEES**

The District has retained Bond Counsel, District Counsel, the District Engineer, the Methodology Consultant, the Underwriter (who has retained Underwriter’s counsel) and the Trustee (who has retained Trustee’s Counsel), with respect to the authorization, sale, execution and delivery of the Series 2020 Bonds. Except for the payment of fees to District Counsel, the District Engineer and the Methodology Consultant, the payment of fees of the other professionals is each contingent upon the issuance of the Series 2020 Bonds.



## **NO RATING**

No application for a rating for the Series 2020 Bonds has been made to any rating agency, nor is there any reason to believe that an investment grade rating for the Series 2020 Bonds would have been obtained if application had been made.

## **EXPERTS**

The Engineer's Report included in APPENDIX C to this Limited Offering Memorandum has been prepared by Engenuity Group Inc., West Palm Beach, Florida, the District Engineer. APPENDIX C should be read in its entirety for complete information with respect to the subjects discussed therein. Special District Services, Inc., Palm Beach Gardens, Florida, as Methodology Consultant, has prepared the Assessment Methodology set forth as APPENDIX D hereto. APPENDIX D should be read in its entirety for complete information with respect to the subjects discussed therein. As a condition to closing on the Series 2020 Bonds, both the District Engineer and the Methodology Consultant have consented to the inclusion of their reports in this Limited Offering Memorandum.

## **FINANCIAL INFORMATION**

Since its creation, the District's expenses have been funded entirely by voluntary contributions from the Developer. Under State law, while the District is required to prepare annual financial statements for each fiscal year within nine months after the end of the fiscal year, no audit of such records by an independent certified public accountant is required unless the District (i) has revenues, or the total of expenditures and expenses, in excess of \$100,000 for such fiscal year, or (ii) has revenues, or the total of expenditures and expenses, of between \$50,000 and \$100,000 and has not been subject to a financial audit for the two preceding fiscal years.

The District will covenant in the Disclosure Agreement (as defined below), the form of which is set forth in APPENDIX E hereto to provide its annual audit to the Municipal Securities Rulemaking Board's ("MSRB") Electronic Municipal Markets Access repository ("EMMA") as described in APPENDIX E. The audited financial statements of the District for the Fiscal Year ended September 30, 2019 are included herewith as "APPENDIX F: AUDITED FINANCIAL STATEMENTS." The consent of the District's auditor for the use of the financial statements herein has not been sought as the District's financial statements are publicly available documents.

During such audit, the District's auditor noted violations under Florida's Local Government Prompt Payment Act, 218.70-218.80, F.S., regarding certain undisputed vendor invoices that were not paid within the statutory requirement of 45 days. The District was unable to make timely payment of these invoices due to a dispute between the Developer and the Developer's then current lender that delayed the Developer's contribution payments to the District. Such dispute has since been resolved and, as of the date of this Limited Offering Memorandum, the delinquent invoices have been paid in full.

Beginning October 1, 2015, each community development district in Florida must have a separate website with certain information as set forth in Section 189.069, F.S. Under such statute, each district must post its proposed budget and final budget and a link to the auditor general's website (and the district's audit) on a district website or the website of the municipal or county government. The District currently has a website in place.

## **DISCLOSURE REQUIRED BY FLORIDA BLUE SKY REGULATIONS**

Rule 69W-400.003, Rules of Government Securities under Section 517.051(1), Florida Statutes, promulgated by the Florida Department of Financial Services, Office of Financial Regulation, Division of Securities and Finance (“Rule 69W-400.003”), requires the District to disclose each and every default as to the payment of principal and interest with respect to obligations issued or guaranteed by the District after December 31, 1975. Rule 69W-400.003 further provides, however, that if the District, in good faith, believes that such disclosures would not be considered material by a reasonable investor, such disclosures may be omitted. The District has not previously issued any bonds or other debt obligations. Accordingly, the District is not and has never been in default as to principal or interest on its bonds or other debt obligations.

### **CONTINUING DISCLOSURE**

The District and the Developer will enter into a Continuing Disclosure Agreement (the “Disclosure Agreement”), the proposed form of which is set forth in APPENDIX E, for the benefit of the Series 2020 Bondholders (including owners of beneficial interests in such Series 2020 Bonds), respectively, to provide certain financial information and operating data relating to the District and the Development by certain dates prescribed in the Disclosure Agreement (the “Reports”) through EMMA. In addition, certain listed events must be disclosed through EMMA within a prescribed time period. The specific nature of the information to be contained in the Reports is set forth in “APPENDIX E – PROPOSED FORM OF CONTINUING DISCLOSURE AGREEMENT.” Under certain circumstances, the failure of the District or the Developer to comply with their respective obligations under the Disclosure Agreement constitutes an event of default thereunder. Such a default will not constitute an event of default under the Indenture, but such event of default under the Disclosure Agreement would allow the Series 2020 Bondholders (including owners of beneficial interests in such Bonds), as applicable, to bring an action for specific performance.

The District has not previously entered into any continuing disclosure obligation in connection with Rule 15c2-12 of the Securities Exchange Act of 1934, as amended (the “Rule”). The District has appointed the District Manager to serve as the Dissemination Agent for the Series 2020 Bonds.

Also, pursuant to the Disclosure Agreement, the Developer will covenant to provide certain financial information and operating data relating to the Development and the Developer on a quarterly basis. See “APPENDIX E – PROPOSED FORM OF CONTINUING DISCLOSURE AGREEMENT.” The Developer has not previously entered into any continuing disclosure undertakings pursuant to the Rule.

### **UNDERWRITING**

FMSbonds, Inc. (the “Underwriter”) has agreed, pursuant to a contract with the District, subject to certain conditions, to purchase the Series 2020 Bonds from the District at a purchase price of \$\_\_\_\_\_ (representing the par amount of the Series 2020 Bonds, [plus] [less] [net] original issue [premium] [discount] of \$\_\_\_\_\_ and less an Underwriter’s discount of \$\_\_\_\_\_). The Underwriter’s obligations are subject to certain conditions precedent and upon satisfaction or waiver of such conditions, the Underwriter will be obligated to purchase all of the Series 2020 Bonds if any are purchased.

The Underwriter intends to offer the Series 2020 Bonds to accredited investors at the offering prices set forth on the inside cover page of this Limited Offering Memorandum, which may subsequently change without prior notice. The Series 2020 Bonds may be offered and sold to certain dealers, banks and others

at prices lower than the initial offering prices set forth on the inside cover page of this Limited Offering Memorandum, and such initial offering prices may be changed from time to time by the Underwriter.

### **VALIDATION**

The Series 2020 Bonds to be issued pursuant to the Indenture were validated by final judgment of the Circuit Court of the Fifteenth Judicial Circuit of Florida in and for the County, rendered September 26, 2019. The period of time for appeal of the judgment of validation of the Series 2020 Bonds has expired with no appeals being taken.

### **LEGAL MATTERS**

Certain legal matters related to the authorization, sale and delivery of the Series 2020 Bonds are subject to the approval of Greenberg Traurig, P.A., West Palm Beach, Florida, Bond Counsel. Certain legal matters will be passed upon for the Underwriter by its counsel, Squire Patton Boggs (US) LLP, Miami, Florida. Certain legal matters will be passed upon for the District by its counsel, Lewis, Longman & Walker, P.A., West Palm Beach, Florida. Certain legal matters will be passed upon for the Developer by its counsel, Cherry, Edgar & Smith, P.A., Palm Beach Gardens, Florida.

Bond Counsel's opinion included herein is based on existing law, which is subject to change. Such opinion is further based on factual representations made to Bond Counsel. Bond Counsel assumes no duty to update or supplement its opinion to reflect any facts or circumstances that may thereafter come to Bond Counsel's attention, or to reflect any changes in law that may thereafter occur or become effective. Moreover, Bond Counsel's opinion is not a guarantee of a particular result, and is not binding on the Internal Revenue Service or the courts; rather, such opinion represents Bond Counsel's professional judgment based on its review of existing law, and in reliance on the representations and covenants that it deems relevant to such opinion.

### **MISCELLANEOUS**

Any statements made in this Limited Offering Memorandum involving matters of opinion or estimates, whether or not expressly so stated, are set forth as such and not as representations of fact, and no representations are made that any of the estimates will be realized.

The references herein to the Series 2020 Bonds and other documents referred to herein are brief summaries of certain provisions thereof. Such summaries do not purport to be complete and reference is made to such documents for full and complete statements of such provisions.

This Limited Offering Memorandum is submitted in connection with the limited offering of the Series 2020 Bonds and may not be reproduced or used, as a whole or in part, for any other purpose. This Limited Offering Memorandum is not to be construed as a contract with the purchasers or the Beneficial Owners of any of the Series 2020 Bonds.

**AUTHORIZATION AND APPROVAL**

The execution and delivery of this Limited Offering Memorandum has been duly authorized by the Board of the District.

**BANYAN CAY COMMUNITY  
DEVELOPMENT DISTRICT**

By: \_\_\_\_\_  
Chairperson, Board of Supervisors

**APPENDIX A**

**PROPOSED FORMS OF INDENTURE**

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between

**BANYAN CAY  
COMMUNITY DEVELOPMENT DISTRICT**

and

**U.S. BANK NATIONAL ASSOCIATION,  
As Trustee**

Dated as of December 1, 2020

relating to

**BANYAN CAY  
COMMUNITY DEVELOPMENT DISTRICT  
SPECIAL ASSESSMENT BONDS**

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in and to the Pledged Revenues (hereinafter defined) as security for the payment of the principal, redemption or purchase price of (as the case may be) and interest on Bonds of a Series issued hereunder and any reimbursement due to any Credit Facility Issuer for any drawing on its Credit Facility issued with respect to any such Bonds, as required under the terms of the corresponding Credit Facility Agreement, all in the manner hereinafter provided, and the Issuer further hereby agrees with and covenants unto the Trustee as follows:

**ARTICLE I  
DEFINITIONS**

In this Master Indenture and any indenture supplemental hereto (except as otherwise expressly provided or unless the context otherwise requires) terms defined in the recitals hereto shall have the same meaning throughout this Master Indenture and all Supplemental Indentures, and in addition, the following terms shall have the meanings specified below:

“Account” shall mean any account established pursuant to this Master Indenture and all Supplemental Indentures.

“Acquisition Agreement” shall mean one or more improvement acquisition agreements between the Issuer and the Developer, pursuant to which the Developer agrees to provide, design, construct and sell to the Issuer, and the Issuer agrees to purchase from the Developer, all or a portion of a Project.

“Acquisition and Construction Fund” shall mean the Fund so designated, which is established pursuant to Section 5.01 hereof.

“Act” shall mean the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes, as amended from time to time, and any successor statute thereto.

“Ancillary Agreements” shall mean the Acquisition Agreement, true-up agreements, completion agreements, collateral assignment of Developer rights, funding agreements and any other agreements of the Developer in favor of the Issuer and/or the Trustee for the benefit of the Bondholders relating to a Project and the payment of the Bonds.

“Annual Budget” shall mean the Issuer’s annual budget for each Fiscal Year, as the same may be amended from time to time, adopted in accordance with the provisions hereof and the Act.

“Arbitrage Certificate” shall mean the certificate of the Issuer delivered at the time of issuance of a Series of Bonds setting forth the expectations of the Issuer with respect to the use of the proceeds of such Series and also containing certain covenants of the Issuer in order to achieve compliance with the Code relating to the tax-status of the Bonds.

“Assessment Areas” shall mean distinct areas within the District Lands identified by the applicable Developer that will be developed by such Developer. The Issuer reserves the right to impose separate Special Assessments on each separate Assessment Area that may be created.

THIS MASTER TRUST INDENTURE, dated as of December 1, 2020 (the “Master Indenture”), by and between BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT (together with its permitted successors and assigns, the “Issuer”), a local unit of special-purpose government organized and existing under the laws of the State of Florida, and U.S. BANK NATIONAL ASSOCIATION, a national banking association duly organized and existing under the laws of the United States and having a corporate trust office in Fort Lauderdale, Florida, as trustee (said banking association and any bank or trust company becoming successor trustee under this Master Indenture and all Supplemental Indentures (as hereinafter defined) being hereinafter referred to as the “Trustee”);

**WITNESSETH:**

WHEREAS, the Issuer is a local unit of special purpose government duly organized and existing under the provisions of the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes, as amended (the “Act”), created pursuant to Ordinance No. 4823-19, enacted by the City Commission of the City of West Palm Beach, Florida, on January 28, 2019 for the purpose, among other things, of financing and managing the acquisition and construction, maintenance, and operation of the major infrastructure within and without the boundaries of the premises to be governed by the Issuer; and

WHEREAS, the premises governed by the Issuer (as further described in Exhibit A hereto, the “District” or “District Lands”) currently consist of approximately 95.24 acres of land located entirely within the incorporated area of the City of West Palm Beach, Florida (the “City”); and

WHEREAS, the Issuer has determined to undertake, in one or more stages, the acquisition and construction of certain public infrastructure pursuant to the Act for the special benefit of the District Lands (as further described in Exhibit B hereto, each a “Project”); and

WHEREAS, the Issuer proposes to finance the cost of acquisition and construction of a Project by the issuance of one or more series of bonds pursuant to this Master Indenture;

NOW, THEREFORE, THIS MASTER INDENTURE WITNESSETH, that to provide for the issuance of Bonds (as hereinafter defined) under this Master Indenture, as supplemented from time to time by one or more Supplemental Indentures (as hereinafter defined), the security and payment of the principal, redemption or purchase price thereof (as the case may be) and interest thereon, any reimbursement due to a Credit Facility Issuer (hereinafter defined), if any, for any drawing on its Credit Facility (hereinafter defined), as required under the terms of the corresponding Credit Facility Agreement (hereinafter defined), the rights of the Owners of the Bonds of a Series (as hereinafter defined) and the performance and observance of all of the covenants contained herein and in said Bonds and in any Credit Facility Agreement for and in consideration of the mutual covenants herein contained and of the purchase and acceptance of the Bonds of a Series by the Owners thereof, from time to time, the issuance by any Credit Facility Issuer of its Credit Facility, from time to time, and of the acceptance by the Trustee of the trusts hereby created, and intending to be legally bound hereby, the Issuer hereby assigns, transfers, sets over and pledges to the Trustee and grants a lien on all of the right, title and interest of the Issuer

“Authorized Denomination” shall mean, unless provided otherwise in a Supplemental Indenture with respect to a Series of Bonds, with respect to each Series of Bonds, a denomination of \$5,000 and integral multiples of \$5,000 in excess thereof.

“Authorized Newspaper” shall mean a newspaper printed in English and customarily published at least once a day at least five days a week and generally circulated in New York, New York, or such other cities as the Issuer from time to time may determine by written notice provided to the Trustee. When successive publications in an Authorized Newspaper are required, they may be made in the same or different Authorized Newspapers.

“Beneficial Owner” or “beneficial owner” shall mean the Person treated as the owner of Bonds for federal income tax purposes while the Bonds are registered in the name of Cede & Co., as the nominee of DTC. The Trustee is authorized to recognize the Beneficial Owners of a Series of Bonds for purposes of approvals, consents or other actions taken hereunder or under a Supplemental Indenture if beneficial ownership is proven to the satisfaction of the Trustee.

“Board” shall mean the Board of Supervisors of the Issuer.

“Bond Counsel” shall mean Counsel of nationally recognized standing in matters pertaining to the exclusion from gross income for federal income tax purposes of interest on obligations issued by states and their political subdivisions.

“Bond Redemption Fund” shall mean the Fund so designated which is established pursuant to Section 6.06 hereof.

“Bond Register” shall have the meaning specified in Section 2.04 of this Master Indenture.

“Bondholder,” “Holder of Bonds,” “Holder,” “Bondowner,” “Registered Owner” or “Owner” or any similar term shall mean any Person or Persons who shall be the registered owner of any Outstanding Bond or Bonds, as evidenced on the Bond Register of the Issuer kept by the Registrar.

“Bonds” shall mean the Banyan Cay Community Development District Special Assessment Bonds, issued in one or more Series pursuant to the provisions of this Master Indenture and bonds subsequently issued to refund all or a portion of such aforementioned Bonds. If the Issuer determines to issue bond anticipation notes to be secured in whole or in part by a lien on the net proceeds of Bonds to be issued under this Master Indenture or other short-term notes secured by Special Assessments, the term “Bonds” shall apply to such short-term notes but only to the extent the Supplemental Indenture relating to such bond anticipation notes or other short-term notes so provides.

“Business Day” shall mean any day other than a Saturday or Sunday or legal holiday or a day on which the office of the Issuer, or corporate office of the Trustee, the Registrar or any Paying Agent is closed, or a day on which the New York Stock Exchange is closed.



“Certified Public Accountant” shall mean a Person, who shall be Independent, appointed by the Board, actively engaged in the business of public accounting and duly certified as a certified public accountant under the laws of the State.

“Certified Resolution” or “Certified Resolution of the Issuer” shall mean a copy of one or more resolutions certified by the Secretary or an Assistant Secretary of the Issuer, under its seal, to have been duly adopted by the Board and to be in full force and effect as of the date of such certification.

“City” shall mean the City of West Palm Beach, Florida, a municipal corporation of the State.

“Code” shall mean the Internal Revenue Code of 1986, as amended, and the applicable United States Treasury Department regulations promulgated thereunder.

“Completion Date” shall have the meaning given to such term in Section 5.01(c) of this Master Indenture.

“Consultant” shall mean a Person, who shall be Independent, appointed by the Board, qualified to pass upon questions relating to local governmental entities and having a favorable reputation for skill and experience in the financial affairs of local governmental entities.

“Consultant’s Certificate” shall mean a certificate or a report prepared in accordance with then applicable professional standards duly executed by a Consultant.

“Consulting Engineer” shall mean the Independent engineer or engineering firm or corporation at the time employed by the Issuer under the provisions of Section 9.21 of this Master Indenture to perform and carry out duties imposed on the Consulting Engineer by this Master Indenture and any Supplemental Indentures. The Independent engineer or engineering firm or corporation at the time serving as the engineer to the Issuer may serve as Consulting Engineer under this Master Indenture and any Supplemental Indentures.

“Continuing Disclosure Agreement” shall mean a Continuing Disclosure Agreement, by and among the Issuer, the dissemination agent named therein and the Developer, and any other obligated party under the Rule, in connection with the issuance of one or more Series of Bonds hereunder, pursuant to the requirements of the Rule.

“Cost” or “Costs,” in connection with a Project or any portion thereof, shall mean all expenses which are properly chargeable thereto under Generally Accepted Accounting Principles or which are incidental to the planning, financing, acquisition, construction, reconstruction, equipping and installation thereof, including, without limiting the generality of the foregoing:

- (a) expenses of determining the feasibility or practicability of acquisition, construction, or reconstruction of a Project;
- (b) cost of surveys, estimates, plans, and specifications;

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(r) payments, contributions, dedications, and any other exactions required as a condition to receive any government approval or permit necessary to accomplish any District purpose;

(s) administrative expenses;

(t) taxes, assessments and similar governmental charges during construction or reconstruction of a Project;

(u) expenses of Project management and supervision;

(v) costs of effecting compliance with any and all governmental permits relating to a Project;

(w) such other expenses as may be necessary or incidental to the acquisition, construction, or reconstruction of a Project or to the financing thereof; and

(x) any other “cost” or expense as provided by the Act.

In connection with the refunding or redeeming of any Bonds, “Cost” includes, without limiting the generality of the foregoing, the items listed in (d), (k), (l) and (m) above, and other expenses related to the redemption of the Bonds to be redeemed and the Redemption Price of such Bonds (and the accrued interest payable on redemption to the extent not otherwise provided for). Whenever Costs are required to be itemized, such itemization shall, to the extent practicable, correspond with the items listed above. Whenever Costs are to be paid hereunder, such payment may be made by way of reimbursement to the Issuer or any other Person who has paid the same in addition to direct payment of Costs.

“Counsel” shall mean an attorney-at-law or law firm (who may be counsel for the Issuer) with expertise in the related matter.

“County” shall mean Palm Beach County, Florida.

“Credit Facility” shall mean any credit enhancement mechanism such as an irrevocable letter of credit, a surety bond, a policy of municipal bond insurance, a corporate or other guaranty, a purchase agreement, a credit agreement or deficiency agreement or other similar facility applicable to the Bonds, as established pursuant to a Supplemental Indenture, pursuant to which the entity providing such facility agrees to provide funds to make payment of the principal of and interest on the Bonds. Notwithstanding anything to the contrary contained in this Master Indenture, the Bonds may be issued without a Credit Facility; the decision to provide a Credit Facility in respect of any Bonds shall be within the absolute discretion of the Board.

“Credit Facility Agreement” shall mean any agreement pursuant to which a Credit Facility Issuer issues a Credit Facility.

“Credit Facility Issuer” shall mean the issuer or guarantor of any Credit Facility.

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(c) cost of improvements;

(d) engineering, architectural, fiscal, legal, accounting and other professional and advisory expenses and charges;

(e) cost of all labor, materials, machinery, and equipment (including, without limitation, (i) amounts payable to contractors, builders and materialmen and costs incident to the award of contracts and (ii) the cost of labor, facilities and services furnished by the Issuer and its employees, materials and supplies purchased by the Issuer and permits and licenses obtained by the Issuer);

(f) cost of all lands, properties, rights, easements, and franchises acquired;

(g) financing charges;

(h) creation of initial reserve and debt service funds;

(i) working capital;

(j) interest charges incurred or estimated to be incurred on money borrowed prior to and during construction and acquisition and for such reasonable period of time after completion of construction or acquisition as the Board may determine and as approved by Bond Counsel;

(k) the cost of issuance of Bonds, including, without limitation, advertisements and printing;

(l) the cost of any election held pursuant to the Act and all other expenses of issuance of bonds;

(m) the discount, if any, on the sale or exchange of Bonds;

(n) amounts required to repay temporary or bond anticipation loans made to finance any costs permitted under the Act;

(o) costs of prior improvements performed by the Issuer in anticipation of a Project;

(p) costs incurred to enforce remedies against contractors, subcontractors, any provider of labor, material, services, or any other Person, for a default or breach under the corresponding contract, or in connection with any other dispute;

(q) premiums for contract bonds and insurance during construction and costs on account of personal injuries and property damage in the course of construction and insurance against the same;

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“Debt Service Fund” shall mean the Fund so designated which is established pursuant to Section 6.04 hereof.

“Debt Service Requirements,” with reference to a specified period, shall mean:

(a) interest payable on the Bonds during such period, subject to reduction for amounts held as capitalized interest in the Funds and Accounts established under this Master Indenture and any Supplemental Indentures; and

(b) amounts required to be paid into any mandatory sinking fund account with respect to the Bonds during such period; and

(c) amounts required to pay the principal of the Bonds maturing during such period and not to be redeemed prior to or at maturity through any sinking fund account.

For any Bonds that bear interest at a variable rate, the interest payable for a specified period shall be determined as if such Bonds bear interest at the maximum rate provided for in the applicable Supplemental Indenture and if no maximum rate is provided for in the Supplemental Indenture, the maximum rate shall be 10.00% per annum.

“Debt Service Reserve Fund” shall mean the Fund so designated which is established pursuant to Section 6.05 hereof.

“Debt Service Reserve Requirement” shall mean, for each Series of Bonds, unless a different requirement shall be specified in a Supplemental Indenture, an amount equal to the lesser of (i) the maximum annual Debt Service Requirements for the Outstanding Bonds of such Series, (ii) 125% of the average annual Debt Service Requirements for the Outstanding Bonds of such Series, and (iii) 10% of the original proceeds (within the meaning of the Code) of the Bonds of such Series.

“Defeasance Securities” shall mean, to the extent permitted by law, (a) cash, or (b) non-callable Government Obligations.

“Developer” shall mean the entity or entities, and any affiliates or any entity or entities which succeeds to all or any part of the interests and assumes any or all of the responsibilities of such entity or entities, as the master developer of the District Lands or of particular Assessment Areas within the District.

“Developer Funding Agreement” shall mean, if applicable, one or more developer capital funding agreements between the Issuer and the Developer, pursuant to which the Developer agrees to advance moneys, from time to time, to the Issuer for deposit into the appropriate Account of the Acquisition and Construction Fund, so that there are sufficient moneys on deposit therein (taking into account proceeds from the applicable Series of Bonds) to complete a Project.

“District Lands” or “District” shall mean the premises governed by the Issuer, consisting of approximately 95.24 acres of land located entirely within the unincorporated area of the County, as more fully described in Exhibit A hereto.

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“District Manager” shall mean the then District Manager or acting District Manager of the Issuer.

“Event of Default” shall mean any of the events described in Section 10.02 hereof.

“Fiscal Year” shall mean the period of twelve (12) months beginning October 1 of each calendar year and ending on September 30 of the following calendar year, and also shall mean the period from actual execution hereof to and including the next succeeding September 30; or such other consecutive twelve-month period as may hereafter be established pursuant to a Certified Resolution as the fiscal year of the Issuer for budgeting and accounting purposes as authorized by law.

“Fitch” shall mean Fitch Ratings, Inc., a corporation organized and existing under the laws of the State of New York, its successors and assigns, and if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Fitch” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer and acceptable to the Trustee.

“Fund” shall mean any fund established pursuant to this Master Indenture.

“Generally Accepted Accounting Principles” shall mean those accounting principles applicable in the preparation of financial statements of municipalities.

“Government Obligations” shall mean direct obligations of, or obligations the timely payment of principal of and interest on which are unconditionally guaranteed by, the United States of America.

“Indenture” shall mean, with respect to any Series of Bonds, this Master Indenture as supplemented by the Supplemental Indenture pursuant to which such Series of Bonds is issued.

“Independent” shall mean a Person who is not a member of the Issuer’s Board, an officer or employee of the Issuer or Developer, or which is not a partnership, corporation or association having a partner, director, officer, member or substantial stockholder who is a member of the Issuer’s Board, or an officer or employee of the Issuer; provided, however, that the fact that such Person is retained regularly by or regularly transacts business with the Issuer or Developer shall not make such Person an employee within the meaning of this definition.

“Interest Account” shall mean the Account so designated, established as a separate account within the Debt Service Fund pursuant to Section 6.04 hereof.

“Interest Payment Date” shall mean, unless otherwise provided in a Supplemental Indenture with respect to a Series of Bonds, each May 1 and November 1 commencing on the date specified in the Certified Resolution of the Issuer or in the Supplemental Indenture pursuant to which a Series of Bonds is issued.

“Investment Securities” shall mean and include any of the following securities, if and to the extent that such securities are legal investments for funds of the Issuer:

(a) Government Obligations;

(b) obligations of any of the following agencies: Government National Mortgage Association (including participation certificates issued by such association); Fannie Mae (including participation certificates issued by such entity); Federal Home Loan Banks; Federal Farm Credit Banks; Tennessee Valley Authority; Farmers Home Administration; Student Loan Marketing Association; Federal Home Loan Mortgage Corporation, or other similar governmental sponsored entities;

(c) money market deposit accounts, time deposits, and certificates of deposit issued by commercial banks, savings and loan associations or mutual savings banks whose short-term obligations are rated, at the time of purchase, in one of the two highest rating categories, without regard to gradation, by Moody’s and S&P; and

(d) obligations of any state of the United States or political subdivision thereof or constituted authority thereof the interest on which is exempt from federal income taxation under Section 103 of the Code and rated in one of the top two rating categories by both Moody’s and S&P;

(e) both (A) shares of a diversified open-end management investment company (as defined in the Investment Company Act of 1940) or a regulated investment company (as defined in Section 851(a) of the Code) that is a money market fund that is rated in the highest rating category for such funds by both Moody’s and S&P, and (B) shares of money market mutual funds that invest only in Government Obligations and repurchase agreements secured by such obligations, which funds are rated in the highest categories for such funds by both Moody’s and S&P;

(f) the Local Government Surplus Funds Trust Fund as described in Florida Statutes, Section 218.405 or the corresponding provisions of subsequent laws provided that such fund is rated at least “AA” by S&P (without regard to gradation) or at least “Aa” by Moody’s (without regard to gradation).

Under all circumstances, the Trustee shall be entitled to conclusively rely (as to its accuracy) that any investment directed by the Issuer is permitted under the Indenture and a legal investment for funds of the Issuer.

“Issuer” shall mean the Banyan Cay Community Development District.

“Major Non-Recurring Expense” shall mean the cost of major replacement or reconstruction of a Project, or any part thereof, the cost of major repairs, renewals or replacements, the provision of a reserve for the payment of insurance premiums not due on an annual or more frequent basis, and the cost of studies, surveys, estimates and investigations in connection with any of the foregoing.

“Majority Holder” or “majority of owners” or “majority of holders” or similar term shall mean the beneficial owners of more than fifty percent (50%) of the applicable Series of Bonds.

“Master Indenture” shall mean, this Master Trust Indenture dated as of December 1, 2020 by and between the Issuer and the Trustee, as amended and or supplemented in accordance with the provisions of Article XIII hereof.

“Moody’s” shall mean Moody’s Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer and acceptable to the Trustee.

“Officers’ Certificate” or “Officer’s Certificate” shall mean a certificate, duly executed by a Responsible Officer and delivered to the Trustee.

“Outstanding,” in connection with a Series of Bonds, shall mean, as of the time in question, all Bonds of such Series authenticated and delivered under the Indenture, except:

(a) all Bonds theretofore cancelled or required to be cancelled under Section 2.07 hereof;

(b) Bonds for the payment, redemption or purchase of which moneys and/or Defeasance Securities, the principal of and interest on which, when due, will provide sufficient moneys to fully pay such Bonds in accordance with Article XIV hereof, shall have been or shall concurrently be deposited with the Trustee; provided that, if such Bonds are being redeemed, the required notice of redemption shall have been given or provision shall have been made therefor, and that if such Bonds are being purchased, there shall be a firm commitment for the purchase and sale thereof; and

(c) Bonds in substitution for which other Bonds have been authenticated and delivered pursuant to Article II hereof.

In determining whether the Holders of a requisite aggregate principal amount of Bonds Outstanding of a Series have concurred in any request, demand, authorization, direction, notice, consent or waiver under the provisions of the Indenture, Bonds of such Series which are known by the Trustee to be held by or on behalf of the Issuer shall be disregarded for the purpose of any such determination, unless all of the Bonds of such Series are held by or on behalf of the Issuer; provided, however, this provision does not affect the right of the Trustee to deal in Bonds as set forth in Section 11.09 hereof.

“Participating Underwriter” shall mean any of the original underwriters of a Series of Bonds required to comply with the Rule in connection with the offering of each such Series of Bonds.

“Paying Agent” shall mean initially, U.S. Bank National Association and thereafter any successor thereto appointed in accordance with Section 11.20 of this Master Indenture.

“Person” shall mean any individual, corporation, partnership, association, joint-stock company, trust, unincorporated organization, governmental body, political subdivision, municipality, municipal authority or any other group or organization of individuals.

“Pledged Revenues” shall mean, unless otherwise provided by Supplemental Indenture with respect to a Series of Bonds, with respect to each Series of Bonds Outstanding, (a) all revenues received by the Issuer from Special Assessments levied and collected on all or a portion of the District Lands with respect to a Project or portion thereof financed by such Series of Bonds, including, without limitation, amounts received from any foreclosure proceeding for the enforcement of collection of such Special Assessments or from the issuance and sale of tax certificates with respect to such Special Assessments, and (b) all moneys on deposit in the Funds and Accounts established under the Indenture allocated to such Series of Bonds; provided, however, that Pledged Revenues shall not include (i) any moneys transferred to the Rebate Fund, or investment earnings thereon and (ii) “special assessments” levied and collected by the Issuer under Section 190.022 of the Act for maintenance purposes or “maintenance special assessments” levied and collected by the Issuer under Section 190.021(3) of the Act (it being expressly understood that the lien and pledge of the Indenture shall not apply to any of the moneys described in the foregoing clauses (i) and (ii) of this provision).

“Prepayment” shall mean the payment by any owner of Property of the amount of Special Assessments encumbering its property, in whole or in part, prior to its scheduled due date. A landowner may make a Prepayment in kind pursuant to the provisions of Section 9.08 hereof.

“Principal Account” shall mean the Account so designated, established as a separate account within the Debt Service Fund pursuant to Section 6.04 hereof.

“Project” shall mean with respect to any Series of Bonds, the design, acquisition, construction equipping and/or improvement of certain public infrastructure consisting of sanitary sewer systems; water distribution systems; stormwater management facilities; reclaimed water facilities; recreational facilities; roadway improvements including street lighting and signage; undergrounding differential; the payment of impact fees; irrigation; landscaping and entrance features; acquisition of certain interests in lands; and related incidental costs, all as more specifically described in the Supplemental Indenture relating to such Series of Bonds; provided that a Project shall specially benefit all of the District Lands on which Special Assessments to secure such Series of Bonds have been levied.

“Project Documents” shall mean all permits, drawings, plans and specifications, contracts and other instruments and rights relating to a Project and the development assigned by the Developer to the Issuer pursuant to a collateral assignment.

“Property Appraiser” shall mean the property appraiser of the County.

“Property Appraiser and Tax Collector Agreement” shall mean the Property Appraiser and Tax Collector Agreement described in Section 9.04 hereof.

"Rebate Fund" shall mean the Fund so designated, which is established pursuant to Section 6.11 of this Master Indenture.

"Record Date" shall mean, as the case may be, the applicable Regular or Special Record Date.

"Redemption Price" shall mean the principal amount of any Bond of a Series plus the applicable premium, if any, payable upon redemption thereof pursuant to the Indenture.

"Registrar" shall mean initially U.S. Bank National Association, which entity shall have the responsibilities set forth in Section 2.04 of this Master Indenture, and thereafter any successor thereto appointed in accordance with Section 11.20 of this Master Indenture.

"Regular Record Date" shall mean the fifteenth day (whether or not a Business Day) of the calendar month next preceding each Interest Payment Date.

"Regulatory Body" shall mean and include (a) the United States of America and any department of or corporation, agency or instrumentality heretofore or hereafter created, designated or established by the United States of America, (b) the State, any political subdivision thereof and any department of or corporation, agency or instrumentality heretofore or hereafter created, designated or established by the State, (c) the County and any department of or corporation, agency or instrumentality heretofore or hereafter created, designated or established by the County, and (d) any other public body, whether federal, state or local or otherwise having regulatory jurisdiction and authority over the Issuer.

"Responsible Officer" shall mean any member of the Board or any other officer of the Issuer, including the Secretary or other person designated by Certified Resolution of the Issuer, a copy of which shall be on file with the Trustee, to act for any of the foregoing, either generally or with respect to the execution of any particular document or other specific matter.

"Revenue Fund" shall mean the Fund so designated which is established pursuant to Section 6.03 hereof.

"Rule" shall mean Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

"S&P" shall mean S&P Global Ratings, a division of S&P Global Inc., and its successors and assigns, and, if such entity shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "S&P" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer.

"Series" shall mean all of the Bonds authenticated and delivered at one time on original issuance and pursuant to any Certified Resolution of the Issuer authorizing such Bonds as a separate Series of Bonds, or any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article II hereof and the applicable Supplemental Indenture, regardless of variations in maturity, interest rate or other provisions; provided, however, two or more Series of Bonds may be issued simultaneously under the same

Every "request," "requisition," "order," "demand," "application," "notice," "statement," "certificate," "consent," or similar action hereunder by the Issuer shall, unless the form or execution thereof is otherwise specifically provided, be in writing signed by the Responsible Officer of the Issuer.

All words and terms importing the singular number shall, where the context requires, import the plural number and vice versa.

[END OF ARTICLE I]

Supplemental Indenture if designated as separate Series of Bonds by the Issuer upon original issuance. Two or more Series or sub-Series of Bonds may be issued simultaneously under separate Supplemental Indentures, but under this Master Indenture. As may be provided by subsequent proceedings of the Issuer, one or more Series of Bonds or sub-Series Bonds, whether issued at the same time or not, may be separately secured by Special Assessments imposed pursuant to separate assessment proceedings. Such Bonds or sub-Series of Bonds which are secured by separate Special Assessments will not be issued as parity bonds even if issued at the same time.

"Sinking Fund Account" shall mean the Account so designated, established as a separate account within the Debt Service Fund pursuant to Section 6.04 hereof.

"Special Assessments" shall mean (a) the net proceeds derived from the levy and collection of "special assessments," as provided for in Sections 190.011(14) and 190.022 of the Act against District Lands that are subject to assessment as a result of a particular Project or any portion thereof or against one or more identifiable Assessment Areas, and (b) the net proceeds derived from the levy and collection of "benefit special assessments," as provided for in Section 190.021(2) of the Act, against the lands within the District that are subject to assessment as a result of a particular Project or any portion thereof, and in the case of both "special assessments" and "benefit special assessments," including the interest and penalties on such assessments, pursuant to all applicable provisions of the Act and Chapter 170, Florida Statutes, and Chapter 197, Florida Statutes (and any successor statutes thereto), including, without limitation, any amount received from any foreclosure proceeding for the enforcement of collection of such assessments or from the issuance and sale of tax certificates with respect to such assessments, less (to the extent applicable) the fees and costs of collection thereof payable to the Tax Collector and less certain administrative costs payable to the Property Appraiser pursuant to the Property Appraiser and Tax Collector Agreement. "Special Assessments" shall not include "special assessments" levied and collected by the Issuer under Section 190.022 of the Act for maintenance purposes or "maintenance special assessments" levied and collected by the Issuer under Section 190.021(3) of the Act.

"Special Record Date" shall mean such date as shall be fixed for the payment of defaulted interest on the Bonds in accordance with Section 2.01 hereof.

"State" shall mean the State of Florida.

"Supplemental Indenture" and "indenture supplemental hereto" shall mean any indenture amending or supplementing this Master Indenture which may be entered into in accordance with the provisions of this Master Indenture.

"Tax Collector" shall mean the tax collector of the County.

The words "hereof," "herein," "hereto," "hereby," and "hereunder" (except in the form of Bond), refer to the entire Master Indenture.

## ARTICLE II THE BONDS

SECTION 2.01. Amounts and Terms of Bonds; Details of Bonds. The Issuer is hereby authorized to issue in one or more Series pursuant to the terms and conditions of this Master Indenture, its obligations to be known as "Banyan Cay Community Development District Special Assessment Bonds, Series [to be designated]" (the "Bonds"). The total principal amount of Bonds that may be issued and Outstanding under this Master Indenture shall not be limited, but shall be subject to any conditions set forth in a Supplemental Indenture and Florida law. The Bonds shall be issued in Authorized Denominations and within each Series shall be numbered consecutively from R-1 and upwards in each Series and in substantially the form attached hereto as Exhibit C, with such appropriate variations, omissions and insertions as are permitted or required by this Master Indenture or as otherwise provided in a Supplemental Indenture. All Bonds shall be issued only upon satisfaction of the conditions set forth in Article III hereof; and the Trustee shall, at the Issuer's request, authenticate such Bonds and deliver them as specified in such request. If the Issuer should change its name, no amendment shall be required to be made to this Master Indenture, any Supplemental Indenture or Bonds issued thereunder.

Each Bond shall be dated, shall have such Interest Payment Dates, shall bear interest from such date or dates and at such rate or rates until the maturity thereof, payable on such Interest Payment Dates, and shall be stated to mature (subject to the right of prior redemption), all as provided in, or pursuant to, a Supplemental Indenture.

Both the principal of and the interest on the Bonds shall be payable in any coin or currency of the United States of America which is legal tender on the respective dates of payment thereof for the payment of public and private debts. Unless otherwise provided in Section 2.11 hereof or in a Supplemental Indenture, the principal of all Bonds shall be payable at the designated corporate trust office of the Paying Agent upon the presentation and surrender of such Bonds as the same shall become due and payable.

Except to the extent otherwise provided in Section 2.11 hereof or in a Supplemental Indenture, interest on any Bond is payable on any Interest Payment Date by check or draft mailed on the Interest Payment Date to the person in whose name that Bond is registered at the close of business on the Regular Record Date for such Interest Payment Date, at his address as it appears on the Bond Register. The Bonds shall bear interest from the Interest Payment Date next preceding the date on which they are authenticated unless authenticated on an Interest Payment Date in which event they shall bear interest from such Interest Payment Date, or unless authenticated before the first Interest Payment Date in which event they shall bear interest from their date; provided, however, that if a Bond is authenticated between a Record Date and the next succeeding Interest Payment Date, such Bond shall bear interest from such succeeding Interest Payment Date; provided further, however, that if at the time of authentication of any Bond interest thereon is in default, such Bond shall bear interest from the date to which interest has been paid. Any interest on any Bond which is payable, but is not punctually paid or provided for on any Interest Payment Date (hereinafter called "Defaulted Interest") shall be paid to the Owner in whose name the Bond is registered at the close of business on a Special Record Date to be fixed by the Trustee, such date to be not more than fifteen (15) nor less than ten (10) days prior to

the date of proposed payment. The Trustee shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class, postage-prepaid, to each Owner of record as of the fifth (5th) day prior to such mailing, at his or her address as it appears in the Bond Register. The foregoing notwithstanding, but subject to the procedures set forth in Section 2.11 hereof, any Owner of Bonds of a Series in an aggregate principal amount of at least \$1,000,000 shall be entitled to have interest paid by wire transfer to such Owner to the bank account number on file with the Trustee and Paying Agent, upon requesting the same in a writing received by the Trustee and Paying Agent at least fifteen (15) days prior to the relevant Record Date, which writing shall specify the bank, which shall be a bank within the continental United States, and bank account number to which interest payments are to be wired. Any such request for interest payments by wire transfer shall remain in effect until rescinded or changed, in a writing delivered by the Owner to the Trustee and Paying Agent, and any such rescission or change of wire transfer instructions must be received by the Trustee and Paying Agent at least fifteen (15) days prior to the relevant Record Date. Unless provided otherwise in a Supplemental Indenture with respect to a Series of Bonds, interest on the Bonds will be computed on the basis of a 360-day year of twelve 30-day months. Unless provided otherwise in a Supplemental Indenture with respect to a Series of Bonds, interest on overdue principal and to the extent lawful, on overdue interest will be payable at the numerical rate of interest borne by such Bonds on the day before the default occurred.

The Trustee is hereby constituted and appointed as Paying Agent for the Bonds and shall also be authorized to authenticate the Bonds.

**SECTION 2.02. Execution.** The Bonds shall be executed by the manual or facsimile signature of the Chairperson or Vice Chairperson of the Issuer, and the corporate seal of the Issuer shall appear thereon (which may be in facsimile) and shall be attested by the manual or facsimile signature of its Secretary or Assistant Secretary. Bonds executed as above provided may be issued and shall, upon request of the Issuer, be authenticated by the Trustee, notwithstanding that one or both of the officers of the Issuer whose signatures appear on such Bonds shall have ceased to hold office at the time of issuance or authentication or shall not have held office at the date of the Bonds.

**SECTION 2.03. Authentication.** No Bond shall be valid until the certificate of authentication shall have been duly executed by the Trustee, and such authentication shall be proof that the Bondholder is entitled to the benefit of the trust hereby created.

**SECTION 2.04. Registration and Registrar.** The Trustee is hereby constituted and appointed as the Registrar for the Bonds. The Registrar shall act as registrar and transfer agent for the Bonds. The Issuer shall cause to be kept at an office of the Registrar a register (herein sometimes referred to as the "Bond Register" or "Register") in which, subject to the provisions set forth in Section 2.08 below and such other regulations as the Issuer and Registrar may prescribe, the Issuer shall provide for the registration of the Bonds and for the registration of transfers and exchanges of such Bonds. The Trustee shall notify the Issuer in writing of the specific office location (which may be changed from time to time, upon similar notification) at which the Bond Register is kept. The Bond Registrar shall initially be kept at the Trustee's corporate trust office in Fort Lauderdale, Florida.

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**SECTION 2.08. Registration, Transfer and Exchange.** As provided in Section 2.04 hereof, the Issuer shall cause a Bond Register in respect of the Bonds to be kept at the designated office of the Registrar.

Upon surrender for registration of transfer of any Bond at the designated office of the Registrar, and upon compliance with the conditions for the transfer of Bonds set forth in this Section 2.08, the Issuer shall execute and the Trustee (or Registrar as described in Section 2.03 and Section 2.04 hereof) shall authenticate and deliver, in the name of the designated transferee, one or more new Bonds of a like aggregate principal amount and of the same Series and maturity.

At the option of the Bondholder, Bonds may be exchanged for other Bonds of a like aggregate principal amount and of the same Series and maturity, upon surrender of the Bonds to be exchanged at any such office of the Registrar. Whenever any Bonds are so surrendered for exchange, the Issuer shall execute and the Trustee (or Registrar as described in Section 2.03 and Section 2.04 hereof) shall authenticate and deliver the Bonds which the Bondholder making the exchange is entitled to receive.

All Bonds issued upon any transfer or exchange of Bonds shall be valid obligations of the Issuer, evidencing the same debt and entitled to the same benefits under this Master Indenture and applicable Supplemental Indenture as the Bonds of such Series surrendered upon such transfer or exchange.

Every Bond presented or surrendered for transfer or exchange shall be duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Trustee, Paying Agent or the Registrar, duly executed by the Bondholder or his attorney duly authorized in writing.

Transfers and exchanges shall be made without charge to the Bondholder, except that the Issuer or the Trustee may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer or exchange of Bonds.

Neither the Issuer nor the Registrar on behalf of the Issuer shall be required (i) to issue, transfer or exchange any Bond during a period beginning at the opening of business fifteen (15) days before the day of mailing of a notice of redemption of Bonds selected for redemption and ending at the close of business on the day of such mailing, or (ii) to transfer or exchange any Bond so selected for redemption in whole or in part.

**SECTION 2.09. Persons Deemed Owners.** The Issuer, the Trustee, any Paying Agent, or the Registrar shall deem and treat the person in whose name any Bond is registered as the absolute Owner thereof (whether or not such Bond shall be overdue and notwithstanding any notation of ownership or other writing thereon made by anyone other than the Issuer, the Trustee, any Paying Agent or the Registrar) for the purpose of receiving payment of or on account of the principal or Redemption Price of and interest on such Bond, and for all other purposes, and the Issuer, the Trustee, any Paying Agent, and the Registrar shall not be affected by any notice to the contrary. All such payments so made to any such Owner, or upon his order, shall be valid and, to the extent of the sum or sums so paid, effectual to satisfy and discharge the liability for moneys payable upon any such Bond.

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**SECTION 2.05. Mutilated, Destroyed, Lost or Stolen Bonds.** If any Bond shall become mutilated, the Issuer shall execute and the Trustee shall thereupon authenticate and deliver a new Bond of like Series, tenor and denomination in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of such mutilated Bond for cancellation, and the Issuer and the Trustee may require reasonable indemnity therefor. If any Bond shall be reported lost, stolen or destroyed, evidence as to the ownership and the loss, theft or destruction thereof shall be submitted to the Issuer and the Trustee; and if such evidence shall be satisfactory to both and indemnity satisfactory to both shall be given, the Issuer shall execute, and thereupon the Trustee shall authenticate and deliver a new Bond of like Series, tenor and denomination. The cost of providing any substitute Bond under the provisions of this Section shall be borne by the Bondholder for whose benefit such substitute Bond is provided. If any such mutilated, lost, stolen or destroyed Bond shall have matured or be about to mature, the Issuer may, with the consent of the Trustee, pay to the Owner the principal amount of and accrued interest on such Bond upon the maturity thereof and compliance with the aforesaid conditions by such Owner, without the issuance of a substitute Bond therefor.

Every substituted Bond issued pursuant to this Section 2.05 shall constitute an additional contractual obligation of the Issuer, whether or not the Bond alleged to have been destroyed, lost or stolen shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Master Indenture and applicable Supplemental Indenture equally and proportionately with any and all other Bonds of such same Series duly issued hereunder and under such Supplemental Indenture.

All Bonds shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, destroyed, lost or stolen Bonds, and shall preclude any and all other rights or remedies with respect to the replacement or payment of negotiable instruments, investments or other securities without their surrender.

**SECTION 2.06. Temporary Bonds.** Pending preparation of definitive Bonds, or by agreement with the original purchasers of all Bonds, the Issuer may issue and, upon its request, the Trustee shall authenticate in lieu of definitive Bonds one or more temporary printed or typewritten Bonds of substantially the tenor recited above. Upon request of the Issuer, the Trustee shall authenticate definitive Bonds in exchange for and upon surrender of an equal principal amount of temporary Bonds. Until so exchanged, temporary Bonds shall have the same rights, remedies and security hereunder as definitive Bonds. So long as Cede & Co., or any other nominee of DTC is the registered Owner of the Bonds, the definitive Bonds shall be in typewritten form.

**SECTION 2.07. Cancellation and Destruction of Surrendered Bonds.** All Bonds surrendered for payment or redemption and all Bonds surrendered for exchange shall, at the time of such payment, redemption or exchange, be promptly transferred by the Registrar or the Paying Agent to, and cancelled and destroyed by, the Trustee in accordance with its retention policy then in effect.

**SECTION 2.10. Limitation on Incurrence of Certain Indebtedness.** The Issuer will not issue Bonds of any Series, except upon the conditions and in the manner provided or as otherwise permitted in the Indenture, provided that the Issuer may enter into agreements with issuers of Credit Facilities which involve liens on Pledged Revenues on a parity with that of the Bonds or portion thereof which is supported by such Credit Facilities.

**SECTION 2.11. Qualification for The Depository Trust Company.** To the extent provided in a Supplemental Indenture or authorized and directed by a Resolution of the Issuer authorizing the issuance of a Series of Bonds, the Trustee shall be authorized to enter into agreements with The Depository Trust Company, New York, New York ("DTC") and other depository trust companies, including, but not limited to, agreements necessary for wire transfers of interest and principal payments with respect to the Bonds, utilization of electronic book entry data received from DTC, and other depository trust companies in place of actual delivery of Bonds and provision of notices with respect to Bonds registered by DTC and other depository trust companies (or any of their designees identified to the Trustee) by overnight delivery, courier service, telegram, teletype or other similar means of communication.

So long as there shall be maintained a book-entry-only system with respect to a Series of Bonds, the following provisions shall apply:

Unless provided otherwise in a Supplemental Indenture with respect to a Series of Bonds, each Series of Bonds shall initially be registered in the name of Cede & Co. as nominee for DTC, which will act initially as securities depository for the Bonds and so long as the Bonds are held in book-entry-only form, Cede & Co. shall be considered the registered owner for all purposes hereof. On original issue, such Bonds shall be deposited with DTC, which shall be responsible for maintaining a book-entry-only system for recording the ownership interest of its participants ("DTC Participants") and other institutions that clear through or maintain a custodial relationship with a DTC Participant, either directly or indirectly ("Indirect Participants"). The DTC Participants and Indirect Participants will be responsible for maintaining records with respect to the beneficial ownership interests of individual purchasers of the Bonds ("Beneficial Owners").

Principal and interest on the Bonds registered in the name of Cede & Co. prior to and at maturity shall be payable directly to Cede & Co. in care of DTC without the need for presentment of such Bonds. Disbursal of such amounts to DTC Participants shall be the responsibility of DTC. Payments by DTC Participants to Indirect Participants, and by DTC Participants and Indirect Participants to Beneficial Owners shall be the responsibility of DTC Participants and Indirect Participants and not of DTC, the Trustee or the Issuer.

The Bonds registered in the name of Cede & Co. shall initially be issued in the form of one fully registered Bond for each maturity of each Series registered in the name of Cede & Co. and shall be held in such form until maturity. Individuals may purchase beneficial interests in Authorized Denominations in book-entry-only form, without certificated Bonds, through DTC Participants and Indirect Participants.

DURING THE PERIOD FOR WHICH CEDE & CO. IS REGISTERED OWNER OF THE BONDS, ANY NOTICES TO BE PROVIDED TO ANY REGISTERED OWNER WILL

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BE PROVIDED TO CEDE & CO. DTC SHALL BE RESPONSIBLE FOR NOTICES TO DTC PARTICIPANTS AND DTC PARTICIPANTS SHALL BE RESPONSIBLE FOR NOTICES TO INDIRECT PARTICIPANTS, AND DTC PARTICIPANTS AND INDIRECT PARTICIPANTS SHALL BE RESPONSIBLE FOR NOTICES TO BENEFICIAL OWNERS.

The Issuer and the Trustee, if appropriate, shall enter into a blanket letter of representations with DTC providing for such book-entry-only system. Such agreement may be terminated at any time by either DTC or the Issuer. In the event of such termination, the Issuer shall select another securities depository and in that event all references herein to DTC or Cede & Co. shall be deemed to be for reference to its respective successor. If the Issuer does not replace DTC, the Trustee will register and deliver to the Beneficial Owners replacement Bonds in the form of fully registered Bonds in accordance with the instructions from Cede & Co.

In the event DTC, any successor of DTC or the Issuer elects to discontinue the book-entry only system in conformity with the requirements of DTC, the Trustee shall deliver bond certificates in accordance with the instructions from DTC or its successor and after such time Bonds may be exchanged for an equal aggregate principal amount of Bonds in other Authorized Denominations and of the same maturity and Series upon surrender thereof at the designated corporate trust office of the Trustee.

[END OF ARTICLE II]

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upon the property against which the Special Assessments are made, coequal with the lien of all state, county, district and municipal ad valorem taxes and superior in priority to all other liens, titles and claims against said property then existing or thereafter created, until paid; (h) this Master Indenture and the applicable Supplemental Indenture has been duly and validly authorized, approved, and executed by the Issuer; (i) the issuance of the Series of Bonds has been duly authorized and approved by the Board; and (j) this Master Indenture and the applicable Supplemental Indenture (assuming due authorization, execution and delivery by the Trustee) constitutes a binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms except as enforcement thereof may be affected by bankruptcy, reorganization, insolvency, moratorium and other similar laws relating to creditors' rights generally and subject to equitable principles, whether in a proceeding at law or in equity (clauses (c) (d) and (e) shall not apply in the case of the issuance of a refunding Series of Bonds);

(3) a Consulting Engineer's certificate addressed to the Issuer and the Trustee setting forth the estimated cost of the Project, and in the case of an acquisition by the Issuer of all or a portion of the Project that has been completed, stating, in the signer's opinion, (a) that the portion of the Project improvements to be acquired from the proceeds of such Bonds have been completed in accordance with the plans and specifications therefor; (b) the Project improvements are constructed in a sound workmanlike manner and in accordance with industry standards; (c) the purchase price to be paid by the Issuer for the Project improvements is no more than the lesser of (i) the fair market value of such improvements and (ii) the actual Cost of construction of such improvements; and (d) the plans and specifications for the Project improvements have been approved by all Regulatory Bodies required to approve them (specifying such Regulatory Bodies) or such approval can reasonably be expected to be obtained; provided, however, that in lieu of the information required in clause (a), there may be delivered to the Trustee satisfactory evidence of the acceptance of operational and maintenance responsibility of each component of the Project by one or more governmental entities (the foregoing shall not be applicable in the case of the issuance of a refunding Series of Bonds); the Consulting Engineer's certificate may incorporate its engineering report by reference to satisfy all or some of the above requirements;

(4) a copy of the Supplemental Indenture for such Bonds, certified by the Secretary or Assistant Secretary of the Issuer as being a true and correct copy thereof;

(5) the proceeds of the sale of such Bonds together with any required equity deposit by the Developer;

(6) any Credit Facility authorized by the Issuer in respect to such Bonds;

(7) one or more Certified Resolutions of the Issuer relating to the levy of Special Assessments in respect of a Project, and evidencing that the Issuer has undertaken and, to the extent then required under applicable law, completed all necessary proceedings, including, without limitation, the approval of assessment rolls, the holding

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### ARTICLE III ISSUE OF BONDS

SECTION 3.01. Issue of Bonds. Subject to the provisions of Section 2.01 hereof, the Issuer may issue one or more Series of Bonds hereunder and under Supplemental Indentures from time to time for the purpose of financing the Cost of acquisition or construction of a Project or to refund all or a portion of a Series of Bonds (and to pay the costs of the issuance of such Bonds and to pay the amounts required to be deposited with respect to such Bonds in the Funds and Accounts established under the Indenture). In connection with the issuance of a Series of Bonds the Trustee shall, at the request of the Issuer, authenticate the Bonds and deliver or cause them to be authenticated and delivered, as specified in the request, but only upon receipt unless provided otherwise in any Supplemental Indenture of:

(1) a Certified Resolution of the Issuer (a) approving a Supplemental Indenture under which the Series of Bonds are to be issued; (b) providing the terms of the Bonds and directing the payments to be made into the Funds and Accounts in respect thereof as provided in Article V and VI hereof; (c) authorizing the execution and delivery of the Series of Bonds to be issued; and (d) if the purpose is to effectuate a refunding, authorizing the redemption, if any, of the Bonds to be refunded and the defeasance thereof, and the execution and delivery of an escrow agreement, if applicable, and other matters contained in Article XIV hereof;

(2) a written opinion or opinions of Counsel to the Issuer, which shall also be addressed to the Trustee, to the effect that: (a) all conditions prescribed herein as precedent to the issuance of the Bonds have been fulfilled; (b) the Bonds have been validly authorized and executed by the Issuer and when authenticated and delivered pursuant to the request of the Issuer will be valid obligations of the Issuer entitled to the benefit of the trust created hereby and will be enforceable in accordance with their terms except as enforcement thereof may be affected by bankruptcy, reorganization, insolvency, moratorium and other similar laws relating to creditors' rights generally and subject to equitable principles, whether in a proceeding at law or in equity; (c) any consents of any Regulatory Bodies required in connection with the issuance of the Bonds or in connection with the acquisition of the improvements included in the Project have been obtained or based on certifications of the Consulting Engineer can be reasonably expected to be obtained on or prior to the date such consents are required for a Project; (d) if the acquisition of any real property or interest therein is included in the purpose of such issue, (i) the Issuer has or can acquire good and marketable title thereto free from all liens and encumbrances except such as will not materially interfere with the proposed use thereof or (ii) the Issuer has or can acquire a valid, subsisting and enforceable leasehold, easement, right-of-way or other interest in real property sufficient to effectuate the purpose of the issue (which opinion may be stated in reliance on the opinion of other Counsel satisfactory to the signer or on a title insurance policy issued by a reputable title company); (e) the Issuer has good right and lawful authority under the Act to undertake the Project; (f) that the Special Assessment proceedings have been taken in accordance with Florida law and that the Issuer has taken all action necessary to levy and impose the Special Assessments; (g) that the Special Assessments are legal, valid, and binding liens

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of public hearings, the adoption of resolutions and the establishment of all necessary collection procedures, in order to levy and collect Special Assessments upon the District Lands in an amount sufficient to pay the Debt Service Requirement on the Bonds to be issued;

(8) an executed opinion of Bond Counsel, which shall be addressed to the Issuer and the Trustee;

(9) a written direction of the Issuer to the Trustee to authenticate and deliver such Bonds;

(10) a copy of a Final Judgment of validation and a Certificate of No Appeal with respect to the Bonds that are subject to validation or an opinion of Counsel that the Bonds are not subject to validation;

(11) a collateral assignment of the Project Documents, and a true-up agreement and completion agreement from the Developer to the Issuer;

(12) in the case of the issuance of a refunding Series of Bonds, an Officer's Certificate of the Issuer stating (a) the Bonds to be refunded; (b) any other amounts available for such purpose; (c) that the proceeds of the issue plus the other amounts, if any, stated to be available for the purpose will be sufficient to refund the Bonds to be refunded in accordance with the refunding plan and in compliance with Article XIV of this Master Indenture, including, without limitation, to pay the costs of issuance of such Bonds, and (d) that notice of redemption, if applicable, of the Bonds to be refunded has been duly given or that provision has been made therefor, as applicable;

(13) in the case of the issuance of a refunding Series of Bonds, a written opinion of Bond Counsel addressed to the Issuer and the Trustee to the effect that the issuance of such Bonds will not adversely affect the exclusion from gross income for federal income tax purposes of interest on any Bonds issued pursuant to the Indenture (to the extent that upon original issuance thereof such Bonds were issued as Bonds the interest on which is excludable from gross income for federal income tax purposes); and

(14) such other documents, certifications and opinions as shall be required by the Supplemental Indenture, by the Participating Underwriter or the initial purchaser of a Series of Bonds or by the Issuer or the Trustee upon advice of counsel.

At the option of the Issuer, any or all of the matters required to be stated in the Certified Resolution described in (1) above may instead be stated in a Supplemental Indenture, duly approved by a Certified Resolution of the Issuer. Execution of a Series of Bonds by the Issuer and payment of the purchase price of the initial issuance amount of a Series of Bonds shall be conclusive evidence of satisfaction of the conditions precedent, set forth in this Article, as to the Issuer and the Participating Underwriter.

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Notwithstanding the requirement of this Section 3.01, if the Issuer shall issue short-term notes, the Supplemental Indenture pursuant to which such short-term notes will specify what requirement of this Section 3.01 shall be applicable.

[END OF ARTICLE III]

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#### ARTICLE V ACQUISITION AND CONSTRUCTION FUND

SECTION 5.01. Acquisition and Construction Fund. The Trustee shall establish an Acquisition and Construction Fund into which shall be deposited the proceeds from each Series of Bonds issued under the Indenture (unless otherwise specified herein or in the applicable Supplemental Indenture for a Series of Bonds) and from which Costs may be paid as set forth herein and in the applicable Supplemental Indenture. Unless otherwise specified in the applicable Supplemental Indenture, a separate Series Account shall be established in the Acquisition and Construction Fund with respect to each Series of Bonds issued hereunder and the proceeds of each Series of Bonds (other than Bonds issued to refund all or a portion of the Bonds) shall be deposited into the corresponding Series Account in the Acquisition and Construction Fund. The amounts in any Series Account of the Acquisition and Construction Fund, until applied as hereinafter provided, shall be held for the security of the Holders of the Series of Bonds hereunder in respect of which such Series Account was established. Separate subaccounts within any Series Account of the Acquisition and Construction Fund shall be maintained by the Trustee in respect of each Series of Bonds upon request of the Issuer whenever, in the opinion of the Issuer, it is appropriate to have a separate accounting in respect of the Costs of any designated portion of a Project including, but not limited to, a costs of issuance subaccount. Payments shall be made from the appropriate Series Account of the Acquisition and Construction Fund to pay any unpaid costs of issuance of the Series of Bonds in question, including without limitation, legal, engineering, and consultants' fees and to pay amounts to be reimbursed to the Issuer for Costs advanced, and thereafter to pay Costs of planning, financing, acquisition, construction, reconstruction, equipping and installation of a Project or portion thereof.

(a) *Deposits.* In addition to the deposit of amounts received by the Trustee on the date of issuance of each Series of Bonds, the Issuer shall pay or cause to be paid to the Trustee, for deposit into the Series Account of the Acquisition and Construction Fund, as promptly as practicable, the following amounts:

(i) Subject to the provisions of Section 9.24 hereof, payments made to the Issuer from the sale, lease or other disposition of a Project or any portion thereof;

(ii) Subject to the provisions of Section 9.14 hereof, the balance of insurance proceeds with respect to the loss or destruction of a Project or any portion thereof; and

(iii) Deposits made by the Developer pursuant to the terms and provisions of a Developer Funding Agreement.

Amounts in the applicable Series Account of the Acquisition and Construction Fund shall be applied to pay the Cost of a Project or a portion thereof, as applicable, pertaining to the Series of Bonds in question; provided, however, that if any amounts remain in the Series Account of the Acquisition and Construction Fund after the Completion Date (as defined in paragraph (c) below) of a Project or portion thereof pertaining to the Series of Bonds in question, and if such amounts

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#### ARTICLE IV PLANS AND SPECIFICATIONS, AND COMPLIANCE

SECTION 4.01. Project to Conform to Plans and Specifications: Changes. The Issuer will proceed to complete any Project or portion thereof for which any Series of Bonds is being issued in accordance with the plans and specifications therefor, as such plans and specifications may be amended from time to time, and subject to the specific requirements of the Supplemental Indenture for such Series of Bonds.

SECTION 4.02. Compliance Requirements. The Issuer will comply with all present and future laws, acts, rules, regulations, orders and requirements lawfully made and applicable in fact to any acquisition or construction hereby undertaken and shall obtain all necessary approvals under federal, state and local laws, acts, rules and regulations necessary for the acquisition, completion and operation of any Project or portion thereof for which any Series of Bonds is being issued and shall complete any Project or portion thereof in conformity with such approvals, laws, rules and regulations. Prior to the completion of the Project, in the event that the Developer shall fail to pay, when due, any Special Assessments levied against lands within the District owned by the Developer or any affiliated entity, the Issuer shall immediately take all actions within its control and, to the extent it has legally available funds for such purpose, immediately take all actions within its power necessary to complete, or cause to be completed, the Project including taking control of the Project Documents.

[END OF ARTICLE IV]

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are not reserved for payment of any remaining part of the Cost of a Project, such amounts shall be transferred to the applicable Series Account of the Bond Redemption Fund for application to the redemption of Bonds of the Series to which such proceeds relate, as set forth in Section 6.06 hereof or in the applicable Supplemental Indenture.

(b) *Disbursements.* Unless provided otherwise in a Supplemental Indenture, all payments from the Acquisition and Construction Fund shall be paid in accordance with the provisions of this subsection. Moneys in the appropriate Series Account of the Acquisition and Construction Fund shall be disbursed by check, voucher, order, draft, certificate or warrant signed by any one or more officers or employees of the Trustee legally authorized to sign such items or by wire transfer to an account specified by the payee upon satisfaction of the conditions for disbursement set forth in this subsection (b). Before any such payment shall be made, the Issuer shall file with the Trustee a fully executed requisition in the form of Exhibit D attached hereto, signed by a Responsible Officer and, except for payments of cost of issuance, a certificate of the Consulting Engineer signed by a Consulting Engineer also in the form of Exhibit D attached hereto and as may be modified by terms of the related Supplemental Indenture. Upon receipt of each such requisition and accompanying certificate, the Trustee shall promptly withdraw from the appropriate Series Account of the Acquisition and Construction Fund and pay to the person, firm or corporation named in such requisition the amount designated in such requisition. The Trustee shall have no duty to investigate the accuracy or validity of the items delivered pursuant to this Section. All requisitions and certificates received by the Trustee pursuant to this Section 5.01 shall be retained in the possession of the Trustee, subject at all reasonable times to the inspection of the Issuer, the Consulting Engineer, the Owner of any Bonds, and the agents and representatives thereof. The Trustee shall have no duty to verify that the disbursement of funds pursuant to a requisition is for a purpose for which payment may be made hereunder and the Trustee may conclusively rely that a properly signed requisition is, on its face, sufficient to authorize disbursement of funds from the Acquisition and Construction Fund.

(c) *Completion of Project.* On the date of completion of a Project or if sufficient moneys are retained in the appropriate Series Account of the Acquisition and Construction Fund, to complete the Cost of a Project, in either case, as evidenced by the delivery to the Trustee of a Certificate of the Consulting Engineer and adoption of a resolution by the Board accepting a Project as provided by Section 170.09, Florida Statutes, as amended (the "Completion Date"), the balance in the appropriate Series Account of the Acquisition and Construction Fund not reserved by the Issuer for the payment of any remaining part of the Cost of a Project shall be transferred by the Trustee to, and deposited in, the applicable Series Account of the Bond Redemption Fund and applied as provided in Section 6.06 hereof and in the applicable Supplemental Indenture.

[END OF ARTICLE V]

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**ARTICLE VI  
SPECIAL ASSESSMENTS;  
APPLICATION THEREOF TO FUNDS AND ACCOUNTS**

SECTION 6.01. Special Assessments; Lien of Indenture on Pledged Revenues. The Issuer hereby covenants that it shall levy Special Assessments, and, unless provided otherwise with respect to a Series of Bonds, evidence and certify the same to the Tax Collector or shall cause the Property Appraiser to certify the same on the tax roll to the Tax Collector for collection by the Tax Collector and enforcement by the Tax Collector or the Issuer, pursuant to the Act, Chapter 170 or Chapter 197, Florida Statutes, or any successor statutes, as applicable, to the extent and in the amount necessary to pay the Debt Service Requirement on Bonds issued and Outstanding hereunder.

The Issuer shall pay to the Trustee for deposit in the Series Account of the Revenue Fund established under Section 6.03 hereof all Special Assessments received by the Issuer from the levy thereof on the District Lands subject to assessments for the payment of the related Series of Bonds; provided, however, that amounts received as Prepayments of Special Assessments shall be deposited directly into the applicable Series Account within the Bond Redemption Fund established hereunder or in any account thereof established pursuant to the applicable Supplemental Indenture. The Issuer shall notify the Trustee at the time of deposit of any amounts received as Prepayments of Special Assessments and shall identify the related Series of Bonds. If necessary, the Issuer shall direct the landowner making such prepayment to specify to what Series of Bonds such prepayments relate.

There are hereby pledged for the payment of the principal or Redemption Price of and interest on all Bonds of each Series issued and Outstanding under the Indenture and all reimbursements due to any Credit Facility Issuer for any drawing with respect to such Series of Bonds on its Credit Facility, including, without limitation, interest thereon, as required under the terms of the applicable Credit Facility Agreement, the Pledged Revenues; provided, however, that unless otherwise specifically provided herein or in a Supplemental Indenture relating to a Series of Bonds with respect to the Pledged Revenues securing such Series of Bonds, the Pledged Revenues securing a Series of Bonds shall secure only such Series of Bonds and Bonds issued on a parity therewith and shall not secure any other Bonds or Series of Bonds. The Pledged Revenues shall immediately be subject to the lien and pledge of the Indenture without any physical delivery hereof or further act; provided, however, that the lien and pledge of the Indenture shall not apply to any moneys transferred by the Trustee to the Rebate Fund. The foregoing notwithstanding, to the extent provided in the Supplemental Indenture authorizing the issuance of a Series of Bonds, such Series of Bonds may be made payable from and secured by less than all of the Pledged Revenues, and any one or more of the provisions of this Master Indenture may be made inapplicable to such Series of Bonds, all as more specifically provided in the corresponding Supplemental Indenture; provided, however, that any such provisions shall apply only to the particular Series of Bonds authorized by such Supplemental Indenture and shall not affect in any manner whatsoever any Outstanding Series of Bonds.

SECTION 6.02. Funds and Accounts Relating to the Bonds. The Funds and Accounts specified in this Article VI shall be established under this Master Indenture and each

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THIRD, beginning on the date set forth in the related Supplemental Indenture, and no later than the Business Day next preceding each May 1 or November 1, as so designated in the applicable Supplemental Indenture thereafter while Bonds of a Series issued under the Indenture remain Outstanding, to the applicable Series Sinking Fund Account of the Debt Service Fund, an amount equal to the principal amount of Bonds of such Series subject to mandatory sinking fund redemption on the next succeeding mandatory sinking fund redemption date, less any amount on deposit in the applicable Series Sinking Fund Account not previously credited;

FOURTH, upon receipt but no later than the Business Day preceding the first December 15 for which there remains an insufficient amount from Bond proceeds (or investment earnings thereon) on deposit in the applicable Series Interest Account to be applied to the payment of interest on the Bonds of a Series due on such November 1, and no later than the Business Day next preceding each November 1 thereafter while Bonds of such Series issued under the Indenture remain Outstanding, to the applicable Series Interest Account of the Debt Service Fund, an amount equal to the interest on the Bonds of such Series becoming due on the next succeeding November 1, less any amount on deposit in the applicable Series Interest Account not previously credited;

FIFTH, upon receipt but no later than the Business Day next preceding each Interest Payment Date while Bonds of a Series issued under the Indenture remain Outstanding, to the applicable Series Account of the Debt Service Reserve Fund, if any, an amount equal to the amount, if any, which is necessary to make the amount on deposit therein equal to the Debt Service Reserve Requirement;

SIXTH, subject to the following paragraph, the balance of any moneys remaining in a Series Account of the Revenue Fund after making the foregoing deposits shall, subject to application by one or more Supplemental Indentures, if applicable, remain therein, unless pursuant to any Arbitrage Certificate it is necessary to make a deposit in the Rebate Fund, in which case, the Issuer shall direct the Trustee to make such deposit thereto.

Unless otherwise provided in the applicable Supplemental Indenture, the Trustee shall within ten (10) Business Days after the last Interest Payment Date in any calendar year, at the direction of the Issuer, withdraw any moneys held for the credit of the Revenue Fund which are not otherwise required to be deposited pursuant to this Section and deposit such moneys as directed to the credit of the applicable Series Account of the Bond Redemption Fund in accordance with the provisions hereof. Notwithstanding the foregoing, if pursuant to any Arbitrage Certificate it is necessary to make a deposit in the Rebate Fund, the Issuer shall direct the Trustee to make such deposit thereto. Prepayments pledged to a particular Series of Bonds shall be deposited directly into the applicable Series Account of the Bond Redemption Fund as provided herein.

SECTION 6.04. Debt Service Fund. The Trustee is hereby authorized and directed to establish a Debt Service Fund which shall consist of amounts deposited therein by the Trustee and any other amounts the Issuer may pay to the Trustee for deposit therein with respect to the

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Supplemental Indenture pursuant to which a Series of Bonds is issued for the benefit of the specific Series of Bonds and any Series issued on a parity therewith and, unless expressly otherwise provided in said Supplemental Indenture, shall not apply to Bonds Outstanding hereunder issued under any other indenture supplemental hereto or if separately secured by separate Special Assessments. Unless provided otherwise by Supplemental Indenture, all moneys, including, without limitation, proceeds of a Series of Bonds, on deposit to the credit of the Funds and Accounts established hereunder and under a Supplemental Indenture (except for moneys transferred to the Rebate Fund) shall be pledged to the payment of the principal, redemption or purchase price of (as the case may be) and interest on the Series of Bonds issued hereunder and under such Supplemental Indenture, and any Series issued on a parity therewith.

SECTION 6.03. Revenue Fund. The Trustee is hereby authorized and directed to establish a Revenue Fund and pursuant to a Supplemental Indenture a Series Account for each Series of Bonds issued hereunder, into which the Trustee shall immediately deposit any and all Special Assessments received from the levy thereof on the District Lands or any portion thereof (other than Prepayments) and any amounts received as the result of any foreclosure, sale of tax certificates or other remedial action for nonpayment of Special Assessments for the payment of the related Series of Bonds and other payments required hereunder or under the applicable Supplemental Indenture (unless such Special Assessments and/or other payments are specifically designated by the Issuer pursuant to a Supplemental Indenture for deposit into the Rebate Fund or any other Fund or Account established hereunder or under a Supplemental Indenture) and each Series Account therein shall be held by the Trustee separate and apart from all other Funds and Accounts held under the Indenture and from all other moneys of the Trustee. The Trustee shall transfer from amounts on deposit in the Series Account in the Revenue Fund to the Funds and Accounts designated below, the following amounts, at the following times and in the following order of priority unless other times and/or other priorities are established in a Supplemental Indenture with respect to a Series of Bonds:

FIRST, upon receipt but no later than the Business Day preceding the first May 1 for which there is an insufficient amount from Bond proceeds (or investment earnings thereon) on deposit in the applicable Series Interest Account of the Debt Service Fund to be applied to the payment of interest on the Bonds of a Series due on such May 1, and no later than the Business Day next preceding each May 1 thereafter while Bonds of a Series issued under the Indenture remain Outstanding, to the applicable Series Interest Account of the Debt Service Fund, an amount equal to the interest on the related Series of Bonds becoming due on the next succeeding May 1, less any amount on deposit in such Interest Account not previously credited;

SECOND, beginning on the date set forth in the related Supplemental Indenture, and no later than the Business Day next preceding each May 1 or November 1, as designated in the applicable Supplemental Indenture thereafter while Bonds of a Series issued under the Indenture remain Outstanding, to the applicable Series Principal Account of the Debt Service Fund, an amount equal to the principal amount of Bonds of such Series maturing on the next succeeding principal payment date, less any amount on deposit in the applicable Series Principal Account not previously credited;

related Series of Bonds. The Debt Service Fund shall be held by the Trustee separate and apart from all other Funds and Accounts held under the Indenture and from all other moneys of the Trustee. The Trustee shall establish within the Debt Service Fund pursuant to a Supplemental Indenture, a Series Principal Account, a Series Interest Account and, if applicable, a Series Sinking Fund Account for each Series of Bonds and a Series Capitalized Interest Account, which accounts shall be separate and apart from all other Funds and Accounts established under the Indenture and from all other moneys of the Trustee.

The Trustee at all times shall make available to any Paying Agent the funds in the Series Principal Account and the Series Interest Account of the Debt Service Fund to pay the principal of the applicable Series of Bonds as they mature upon surrender thereof and the interest on the applicable Series of Bonds as it becomes payable, respectively. When a Series of Bonds is redeemed, the amount, if any, in the Debt Service Fund representing interest thereon shall be applied to the payment of accrued interest in connection with such redemption.

The Trustee shall apply moneys in the Series Sinking Fund Account in the Debt Service Fund for purchase or redemption of the applicable Series of Bonds in amounts and maturities set forth in the Supplemental Indenture. Whenever Bonds of a Series are to be purchased out of such Series Sinking Fund Account, if the Issuer shall notify the Trustee that the Issuer wishes to arrange for such purchase, the Trustee shall comply with the Issuer's arrangements provided they conform to the Indenture.

Except to the extent otherwise provided in a Supplemental Indenture with respect to a Series of Bonds, purchases and redemptions out of the Series Sinking Fund Account shall be made as follows:

(a) The Trustee shall apply the amounts required to be transferred to the applicable Series Sinking Fund Account (less any moneys applied to the purchase of Bonds of the applicable Series pursuant to the next sentence hereof) on the mandatory sinking fund redemption date in each of the years set forth in the Supplemental Indenture to the redemption of Bonds of the related Series in the amounts, manner and maturities and on the dates set forth in the Supplemental Indenture, at a Redemption Price of 100% of the principal amount thereof. At the written direction of the Issuer, the Trustee shall apply moneys from time to time available in the applicable Series Sinking Fund Account to the purchase of Bonds of the applicable Series which mature in the aforesaid years, at prices not higher than the principal amount thereof, in lieu of redemption as aforesaid, provided that firm purchase commitments can be made before the notice of redemption would otherwise be required to be given. In the event of purchases at less than the principal amount thereof, the difference between the amount in the Series Sinking Fund Account representing the principal amount of the Bonds so purchased and the purchase price thereof (exclusive of accrued interest) shall be transferred to the related Series Interest Account of the Debt Service Fund.

(b) Accrued interest on purchased Bonds of a Series shall be paid from the related Series Interest Account of the Debt Service Fund.

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(c) In lieu of paying the Debt Service Requirements necessary to allow any mandatory redemption of Bonds of a Series from the related Series Sinking Fund Account, the Issuer may present to the Trustee Bonds of such Series purchased by the Issuer pursuant to subparagraph (a) above and furnished for such purposes; provided, however, that no Bonds of such Series so purchased shall be credited towards the Debt Service Requirements in respect of the mandatory redemption of Bonds of such Series for which notice of redemption has been given pursuant to Section 8.02 of this Master Indenture. Any Bond so purchased shall be presented to the Trustee for cancellation. In such event, the Debt Service Requirements with respect to the Bonds of a Series for the period in which the purchased Bonds are presented to the Trustee shall, for all purposes hereunder, be reduced by an amount equal to the aggregate principal amount of any such Bonds so presented.

SECTION 6.05. Debt Service Reserve Fund. The Trustee is hereby authorized and directed to establish a Debt Service Reserve Fund and, if applicable, pursuant to a Supplemental Indenture a Series Account for each Series of Bonds issued hereunder. The Debt Service Reserve Fund and each Series Account therein shall be held by the Trustee solely for the benefit of each related Series of Bonds or sub-Series, as determined by the applicable Supplemental Indenture; provided, however, that notwithstanding anything to the contrary contained in this Master Indenture, the Supplemental Indenture authorizing the issuance of a Series of Bonds may provide that the Debt Service Reserve Fund is not applicable and no account therein shall secure such Series of Bonds. The Debt Service Reserve Fund and each Series Account therein shall constitute an irrevocable trust fund to be applied solely as set forth herein and shall be held by the Trustee separate and apart from all other Funds and Accounts held under the Indenture and from all other moneys of the Trustee. Unless otherwise provided in the Supplemental Indenture authorizing the issuance of a Series of Bonds, on the date of issuance and delivery of a Series of Bonds an amount of Bond proceeds or equity equal to the Debt Service Reserve Requirement in respect of such Series of Bonds, calculated as of the date of issuance and delivery of such Series of Bonds, shall be deposited in the related Series Account of the Debt Service Reserve Fund. Unless otherwise provided in the Supplemental Indenture with respect to a Series of Bonds, and as long as there exists no default under the Indenture and the amount in the Series Account of the Debt Service Reserve Fund is not reduced below the then applicable Debt Service Reserve Requirement with respect to such Series of Bonds, earnings on investments in the Series Account of the Debt Service Reserve Fund shall, prior to the Completion Date of a Project, be transferred to the applicable Acquisition and Construction Account of the Acquisition and Construction Fund, and after the Completion Date, shall be, at the written direction of the Issuer, transferred to the related Series Account of the Revenue Fund. Otherwise, earnings on investments in each Series Account of the Debt Service Reserve Fund shall be retained therein until applied as set forth herein. If made applicable in a Supplemental Indenture, in the event that the amount in a Series Account of the Debt Service Reserve Fund exceeds the Debt Service Reserve Requirement with respect to such Series of Bonds due to a decrease in the then applicable Debt Service Reserve Requirement as a result of an optional prepayment by the owner of a lot or parcel of land of Special Assessments against such lot or parcel or a mandatory true-up payment, which Special Assessments are pledged for the payment and security of such Series of Bonds, the excess amount shall, as directed by the terms of the applicable Supplemental Indenture, be transferred from the Series Account of the Debt Service Reserve Fund to the applicable Series Account or

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transferred from the Series Account within the Bond Redemption Fund to the Rebate Fund shall thereupon be free from the lien and pledge of the related Indenture;

SECOND, to be used to call for redemption pursuant to clause (b) of Section 8.01 hereof an amount of Bonds of the applicable Series equal to the amount of money transferred to the Series Account within the Bond Redemption Fund pursuant to the aforesaid clauses or provisions, as appropriate, for the purpose of such extraordinary mandatory redemption on the dates and at the prices provided in such clauses or provisions, as appropriate; and

THIRD, the remainder to be utilized by the Trustee, at the direction of a Responsible Officer, to call for redemption on each Interest Payment Date or other date on which Bonds of the applicable Series are subject to optional redemption pursuant to Section 8.01(a) hereof such amount of Bonds of the applicable Series taking into account any redemption premium, as may be practicable; provided, however, that not less than Five Thousand Dollars (\$5,000) principal amount of Bonds of the applicable Series shall be called for redemption at one time.

Any such redemption shall be made in accordance with the provisions of Article VIII of this Master Indenture and the applicable provisions of the related Supplemental Indenture. The Issuer shall pay all expenses in connection with such redemption.

SECTION 6.07. Drawings on Credit Facility. With respect to Bonds in respect of which there has been issued a Credit Facility, the Trustee shall draw on the Credit Facility, in accordance with the provisions for drawing under such Credit Facility, and within the requisite time period, all as set forth in the Credit Facility Agreement or the Supplemental Indenture.

SECTION 6.08. Procedure When Funds Are Sufficient to Pay All Bonds of a Series. Unless otherwise provided in the Supplemental Indenture with respect to a Series of Bonds, if at any time the moneys held by the Trustee in the Funds (other than the moneys in the Rebate Fund) and Accounts hereunder and under a Supplemental Indenture and available therefor are sufficient to pay the principal or Redemption Price of, as the case may be, and interest on all Bonds of a Series then Outstanding under such Indenture to maturity or prior redemption, together with any amounts due the Issuer and the Trustee, Paying Agent, Registrar and Credit Facility Issuer, if any, the Trustee, at the direction of the Issuer, shall apply the amounts in the Series Funds and Series Accounts to the payment of the aforesaid obligations and the Issuer shall not be required to pay over any further Pledged Revenues with respect to such Series of Bonds unless and until it shall appear that there is a deficiency in the Funds and Accounts held by the Trustee.

SECTION 6.09. Certain Moneys to Be Held for Series Bondowners Only. Each Series of Bonds issued pursuant to this Master Indenture and the related Supplemental Indenture shall be secured by Pledged Revenues, as set forth herein, and otherwise may be secured by such additional Funds and Accounts and other security (including, but not limited to, Credit Facilities) established by the pertinent Supplemental Indenture. Moneys and investments in the various Funds and Accounts created under a Supplemental Indenture expressly and solely for the benefit

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Subaccount of the Bond Redemption Fund established for such Series of Bonds and shall constitute a credit against such optional prepayment or true-up payment. If made applicable in the Supplemental Indenture with respect to a Series of Bonds, in the event that the amount in a Series Account of the Debt Service Reserve Fund exceeds the Debt Service Reserve Requirement with respect to such Series of Bonds due to a decrease in the then applicable Debt Service Reserve Requirement for any other reason, the excess amount shall, as directed by the terms of the applicable Supplemental Indenture, be transferred from the Series Account of the Debt Service Reserve Fund to the applicable Series Account or Subaccount of the Bond Redemption Fund.

Whenever for any reason on an Interest Payment Date, principal payment date or mandatory redemption date with respect to a related Series of Bonds secured by a Series Account of the Debt Service Reserve Fund the amount in the related Series Interest Account, the related Series Principal Account or the related Series Sinking Fund Account, as the case may be, is insufficient to pay all amounts payable on such Series of Bonds therefrom on such payment dates, the Trustee shall, without further instructions, transfer the amount of any such deficiency from the related Series Account of the Debt Service Reserve Fund into the related Series Interest Account, the related Series Principal Account and the related Series Sinking Fund Account, as the case may be, with priority to the related Series Interest Account and then, proportionately according to the respective deficiencies therein, to the related Series Principal Account and the related Series Sinking Fund Account, to be applied to pay the Series of Bonds secured by the Series Account of the Debt Service Reserve Fund.

SECTION 6.06. Bond Redemption Fund. Unless provided otherwise in a Supplemental Indenture with respect to a Series of Bonds, the Trustee is hereby authorized and directed to establish a Bond Redemption Fund and pursuant to a Supplemental Indenture a Series Account within the Bond Redemption Fund for each Series of Bonds issued hereunder into which shall be deposited, moneys in the amounts and at the times provided in Sections 5.01, 6.01, 6.03, 6.05, 9.08 and 9.14(c) of this Master Indenture. The Series Account within the Bond Redemption Fund shall constitute an irrevocable trust fund to be applied solely as set forth in the applicable Supplemental Indenture and shall be held by the Trustee separate and apart from all other Funds and Accounts held under such Indenture and from all other moneys of the Trustee. All earnings on investments held in the Series Account within the Bond Redemption Fund shall be retained therein and applied as set forth below.

Moneys in the Series Account within the Bond Redemption Fund (including all earnings on investments held in the Series Account within the Bond Redemption Fund) shall be accumulated therein to be used in the following order of priority, to the extent that the need therefor arises:

FIRST, (except for amounts resulting from Prepayments of Special Assessments, which shall be applied as provided in the next paragraph) make such deposits into the Rebate Fund created and established under this Master Indenture as the Issuer may direct in accordance with an arbitrage rebate agreement, such moneys thereupon to be used solely for the purposes specified in said arbitrage rebate agreement. Any moneys so

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of the Series of Bonds issued under such Supplemental Indenture shall be held in trust by the Trustee for the benefit of the Holders of, and Credit Facility Issuer with respect to, Bonds of that Series only.

SECTION 6.10. Unclaimed Moneys. In the event any Bond shall not be presented for payment when the principal of such Bond becomes due, either at maturity or at the date fixed for redemption of such Bond or otherwise, if amounts sufficient to pay such Bond have been deposited with the Trustee for the benefit of the owner of the Bond and have remained unclaimed for three (3) years after the date payment thereof becomes due, such amounts shall, upon request of the Issuer, if the Issuer is not at the time to the knowledge of the Trustee in default with respect to any covenant in this Master Indenture, any Supplemental Indenture or the Bonds contained, be paid to the Issuer; and the Owners of the Bonds for which the deposit was made shall thereafter be limited to a claim against the Issuer; provided, however, that the Trustee, before making payment to the Issuer, may, at the expense of the Issuer and if directed by the Issuer, cause a notice to be published in an Authorized Newspaper, stating that the money remaining unclaimed will be returned to the Issuer after a specified date.

SECTION 6.11. Rebate Fund. The Trustee is hereby authorized and directed to establish a Rebate Fund. Unless provided otherwise in a Supplemental Indenture, at the written direction of the Issuer, the Trustee shall transfer monies from the applicable Series Account in the Revenue Fund and deposit the same to the Rebate Fund, and shall make payments therefrom at the times and in the amounts required to comply with any applicable provisions in the applicable Arbitrage Certificate. If so directed by the Issuer in writing, the Trustee shall create one or more Series Accounts within the Rebate Fund relating to one or more particular Series of Bonds.

(a) All amounts held in the Rebate Fund shall be governed by this Section and the applicable Arbitrage Certificate. The Trustee shall be entitled to rely on the rebate calculations obtained from the rebate analyst retained by the Issuer pursuant to any Arbitrage Certificate and the Trustee shall not be responsible for any loss or damage resulting from any good faith action taken or omitted to be taken by the Issuer in reliance upon such calculations.

(b) Pursuant to the applicable Arbitrage Certificate, the Trustee shall remit all rebate installments and a final rebate payment to the United States. The Trustee shall have no obligation to pay any amounts required to be rebated pursuant to this Section and the applicable Arbitrage Certificate, other than at the direction of the Issuer and from moneys held in the Rebate Fund or from other moneys provided to it by the Issuer. Any moneys remaining in the Rebate Fund after redemption and payment of all of the Bonds and payment and satisfaction of any arbitrage rebate shall be withdrawn and paid to the Issuer.

(c) Notwithstanding any other provision of this Master Indenture, including in particular Article XIV hereof, the obligation to pay arbitrage rebate to the United States and to comply with all other requirements of this Section and the Arbitrage Certificate shall survive the defeasance or payment in full of the Bonds.

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The Trustee shall not be deemed to have constructive knowledge of the Code or regulations, rulings and judicial decisions concerning the Code.

[END OF ARTICLE VI]

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Fund. Upon request of the Issuer, or on its own initiative whenever payment is to be made out of any Fund or Account, the Trustee shall sell such securities as may be requested to make the payment and restore the proceeds to the Fund or Account in which the securities were held. The Trustee shall not be accountable for any depreciation in the value of any such security or for any loss resulting from the sale thereof. If net proceeds from the sale of securities held in any Fund or Account shall be less than the amount invested and, as a result, the amount on deposit in such Fund or Account is less than the amount required to be on deposit in such Fund or Account, the amount of such deficit shall be transferred to such Fund or Account from the related Series Account of the Revenue Fund.

Absent specific instructions as aforesaid or absent standing instructions from the Issuer for investment of such moneys, then the Trustee shall not be responsible or liable for keeping the moneys invested. The Trustee shall not be liable or responsible for any loss or failure to achieve the highest return, or entitled to any gain, resulting from any investment or sale upon the investment instructions of the Issuer or otherwise, including that set forth in the first sentence of this paragraph. The Trustee may make any investments permitted by the provisions of this section through its own bond department or investment department. The Trustee shall have no liability for making any investment directed by the Issuer.

SECTION 7.03. Valuation of Funds. The Trustee shall value the assets in each of the Funds and Accounts established hereunder or under any Supplemental Indenture forty-five (45) days prior to each Interest Payment Date, and as soon as practicable after each such valuation date (but no later than ten (10) days after each such valuation date) shall provide the Issuer a report of the status of each Fund and Account as of the valuation date. In computing the assets of any Fund or Account, investments and accrued interest thereon shall be deemed a part thereof, subject to Section 7.02 hereof. For the purpose of determining the amount on deposit to the credit of any Fund or Account established hereunder or under any Supplemental Indenture, obligations in which money in such Fund or Account shall have been invested shall be valued at the market value or the amortized cost thereof, whichever is lower, or at the redemption price thereof, to the extent that any such obligation is then redeemable at the option of the holder. For the purpose of determining the amount on deposit to the credit of the Debt Service Reserve Fund, obligations in which money in such Fund shall have been invested shall be valued at par, if purchased at par, or at amortized cost, if purchased at other than par, plus, in each case, accrued interest. Amortized cost, when used with respect to an obligation purchased at a premium above or a discount below par, means the value as of any given time obtained by dividing the total premium or discount at which such obligation was purchased by the number of days remaining to maturity on such obligation at the date of such purchase and by multiplying the amount thus calculated by the number of days having passed since such purchase; and (i) in the case of an obligation purchased at a premium by deducting the product thus obtained from the purchase price, and (ii) in the case of an obligation purchased at a discount by adding the product thus obtained to the purchase price.

[END OF ARTICLE VII]

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## ARTICLE VII SECURITY FOR AND INVESTMENT OR DEPOSIT OF FUNDS

SECTION 7.01. Deposits and Security Thereof. Unless otherwise as provided in the Supplemental Indenture with respect to a Series of Bonds, all moneys received by the Trustee under a Supplemental Indenture for deposit in any Fund or Account established under this Master Indenture or such Supplemental Indenture shall be considered trust funds, shall not be subject to lien or attachment, except for the lien created by this Master Indenture and the related Supplemental Indenture, and shall be deposited with the Trustee, until or unless invested or deposited as provided in Section 7.02 hereof. All deposits of moneys received by the Trustee under this Master Indenture or such Supplemental Indenture (whether original deposits under this Section 7.01 or deposits or redeposits in time accounts under Section 7.02) shall, to the extent not insured, except with respect to an investment of the type specified in clause (iii) of the definition of Investment Securities, and to the extent permitted by law, be fully secured as to both principal and interest earned, by Investment Securities. If at any time the Trustee is unwilling to accept such deposits or unable to secure them as provided above, the Trustee may deposit such moneys with any other depository which is authorized to receive them and the deposits of which are insured by the Federal Deposit Insurance Corporation (including the FDIC Savings Association Insurance Fund). All deposits in any other depository in excess of the amount covered by insurance (whether under this Section 7.01 or Section 7.02 as aforesaid) shall, except with respect to an investment of the type specified in clause (iii) of the definition of Investment Securities, to the extent permitted by law, be fully secured as to both principal and interest earned, in the same manner as required herein for deposits with the Trustee. Such security shall be deposited with a Federal Reserve Bank, with the trust department of the Trustee as authorized by law with respect to trust funds in the State, or with a bank or trust company having a combined net capital and surplus of not less than \$50,000,000.

SECTION 7.02. Investment or Deposit of Funds. Except to the extent otherwise provided in a Supplemental Indenture with respect to a Series of Bonds, the Trustee shall, as directed by the Issuer in writing, invest moneys held in the Series Accounts in the Debt Service Fund, any Series Account within the Debt Service Reserve Fund and any Series Account within the Bond Redemption Fund created under any Supplemental Indenture only in Investment Securities. All deposits in time accounts shall be subject to withdrawal without penalty and all investments shall mature or be subject to redemption by the holder without penalty, not later than the date when the amounts will foreseeably be needed for purposes set forth herein or in the Supplemental Indenture with respect to a Series of Bonds. All securities securing investments under this Section shall be deposited with a Federal Reserve Bank, with the trust department of the Trustee, as authorized by law with respect to trust funds in the State, or with a bank or trust company having a combined net capital and surplus of not less than \$50,000,000. The interest and income received upon such investments and any interest paid by the Trustee or any other depository of any Fund or Account and any profit or loss resulting from the sale of securities shall be added or charged to the Fund or Account for which such investments are made; provided, however, that if the amount in any Fund or Account equals or exceeds the amount required to be on deposit therein, subject to Section 6.05 of this Master Indenture and unless otherwise provided in a Supplemental Indenture with respect to a Series of Bonds, any interest and other income so received shall be deposited in the related Series Account of the Revenue

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## ARTICLE VIII REDEMPTION AND PURCHASE OF BONDS

SECTION 8.01. Redemption Dates and Prices. Unless provided otherwise in a Supplemental Indenture with respect to a Series of Bonds, the Bonds of a Series may be made subject to optional, mandatory and extraordinary redemption and purchase, either in whole or in part (and if in part in Authorized Denominations), by the Issuer, prior to maturity in the amounts, at the times and in the manner provided in this Article VIII and in the related Supplemental Indenture.

(a) Optional Redemption. Bonds of a Series shall be subject to optional redemption at the direction of the Issuer, at the times and upon payment of the redemption price as provided in the related Supplemental Indenture.

(b) Extraordinary Mandatory Redemption in Whole or in Part. Except as otherwise provided in a Supplemental Indenture with respect to Bonds of the related Series, Bonds of a Series are subject to extraordinary mandatory redemption prior to maturity by the Issuer in whole, on any date, or in part, on any Interest Payment Date, at an extraordinary mandatory redemption price equal to 100% of the principal amount of the Bonds to be redeemed, plus interest accrued to the redemption date, (i) from moneys deposited into the related Series Account within the Bond Redemption Fund following the payment of Special Assessments on any portion of the District Lands in accordance with the provisions of Section 9.08 hereof; (ii) when sufficient moneys are on deposit in the related Series Funds and Accounts (other than moneys in the Rebate Fund and any other excluded Fund or Account as provided in a Supplemental Indenture with respect to a Series of Bonds) to pay and redeem all Outstanding Bonds of a Series and accrued interest thereon to the redemption date in addition to all amounts owed to Persons under the related Indenture; (iii) if made applicable in the Supplemental Indenture with respect to a Series of Bonds, from moneys in excess of the Debt Service Reserve Requirement for a Series of Bonds in the applicable Series Account of the Debt Service Reserve Fund transferred to the Series Account within the Bond Redemption Fund pursuant to Section 6.05 hereof; (iv) if made applicable in the Supplemental Indenture with respect to a Series of Bonds, from excess moneys transferred from the Series Account of the Revenue Fund to the Series Account within the Bond Redemption Fund in accordance with Section 6.03 of this Master Indenture; (v) if the following is made applicable by the terms of a Supplemental Indenture, from moneys, if any, on deposit in the Series Account within the Bond Redemption Fund pursuant to Section 9.14(c) hereof following condemnation or the sale of any portion of the District Lands benefited by a Project to a governmental entity under threat of condemnation by such governmental entity or the damage or destruction of all or substantially all of the Project when such moneys are not to be used pursuant to Section 9.14(c) to repair, replace or restore the Project; provided, however, that at least forty-five (45) days prior to such extraordinary mandatory redemption, the Issuer shall cause to be delivered to the Trustee (x) notice setting forth the redemption date and (y) a certificate of the Consulting Engineer confirming that the repair and restoration of the Project would not be economical or would be impracticable; or (vi) from amounts transferred to the Series Account of the Bond Redemption Fund from the Series Account of the Acquisition and Construction Fund in accordance with Section 5.01(c) hereof.

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(c) Mandatory Sinking Fund Redemption. Bonds of a Series may be subject to mandatory sinking fund redemption at a Redemption Price of 100% of the principal amount thereof plus accrued interest to the redemption date, in the years and amounts set forth in a Supplemental Indenture.

In connection with such mandatory sinking fund redemption of Bonds, amounts shall be transferred from the applicable Series Account of the Revenue Fund to the Series Sinking Fund Account of the Debt Service Fund, all as more particularly described in Section 6.03 hereof.

The principal amounts of scheduled mandatory sinking fund payments shall be reduced as specified by the Issuer or as provided in Section 8.04 hereof by any principal amounts of the Bonds redeemed pursuant to Section 8.01(a) and (b) hereof or purchased and cancelled pursuant to Section 6.04 hereof.

Upon any redemption or purchase of Bonds other than in accordance with scheduled mandatory sinking fund payments, the Issuer shall cause to be recalculated and delivered to the Trustee a revised mandatory sinking fund schedule recalculated so as to amortize the Outstanding principal amount of Bonds of such Series in substantially equal annual installments of principal and interest (subject to rounding to Authorized Denominations of principal) over the remaining term of the Bonds of such Series. The mandatory sinking fund payments as so recalculated shall not result in an increase in the aggregate of the mandatory sinking fund payments for all Bonds of such Series in any year. In the event of a redemption or purchase occurring less than forty-five (45) days prior to a date on which a mandatory sinking fund payment is due, the foregoing recalculation shall not be made to the mandatory sinking fund payment due in the year in which such redemption or purchase occurs, but shall be made to mandatory sinking fund payments for the immediately succeeding and subsequent years.

SECTION 8.02. Notice of Redemption and of Purchase. Except where otherwise required by a Supplemental Indenture, when required to redeem or purchase Bonds of a Series under any provision of the related Indenture or directed to do so by the Issuer, the Trustee shall cause notice of the redemption, either in whole or in part, to be mailed by first class mail, postage prepaid at least thirty (30) but not more than sixty (60) days prior to the redemption or purchase date to all Owners of Bonds to be redeemed or purchased (as such Owners appear on the Bond Register on the fifth (5th) day prior to such mailing), at their registered addresses, but failure to mail any such notice or defect in the notice or in the mailing thereof shall not affect the validity of the redemption or purchase of the Bonds of such Series for which notice was duly mailed in accordance with this Section 8.02. The Issuer shall, when it is directing the Trustee to mail such notice, provide written direction to the Trustee at least forty-five (45) days (unless the Trustee agrees to a shorter period) prior to the date on which the Trustee is required to send notice hereunder. Such notice shall be given in the name of the Issuer, shall be dated, shall set forth the Bonds of such Series Outstanding which shall be called for redemption or purchase and shall include, without limitation, the following additional information:

- (a) the redemption or purchase date;
- (b) the redemption or purchase price;

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bear interest on the specified redemption date, shall no longer be secured by the related Indenture and shall not be deemed to be Outstanding under the provisions of the related Indenture.

Payment of the Redemption Price, together with accrued interest, shall be made by the Trustee or Paying Agent to or upon the order of the Owners of the Bonds called for redemption upon surrender of such Bonds. The Redemption Price of the Bonds to be redeemed, the expenses of giving notice and any other expenses of redemption, shall be paid out of the Fund from which redemption is to be made or by the Issuer, or as specified in a Supplemental Indenture.

SECTION 8.04. Partial Redemption of Bonds. Except to the extent otherwise provided in a Supplemental Indenture, if less than all of a Series of Bonds of a maturity are to be redeemed, the Trustee shall select the particular Bonds or portions of the Bonds to be called for redemption randomly in such reasonable manner as the Trustee in its discretion may determine. In the case of any partial redemption of Bonds of a Series pursuant to Section 8.01(a), such redemption shall be effectuated by redeeming Bonds of such Series of such maturities in such manner as shall be specified by the Issuer in writing, subject to the provisions of Section 8.01 hereof. In the case of any partial redemption of Bonds of a Series pursuant to Section 8.01(b), such redemption shall be effectuated by redeeming Bonds of such Series pro rata among the maturities, treating each date on which a Sinking Fund Installment is due as a separate maturity for such purpose, with the portion to be redeemed from each maturity being equal to the product of the aggregate principal amount of Bonds of such Series to be redeemed multiplied times a fraction the numerator of which is the principal amount of the Series of Bonds of such maturity outstanding immediately prior to the redemption date and the denominator of which is the aggregate principal amount of all Bonds of such Series outstanding immediately prior to the redemption date, rounded up or down to the nearest \$5,000 amount in order to maintain Authorized Denominations.

[END OF ARTICLE VIII]

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(c) CUSIP numbers, to the extent applicable, and any other distinctive numbers and letters;

(d) if less than all Outstanding Bonds of a Series to be redeemed or purchased, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed or purchased;

(e) that on the redemption or purchase date the Redemption Price or purchase price will become due and payable upon surrender of each such Bond or portion thereof called for redemption or purchase, and that interest thereon shall cease to accrue from and after said date; and

(f) the place where such Bonds are to be surrendered for payment of the redemption or purchase price, which place of payment shall be a corporate trust office of the Trustee.

If at the time of mailing of notice of redemption or purchase, the Issuer shall not have deposited with the Trustee or Paying Agent moneys sufficient to redeem or purchase all the Bonds called for redemption or purchase, such notice shall state that it is subject to the deposit of the redemption or purchase moneys with the Trustee or Paying Agent, as the case may be, not later than the opening of business on the redemption or purchase date, and such notice shall be of no effect unless such moneys are so deposited.

If the amount of funds deposited with the Trustee for such redemption, or otherwise available, is insufficient to pay the Redemption Price and accrued interest on the Bonds so called for redemption on the redemption date, the Trustee shall redeem and pay on such date an amount of such Bonds for which such funds are sufficient, selecting the Bonds to be redeemed randomly from among all such Bonds called for redemption on such date, and among different maturities of Bonds in the same manner as the initial selection of Bonds to be redeemed, and from and after such redemption date, interest on the Bonds or portions thereof so paid shall cease to accrue and become payable; but interest on any Bonds or portions thereof not so paid shall continue to accrue until paid at the same rate as it would have had such Bonds not been called for redemption.

The notices required to be given by this Section 8.02 shall state that no representation is made as to correctness or accuracy of the CUSIP numbers listed in such notice or printed on the Bonds.

SECTION 8.03. Payment of Redemption Price. If any required (a) unconditional notice of redemption has been duly mailed or waived by the Owners of all Bonds called for redemption or (b) conditional notice of redemption has been so mailed or waived and the redemption moneys have been duly deposited with the Trustee or Paying Agent, then in either case, the Bonds called for redemption shall be payable on the redemption date at the applicable Redemption Price plus accrued interest, if any, to the redemption date. Bonds of a Series so called for redemption, for which moneys have been duly deposited with the Trustee, will cease to

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## ARTICLE IX COVENANTS OF THE ISSUER

SECTION 9.01. Power to Issue Bonds and Create Lien. The Issuer is duly authorized under the Act and all applicable laws of the State to issue the Bonds, to adopt and execute this Master Indenture and to pledge the Pledged Revenues for the benefit of the Bonds of a Series and any Credit Facility Issuer, except to the extent otherwise provided in a Supplemental Indenture. The Pledged Revenues are not and shall not be subject to any other lien senior to or on a parity with the lien created in favor of the Bonds of a Series and any Credit Facility Issuer with respect to such Series. The Bonds and the provisions of this Master Indenture and any Supplemental Indenture are and will be valid and legally enforceable obligations of the Issuer in accordance with their respective terms. The Issuer shall, at all times, to the extent permitted by law, defend, preserve and protect the pledge created by this Master Indenture and any Supplemental Indenture and all the rights of the Bondholders and any Credit Facility Issuer under this Master Indenture and any Supplemental Indenture against all claims and demands of all other Persons whomsoever.

SECTION 9.02. Payment of Principal and Interest on Bonds. The payment of the principal or Redemption Price of and interest on all of the Bonds of a Series issued under the related Indenture shall be secured forthwith equally and ratably by a first lien on and pledge of the Pledged Revenues so pledged, except to the extent otherwise provided in a Supplemental Indenture; and such Pledged Revenues are hereby irrevocably pledged to the payment of the principal or Redemption Price of and interest on the Bonds of a Series authorized under the related Indenture, as the same become due and payable. The Issuer shall promptly pay the interest on and the principal or Redemption Price of every Bond issued hereunder according to the terms thereof, but shall be required to make such payment only out of the Pledged Revenues.

THE BONDS AUTHORIZED UNDER THIS MASTER INDENTURE AND THE RELATED SUPPLEMENTAL INDENTURE AND THE OBLIGATIONS EVIDENCED THEREBY SHALL NOT CONSTITUTE A LIEN UPON ANY PROPERTY OF THE ISSUER, INCLUDING, WITHOUT LIMITATION, A PROJECT OR ANY PORTION THEREOF IN RESPECT OF WHICH ANY SUCH BONDS ARE BEING ISSUED, OR ANY PART THEREOF, BUT SHALL CONSTITUTE A LIEN ONLY ON THE PLEDGED REVENUES AS SET FORTH IN THIS MASTER INDENTURE AND ANY SUPPLEMENTAL INDENTURE. NOTHING IN THE BONDS AUTHORIZED UNDER THIS MASTER INDENTURE AND ANY SUPPLEMENTAL INDENTURE SHALL BE CONSTRUED AS OBLIGATING THE ISSUER TO PAY THE BONDS OR THE REDEMPTION PRICE THEREOF OR THE INTEREST THEREON EXCEPT FROM THE PLEDGED REVENUES, OR AS PLEDGING THE FAITH AND CREDIT OF THE ISSUER, THE CITY, THE COUNTY, THE STATE OR ANY OTHER POLITICAL SUBDIVISION THEREOF, OR AS OBLIGATING THE ISSUER, THE CITY, THE COUNTY, THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS, DIRECTLY OR INDIRECTLY OR CONTINGENTLY, TO LEVY OR TO PLEDGE ANY FORM OF TAXATION WHATEVER THEREOF.

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SECTION 9.03. Special Assessments; Re-Assessments.

(a) The Issuer shall levy Special Assessments, and, unless the Issuer collects the Special Assessments directly under the conditions set forth herein, evidence and certify the same to the Tax Collector or shall cause the Property Appraiser to certify the same on the tax roll to the Tax Collector for collection by the Tax Collector and enforcement by the Tax Collector or the Issuer pursuant to the Act, Chapter 170 or Chapter 197, Florida Statutes, or any successor statutes, as applicable, and Section 9.04 hereof, to the extent and in an amount sufficient to pay Debt Service Requirements on all Outstanding Bonds. The Issuer shall also diligently collect any true-up payments that the Developer is required to make. The Issuer covenants and agrees that upon the occurrence and continuance of an Event of Default, it will take such actions to enforce the remedial provisions of this Master Indenture, as supplemented in connection with the Series of Bonds as to which the Event of Default occurred, including the remedial provisions for collection of delinquent Special Assessments, the provisions for foreclosure of liens of delinquent Special Assessments and delinquent operation and maintenance assessments, and will take such other remedial actions as shall be directed by the Trustee acting at the direction of, and on behalf of, the Majority Holders of the Series of Bonds as to which the Event of Default occurred.

(b) If any Special Assessment shall be either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the Issuer shall be satisfied that any such Special Assessment is so irregular or defective that the same cannot be enforced or collected, or if the Issuer shall have omitted to make such Special Assessment when it might have done so, the Issuer shall either (i) take all necessary steps to cause a new Special Assessment to be made for the whole or any part of said improvement or against any property benefited by said improvement, or (ii) in its sole discretion, make up the amount of such Special Assessment from any legally available moneys, which moneys shall be deposited into the applicable Series Account in the Revenue Fund. In case such second Special Assessment shall be annulled, the Issuer shall obtain and make other Special Assessments until a valid Special Assessment shall be made.

SECTION 9.04. Method of Collection. Special Assessments shall be collected by the Issuer in accordance with the provisions of the Act and Chapter 197, Florida Statutes, or any successor statutes thereto, as applicable, in accordance with the terms of this Section. Except as stated in the next succeeding sentence or during the continuance of an Event of Default and the Majority Holders of a Series of Bonds are providing direction as to the method of collection, the Issuer shall use the uniform method for the levy, collection and enforcement of Special Assessments afforded by Sections 197.3631, 197.3632 and 197.3635, Florida Statutes, or any successor statutes thereto (the "Uniform Method"), and to do all things necessary to continue to use the Uniform Method or a comparable alternative method afforded by Section 197.3631, Florida Statutes. Notwithstanding the foregoing, the Issuer shall not collect Special Assessments pursuant to the Uniform Method levied against District Lands and will direct bill the applicable landowners for the same either prior to platting of such lands or the lands have been platted but are still owned by the Developer or if the timing for using the Uniform Method will not yet allow for using such method, unless the Trustee at the direction of the Majority Holders of the applicable Series of Bonds directs the Issuer otherwise upon an Event of Default. Upon any

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SECTION 9.08. Removal of Special Assessment Liens. Except as otherwise provided in a Supplemental Indenture with respect to a related Series of Bonds, the following procedures shall apply in connection with the removal of Special Assessment liens:

(a) At any time subsequent to thirty (30) days after a Project has been completed within the meaning of Section 5.01(c) hereof and the Board has adopted a resolution accepting a Project as provided by Section 170.09, Florida Statutes, as amended, any owner of property subject to the Special Assessments may, at its option, and under certain circumstances described in the assessment resolutions in connection with prepayments derived from application of the "True-Up" mechanism therein, require the Issuer, upon receipt of the prepayment by the Trustee, to release and extinguish the lien, in whole or in part, upon its property by virtue of the levy of the Special Assessments by paying to the Issuer the entire amount or a portion, as the case may be, of the Special Assessment, plus accrued interest, attributable to the property subject to Special Assessment owned by such owner to the earlier of the next Interest Payment Date occurring at least forty-five (45) days after the Trustee receives such Prepayment. If any such prepayment of Special Assessments shall occur within thirty (30) days after a Project has been completed and the Board has adopted a resolution accepting a Project as provided in Section 170.09, Florida Statutes, as amended, no accrued interest shall be required to be paid unless such right to not pay accrued interest has been irrevocably waived by the landowners within the District. The Issuer shall promptly notify the Trustee in writing of any Prepayment made under such circumstances. Accrued interest on any Bonds that would be redeemed as a result of such Prepayment made within thirty (30) days after the Board has adopted a resolution accepting a Project shall be derived from moneys on deposit in the Interest Account or capitalized interest account and if no moneys remain, from moneys on deposit in the Debt Service Reserve Account or as otherwise provided pursuant to the applicable Supplemental Indenture.

(b) Upon receipt of a Prepayment as described in (a) above, the Issuer shall within five (5) Business Days pay the amount so received to the Trustee, and the Issuer shall take such action as is necessary to record in the official records of the County an affidavit or affidavits as the case may be, executed by an authorized officer of the Issuer to the effect that the Special Assessment has been paid in full or in part and that such Special Assessment lien is thereby released and extinguished if paid in full or such Special Assessment lien shall be reduced if the landowner only made a partial Prepayment. Upon receipt of any such moneys from the Issuer the Trustee shall immediately deposit the same into the Bond Redemption Fund to be applied to the redemption of Bonds in accordance with Section 8.01(b)(i) hereof. In connection with such Prepayment, the Trustee shall calculate the credit authorized pursuant to Section 6.05 hereof, and transfer such credit to the Bond Redemption Fund to be used together with such Prepayment for the redemption of Bonds in accordance with Section 8.01(b)(i) hereof.

(c) Notwithstanding the foregoing, and consistent with the proceedings of the Issuer relating to the imposition and levy of the Special Assessments, the owner of property (including the Developer) may at any time require the Issuer to release and extinguish the lien upon its property by virtue of the levy of the Special Assessments by paying to the Issuer the entire amount of the Special Assessment, plus accrued interest to the next succeeding Interest Payment Date (or the second succeeding Interest Payment Date if such prepayment is made within forty-five (45) calendar days before an Interest Payment Date), attributable to the property

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failure of any property owner to pay an installment of Special Assessments when due (with respect Special Assessments collected directly by the Issuer), the entire Special Assessment on the parcel or parcels as to which such delinquency pertains, with interest and penalties thereon, shall immediately become due and payable as provided by applicable law and the Issuer either on its own behalf or through the actions of the Trustee may, and shall, if so directed in writing by the Majority Holders of the related Series of Bonds, at the Issuer's own expense, cause such delinquent property to be foreclosed as hereafter provided. The Issuer covenants it shall promptly, after written notice to the delinquent landowner, but not later than one hundred twenty (120) days from the due date of such Special Assessments that have not been paid, cause there to be brought legal proceedings for the foreclosure of the Special Assessment lien including interest and penalties with respect to such tax parcel. The foreclosure proceedings shall be prosecuted to sale and conveyance of such tax parcel as now provided by law in suits to foreclose mortgages unless the Majority Holders provide written direction to suspend or terminate such foreclosure proceedings. Nothing herein shall obligate the Issuer to credit bid at any foreclosure sale. The Issuer shall enter into or maintain in effect one or more written agreements with the Property Appraiser and the Tax Collector, either individually or jointly (together, the "Property Appraiser and Tax Collector Agreement") in order to effectuate the provisions of this Section. The Issuer shall ensure that any such Property Appraiser and Tax Collector Agreement remains in effect for at least as long as the final maturity of Bonds Outstanding under this Master Indenture. The Issuer shall provide to the dissemination agent under the applicable Continuing Disclosure Agreement a list of all properties where the Special Assessments relating to the Series of Bonds subject to the applicable Continuing Disclosure Agreement which are being billed directly, and have not been paid within sixty (60) days of the due date of such Special Assessments and the current status of any foreclosure actions currently in progress and the current status of the delinquent Special Assessments. The Issuer covenants to comply with all proceedings relating to the imposition and collection of the Special Assessments and will not make material amendments to any assessment methodology relating to the Special Assessments without the written consent of the Majority Holders.

SECTION 9.05. [RESERVED].

SECTION 9.06. [RESERVED].

SECTION 9.07. Books and Records with Respect to Special Assessments. In addition to the books and records required to be kept by the Issuer pursuant to the provisions of Section 9.17 hereof, the Issuer shall keep books and records for the collection of the Special Assessments on the District Lands, which such books, records and accounts shall be kept separate and apart from all other books, records and accounts of the Issuer. The District Manager or the District Manager's designee, at the end of each Fiscal Year, shall prepare a written report within ninety (90) days after the end of each Fiscal Year setting forth the collections received, the number and amount of delinquencies, the proceedings taken to enforce collections and cure delinquencies and an estimate of time for the conclusion of such legal proceedings. A signed copy of such report shall be furnished to the Issuer as soon as practicable after such audit shall become available and shall, upon written request, be mailed by the Issuer to any Registered Owner upon written request.

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subject to Special Assessment owned by such owner. In lieu of such Prepayment with cash, an owner of property within the District may surrender to the District for cancellation to completely extinguish the lien on such property or reduce the lien equally on every portion of such property, a principal amount of Outstanding Bonds of a Series that is secured by Special Assessments levied against such property.

(d) Upon receipt of a prepayment as described in (a), (b) or (c) above, the Issuer shall immediately pay the amount so received to the Trustee, and the Issuer shall take such action as is necessary to record in the official land records of the County an affidavit or affidavits, as the case may be, executed by an authorized officer of the Issuer to the effect that the Special Assessment has been paid and that such Special Assessment lien is thereby released and extinguished. Except as otherwise provided by a Supplemental Indenture, upon receipt of any such moneys from the Issuer the Trustee shall immediately deposit the same into the applicable Series Account within the Bond Redemption Fund to be applied to the redemption of Bonds in accordance with Section 8.01(b)(i) hereof.

SECTION 9.09. Deposit of Special Assessments. The Issuer covenants to cause any Special Assessments collected or otherwise received by it to be deposited with the Trustee within five (5) Business Days after receipt thereof for deposit into the related Series Account of the Revenue Fund (except that amounts received as prepayments of Special Assessments shall be designated by the Issuer as such upon delivery to the Trustee and shall be deposited directly into the related Series Account within the Bond Redemption Fund). In connection with any payment of Special Assessments referred to in the prior sentence, the Issuer shall provide advance written notice to the Trustee of the amount of the payment and the Series account within the Revenue Fund or Bond Redemption Fund to which such payment relates.

SECTION 9.10. Construction to be on District Lands. Except for certain off site mitigation, roadway and possibly landscaping improvements which are or may be outside the District Lands and are required in order for the District Lands to be developed, the Issuer covenants that no part of a Project will be constructed on, over or under lands other than (i) lands good and marketable title to which is owned by the Issuer or other appropriate entity in fee simple, (ii) lands on, over or under which the Issuer or other appropriate entity shall have acquired perpetual easements for the purposes of a Project, or (iii) lands, including public streets and highways, the right to the use and occupancy of which for such purposes shall be vested in the Issuer or other appropriate entity by law or by valid franchises, licenses, easements or rights of way or other legally effective permissions or approval.

SECTION 9.11. Operation, Use and Maintenance of Project. The Issuer shall establish and enforce reasonable rules and regulations governing the use of a Project owned by the Issuer, and the operation thereof, such rules and regulations to be adopted in accordance with the Act, and the Issuer shall operate, use and maintain a Project owned by the Issuer in accordance with the Act and all other applicable federal and State laws, rules and regulations; the Issuer shall maintain and operate a Project owned by the Issuer in an efficient and economical manner, shall at all times maintain the same in good repair and in sound operating condition and shall make all necessary repairs, renewals and replacements.

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SECTION 9.12. Observance of and Compliance with Valid Requirements. The Issuer shall pay all municipal or governmental charges lawfully levied or assessed upon any Project or any part thereof or upon any revenues when the same shall become due, and the Issuer shall duly observe and comply with all valid requirements of any municipal or governmental authority relative to each Project. The Issuer shall not, except as otherwise permitted in Section 9.24 of this Article, create or suffer to be created any lien or charge upon any Project or upon Pledged Revenues, except the lien and charge of the Bonds on the Pledged Revenues.

SECTION 9.13. Payment of Operating or Maintenance Costs by State or Others. The Issuer may permit the United States of America, the State, or any of their agencies, departments or political subdivisions to pay all or any part of the cost of maintaining, repairing and operating a Project out of funds other than Pledged Revenues.

SECTION 9.14. Public Liability and Property Damage Insurance; Maintenance of Insurance; Use of Insurance and Condemnation Proceeds.

(a) Except as otherwise provided in subsection (d) of this Section, the Issuer will carry or cause to be carried, in respect of each Project, comprehensive general liability insurance (covering bodily injury and property damage) issued by one or more insurance companies authorized and qualified to do business under the laws of the State, in such amounts as is customary for similar operations, or as is more specifically set forth hereinbelow.

(b) At all times, to the extent commercially available, the Issuer shall maintain a practical insurance program, with reasonable terms, conditions, provisions and costs which the District Manager determines will afford adequate protection against loss caused by damage to or destruction of any component of any Project owned by the Issuer. Limits for such coverage will be subject to the Consulting Engineer's recommendations. The Issuer shall also, at all times, maintain a practical comprehensive general liability insurance program with respect to any Project for such coverage, with such reasonable terms, conditions, provisions and costs as the District Manager determines will afford adequate protection against bodily injury and property damage.

All insurance policies of the Issuer relating to any Project shall be carried with companies authorized to do business in the State, with a Best rating of no less than "A" as to management and Class "V" as to financial strength; provided, however, that if, in the opinion of the District Manager, adequate insurance protection under reasonable terms, conditions, provisions and cost cannot be purchased from an insurance company with the above-designated ratings, then the District Manager, on behalf of the Issuer, may secure such insurance protection as the Issuer determines to be in its best interests and otherwise consistent with this Master Indenture and any Supplemental Indenture; provided further, however, that the Issuer may act as a self-insurer in accordance with the requirements of subsection (d) hereof. All policies providing the insurance coverages required by this Section shall designate the Issuer as the loss-payee and shall be made payable to the Issuer.

(c) All proceeds received from property damage or destruction insurance and all proceeds received from the condemnation of any Project or any part thereof are hereby

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to cover any potential retained liability in respect of the period of self-insurance, and shall be reviewed annually by the District Manager or registered actuary who shall deliver to the Issuer a report on the adequacy of the reserves established thereunder in light of claims made. If the District Manager or registered actuary determines that such reserves are inadequate in light of the claims made, he shall make recommendations as to the amount of reserves that should be established and maintained, and the Issuer shall comply with such recommendations unless it can establish to the satisfaction of the District Manager or an insurance consultant retained by the Issuer that such recommendations are unreasonable in light of the nature of the claims or the history of recovery against the Issuer for similar claims.

(e) Copies of all recommendations and approvals made by the Consulting Engineer under the provisions of this Section shall be filed with the District Manager.

Within the first six (6) months of each Fiscal Year the District Manager shall file with the Issuer a compliance certificate as confirmation of the insurance coverages relating to all Projects, such compliance certificate to include, without being limited thereto, a schedule of all insurance policies required by this Master Indenture and any Supplemental Indenture which are then in effect, stating with respect to each policy the name of the insurer, the amount, number and expiration date, and the hazards and the risks covered thereby.

SECTION 9.15. Collection of Insurance Proceeds. Copies of all insurance policies referred to in Section 9.14 of this Article shall be available at the offices of the Issuer at all reasonable times to the inspection of the Holders of the Bonds and their agents and representatives duly authorized in writing. The Issuer covenants that it will take such action as may be necessary to demand, collect and sue for any insurance money which may become due and payable under any policy of insurance required under this Master Indenture or any Supplemental Indenture, whether such policy is payable to the Issuer or to the Trustee. The Trustee is hereby authorized in its own name to demand, collect, sue and receive any insurance money which may become due and payable under any policies payable to it.

SECTION 9.16. Use of Revenues for Authorized Purposes Only. None of the Pledged Revenues shall be used for any purpose other than as provided in this Master Indenture and the related Supplemental Indenture and no contract or contracts shall be entered into or any action taken by the Issuer or the Trustee which will be inconsistent with the provisions of this Master Indenture and the related Supplemental Indenture.

SECTION 9.17. Books and Records. The Issuer shall keep proper books of record and account in accordance with Generally Accepted Accounting Principles (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to any Project, and which, together with all other books and records of the Issuer, including, without limitation, insurance policies, relating to any Project, shall at all times be subject during regular business hours to the inspection of the Trustee.

SECTION 9.18. Observance of Accounting Standards. The Issuer covenants that all the accounts and records of the Issuer relating to a Project will be kept according to Generally

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pledged by the Issuer as security for the related Series of Bonds and shall be deposited at the option of the Issuer, but subject to the limitations hereinafter described, either (i) into a separate fund to be established by the Trustee for such purpose which may be an Account within the Acquisition and Construction Fund as directed by the Issuer, and used to remedy the loss, damage or taking for which such proceeds are received, either by repairing the damaged property or replacing the destroyed or taken property, as soon as practicable after the receipt of such proceeds, or (ii) if so provided in a Supplemental Indenture, into the related Series Account within the Bond Redemption Fund for the purpose of purchasing or redeeming Bonds according to the provisions set forth in Article VIII hereof. To the extent a Supplemental Indenture provides for extraordinary mandatory redemption in the event the Issuer receives insurance proceeds or condemnation awards, the Issuer shall not be entitled to deposit insurance proceeds or condemnation awards into the separate fund described above in clause (i) of this paragraph (and such proceeds and awards shall be deposited directly into the related Series Account within the Bond Redemption Fund pursuant to clause (ii) of this paragraph) unless there shall have been filed with the Issuer within a reasonable time after the damage, destruction or condemnation (A) a certificate from the Consulting Engineer that the proceeds of the insurance or condemnation awards deposited into such separate fund, together with other funds available for such purposes, will be sufficient to repair, rebuild, replace or restore such property to substantially the same condition as it was in prior to its damage, destruction or condemnation (taking into consideration any changes, alterations and modifications that the Issuer may desire), and (B) an opinion from the Consulting Engineer that a Project can be repaired, rebuilt, replaced or restored within two (2) years following the damage, destruction or condemnation thereof. If the certificate described in clause (A) of this paragraph is not rendered because such proceeds or awards are insufficient for such purposes, the Issuer may deposit any other legally available funds in such separate fund in an amount required to enable the Consulting Engineer to render its certificate. If the insurance proceeds or condemnation awards deposited in such separate fund are more than sufficient to repair the damaged property or to replace the destroyed or taken property, the balance thereof remaining shall be deposited to the credit of the related Series Account in the Revenue Fund.

(d) The Issuer shall be entitled to provide all or a portion of the insurance coverage required by subsections (a) and (b) of this Section through Qualified Self Insurance, provided that the requirements hereinafter set forth in this subsection (d) are satisfied. "Qualified Self Insurance" means insurance maintained through a program of self-insurance or insurance maintained with a company or association in which the Issuer has a material interest or of which the Issuer has control, either singly or with others.

Prior to participation in any plan of Qualified Self Insurance not currently in effect, the Issuer shall obtain a certificate of compliance executed by the District Manager or a licensed insurance agent selected by the District Manager to the effect that (A) the proposed Qualified Self Insurance plan will provide the coverage required by subsections (a) and (b) of this Section, and (B) the proposed Qualified Self Insurance plan provides for the creation of actuarially sound reserves.

Each plan of Qualified Self Insurance shall be in written form, shall provide that upon the termination of such plan reserves will be established or insurance acquired in amounts adequate

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Accepted Accounting Principles consistently applied and consistent with the provisions of this Master Indenture and any Supplemental Indenture.

SECTION 9.19. Employment of Certified Public Accountant. The Issuer shall employ or cause to be employed as required a Certified Public Accountant to perform auditing functions and duties required by the Act and this Master Indenture and any Supplemental Indenture.

SECTION 9.20. Establishment of Fiscal Year, Annual Budget. The Issuer has established a Fiscal Year beginning October 1 of each year and ending September 30 of the following year. The reports and budget of the Issuer shall relate to such Fiscal Year unless and until, in accordance with applicable law, a different Fiscal Year is established by Certified Resolution of the Issuer and is filed with the Trustee to hold solely as a repository with no duty to review the contents thereof.

On or before the first day of each Fiscal Year the Issuer shall adopt a final Annual Budget and shall supply a copy of such budget promptly upon the approval thereof to any Bondholders who shall have so requested in writing and shall have filed their names and addresses with the Secretary of the Board for such purpose. If for any reason the Issuer shall not have adopted the Annual Budget on or before the first day of any Fiscal Year, the Annual Budget for the preceding Fiscal Year shall, until the adoption of the new Annual Budget, be deemed in force for the ensuing Fiscal Year. The Issuer may at any time adopt an amended or supplemental Annual Budget for the remainder of the current Fiscal Year, and when such amended or supplemental Annual Budget is approved it shall be treated as the official Annual Budget under this Master Indenture and any Supplemental Indenture. Copies of such amended or supplemental Annual Budget shall be mailed by the Issuer to any Bondholders who shall have so requested in writing and shall have filed their names and addresses with the Secretary of the Board for such purpose.

SECTION 9.21. Employment of Consulting Engineer; Consulting Engineer's Report.

(a) The Issuer shall, for the purpose of performing and carrying out the duties imposed on the Consulting Engineer by this Master Indenture and any Supplemental Indenture, employ one or more Independent engineers or engineering firms or corporations having a statewide and favorable reputation for skill and experience in such work.

(b) The Issuer shall cause the Consulting Engineer to make an inspection of any portion of the Projects owned by the Issuer at least once in each Fiscal Year and, on or before the first day of July in each Fiscal Year, to submit to the Board a report setting forth (i) its findings as to whether such portions of Projects owned by the Issuer have been maintained in good repair, working order and condition, and (ii) its recommendations as to the proper maintenance, repair and operation of Projects during the ensuing Fiscal Year and an estimate of the amount of money necessary for such purpose.

Copies of such annual report shall be mailed by the Issuer to any Bondholders who shall have filed their names and addresses with the Secretary of the Board for such purpose.

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SECTION 9.22. Audit Reports. The Issuer covenants that, no later than 270 days after the end of each Fiscal Year, it will cause an audit to be made by a Certified Public Accountant covering (unless provided otherwise in a Supplemental Indenture) all receipts and moneys then on deposit with or in the name of the Trustee or the Issuer and any security held therefor and any investments thereof. Copies of such audit reports shall be filed with the District Manager and the Secretary of the Board, and mailed by said Secretary to the Consulting Engineer and to all Bondholders who shall have filed their names and addresses with him for such purpose.

SECTION 9.23. Information Required to Be Maintained by the Issuer. The Issuer shall cause to be kept on file at all times copies of the schedules of Special Assessments levied on all District Lands in respect of a Project. The Issuer shall keep accurate records and books of account with respect to a Project, and shall have a complete audit of such records and accounts made annually by a Certified Public Accountant, as provided in Section 9.22 hereof.

SECTION 9.24. Covenant Against Sale or Encumbrance; Exceptions. The Issuer covenants that, (a) except for those improvements comprising any Project that are to be conveyed by the Issuer to the County, the State Department of Transportation or another governmental entity and (b) except as in this Section permitted or permitted by the terms of Supplemental Indenture, it will not sell, lease or otherwise dispose of or encumber any Project, or any part thereof. Subject to the provisions of Section 9.31 hereof, the Issuer may, however, from time to time, sell any machinery, fixtures, apparatus, tools, instruments or other movable property acquired by it from the proceeds of a Series of Bonds or from Pledged Revenues if the District Manager shall determine, with the approval of the Consulting Engineer, that such items are no longer needed or are no longer useful in connection with the construction, maintenance and operation of the related Project, and the proceeds thereof shall be applied to the replacement of the properties so sold or disposed of, or, at the written direction of the Issuer shall be deposited to the credit of the related Series Account in the Revenue Fund.

Upon any sale of property relating to a Project, the aggregate of which in any thirty (30) day period exceeds Fifty Thousand Dollars (\$50,000) under the provisions of this Section, the Issuer shall provide written notice to the Trustee of the property so sold and the amount and disposition of the proceeds thereof.

Subject to obtaining an opinion of Bond Counsel that such action is permitted hereunder and will not adversely affect the exclusion of interest on the Bonds for federal income tax purposes, the Issuer may lease or grant easements, franchises or concessions for the use of any part of a Project not incompatible with the maintenance and operation thereof, if the Consulting Engineer shall approve such lease, easement, franchise or concession in writing, and the net proceeds of any such lease, easement, franchise or concession (after the making of provision for payment from said proceeds of all costs incurred in financing, constructing, operating, maintaining or repairing such leases, easements, franchises or concessions) shall be deposited as received to the credit of related Series Account in the Revenue Fund.

SECTION 9.25. Enforcement of Ancillary Agreements. The Issuer covenants that it shall promptly and strictly enforce the provisions of the Ancillary Agreements. Upon the

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with the requirements of such Code sections and related regulations throughout the term of such Tax-Exempt Bonds. The Issuer hereby further covenants and agrees to comply with the procedures and covenants contained in any Arbitrage Certificate executed in connection with the issuance of each Series of Tax-Exempt Bonds for so long as compliance is necessary in order to maintain the exclusion from gross income for federal income tax purposes of interest on each Series of Tax-Exempt Bonds.

SECTION 9.32. Corporate Existence and Maintenance of Properties. For so long as any Bonds are Outstanding hereunder, unless otherwise provided by the Act, the Issuer shall maintain its corporate existence as a local unit of special purpose government under the Act and shall provide for or otherwise require all Projects, and all parts thereof owned by the Issuer to be (a) continuously operated, repaired, improved and maintained as shall be necessary to provide adequate service to the lands benefited thereby; and (b) in compliance with all valid and applicable laws, acts, rules, regulations, permits, orders, requirements and directions of any competent public authority.

SECTION 9.33. Continuing Disclosure. The Issuer hereby covenants and agrees that it will comply with and carry out all of the provisions of any Continuing Disclosure Agreement. Notwithstanding any other provision of this Master Indenture and any Supplemental Indenture, failure of the Issuer or any other Person (if obligated pursuant to the Continuing Disclosure Agreement) to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default; however, the Trustee may (and, at the request of any Participating Underwriter or the Holders of at least 25% aggregate principal amount in Outstanding Bonds of a Series and receipt of indemnity to its satisfaction, shall) or any Holder of the Bonds or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the Issuer to comply with its obligations under this Section 9.33. For purposes of this Section, "Beneficial Owner" means any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

SECTION 9.34. Bankruptcy of Developer or Other Obligated Person Under the Rule. The provisions of this Section 9.34 shall be applicable both before and after the commencement, whether voluntary or involuntary, of any case, proceeding or other action by or against the Developer or other "obligated" person (as defined under the applicable Continuing Disclosure Agreement) (herein, the "Landowner") under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization, assignment for the benefit of creditors, or relief of debtors (a "Proceeding"). For as long as any Bonds remain Outstanding, in any Proceeding involving the Issuer, any Landowner, or the Special Assessments, the District shall be obligated to act in accordance with direction from the Trustee and the Trustee shall be obligated to act in accordance with the direction from the Beneficial Owners of at least twenty-five percent (25%) of the aggregate principal amount of all Outstanding Bonds with regard to all matters directly or indirectly affecting the Bonds.

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occurrence of an event entitling the Issuer to pursue its remedies under the Ancillary Agreements, the Issuer covenants and agrees it will timely pursue such remedies in accordance with the Ancillary Agreement, and upon an Event of Default hereunder, the Issuer agrees that the Trustee, upon the written direction of the Majority Holders, may enforce the provisions of the Ancillary Agreements in lieu of the Issuer.

SECTION 9.26. No Loss of Lien on Pledged Revenues. The Issuer shall not do or omit to do, or suffer to be done or omitted to be done, any matter or thing whatsoever whereby the lien of the Bonds on the Pledged Revenues or any part thereof, or the priority thereof, would be lost or impaired; provided, however, that this Section shall not prohibit the Trustee from transferring moneys to the Rebate Fund held by the Trustee under any arbitrage rebate agreement.

SECTION 9.27. Compliance With Other Contracts and Agreements. The Issuer shall comply with and abide by all of the terms and conditions of any and all contracts and agreements which the Issuer enters into in connection with a Project and the issuance of the Bonds.

SECTION 9.28. Issuance of Additional Obligations. The Issuer shall not issue any obligations other than the Bonds payable from Pledged Revenues, nor voluntarily create or cause to be created any debt, lien, pledge, assignment, encumbrance or other charge, payable from Pledged Revenues.

SECTION 9.29. Extension of Time for Payment of Interest Prohibited. The Issuer shall not directly or indirectly extend or assent to an extension of time for payment of any claim for interest on any of the Bonds and shall not directly or indirectly be a party to or approve any arrangement thereof by purchasing or funding or in any manner keeping alive any such claim for interest; no claim for interest which in any way, at or after maturity, shall have been transferred or pledged apart from the Bonds to which it relates or which shall in any manner have been kept alive after maturity by extension or by purchase thereof by or on behalf of the Issuer, shall be entitled, in case of a default hereunder, to any benefit or security under this Master Indenture and any Supplemental Indenture except after the prior payment in full of the principal of all Bonds and claims for interest appertaining thereto not so transferred, pledged, kept alive or extended.

SECTION 9.30. Further Assurances. The Issuer shall not enter into any contract or take any action by which the rights of the Trustee or the Bondholders may be impaired and shall, from time to time, execute and deliver such further instruments and take such further action as may be required to carry out the purposes of this Master Indenture and any Supplemental Indenture.

SECTION 9.31. Use of Bond Proceeds to Comply with Internal Revenue Code. The Issuer covenants to the Holders of the Bonds that it will not make or direct the making of any investment or other use of the proceeds of any Bonds issued hereunder, the interest on which is intended to be excluded from gross income for federal income tax purposes ("Tax-Exempt Bonds") which would cause such Bonds to be "arbitrage bonds" as that term is defined in Section 148 (or any successor provision thereto) of the Code or "private activity bonds" as that term is defined in Section 141 (or any successor provision thereto) of the Code, and that it will comply

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The Issuer acknowledges and agrees that, although the Bonds will be issued by the Issuer, the Beneficial Owners of such Bonds are categorically the party with a financial stake in the repayment of the Bonds and, consequently, the party with a vested interest in a Proceeding. In the event of any Proceeding involving any Landowner (a) the Issuer hereby agrees that it shall not make any election, give any consent, commence any action or file any motion, claim, obligation, notice or application or take any other action or position in any Proceeding or in any action related to a Proceeding that affects, either directly or indirectly, the Special Assessments, the Bonds or any rights of the Trustee with respect to this Section 9.34 or Bondholders under this Master Indenture or applicable Supplemental Trust Indenture that is inconsistent with any direction from the Trustee, (b) the Trustee shall have the right, but is not obligated to, vote in any such Proceeding and all claims of the Issuer relating to the Special Assessment or the Bonds, and, if the Trustee chooses to exercise such right, the Issuer shall be deemed to have appointed the Trustee as its agent and granted to the Trustee an irrevocable power of attorney coupled with an interest, and its proxy, for the purpose of exercising any and all rights and taking any and all actions available to the Issuer in connection with any Proceeding of any Landowner, including without limitation, the right to file and/or prosecute any claims, to vote to accept or reject a plan, and to make any election under Section 1111(b) of the Bankruptcy Code and (c) the Issuer shall not challenge the validity or amount of any claim submitted in such Proceeding by the Trustee in good faith or any valuations of any lands submitted by the Trustee in good faith in such Proceeding or take any other action in such Proceeding, which is adverse to Trustee's enforcement of the Issuer's claim with respect to the Special Assessments or receipt of adequate protection (as that term is defined in the Bankruptcy Code). Without limiting the generality of the foregoing, the Issuer agrees that the Trustee shall have the right (i) to file a proof of claim with respect to the Special Assessments, (ii) to deliver to the Issuer a copy thereof, together with evidence of the filing with the appropriate court or other authority, and (iii) to defend any objection filed to said proof of claim.

[END OF ARTICLE IX]

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**ARTICLE X  
EVENTS OF DEFAULT AND REMEDIES**

SECTION 10.01. Events of Default and Remedies. Except to the extent otherwise provided in the Supplemental Indenture authorizing a Series of Bonds, events of default and remedies with respect to each Series of Bonds shall be as set forth in this Master Indenture.

SECTION 10.02. Events of Default Defined. Each of the following shall be an "Event of Default" under the Indenture, with respect to a Series of Bonds:

(a) if payment of any installment of interest on any Bond of such Series is not made when it becomes due and payable; or

(b) if payment of the principal or Redemption Price of any Bond of such Series is not made when it becomes due and payable at maturity or upon call or presentation for redemption; or

(c) if the Issuer, for any reason, fails in, or is rendered incapable of, fulfilling its obligations under the Indenture or under the Act which failure or incapacity may be reasonably determined solely by the Majority Holders; or

(d) if the Issuer proposes or makes an assignment for the benefit of creditors or enters into a composition agreement with all or a material part of its creditors, or a trustee, receiver, executor, conservator, liquidator, sequestrator or other judicial representative, similar or dissimilar, is appointed for the Issuer or any of its assets or revenues, or there is commenced any proceeding in liquidation, bankruptcy, reorganization, arrangement of debts, debtor rehabilitation, creditor adjustment or insolvency, local, state or federal, by or against the Issuer and if such is not vacated, dismissed or stayed on appeal within ninety (90) days; or

(e) if the Issuer defaults in the due and punctual performance of any other covenant in the Indenture or in any Bond of such Series issued pursuant to the Indenture and such default continues for sixty (60) days after written notice requiring the same to be remedied shall have been given to the Issuer by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the Majority Holders of the Outstanding Bonds of such Series; provided, however, that if such performance requires work to be done, actions to be taken, or conditions to be remedied, which by their nature cannot reasonably be done, taken or remedied, as the case may be, within such sixty (60) day period, no Event of Default shall be deemed to have occurred or exist if, and so long as the Issuer shall commence such performance within such sixty (60) day period and shall diligently and continuously prosecute the same to completion; or

(f) written notice shall have been received by the Trustee from a Credit Facility Issuer securing Bonds of such Series that an event of default has occurred under the Credit Facility Agreement, or there shall have been a failure by said Credit Facility Issuer to make said Credit Facility available or to reinstate the interest component of said Credit Facility in

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the Trustee, the Issuer, the Trustee, the Paying Agent and the Bondholders shall be restored to their former positions and rights hereunder as though no such proceeding had been taken.

SECTION 10.06. Bondholders May Direct Proceedings. The Majority Holders of the Outstanding Bonds of a Series then subject to remedial proceedings under this Article X shall have the right to direct the method and place of conducting all remedial proceedings by the Trustee under the Indenture, provided that such directions shall not be otherwise than in accordance with applicable law and the applicable provisions of the Indenture.

SECTION 10.07. Limitations on Actions by Bondholders. No Bondholder shall have any right to pursue any remedy hereunder unless (a) the Trustee shall have been given written notice of an Event of Default, (b) the Majority Holders of the Outstanding Bonds of the applicable Series shall have requested the Trustee, in writing, to exercise the powers hereinabove granted or to pursue such remedy in its or their name or names, (c) the Trustee shall have been offered indemnity satisfactory to it against costs, expenses and liabilities, and (d) the Trustee shall have failed to comply with such request within a reasonable time.

SECTION 10.08. Trustee May Enforce Rights Without Possession of Bonds. All rights under the Indenture and a Series of Bonds may be enforced by the Trustee without the possession of any of the Bonds of such Series or the production thereof at the trial or other proceedings relative thereto, and any proceeding instituted by the Trustee shall be brought in its name for the ratable benefit of the Holders of the Bonds of such Series.

SECTION 10.09. Remedies Not Exclusive. Except as limited under Section 15.01 of this Master Indenture, no remedy contained in the Indenture with respect to a Series of Bonds is intended to be exclusive of any other remedy or remedies, and each remedy is in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

SECTION 10.10. Delays and Omissions Not to Impair Rights. No delay or omission in respect of exercising any right or power accruing upon any Event of Default shall impair such right or power or be a waiver of such Event of Default, and every remedy given by this Article X may be exercised from time to time and as often as may be deemed expedient.

SECTION 10.11. Application of Moneys in Event of Default. Any moneys received by the Trustee or the Paying Agent, as the case may be, in connection with any proceedings brought under this Article X with respect to a Series of Bonds shall be applied in the following order of priority:

(a) to the payment of the costs of the Trustee and Paying Agent incurred in connection with actions taken under this Article X with respect to such Series of Bonds, including counsel fees and any disbursements of the Trustee and the Paying Agent and payment of unpaid fees and expenses owed to the Trustee.

(b) then:

FIRST: to payment of all installments of interest then due on the Bonds of such Series in the order of maturity of such installments of interest, and, if the amount

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accordance with the terms of said Credit Facility, to the extent said notice or failure is established as an event of default under the terms of a Supplemental Indenture; or

(g) if any time the amount in any Debt Service Reserve Account is less than the Reserve Requirement as a result of the Trustee withdrawing an amount therefrom to satisfy the Debt Service Requirement on the Bonds of a Series and such amount has not been restored within thirty (30) days of such withdrawal; or

(h) more than twenty percent (20%) of the "maintenance special assessments" levied by the Issuer pursuant to Section 190.021(3) of the Act on District lands upon which the Special Assessments are levied to secure one or more Series of Bonds and such "maintenance special assessments" are being collected directly by the District have become due and payable and have not been paid, within ninety (90) days of when due.

The Trustee shall not be required to rely on any official action, admission or declaration by the Issuer before recognizing that an Event of Default under (c) above has occurred.

SECTION 10.03. No Acceleration; Redemption. No Series of Bonds issued under this Master Indenture shall be subject to acceleration. Upon the occurrence and continuation of an Event of Default, no optional redemption or extraordinary mandatory redemption of the Bonds pursuant to Article VIII hereof shall occur unless all of the Bonds of the Series where an Event of Default has occurred will be redeemed or if 100% of the Holders of the Outstanding Bonds of such Series of Bonds agree to such redemption.

SECTION 10.04. Legal Proceedings by Trustee. If any Event of Default with respect to a Series of Bonds has occurred and is continuing, the Trustee, in its discretion may, and upon the written request of the Majority Holders of the Outstanding Bonds of such Series and receipt of indemnity to its satisfaction shall, in its capacity as Trustee:

(a) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Holders of the Bonds of such Series, including, without limitation, the right to require the Issuer to carry out any agreements with, or for the benefit of, the Bondholders of the Bonds of such Series and to perform its or their duties under the Act;

(b) bring suit upon the Series of Bonds;

(c) by action or suit in equity require the Issuer to account as if it were the trustee of an express trust for the Holders of the Bonds of such Series;

(d) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Holders of the Bonds of such Series; and

(e) by other proceeding in law or equity, exercise all rights and remedies provided for by any other document or instrument securing such Series of Bonds.

SECTION 10.05. Discontinuance of Proceedings by Trustee. If any proceeding taken by the Trustee on account of any Event of Default is discontinued or is determined adversely to

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available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any preference or priority of one installment of interest over any other installment; and

SECOND: to payment to the persons entitled thereto of the unpaid principal or Redemption Price of any of the Bonds of such Series which shall have become due in the order of their due dates, with interest on such Bonds from the respective dates upon which they become due and, if the amount available shall not be sufficient to pay in full the principal or Redemption Price coming due on such Bonds on any particular date, together with such interest, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto without any preference or priority of one such Bond of a Series over another or of any installment of interest over another.

Any surplus remaining after the payments described above shall be paid to the Issuer or to the Person lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

For purposes of the application of moneys described above, to the extent payments of principal of and interest on a Series of Bonds shall have been made under a Credit Facility relating thereto, the Credit Facility Issuer shall be entitled to moneys in the related Series Accounts in the Debt Service Fund in accordance with the agreement pursuant to which such Credit Facility has been issued (but subject to subsection (a) hereof and Section 11.04 hereof) and the Certified Resolution of the Issuer authorizing the issuance of such Bonds to which such Credit Facility relates.

SECTION 10.12. Trustee's Right to Receiver; Compliance with Act. The Trustee shall be entitled as of right to the appointment of a receiver and the Trustee, the Bondholders and any receiver so appointed shall have such rights and powers and be subject to such limitations and restrictions as are contained in the Act and other applicable law of the State.

SECTION 10.13. Trustee and Bondholders Entitled to all Remedies under Act. It is the purpose of this Article to provide such remedies to the Trustee and Bondholders as may be lawfully granted under the provisions of the Act and other applicable laws of the State; if any remedy herein granted shall be held unlawful, the Trustee and the Bondholders shall nevertheless be entitled to every other remedy provided by the Act and other applicable laws of the State. It is further intended that, insofar as lawfully possible, the provisions of this Article X shall apply to and be binding upon any receiver appointed in accordance with Section 10.12 hereof.

SECTION 10.14. Credit Facility Issuer's Rights Upon Events of Default. Anything in the Indenture to the contrary notwithstanding, if any Event of Default, other than Events of Default described in Section 10.02(a) or (b) hereof, has occurred and is continuing while a Credit Facility securing all or a portion of such Bonds of a Series Outstanding is in effect, the Credit Facility Issuer shall have the right, in lieu of the Owners of the Series of Bonds (or portion thereof) secured by said Credit Facility, by an instrument in writing, executed and delivered to

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the Trustee, to direct the time, method and place of conducting all remedial proceedings available to the Trustee under the Indenture, or exercising any trust or power conferred on the Trustee by the Indenture. Said direction shall be controlling to the extent the direction of Owners of the Series of Bonds (or portion thereof) secured by said Credit Facility would have been controlling under this Article. If the Credit Facility Issuer shall be in default in the performance of its obligations under the Credit Facility, said Credit Facility Issuer shall have no rights under this Section.

[END OF ARTICLE X]

## ARTICLE XI THE TRUSTEE; THE PAYING AGENT AND REGISTRAR

SECTION 11.01. Acceptance of Trust. The Trustee accepts and agrees to execute the trusts hereby created, but only upon the additional terms set forth in this Article XI, to all of which the parties hereto and the Bondholders agree. The Trustee shall act as Trustee for the Bonds under this Master Indenture. Prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, and subject to the provisions of Section 11.03 hereof, the Trustee shall have only such duties as are expressly set forth herein, and no duties shall be implied on the part of the Trustee. During the existence of any Event of Default, the Trustee shall exercise the rights, duties and powers vested in it with the same degree of skill and care as a prudent person would exercise or use under the circumstances in the conduct of their own affairs. Any permissive right of the Trustee shall not impose a duty on the Trustee to exercise such rights.

SECTION 11.02. No Responsibility for Recitals or Information Not Prepared by the Trustee; Force Majeure. The recitals, statements, information and representations in this Indenture or in the Bonds, save only the Trustee's Certificate of Authentication upon the Bonds, have been made by the Issuer and not by the Trustee and the Trustee shall be under no responsibility for the correctness thereof or of any information or report, certificate or other information provided to the Trustee hereunder that is not prepared by the Trustee. The Trustee is (a) not providing any representation as to and is not responsible for monitoring, the validity or enforceability of the lien on the Trust Estate; and (b) not making any representation as to the enforceability of any provision hereof other than to its obligations hereunder. The Trustee shall not be responsible for filing any financing statement or recording any document needed to perfect a lien upon the Trust Estate, if any. The Trustee shall not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility hereunder by reason of any occurrence beyond the control of the Trustee (including but not limited to any act or provision of any present or future law or regulation or governmental authority, any act of God or war, civil unrest, local or national disturbance or disaster, any act of terrorism, or the unavailability of the Federal Reserve Bank wire or facsimile or other wire or communication facility).

SECTION 11.03. Trustee May Act Through Agents; Answerable Only for Willful Misconduct or Negligence. The Trustee may execute any powers hereunder and perform any duties required of it through attorneys, experts, agents, officers or employees, and shall be entitled to advice of Counsel or other experts of Trustee's selection concerning all questions hereunder; the Trustee shall not be answerable or liable for (i) the default or misconduct of any attorney or agent selected and supervised by it with reasonable care or (ii) any other person, or (iii) following the advice of Counsel or other experts. The Trustee shall not be answerable for the exercise of any discretion or power under this Indenture nor for anything whatever in connection with the trust hereunder, except only its own negligence or willful misconduct or breach of its obligations hereunder. The Trustee shall not be liable for any error of judgment made in good faith, unless it has been proven that the Trustee was negligent in ascertaining the pertinent facts. The Trustee shall have no liability for any action or refraining from action if at the direction of a majority of the beneficial owners of the Bonds. The Trustee shall only be

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"negligent" for purpose of the Indenture if so determined by a court of competent jurisdiction. In no event shall the Trustee be liable for special, indirect, punitive or consequential damages.

SECTION 11.04. Compensation and Indemnity. The Issuer shall pay the Trustee reasonable compensation for its services hereunder, and also all its reasonable expenses and disbursements, and shall, to the extent permitted by law, indemnify, defend, protect and hold the Trustee harmless against any liabilities, losses, damages, costs and expenses ("Losses") which it may incur in the proper exercise and performance of its powers and duties hereunder, except with respect to Losses caused by the Trustee's negligence or willful misconduct. If the Issuer defaults in respect of the foregoing obligations, the Trustee may deduct the amount owing to it from any moneys held by it or coming into its hands but exclusive of the Rebate Fund, which right of payment shall be prior to the right of the holders of the Bonds. The provisions of this Section 11.04 shall survive the termination of this Indenture and, as to any Trustee, its removal or resignation as Trustee.

SECTION 11.05. No Duty to Renew Insurance. The Trustee shall be under no duty to effect or to renew any insurance policy nor shall it incur any liability for the failure of the Issuer to require or effect or renew insurance or to report or file claims of loss thereunder.

SECTION 11.06. Notice of Default; Right to Investigate. The Trustee shall give written notice by first-class mail to registered Holders of the Bonds of all defaults known to the Trustee, unless such defaults have been remedied (the term "defaults" for purposes of this Section and Section 11.07 being defined to include the events specified as "Events of Default" in Article X hereof, but not including any notice or periods of grace provided for therein); provided, except in the case of a default in payment of principal or interest or Redemption Price or as otherwise provided in a Supplemental Indenture, the Trustee may withhold such notice so long as it in good faith determines that such withholding is in the interest of the Bondholders. The Trustee shall not be deemed to have notice of any default other than a payment default under this Master Indenture and any Supplemental Indenture or a notification by a Credit Facility Issuer of a default under its Credit Facility, unless notified in writing of such default by the Holders of at least a majority of the aggregate principal amount of the Outstanding Bonds. The Trustee may, however, at any time require of the Issuer full information as to the performance of any covenant hereunder, and if information satisfactory to it is not forthcoming, the Trustee may make or cause to be made, at the expense of the Issuer, an investigation into the affairs of the Issuer.

SECTION 11.07. Obligation to Act on Defaults. Unless (i) requested in writing by the Holders of at least a majority of the aggregate principal amount of the Outstanding Bonds which are or would be, upon the taking of such action, subject to remedial proceedings under Article X of this Indenture, and (ii) it is furnished with indemnity satisfactory to it, the Trustee shall be under no obligation to take any action in respect of any default or otherwise. No provision of this Indenture or the Bonds shall require the Trustee (a) to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, except to give notice of default to the extent required under Section 11.06 hereof, or (b) to take any action that the Trustee believes is contrary to applicable law. Under no circumstances shall the Trustee be liable in its individual capacity for the obligations evidenced by the Bonds.

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SECTION 11.08. Reliance by Trustee. The Trustee may request and act on any opinion, report, requisition, resolution, notice, telegram, facsimile transmission, request, consent, waiver, certificate, statement, affidavit, voucher, bond, or other paper or document which it in good faith believes to be genuine and to have been passed, signed or given by the persons purporting to be authorized (which in the case of the Issuer shall be a Responsible Officer) or to have been prepared and furnished pursuant to any of the provisions of this Master Indenture and any Supplemental Indenture; the Trustee shall be under no duty to make any investigation as to any statement contained in any such instrument, but may accept the same as conclusive evidence of the accuracy of such statement; and the Trustee shall have no liability for relying upon any of the foregoing.

SECTION 11.09. Trustee May Deal in Bonds. The Trustee may in good faith buy, sell, own, hold and deal in any of the Bonds and may join in any action which any Bondholders may be entitled to take with like effect as if the Trustee were not a party to this Master Indenture and any Supplemental Indenture. The Trustee may also engage in or be interested in any financial or other transaction with the Issuer; provided, however, that if the Trustee determines that any such relation is in conflict with its duties under this Indenture, it shall eliminate the conflict or resign as Trustee.

SECTION 11.10. Construction of Ambiguous Provisions. The Trustee may construe any ambiguous or inconsistent provisions of this Master Indenture and any Supplemental Indenture, and except as otherwise provided in Article XIII of this Master Indenture, any construction by the Trustee shall be binding upon the Bondholders. The Trustee shall give prompt notice to the Issuer of any intention to make such construction.

SECTION 11.11. Resignation of Trustee. The Trustee may resign and be discharged of the trusts created by this Master Indenture and all Supplemental Indentures by written resignation filed with the Secretary of the Issuer not less than sixty (60) days before the date when such resignation is to take effect. Notice of such resignation shall be sent by first-class mail to each Bondholder as its name and address appears on the Bond Register and to any Paying Agent, Registrar and Credit Facility Issuer, if any, and Authenticating Agent at least sixty (60) days before the resignation is to take effect. Such resignation shall take effect on the day specified in the Trustee's notice of resignation unless a successor Trustee is previously appointed, in which event the resignation shall take effect immediately on the appointment of such successor; provided, however, that notwithstanding the foregoing, such resignation shall not take effect until a successor Trustee has been appointed. If a successor Trustee has not been appointed within ninety (90) days after the Trustee has given its notice of resignation, the Trustee may at the expense of the Issuer petition any court of competent jurisdiction for the appointment of a temporary successor Trustee to serve as Trustee until a successor Trustee has been duly appointed. Notice of such resignation shall also be given to any rating agency that shall then have in effect a rating on any of the Bonds.

SECTION 11.12. Removal of Trustee. The Trustee may be removed at any time by either (a) the Issuer, if no default exists under this Master Indenture and any Supplemental Indenture, or (b) an instrument or concurrent instruments in writing by the Owners of at least a majority of the aggregate principal amount of the Bonds then Outstanding and filed with the

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Issuer. A photographic copy of any instrument or instruments filed with the Issuer under the provisions of this paragraph, duly certified by a Responsible Officer, shall be delivered promptly by the Issuer to the Trustee and to any Paying Agent, Registrar and Credit Facility Issuer, if any.

The Trustee may also be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provision of this Indenture with respect to the duties and obligations of the Trustee by any court of competent jurisdiction upon the application of the Issuer or by the Holders of not less than a majority of the aggregate principal amount of the Bonds then Outstanding.

**SECTION 11.13. Appointment of Successor Trustee.** If the Trustee or any successor Trustee resigns or is removed or dissolved, or if its property or business is taken under the control of any state or federal court or administrative body, a vacancy shall forthwith exist in the office of the Trustee, and the Issuer shall appoint a successor and shall mail notice of such appointment by first-class mail to each Bondholder as its name and address appear on the Bond Register, and to the Paying Agent, Registrar, Credit Facility Issuer, if any, and any rating agency that shall then have in effect a rating on any of the Bonds. If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Master Indenture prior to the date specified in the notice of resignation or removal as the date when such resignation or removal was to take effect, the Majority Holders in aggregate principal amount of all Bonds then Outstanding may appoint a successor Trustee or the Trustee may petition a court of competent jurisdiction for the appointment of a successor trustee.

**SECTION 11.14. Qualification of Successor.** A successor Trustee shall be a bank or trust company with trust powers, having a combined net capital and surplus of at least \$50,000,000.

**SECTION 11.15. Instruments of Succession.** Except as provided in Section 11.16 hereof, any successor Trustee shall execute, acknowledge and deliver to the Issuer an instrument accepting such appointment hereunder and thereupon, such successor Trustee, without any further act, deed, or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor in trust hereunder, with like effect as if originally named Trustee herein. The Trustee ceasing to act hereunder, after deducting all amounts owed to the Trustee, shall pay over to the successor Trustee all moneys held by it hereunder and, upon request of the successor Trustee, the Trustee ceasing to act and the Issuer shall execute and deliver an instrument or instruments prepared by the Issuer transferring to the successor Trustee all the estates, properties, rights, powers and trusts hereunder of the predecessor Trustee, except for its rights under Section 11.04 hereof.

**SECTION 11.16. Merger of Trustee.** Any corporation into which any Trustee hereunder may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which any Trustee hereunder shall be a party, or any corporation which shall have purchased substantially all of the bond administration business of the corporate trust department shall be the successor Trustee under this Indenture, without the execution or filing of any paper or any further act on the part of the parties hereto, anything herein to the contrary notwithstanding; provided, however, that any such successor corporation

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resign, then a successor shall be appointed by the Issuer. After any such appointment, notice of such appointment shall be given by the Issuer to the predecessor Paying Agent or Registrar, the successor Paying Agent or Registrar, the Trustee, the Credit Facility Issuer, if any, any rating agency that shall then have in effect a rating on any of the Bonds, and all Bondholders. Any new Paying Agent or Registrar so appointed shall immediately, and without further act, supersede the predecessor Paying Agent or Registrar.

**SECTION 11.21. Qualifications of Successor Paying Agent or Registrar.** Every successor Paying Agent or Registrar (a) shall be a commercial bank or trust company (i) duly organized under the laws of the United States or any state or territory thereof, (i) authorized by law to perform all the duties imposed upon it by this Master Indenture and all Supplemental indentures and (iii) capable of meeting its obligations hereunder, and (b) shall have a combined net capital and surplus of at least \$50,000,000.

**SECTION 11.22. Judicial Appointment of Successor Paying Agent or Registrar.** In case at any time the Paying Agent or Registrar shall resign and no appointment of a successor Paying Agent or Registrar shall be made pursuant to the foregoing provisions of this Master Indenture prior to the date specified in the notice of resignation as the date when such resignation is to take effect, the retiring Paying Agent or Registrar may forthwith apply to a court of competent jurisdiction for the appointment of a successor Paying Agent or Registrar. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor Paying Agent or Registrar. Notice of such appointment shall be given by the Successor Registrar or Paying Agent to the Issuer, the Trustee, the Credit Facility Issuer, if any, any rating agency that shall then have in effect a rating on any of the Bonds, and all Bondholders. In the absence of such an appointment, the Trustee shall become the Registrar or Paying Agent and shall so notify the Issuer, any rating agency that shall then have in effect a rating on the Bonds, and all Bondholders.

**SECTION 11.23. Acceptance of Duties by Successor Paying Agent or Registrar.** Any successor Paying Agent or Registrar shall become duly vested with all the estates, property, rights, powers, duties and obligations of its predecessor hereunder, with like effect as if originally named Paying Agent or Registrar herein. Upon request of such Paying Agent or Registrar, such predecessor Paying Agent or Registrar and the Issuer, after payment of its fees and expenses, shall execute and deliver an instrument transferring to such successor Paying Agent or Registrar all the estates, property, rights and powers hereunder of such predecessor Paying Agent or Registrar and such predecessor Paying Agent or Registrar shall pay over and deliver to the successor Paying Agent or Registrar all moneys and other assets at the time held by it hereunder.

**SECTION 11.24. Successor by Merger or Consolidation.** Any corporation into which any Paying Agent or Registrar hereunder may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which any Paying Agent or Registrar hereunder shall be a party, or any corporation which shall have purchased substantially all of the bond administration business of the corporate trust department shall be the successor Paying Agent or Registrar under this Indenture without the execution or filing of any paper or any further act on the part of the parties thereto, anything in this Indenture to the contrary notwithstanding.

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continuing to act as Trustee hereunder shall meet the requirements of Section 11.14 hereof, and if such corporation does not meet the aforesaid requirements, a successor Trustee shall be appointed pursuant to this Article XI. The Trustee may not resign as the Paying Agent or the Registrar without resigning as Trustee. The Trustee may enter into any such transaction without prior notice to the Issuer or the Bondholders.

**SECTION 11.17. Extension of Rights and Duties of Trustee to Paying Agent and Registrar.** The provisions of Sections 11.02, 11.03, 11.04, 11.08, 11.09, and 11.10 hereof are hereby made applicable to the Paying Agent and the Registrar, as appropriate, and any Person serving as Paying Agent and/or Registrar, hereby enters into and agrees to comply with the covenants and agreements of this Indenture applicable to the Paying Agent and Registrar, respectively.

**SECTION 11.18. Resignation of Paying Agent or Registrar.** The Paying Agent or Registrar may resign and be discharged of the duties created by this Master Indenture and all Supplemental indentures by executing an instrument in writing resigning such duties and specifying the date when such resignation shall take effect, and filing the same with the Issuer and the Trustee not less than forty-five (45) days before the date specified in such instrument when such resignation shall take effect, and by giving written notice of such resignation not less than three (3) weeks prior to such resignation date to any other Bondholders, mailed to their addresses as such appear in the Bond Register. Such resignation shall take effect on the date specified in such instrument and notice, but only if a successor Paying Agent or Registrar shall have been appointed as hereinafter provided, in which event such resignation shall take effect immediately upon the appointment of such successor Paying Agent or Registrar. If the successor Paying Agent or Registrar shall not have been appointed within a period of ninety (90) days following the giving of notice, then the Paying Agent or Registrar shall be authorized at the expense of the Issuer to petition any court of competent jurisdiction to appoint a successor Paying Agent or Registrar as provided in Section 11.22 hereof.

**SECTION 11.19. Removal of Paying Agent or Registrar.** The Paying Agent or Registrar may be removed at any time prior to any Event of Default by the Issuer by filing with the Paying Agent or Registrar to be removed, and with the Trustee, an instrument or instruments in writing executed by the Issuer appointing a successor, or an instrument or instruments in writing designating, and accompanied by an instrument or appointment by the Issuer of, such successor. Such removal shall be effective thirty (30) days (or such longer period as may be set forth in such instrument) after delivery of the instrument; provided, however, that no such removal shall be effective until the successor Paying Agent or Registrar appointed hereunder shall execute, acknowledge and deliver to the Issuer an instrument accepting such appointment hereunder.

**SECTION 11.20. Appointment of Successor Paying Agent or Registrar.** In case at any time the Paying Agent or Registrar shall be removed, or be dissolved, or if its property or affairs shall be taken under the control of any state or federal court or administrative body because of insolvency or bankruptcy, or for any other reason, then a vacancy shall forthwith and *ipso facto* exist in the office of the Paying Agent or Registrar, as the case may be, and a successor shall be appointed by the Issuer; and in case at any time the Paying Agent or Registrar shall

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[END OF ARTICLE XI]



**ARTICLE XII  
ACTS OF BONDHOLDERS; EVIDENCE OF OWNERSHIP OF BONDS**

SECTION 12.01. Acts of Bondholders; Evidence of Ownership of Bonds. Any action to be taken by Bondholders may be evidenced by one or more concurrent written instruments of similar tenor signed or executed by such Bondholders in person or by an agent appointed in writing. The fact and date of the execution by any person of any such instrument may be provided by acknowledgment before a notary public or other officer empowered to take acknowledgments or by an affidavit of a witness to such execution. Any action by the Owner of any Bond shall bind all future Owners of the same Bond in respect of anything done or suffered by the Issuer, Trustee, Paying Agent or Registrar in pursuance thereof.

[END OF ARTICLE XII]

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to require and to rely on a written opinion of Counsel at the expense of the Issuer that such Supplemental Indenture or amendment is so permitted and has been duly authorized by the Issuer that all things necessary to make it a valid and binding agreement have been done and an opinion of Bond Counsel to the effect that such amendment will not adversely affect the tax-exempt status of the Bonds. The Trustee shall not be obligated to enter into any Supplemental Indenture or amendment that imposes additional obligations on the Trustee or adversely affects the Trustee's rights and immunities hereunder.

[END OF ARTICLE XIII]

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**ARTICLE XIII  
AMENDMENTS AND SUPPLEMENTS**

SECTION 13.01. Amendments and Supplements Without Bondholders' Consent. This Master Indenture and any Supplemental Indenture may be amended or supplemented, from time to time, without the consent of the Bondholders, by a Supplemental Indenture authorized by a Certified Resolution of the Issuer filed with the Trustee, for one or more of the following purposes:

(a) to add additional covenants of the Issuer or to surrender any right or power herein conferred upon the Issuer;

(b) for any purpose not inconsistent with the terms of the related Indenture, or to cure any ambiguity or to cure, correct or supplement any defective provision (whether because of any inconsistency with any other provision hereof or otherwise) of the related Indenture, in such manner as shall not impair the security hereof or thereof or adversely affect the rights and remedies of the Bondholders;

(c) to provide for the execution of any and all contracts and other documents as may be required in order to effectuate the conveyance of any portion of a Project to the State, the County, or any department, agency or branch thereof, or any other unit of government of the State, provided, however, that the Issuer shall have caused to be delivered to the Trustee an opinion of Bond Counsel stating that such conveyance shall not impair the security hereof or adversely affect the rights and remedies of the Bondholders; and

(d) to make such changes as may be necessary in order to reflect amendments to Chapters 170, 190 and 197, Florida Statutes, so long as, in the opinion of counsel to the Issuer, such changes either: (i) do not have a material adverse effect on the Holders of the Bonds; or (ii) if such changes do have an adverse effect, that they nevertheless are required to be made as a result of such amendments.

SECTION 13.02. Amendments With Bondholders' Consent. Subject to the provisions of Section 13.01 hereof, this Master Indenture and any Supplemental Indenture may be amended from time to time by a Supplemental Indenture approved by the Majority Holders in aggregate principal amount of the Bonds then Outstanding in the case of the Master Indenture, and of the Series of Bonds then Outstanding and secured by such Supplemental Indenture in the case of an amendment of a Supplemental Indenture including, but not limited to, any material amendment to the Special Assessments and related proceedings which secure a Series of Bonds; provided that with respect to (a) the interest payable upon any Bonds, (b) the dates of maturity or redemption provisions of any Bonds, (c) this Article XIII and (d) the security provisions hereunder or under any Supplemental Indenture, which may only be amended by approval of the Owners of all Outstanding Bonds to be so amended.

SECTION 13.03. Trustee Authorized to Join in Amendments and Supplements; Reliance on Counsel. The Trustee is authorized to join in the execution and delivery of any Supplemental Indenture or amendment permitted by this Article XIII and in so doing is entitled

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**ARTICLE XIV  
DEFEASANCE**

SECTION 14.01. Defeasance. When interest on, and principal or Redemption Price (as the case may be) of, the Bonds of a Series or any portion thereof to be defeased have been paid, or there shall have been deposited with the Trustee or such other escrow agent designated in a Certified Resolution of the Issuer (the "Escrow Agent") moneys sufficient, or Defeasance Securities, the principal of and interest on which, when due, together with any moneys, remaining uninvested, will provide sufficient moneys to fully pay (i) such Bonds of a Series or portion thereof to be defeased, and (ii) any other sums payable hereunder by the Issuer, but only to the extent the Issuer has agreed to pay the same on or before the defeasance of the Bonds, the right, title and interest of the Trustee with respect to such Bonds of a Series or portion thereof to be defeased shall thereupon cease, the lien of the Indenture on the Pledged Revenues, and the Funds (other than the Rebate Fund, unless all rebate liability has been satisfied as determined by the Issuer) and Accounts established under the Indenture shall be defeased and discharged, and the Trustee, on demand of the Issuer, shall release the Indenture as to such Bonds of a Series or portion thereof to be so defeased and shall execute such documents to evidence such release as may be reasonably required by the Issuer and shall turn over to the Issuer or to such Person, body or authority as may be entitled to receive the same all balances remaining in any Series Funds and Accounts (other than the Rebate Fund) upon the defeasance in whole of all of the Bonds of a Series.

SECTION 14.02. Deposit of Funds for Payment of Bonds. If the Issuer deposits with the Escrow Agent moneys sufficient, or Defeasance Securities, the principal of and interest on which, when due, together with any moneys remaining uninvested, will provide sufficient moneys to pay the principal or Redemption Price of any Bonds of a Series becoming due, either at maturity or by redemption or otherwise, together with all interest accruing thereon to the date of maturity or such prior redemption, and reimburses or causes to be reimbursed or pays or causes to be paid the other amounts required to be reimbursed or paid under Section 14.01 hereof, interest on such Bonds of a Series shall cease to accrue on such date of maturity or prior redemption and all liability of the Issuer with respect to such Bonds of a Series shall likewise cease, except as hereinafter provided; provided, however, that (a) if any Bonds are to be redeemed prior to the maturity thereof, notice of the redemption thereof shall have been duly given in accordance with the provisions of Section 8.02 hereof, or irrevocable provision satisfactory to the Trustee shall have been duly made for the giving of such notice, and (b) in the event that any Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days following a deposit of moneys with the Escrow Agent, in accordance with this Section, the Issuer shall have given the Escrow Agent, in form satisfactory to the Escrow Agent, irrevocable instructions to mail to the Owners of such Bonds at their addresses as they appear on the Bond Register, a notice stating that a deposit in accordance with this Section has been made with the Escrow Agent and that the Bonds to which such notice relates are deemed to have been paid in accordance with this Section and stating such maturity or redemption date upon which moneys are to be available for the payment of the principal or Redemption Price (as the case may be) of, and interest on, said Bonds of a Series. Thereafter such Bonds shall be deemed not to be Outstanding hereunder and the Owners of such Bonds shall be restricted exclusively to the funds so deposited for any claim of whatsoever nature with respect to such Bonds, and the Escrow

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Agent shall hold such funds in trust for such Owners. At the time of the deposit referred to above, there shall be delivered to the Trustee and any Escrow Agent a verification from a firm of independent certified public accountants stating that the principal of and interest on the Defeasance Securities, together with the stated amount of any cash remaining on deposit with the Escrow Agent, will be sufficient without reinvestment to pay the remaining principal of, redemption premium, if any, and interest on such defeased Bonds.

Money so deposited with the Escrow Agent which remains unclaimed three (3) years after the date payment thereof becomes due shall, upon request of the Issuer, if the Issuer is not at the time to the knowledge of the Escrow Agent in default with respect to any covenant in the Indenture or the Bonds of the Series contained, be paid to the Issuer; and the Owners of the Bonds for which the deposit was made shall thereafter be limited to a claim against the Issuer; provided, however, that the Escrow Agent, before making payment to the Issuer, may at the request and expense of the Issuer and if directed by the Issuer, shall cause a notice to be published in an Authorized Newspaper, stating that the money remaining unclaimed will be returned to the Issuer after a specified date.

[END OF ARTICLE XIV]

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(a) As to the Issuer -

Banyan Cay Community Development District  
c/o Special District Services, Inc.  
The Oaks Center  
2501A Burns Road  
Palm Beach Gardens, FL 33410  
Attention: Jason Pierman

(b) As to the Trustee -

U.S. Bank National Association  
Global Corporate Trust Services  
550 West Cypress Creek Road, Suite 380  
Fort Lauderdale, FL 33309  
Attn: Robert Hedgecock

Any of the foregoing may, by notice sent to each of the others, designate a different or additional address to which notices under this Master Indenture or any Supplemental Indenture are to be sent.

All documents received by the Trustee under the provisions of this Master Indenture or any Supplemental Indenture and not required to be redelivered shall be retained in its possession, subject at all reasonable times to the inspection of the Issuer, any Consultant, any Bondholder and the agents and representatives thereof as evidence in writing.

SECTION 15.07. Controlling Law. This Master Indenture and all Supplemental Indentures shall be governed by and construed in accordance with the laws of the State.

SECTION 15.08. Successors and Assigns. All the covenants, promises and agreements in this Master Indenture and all Supplemental Indentures contained by or on behalf of the Issuer or by or on behalf of the Trustee shall bind and inure to the benefit of their respective successors and assigns, whether so expressed or not.

SECTION 15.09. Headings for Convenience Only. The table of contents and descriptive headings in this Master Indenture are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

SECTION 15.10. Counterparts. This Master Indenture and any Supplemental Indentures may be executed in any number of counterparts, each of which when so executed and delivered shall be an original; but such counterparts shall together constitute but one and the same instrument.

SECTION 15.11. Appendices and Exhibits. Any and all appendices or exhibits referred to in and attached to this Master Indenture are hereby incorporated herein and made a part hereof for all purposes.

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ARTICLE XV  
MISCELLANEOUS PROVISIONS

SECTION 15.01. Limitations on Recourse. No personal recourse shall be had for any claim based on this Master Indenture or any Supplemental Indenture or the Bonds against any member of the Board of the Issuer, officer, employee or agent, past, present or future, of the Issuer or of any successor body as such, either directly or through the Issuer or any such successor body, under any constitutional provision, statute or rule of law or by the enforcement of any assessment or penalty or otherwise.

The Bonds of each Series are payable from and secured solely by the Pledged Revenues, and any other moneys held by the Trustee under the Indenture for such purpose. There shall be no other recourse under the Bonds, the Indenture or otherwise, against the Issuer or any other property now or hereafter owned by it.

SECTION 15.02. Payment Dates. In any case where an Interest Payment Date or the maturity date of the Bonds or the date fixed for the redemption of any Bonds shall be other than a Business Day, then payment of interest, principal or Redemption Price need not be made on such date but may be made on the next succeeding Business Day, with the same force and effect as if made on the due date, and no interest on such payment shall accrue for the period after such due date if payment is made on such next succeeding Business Day.

SECTION 15.03. No Rights Conferred on Others. Nothing herein contained shall confer any right upon any Person other than the parties hereto, the Holders of the Bonds and Credit Facility Issuers, if any.

SECTION 15.04. Illegal Provisions Disregarded. If any term of Master Indenture or any Supplemental Indenture or the Bonds or the application thereof for any reason or circumstances shall to any extent be held invalid or unenforceable, the remaining provisions or the application of such terms or provisions to Persons and situations other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision hereof and thereof shall be valid and enforced to the fullest extent permitted by law.

SECTION 15.05. Substitute Notice. If for any reason it shall be impossible to make duplication of any notice required hereby in a newspaper or newspapers, then such publication in lieu thereof as shall be made with the approval of the Trustee shall constitute a sufficient publication of such notice.

SECTION 15.06. Notices. Any notice, demand, direction, request or other instrument authorized or required by this Master Indenture or any Supplemental Indenture to be given to or filed with the Issuer or the Trustee shall be deemed to have been sufficiently given or filed for all purposes of this Master Indenture or any Supplemental Indenture if and when personally delivered and accepted for, or if mailed by first class mail, addressed as follows:

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SECTION 15.12. Brokerage Confirmations. The Issuer acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Issuer the right to receive individual confirmations of security transactions at no additional cost, as they occur, the Issuer specifically waives receipt of such confirmations to the extent permitted by law. The Trustee will furnish the Issuer periodic cash transaction statements that include detail for all investment transactions made by the Trustee hereunder.

SECTION 15.13. Patriot Act Requirements of Trustee. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identified each person who opens an account. For a non-individual person such as business entity, a charity, a trust, or other legal entity, the Trustee will ask for documentation to verify such non-individual person's formation and existence as a legal entity. The Trustee may also ask to see financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, Banyan Cay Community Development District has caused this Master Indenture to be executed by the Chairperson or Vice Chairperson of its Board and its corporate seal to be hereunto affixed, attested by the Secretary or Assistant Secretary of its Board and U.S. Bank National Association has caused this Master Indenture to be executed by one of its authorized signatories, all as of the day and year first above written.

BANYAN CAY COMMUNITY  
DEVELOPMENT DISTRICT

[SEAL]

Attest:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Chairperson/Vice Chairperson  
Board of Supervisors

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Secretary, Board of Supervisors

U.S. BANK NATIONAL ASSOCIATION, as  
Trustee, Paying Agent and Registrar

By: \_\_\_\_\_  
Name: Robert Hedgecock  
Title: Assistant Vice President

STATE OF FLORIDA )  
 ) SS:  
COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of November, 2020, by \_\_\_\_\_, Chairperson/Vice Chairperson of Banyan Cay Community Development District (the "Issuer"), who acknowledged that he/she did so sign the foregoing instrument as such officer, respectively, for and on behalf of said Issuer; that the same is his/her free act and deed as such officer and the free act and deed of said Issuer; and that the seal affixed to said instrument is the seal of said Issuer; that he/she respectively appeared before me this day in person and acknowledged that he/she, being thereunto duly authorized, signed, sealed with the seal of said Issuer, for the uses and purposes therein set forth. He/She is personally known to me or produced \_\_\_\_\_ as identification.

[NOTARIAL SEAL]

Notary: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
NOTARY PUBLIC, STATE OF \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF FLORIDA )  
 ) SS:  
COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of November, 2020, by \_\_\_\_\_, Secretary of Banyan Cay Community Development District (the "Issuer"), who acknowledged that he/she did so sign the foregoing instrument as such officer, for and on behalf of said Issuer; that the same is his/her free act and deed as such officer and the free act and deed of said Issuer; and that the seal affixed to said instrument is the seal of said Issuer; that he/she appeared before me this day in person and severally acknowledged that he/she, being thereunto duly authorized, signed, sealed with the seal of said Issuer, for the uses and purposes therein set forth. He/she is personally known to me or produced \_\_\_\_\_ as identification.

[NOTARIAL SEAL]

Notary: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
NOTARY PUBLIC, STATE OF \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF FLORIDA )  
 ) SS:  
COUNTY OF ORANGE )

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of November, 2020, by Robert Hedgecock, a Vice President of U.S. Bank National Association, as trustee (the "Trustee"), who acknowledged that he did so sign said instrument as such officer for and on behalf of the Trustee; that the same is his free act and deed as such officer and the free act and deed of the Trustee; that he appeared before me on this day in person and acknowledged that he, being thereunto duly authorized, signed, for the uses and purposes therein set forth. He is personally known to me or produced \_\_\_\_\_ as identification.

[NOTARIAL SEAL]

Notary: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
NOTARY PUBLIC, STATE OF \_\_\_\_\_  
My commission expires \_\_\_\_\_

**EXHIBIT A**

**LEGAL DESCRIPTION OF  
BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT**

The present boundaries of Banyan Cay Community Development District are as follows:

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**EXHIBIT C**

[FORM OF BOND]

R- _____	<b>UNITED STATES OF AMERICA STATE OF FLORIDA PALM BEACH COUNTY CITY OF WEST PALM BEACH BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT SPECIAL ASSESSMENT BOND, SERIES 20__</b>	\$ _____
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<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issuance</u>	<u>CUSIP</u>
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Registered Owner:

Principal Amount:

KNOW ALL PERSONS BY THESE PRESENTS that the Banyan Cay Community Development District (the "Issuer"), for value received, hereby promises to pay to the registered owner shown above or registered assigns, on the date specified above, from the sources hereinafter mentioned, upon presentation and surrender hereof (except while the herein described Bonds are in book-entry only form, in which case presentation shall not be required) at the designated corporate trust office of U.S. Bank National Association, as paying agent (said U.S. Bank National Association and/or any bank or trust company to become successor paying agent being herein called the "Paying Agent"), the Principal Amount set forth above with interest thereon at the Interest Rate per annum set forth above, computed on 360-day year of twelve 30-day months, payable on November 1 of each year. Principal of this Bond is payable at the designated corporate trust office of U.S. Bank National Association, located in Fort Lauderdale, Florida, in lawful money of the United States of America. Interest on this Bond is payable by check or draft of the Paying Agent made payable to the registered owner and mailed on each May 1 and November 1, commencing \_\_\_\_\_ to the address of the registered owner as such name and address shall appear on the registry books of the Issuer maintained by U.S. Bank National Association, as registrar (said U.S. Bank National Association and any successor registrar being herein called the "Registrar") at the close of business on the fifteenth day of the calendar month preceding each interest payment date or the date on which the principal of a Bond is to be paid (the "Record Date"). Such interest shall be payable from the most recent interest payment date next preceding the date of authentication hereof to which interest has been paid, unless the date of authentication hereof is a May 1 or November 1 to which interest has been paid, in which case from the date of authentication hereof, or unless such date of authentication is prior to \_\_\_\_\_, 201\_, in which case from \_\_\_\_\_, 201\_, or unless the date of authentication hereof is between a Record Date and the next succeeding interest payment date, in which case from such interest payment date. Any such interest not so punctually paid or

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**EXHIBIT B**

**DESCRIPTION OF ALL PROJECTS**

A Project includes, but is not limited to, the following improvements, located both within and outside of District Lands:

- Stormwater management and control facilities, including, but not limited to, related earthwork and acquisition of interests in land relating thereto;
- Water and wastewater systems, including the payment of impact fees;
- Onsite and offsite roadway improvements, including traffic lights and signage;
- Street lighting and installation of underground differential of electric power lines;
- Landscaping and irrigation in public rights-of-way, together with entrance features;
- Recreational facilities; and
- All related soft and incidental costs.

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duly provided for shall forthwith cease to be payable to the registered owner on such Record Date and may be paid to the person in whose name this Bond is registered at the close of business on a Special Record Date for the payment of such defaulted interest to be fixed by U.S. Bank National Association, as Trustee (said U.S. Bank National Association and any successor bank or trust company being herein called the "Trustee"), notice whereof shall be given to Bondholders of record as of the fifth (5th) day prior to such mailing, at their registered addresses, not less than ten (10) days prior to such Special Record Date, or may be paid, at any time in any other lawful manner, as more fully provided in the Indenture (defined below). Any capitalized term used in this Bond and not otherwise defined shall have the meaning ascribed to such term in the herein described Indenture.

THE BONDS ARE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE OUT OF AND SOLELY SECURED BY THE PLEDGED REVENUES PLEDGED THEREFOR UNDER THE INDENTURE AND NEITHER THE PROPERTY, THE FULL FAITH AND CREDIT, NOR THE TAXING POWER OF THE ISSUER, THE CITY OF WEST PALM BEACH, FLORIDA (THE "CITY"), PALM BEACH COUNTY, FLORIDA (THE "COUNTY"), THE STATE OF FLORIDA, OR ANY OTHER POLITICAL SUBDIVISION THEREOF, IS PLEDGED AS SECURITY FOR THE PAYMENT OF THE BONDS, EXCEPT THAT THE ISSUER IS OBLIGATED UNDER THE INDENTURE TO LEVY AND TO EVIDENCE AND CERTIFY, OR CAUSE TO BE CERTIFIED, FOR COLLECTION, SPECIAL ASSESSMENTS (AS DEFINED IN THE INDENTURE) TO SECURE AND PAY THE BONDS. THE BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OF THE ISSUER, THE CITY, THE COUNTY, FLORIDA, THE STATE OF FLORIDA, OR ANY OTHER POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION OR LIMITATION.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Indenture until it shall have been authenticated by execution of the Trustee, of the certificate of authentication endorsed hereon.

IN WITNESS WHEREOF, Banyan Cay Community Development District has caused this Bond to be signed by the facsimile signature of the Chairperson of its Board of Supervisors and a facsimile of its seal to be imprinted hereon, and attested by the facsimile signature of the Secretary of its Board of Supervisors, all as of the date hereof.

BANYAN CAY COMMUNITY DEVELOPMENT  
DISTRICT

By: \_\_\_\_\_  
Chairperson, Board of Supervisors

(SEAL)

Attest:

By: \_\_\_\_\_  
Secretary, Board of Supervisors

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**CERTIFICATE OF AUTHENTICATION**

[Back of Bond]

This Bond is one of the Bonds delivered pursuant to the within mentioned Indenture.

Date of Authentication: \_\_\_\_\_

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_  
Assistant Vice President

This Bond is one of an authorized issue of Bonds of the Banyan Cay Community Development District, a community development district duly created, organized and existing under Chapter 190, Florida Statutes (the Uniform Community Development District Act of 1980), as amended (the "Act"), Ordinance No. 4823-19 enacted by the City Commission of the City of West Palm Beach, Florida, on January 28, 2019 designated as "Banyan Cay Community Development District Special Assessment Bonds, Series 20\_\_\_\_" (the "Bonds"), in the aggregate principal amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) of like date, tenor and effect, except as to number, denomination, interest rate and maturity. The Bonds are being issued under authority of the laws and Constitution of the State of Florida, including particularly the Act, to pay a portion of the design, acquisition, construction and certain ongoing operations and maintenance costs of certain public infrastructure improvements consisting of a drainage system, including, but not limited to, earth work; water distribution and wastewater collection facilities; reclaimed water facilities, roadway improvements including, but not limited to, landscaping and entrance features [add other public infrastructure] and related soft and incidental costs. The Bonds shall be issued as fully registered Bonds in authorized denominations, as set forth in the Indenture. The Bonds are issued under and secured by a Master Trust Indenture dated as of December 1, 2020 (the "Master Indenture"), as amended and supplemented by a \_\_\_\_\_ Supplemental Trust Indenture dated as of \_\_\_\_\_ 1, 20\_\_\_\_ (the "\_\_\_\_ Supplemental Indenture" and together with the Master Indenture, the "Indenture"), each by and between the Issuer and the Trustee, executed counterparts of which are on file at the corporate trust office of the Trustee in Fort Lauderdale, Florida.

Reference is hereby made to the Indenture for the provisions, among others, with respect to the custody and application of the proceeds of the Bonds issued under the Indenture, the operation and application of the Debt Service Fund and other Funds and Accounts (each as defined in the Indenture) charged with and pledged to the payment of the principal of, premium, if any, and the interest on the Bonds, the levy and the evidencing and certifying for collection, of Special Assessments, the nature and extent of the security for the Bonds, the terms and conditions on which the Bonds are issued, the rights, duties and obligations of the Issuer and of the Trustee under the Indenture, the conditions under which such Indenture may be amended without the consent of the registered owners of Bonds, the conditions under which such Indenture may be amended with the consent of the registered owners of a majority in aggregate principal amount of the Bonds outstanding, and as to other rights and remedies of the registered owners of the Bonds.

The owner of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture.

It is expressly agreed by the owner of this Bond that such owner shall never have the right to require or compel the exercise of the ad valorem taxing power of the Issuer, the City of West Palm Beach, Florida, Palm Beach County, Florida, the State of Florida or any other political subdivision thereof, or taxation in any form of any real or personal property of the Issuer, the City

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of West Palm Beach, Florida, Palm Beach County, Florida, the State of Florida or any other political subdivision thereof, for the payment of the principal of and interest on this Bond or the making of any other sinking fund and other payments provided for in the Indenture, except for Special Assessments to be assessed and levied by the Issuer as set forth in the Indenture.

By the acceptance of this Bond, the owner hereof assents to all the provisions of the Indenture.

This Bond is payable from and secured by Pledged Revenues, as such term is defined in the Indenture, all in the manner provided in the Indenture. The Indenture provides for the levy and the evidencing and certifying, of non-ad valorem assessments in the form of Special Assessments to secure and pay the Bonds.

The Bonds are subject to redemption prior to maturity in the amounts, at the times and in the manner provided below. All payments of the redemption price of the Bonds shall be made on the dates specified below. Upon any redemption of Bonds other than in accordance with scheduled mandatory sinking fund payments, the Issuer shall cause to be recalculated and delivered to the Trustee a revised mandatory sinking fund schedule recalculated so as to amortize the Outstanding principal amount of Bonds in substantially equal annual installments of principal and interest (subject to rounding to Authorized Denominations of principal) over the remaining term of the Bonds. The mandatory sinking fund payments as so recalculated shall not result in an increase in the aggregate of the mandatory sinking fund payments for all Bonds in any year. In the event of a redemption or purchase occurring less than forty-five (45) days prior to a date on which a mandatory sinking fund payment is due, the foregoing recalculation shall not be made to the mandatory sinking fund payment due in the year in which such redemption or purchase occurs, but shall be made to mandatory sinking fund payments for the immediately succeeding and subsequent years.

**Optional Redemption**

The Bonds are subject to redemption at the option of the Issuer in whole or in part at any time on or after November 1, \_\_\_\_, at the redemption prices (expressed as percentages of principal amount to be redeemed) set forth below, plus accrued interest to the redemption date, upon notice from the Issuer to the Trustee as set forth in the Indenture.

<b>Redemption Period (Both Dates Inclusive)</b>	<b>Redemption Price</b>
_____, 1, ____ to _____ 31, ____	%
_____, 1, ____ to _____ 31, ____	
_____, 1, ____ and thereafter	

**Mandatory Sinking Fund Redemption**

The Bonds are subject to mandatory sinking fund redemption on November 1 in the years and in the principal amounts set forth below at a redemption price of 100% of their principal amount plus accrued interest to the date of redemption. Such principal amounts shall be reduced

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as specified by the Issuer by the principal amount of any Bonds redeemed pursuant to optional or extraordinary mandatory redemption as set forth herein or purchased and cancelled pursuant to the provisions of the Indenture.

<b>Year</b>	<b>Principal Amount of Bonds to be Paid</b>	<b>Year</b>	<b>Principal Amount of Bonds to be Paid</b>
-------------	---	-------------	---

**Extraordinary Mandatory Redemption in Whole or in Part**

The Bonds are subject to extraordinary mandatory redemption prior to maturity by the Issuer in whole, on any date, or in part, on any interest payment date, at an extraordinary mandatory redemption price equal to 100% of the principal amount of the Bonds to be redeemed, plus interest accrued to the redemption date, (i) from moneys deposited into the Bond Redemption Fund following the payment of Special Assessments on any portion of the District Lands in accordance with the provisions of Section 9.08 of the Indenture; (ii) when sufficient moneys are on deposit in the related Funds and Accounts (other than the Rebate Fund and any other excluded fund or account as provided in the Supplemental Indenture) to pay and redeem all Outstanding Bonds and accrued interest thereon to the redemption date in addition to all amounts owed to Persons under the Indenture; (iii) if made applicable in a Supplemental Indenture, from moneys in excess of the Debt Service Reserve Requirement in the Debt Service Reserve Fund transferred to the Bond Redemption Fund pursuant to the Indenture; (iv) from excess moneys transferred from the Revenue Fund to the Bond Redemption Fund in accordance with the Indenture; (v) if made applicable in a Supplemental Indenture, from moneys, if any, on deposit in the Bond Redemption Fund following condemnation or the sale of any portion of the District Lands benefited by the Project to a governmental entity under threat of condemnation by such governmental entity or the damage or destruction of all or substantially all of the Project when such moneys are not to be used pursuant to the Indenture to repair, replace or restore the Project; provided, however, that at least forty-five (45) days prior to such extraordinary mandatory redemption, the Issuer shall cause to be delivered to the Trustee (x) notice setting forth the redemption date and (y) a certificate of the Consulting Engineer confirming that the repair and restoration of the Project would not be economical or would be impracticable; or (vi) either prior to the Completion Date or after the Completion Date, as the case may be, from amounts transferred to the Series Account of the Bond Redemption Fund from the Series Account of the Acquisition and Construction Fund in accordance with the Indenture.

**Notice of Redemption**

The Trustee shall cause notice of redemption to be mailed by first class mail, postage prepaid, at least thirty (30) but not more than sixty (60) days prior to the date of redemption to all registered owners of Bonds to be redeemed (as such owners appear on the books of the Registrar on the fifth (5th) day prior to such mailing) and to certain additional parties as set forth in the Indenture; provided, however, that failure to mail any such notice or any defect in the notice or the mailing thereof shall not affect the validity of the redemption of the Bonds for which such

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notice was duly mailed in accordance with the Indenture. If less than all of the Bonds shall be called for redemption, the notice of redemption shall specify the Bonds to be redeemed. On the redemption date, the Bonds called for redemption will be payable at the designated corporate trust office of the Paying Agent and on such date interest shall cease to accrue, such Bonds shall cease to be entitled to any benefit under the Indenture and such Bonds shall not be deemed to be outstanding under the provisions of the Indenture and the registered owners of such Bonds shall have no rights in respect thereof except to receive payment of the redemption price thereof. If the amount of funds so deposited with the Trustee, or otherwise available, is insufficient to pay the redemption price and interest on all Bonds so called for redemption on such date, the Trustee shall redeem and pay on such date an amount of such Bonds for which such funds are sufficient, selecting the Bonds to be redeemed randomly from among all such Bonds called for redemption on such date, and interest on any Bonds not paid shall continue to accrue, as provided in the Indenture.

*Partial Redemption of Bonds.* If less than all the Bonds of a maturity are to be redeemed, the Trustee shall select the particular Bonds or portions of Bonds to be redeemed randomly in such reasonable manner as the Trustee in its discretion may determine. In the case of any partial redemption of Bonds pursuant to an optional redemption, such redemption shall be effectuated by redeeming Bonds of such maturities in such manner as shall be specified by the Issuer in writing, subject to the provisions of the Indenture. In the case of any partial redemption of Bonds pursuant to an extraordinary mandatory redemption, such redemption shall be effectuated by redeeming Bonds pro rata among the maturities, treating each date on which a Sinking Fund Installment is due as a separate maturity for such purpose, with the portion to be redeemed from each maturity being equal to the product of the aggregate principal amount of Bonds to be redeemed multiplied times a fraction the numerator of which is the principal amount of Bonds of such maturity outstanding immediately prior to the redemption date and the denominator of which is the aggregate principal amount of all Bonds outstanding immediately prior to the redemption date.

The Issuer shall keep books for the registration of the Bonds at the corporate trust office of the Registrar in Fort Lauderdale, Florida. Subject to the restrictions contained in the Indenture, the Bonds may be transferred or exchanged by the registered owner thereof in person or by his attorney duly authorized in writing only upon the books of the Issuer kept by the Registrar and only upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney. In all cases in which the privilege of transferring or exchanging Bonds is exercised, the Issuer shall execute and the Trustee shall authenticate and deliver a new Bond or Bonds in authorized form and in like aggregate principal amount in accordance with the provisions of the Indenture. Every Bond presented or surrendered for transfer or exchange shall be duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Trustee, Paying Agent or the Registrar, duly executed by the Bondholder or his attorney duly authorized in writing. Transfers and exchanges shall be made without charge to the Bondholder, except that the Issuer or the Trustee may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer or exchange of Bonds. Neither the Issuer nor the Registrar on behalf of the Issuer shall be required (i) to issue transfer or exchange any Bond during a period beginning at the opening of business fifteen (15) days before

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**STATEMENT OF VALIDATION**

This Bond is one of a series of Bonds which were validated by judgment of the Circuit Court of the Fifteenth Judicial Circuit of Florida, in and for Palm Beach County, Florida, rendered on the 26<sup>th</sup> day of September, 2019.

\_\_\_\_\_  
Chairperson, Board of Supervisors

\_\_\_\_\_  
Secretary

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the day of mailing of a notice of redemption of Bonds selected for redemption and ending at the close of business on the day of such mailing, or (ii) to transfer or exchange any Bond so selected for redemption in whole or in part.

The Issuer, the Trustee, the Paying Agent and the Registrar shall deem and treat the person in whose name any Bond shall be registered upon the books kept by the Registrar as the absolute owner thereof (whether or not such Bond shall be overdue and notwithstanding any notation of ownership or other writing thereon made by anyone other than the Issuer, the Trustee, the Paying Agent or the Registrar) for the purpose of receiving payment of or on account of the principal of, premium, if any, and interest on such Bond as the same becomes due, and for all other purposes. All such payments so made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Issuer, the Trustee, the Paying Agent, nor the Registrar shall be affected by any notice to the contrary.

It is hereby certified and recited that all acts, conditions and things required to exist, to happen, and to be performed, precedent to and in connection with the issuance of this Bond exist, have happened and have been performed in regular and due form and time as required by the laws and Constitution of the State of Florida applicable thereto, including particularly the Act, and that the issuance of this Bond, and of the issue of the Bonds of which this Bond is one, is in full compliance with all constitutional and statutory limitations or provisions.

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**ABBREVIATIONS**

The following abbreviations, when used in the inscription on the face of the within Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

- TEN COM - as tenants in common
- TEN ENT - as tenants by the entireties
- JT TEN - as joint tenants with rights of survivorship and not as tenants in common

UNIFORM TRANSFER MIN ACT - \_\_\_\_\_ Custodian \_\_\_\_\_  
(Cust) (Minor)

Under Uniform Transfer to Minors

Act \_\_\_\_\_  
(State)

Additional abbreviations may also be used though not in the above list.

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**ASSIGNMENT AND TRANSFER**

FOR VALUE RECEIVED the undersigned sells, assigns and transfers unto

\_\_\_\_\_  
(please print or typewrite name and address of assignee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

\_\_\_\_\_  
Attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Signature Guarantee:

\_\_\_\_\_  
**NOTICE:** Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company

\_\_\_\_\_  
**NOTICE:** The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

\_\_\_\_\_  
Please insert social security or other identifying number of Assignee.

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payment of, any of the moneys payable to the Payee set forth above, which has not been released or will not be released simultaneously with the payment hereof.

The undersigned hereby further certifies that such requisition contains no item representing payment on account of any retained percentage which the Issuer is at the date of such certificate entitled to retain.

Originals or copies of the invoice(s) from the vendor of the property acquired or the services rendered with respect to which disbursement is hereby requested are on file with the Issuer.

BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT

By: \_\_\_\_\_  
Responsible Officer

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**EXHIBIT D  
FORM OF REQUISITION**

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT  
SPECIAL ASSESSMENT BONDS, SERIES 200\_**

The undersigned, a Responsible Officer of the Banyan Cay Community Development District (the "Issuer") hereby submits the following requisition for disbursement under and pursuant to the terms of the Master Trust Indenture between the Issuer and U.S. Bank National Association, as trustee (the "Trustee"), dated as of December 1, 2020, as supplemented by that certain \_\_\_\_\_ Supplemental Trust Indenture dated as of \_\_\_\_\_, 20\_\_\_\_ (the "Indenture") (all capitalized terms used herein shall have the meaning ascribed to such term in the Indenture):

- (1) Requisition Number:
- (2) Name of Payee pursuant to Acquisition Agreement:
- (3) Amount Payable:
- (4) Purpose for which paid or incurred (refer also to specific contract if amount is due and payable pursuant to a contract involving progress payments, or, state costs of issuance, if applicable):
- (5) Fund or Account and subaccount, if any, from which disbursement to be made:

The undersigned hereby certifies that:

- 1.  obligations in the stated amount set forth above have been incurred by the Issuer,
- or
- this requisition is for costs of issuance payable from the Acquisition and Construction Fund that have not previously been paid;
- 2. each disbursement set forth above is a proper charge against the Acquisition and Construction Fund;
- 3. each disbursement set forth above was incurred in connection with the acquisition and/or construction of a Project;
- 4. each disbursement represents a Cost of a Project which has not previously been paid.

The undersigned hereby further certifies that there has not been filed with or served upon the Issuer notice of any lien, right to lien, or attachment upon, or claim affecting the right to receive

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**CONSULTING ENGINEER'S APPROVAL FOR  
NON-COST OF ISSUANCE REQUESTS ONLY**

If this requisition is for a disbursement for other than costs of issuance, the undersigned Consulting Engineer hereby certifies that this disbursement is for a Cost of the Project and is consistent with: (i) the applicable acquisition or construction contract; (ii) the plans and specifications for the portion of the Project with respect to which such disbursement is being made; and (iii) the report of the Consulting Engineer, as such report shall have been amended or modified on the date hereof.

\_\_\_\_\_  
Consulting Engineer

43463227v9/185232.010100

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FIRST SUPPLEMENTAL TRUST INDENTURE

BETWEEN

BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT

AND

U.S. BANK NATIONAL ASSOCIATION

as Trustee

Dated as of December 1, 2020

Authorizing and Securing  
§

BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT  
SPECIAL ASSESSMENT BONDS, SERIES 2020  
(PHASE ONE ASSESSMENT AREA)

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EXHIBIT A	DESCRIPTION OF PHASE ONE ASSESSMENT AREA PROJECT
EXHIBIT B	FORM OF SERIES 2020 BOND
EXHIBIT C	FORMS OF REQUISITIONS
EXHIBIT D	INVESTOR LETTER

THIS FIRST SUPPLEMENTAL TRUST INDENTURE (the “First Supplemental Indenture”), dated as of December 1, 2020 between the BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT (together with its successors and assigns, the “Issuer”), a local unit of special-purpose government organized and existing under the laws of the State of Florida, and U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States and having a designated corporate trust office in Fort Lauderdale, Florida, as trustee (said banking corporation and any other bank or trust company becoming successor trustee under this First Supplemental Indenture being hereinafter referred to as the “Trustee”);

**WITNESSETH:**

WHEREAS, the Issuer is a local unit of special purpose government duly organized and existing under the provisions of the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes, as amended (the “Act”), created pursuant to Ordinance No. 4823-19, enacted by the City Commission of the City of West Palm Beach, Florida on January 28, 2019, for the purpose, among other things, of financing and managing the acquisition and construction, maintenance, and operation of the major infrastructure within and without the boundaries of the premises to be governed by the Issuer; and

WHEREAS, the premises governed by the Issuer (as further described in Exhibit A hereto, the “District” or “District Lands”) currently consist of approximately 95.24 acres of land located entirely within the incorporated area of the City of West Palm Beach, Florida (the “City”); and

WHEREAS, the Issuer has been created for the purpose of delivering certain community development services and facilities for the benefit of the District Lands; and

WHEREAS, the Issuer has determined to undertake, in one or more stages or phases, the acquisition and/or construction of public improvements and community facilities as set forth in the Act for the special benefit of the District Lands; and

WHEREAS, in light of such phasing, the Issuer has determined to create an assessment area relating to each Series of Bonds issued at one time; and

WHEREAS, in connection with the issuance of the herein defined Series 2020 Bonds, the Issuer hereby designates an area within the District to be known as the “Phase One Assessment Area”; and

WHEREAS, the Issuer has previously adopted Resolution No. 2019-25 on May 21, 2019 (the “Original Authorizing Resolution”), authorizing the issuance of not to exceed \$11,000,000 in aggregate principal amount of its special assessment bonds (the “Bonds”) to finance all or a portion of the design, acquisition and construction costs of certain improvements pursuant to the Act for the special benefit of the District Lands or portions thereof and approving the form of and authorizing the execution and delivery of a master trust indenture; and

WHEREAS, the Series 2020 Bonds will be issued pursuant to that certain Master Trust Indenture dated as of December 1, 2020 by and between the Issuer and the Trustee (the “Master



Indenture”) and this First Supplemental Indenture to finance all or a portion of the public infrastructure to be built for the benefit of the assessable lands within the District; and

WHEREAS, Banyan Cay Dev. LLC, Banyan Cay Villas, LLC and Banyan Cay Resort & Golf, LLC, each a Delaware limited liability company (collectively, the “Developer”) is the master developer of a residential community to be located within the District (the “Development”) and will construct all of the public infrastructure necessary to serve such residential community within the District, a portion of which will be purchased by the Issuer with a portion of the proceeds of the herein described Series 2020 Bonds (such public infrastructure as described on Exhibit A is herein collectively referred to as the “Phase One Assessment Area Project”); and

WHEREAS, the Issuer has determined to issue a Series of Bonds, designated as the Banyan Cay Community Development District Special Assessment Bonds, Series 2020 (Phase One Assessment Area) (the “Series 2020 Bonds”), pursuant to the Master Indenture and this First Supplemental Indenture (hereinafter sometimes collectively referred to as the “Indenture”); and

WHEREAS, in the manner provided herein, the proceeds of the Series 2020 Bonds will be used to provide funds for (i) the Costs of acquiring or constructing all or a portion of the Phase One Assessment Area Project, (ii) the funding of the Series 2020 Reserve Account, (iii) pay Capitalized Interest on Series 2020 Bonds through at least November 1, 2021, and (iv) the payment of the costs of issuance of the Series 2020 Bonds; and

WHEREAS, the Series 2020 Bonds will be secured by a pledge of Series 2020 Pledged Revenues (as hereinafter defined) to the extent provided herein.

NOW, THEREFORE, THIS FIRST SUPPLEMENTAL INDENTURE WITNESSETH, that to provide for the issuance of the Series 2020 Bonds, the security and payment of the principal or redemption price thereof (as the case may be) and interest thereon, the rights of the Bondholders and the performance and observance of all of the covenants contained herein and in said Series 2020 Bonds, and for and in consideration of the mutual covenants herein contained and of the purchase and acceptance of the Series 2020 Bonds by the Owners thereof, from time to time, and of the acceptance by the Trustee of the trusts hereby created, and intending to be legally bound hereby, the Issuer does hereby assign, transfer, set over and pledge to U.S. Bank National Association, as Trustee, its successors in trust and its assigns forever, and grants a lien on all of the right, title and interest of the Issuer in and to the Series 2020 Pledged Revenues as security for the payment of the principal, redemption or purchase price of (as the case may be) and interest on the Series 2020 Bonds issued hereunder, all in the manner hereinafter provided, and the Issuer further hereby agrees with and covenants unto the Trustee as follows:

TO HAVE AND TO HOLD the same and any other revenues, property, contracts or contract rights, accounts receivable, chattel paper, instruments, general intangibles or other rights and the proceeds thereof, which may, by delivery, assignment or otherwise, be subject to the lien created by the Indenture with respect to the Series 2020 Bonds.

IN TRUST NEVERTHELESS, for the equal and ratable benefit and security of all present and future Owners of the Series 2020 Bonds issued and to be issued under this First Supplemental Indenture, without preference, priority or distinction as to lien or otherwise (except

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“Capitalized Interest” shall mean interest due or to become due on the Series 2020 Bonds which will be paid, or is expected to be paid, from the proceeds of the Series 2020 Bonds.

“City” shall mean the City of West Palm Beach, Florida, a municipal corporation of the State.

“Collateral Assignment” shall mean that certain instrument executed by the Developer in favor of the Issuer whereby all of the material documents necessary to complete the Phase One Assessment Area Project are collaterally assigned as security for the Developer’s obligation to pay the Series 2020 Special Assessments imposed against lands within the District owned by the Developer from time to time.

“Completely Absorbed” means the date 100% of the principal portion of the Series 2020 Special Assessments have been assigned to residential units within the Phase One Assessment Area within the District that have received certificates of occupancy and both the hotel and clubhouse have received certificates of occupancy.

“Continuing Disclosure Agreement” shall mean the Continuing Disclosure Agreement for the benefit of the owners of the Series 2020 Bonds, dated the date of issuance of the Series 2020 Bonds, by and among the Issuer, the dissemination agent named therein, the Developer and joined by the parties named therein, in connection with the issuance of the Series 2020 Bonds.

“District Manager” shall mean Special District Services, Inc., and its successors and assigns.

“Indenture” shall mean collectively, the Master Indenture and this First Supplemental Indenture.

“Interest Payment Date” shall mean May 1 and November 1 of each year, commencing May 1, 2021.

“Majority Holders” means the Beneficial Owners of more than fifty percent (50%) of the Outstanding principal amount of the Series 2020 Bonds.

“Master Indenture” shall mean the Master Trust Indenture, dated as of December 1, 2020, by and between the Issuer and the Trustee, as supplemented and amended with respect to matters pertaining solely to the Master Indenture or the Series 2020 Bonds (as opposed to supplements or amendments relating to any Series of Bonds other than the Series 2020 Bonds as specifically defined in this First Supplemental Indenture).

“Quarterly Redemption Dates” shall mean February 1, May 1, August 1 and November 1 of any year.

“Paying Agent” shall mean U.S. Bank National Association, and its successors and assigns as Paying Agent hereunder.

“Prepayment” shall mean the payment by any owner of property within the Phase One Assessment Area within the District of the amount of the Series 2020 Special Assessments encumbering its property, in whole or in part, prior to its scheduled due date, including optional

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as otherwise specifically provided in this First Supplemental Indenture) of any one Series 2020 Bond over any other Series 2020 Bond, all as provided in the Indenture.

PROVIDED, HOWEVER, that if the Issuer, its successors or assigns, shall well and truly pay, or cause to be paid, or make due provision for the payment of the principal or redemption price of the Series 2020 Bonds issued, secured and Outstanding hereunder and the interest due or to become due thereon, at the times and in the manner mentioned in such Series 2020 Bonds and the Indenture, according to the true intent and meaning thereof and hereof, and the Issuer shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of the Indenture to be kept, performed and observed by it, and shall pay or cause to be paid to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payments this First Supplemental Indenture and the rights hereby granted shall cease and terminate, otherwise this First Supplemental Indenture to be and remain in full force and effect.

## ARTICLE I DEFINITIONS

In this First Supplemental Indenture capitalized terms used without definition shall have the meanings ascribed thereto in the Master Indenture and, in addition to certain terms defined in the recitals above, the following terms shall have the meanings specified below, unless otherwise expressly provided or unless the context otherwise requires:

“Acquisition Agreement” shall mean that certain Acquisition Agreement relating to the acquisition of the Phase One Assessment Area Project, by and between the Developer and the Issuer.

“Arbitrage Certificate” shall mean that certain Arbitrage Certificate, including arbitrage rebate covenants, of the Issuer, dated the date of issuance of the Series 2020 Bonds, relating to certain restrictions on arbitrage under the Code with respect to the Series 2020 Bonds.

“Assessment Resolutions” shall mean Resolution No. 2019-26, Resolution No. 2019-27 and Resolution No. 2019-28 of the Issuer adopted on May 21, 2019, May 21, 2019 and July 9, 2019, respectively, as amended and supplemented from time to time.

“Authorized Denomination” shall mean, with respect to the Series 2020 Bonds, on the date of issuance, in the denominations of \$5,000 and any integral multiple thereof, provided, however, if any initial beneficial owner does not purchase at least \$100,000 of the Series 2020 Bonds at the time of initial delivery of the Series 2020 Bonds, such beneficial owner must execute and deliver to the Issuer and the Underwriter on the date of delivery of the Series 2020 Bonds the investor letter substantially in the form attached hereto as Exhibit D or otherwise establish to the satisfaction of the Underwriter that such Beneficial Owner is an “accredited investor,” as described in Rule 501(a) under Regulation D of the Securities Act of 1936, as amended.

“Bonds” shall mean the Issuer’s Special Assessments Bonds issued pursuant to the Master Indenture.

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prepayments. The term “Prepayment” also means any proceeds received as a result of accelerating and/or foreclosing the Series 2020 Special Assessments or as a result of a true-up payment. “Prepayments” shall include, without limitation, Series 2020 Prepayment Principal.

“Redemption Price” shall mean the principal amount of any Series 2020 Bond payable upon redemption thereof pursuant to this First Supplemental Indenture.

“Registrar” shall mean U.S. Bank National Association and its successors and assigns as Registrar hereunder.

“Regular Record Date” shall mean the fifteenth (15<sup>th</sup>) day (whether or not a Business Day) of the calendar month next preceding an Interest Payment Date.

“Resolution” shall mean, collectively, (i) Resolution No. 2019-25 of the Issuer adopted on May 21, 2019, pursuant to which the Issuer authorized the issuance of not exceeding \$11,000,000 aggregate principal amount of its Bonds to finance the construction or acquisition of public infrastructure within the District, and (ii) Resolution No. 2019-31 of the Issuer adopted on October 15, 2019, pursuant to which the Issuer authorized, among other things, the issuance of the Series 2020 Bonds in an aggregate principal amount of not exceeding \$10,000,000 to finance the acquisition of all or a portion of the Phase One Assessment Area Project, specifying the details of the Series 2020 Bonds and awarding the Series 2020 Bonds to the Underwriter pursuant to parameters established therein.

“Series 2020 Acquisition and Construction Account” shall mean the Account so designated, established as a separate Account within the Acquisition and Construction Fund pursuant to Section 4.01(a) of this First Supplemental Indenture.

“Series 2020 Bond Redemption Account” shall mean the Series 2020 Bond Redemption Account established as a separate Account within the Bond Redemption Fund pursuant to Section 4.01(g) of this First Supplemental Indenture.

“Series 2020 Bonds” shall mean the \$ \_\_\_\_\_ aggregate principal amount of Banyan Cay Community Development District Special Assessment Bonds, Series 2020 (Phase One Assessment Area), to be issued as fully registered Bonds in accordance with the provisions of the Master Indenture and this First Supplemental Indenture, and secured and authorized by the Master Indenture and this First Supplemental Indenture.

“Series 2020 Capitalized Interest Account” shall mean the Account so designated, established as a separate Account within the Debt Service Fund, pursuant to Section 4.01(d) of this First Supplemental Indenture.

“Series 2020 Costs of Issuance Account” shall mean the Account so designated, established as a separate Account within the Acquisition and Construction Fund pursuant to Section 4.01(a) of this First Supplemental Indenture.

“Series 2020 General Redemption Subaccount” shall mean the subaccount so designated, established as a separate subaccount under the Series 2020 Bond Redemption Account pursuant to Section 4.01(g) of this First Supplemental Indenture.

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“Series 2020 Interest Account” shall mean the Account so designated, established as a separate Account within the Debt Service Fund pursuant to Section 4.01(d) of this First Supplemental Indenture.

“Series 2020 Optional Redemption Subaccount” shall mean the subaccount so designated, established as a separate subaccount under the Series 2020 Bond Redemption Account pursuant to Section 4.01(g) of this First Supplemental Indenture.

“Series 2020 Pledged Revenues” shall mean (a) all revenues received by the Issuer from Series 2020 Special Assessments levied and collected on the assessable lands within the Phase One Assessment Area within the District, including, without limitation, amounts received from any foreclosure proceeding for the enforcement of collection of such Series 2020 Special Assessments or from the issuance and sale of tax certificates with respect to such Series 2020 Special Assessments, and (b) all moneys on deposit in the Funds and Accounts established under the Indenture created and established with respect to or for the benefit of the Series 2020 Bonds; provided, however, that Series 2020 Pledged Revenues shall not include (A) any moneys transferred to the Series 2020 Rebate Fund and investment earnings thereon, (B) moneys on deposit in the Series 2020 Costs of Issuance Account of the Acquisition and Construction Fund, and (C) “special assessments” levied and collected by the Issuer under Section 190.022 of the Act for maintenance purposes or “maintenance assessments” levied and collected by the Issuer under Section 190.021(3) of the Act (it being expressly understood that the lien and pledge of the Indenture shall not apply to any of the moneys described in the foregoing clauses (A), (B) and (C) of this proviso).

“Series 2020 Prepayment Principal” shall mean the portion of a Prepayment corresponding to the principal amount of Series 2020 Special Assessments being prepaid pursuant to Section 4.05 of this First Supplemental Indenture or as a result of an acceleration of the Series 2020 Special Assessments pursuant to Section 170.10, Florida Statutes, if such Series 2020 Special Assessments are being collected through a direct billing method.

“Series 2020 Prepayment Subaccount” shall mean the subaccount so designated, established as a separate subaccount under the Series 2020 Bond Redemption Account pursuant to Section 4.01(g) of this First Supplemental Indenture.

“Series 2020 Principal Account” shall mean the account so designated, established as a separate account within the Debt Service Fund pursuant to Section 4.01(c) of this First Supplemental Indenture.

“Series 2020 Rebate Fund” shall mean the Fund so designated, established pursuant to Section 4.01(j) of this First Supplemental Indenture.

“Series 2020 Reserve Account” shall mean the Series 2020 Reserve Account established as a separate Account within the Debt Service Reserve Fund pursuant to Section 4.01(f) of this First Supplemental Indenture.

“Series 2020 Reserve Requirement” or “Reserve Requirement” shall mean an amount equal to the initial maximum annual debt service of the Series 2020 Bonds as of the date of issuance of the Series 2020 Bonds, which amount is \$ \_\_\_\_\_ with respect to the initial

**ARTICLE II  
THE SERIES 2020 BONDS**

**SECTION 2.01. Amounts and Terms of Series 2020 Bonds; Issue of Series 2020 Bonds.** No Series 2020 Bonds may be issued under this First Supplemental Indenture except in accordance with the provisions of this Article and Articles II and III of the Master Indenture.

(a) The total principal amount of Series 2020 Bonds that may be issued under this First Supplemental Indenture is expressly limited to \$ \_\_\_\_\_. The Series 2020 Bonds shall be numbered consecutively from R-1 and upwards.

(b) Any and all Series 2020 Bonds shall be issued substantially in the form attached hereto as Exhibit B, with such appropriate variations, omissions and insertions as are permitted or required by the Indenture and with such additional changes as may be necessary or appropriate to conform to the provisions of the Resolution. The Issuer shall issue the Series 2020 Bonds upon execution of this First Supplemental Indenture and satisfaction of the requirements of Section 3.01 of the Master Indenture; and the Trustee shall, at the Issuer’s request, authenticate such Series 2020 Bonds and deliver them as specified in the request.

**SECTION 2.02. Execution.** The Series 2020 Bonds shall be executed by the Issuer as set forth in the Master Indenture.

**SECTION 2.03. Authentication.** The Series 2020 Bonds shall be authenticated as set forth in the Master Indenture. No Series 2020 Bond shall be valid until the certificate of authentication shall have been duly executed by the Trustee, as provided in the Master Indenture.

**SECTION 2.04. Purpose, Designation and Denominations of, and Interest Accruals on, the Series 2020 Bonds.**

(a) The Series 2020 Bonds are being issued hereunder in order to provide funds (i) for the payment of the Costs of acquiring or constructing all or a portion of the Phase One Assessment Area Project, (ii) fund the Series 2020 Reserve Account in an amount equal to the Series 2020 Reserve Requirement; (iii) pay Capitalized Interest through at least November 1, 2021; and (iv) to pay the costs of issuance of the Series 2020 Bonds. The Series 2020 Bonds shall be designated “Banyan Cay Community Development District Special Assessment Bonds, Series 2020 (Phase One Assessment Area),” and shall be issued as fully registered bonds without coupons in Authorized Denominations.

(b) The Series 2020 Bonds shall be dated as of the date of initial delivery. Scheduled interest on the Series 2020 Bonds shall be payable on each May 1 and November 1 Interest Payment Date to maturity or prior redemption. Interest on the Series 2020 Bonds shall be payable from the most recent Interest Payment Date next preceding the date of authentication thereof to which interest has been paid, unless the date of authentication thereof is a May 1 or November 1 to which interest has been paid, in which case from such date of authentication, or unless the date of authentication thereof is prior to May 1, 2021, in which case from the date of initial delivery or unless the date of authentication thereof is between a Record Date and the next succeeding Interest Payment Date, in which case from such Interest Payment Date.

principal amount of the Series 2020 Bonds issued. Any amount in the Series 2020 Reserve Account may, upon final maturity or redemption of all Outstanding Series 2020 Bonds be used to pay principal of and interest on the Series 2020 Bonds at that time.

“Series 2020 Revenue Account” shall mean the Account so designated, established as a separate Account within the Revenue Fund pursuant to Section 4.01(b) of this First Supplemental Indenture.

“Series 2020 Sinking Fund Account” shall mean the Account so designated, established as a separate Account within the Debt Service Fund pursuant to Section 4.01(e) of this First Supplemental Indenture.

“Series 2020 Special Assessments” shall mean the Special Assessments levied on the assessable lands within the Phase One Assessment Area within the District as a result of the Issuer’s acquisition and/or construction of the Phase One Assessment Area Project, corresponding in amount to the debt service on the Series 2020 Bonds and designated as such in the methodology report relating thereto.

“Underwriter” shall mean FMSBonds, Inc., the underwriter of the Series 2020 Bonds.

The words “hereof,” “herein,” “hereto,” “hereby,” and “hereunder” (except in the form of Series 2020 Bonds), refer to the entire Indenture.

Every “request,” “requisition,” “order,” “demand,” “application,” “notice,” “statement,” “certificate,” “consent,” or similar action hereunder by the Issuer shall, unless the form or execution thereof is otherwise specifically provided, be in writing signed by the Chairperson or Vice Chairperson and the Treasurer or Assistant Treasurer or the Secretary or Assistant Secretary or Responsible Officer of the Issuer.

All words and terms importing the singular number shall, where the context requires, import the plural number and vice versa.

[END OF ARTICLE I]

(c) Except as otherwise provided in Section 2.07 of this First Supplemental Indenture in connection with a book entry only system of registration of the Series 2020 Bonds, the principal or Redemption Price of the Series 2020 Bonds shall be payable in lawful money of the United States of America at the designated corporate trust office of the Paying Agent upon presentation of such Series 2020 Bonds. Except as otherwise provided in Section 2.07 of this First Supplemental Indenture in connection with a book entry only system of registration of the Series 2020 Bonds, the payment of interest on the Series 2020 Bonds shall be made on each Interest Payment Date to the Owners of the Series 2020 Bonds by check or draft drawn on the Paying Agent and mailed on the applicable Interest Payment Date to each Owner as such Owner appears on the Bond Register maintained by the Registrar as of the close of business on the Regular Record Date, at his address as it appears on the Bond Register. Any interest on any Series 2020 Bond which is payable, but is not punctually paid or provided for on any Interest Payment Date (hereinafter called “Defaulted Interest”) shall be paid to the Owner in whose name the Series 2020 Bond is registered at the close of business on a special record date (“Special Record Date”) to be fixed by the Trustee, such date to be not more than fifteen (15) nor less than ten (10) days prior to the date of proposed payment. The Trustee shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class, postage-prepaid, to each Owner of record as of the fifth (5th) day prior to such mailing, at his address as it appears in the Bond Register not less than ten (10) days prior to such Special Record Date. The foregoing notwithstanding, any Owner of Series 2020 Bonds in an aggregate principal amount of at least \$1,000,000 shall be entitled to have interest paid by wire transfer to such Owner to the bank account number on file with the Paying Agent, upon requesting the same in a writing received by the Paying Agent at least fifteen (15) days prior to the relevant Record Date, which writing shall specify the bank, which shall be a bank within the continental United States, and bank account number to which interest payments are to be wired. Any such request for interest payments by wire transfer shall remain in effect until rescinded or changed, in a writing delivered by the Owner to the Paying Agent, and any such rescission or change of wire transfer instructions must be received by the Paying Agent at least fifteen (15) days prior to the relevant Record Date.

**SECTION 2.05. Debt Service on the Series 2020 Bonds.**

(a) The Series 2020 Bonds will mature on November 1 in the years and in the principal amounts, and bear interest at the rates all set forth below, subject to the right of prior redemption in accordance with their terms.

<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>
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\*Term Bonds

(b) Interest on the Series 2020 Bonds will be computed in all cases on the basis of a 360 day year of twelve 30 day months. Interest on overdue principal and, to the extent

lawful, on overdue interest will be payable at the numerical rate of interest borne by the Series 2020 Bonds on the day before the default occurred.

**SECTION 2.06. Disposition of Series 2020 Bond Proceeds.** From the net proceeds of the Series 2020 Bonds received by the Trustee in the amount of \$ \_\_\_\_\_.

(a) \$ \_\_\_\_\_ derived from the net proceeds of the Series 2020 Bonds (which is an amount equal to the initial Series 2020 Reserve Requirement) shall be deposited in the Series 2020 Reserve Account of the Debt Service Reserve Fund;

(b) \$ \_\_\_\_\_ derived from the net proceeds of the Series 2020 Bonds shall be deposited in the Series 2020 Capitalized Interest Account of the Debt Service Fund;

(c) \$ \_\_\_\_\_ derived from the net proceeds of the Series 2020 Bonds shall be deposited into the Series 2020 Costs of Issuance Account of the Acquisition and Construction Fund for payment of the costs of issuing the Series 2020 Bonds; and

(d) \$ \_\_\_\_\_ representing the balance of the net proceeds of the Series 2020 Bonds shall be deposited in the Series 2020 Acquisition and Construction Account of the Acquisition and Construction Fund which the Issuer shall cause to be applied in accordance with Article V of the Master Indenture and the terms of the Acquisition Agreement.

**SECTION 2.07. Book-Entry Form of Series 2020 Bonds.** The Series 2020 Bonds shall be issued as one fully registered bond for each maturity of Series 2020 Bonds and deposited with The Depository Trust Company ("DTC"), New York, New York, which is responsible for establishing and maintaining records of ownership for its participants.

As long as the Series 2020 Bonds are held in book-entry-only form, Cede & Co. shall be considered the registered owner for all purposes hereof and in the Master Indenture. DTC shall be responsible for maintaining a book-entry-only system for recording the ownership interest of its participants ("DTC Participants") and other institutions that clear through or maintain a custodial relationship with a DTC Participant, either directly or indirectly ("Indirect Participants"). The DTC Participants and Indirect Participants will be responsible for maintaining records with respect to the beneficial ownership interests of individual purchasers of the Series 2020 Bonds ("Beneficial Owners").

Principal and interest on the Series 2020 Bonds registered in the name of Cede & Co. prior to and at maturity shall be payable directly to Cede & Co. in care of DTC. Disbursal of such amounts to DTC Participants shall be the responsibility of DTC. Payments by DTC Participants to Indirect Participants, and by DTC Participants and Indirect Participants to Beneficial Owners shall be the responsibility of DTC Participants and Indirect Participants and not of DTC, the Trustee or the Issuer.

Individuals may purchase beneficial interests in Authorized Denominations in book-entry-only form, without certificated Series 2020 Bonds, through DTC Participants and Indirect Participants.

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(c) An opinion of Counsel to the District addressed to the Trustee substantially to the effect that (i) the Issuer has been duly established and validly exists as a community development district under the Act, (ii) the Issuer has good right and lawful authority under the Act to construct or purchase the Phase One Assessment Area Project being financed with the proceeds of the Series 2020 Bonds, subject to obtaining such licenses, orders or other authorizations as are, at the date of such opinion, required to be obtained from any agency or regulatory body having lawful jurisdiction in order to own and operate the Phase One Assessment Area Project, (iii) all proceedings undertaken by the Issuer with respect to the Series 2020 Special Assessments have been in accordance with Florida law, (iv) the Issuer has taken all action necessary to levy and impose the Series 2020 Special Assessments, and (v) the Series 2020 Special Assessments are legal, valid and binding liens upon the property against which such Series 2020 Special Assessments are made, coequal with the lien of all state, county, district and municipal taxes, superior in dignity to all other liens, titles and claims, until paid;

(d) A certificate of an Authorized Officer to the effect that, upon the authentication and delivery of the Series 2020 Bonds, the Issuer will not be in default in the performance of the terms and provisions of the Master Indenture or this First Supplemental Indenture; and

(e) A copy of the Collateral Assignment.

Payment to the Trustee of the net purchase price from the sale of the Series 2020 Bonds shall constitute conclusive evidence upon which the Trustee is entitled to rely that the conditions to authenticate the Series 2020 Bonds have been met to the satisfaction of the District and the Underwriter.

[END OF ARTICLE II]

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During the period for which Cede & Co. is registered owner of the Series 2020 Bonds, any notices to be provided to any Beneficial Owner will be provided to Cede & Co. DTC shall be responsible for notices to DTC Participants and DTC Participants shall be responsible for notices to Indirect Participants, and DTC Participants and Indirect Participants shall be responsible for notices to Beneficial Owners.

The Issuer and the Trustee, if appropriate, shall enter into a blanket letter of representations with DTC providing for such book-entry-only system. Such agreement may be terminated at any time by either DTC or the Issuer in accordance with the procedures of DTC. In the event of such termination, the Issuer shall select another securities depository and in that event, all references herein to DTC or Cede & Co., shall be deemed to be for reference to such successor. If the Issuer does not replace DTC, the Trustee will register and deliver to the Beneficial Owners replacement Series 2020 Bonds in the form of fully registered Series 2020 Bonds in accordance with the instructions from Cede & Co.

In the event DTC, any successor of DTC or the Issuer, but only in accordance with the procedures of DTC, elects to discontinue the book-entry only system, the Trustee shall deliver bond certificates in accordance with the instructions from DTC or its successor and after such time Series 2020 Bonds may be exchanged for an equal aggregate principal amount of Series 2020 Bonds in other Authorized Denominations upon surrender thereof at the designated corporate trust office of the Trustee.

**SECTION 2.08. Appointment of Registrar and Paying Agent.** The Issuer shall keep, at the designated corporate trust office of the Registrar, books (the "Bond Register") for the registration, transfer and exchange of the Series 2020 Bonds, and hereby appoints U.S. Bank National Association, as its Registrar to keep such books and make such registrations, transfers, and exchanges as required hereby. U.S. Bank National Association hereby accepts its appointment as Registrar and its duties and responsibilities as Registrar hereunder. Registrations, transfers and exchanges shall be without charge to the Bondholder requesting such registration, transfer or exchange, but such Bondholder shall pay any taxes or other governmental charges on all registrations, transfers and exchanges.

The Issuer hereby appoints U.S. Bank National Association as Paying Agent for the Series 2020 Bonds. U.S. Bank National Association hereby accepts its appointment as Paying Agent and its duties and responsibilities as Paying Agent hereunder.

**SECTION 2.09. Conditions Precedent to Issuance of the Series 2020 Bonds.** In addition to complying with the requirements set forth in the Master Indenture in connection with the issuance of the Series 2020 Bonds, all the Series 2020 Bonds shall be executed by the Issuer for delivery to the Trustee and thereupon shall be authenticated by the Trustee and delivered to the Issuer or upon its order, but only upon the further receipt by the Trustee of:

- (a) Certified copies of the Assessment Resolutions;
- (b) Executed originals of the Master Indenture and this First Supplemental

Indenture;

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### ARTICLE III REDEMPTION OF SERIES 2020 BONDS

**SECTION 3.01. Redemption Dates and Prices.** The Series 2020 Bonds shall be subject to redemption at the times and in the manner provided in Article VIII of the Master Indenture and in this Article III. All payments of the Redemption Price of the Series 2020 Bonds shall be made on the dates hereinafter required. Except as otherwise provided in this Section 3.01, if less than all the Series 2020 Bonds are to be redeemed pursuant to an extraordinary mandatory redemption, the Trustee shall select the Series 2020 Bonds or portions of the Series 2020 Bonds to be redeemed randomly. Partial redemptions of Series 2020 Bonds shall be made in such a manner that the remaining Series 2020 Bonds held by each Bondholder shall be in Authorized Denominations, except for the last remaining Series 2020 Bond.

The Series 2020 Bonds are subject to redemption prior to maturity in the amounts, at the times and in the manner provided below. All payments of the Redemption Price of the Series 2020 Bonds shall be made on the dates specified below. Upon any redemption of Series 2020 Bonds other than in accordance with scheduled mandatory sinking fund redemptions, the Issuer shall cause to be recalculated and delivered to the Trustee revised mandatory sinking fund redemption amounts recalculated so as to amortize the Outstanding principal amount of Series 2020 Bonds in substantially equal annual installments of principal and interest (subject to rounding to Authorized Denominations of principal) over the remaining term of the Series 2020 Bonds. The mandatory sinking fund redemption amounts as so recalculated shall not result in an increase in the aggregate of the mandatory sinking fund redemption amounts for all Series 2020 Bonds in any year. In the event of a redemption or purchase occurring less than forty-five (45) days prior to a date on which a mandatory sinking fund redemption payment is due, the foregoing recalculation shall not be made to the mandatory sinking fund redemption amounts due in the year in which such redemption occurs, but shall be made to the mandatory sinking fund redemption amounts for the immediately succeeding and subsequent years.

(a) **Optional Redemption.** The Series 2020 Bonds may, at the option of the Issuer, provided written notice hereof has been sent to the Trustee at least forty-five (45) days prior to the redemption date (unless the Trustee will accept less than forty-five (45) days' notice), be called for redemption prior to maturity as a whole or in part, at any time, on or after November 1, 20XX (less than all Series 2020 Bonds of a maturity to be selected randomly), at a Redemption Price equal to the principal amount of Series 2020 Bonds to be redeemed, plus accrued interest from the most recent Interest Payment Date to the redemption date from moneys on deposit in the Series 2020 Optional Redemption Subaccount of the Series 2020 Bond Redemption Account.

(b) **Extraordinary Mandatory Redemption in Whole or in Part.** The Series 2020 Bonds are subject to extraordinary mandatory redemption prior to maturity by the Issuer in whole or in part, on any date (other than in the case of clause (i) below which extraordinary mandatory redemption in part must occur on a Quarterly Redemption Date), at a Redemption Price equal to 100% of the principal amount of the Series 2020 Bonds to be redeemed, plus interest accrued to the redemption date, as follows:

(i) from Series 2020 Prepayment Principal deposited into the Series 2020 Prepayment Subaccount of the Series 2020 Bond Redemption Account following the

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Prepayment in whole or in part of Series 2020 Special Assessments on any assessable property within the Phase One Assessment Area within the District in accordance with the provisions of Section 4.05(a) of this First Supplemental Indenture.

(ii) from moneys, if any, on deposit in the Series 2020 Funds, Accounts and subaccounts in the Funds and Accounts (other than the Series 2020 Rebate Fund and the Series 2020 Acquisition and Construction Account) sufficient to pay and redeem all Outstanding Series 2020 Bonds and accrued interest thereon to the redemption date or dates in addition to all amounts owed to Persons under the Indenture.

(iii) upon the Completion Date, from any funds remaining on deposit in the Series 2020 Acquisition and Construction Account not otherwise reserved to complete the Phase One Assessment Area Project and which have been transferred to the Series 2020 General Redemption Subaccount of the Series 2020 Bond Redemption Account.

(c) Mandatory Sinking Fund Redemption. The Series 2020 Bonds maturing on November 1, 20\_\_ are subject to mandatory sinking fund redemption from the moneys on deposit in the Series 2020 Sinking Fund Account on November 1 in the years and in the mandatory sinking fund redemption amounts set forth below at a redemption price of 100% of their principal amount plus accrued interest to the date of redemption.

<u>Year</u>	<u>Mandatory Sinking Fund Redemption Amount</u>
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\*Maturity

The Series 2020 Bonds maturing on November 1, 20\_\_ are subject to mandatory sinking fund redemption from the moneys on deposit in the Series 2020 Sinking Fund Account on November 1 in the years and in the mandatory sinking fund redemption amounts set forth below at a redemption price of 100% of their principal amount plus accrued interest to the date of redemption.

<u>Year</u>	<u>Mandatory Sinking Fund Redemption Amount</u>
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\*Maturity

**ARTICLE IV  
ESTABLISHMENT OF CERTAIN FUNDS AND ACCOUNTS;  
ADDITIONAL COVENANTS OF THE ISSUER; PREPAYMENTS;  
REMOVAL OF SERIES 2020 SPECIAL ASSESSMENT LIENS**

**SECTION 4.01. Establishment of Certain Funds and Accounts.**

(a) The Trustee shall establish a separate account within the Acquisition and Construction Fund designated as the "Series 2020 Acquisition and Construction Account." Proceeds of the Series 2020 Bonds shall be deposited into the Series 2020 Acquisition and Construction Account in the amount set forth in Section 2.06 of this First Supplemental Indenture, together with any moneys transferred to the Series 2020 Acquisition and Construction Account, and such moneys in the Series 2020 Acquisition and Construction Account shall be applied as set forth in Section 5.01 of the Master Indenture. Any moneys remaining in the Series 2020 Acquisition and Construction Account after the Completion Date and payment of all costs of the Phase One Assessment Area Project, as evidenced in writing from the Issuer or from the District Manager, on behalf of the Issuer to the Trustee, shall be transferred to the Series 2020 General Redemption Subaccount of the Series 2020 Bond Redemption Account and the Series 2020 Acquisition and Construction Account shall be closed. Upon presentation to the Trustee of a properly signed requisition in substantially the form attached hereto as Exhibit C, the Trustee shall withdraw moneys from the Series 2020 Acquisition and Construction Account. The Trustee shall not pay any requisition submitted if an Event of Default as to which the Trustee is deemed to have knowledge under the Indenture has occurred and is continuing unless directed in writing by the Majority Holders. Pursuant to the Master Indenture, the Trustee shall establish a separate account within the Acquisition and Construction Fund designated as the "Series 2020 Costs of Issuance Account." Proceeds of the Series 2020 Bonds shall be deposited into the Series 2020 Costs of Issuance Account in the amount set forth in Section 2.06 of this First Supplemental Indenture. Upon presentation to the Trustee of a properly signed requisition in substantially the form attached hereto as Exhibit C, the Trustee shall withdraw moneys from the Series 2020 Costs of Issuance Account to pay the costs of issuing the Series 2020 Bonds. Six months after the issuance of the Series 2020 Bonds, any moneys remaining in the Series 2020 Costs of Issuance Account in excess of the amounts requested to be disbursed by the Issuer shall be deposited into the Series 2020 Interest Account and the Series 2020 Costs of Issuance Account shall be closed. Any deficiency in the amount allocated to pay the cost of issuing the Series 2020 Bonds shall be paid from excess Series 2020 Pledged Revenues on deposit in the Series 2020 Revenue Account, as provided in paragraph SEVENTH of Section 4.2 hereof.

(b) Pursuant to Section 6.03 of the Master Indenture, the Trustee shall establish a separate Account within the Revenue Fund designated as the "Series 2020 Revenue Account." Series 2020 Special Assessments (except for Prepayments of Series 2020 Special Assessments which shall be identified as such by the Issuer to the Trustee and deposited in the Series 2020 Prepayment Subaccount) shall be deposited by the Trustee into the Series 2020 Revenue Account which shall be applied as set forth in Section 6.03 of the Master Indenture and Section 4.02 of this First Supplemental Indenture.

(c) Pursuant to Section 6.04 of the Master Indenture, the Trustee shall establish a separate Account within the Debt Service Fund designated as the "Series 2020 Principal Account." Moneys shall be deposited into the Series 2020 Principal Account as

The Series 2020 Bonds maturing on November 1, 20\_\_ are subject to mandatory sinking fund redemption from the moneys on deposit in the Series 2020 Sinking Fund Account on November 1 in the years and in the mandatory sinking fund redemption amounts set forth below at a redemption price of 100% of their principal amount plus accrued interest to the date of redemption.

<u>Year</u>	<u>Mandatory Sinking Fund Redemption Amount</u>
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\*Maturity

The Series 2020 Bonds maturing on November 1, 20\_\_ are subject to mandatory sinking fund redemption from the moneys on deposit in the Series 2020 Sinking Fund Account on November 1 in the years and in the mandatory sinking fund redemption amounts set forth below at a redemption price of 100% of their principal amount plus accrued interest to the date of redemption.

<u>Year</u>	<u>Mandatory Sinking Fund Redemption Amount</u>
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\*Maturity

**SECTION 3.02. Notice of Redemption.** When required to redeem Series 2020 Bonds under any provision of this First Supplemental Indenture or directed to redeem Series 2020 Bonds by the Issuer, the Trustee shall give or cause to be given to Owners of the Series 2020 Bonds to be redeemed, notice of the redemption, as set forth in Article VIII of the Master Indenture.

[END OF ARTICLE III]

provided in Section 6.04 of the Master Indenture and Section 4.02 of this First Supplemental Indenture, and applied for the purposes provided therein.

(d) Pursuant to Section 6.04 of the Master Indenture, the Trustee shall establish two separate Accounts within the Debt Service Fund designated as the "Series 2020 Interest Account" and the "Series 2020 Capitalized Interest Account." Moneys deposited into the Series 2020 Interest Account pursuant to Section 6.04 of the Master Indenture and Section 4.02 of this First Supplemental Indenture and into the Series 2020 Capitalized Interest Account pursuant to Section 2.06 of this First Supplemental Indenture, shall be applied for the purposes provided therein.

(e) Pursuant to Section 6.04 of the Master Indenture, the Trustee shall establish another separate Account within the Debt Service Fund designated as the "Series 2020 Sinking Fund Account." Moneys shall be deposited into the Series 2020 Sinking Fund Account as provided in Section 6.04 of the Master Indenture and Section 4.02 of this First Supplemental Indenture and applied for the purposes provided therein and in Section 3.01(c) of this First Supplemental Indenture.

(f) Pursuant to Section 6.05 of the Master Indenture, the Trustee shall establish a separate Account within the Debt Service Reserve Fund designated as the "Series 2020 Reserve Account." Proceeds of the Series 2020 Bonds shall be deposited into the Series 2020 Reserve Account in the amount set forth in Section 2.06 of this First Supplemental Indenture, and such moneys, together with any other moneys deposited into the Series 2020 Reserve Account pursuant to Section 4.02 of this First Supplemental Indenture shall be applied for the purposes provided therein and in this Section 4.01(f) of this First Supplemental Indenture.

On each March 15 and September 15 (or, if such date is not a Business Day, on the Business Day next preceding such day), the Trustee shall determine the amount on deposit in the Series 2020 Reserve Account and transfer any excess therein above the Reserve Requirement for the Series 2020 Bonds caused by investment earnings to be transferred to the Series 2020 Acquisition and Construction Account and, after the Completion Date, to the Series 2020 Revenue Account.

Notwithstanding any of the foregoing, amounts on deposit in the Series 2020 Reserve Account shall be transferred by the Trustee, in the amounts directed in writing by the Majority Holders of the Series 2020 Bonds to the Series 2020 General Redemption Subaccount of the Series 2020 Bond Redemption Account, if as a result of the application of Article X of the Master Indenture, the proceeds received from lands sold subject to the Series 2020 Special Assessments and applied to redeem a portion of the Series 2020 Bonds is less than the principal amount of Series 2020 Bonds indebtedness attributable to such lands.

(g) Pursuant to Section 6.06 of the Master Indenture, the Trustee shall establish a separate Series Bond Redemption Account within the Bond Redemption Fund designated as the "Series 2020 Bond Redemption Account" and within such Account, a "Series 2020 General Redemption Subaccount," a "Series 2020 Optional Redemption Subaccount," and a "Series 2020 Prepayment Subaccount." Except as otherwise provided in this First Supplemental Indenture regarding Prepayments or in connection with the optional redemption of the Series 2020 Bonds, moneys to be deposited into the Series 2020 Bond Redemption Account

as provided in Section 6.06 of the Master Indenture, shall be deposited to the Series 2020 General Redemption Subaccount of the Series 2020 Bond Redemption Account.

(h) Moneys that are deposited into the Series 2020 General Redemption Subaccount of the Series 2020 Bond Redemption Account (including all earnings on investments held therein) shall be used to call Series 2020 Bonds for the extraordinary mandatory redemption in whole, pursuant to Section 3.01(b)(ii) hereof or in part pursuant to Section 3.01(b)(iii) hereof.

(i) Moneys in the Series 2020 Prepayment Subaccount of the Series 2020 Bond Redemption Account (including all earnings on investments held in such Series 2020 Prepayment Subaccount of the Series 2020 Bond Redemption Account) shall be accumulated therein to be used to call for redemption pursuant to Section 3.01(b)(i) hereof an amount of Series 2020 Bonds equal to the amount of money transferred to the Series 2020 Prepayment Subaccount of the Series 2020 Bond Redemption Account for the purpose of such extraordinary mandatory redemption on the dates and at the price provided in such Section 3.01(b)(i) hereof.

(j) The Issuer hereby directs the Trustee to establish a Series 2020 Rebate Fund designated as the "Series 2020 Rebate Fund." Moneys shall be deposited into the Series 2020 Rebate Fund, as provided in the Arbitrage Certificate and applied for the purposes provided therein.

(k) Any moneys on deposit in the Series 2020 Optional Redemption Subaccount shall be used to optionally redeem all or a portion of the Series 2020 Bonds pursuant to Section 3.01(a) hereof.

**SECTION 4.02. Series 2020 Revenue Account.** The Trustee shall transfer from amounts on deposit in the Series 2020 Revenue Account to the Funds and Accounts designated below, the following amounts, at the following times and in the following order of priority:

FIRST, upon receipt but no later than the Business Day next preceding each May 1 commencing May 1, 2021, to the Series 2020 Interest Account of the Debt Service Fund, an amount equal to the interest on the Series 2020 Bonds becoming due on the next succeeding May 1, less any amount on deposit in the Series 2020 Interest Account and Series 2020 Capitalized Interest Account not previously credited;

SECOND, upon receipt but no later than the Business Day next preceding each November 1 commencing November 1, 2021, to the Series 2020 Interest Account of the Debt Service Fund, an amount equal to the interest on the Series 2020 Bonds becoming due on the next succeeding November 1, less any amounts on deposit in the Series 2020 Interest Account and Series 2020 Capitalized Interest Account not previously credited;

THIRD, no later than the Business Day next preceding each November 1, commencing November 1, 20XX, to the Series 2020 Sinking Fund Account of the Debt Service Fund, an amount equal to the principal amount of Series 2020 Bonds subject to sinking fund redemption on such November 1, less any amount on deposit in the Series 2020 Sinking Fund Account not previously credited;

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**SECTION 4.04. Phase One Assessment Area Project to Conform to Consulting Engineers Report.** Upon the issuance of the Series 2020 Bonds, the Issuer will promptly proceed to construct or acquire the Phase One Assessment Area Project, as described in Exhibit A hereto and in the Consulting Engineer's Report relating thereto, all pursuant to the terms and provisions of the Acquisition Agreement.

**SECTION 4.05. Prepayments; Removal of Series 2020 Special Assessment Liens.**

(a) At any time any owner of property subject to the Series 2020 Special Assessments may, at its option, or as a result of acceleration of the Series 2020 Special Assessments because of non-payment thereof or as a result of true-up payment, shall require the Issuer to reduce or release and extinguish the lien upon its property by virtue of the levy of the Series 2020 Special Assessments by paying or causing there to be paid, to the Issuer all or a portion of the Series 2020 Special Assessment, which shall constitute Series 2020 Prepayment Principal, plus accrued interest to the next succeeding Quarterly Redemption Date (or the second succeeding Quarterly Redemption Date if such Prepayment is made within forty-five (45) calendar days before a Quarterly Redemption Date), attributable to the property subject to the Series 2020 Special Assessment owned by such owner.

(b) Upon receipt of Series 2020 Prepayment Principal as described in paragraph (a) above, subject to satisfaction of the conditions set forth therein, the Issuer shall immediately pay the amount so received to the Trustee, and the Issuer shall take such action as is necessary to record in the official records of the Issuer that the Series 2020 Special Assessment has been paid in whole or in part and that such Series 2020 Special Assessment lien is thereby reduced, or released and extinguished, as the case may be.

The Trustee may conclusively rely on the Issuer's determination of what moneys constitute Prepayments. The Trustee shall calculate the amount available for the extraordinary mandatory redemption of the applicable Series 2020 Bonds pursuant to Section 3.01(b)(i) forty-five (45) days prior to each Quarterly Redemption Date. At any time such Prepayment is not in an integral multiple of \$5,000, the Trustee shall withdraw moneys from the Series 2020 Revenue Account to round-up to an integral multiple of \$5,000 and deposit such amount into the Series 2020 Prepayment Subaccount. Notwithstanding the foregoing, the Trustee shall not be authorized to withdraw any moneys from the Series 2020 Revenue Account unless all of the deposits required under Section 4.02 hereof have or can be made to the next succeeding Interest Payment Date.

[END OF ARTICLE IV]

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FOURTH, no later than the Business Day next preceding each November 1, which is the principal payment date for any Series 2020 Bonds, to the Series 2020 Principal Account of the Debt Service Fund, an amount equal to the principal amount of Series 2020 Bonds Outstanding maturing on such November 1, less any amounts on deposit in the Series 2020 Principal Account not previously credited;

FIFTH, notwithstanding the foregoing, at any time the Series 2020 Bonds are subject to redemption on a date which is not a May 1 or November 1 Interest Payment Date, the Trustee shall be authorized to transfer from the Series 2020 Revenue Account to the Series 2020 Interest Account, the amount necessary to pay interest on the Series 2020 Bonds subject to redemption on such date; and

SIXTH, upon receipt but no later than the Business Day next preceding each Interest Payment Date while Series 2020 Bonds remain Outstanding, to the Series 2020 Reserve Account, an amount equal to the amount, if any, which is necessary to make the amount on deposit therein equal to the Reserve Requirement for the Series 2020 Bonds; and

SEVENTH, subject to the foregoing paragraphs, the balance of any moneys remaining after making the foregoing deposits shall be first deposited into the Series 2020 Costs of Issuance Account to cover any deficiencies in the amount allocated to pay the cost of issuing the Series 2020 Bonds and next, any balance in the Series 2020 Revenue Account shall remain on deposit in such Series 2020 Revenue Account, unless pursuant to the Arbitrage Certificate, it is necessary to make a deposit into the Series 2020 Rebate Fund, in which case, the Issuer shall direct the Trustee to make such deposit thereto.

Notwithstanding that the Issuer has funded the Series 2020 Capitalized Interest Account to pay interest on the Series 2020 Bonds through at least November 1, 2021, moneys on deposit in the Series 2020 Capitalized Interest Account, including all investment earnings thereon, shall remain on deposit in such Account and be used by the Trustee to pay interest on the Series 2020 Bonds on any subsequent Interest Payment Date if moneys remain after November 1, 2021. When such Account has been depleted of all funds, the Trustee shall be authorized to close such Account.

**SECTION 4.03. Power to Issue Series 2020 Bonds and Create Lien.** The Issuer is duly authorized under the Act and all applicable laws of the State to issue the Series 2020 Bonds, to execute and deliver the Indenture and to pledge the Series 2020 Pledged Revenues for the benefit of the Series 2020 Bonds to the extent set forth herein. The Series 2020 Pledged Revenues are not and shall not be subject to any other lien senior to or on a parity with the lien created in favor of the Series 2020 Bonds, except as otherwise permitted under the Master Indenture. The Series 2020 Bonds and the provisions of the Indenture are and will be valid and legally enforceable obligations of the Issuer in accordance with their respective terms. The Issuer shall, at all times, to the extent permitted by law, defend, preserve and protect the pledge created by the Indenture and all the rights of the Owners of the Series 2020 Bonds under the Indenture against all claims and demands of all persons whomsoever.

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## ARTICLE V COVENANTS AND DESIGNATIONS OF THE ISSUER

**SECTION 5.01. Collection of Series 2020 Special Assessments.** Pursuant to the terms and provisions of the Master Indenture and except as provided in the next succeeding sentence, the Issuer shall collect the Series 2020 Special Assessments relating to the acquisition and construction of the Phase One Assessment Area Project through the Uniform Method of Collection (the "Uniform Method") afforded by Chapter 197, Florida Statutes. Notwithstanding the provisions of the Master Indenture, the Issuer shall commence using the Uniform Method with respect to the platted lots within Phase 1 of the Development for the District's fiscal year 2020 and commence using the Uniform Method with respect to the platted lots representing Phase 2 of the Development for the District's fiscal year 2021, unless the Trustee, at the direction of the Majority Holders, directs the Issuer, in writing, otherwise. In addition, and not in limitation of, the covenants contained elsewhere in this First Supplemental Indenture and in the Master Indenture, the Issuer covenants to comply with the terms of the proceedings heretofore adopted with respect to the Series 2020 Special Assessments, and to levy the Series 2020 Special Assessments in such manner as will generate funds sufficient to pay debt service on the Series 2020 Bonds when due. All Series 2020 Special Assessments that are collected directly by the Issuer shall be due and payable by the landowner not later than thirty (30) days prior to each Interest Payment Date.

**SECTION 5.02. Continuing Disclosure.** Contemporaneously with the execution and delivery hereof, the Issuer has executed and delivered a Continuing Disclosure Agreement in order to comply with the requirements of Rule 15c2-12 promulgated under the Securities and Exchange Act of 1934. The Issuer covenants and agrees to comply with the provisions of such Continuing Disclosure Agreement applicable to it; however, as set forth therein, failure to so comply shall not constitute and Event of Default hereunder, but shall instead be enforceable by mandamus or any other means of specific performance.

**SECTION 5.03. Investment of Funds and Accounts.** The provisions of Section 7.02 of the Master Indenture shall apply to the investment and reinvestment of moneys in the Series 2020 Accounts and subaccounts therein created hereunder.

**SECTION 5.04. Additional Obligations.** The Issuer covenants not to issue any other Bonds or other debt obligations secured by the Series 2020 Special Assessments. Such covenant shall not prohibit the Issuer from issuing refunding bonds. The Issuer's covenant described above shall not be applicable if the Series 2020 Special Assessments levied within the Phase One Assessment Area within the District have been Completely Absorbed or the Majority Holders have consented to such issuance. Notwithstanding any of the foregoing, the Issuer shall not be precluded from imposing other non-ad valorem assessments on such lands within the Phase One Assessment Area in connection with other capital projects that are necessary for health, safety or welfare reasons or to remediate a natural disaster. The Trustee and the Issuer may rely on a written certificate from the District Manager regarding the Series 2020 Special Assessments being Completely Absorbed.

**SECTION 5.05. Requisite Owners for Direction or Consent.** Anything in the Master Indenture to the contrary notwithstanding, any direction or consent or similar provision

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which requires more than fifty percent (50%) of the Owners, shall in each case be deemed to refer to, and shall mean, the Majority Holders.

**SECTION 5.06. Acknowledgement Regarding Series 2020 Acquisition and Construction Account Moneys Following an Event of Default.** In accordance with the provisions of the Indenture, upon the occurrence of an Event of Default with respect to the Series 2020 Bonds, the Series 2020 Bonds are payable solely from the Series 2020 Pledged Revenues and any other moneys held by the Trustee under the Indenture for such purpose. Anything in the Indenture to the contrary notwithstanding and provided, however, that such actions shall not affect the tax-exempt status of the Series 2020 Bonds, the Issuer hereby acknowledges that, upon the occurrence of an Event of Default with respect to the Series 2020 Bonds, (i) the Series 2020 Pledged Revenues include, without limitation, all amounts on deposit in the Series 2020 Acquisition and Construction Account of the Acquisition and Construction Fund then held by the Trustee, (ii) the Series 2020 Pledged Revenues may not be used by the Issuer (whether to pay costs of a portion of the Phase One Assessment Area Project or otherwise) without the consent of the Majority Holders, and (iii) the Series 2020 Pledged Revenues may be used by the Trustee, at the direction or with the approval of the Majority Holders, to pay the fees of the Trustee and the reasonable costs and expenses incurred in connection with the pursuit of remedies under the Indenture. Prior to any action by the Trustee under this Section 5.06 or Section 10.05 of the Master Indenture, the Majority Holders shall provide the Issuer and the Trustee an indemnification regarding such actions so directed. The Issuer also acknowledges and agrees that from and after an Event of Default, the Trustee is authorized to exercise the Issuer's rights under the Collateral Assignment at the direction of the Majority Holders but without the consent or approval of the Issuer and the Issuer covenants not to enter into any contract regarding the Phase One Assessment Area Project from and after an Event of Default without the written direction of the Majority Holders.

[END OF ARTICLE V]

**ARTICLE VII  
MISCELLANEOUS PROVISIONS**

**SECTION 7.01. Interpretation of Supplemental Indenture.** This First Supplemental Indenture amends and supplements the Master Indenture with respect to the Series 2020 Bonds, and all of the provisions of the Master Indenture, to the extent not inconsistent herewith, are incorporated in this First Supplemental Indenture by reference. To the maximum extent possible, the Master Indenture and this First Supplemental Indenture shall be read and construed as one document.

**SECTION 7.02. Amendments.** Any amendments to this First Supplemental Indenture shall be made pursuant to the provisions for amendment contained in the Master Indenture.

**SECTION 7.03. Counterparts.** This First Supplemental Indenture may be executed in any number of counterparts, each of which when so executed and delivered shall be an original; but such counterparts shall together constitute but one and the same instrument.

**SECTION 7.04. Appendices and Exhibits.** Any and all schedules, appendices or exhibits referred to in and attached to this First Supplemental Indenture are hereby incorporated herein and made a part of this First Supplemental Indenture for all purposes.

**SECTION 7.05. Payment Dates.** In any case in which an Interest Payment Date or the maturity date of the Series 2020 Bonds or the date fixed for the redemption of any Series 2020 Bonds shall be other than a Business Day, then payment of interest, principal or Redemption Price need not be made on such date but may be made on the next succeeding Business Day, with the same force and effect as if made on the due date, and no interest on such payment shall accrue for the period after such due date if payment is made on such next succeeding Business Day.

**SECTION 7.06. No Rights Conferred on Others.** Nothing herein contained shall confer any right upon any Person other than the parties hereto and the Holders of the Series 2020 Bonds.

[Remainder of page intentionally left blank.]

**ARTICLE VI  
THE TRUSTEE; THE PAYING AGENT AND REGISTRAR**

**SECTION 6.01. Acceptance of Trust.** The Trustee accepts and agrees to execute the trusts hereby created and agrees to perform such trusts upon the terms and conditions set forth in the Indenture. The Trustee agrees to act as Paying Agent and Registrar for the Series 2020 Bonds.

**SECTION 6.02. Trustee's Duties.** The Trustee shall not be responsible in any manner for the due execution of this First Supplemental Indenture by the Issuer or for the recitals contained herein (except for the certificate of authentication on the Series 2020 Bonds), all of which are made solely by the Issuer. Nothing contained herein shall limit the rights, benefits, privileges, protection and entitlement inuring to the Trustee under the Master Indenture.

[END OF ARTICLE VI]

IN WITNESS WHEREOF, Banyan Cay Community Development District has caused this First Supplemental Trust Indenture to be executed by the Chairperson or Vice Chairperson of its Board of Supervisors and its corporate seal to be hereto affixed and attested by the Secretary of its Board of Supervisors and U.S. Bank National Association has caused this First Supplemental Trust Indenture to be executed by one of its authorized signatories, all as of the day and year first above written.

BANYAN CAY COMMUNITY  
DEVELOPMENT DISTRICT

[SEAL]

Attest:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Chairperson/Vice Chairperson  
Board of Supervisors

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Secretary, Board of Supervisors

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee, Paying Agent and Registrar

By: \_\_\_\_\_  
Name: Robert Hedgecock  
Title: Assistant Vice President

STATE OF FLORIDA )  
 ) SS:  
COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of November, 2020, by \_\_\_\_\_, Chairperson/Vice Chairperson of Banyan Cay Community Development District (the "Issuer"), who acknowledged that he/she did so sign the foregoing instrument as such officer, respectively, for and on behalf of said Issuer; that the same is his/her free act and deed as such officer and the free act and deed of said Issuer; and that the seal affixed to said instrument is the seal of said Issuer; that he/she respectively appeared before me this day in person and acknowledged that he/she, being thereunto duly authorized, signed, sealed with the seal of said Issuer, for the uses and purposes therein set forth. He/She is personally known to me or produced \_\_\_\_\_ as identification.

[NOTARIAL SEAL]

Notary: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
NOTARY PUBLIC, STATE OF \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF FLORIDA )  
 ) SS:  
COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of November, 2020, by \_\_\_\_\_, Secretary of Banyan Cay Community Development District (the "Issuer"), who acknowledged that he did so sign the foregoing instrument as such officer, for and on behalf of said Issuer; that the same is his free act and deed as such officer and the free act and deed of said Issuer; and that the seal affixed to said instrument is the seal of said Issuer; that he appeared before me this day in person and severally acknowledged that he, being thereunto duly authorized, signed, sealed with the seal of said Issuer, for the uses and purposes therein set forth. He is personally known to me or produced \_\_\_\_\_ as identification.

[NOTARIAL SEAL]

Notary: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
NOTARY PUBLIC, STATE OF \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF FLORIDA )  
 ) SS:  
COUNTY OF BROWARD )

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of November, 2020, by Robert Hedgecock, an Assistant Vice President of U.S. Bank National Association, as trustee (the "Trustee"), who acknowledged that he did so sign said instrument as such officer for and on behalf of the Trustee; that the same is his free act and deed as such officer and the free act and deed of the Trustee; that he appeared before me on this day in person and acknowledged that he, being thereunto duly authorized, signed, for the uses and purposes therein set forth. He is personally known to me or produced \_\_\_\_\_ as identification.

[NOTARIAL SEAL]

Notary: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
NOTARY PUBLIC, STATE OF \_\_\_\_\_  
My commission expires \_\_\_\_\_

**EXHIBIT A**

**DESCRIPTION OF PHASE ONE ASSESSMENT AREA PROJECT**

The Phase One Assessment Area Project includes the public infrastructure described in the Engineer's Report prepared by Engenuity Group, Inc. dated June 20, 2019, as such report may be amended or supplemented from time to time.

EXHIBIT B

[FORM OF SERIES 2020 BOND]

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UNITED STATES OF AMERICA
STATE OF FLORIDA
COUNTY OF PALM BEACH
CITY OF WEST PALM BEACH
BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT
SPECIAL ASSESSMENT BOND, SERIES 2020
(PHASE ONE ASSESSMENT AREA)

Interest Rate Maturity Date Date of Original Issuance CUSIP
% \_\_\_\_\_, 2020

Registered Owner:-----Cede & Co.-----

Principal Amount:--

KNOW ALL PERSONS BY THESE PRESENTS that the Banyan Cay Community Development District (the "Issuer"), for value received, hereby promises to pay to the registered owner shown above or registered assigns, on the date specified above, from the sources hereinafter mentioned, upon presentation and surrender hereof (except while the herein defined Series 2020 Bonds are in book-entry only form such presentation shall not be required), at the designated corporate trust office of U.S. Bank National Association in Fort Lauderdale, Florida, as paying agent (said U.S. Bank National Association and any successor paying agent being herein called the "Paying Agent"), the Principal Amount set forth above (with interest thereon at the Interest Rate per annum set forth above, computed on 360-day year of twelve 30-day months), said principal payable on the Maturity Date stated above or upon earlier redemption. Principal of this Bond is payable at the designated corporate trust office of U.S. Bank National Association, in lawful money of the United States of America (except while the Series 2020 Bonds are in book-entry form). Interest on this Bond is payable by check or draft of the Paying Agent made payable to the registered owner and mailed on each May 1 and November 1, commencing May 1, 2021 to the address of the registered owner as such name and address shall appear on the registry books of the Issuer maintained by U.S. Bank National Association, as registrar (said U.S. Bank National Association and any successor registrar being herein called the "Registrar") on the first day of the month (whether or not a Business Day) an interest payment date occurs (the "Record Date"). Such interest shall be payable from the most recent interest payment date next preceding the date of authentication hereof to which interest has been paid, unless the date of authentication hereof is a May 1 or November 1 to which interest has been paid, in which case from the date of authentication hereof, or unless such date of authentication is prior to May 1, 2021, in which case from the date of initial delivery, or unless the date of authentication hereof is between a Record Date and the next succeeding interest payment date, in which case from such interest payment date. Any such interest not so punctually paid or duly

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"Indenture"), each by and between the Issuer and the Trustee, executed counterparts of which are on file at the designated corporate trust office of the Trustee in Fort Lauderdale, Florida.

Reference is hereby made to the Indenture for the provisions, among others, with respect to the custody and application of the proceeds of the Series 2020 Bonds issued under the Indenture, the operation and application of the Debt Service Fund, the Series 2020 Reserve Account within the Debt Service Reserve Fund and other Funds and Accounts (each as defined in the Indenture) charged with and pledged to the payment of the principal of and the interest on the Series 2020 Bonds, the levy and the evidencing and certifying for collection, of the Series 2020 Special Assessments, the nature and extent of the security for the Series 2020 Bonds, the terms and conditions on which the Series 2020 Bonds are issued, the rights, duties and obligations of the Issuer and of the Trustee under the Indenture, the conditions under which such Indenture may be amended without the consent of the registered owners of the Series 2020 Bonds, the conditions under which such Indenture may be amended with the consent of the Majority Holders of the Series 2020 Bonds outstanding, and as to other rights and remedies of the registered owners of the Series 2020 Bonds.

The owner of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture.

It is expressly agreed by the owner of this Bond that such owner shall never have the right to require or compel the exercise of the ad valorem taxing power of the Issuer, the City, the County, the State or any other political subdivision thereof, or taxation in any form of any real or personal property of the Issuer, the City, the County, the State or any other political subdivision thereof, for the payment of the principal of and interest on this Bond or the making of any other sinking fund and other payments provided for in the Indenture, except for Series 2020 Special Assessments to be assessed and levied by the Issuer as set forth in the Indenture.

By the acceptance of this Bond, the owner hereof assents to all the provisions of the Indenture.

This Bond is payable from and secured by Series 2020 Pledged Revenues, as such term is defined in the Indenture, all in the manner provided in the Indenture. The Indenture provides for the levy and the evidencing and certifying, of non-ad valorem assessments in the form of Series 2020 Special Assessments to secure and pay the Bonds.

The Series 2020 Bonds are subject to redemption prior to maturity in the amounts, at the times and in the manner provided below. All payments of the redemption price of the Series 2020 Bonds shall be made on the dates specified below. Upon any redemption of Series 2020 Bonds other than in accordance with scheduled mandatory sinking fund redemption, the Issuer shall cause to be recalculated and delivered to the Trustee revised mandatory sinking fund redemption amounts recalculated so as to amortize the Outstanding principal amount of Series 2020 Bonds in substantially equal annual installments of principal and interest (subject to rounding to Authorized Denominations of principal) over the remaining term of the Series 2020 Bonds. The mandatory sinking fund redemption amounts as so recalculated shall not result in an

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provided for shall forthwith cease to be payable to the registered owner on such Record Date and may be paid to the person in whose name this Bond is registered at the close of business on a Special Record Date for the payment of such defaulted interest to be fixed by U.S. Bank National Association, as Trustee (said U.S. Bank National Association and any successor trustee being herein called the "Trustee"), notice whereof shall be given to Bondholders of record as of the fifth (5th) day prior to such mailing, at their registered addresses, not less than ten (10) days prior to such Special Record Date, or may be paid, at any time in any other lawful manner, as more fully provided in the Indenture (defined below). Any capitalized term used in this Bond and not otherwise defined shall have the meaning ascribed to such term in the Indenture.

THE BONDS ARE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY OUT OF THE PLEDGED REVENUES PLEDGED THEREFOR UNDER THE INDENTURE AND NEITHER THE PROPERTY, THE FULL FAITH AND CREDIT, NOR THE TAXING POWER OF THE ISSUER, THE CITY OF WEST PALM BEACH, FLORIDA (THE "CITY"), PALM BEACH COUNTY, FLORIDA (THE "COUNTY"), THE STATE OF FLORIDA (THE "STATE"), OR ANY OTHER POLITICAL SUBDIVISION THEREOF, IS PLEDGED AS SECURITY FOR THE PAYMENT OF THE BONDS, EXCEPT THAT THE ISSUER IS OBLIGATED UNDER THE INDENTURE TO LEVY AND TO EVIDENCE AND CERTIFY, OR CAUSE TO BE CERTIFIED, FOR COLLECTION, SERIES 2020 SPECIAL ASSESSMENTS (AS DEFINED IN THE INDENTURE) TO SECURE AND PAY THE SERIES 2020 BONDS. THE SERIES 2020 BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OF THE ISSUER, THE CITY, THE COUNTY, THE STATE, OR ANY OTHER POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION OR LIMITATION.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Indenture until it shall have been authenticated by execution of the Trustee of the certificate of authentication endorsed hereon.

This Bond is one of an authorized issue of Series 2020 Bonds of the Banyan Cay Community Development District, a community development district duly created, organized and existing under Chapter 190, Florida Statutes (the Uniform Community Development District Act of 1980), as amended (the "Act"), and an ordinance enacted by the City Commission of the City of West Palm Beach, Florida on January 28, 2019, designated as "Banyan Cay Community Development District Special Assessment Bonds, Series 2020 (Phase One Assessment Area)" (the "Bonds" or the "Series 2020 Bonds"), in the aggregate principal amount of \_\_\_\_\_ MILLION \_\_\_\_\_ HUNDRED \_\_\_\_\_ THOUSAND AND 00/100 DOLLARS (\$ \_\_\_\_\_,00) of like date, tenor and effect, except as to number, denomination, interest rate and maturity date. The Series 2020 Bonds are being issued under authority of the laws and Constitution of the State of Florida, including particularly the Act, to pay the costs of constructing and/or acquiring a portion of the Phase One Assessment Area Project (as defined in the herein referred to Indenture). The Series 2020 Bonds shall be issued as fully registered bonds in authorized denominations, as set forth in the Indenture. The Bonds are issued under and secured by a Master Trust Indenture dated as of December 1, 2020 (the "Master Indenture"), as amended and supplemented by a First Supplemental Trust Indenture dated as of December 1, 2020 (the "Supplemental Indenture" and together with the Master Indenture, the

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increase in the aggregate of the mandatory sinking fund redemption amounts for all Series 2020 Bonds in any year. In the event of a redemption or purchase occurring less than forty-five (45) days prior to a date on which a mandatory sinking fund redemption payment is due, the foregoing recalculation shall not be made to the mandatory sinking fund redemption amounts due in the year in which such redemption or purchase occurs, but shall be made to the mandatory sinking fund redemption amounts for the immediately succeeding and subsequent years.

Optional Redemption

The Series 2020 Bonds are subject to redemption prior to maturity at the option of the Issuer, as a whole or in part, at any time, on or after November 1, 20\_\_ (less than all Series 2020 Bonds of a maturity to be selected randomly), at a Redemption Price equal to the principal amount of the Series 2020 Bonds to be redeemed, plus accrued interest from the most recent Interest Payment Date to the redemption date.

Mandatory Sinking Fund Redemption

The Series 2020 Bonds maturing on November 1, 20\_\_ are subject to mandatory sinking fund redemption from the moneys on deposit in the Series 2020 Sinking Fund Account on November 1 in the years and in the mandatory sinking fund redemption amounts set forth below at a redemption price of 100% of their principal amount plus accrued interest to the date of redemption. Such principal amounts shall be reduced as specified by the Issuer by the principal amount of any Series 2020 Bonds redeemed pursuant to optional or extraordinary mandatory redemption as set forth herein or purchased and cancelled pursuant to the provisions of the Master Indenture.

Table with 2 columns: Year, Mandatory Sinking Fund Redemption Amount

\*Maturity

The Series 2020 Bonds maturing on November 1, 20\_\_ are subject to mandatory sinking fund redemption from the moneys on deposit in the Series 2020 Sinking Fund Account on November 1 in the years and in the mandatory sinking fund redemption amounts set forth below at a redemption price of 100% of their principal amount plus accrued interest to the date of redemption. Such principal amounts shall be reduced as specified by the Issuer by the principal amount of any Series 2020 Bonds redeemed pursuant to optional or extraordinary mandatory redemption as set forth herein or purchased and cancelled pursuant to the provisions of the Master Indenture.

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Year                      Mandatory Sinking Fund Redemption Amount

Year                      Mandatory Sinking Fund Redemption Amount

\*Maturity

The Series 2020 Bonds maturing on November 1, 20\_\_ are subject to mandatory sinking fund redemption from the moneys on deposit in the Series 2020 Sinking Fund Account on November 1 in the years and in the mandatory sinking fund redemption amounts set forth below at a redemption price of 100% of their principal amount plus accrued interest to the date of redemption. Such principal amounts shall be reduced as specified by the Issuer by the principal amount of any Series 2020 Bonds redeemed pursuant to optional or extraordinary mandatory redemption as set forth herein or purchased and cancelled pursuant to the provisions of the Master Indenture.

Year                      Mandatory Sinking Fund Redemption Amount

\*Maturity

The Series 2020 Bonds maturing on November 1, 20\_\_ are subject to mandatory sinking fund redemption from the moneys on deposit in the Series 2020 Sinking Fund Account on November 1 in the years and in the mandatory sinking fund redemption amounts set forth below at a redemption price of 100% of their principal amount plus accrued interest to the date of redemption. Such principal amounts shall be reduced as specified by the Issuer by the principal amount of any Series 2020 Bonds redeemed pursuant to optional or extraordinary mandatory redemption as set forth herein or purchased and cancelled pursuant to the provisions of the Master Indenture.

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redemption date to each Registered Owner of the Bonds to be redeemed at the address of such Registered Owner recorded on the bond register maintained by the Registrar. On the date designated for redemption, notice having been given and money for the payment of the Redemption Price being held by the Trustee or the Paying Agent, all as provided in the Indenture, the Bonds or such portions thereof so called for redemption shall become and be due and payable at the Redemption Price provided for the redemption of such Bonds or such portions thereof on such date, interest on such Bonds or such portions thereof so called for redemption shall cease to accrue, such Bonds or such portions thereof so called for redemption shall cease to be entitled to any benefit or security under the Indenture and the Owners thereof shall have no rights in respect of such Bonds or such portions thereof so called for redemption except to receive payments of the Redemption Price thereof so held by the Trustee or the Paying Agent. Notwithstanding the foregoing, the Trustee is authorized to give conditional notice of redemption as provided in the Indenture.

The Owner of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any Event of Default under the Indenture, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture.

Modifications or alterations of the Indenture or of any indenture supplemental thereto may be made only to the extent and in the circumstances permitted by the Indenture.

Any moneys held by the Trustee or Paying Agent in trust for the payment and discharge of any Bond which remain unclaimed for three (3) years after the date when such Bond has become due and payable, either at its stated maturity date or by call for earlier redemption shall be paid to the Issuer, thereupon and thereafter no claimant shall have any rights against the Trustee or Paying Agent to or in respect of such moneys.

If the Issuer deposits or causes to be deposited with the Trustee funds or Defeasance Securities (as defined in the Master Indenture) sufficient to pay the principal or Redemption Price of any Series 2020 Bonds becoming due at maturity or by call for redemption in the manner set forth in the Indenture, together with the interest accrued to the due date, the lien of such Bonds as to the trust estate with respect to such Bonds shall be discharged, except for the rights of the Owners thereof with respect to the funds so deposited as provided in the Indenture.

This Bond shall have all the qualities and incidents, including negotiability, of investment securities within the meaning and for all the purposes of the Uniform Commercial Code of the State of Florida.

The Issuer shall keep books for the registration of the Series 2020 Bonds at the designated corporate trust office of the Registrar in Fort Lauderdale, Florida. Subject to the restrictions contained in the Indenture, the Series 2020 Bonds may be transferred or exchanged by the registered owner thereof in person or by his attorney duly authorized in writing only upon the books of the Issuer kept by the Registrar and only upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney. In all cases in which the privilege of transferring or exchanging Bonds is exercised, the Issuer shall execute and the Trustee shall authenticate and deliver a new

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\*Maturity

Extraordinary Mandatory Redemption in Whole or in Part

The Bonds are subject to extraordinary mandatory redemption prior to maturity by the Issuer in whole or in part on any date (other than in the case of clause (i) below which extraordinary mandatory redemption in part must occur on a Quarterly Redemption Date), at an extraordinary mandatory redemption price equal to 100% of the principal amount of the Bonds to be redeemed, plus interest accrued to the redemption date.

(i) from Series 2020 Prepayment Principal deposited into the Series 2020 Prepayment Subaccount of the Series 2020 Bond Redemption Account following the Prepayment in whole or in part of Series 2020 Special Assessments on any assessable lands within the Phase One Assessment Area within the District in accordance with the provisions of Section 4.05(a) of the Supplemental Indenture.

(ii) from moneys, if any, on deposit in the Series 2020 Funds, Accounts and Subaccounts in the Funds and Accounts (other than the Series 2020 Rebate Fund and the Series 2020 Acquisition and Construction Account) sufficient to pay and redeem all Outstanding Series 2020 Bonds and accrued interest thereon to the redemption date or dates in addition to all amounts owed to Persons under the Indenture.

(iii) upon the Completion Date, from any funds remaining on deposit in the Series 2020 Acquisition and Construction Account not otherwise reserved to complete the Phase One Assessment Area Project and which have been transferred to the Series 2020 General Redemption Subaccount of the Series 2020 Bond Redemption Account.

Except as otherwise provided in the Indenture, if less than all of the Bonds subject to redemption shall be called for redemption, the particular such Bonds or portions of such Bonds to be redeemed shall be selected randomly by the Trustee, as provided in the Indenture.

Notice of each redemption of the Bonds is required to be mailed by the Trustee, by first class mail, postage prepaid, not less than thirty (30) nor more than sixty (60) days prior to the

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Bond or Bonds in authorized form and in like aggregate principal amount in accordance with the provisions of the Indenture. Every Bond presented or surrendered for transfer or exchange shall be duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Trustee, Paying Agent or the Registrar, duly executed by the Bondholder or his attorney duly authorized in writing. Transfers and exchanges shall be made without charge to the Bondholder, except that the Issuer or the Trustee may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer or exchange of Series 2020 Bonds.

The Issuer, the Trustee, the Paying Agent and the Registrar shall deem and treat the person in whose name any Bond shall be registered upon the books kept by the Registrar as the absolute owner thereof (whether or not such Bond shall be overdue) for the purpose of receiving payment of or on account of the principal of, premium, if any, and interest on such Bond as the same becomes due, and for all other purposes. All such payments so made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Issuer, the Trustee, the Paying Agent, nor the Registrar shall be affected by any notice to the contrary.

It is hereby certified and recited that all acts, conditions and things required to exist, to happen, and to be performed, precedent to and in connection with the issuance of this Bond exist, have happened and have been performed in regular and due form and time as required by the laws and Constitution of the State of Florida applicable thereto, including particularly the Act, and that the issuance of this Bond, and of the issue of the Series 2020 Bonds of which this Bond is one, is in full compliance with all constitutional and statutory limitations or provisions.

[Remainder of page intentionally left blank.]

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IN WITNESS WHEREOF, Banyan Cay Community Development District has caused this Bond to be signed by the facsimile signature of the Chairperson or Vice Chairperson of its Board of Supervisors and a facsimile of its seal to be imprinted hereon, and attested by the facsimile signature of the Secretary or Assistant Secretary of its Board of Supervisors, all as of the date hereof.

BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT

By: \_\_\_\_\_  
Chairperson/Vice Chairperson  
Board of Supervisors

(SEAL)

Attest:

By: \_\_\_\_\_  
Secretary/Assistant Secretary  
Board of Supervisors

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**CERTIFICATE OF AUTHENTICATION**

This Bond is one of the Series 2020 Bonds delivered pursuant to the within mentioned Indenture.

Date of Authentication: \_\_\_\_\_

U.S. BANK NATIONAL ASSOCIATION, as  
Trustee

By: \_\_\_\_\_  
Assistant Vice President

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**STATEMENT OF VALIDATION**

This Bond is one of a series of Bonds which were validated by judgment of the Circuit Court of the Fifteenth Judicial Circuit of Florida, in and for Palm Beach County, Florida, rendered on the 26<sup>th</sup> day of September, 2019.

BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT

By: \_\_\_\_\_  
Chairperson/Vice Chairperson  
Board of Supervisors

(SEAL)

Attest:

By: \_\_\_\_\_  
Secretary/Assistant Secretary  
Board of Supervisors

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**ABBREVIATIONS**

The following abbreviations, when used in the inscription on the face of the within Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

- TEN COM - as tenants in common
- TEN ENT - as tenants by the entireties
- JT TEN - as joint tenants with rights of survivorship and not as tenants in common

UNIFORM TRANSFER MIN ACT - \_\_\_\_\_ Custodian \_\_\_\_\_  
(Cust) (Minor)

Under Uniform Transfer to Minors Act \_\_\_\_\_  
(State)

Additional abbreviations may also be used though not in the above list.

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ASSIGNMENT AND TRANSFER

FOR VALUE RECEIVED the undersigned sells, assigns and transfers unto

(please print or typewrite name and address of assignee)

The within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

Attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Signature Guarantee:

NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Please insert social security or other identifying number of Assignee.

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The undersigned hereby further certifies that there has not been filed with or served upon the District notice of any lien, right to lien, or attachment upon, or claim affecting the right to receive payment of, any of the moneys payable to the Payee set forth above, which has not been released or will not be released simultaneously with the payment hereof.

The undersigned hereby further certifies that such requisition contains no item representing payment on account of any retained percentage which the District is at the date of such certificate entitled to retain.

Originals or copies of the invoice(s) from the vendor of the property acquired or the services rendered with respect to which disbursement is hereby requested are on file with the District.

BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT

By: Responsible Officer

Date:

CONSULTING ENGINEER'S APPROVAL

The undersigned Consulting Engineer hereby certifies that this disbursement is for the Cost of the Phase One Assessment Area Project and is consistent with: (i) the Acquisition Agreement; and (ii) the report of the Consulting Engineer, as such report shall have been amended or modified.

Consulting Engineer

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EXHIBIT C

FORMS OF REQUISITIONS

BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT SPECIAL ASSESSMENT BONDS, SERIES 2020 (PHASE ONE ASSESSMENT AREA)

(Acquisition and Construction)

The undersigned, a Responsible Officer of the Banyan Cay Community Development District (the "District") hereby submits the following requisition for disbursement under and pursuant to the terms of the Master Trust Indenture between the District and U.S. Bank National Association, as trustee (the "Trustee"), dated as of December 1, 2020, as supplemented by that certain First Supplemental Trust Indenture dated as of December 1, 2020 (collectively, the "Indenture") (all capitalized terms used herein shall have the meaning ascribed to such term in the Indenture):

- (A) Requisition Number; (B) Identify Acquisition Agreement, if applicable; (C) Name of Payee pursuant to Acquisition Agreement; (D) Amount Payable; (E) Purpose for which paid or incurred (refer also to specific contract if amount is due and payable pursuant to a contract involving progress payments); (F) Fund or Account and subaccount, if any, from which disbursement to be made:

Series 2020 Acquisition and Construction Account of the Acquisition and Construction Fund.

The undersigned hereby certifies that:

- 1. obligations in the stated amount set forth above have been incurred by the District; 2. each disbursement set forth above is a proper charge against the Series 2020 Acquisition and Construction Account; 3. each disbursement set forth above was incurred in connection with the acquisition and/or construction of the Phase One Assessment Area Project; and 4. each disbursement represents a Cost of the Phase One Assessment Area Project which has not previously been paid.

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BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT SPECIAL ASSESSMENT BONDS, SERIES 2020 (PHASE ONE ASSESSMENT AREA)

(Costs of Issuance)

The undersigned, a Responsible Officer of the Banyan Cay Community Development District (the "District") hereby submits the following requisition for disbursement under and pursuant to the terms of the Master Trust Indenture between the District and U.S. Bank National Association, as trustee (the "Trustee"), dated as of December 1, 2020, as supplemented by that certain First Supplemental Trust Indenture dated as of December 1, 2020 (collectively, the "Indenture") (all capitalized terms used herein shall have the meaning ascribed to such term in the Indenture):

- (A) Requisition Number; (B) Amount Payable; (C) Purpose for which paid or incurred: Costs of Issuance; (D) Fund or Account and subaccount, if any, from which disbursement to be made:

Series 2020 Costs of Issuance Account of the Acquisition and Construction Fund

The undersigned hereby certifies that:

- 1. this requisition is for costs of issuance payable from the Series 2020 Costs of Issuance Account that have not previously been paid; 2. each disbursement set forth above is a proper charge against the Series 2020 Costs of Issuance Account; 3. each disbursement set forth above was incurred in connection with the issuance of the Series 2020 Bonds; and 4. each disbursement represents a cost of issuance which has not previously been paid.

The undersigned hereby further certifies that there has not been filed with or served upon the District notice of any lien, right to lien, or attachment upon, or claim affecting the right to receive payment of, any of the moneys payable to the Payee set forth above, which has not been released or will not be released simultaneously with the payment hereof.

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EXHIBIT D

FORM OF INVESTOR LETTER

The undersigned hereby further certifies that such requisition contains no item representing payment on account of any retained percentage which the District is at the date of such certificate entitled to retain.

Attached hereto are originals or copies of the invoice(s) from the vendor of the services rendered with respect to which disbursement is hereby requested.

BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT

By: \_\_\_\_\_ Responsible Officer

Date: \_\_\_\_\_

Banyan Cay Community Development District
c/o Special District Services, Inc.
The Oaks Center
2501A Burns Road
Palm Beach Gardens, FL 33410
Attention: Jason Pierman

FMSbonds, Inc.
20660 W. Dixie Highway
North Miami Beach, FL 33180

Re: \$ \_\_\_\_\_ Banyan Cay Community Development District Special Assessment Bonds, Series 2020 (Phase One Assessment Area)

[Date]

Ladies and Gentlemen:

The undersigned is authorized to sign this letter [on behalf of Name of Non-Individual Investor], as the beneficial owner (the "Investor") of \$ \_\_\_\_\_ of the above-referenced Bonds [state maturing on November 1, \_\_\_\_\_, bearing interest at the rate of \_\_\_% per annum and CUSIP #] (herein, the "Investor Bonds").

In connection with the purchase of the Investor Bonds by the Investor, the Investor hereby makes the following representations upon which you may rely:

1. The Investor has authority to purchase the Investor Bonds and to execute this letter, any other instruments and documents required to be executed by the Investor in connection with the purchase of the Investor Bonds.

2. The Investor meets the criteria of an "accredited investor" as described in one or more of the categories derived from Rule 501(a) under Regulation D of the Securities Act of 1933, as amended (the "Securities Act") summarized below, and therefore, has sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal and other tax-exempt obligations including those which are not rated or credit-enhanced, to be able to evaluate the risks and merits of the investment represented by the Bonds. Please check the appropriate box below to indicate the type of accredited investor:

[ ] a bank, registered broker, dealer or investment adviser (or investment adviser exempt from registration under Section 203(l) or (m) within the meaning of the Investment Advisers Act of 1940), insurance company, registered investment company, business development company, small business investment company; or rural business investment company;

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[ ] an employee benefit plan, within the meaning of the Employee Retirement Income Security Act of 1974, if a bank, insurance company, or registered investment adviser makes the investment decisions, or if the employee benefit plan has total assets in excess of \$5 million;

[ ] an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, corporation, Massachusetts or similar business trust partnership, or limited liability company, not formed for the specific purpose of acquiring the Investor Bonds with assets exceeding \$5 million;

[ ] a business in which all the equity owners are "accredited investors";

[ ] a natural person who has individual net worth, or joint net worth with the person's spouse or spousal equivalent, that exceeds \$1 million at the time of the purchase, excluding the value of the primary residence of such person, except that mortgage indebtedness on the primary residence shall not be included as a liability;

[ ] a natural person with income exceeding \$200,000 in each of the two most recent years or joint income with a spouse or spousal equivalent exceeding \$300,000 for those years and a reasonable expectation of the same income level in the current year;

[ ] a trust with total assets in excess of \$5,000,000, not formed for the specific purpose of acquiring the Investor Bonds whose purchase is directed by a sophisticated person;

[ ] an entity, of a type other than those set forth above, that owns investments in excess of \$5,000,000 and that was not formed for the specific purpose of acquiring the Investor Bonds;

[ ] a natural person holding in good standing one or more professional certifications or designations or credentials from a designated accredited educational institution qualifying an individual for "accredited investor" status;

[ ] a "family office" with at least \$5,000,000 in assets under management, that was not formed for the specific purpose of acquiring the Investor Bonds, and whose prospective investment is directed by a person capable of evaluating the merits and risks of the prospective investment; or

[ ] a "family client" of a family office described in the prior bullet point whose prospective investment is directed by that family office.

3. The Investor has been supplied with an (electronic) copy of the Preliminary Limited Offering Memorandum dated November \_\_, 2020 of the Issuer and relating to the Bonds (the "Offering Document") and has reviewed the Offering Document and represents that such Offering Document has provided full and meaningful disclosure in order to make an informed decision to invest in the Investor Bonds.

Capitalized terms used herein and not otherwise defined have the meanings given to such terms in the Indenture.

Very truly yours,

[Name], [Type of Entity]

By: \_\_\_\_\_
Name: \_\_\_\_\_
Title: \_\_\_\_\_
Date: \_\_\_\_\_

Or

\_\_\_\_\_  
[Name], an Individual

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**APPENDIX B**

**PROPOSED FORM OF OPINION OF BOND COUNSEL**

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**PROPOSED FORM OF BOND COUNSEL OPINION**

*Upon delivery of the Bonds (as defined below) in definitive form, Greenberg Traurig, P.A., as Bond Counsel, proposes to render its final approving opinion with respect to such Bonds in substantially the following form:*

\_\_\_\_\_, 2020

Board of Supervisors of the Banyan Cay  
Community Development District  
West Palm Beach, Florida

§ \_\_\_\_\_  
BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT  
SPECIAL ASSESSMENT BONDS, SERIES 2020  
(PHASE ONE ASSESSMENT AREA)

Board of Supervisors:

We have acted as bond counsel in connection with the issuance by the Banyan Cay Community Development District (the “District”) of its \$ \_\_\_\_\_ aggregate principal amount of Special Assessment Bonds, Series 2020 (Phase One Assessment Area) (the “Bonds”), issued and delivered on this date pursuant to the constitution and laws of the State of Florida, particularly, the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes, as amended, and other applicable provisions of law (collectively, the “Act”) and Resolution No. 2019-25, adopted by the Board of Supervisors of the District (the “Board”) on May 21, 2019, as supplemented by Resolution No. 2019-31 adopted by the Board on October 15, 2019 (collectively, the “Bond Resolution”). The Bonds are being issued and secured under that certain Master Trust Indenture, dated as of December 1, 2020 (the “Master Indenture”), as supplemented by that certain First Supplemental Trust Indenture, dated as of December 1, 2020 (the “First Supplement” and, together with the Master Indenture, the “Indenture”), each by and between the District and U.S. Bank National Association, as trustee (the “Trustee”). Capitalized terms used herein without definitions have the meanings ascribed thereto in the Indenture.

The Bonds are being issued for the primary purpose of financing certain public infrastructure in and for the Phase One Assessment Area within the District.

In order to secure the payment of the Bonds, and subject to the terms of the Indenture, the District has pledged to the holders of the Bonds, and granted a lien to the holders of the Bonds on, the Series 2020 Pledged Revenues.

In connection with this opinion, we have examined the Act, certified copies of the Resolution, the Indenture, the Arbitrage Certificate, a transcript of the proceedings related to the issuance of the Bonds and such other documents and opinions as we have deemed necessary to render this opinion, and are relying on certain findings, covenants and agreements of the District set forth therein and such certified copies of the proceedings of the District and such other documents and opinions as we have deemed necessary to render this opinion. As to the questions of fact material to our opinion, we have relied upon representations of the District furnished to us, without undertaking to verify such representations by independent investigation. We have also relied upon certain certifications and representations provided by Banyan Cay Dev. LLC, Banyan Cay Villas, LLC and Banyan Cay Resort & Golf, LLC, as the primary landowners and developers of real property within the Phase One Assessment Area within the District that is subject to Series 2020 Special Assessments comprising the Series 2020 Pledged Revenues.

Based on the foregoing, we are of the opinion that:

1. The District has the power to authorize, execute and deliver the Indenture, to perform its obligations thereunder and to issue the Bonds.

2. The Indenture has been duly authorized, executed and delivered by the District. The Indenture creates a valid pledge of the Series 2020 Pledged Revenues and constitutes a valid and binding obligation of the District enforceable against the District in accordance with its terms.

3. The issuance and sale of the Bonds have been duly authorized by the District and, assuming the due authentication thereof, the Bonds constitute valid and binding limited obligations of the District, payable in accordance with, and as limited by, the terms of the Indenture.

4. The Internal Revenue Code of 1986, as amended (herein, the "Code") includes requirements which the District must continue to meet after the issuance of the Bonds in order that interest on the Bonds not be included in gross income for federal income tax purposes. The failure of the District to meet these requirements may cause interest on the Bonds to be included in gross income for federal income tax purposes retroactive to their date of issuance. The District has covenanted in the Indenture to take the actions required by the Code in order to maintain the exclusion from gross income for federal income tax purposes of interest on the Bonds.

Under existing statutes, regulations, rulings and court decisions, subject to the assumption stated in the following paragraph, interest on the Bonds is excludable from the gross income of the owners thereof for federal income tax purposes. Furthermore, interest on the Bonds is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals.

In rendering the opinion expressed above, we have assumed continuing compliance with the tax covenants referred to above that must be met after the issuance of the Bonds in order that interest on the Bonds not be included in gross income for federal income tax purposes.



The Bonds and interest thereon are not subject to taxation under the laws of the State of Florida except as to estate taxes and taxes imposed by Chapter 220, Florida Statutes, on interest, income or profits on debt obligations owned by corporations as defined in Chapter 220.

We express no opinion regarding other federal or any state tax consequences resulting from the ownership, receipt or accrual of interest on, or disposition of the Bonds.

In rendering the foregoing opinions we have assumed the accuracy and truthfulness of all public records and of all certifications, documents and other proceedings examined by us that have been executed or certified by public officials acting within the scope of their official capacities and have not verified the accuracy or truthfulness thereof. We have also assumed the genuineness of the signatures appearing upon such public records, certifications, documents and proceedings.

The opinions set forth herein are subject to state and federal laws relating to bankruptcy, insolvency, reorganization, moratorium and similar laws, and to equitable principles, affecting the enforcement of creditors' rights generally, and to the exercise of judicial discretion in appropriate cases.

We wish to call to your attention that the Bonds are limited obligations of the District payable solely from the Series 2020 Pledged Revenues and neither the full faith and credit nor the taxing power of the District, the City of West Palm Beach, Florida, Palm Beach County, Florida, the State of Florida or any other political subdivision thereof is pledged as security for the payment of the Bonds. The Bonds do not constitute an indebtedness of the District within the meaning of any constitutional or statutory provision or limitation.

Respectfully submitted,

GREENBERG TRAURIG, P.A.

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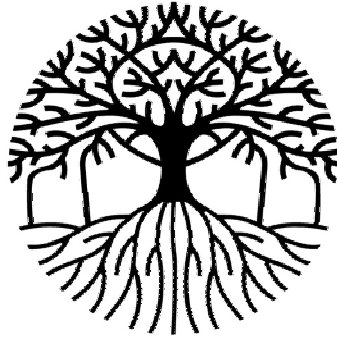
**APPENDIX C**  
**ENGINEER'S REPORT**

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# Banyan Cay Community Development District

## Report of the Engineer

Prepared for:



## Banyan Cay Community Development District Board of Supervisors

2501A Burns Road  
Palm Beach Gardens, FL 33410  
June 20, 2019

Prepared by:



## Engenuity Group, Inc.

1280 North Congress Avenue, Suite 101  
West Palm Beach, FL 33409

Project No. 19030.01

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT  
 REPORT OF THE ENGINEER  
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    B. Water Distribution System

    C. Wastewater Collection

    D. Roadway System (On-site & Off-site)

    E. Earthwork (Lake Excavation and Site Preparation)

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    A. Drainage/Stormwater Management System

    B. Water Distribution System

    C. Wastewater Collection

    D. Roadway System (On-site & Off-site)

    E. Earthwork (Lake Excavation and Site Preparation)

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    A. Drainage/Stormwater Management System

    B. Water Distribution System

    C. Wastewater Collection

    D. Roadway System (On-site & Off-site)

    E. Earthwork (Lake Excavation and Site Preparation)

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    A. Drainage/Stormwater Management System

    B. Water Distribution System

    C. Wastewater Collection

    D. Roadway System (On-site & Off-site)

    E. Earthwork (Lake Excavation and Site Preparation)

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## **I. Introduction**

The Banyan Cay Community Development District (i.e. "District") was formed for the purpose of financing and managing the acquisition, construction, and maintenance of certain infrastructure improvements in accordance with Chapter 190, Florida Statutes. The District covers approximately 95.24 acres of land of which approximately 72 acres of this land was developed and is a part of this Report. The District is located in the City of West Palm Beach, County of Palm Beach, Florida. This District is a Planned Development, estimated to include 179 condominiums, 22 resort villas, 52 estate homes, and a 150 bed key hotel.

## **II. Purpose and Scope**

The purpose of this engineer's report is to outline the infrastructure improvements and associated costs that are necessary to develop the lands within the District. The District Engineer has considered, and in certain instances, relied upon opinions, information, and documentation prepared or supplied by others, which may have included: public entities, the Developer, engineering professionals, general contractors, surveyors, and the District's Board of Supervisors, staff, and consultants.

## **III. District Description**

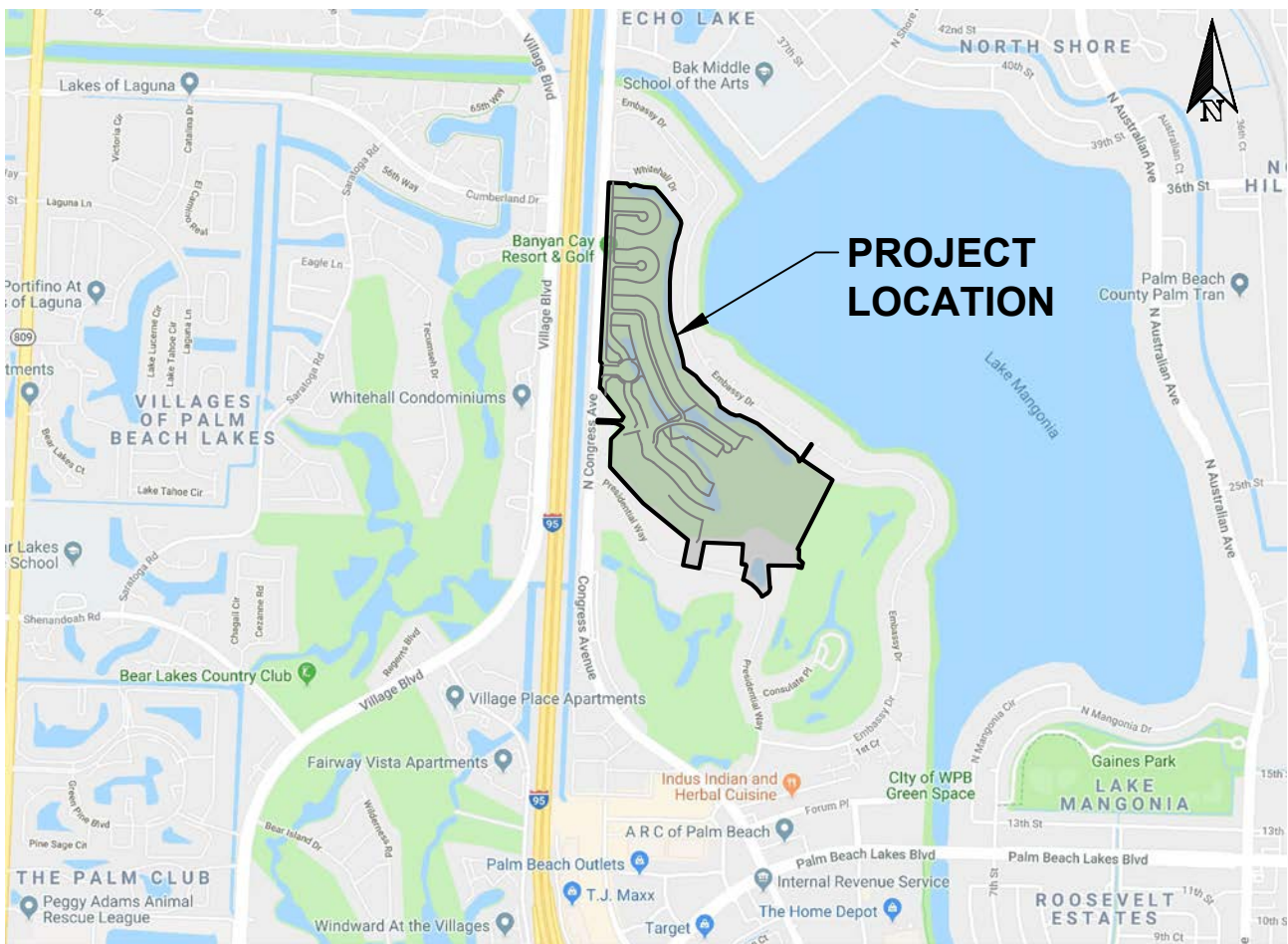
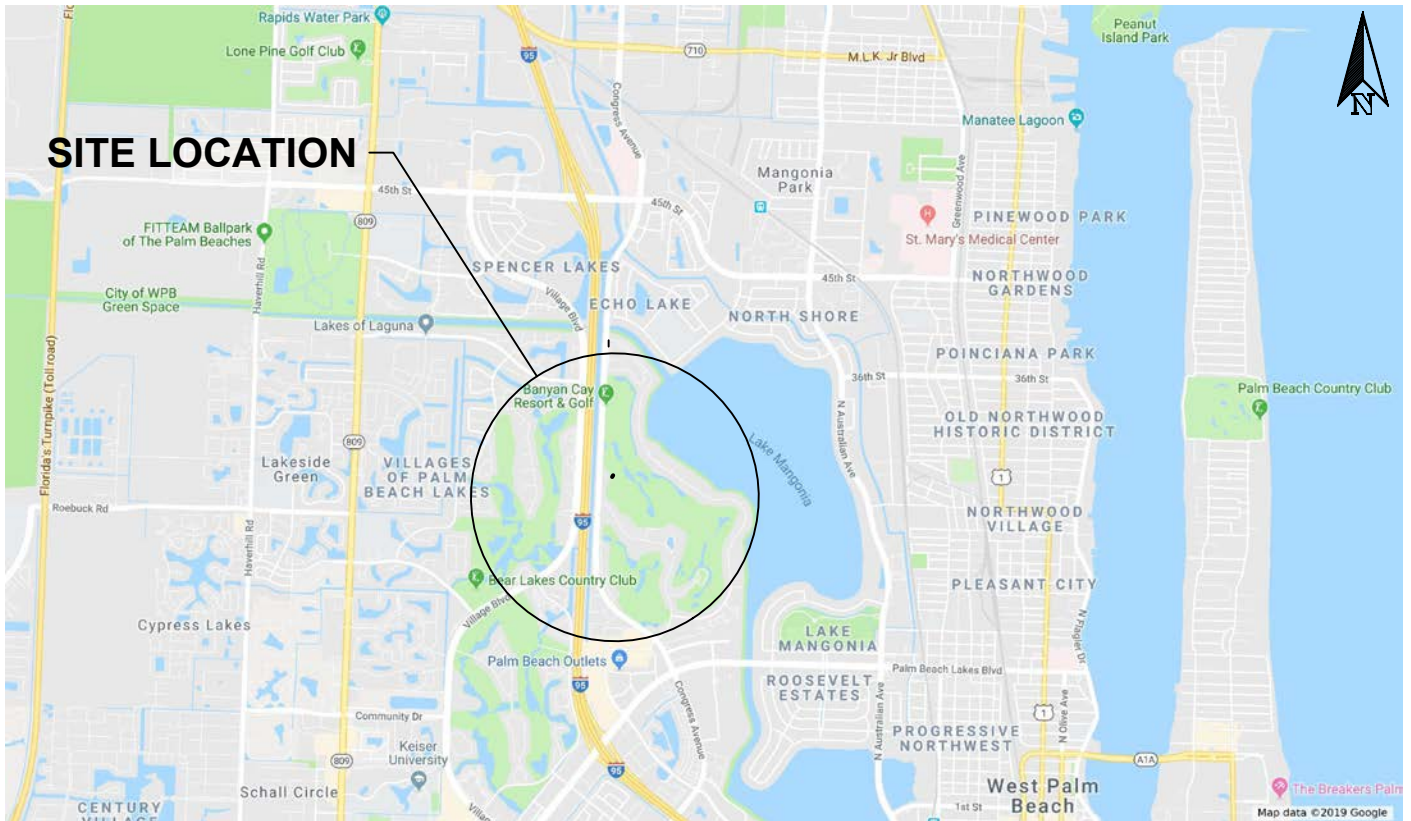
The District encompasses approximately 95.24 acres of land located in Sections 7, 8, 17, and 18, Township 43S, Range 43E. It is located off of Congress Avenue between Palm Beach Lakes Boulevard and 45<sup>th</sup> Street, adjacent to and north of Presidential Way in the City of West Palm Beach.

See location map in Section IV.

The District is a Planned Development and once developed, will consist of 179 condominiums, 22 resort villas, 52 estate homes, and a 150 bed key hotel. Listed below are the zoning classifications and land use types for this planned development.

Land Use: **Commercial East (CE)**

Zoning Classification: **Community Planned Development (CPD)**



J:\Land Projects R2\19030.01 BANYAN CAY CDD\DWG\19030.01\_EXHKM.dwg DATE: 10/12/2018 2:49 PM

**IV. LOCATION MAP  
(NTS)**



## V. Status of Infrastructure Improvements

As of the date hereof, the drainage/stormwater management system, water distribution system, wastewater collection, roadway system, and earthwork (lake excavation and site preparation) are approximately 90% complete. A majority of the improvements are located on-site within the District boundaries. There are off-site improvements along Congress Avenue which are also a part of this Report. The Congress Avenue improvements include landscape medians and turning lanes.

## VI. Description of Proposed Improvements

- A. Drainage/Stormwater Management System:** The Stormwater Management System improvements consist of a system of lakes, inlets, pipes, and control structures that function to meet both stormwater retention and water quality requirements. These improvements have been designed to meet the applicable criteria of the South Florida Water Management District (SFWMD) and the City of West Palm Beach (WPB). The ultimate outfall for this system is the C-17 Canal.
- B. Water Distribution System:** The District lies within the City of West Palm Beach Utility Department service area and is designed to meet their standards. The distribution system consists of 4", 6", 8", 12", and 16" water mains and associated appurtenances. These appurtenances include but are not limited to, services, fire hydrants, backflow preventers, meters, etc. that comprise a complete water distribution system.
- C. Wastewater Collection:** The District lies within the City of West Palm Beach Utility Department service area and is designed to meet their standards. The collection system consists of a series of manholes, gravity mains, force mains, a lift station, and associated appurtenances that comprise a complete wastewater collection system.
- D. Roadway System (On-site and Off-site):** The onsite Roadway System lies within the boundary of the District. It is made up of several two way, two lane asphalt roadways providing access to the homes and facilities within the District. The following is a list of proposed District roadways that are contemplated in this Report:
- i. Banyan Resort Way
  - ii. Banyan Club Road
  - iii. Banyan Cay Drive (81% benefit)

Off-site roadway improvements for Congress Avenue are also included. These costs are prorated and account for 81% of the total off-site cost for the District. These improvements include 6 foot wide landscape medians with type "F" curb, a northbound right turn lane, a south bound left turn lane, drainage improvements, and other applicable appurtenances.

- E. Earthwork (Lake Excavation and Site Preparation):** Since this project has been developed in an area that was part of an existing golf course, major earthwork was needed to transform the District. Earthwork includes, but is not necessarily limited to, site demucking, pond filling, lake excavating, and site clearing/grubbing. Material from the lake excavation was utilized for fill to prepare the site. Pursuant to a transfer of title, approximately 11 acres of lake will be owned by the District.

The cost estimate in this report does not include the cost of transporting and/or spreading of fill on any of the private lots.

## VII. District Improvements

The improvements to be acquired or constructed by the District's Special Assessment bonds are listed below:

- A. Drainage/Stormwater Management System**
- B. Water Distribution System**
- C. Wastewater Collection**
- D. Roadway System (On-site and Off-site)**
- E. Earthwork (Lake Excavation and Site Preparation)**

## VIII. Permitting Status

All permits from the various governmental agencies needed to construct the District Improvements have been obtained. Listed below are the permitting agencies, permit numbers, and the permit approval and expiration dates where applicable:

**A. Drainage/Stormwater Management System:**

- 1. South Florida Water Management District
  - i. Appl. No. 140411-5; approval 7-2-14; expires 7-2-19
  - ii. Appl. No. 160627-2; approval 8-25-16; expires 8-25-21
  - iii. Appl. No. 170420-30; approval 8-18-17; expires 8-18-22
- 2. City of West Palm Beach Engineering Department
  - i. Permit No. E 18060014; approval 6-18-18

**B. Water Distribution System:**

- 1. City of West Palm Beach Utilities Department
  - i. Permit No. E 18060014; approval 6-18-18

2. Palm Beach County Health Department
  - i. No. 138298-701-DSGP; approval 10-9-18; expires 10-8-23
3. Florida Department of Health – Palm Beach County – 16" Water Main Relocation
  - i. Permit No. 138298-661-DSGP; approval 3-8-17; expires 3-7-22

**C. Wastewater Collection (Lift Station):**

1. City of West Palm Beach Utilities Department
  - i. Permit No. E 18060014; approval 6-18-18
  - ii. Permit No. E 17050022 (16" Water Main Relocation)
2. Palm Beach County Health Department
  - i. No. 138298-70-Dwc; approval 10-9-18; expires 10-8-23

**D. Roadway System (On-site and Off-site):**

1. City of West Palm Beach Traffic Engineering
  - i. Permit No. E 18060014; approval 6-18-18
2. Palm Beach County Land Development Permit (off-site)
  - i. Right-of-way permit number RW32874-1017

**E. Earthwork (Lake Excavation and Site Preparation):**

1. South Florida Water Management District
  - i. Appl. No. 140411-5; approval 7-2-14; expires 7-2-19
  - ii. Appl. No. 160627-2; approval 8-25-16; expires 8-25-21
  - iii. Appl. No. 170420-30; approval 8-18-17; expires 8-18-22
2. City of West Palm Beach Engineering Department
  - i. Permit No. E 18060014; approval 6-18-18

**F. Miscellaneous:**

1. South Florida Water Management District- Water Use Permits –
  - i. Appl. No. 160818-6; approval 9-15-16; expires 9-15-19
  - ii. Appl. No. 151209-12; transfer 1-7-16; expires 3-21-31
2. Florida Department of Health – Palm Beach County – 16" Water Main Relocation
  - i. Permit No. 138298-661-DSGP; approval 3-8-17; expires 3-7-22

**IX. Project Development Status:**

As of the date of this Report of the Engineer, the following lists the percentage of completion:

- A. Drainage/Stormwater Management System:** The drainage and Stormwater management system are approximately 100% complete.
- B. Water Distribution System:** The water distribution is 80% complete.
- C. Wastewater Collection:** The wastewater collection system is 75% complete.

- D. Roadway System (On-site and Off-site):** The Roadway system is approximately 90% complete.
- E. Earthwork (Lake Excavation and Site Preparation):** The Earthwork is 100% complete.

## **X. Ownership and Maintenance of Infrastructure Improvements**

- A. Drainage/Stormwater Management System:** The Drainage/Stormwater Management System was constructed by the Developer. Pursuant to a transfer of title, this system will be acquired by the District. Pursuant to a Qualified Management Agreement, the Banyan Cay Master Association (HOA) ultimately will operate and maintain this system.
- B. Water Distribution System:** The Water Distribution System will be constructed by the Developer. Pursuant to a transfer of title, this system will be acquired by the District and ultimately dedicated to the City of West Palm Beach Utilities. Upon such transfer by the District, the ownership, operation, and maintenance of this system will be the responsibility of the City of West Palm Beach.
- C. Wastewater Collection:** The Wastewater Collection System will be constructed by the Developer. Pursuant to a transfer of title, this system will be acquired by the District and ultimately dedicated to the City of West Palm Beach Utility Department. Upon such transfer by the District, the ownership, operation, and maintenance of this system will be the responsibility of the City of West Palm Beach.
- D. Roadway System (On-site and Off-site):** The residential access streets will be constructed by the Developer and ultimately acquired by the District. Pursuant to a Qualified Management Agreement, the operation and maintenance of this system will be the responsibility of the HOA.
- E. Earthwork (Lake Excavation and Site Preparation):** Pursuant to a transfer of title, the Earthwork and Site Preparation for the roads and approximately 11 acres of lake that was constructed by the Developer, will be acquired by the District. Pursuant to a Qualified Management Agreement, the operation and maintenance of this system will ultimately be the responsibility of the HOA.

## XI. Summary of Estimated Capital Improvement Costs

<b>A. Drainage and Stormwater Management System:</b>	<b>\$1,402,000</b>
<b>B. Water Distribution System:</b>	<b>\$1,485,000</b>
<b>C. Wastewater Collection:</b>	<b>\$1,068,000</b>
<b>D. Roadway System (On-site and Off-site):</b>	<b>\$1,046,000</b>
<b>E. Earthwork(Lake Excavation and Site Preparation)</b> Approximately 11 Acres of Lake, 4 Acres of Road	<b>\$1,257,130</b>
<b>F. Impact Fees for County Roads and Parks</b>	<b>\$180,000</b>
<b>G. Connection Fees for Water and Sewer</b>	<b>\$843,800</b>
<b>H. Installation Fees for Potable Water Only</b>	<b><u>\$181,900</u></b>
<b>Total</b>	<b>\$7,463,830</b>

The impact fees, connection fees, and installation fees are being paid by the Developer on behalf of the District.

The costs of the infrastructure, together with the financing costs relating thereto, will be allocated to each residential unit within the development via the form of special assessments, in accordance with the methodology described in the "Master Special Assessment Methodology Report" ("Master Report") prepared by Special District Services, Inc. dated May 21, 2019.

## XII. Recommendation

The District will need funding in order to: (A) maintain and preserve the works of the proposed Plan of Improvements (including their subsequent repair, restoration, and/or replacement when needed), and (B) pay its expenses as they relate to the administration, operation, and management of the District.

Therefore, since these expenses may fluctuate, the District Engineer recommends that an annual "Maintenance Assessment" be determined, assessed, and levied by the Board of Supervisors of the District upon the assessable real property located within the District for the purpose of defraying the above described costs and expenses. The Maintenance Assessment should be determined, assessed, apportioned, and levied upon the assessable real property within the District pursuant to the Act and in accordance with the allocation and apportionment of the amount of benefits as set forth in the "Master Special Assessment Methodology Report" ("Master Report") for the District prepared by Special Districts Services, Inc. dated May 21, 2019.

### **XIII. Engineer's Certification**

It is my opinion that the description and costs of the improvements as outlined in this report are an accurate estimate of the cost and representation of the improvements associated with the Special Assessment Bonds for the District. These costs reflect the costs to permit and construct such improvements. The estimated costs of these improvements shall be less than the benefit the property will received from such improvements.

I hereby certify that the foregoing is a true and correct copy of the Report of the Engineer for the **Banyan Cay Community Development District**.

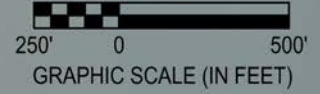
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Lisa A. Tropepe, PE  
Florida Registration No. #45408  
Engenuity Group, Inc.

# BANYAN CAY CDD EXHIBIT "A" SITE PLAN







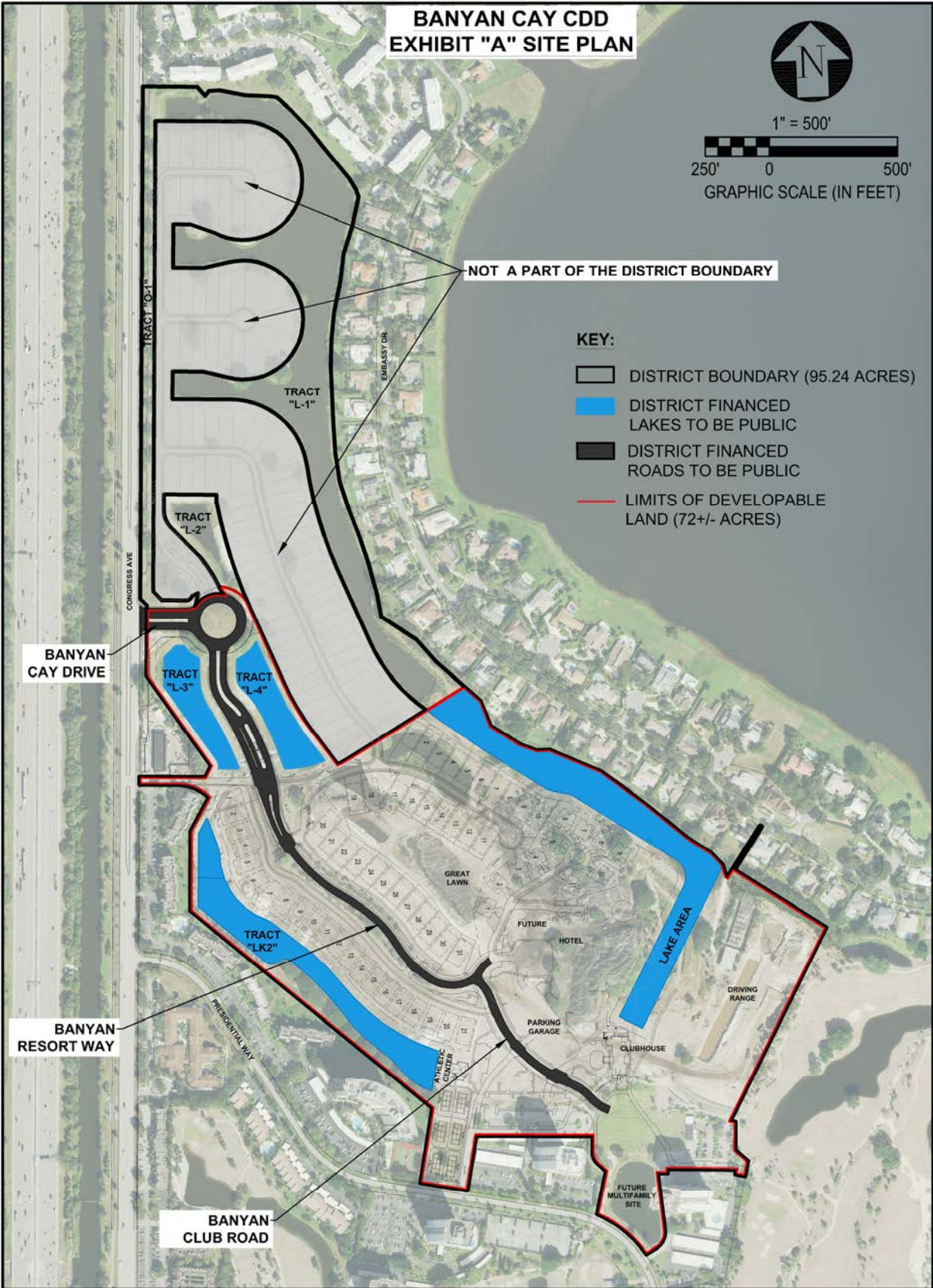
1" = 500'



NOT A PART OF THE DISTRICT BOUNDARY

**KEY:**

-  DISTRICT BOUNDARY (95.24 ACRES)
-  DISTRICT FINANCED LAKES TO BE PUBLIC
-  DISTRICT FINANCED ROADS TO BE PUBLIC
-  LIMITS OF DEVELOPABLE LAND (72+/- ACRES)



J:\Land Projects R2119330.1\BANYAN CAY CDD\DWG\19330.01\_EXH-A.dwg DATE: 10/2/2016 2:48 PM

**Exhibit "B"**

LEGAL DESCRIPTION  
BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT

**LEGAL DESCRIPTION OF BANYAN CAY CDD**

TRACTS "B", "C", "L-1", "L-2", "L-3", "L-4", "O-1", "O-2", "O-2", AND "O-4", BANYAN CAY RESORT COMMUNITY PLAT 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 124, PAGE 182, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. TOGETHER WITH ALL OF THE PLAT OF BANYAN CAY RESORT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 125, PAGE 114, SAID PUBLIC RECORDS.

ALSO BEING DESCRIBED AS:

BEGIN AT THE NORTHWEST CORNER OF SAID TRACT "O-1", THENCE, SOUTH 01°11'51" WEST, ALONG THE BOUNDARY OF SAID TRACT "O-1", A DISTANCE OF 1999.30 FEET TO A POINT ON THE BOUNDARY OF TRACT "RW" OF SAID BANYAN CAY RESORT COMMUNITY PLAT 1; THENCE, SOUTH 43°48'09" EAST, ALONG SAID BOUNDARY OF TRACT "RW", AND CONTINUING ALONG SAID BOUNDARY OF TRACT "O-1", A DISTANCE OF 16.97 FEET; THENCE, SOUTH 01°11'51" WEST, DEPARTING SAID BOUNDARY OF TRACT "O-1", AND CONTINUING ALONG THE BOUNDARY OF SAID TRACT "RW", A DISTANCE OF 288.74 FEET TO A POINT ON THE BOUNDARY OF TRACT "M" OF SAID BANYAN CAY RESORT COMMUNITY PLAT 1; THENCE, SOUTH 88°48'09" EAST, DEPARTING SAID BOUNDARY OF TRACT "RW", AND ALONG SAID BOUNDARY OF TRACT "M", A DISTANCE OF 13.00 FEET; THENCE, SOUTH 34°33'26" EAST, CONTINUING ALONG SAID BOUNDARY OF TRACT "M" FOR THIS AND THE NEXT TWO COURSES, A DISTANCE OF 431.79 FEET; THENCE, SOUTH 27°38'07" WEST, A DISTANCE OF 49.16 FEET; THENCE, NORTH 88°48'09" WEST, A DISTANCE OF 255.41 FEET TO A POINT ON THE BOUNDARY OF SAID PLAT OF BANYAN CAY RESORT; THENCE, SOUTH 01°11'51" WEST, ALONG SAID PLAT BOUNDARY, A DISTANCE OF 32.00 FEET; THENCE, SOUTH 88°48'09" EAST, CONTINUING ALONG SAID PLAT BOUNDARY FOR THIS AND THE NEXT FORTY-FIVE COURSES A DISTANCE OF 150.00 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 180.00 FEET; THENCE, SOUTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 42°37'46", A DISTANCE OF 133.92 FEET TO THE END OF SAID CURVE; THENCE, SOUTH 29°41'51" WEST, A DISTANCE OF 150.70 FEET; THENCE, SOUTH 01°11'51" WEST, A DISTANCE OF 309.61 FEET; THENCE, SOUTH 49°48'09" EAST, A DISTANCE OF 1219.91 FEET; THENCE, SOUTH 10°00'04" WEST, A DISTANCE OF 296.05 FEET; THENCE, SOUTH 80°01'55" EAST, A DISTANCE OF 186.63 FEET; THENCE, NORTH 09°58'05" EAST, A DISTANCE OF 215.46 FEET; THENCE, SOUTH 89°03'38" EAST, A DISTANCE OF 434.43 FEET; THENCE, SOUTH 00°56'22" WEST, A DISTANCE OF 124.00 FEET; THENCE,



SOUTH 89°03'38" EAST, A DISTANCE OF 33.11 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 20.00 FEET; THENCE, SOUTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 101°36'03", A DISTANCE OF 35.47 FEET TO THE POINT OF TANGENCY; THENCE, SOUTH 12°32'25" WEST, A DISTANCE OF 154.87 FEET TO A POINT ON A CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 440.00 FEET AND WHOSE RADIUS POINT BEARS SOUTH 21°34'29" WEST; THENCE, SOUTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 38°05'30", A DISTANCE OF 292.52 FEET TO THE END OF SAID CURVE; THENCE, NORTH 58°21'56" EAST, A DISTANCE OF 60.18 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWEST, HAVING A RADIUS OF 80.00 FEET; THENCE, NORTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 63°42'43", A DISTANCE OF 88.96 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 05°20'47" WEST, A DISTANCE OF 248.00 FEET; THENCE, SOUTH 89°03'38" EAST, A DISTANCE OF 276.74 FEET; THENCE, SOUTH 11°56'22" WEST, A DISTANCE OF 20.20 FEET; THENCE, SOUTH 78°03'38" EAST, A DISTANCE OF 40.00 FEET; THENCE, NORTH 11°56'22" EAST, A DISTANCE OF 59.86 FEET; THENCE, NORTH 48°03'38" WEST, A DISTANCE OF 64.70 FEET; THENCE, NORTH 01°11'51" EAST, A DISTANCE OF 109.65 FEET; THENCE, NORTH 76°19'06" WEST, A DISTANCE OF 19.24 FEET; THENCE, NORTH 27°09'45" EAST, A DISTANCE OF 843.47 FEET; THENCE, NORTH 57°00'00" WEST, A DISTANCE OF 421.36 FEET; THENCE, NORTH 33°00'00" EAST, A DISTANCE OF 200.00 FEET; THENCE, NORTH 57°00'00" WEST, A DISTANCE OF 10.00 FEET; THENCE, SOUTH 33°00'00" WEST, A DISTANCE OF 240.00 FEET; THENCE, NORTH 57°00'00" WEST, A DISTANCE OF 4.00 FEET; THENCE, NORTH 17°00'37" WEST, A DISTANCE OF 49.79 FEET; THENCE, NORTH 42°57'50" WEST, A DISTANCE OF 61.85 FEET; THENCE, NORTH 56°27'52" WEST, A DISTANCE OF 107.15 FEET; THENCE, NORTH 49°33'23" WEST, A DISTANCE OF 108.06 FEET; THENCE, NORTH 51°17'21" WEST, A DISTANCE OF 50.25 FEET; THENCE, NORTH 50°01'01" WEST, A DISTANCE OF 57.58 FEET; THENCE, NORTH 52°11'56" WEST, A DISTANCE OF 107.53 FEET; THENCE, NORTH 53°15'44" WEST, A DISTANCE OF 107.38 FEET; THENCE, NORTH 66°32'10" WEST, A DISTANCE OF 108.65 FEET; THENCE, NORTH 66°00'56" WEST, A DISTANCE OF 108.49 FEET; THENCE, SOUTH 88°00'30" WEST, A DISTANCE OF 48.83 FEET; THENCE, NORTH 69°35'31" WEST, A DISTANCE OF 68.80 FEET; THENCE, NORTH 57°00'00" WEST, A DISTANCE OF 136.16 FEET; THENCE, NORTH 21°03'11" WEST, A DISTANCE OF 105.80 FEET; THENCE, NORTH 47°49'37" WEST, A DISTANCE OF 87.15 FEET TO A POINT ON THE BOUNDARY OF SAID BANYAN CAY RESORT COMMUNITY PLAT 1; THENCE, CONTINUE NORTH 47°49'37" WEST, DEPARTING SAID BOUNDARY OF THE PLAT OF BANYAN CAY RESORT, AND ALONG SAID BOUNDARY OF BANYAN CAY RESORT COMMUNITY PLAT 1, A DISTANCE OF 27.99 FEET; THENCE, NORTH 48°08'56" WEST, CONTINUING ALONG SAID PLAT BOUNDARY FOR THIS AND ALL OF THE REMAINING COURSES, A DISTANCE OF 115.14 FEET; THENCE, NORTH 41°00'37" WEST, A DISTANCE OF 115.24 FEET; THENCE, NORTH 55°40'14" WEST, A DISTANCE OF 123.87 FEET; THENCE, NORTH 55°12'31" WEST, A DISTANCE OF 41.83 FEET; THENCE, NORTH

09°22'53" WEST, A DISTANCE OF 86.00 FEET; THENCE, NORTH 14°27'11" WEST, A DISTANCE OF 119.08 FEET; THENCE, NORTH 17°55'23" WEST, A DISTANCE OF 115.14 FEET; THENCE, NORTH 20°14'46" WEST, A DISTANCE OF 114.74 FEET; THENCE, NORTH 17°04'09" WEST, A DISTANCE OF 115.43 FEET; THENCE, NORTH 07°57'02" WEST, A DISTANCE OF 115.44 FEET; THENCE, NORTH 02°48'06" WEST, A DISTANCE OF 115.33 FEET; THENCE, NORTH 01°38'18" WEST, A DISTANCE OF 111.92 FEET; THENCE, NORTH 01°28'27" WEST, A DISTANCE OF 107.27 FEET; THENCE, NORTH 02°16'01" EAST, A DISTANCE OF 107.17 FEET; THENCE, NORTH 06°32'33" EAST, A DISTANCE OF 109.17 FEET; THENCE, NORTH 12°31'50" EAST, A DISTANCE OF 115.97 FEET; THENCE, NORTH 07°20'45" EAST, A DISTANCE OF 114.45 FEET; THENCE, NORTH 18°20'21" EAST, A DISTANCE OF 114.48 FEET; THENCE, NORTH 13°06'08" EAST, A DISTANCE OF 115.20 FEET; THENCE, NORTH 18°10'30" WEST, A DISTANCE OF 30.62 FEET; THENCE, NORTH 30°22'24" WEST, A DISTANCE OF 51.26 FEET; THENCE, NORTH 38°22'25" WEST, A DISTANCE OF 150.48 FEET; THENCE, NORTH 37°48'17" WEST, A DISTANCE OF 100.40 FEET; THENCE, NORTH 42°56'51" WEST, A DISTANCE OF 100.00 FEET; THENCE, NORTH 46°50'49" WEST, A DISTANCE OF 71.47 FEET; THENCE, NORTH 79°42'44" WEST, A DISTANCE OF 25.32 FEET; THENCE, NORTH 86°30'43" WEST, A DISTANCE OF 100.08 FEET; THENCE, NORTH 78°02'40" WEST, A DISTANCE OF 101.79 FEET; THENCE, SOUTH 87°00'45" WEST, A DISTANCE OF 41.11 FEET; THENCE, SOUTH 39°29'16" WEST, A DISTANCE OF 24.21 FEET; THENCE, NORTH 40°20'04" WEST, A DISTANCE OF 46.76 FEET; THENCE, NORTH 88°48'09" WEST, A DISTANCE OF 212.98 FEET TO THE POINT OF BEGINNING.

LESS THE FOLLOWING DESCRIBED PARCEL OF LAND:

BEGIN AT THE NORTHWEST CORNER OF LOT 1 OF SAID BANYAN CAY RESORT COMMUNITY PLAT 1; THENCE, SOUTH 01°11'51" WEST, ALONG THE BOUNDARY OF SAID TRACT "O-1", A DISTANCE OF 1806.17 FEET; THENCE, SOUTH 43°48'09" EAST, CONTINUING ALONG SAID BOUNDARY OF TRACT "O-1" FOR THIS AND THE NEXT FIVE COURSES, A DISTANCE OF 48.26 FEET; THENCE, SOUTH 88°48'09" EAST, A DISTANCE OF 96.07 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWEST, HAVING A RADIUS OF 23.00 FEET; THENCE, NORTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 78°47'39", A DISTANCE OF 31.63 FEET TO THE END OF SAID CURVE; THENCE, NORTH 68°15'43" EAST, A DISTANCE OF 24.16 FEET; THENCE, SOUTH 12°24'12" WEST, A DISTANCE OF 13.56 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWEST, HAVING A RADIUS OF 43.00 FEET; THENCE, SOUTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 37°29'18", A DISTANCE OF 28.13 FEET TO A POINT ON THE BOUNDARY OF TRACT "A" OF SAID BANYAN CAY RESORT COMMUNITY PLAT 1, AND THE END OF SAID CURVE; THENCE, NORTH 49°53'30" EAST, DEPARTING SAID BOUNDARY OF TRACT "O-1", AND ALONG SAID BOUNDARY OF TRACT "A", A DISTANCE OF 26.42 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTH, HAVING A RADIUS OF 116.00

FEET; THENCE, EASTERLY, ALONG SAID CURVE AND CONTINUING ALONG SAID BOUNDARY OF TRACT "A" FOR THIS AND THE NEXT FIVE COURSES, THROUGH A CENTRAL ANGLE OF 55°58'44", A DISTANCE OF 113.34 FEET TO THE POINT OF CUSP OF A CURVE CONCAVE NORTHEAST, HAVING A RADIUS OF 44.00 FEET AND WHOSE RADIUS POINT BEARS NORTH 15°52'14" EAST; THENCE, NORTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 49°29'31", A DISTANCE OF 38.01 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 501.00 FEET; THENCE, NORTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 15°32'39", A DISTANCE OF 135.92 FEET TO THE END OF SAID CURVE; THENCE, NORTH 43°48'09" WEST, A DISTANCE OF 162.02 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE EAST, HAVING A RADIUS OF 90.00 FEET; THENCE, NORTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 45°00'00", A DISTANCE OF 70.69 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 01°11'51" EAST, A DISTANCE OF 64.63 FEET TO A POINT ON THE BOUNDARY OF SAID TRACT "L-2"; THENCE, SOUTH 88°48'09" EAST, DEPARTING SAID BOUNDARY OF TRACT "A", AND ALONG SAID BOUNDARY OF TRACT "L-2", A DISTANCE OF 205.00 FEET; THENCE, SOUTH 00°10'14" EAST, CONTINUING ALONG SAID BOUNDARY OF TRACT "L-2", A DISTANCE OF 29.57 FEET TO A POINT ON A CURVE CONCAVE EAST, HAVING A RADIUS OF 1909.70 FEET AND WHOSE RADIUS POINT BEARS NORTH 79°48'33" EAST; THENCE, SOUTHERLY, ALONG SAID CURVE AND CONTINUING ALONG SAID BOUNDARY OF TRACT "L-2", THROUGH A CENTRAL ANGLE OF 09°00'38", A DISTANCE OF 300.33 FEET TO A POINT ON THE BOUNDARY OF SAID TRACT "O-4"; THENCE, DEPARTING SAID BOUNDARY OF TRACT "L-2" AND ALONG SAID BOUNDARY OF TRACT "O-4", CONTINUE SOUTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 04°12'04", A DISTANCE OF 140.02 FEET TO THE POINT OF TANGENCY; THENCE, SOUTH 23°24'09" EAST, CONTINUING ALONG SAID BOUNDARY OF TRACT "O-4", A DISTANCE OF 121.33 FEET TO A POINT ON THE BOUNDARY OF SAID TRACT "L-4"; THENCE, CONTINUE SOUTH 23°24'09" EAST, DEPARTING SAID BOUNDARY OF TRACT "O-4", AND ALONG SAID BOUNDARY OF TRACT "L-4", A DISTANCE OF 193.67 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEAST, HAVING A RADIUS OF 990.00 FEET; THENCE, SOUTHEASTERLY, ALONG SAID CURVE AND CONTINUING ALONG SAID BOUNDARY OF TRACT "L-4", THROUGH A CENTRAL ANGLE OF 15°18'57", A DISTANCE OF 264.64 FEET TO THE END OF SAID CURVE; THENCE, SOUTH 35°48'09" EAST, CONTINUING ALONG SAID BOUNDARY OF TRACT "L-4", A DISTANCE OF 116.18 FEET TO A POINT ON THE BOUNDARY OF SAID BANYAN CAY RESORT COMMUNITY PLAT 1 AND ON A CURVE CONCAVE NORTHWEST, HAVING A RADIUS OF 500.00 FEET AND WHOSE RADIUS POINT BEARS NORTH 25°20'48" WEST; THENCE, NORTHEASTERLY, DEPARTING SAID BOUNDARY OF TRACT "L-4", AND ALONG SAID PLAT BOUNDARY AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 05°50'05", A DISTANCE OF 50.92 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 58°49'07" EAST, CONTINUING ALONG SAID PLAT BOUNDARY, A

DISTANCE OF 320.53 FEET TO A POINT ON THE BOUNDARY OF SAID TRACT "L-1" AND ON A CURVE CONCAVE NORTHEAST, HAVING A RADIUS OF 650.00 FEET AND WHOSE RADIUS POINT BEARS NORTH 36°21'58" EAST; THENCE, NORTHWESTERLY, DEPARTING SAID PLAT BOUNDARY, AND ALONG SAID BOUNDARY OF TRACT "L-1" AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 30°13'53", A DISTANCE OF 342.96 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 23°24'09" WEST, CONTINUING ALONG SAID BOUNDARY OF TRACT "L-1" FOR THIS AND ALL OF THE REMAINING COURSES, A DISTANCE OF 315.00 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE EAST, HAVING A RADIUS OF 1569.70 FEET; THENCE, NORTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 15°55'25", A DISTANCE OF 436.25 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 270.00 FEET; THENCE, NORTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 81°19'25", A DISTANCE OF 383.23 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 88°48'09" WEST, A DISTANCE OF 259.16 FEET; THENCE, NORTH 01°11'51" EAST, A DISTANCE OF 174.00 FEET; THENCE, SOUTH 88°48'09" EAST, A DISTANCE OF 155.00 FEET; THENCE, SOUTH 75°53'17" EAST, A DISTANCE OF 104.65 FEET TO A POINT ON A CURVE CONCAVE WEST, HAVING A RADIUS OF 200.00 FEET AND WHOSE RADIUS POINT BEARS NORTH 15°58'16" EAST; THENCE, NORTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 210°08'26", A DISTANCE OF 733.53 FEET TO THE END OF SAID CURVE; THENCE, SOUTH 78°19'36" WEST, A DISTANCE OF 102.58 FEET; THENCE, NORTH 88°48'09" WEST, A DISTANCE OF 155.00 FEET; THENCE, NORTH 01°11'51" EAST, A DISTANCE OF 234.00 FEET; THENCE, SOUTH 88°48'09" EAST, A DISTANCE OF 105.00 FEET; THENCE, SOUTH 69°33'43" EAST, A DISTANCE OF 105.92 FEET TO A POINT ON A CURVE CONCAVE WEST, HAVING A RADIUS OF 200.00 FEET AND WHOSE RADIUS POINT BEARS NORTH 30°12'36" EAST; THENCE, NORTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 209°00'45", A DISTANCE OF 729.59 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 88°48'09" WEST, A DISTANCE OF 342.00 FEET TO THE POINT OF BEGINNING.

CONTAINING: 95.24 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESERVATIONS, RESTRICTIONS AND RIGHTS-OF-WAY OF RECORD.

# Supplement to the Report

## Banyan Cay Community Development District

### Report of the Engineer

Prepared for:



## Banyan Cay Community Development District Board of Supervisors

2501A Burns Road  
Palm Beach Gardens, FL 33410  
June 20, 2019  
Supplement Date: November 4, 2020

Prepared by:



## Engenuity Group, Inc.

1280 North Congress Avenue, Suite 101  
West Palm Beach, FL 33409

Project No. 19030.01


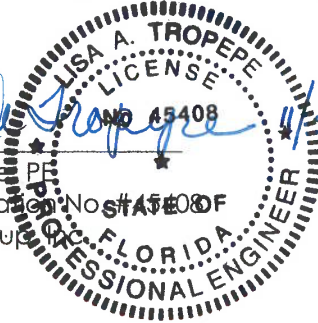
# Report Supplement

## Engineer's Certification

It is my opinion that the updated permit status information as outlined in this Supplemental Report is an accurate update to the original Report of the Engineer dated June 20, 2019.

All remaining permits will be obtained in the ordinary course of the application process and there is no reason to believe the remaining permit extensions will not be received.

I hereby certify that the foregoing is true to the best of my knowledge as the District Engineer for the **Banyan Cay Community Development District**.

  
\_\_\_\_\_  
Lisa A. Tropepe, P.E.  
Florida Registration No. 45408  
Engenuity Group, Inc.  


# Report Supplement

The following is a Supplement to the original Report of the Engineer (Report) dated June 20, 2019.

The purpose of this supplement is to update the Permitting Status articulated in Section VIII of the Report. Over 16 months have passed since the original Report was issued and several permits have expired. In addition, several applications have been completed and certified.

Below, in red, are the updates to this section:

## VIII. Permitting Status

All permits from the various governmental agencies needed to construct the District Improvements have been obtained. Listed below are the permitting agencies, permit numbers, and the permit approval and expiration dates where applicable:

### A. Drainage/Stormwater Management System:

1. South Florida Water Management District
  - i. Appl. No. 140411-5; approval 7-2-14; expires 7-2-19  
*Pod A, which consists of 94 lots within 50.12 acres under Permit Number 50-07830-P has been constructed.*
  - ii. Appl. No. 160627-2; approval 8-25-16; expires 8-25-21
  - iii. Appl. No. 170420-30; approval 8-18-17; expires 8-18-22
2. City of West Palm Beach Engineering Department
  - i. Permit No. E 18060014; approval 6-18-18  
*A permit extension was requested on 10-27-20 and was verbally approved on 10-29-20. The new expiration date is yet to be determined.*

### B. Water Distribution System:

1. City of West Palm Beach Utilities Department
  - i. Permit No. E 18060014; approval 6-18-18  
*A permit extension was requested on 10-27-20 and was verbally approved on 10-29-20. The new expiration date is yet to be determined.*
2. Palm Beach County Health Department
  - i. No. 138298-701-DSGP; approval 10-9-18; expires 10-8-23
3. Florida Department of Health – Palm Beach County – 16" Water Main Relocation
  - i. Permit No. 138298-661-DSGP; approval 3-8-17; expires 3-7-22

# Report Supplement

## C. Wastewater Collection (Lift Station):

1. City of West Palm Beach Utilities Department
  - i. Permit No. E 18060014; approval 6-18-18  
*A permit extension was requested on 10-27-20 and was verbally approved on 10-29-20. The new expiration date is yet to be determined.*
  - ii. Permit No. E 17050022 (16" Water Main Relocation)  
*Work under this permit has been completed and certified.*
2. Palm Beach County Health Department
  - i. No. 138298-70-Dwc; approval 10-9-18; expires 10-8-23

## D. Roadway System (On-site and Off-site):

1. City of West Palm Beach Traffic Engineering
  - i. Permit No. E 18060014; approval 6-18-18  
*The forcemain utility extension within the Congress Avenue Right of Way has been completed.*
2. Palm Beach County Land Development Permit (off-site)
  - i. Right-of-way permit number RW32874-1017  
*Construction is still in process, as the Congress Avenue median and overlay of the turning lane remains unfinished. Per Permit Condition No. 1, "Work may proceed beyond the permit expiration date if a start date was established and work started prior to the permit expiration date."*

## E. Earthwork (Lake Excavation and Site Preparation):

1. South Florida Water Management District
  - i. Appl. No. 140411-5; approval 7-2-14; expires 7-2-19  
*Pod A, which consists of 94 lots within 50.12 acres under Permit Number 50-07830-P has been constructed.*
  - ii. Appl. No. 160627-2; approval 8-25-16; expires 8-25-21
  - iii. Appl. No. 170420-30; approval 8-18-17; expires 8-18-22
2. City of West Palm Beach Engineering Department
  - i. Permit No. E 18060014; approval 6-18-18  
*A permit extension was requested on 10-27-20 and was verbally approved on 10-29-20. The new expiration date is yet to be determined.*

## F. Miscellaneous:

1. South Florida Water Management District- Water Use Permits –
  - i. Appl. No. 160818-6; approval 9-15-16; expires 9-15-19  
*The majority of the underground infrastructure has been completed. The renewal of the Banyan Cay Dewatering Permit was electronically requested on 11-3-20. This permit is for the underground contractor to construct the remainder of the sewer and drainage lines.*
  - ii. Appl. No. 151209-12; transfer 1-7-16; expires 3-21-31
2. Florida Department of Health – Palm Beach County – 16" Water Main Relocation
  - i. Permit No. 138298-661-DSGP; approval 3-8-17; expires 3-7-22



## **APPENDIX D**

### **ASSESSMENT METHODOLOGY**

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**MASTER  
SPECIAL ASSESSMENT METHODOLOGY REPORT**

**SPECIAL ASSESSMENT BONDS  
(PHASE ONE ASSESSMENT AREA)**

**FOR**

**BANYAN CAY  
COMMUNITY DEVELOPMENT DISTRICT**

Prepared for the  
Board of Supervisors

May 21, 2019  
(Revised June 7, 2019 & September 9, 2019)

**SPECIAL DISTRICT SERVICES, INC.**  
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## **1.0 INTRODUCTION**

The Banyan Cay Community Development District (the “District”) is a local unit of special-purpose government located in the City of West Palm Beach (the “City”) in Palm Beach County, Florida (the “County”). The District was established on January 28, 2019, by Ordinance No. 4823-19 (the “Ordinance”) enacted by the City of West Palm Beach Commission to provide for the financing, construction and/or acquisition, long term administration and maintenance of certain public infrastructure of the Development, as defined herein. The entire District contains approximately 95.24 gross acres lying within the City as shown herein on **Exhibit A**. The plan of development for the District proposes a mix of residential unit types, a clubhouse component and a hotel (herein the “Development”), totaling 74 residential dwelling units (Estate Homes and Villas), 179 condominium units, 150 hotel rooms and approximately 18,250 square feet (“s.f.”) of non-residential clubhouse space (the “Clubhouse Component”). The Development is currently being planned in phases (2) as outlined below:

<b>Development Plan</b>	<b>Estate Home Unit</b>	<b>Hotel Units/Rooms</b>	<b>Resort Villa Unit</b>	<b>Condominium Unit</b>	<b>Clubhouse Component (s.f.)</b>
<b>Phase One – 92.03 Acres</b>	52	150	22	0	18,243 s.f.
<b>Phase Two – 3.21 Acres</b>	-	-	-	179	-
<b>Totals</b>	<b>52</b>	<b>150</b>	<b>22</b>	<b>179</b>	<b>18,243 s.f.</b>

The District anticipates issuing Special Assessment Bonds (the “Bonds”) in one or more series for the purpose of financing all or a portion of certain public infrastructure improvements in the District; as more specifically described in the Report of the Engineer (the “Engineer’s Report”) dated April 30, 2019 as revised, prepared by Engenuity Group, Inc., located at 1280 North Congress Avenue, Suite 101, West Palm Beach, Florida 33409 (the “District’s Engineer”), as such Engineer’s Report may be revised from time to time.

As stated above, the Development is being planned in phases. It should be pointed out that Phase Two, the Condominium component of the Development, will be constructed in the future; therefore, at this time there will be no debt assigned to the Condominium Parcel. This Master Special Assessment Methodology Report (the “Master Report”) will equitably allocate the costs being incurred by the District to provide infrastructure improvements to all developable lands within the District (defined herein as the “Project”). The implementation of the improvements will convey special and peculiar benefits to all assessable properties within the District. The proposed Bonds to be issued to finance the Project will initially benefit all assessable property within Phase One of the District (the “Phase One Assessment Area”) and will be repaid through the levy of non-ad valorem special assessments on all assessable property within the Phase One Assessment Area of the District.

## **2.0 PROJECTS TO BE FUNDED BY THE DISTRICT**

The District intends to finance all or a portion of the construction of the public infrastructure improvements associated with District, including, but not limited to, roadway improvements (on site and off site), drainage and stormwater management system, water

distribution system, the wastewater collection system (including lift station) and other related improvements (the “Project”). The Project, as designed, is an integrated system of facilities that provides specific benefits to all assessable lands within the District. The total cost of the Project is currently estimated to be approximately \$7,463,830.00. A detail of the Project costs for the Phase One Assessment Area and the Phase Two Assessment Area are included herein on **Table A**. Any portion of the Project costs not financed through the issuance of the proposed Bonds is expected to be paid for by Banyan Cay Dev, LLC (the “Developer”).

Construction and/or acquisition and maintenance obligations for the District’s proposed infrastructure improvements are described as follows:

**Roadway System Improvements:** Include onsite and offsite improvements. The onsite roadways contemplated are known as Banyan Resort Way, Banyan Club Road and Banyan Cay Drive. The onsite roadways will be constructed by the Developer, then, acquired by the District upon certification of completion. Upon such acquisition, the ownership, operation and maintenance of the improvements will be the responsibility of the District; however, it is anticipated that the District will enter into a maintenance agreement with the Banyan Cay Master Association (hereinafter the “HOA”) after which the HOA will have operation and maintenance responsibilities of the improvements pursuant to a qualified management agreement.

The offsite roadway improvements contemplated are for Congress Avenue and the required offsite roadway improvements will be constructed by the Developer, then, acquired by the District upon certification of completion. The District will convey the offsite roadway improvements to the City after which the ownership, operation and maintenance of these improvements will be the responsibility of the City.

The stormwater management system consisting of system of lakes, inlets, storm drain pipes and control structure will be constructed by the Developer, then, acquired by the District upon certification of completion. Upon such acquisition, the ownership, operation and maintenance of the improvements will be the responsibility of the District; however, it is anticipated that the District will enter into a maintenance agreement with the HOA after which the HOA will have operation and maintenance responsibilities of the improvements pursuant to a qualified management agreement.

The water distribution and wastewater collection systems will be constructed by the Developer, then, acquired by the District and dedicated to the City of West Palm Beach Utilities upon certification of construction and completion. Upon such transfer by the District, the ownership, operation and maintenance of these systems will be the responsibility of the City.

The construction costs identified in this Master Report were provided by the District’s Engineer. Special District Services, Inc., as District Manager, makes no representation regarding the accuracy or validity of those costs and did not undertake any analysis or verification regarding such costs.

### **3.0 FUNDING OF IMPROVEMENTS**

To defray the costs of construction and acquisition of the Project within the Phase One Assessment Area, the District will impose non-ad valorem special assessments on specially benefited real property within the Phase One Assessment Area of the District. These special assessments are based on the special and peculiar benefits accruing to such property from the improvements comprising the Project. The use of non-ad valorem special assessments has an advantage in that the properties that receive the special benefits from the Project are the only properties that are obligated to pay for those facilities and services. Without these improvements, development of the property would not be possible. The improvements, which will be funded through these special assessments, include only facilities which may be undertaken by a community development district under Chapter 190, (“F.S.”). This Master Report is designed to meet the requirements of Chapters 170, 190 and 197, F.S.; and will be supplemented with one or more Supplemental Methodology Reports, as needed, to describe the actual terms and conditions at the time of issuance of one or more series of the Bonds issued to finance all or a portion of the Project.

In summary, special assessments may be made only: (1) for facilities which provide special benefits to property as distinct from general benefits, (2) against property which receives that special benefit, (3) in proportion to the benefits received by the properties, and (4) according to methods that the governing body of the jurisdiction determines. The special assessments placed upon all benefited properties in the Phase One Assessment Area of the District must be sufficient to cover the debt service of the Bonds that will be issued for financing the Project benefitting the Phase One Assessment Area and the costs to maintain those portions of the public infrastructure that remain under the ownership of the District. The special assessments must be fairly and reasonably allocated to the properties being assessed.

### **4.0 ALLOCATION OF BENEFIT AND ASSESSMENTS**

In developing the methodology used for special assessments in the Development, two interrelated factors were used:

- A. Allocation of Benefit: Each parcel of land/lot/room/unit within the Phase One Assessment Area of the District benefits from the proposed improvements.
- B. Allocation of Debt: The special assessments imposed on each assessable parcel of land/lot/room/unit in the Phase One Assessment Area of the District cannot exceed the value of the benefits provided to such parcel of land/lot/room/unit.

The planned improvements comprising the Project are an integrated system of facilities designed to provide benefits to all land use types within the District. The Project is intended to work as a total system which will provide special benefits for each land use type within the District. The fair and reasonable method of allocating the benefit to each planned estate home, hotel room, resort villa, condominium unit and unit of non-residential space (square footage) in the District would be to assign an *equivalent residential unit*

(hereinafter “ERU”) to each land use type based on impact upon and use of the components of the Project.

For the purpose of this Master Report, the equivalent residential units (ERUs) have been assigned as follows:

<u><b>UNIT TYPE DESCRIPTION</b></u>	<u><b>ERU*</b></u>
Estate Home Unit	1.00
Hotel Room Unit	.80
Resort Villa Unit	.65
Condominium Unit	.55
<b>Each 1,000 S.F.</b> of Non-Residential space (Clubhouse Component Unit) (S.F. – Square Feet)	1.00

Accordingly, the Project benefits the described units in these same proportions resulting in the debt service assessments being allocated to each Estate Home Unit, Hotel Room Unit, Resort Villa Unit, Condominium Unit and Clubhouse Component Unit in these same proportions. The Project Benefits (including Phase One and Phase Two) are shown herein on **Table C**. The Bond Debt allocations specific to the Phase One Assessment Area are shown herein on **Table D**. Initially, the District will place a lien on all of the land in the Phase One Assessment Area of the District on an equal acreage basis.

In view of the approved land use plan for the District and the type of infrastructure to be funded by the proposed special assessments, this method described above results in a fair allocation of benefits and an equitable allocation of costs for the proposed Bonds. However, if the future platting or filing a declaration of condominium results in changes in land use or proportion of benefit per acre, this allocation methodology may not be applicable and it may be necessary for the District to revise the allocation methodology.

In addition to the special assessments imposed for debt service, the District will also levy annual operations and maintenance assessments to fund the costs of running the entire District and maintaining District owned public infrastructure. If applicable, it is anticipated that the annual operations and maintenance assessments will be allocated proportionately to all benefitted unit types.

**5.0 COLLECTION OF SPECIAL ASSESSMENTS**

The proposed special assessments relating to the Project will be collected through the Uniform Method of Collection described in Chapter 197, Section 197.3632; *F.S.* or any other legal means available to the District.

Since there are costs associated with the collection of the special assessments (whether by uniform method of collection as authorized under Chapter 197.3632, *F.S.* or other methods allowed by Florida law), these costs must also be included in the special assessment levy. These costs generally include the 1% collection fee of the County Tax Collector, a 1% service fee of the County Property Appraiser and a 4% discount for early payment of taxes. These additional costs may be reflected by dividing the annual debt service and operation

and maintenance assessment amounts by 0.94. In the event the special assessments are direct billed, then, the collection costs, services fees and discounts may not apply.

## **6.0 FINANCING STRUCTURE**

The estimated cost of the total Project is approximately \$7,463,830.00. The construction program and the costs associated therewith for the District are identified herein on **Table A**.

A portion of the capital improvements comprising the Project is assumed to be financed by the Bonds which, when issued, will be payable from and secured by special assessments levied annually on all assessable properties within the Phase One Assessment Area of the District (currently estimated at approximately 92.03 acres). Based on current market conditions, the total aggregate principal par amount of the Bonds proposed to be issued by the District for the Phase One Assessment Area is estimated to be \$7,465,000.00. The proceeds of the Bonds for the Phase One Assessment Area will provide approximately \$5,038,645.00 for construction related costs. The sizing of the Bonds is assumed to include capitalized interest, a debt service reserve fund equal to the maximum annual debt service, financing costs and other assumptions as shown herein on **Table B**.

## **7.0 MODIFICATIONS, REVISIONS AND TRUE-UP MECHANISIM**

Allocation of costs and benefit, shown herein on **Table C**, for the infrastructure improvements proposed comprising the Project to be financed by the District for the Phase One Assessment Area shall be based on a total of 52 Estate Home Units, 22 Resort Villa Units, 150 Hotel Room Units and a Clubhouse Component Unit, all of which are benefited by the infrastructure improvements. Based on an anticipated par Bond size of approximately \$7,465,000.00 at an assumed interest rate of 6.50% the estimated maximum annual debt service on the Bonds will be approximately \$571,698.00 which *has not* been grossed up to include the 1% County Tax Collector fee, 1% County Property Appraiser fee, and 4% discount for early payment of taxes.

To ensure that each planned unit/room/square footage in the Phase One Assessment Area is assessed no more than their pro-rata amount of the annual debt service shown in **Table D**, the District will be required to perform a “true-up” analysis, which requires a computation at the time of submission of each plat or re-plat to determine the potential remaining assessable units. The District shall, at the time a plat or re-plat is submitted to the City and/or the County:

**A.** Assume that the total number of assessable units being utilized as a basis for this assessment methodology is 52 estate home units, 22 resort villa units, 150 hotel room units and a clubhouse component unit. (“Total Assessable Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Unit and Clubhouse Component Unit”), with a total of 204.54 ERUs.

**B.** Ascertain the number of assessable residential dwelling estate units/lots, resort villa units/lots, hotel room units and clubhouse component unit in the proposed plat or re-plat and all prior plats (“Planned Assessable Residential Estate Units/Lots, Resort Villa



Units/Lots, Hotel Room Units and Clubhouse Component Unit”) and total amount of ERUs associated with such Planned Assessable Residential Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Units and the Clubhouse Component Unit.

C. Ascertain the current amount of potential remaining assessable residential estate units/lots, resort villa units/lots condominium units, hotel room units and clubhouse component unit (“Remaining Assessable Residential Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Units and Clubhouse Component Unit Units”) and total number of ERUs associated with the Remaining Assessable Residential Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Units and Clubhouse Component Unit Units.

For the Phase One Assessment Area, if the ERUs associated with the Planned Assessable Residential Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Units and Clubhouse Component Unit are equal to the ERUs associated with Total Assessable Residential Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Unit and Clubhouse Component Units no action would be required at that time. However, if the sum of the ERUs associated with the Planned Assessable Residential Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Units and Clubhouse Component Unit and the ERUs associated with the Remaining Assessable Residential Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Units and Clubhouse Component Unit are less than the ERUs associated with the Total Assessable Residential Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Unit and Clubhouse Component Unit, then, the Developer will be obligated by the District to remit to the District an amount of money sufficient to enable the District to retire an amount of proposed Bonds plus accrued interest such that the amount of debt service allocated to each ERU associated with the Planned Assessable Residential Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Units and Clubhouse Component Unit does not exceed the amount of debt service that would have been allocated thereto had the total number of Planned Assessable Residential Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Units and Clubhouse Component Unit been, 52 Estate Home Units, 22 Resort Villa Units, 150 Hotel Room Units and a Clubhouse Component Unit totaled *204.54 ERUs*. Conversely, if the Planned Assessable Residential Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Units and Clubhouse Component Unit or the mix of units/rooms/clubhouse is greater than the Total Assessable Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Unit and Clubhouse Component Units, with a total of *204.54 ERUs*, then, there will be a pro-rata decrease in the annual non-ad valorem assessments to all of the benefited properties.

All assessments levied run with the land within the Phase One Assessment Area. A determination of a true-up payment shall be in accordance with a true-up agreement to be entered into between the Developer and the District. It is the responsibility of the landowner of record to make any required true-up payments that are due. The District will not release any liens on the property for which true-up payments are due until provision for such payment has been satisfied.

In the event that additional land is annexed into the District which is currently not subject to the assessments and is developed in such a manner as to receive special benefit from the Project described herein, it will be necessary for this assessment methodology to be re-applied to include such parcels. The additional land will, as a result of re-applying this

allocation methodology, then be allocated an appropriate share of the special assessments while all currently assessed parcels will receive a relative reduction in their assessments

## **8.0 PRELIMINARY ASSESSMENT ROLL**

As of the date of this Master Report, the District consists of platted acreage. The debt associated with the District's improvement plan for the Phase One Assessment Area will initially be distributed on an equal acreage basis across all benefiting gross acreage within the Phase One Assessment Area of the District. As folio numbers are assigned to lots/units/rooms/square footage the different product type will be assessed in the manner described herein and as shown herein on **Table F**.

The lands currently within the Phase One Assessment Area of the District consist of approximately 92.03 acres as described in **Exhibit "A"** attached hereto. The anticipated par amount of Bonds to be issued by the District to pay for the Project benefitting the Phase One Assessment Area of the District is estimated to be approximately \$7,465,000.00. Initially the assessments levied against the lands within the Phase One Assessment Area of the District will be apportioned on an acre basis. Therefore, the maximum annual debt service assessment for each acre of land in the Phase One Assessment Area of the District will be approximately \$6,609.00 as shown herein on **Table E**. The par Bond debt allocation for each acre within the Phase One Assessment Area of the District is approximately \$81,115.00 as shown herein on **Table F**.

The District is currently being development. When fully developed Phases One and Two of the District are planned for 52 Estate Home units, 22 Resort Villa units, 179 Condominium units, 150 Hotel Room units and a Clubhouse Component unit consisting of approximately 18,243 square feet. The total proposed mixed uses to be developed in the Phase One Assessment Area of the District are identified herein on **Tables C and D**.

## **9.0 ADDITIONAL STIPULATIONS**

Certain financing, development, and engineering data was provided by members of District staff, District Engineer and/or the Developer. The allocation methodology described herein was based on information provided by those professionals. Special District Services, Inc. makes no representations regarding said information transactions beyond restatement of the factual information necessary for compilation of this Master Report.

Special District Services, Inc. does not represent the District as a Municipal Advisor or Securities Broker nor is Special District Services, Inc. registered to provide such services as described in Section 15B of the Securities and Exchange Act of 1934, as amended. Similarly, Special District Services, Inc. does not provide the District with financial advisory services or offer investment advice in any form.

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TABLE A

**PROJECT COST ESTIMATES**  
**PHASE ONE AND PHASE TWO ASSESSMENT AREAS**

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT**

	<b>PROJECT ESTIMATED COSTS PHASE ONE ASSESSMENT AREA*</b>	<b>PROJECT ESTIMATED COSTS PHASE TWO ASSESSMENT AREA</b>	<b>TOTAL PROJECT ESTIMATED COSTS</b>
DRAINAGE and STORMWATER MANAGEMENT SYSTEM	\$ 946,455.14	\$ 455,544.86	\$ 1,402,000.00
WATER DISTRIBUTION SYSTEM	\$ 1,002,486.37	\$ 482,513.63	\$ 1,485,000.00
WATER DISTRIBUTION SYSTEM INSTALLATION FEES	\$ 122,796.14	\$ 59,103.86	\$ 181,900.00
WASTEWATER COLLECTION SYSTEM	\$ 720,980.09	\$ 347,019.91	\$ 1,068,000.00
WATER AND WASTEWATER SYSTEM CONNECTION FEES	\$ 569,628.28	\$ 274,171.72	\$ 843,800.00
ROADWAY SYSTEM (On Site and Off Site)	\$ 706,128.44	\$ 339,871.56	\$ 1,046,000.00
ROADWAY SYSTEM IMPACT FEES	\$ 121,513.50	\$ 58,486.50	\$ 180,000.00
EARTHWORK (Lake Excavation and Site Preparation)	\$ 848,657.03	\$ 408,472.97	\$ 1,257,130.00
<b>TOTAL ESTIMATED PROJECT COSTS</b>	<b>\$ 5,038,645.00</b>	<b>\$ 2,425,185.00</b>	<b>\$ 7,463,830.00</b>

Note: \*Phase One Assessment Area does not include the Condominium Site (3.21+/- Acres)

**TABLE B**

**BOND SIZING**  
**PHASE ONE ASSESSMENT AREA**

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT**

	<b>BOND SIZING</b>
<b>Par Amount (Estimated)</b>	<b>\$ 7,465,000.00</b> *
Debt Service Reserve Fund (DSRF)	\$ (571,697.69)
Capitalized Interest (36 months)	\$ (1,455,675.00)
Issuance Costs	\$ (398,982.31)
Rounding	\$ -
<b>Construction Funds</b>	<b>\$ 5,038,645.00</b>
Bond Interest Rate (Assumed)	6.50% *
Principal Amortization Period (Years)	30

\*Subject to change at final Bond pricing

TABLE C

**ALLOCATION OF PROJECT COSTS**  
**PHASE ONE AND PHASE TWO ASSESSMENT AREAS**

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT**

<b>Development Plan Type of Use</b>	<b>Number of Units by Type</b>	<b>ERU Factor by Type</b>	<b>Total ERUs by Type</b>	<b>Project Cost Allocation Per Type*</b>	<b>Project Cost Allocation Per Unit Type and/or Per S.F.</b>
Estate Home Unit	52	1.00	52.00	\$1,280,951	\$24,633.67
Hotel Room/Unit	150	0.80	120.00	\$2,956,041	\$19,706.94
Resort Villa Unit	22	0.65	14.30	\$352,262	\$16,011.89
Condominium Unit	179	0.55	98.45	\$2,425,185	\$13,548.52
<b>Total Unit Type</b>	<b>403</b>	<b>N/A</b>	<b>284.75</b>	<b>\$7,014,438</b>	<b>N/A</b>
Clubhouse Component (S.F.)	18,243	0.001000	18.2430	\$449,392	\$24.63
<b>TOTALS</b>	<b>N/A</b>	<b>N/A</b>	<b>302.99</b>	<b>\$7,463,830</b>	<b>N/A</b>

\*Rounded

S.F. - Square Feet

**TABLE D**

**ALLOCATION OF BOND DEBT**  
**PHASE ONE ASSESSMENT AREA**

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT**

<b>Development Plan Type of Use</b>	<b>Number of Units by Type</b>	<b>ERU Factor</b>	<b>Total ERUs</b>	<b>Bond Debt Allocation Per Type and/or S.F.*</b>	<b>Bond Debt Allocation Per Unit Type and/or Per S.F.</b>	<b>Maximum Annual Debt Assessment Per Unit Type and/or Per S.F.</b>
Estate Home Unit	52	1.00	52.00	\$1,897,792	\$36,495.99	\$2,795.00
Hotel Room/Unit	150	0.80	120.00	\$4,379,519	\$29,196.79	\$2,236.00
Resort Villa Unit	22	0.65	14.30	\$521,893	\$23,722.40	\$1,816.75
Condominium Unit***	N/A	0.55	N/A	N/A	N/A	N/A
<b>Total Unit Type</b>	<b>224</b>	<b>N/A</b>	<b>186.30</b>	<b>\$6,799,204</b>	<b>N/A</b>	<b>N/A</b>
<b>Clubhouse Component (S.F.)</b>	18,243	0.001000	18.24	\$665,796	\$36.50	\$2.7950
<b>TOTALS</b>	<b>N/A</b>	<b>N/A</b>	<b>204.54</b>	<b>\$7,465,000</b>	<b>N/A</b>	<b>N/A</b>

\*Rounded

S.F. - Square Footage

\*\*\* Condominium Units will be assessed in the Phase Two Assessment Area

**TABLE E**

**CALCULATION OF ANNUAL DEBT SERVICE ASSESSMENT**  
**PHASE ONE ASSESSMENT AREA**

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT**

		<b>BOND DEBT</b>
1	Maximum Annual Debt Service ( <b>Phase One Assessment Area</b> )	\$ 571,698
2	Maximum Annual Debt Service Assessment to be Collected	\$ 608,189 *
3	Total Number of Gross Acres (Approximate)	<b>95.24</b>
4	Total Number of Acres in the <b>Phase One Assessment Area</b>	<b>92.03</b>
5	Total Number of Residential Units/Hotel Rooms Planned	<b>224</b>
6	Clubhouse Component (Unit) Total Square Footage	<b>18,243 s.f.</b>
7	Maximum Annual Debt Service Assessment per Gross Acre for the <b>Phase One Assessment Area</b>	\$ 6,609
8	Maximum Annual Debt Service per Unit Type	<b>See Table F</b>

s.f. square feet

\*Grossed up to include 1% collection fee of the County Tax Collector, 1% service fee of the County Property Appraiser and 4% for early payment of taxes. These collection costs, services fees and early payment discount may not apply if the special assessments securing the Bonds are being direct billed.

**TABLE F**

**ALLOCATION OF DEBT SERVICE ASSESSMENTS**  
**PHASE ONE ASSESSMENT AREA**

**PRELIMINARY ASSESSMENT ROLL**

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT**

<b>Development Plan Type of Use</b>	<b>Number of Units or S.F. by Type</b>	<b>ERU Factor</b>	<b>Total ERUs</b>	<b>**Maximum Annual Debt Assessment Per Unit and/or S.F.</b>	<b>**Maximum Annual Debt Assessment Per Product Type</b>
Estate Home Unit	52	1.00	52.00	\$2,973.40	\$154,617
Hotel Room/Unit	150	0.80	120.00	\$2,378.72	\$356,809
Resort Villa Unit	22	0.65	14.30	\$1,932.71	\$42,520
Condominium Unit	N/A	N/A	N/A	\$0.00	\$0
<b>Sub-Totals</b>	<b>224</b>	<b>N/A</b>	<b>186.30</b>	<b>N/A</b>	<b>\$553,945</b>
Clubhouse Component (S.F.)	18,243	0.001000	18.24	\$2.9734	\$54,244
<b>TOTALS</b>	<b>N/A</b>	<b>N/A</b>	<b>204.54</b>	<b>N/A</b>	<b>\$608,189</b>

\*\*Grossed up to include 1% collection fee of the County Tax Collector, 1% service fee of the County Property Appraiser and 4% for early payment of taxes. These collection fees, service fees and early payment discount may not apply of the special assessments securing the Bonds are being direct billed.

<b>Parcel Description</b>	<b>Gross Acreage (95.24) less Tract MF (3.21)</b>	<b>Par Debt/Acre Phase One Assessment Area</b>
Banyan Cay Resort	92.03	\$ 81,114.85



## EXHIBIT A

### EXHIBIT A

(4 PAGES)

### LEGAL DESCRIPTION BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT (Preliminary Assessment Roll)

#### LEGAL DESCRIPTION OF BANYAN CAY CDD

TRACTS "B", "C", "L-1", "L-2", "L-3", "L-4", "O-1", "O-2", "O-2", AND "O-4", BANYAN CAY RESORT COMMUNITY PLAT 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 124, PAGE 182, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. TOGETHER WITH ALL OF THE PLAT OF BANYAN CAY RESORT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 125, PAGE 114, SAID PUBLIC RECORDS.

#### ALSO BEING DESCRIBED AS:

BEGIN AT THE NORTHWEST CORNER OF SAID TRACT "O-1", THENCE, SOUTH 01°11'51" WEST, ALONG THE BOUNDARY OF SAID TRACT "O-1", A DISTANCE OF 1999.30 FEET TO A POINT ON THE BOUNDARY OF TRACT "RW" OF SAID BANYAN CAY RESORT COMMUNITY PLAT 1; THENCE, SOUTH 43°48'09" EAST, ALONG SAID BOUNDARY OF TRACT "RW", AND CONTINUING ALONG SAID BOUNDARY OF TRACT "O-1", A DISTANCE OF 16.97 FEET; THENCE, SOUTH 01°11'51" WEST, DEPARTING SAID BOUNDARY OF TRACT "O-1", AND CONTINUING ALONG THE BOUNDARY OF SAID TRACT "RW", A DISTANCE OF 288.74 FEET TO A POINT ON THE BOUNDARY OF TRACT "M" OF SAID BANYAN CAY RESORT COMMUNITY PLAT 1; THENCE, SOUTH 88°48'09" EAST, DEPARTING SAID BOUNDARY OF TRACT "RW", AND ALONG SAID BOUNDARY OF TRACT "M", A DISTANCE OF 13.00 FEET; THENCE, SOUTH 34°33'26" EAST, CONTINUING ALONG SAID BOUNDARY OF TRACT "M" FOR THIS AND THE NEXT TWO COURSES, A DISTANCE OF 431.79 FEET; THENCE, SOUTH 27°38'07" WEST, A DISTANCE OF 49.16 FEET; THENCE, NORTH 88°48'09" WEST, A DISTANCE OF 255.41 FEET TO A POINT ON THE BOUNDARY OF SAID PLAT OF BANYAN CAY RESORT; THENCE, SOUTH 01°11'51" WEST, ALONG SAID PLAT BOUNDARY, A DISTANCE OF 32.00 FEET; THENCE, SOUTH 88°48'09" EAST, CONTINUING ALONG SAID PLAT BOUNDARY FOR THIS AND THE NEXT FORTY-FIVE COURSES A DISTANCE OF 150.00 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 180.00 FEET; THENCE, SOUTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 42°37'46", A DISTANCE OF 133.92 FEET TO THE END OF SAID CURVE; THENCE, SOUTH 29°41'51" WEST, A DISTANCE OF 150.70 FEET; THENCE, SOUTH 01°11'51" WEST, A DISTANCE OF 309.61 FEET; THENCE, SOUTH 49°48'09" EAST, A DISTANCE OF 1219.91 FEET; THENCE, SOUTH 10°00'04" WEST, A DISTANCE OF 296.05 FEET; THENCE, SOUTH 80°01'55" EAST, A DISTANCE OF 186.63 FEET; THENCE, NORTH 09°58'05" EAST, A DISTANCE OF 215.46 FEET; THENCE, SOUTH 89°03'38" EAST, A DISTANCE OF 434.43 FEET; THENCE, SOUTH 00°56'22" WEST, A DISTANCE OF 124.00 FEET; THENCE, SOUTH 89°03'38" EAST, A DISTANCE OF 33.11 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 20.00 FEET; THENCE, SOUTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 101°36'03", A DISTANCE OF 35.47 FEET TO THE POINT OF TANGENCY; THENCE, SOUTH 12°32'25" WEST, A DISTANCE OF 154.87 FEET TO A POINT ON A CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 440.00 FEET AND WHOSE RADIUS POINT BEARS SOUTH 21°34'29" WEST; THENCE, SOUTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 38°05'30", A DISTANCE OF 292.52 FEET TO THE END OF SAID CURVE; THENCE, NORTH 58°21'56" EAST, A DISTANCE OF 60.18 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWEST, HAVING A RADIUS OF 80.00 FEET; THENCE, NORTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 63°42'43", A DISTANCE OF 88.96 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 05°20'47" WEST, A DISTANCE OF 248.00 FEET; THENCE, SOUTH 89°03'38" EAST, A DISTANCE OF 276.74 FEET; THENCE, SOUTH 11°56'22" WEST, A DISTANCE OF 20.20 FEET; THENCE, SOUTH 78°03'38" EAST, A DISTANCE OF 40.00 FEET; THENCE, NORTH 11°56'22" EAST, A DISTANCE OF 59.86 FEET; THENCE, NORTH

48°03'38" WEST, A DISTANCE OF 64.70 FEET; THENCE, NORTH 01°11'51" EAST, A DISTANCE OF 109.65 FEET; THENCE, NORTH 76°19'06" WEST, A DISTANCE OF 19.24 FEET; THENCE, NORTH 27°09'45" EAST, A DISTANCE OF 843.47 FEET; THENCE, NORTH 57°00'00" WEST, A DISTANCE OF 421.36 FEET; THENCE, NORTH 33°00'00" EAST, A DISTANCE OF 200.00 FEET; THENCE, NORTH 57°00'00" WEST, A DISTANCE OF 10.00 FEET; THENCE, SOUTH 33°00'00" WEST, A DISTANCE OF 240.00 FEET; THENCE, NORTH 57°00'00" WEST, A DISTANCE OF 4.00 FEET; THENCE, NORTH 17°00'37" WEST, A DISTANCE OF 49.79 FEET; THENCE, NORTH 42°57'50" WEST, A DISTANCE OF 61.85 FEET; THENCE, NORTH 56°27'52" WEST, A DISTANCE OF 107.15 FEET; THENCE, NORTH 49°33'23" WEST, A DISTANCE OF 108.06 FEET; THENCE, NORTH 51°17'21" WEST, A DISTANCE OF 50.25 FEET; THENCE, NORTH 50°01'01" WEST, A DISTANCE OF 57.58 FEET; THENCE, NORTH 52°11'56" WEST, A DISTANCE OF 107.53 FEET; THENCE, NORTH 53°15'44" WEST, A DISTANCE OF 107.38 FEET; THENCE, NORTH 66°32'10" WEST, A DISTANCE OF 108.65 FEET; THENCE, NORTH 66°00'56" WEST, A DISTANCE OF 108.49 FEET; THENCE, SOUTH 88°00'30" WEST, A DISTANCE OF 48.83 FEET; THENCE, NORTH 69°35'31" WEST, A DISTANCE OF 68.80 FEET; THENCE, NORTH 57°00'00" WEST, A DISTANCE OF 136.16 FEET; THENCE, NORTH 21°03'11" WEST, A DISTANCE OF 105.80 FEET; THENCE, NORTH 47°49'37" WEST, A DISTANCE OF 87.15 FEET TO A POINT ON THE BOUNDARY OF SAID BANYAN CAY RESORT COMMUNITY PLAT 1; THENCE, CONTINUE NORTH 47°49'37" WEST, DEPARTING SAID BOUNDARY OF THE PLAT OF BANYAN CAY RESORT, AND ALONG SAID BOUNDARY OF BANYAN CAY RESORT COMMUNITY PLAT 1, A DISTANCE OF 27.99 FEET; THENCE, NORTH 48°08'56" WEST, CONTINUING ALONG SAID PLAT BOUNDARY FOR THIS AND ALL OF THE REMAINING COURSES, A DISTANCE OF 115.14 FEET; THENCE, NORTH 41°00'37" WEST, A DISTANCE OF 115.24 FEET; THENCE, NORTH 55°40'14" WEST, A DISTANCE OF 123.87 FEET; THENCE, NORTH 55°12'31" WEST, A DISTANCE OF 41.83 FEET; THENCE, NORTH 09°22'53" WEST, A DISTANCE OF 86.00 FEET; THENCE, NORTH 14°27'11" WEST, A DISTANCE OF 119.08 FEET; THENCE, NORTH 17°55'23" WEST, A DISTANCE OF 115.14 FEET; THENCE, NORTH 20°14'46" WEST, A DISTANCE OF 114.74 FEET; THENCE, NORTH 17°04'09" WEST, A DISTANCE OF 115.43 FEET; THENCE, NORTH 07°57'02" WEST, A DISTANCE OF 115.44 FEET; THENCE, NORTH 02°48'06" WEST, A DISTANCE OF 115.33 FEET; THENCE, NORTH 01°38'18" WEST, A DISTANCE OF 111.92 FEET; THENCE, NORTH 01°28'27" WEST, A DISTANCE OF 107.27 FEET; THENCE, NORTH 02°16'01" EAST, A DISTANCE OF 107.17 FEET; THENCE, NORTH 06°32'33" EAST, A DISTANCE OF 109.17 FEET; THENCE, NORTH 12°31'50" EAST, A DISTANCE OF 115.97 FEET; THENCE, NORTH 07°20'45" EAST, A DISTANCE OF 114.45 FEET; THENCE, NORTH 18°20'21" EAST, A DISTANCE OF 114.48 FEET; THENCE, NORTH 13°06'08" EAST, A DISTANCE OF 115.20 FEET; THENCE, NORTH 18°10'30" WEST, A DISTANCE OF 30.62 FEET; THENCE, NORTH 30°22'24" WEST, A DISTANCE OF 51.26 FEET; THENCE, NORTH 38°22'25" WEST, A DISTANCE OF 150.48 FEET; THENCE, NORTH 37°48'17" WEST, A DISTANCE OF 100.40 FEET; THENCE, NORTH 42°56'51" WEST, A DISTANCE OF 100.00 FEET; THENCE, NORTH 46°50'49" WEST, A DISTANCE OF 71.47 FEET; THENCE, NORTH 79°42'44" WEST, A DISTANCE OF 25.32 FEET; THENCE, NORTH 86°30'43" WEST, A DISTANCE OF 100.08 FEET; THENCE, NORTH 78°02'40" WEST, A DISTANCE OF 101.79 FEET; THENCE, SOUTH 87°00'45" WEST, A DISTANCE OF 41.11 FEET; THENCE, SOUTH 39°29'16" WEST, A DISTANCE OF 24.21 FEET; THENCE, NORTH 40°20'04" WEST, A DISTANCE OF 46.76 FEET; THENCE, NORTH 88°48'09" WEST, A DISTANCE OF 212.98 FEET TO THE POINT OF BEGINNING.

LESS THE FOLLOWING DESCRIBED PARCEL OF LAND:

BEGIN AT THE NORTHWEST CORNER OF LOT 1 OF SAID BANYAN CAY RESORT COMMUNITY PLAT 1; THENCE, SOUTH 01°11'51" WEST, ALONG THE BOUNDARY OF SAID TRACT "O-1", A DISTANCE OF 1806.17 FEET; THENCE, SOUTH 43°48'09" EAST, CONTINUING ALONG SAID BOUNDARY OF TRACT "O-1" FOR THIS AND THE NEXT FIVE COURSES, A DISTANCE OF 48.26 FEET; THENCE, SOUTH 88°48'09" EAST, A DISTANCE OF 96.07 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWEST, HAVING A RADIUS OF 23.00 FEET; THENCE, NORTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 78°47'39", A DISTANCE OF 31.63 FEET TO THE END OF SAID CURVE; THENCE, NORTH 68°15'43" EAST, A DISTANCE OF 24.16 FEET; THENCE, SOUTH 12°24'12" WEST, A DISTANCE OF 13.56 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWEST, HAVING A RADIUS OF 43.00 FEET; THENCE, SOUTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 37°29'18", A DISTANCE OF 28.13 FEET TO A POINT ON THE BOUNDARY OF TRACT "A" OF SAID BANYAN CAY RESORT COMMUNITY PLAT 1, AND THE

END OF SAID CURVE; THENCE, NORTH 49°53'30" EAST, DEPARTING SAID BOUNDARY OF TRACT "O-1", AND ALONG SAID BOUNDARY OF TRACT "A", A DISTANCE OF 26.42 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTH, HAVING A RADIUS OF 116.00 FEET; THENCE, EASTERLY, ALONG SAID CURVE AND CONTINUING ALONG SAID BOUNDARY OF TRACT "A" FOR THIS AND THE NEXT FIVE COURSES, THROUGH A CENTRAL ANGLE OF 55°58'44", A DISTANCE OF 113.34 FEET TO THE POINT OF CUSP OF A CURVE CONCAVE NORTHEAST, HAVING A RADIUS OF 44.00 FEET AND WHOSE RADIUS POINT BEARS NORTH 15°52'14" EAST; THENCE, NORTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 49°29'31", A DISTANCE OF 38.01 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 501.00 FEET; THENCE, NORTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 15°32'39", A DISTANCE OF 135.92 FEET TO THE END OF SAID CURVE; THENCE, NORTH 43°48'09" WEST, A DISTANCE OF 162.02 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE EAST, HAVING A RADIUS OF 90.00 FEET; THENCE, NORTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 45°00'00", A DISTANCE OF 70.69 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 01°11'51" EAST, A DISTANCE OF 64.63 FEET TO A POINT ON THE BOUNDARY OF SAID TRACT "L-2"; THENCE, SOUTH 88°48'09" EAST, DEPARTING SAID BOUNDARY OF TRACT "A", AND ALONG SAID BOUNDARY OF TRACT "L-2", A DISTANCE OF 205.00 FEET; THENCE, SOUTH 00°10'14" EAST, CONTINUING ALONG SAID BOUNDARY OF TRACT "L-2", A DISTANCE OF 29.57 FEET TO A POINT ON A CURVE CONCAVE EAST, HAVING A RADIUS OF 1909.70 FEET AND WHOSE RADIUS POINT BEARS NORTH 79°48'33" EAST; THENCE, SOUTHERLY, ALONG SAID CURVE AND CONTINUING ALONG SAID BOUNDARY OF TRACT "L-2", THROUGH A CENTRAL ANGLE OF 09°00'38", A DISTANCE OF 300.33 FEET TO A POINT ON THE BOUNDARY OF SAID TRACT "O-4"; THENCE, DEPARTING SAID BOUNDARY OF TRACT "L-2" AND ALONG SAID BOUNDARY OF TRACT "O-4", CONTINUE SOUTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 04°12'04", A DISTANCE OF 140.02 FEET TO THE POINT OF TANGENCY; THENCE, SOUTH 23°24'09" EAST, CONTINUING ALONG SAID BOUNDARY OF TRACT "O-4", A DISTANCE OF 121.33 FEET TO A POINT ON THE BOUNDARY OF SAID TRACT "L-4"; THENCE, CONTINUE SOUTH 23°24'09" EAST, DEPARTING SAID BOUNDARY OF TRACT "O-4", AND ALONG SAID BOUNDARY OF TRACT "L-4", A DISTANCE OF 193.67 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEAST, HAVING A RADIUS OF 990.00 FEET; THENCE, SOUTHEASTERLY, ALONG SAID CURVE AND CONTINUING ALONG SAID BOUNDARY OF TRACT "L-4", THROUGH A CENTRAL ANGLE OF 15°18'57", A DISTANCE OF 264.64 FEET TO THE END OF SAID CURVE; THENCE, SOUTH 35°48'09" EAST, CONTINUING ALONG SAID BOUNDARY OF TRACT "L-4", A DISTANCE OF 116.18 FEET TO A POINT ON THE BOUNDARY OF SAID BANYAN CAY RESORT COMMUNITY PLAT 1 AND ON A CURVE CONCAVE NORTHWEST, HAVING A RADIUS OF 500.00 FEET AND WHOSE RADIUS POINT BEARS NORTH 25°20'48" WEST; THENCE, NORTHEASTERLY, DEPARTING SAID BOUNDARY OF TRACT "L-4", AND ALONG SAID PLAT BOUNDARY AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 05°50'05", A DISTANCE OF 50.92 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 58°49'07" EAST, CONTINUING ALONG SAID PLAT BOUNDARY, A DISTANCE OF 320.53 FEET TO A POINT ON THE BOUNDARY OF SAID TRACT "L-1" AND ON A CURVE CONCAVE NORTHEAST, HAVING A RADIUS OF 650.00 FEET AND WHOSE RADIUS POINT BEARS NORTH 36°21'58" EAST; THENCE, NORTHWESTERLY, DEPARTING SAID PLAT BOUNDARY, AND ALONG SAID BOUNDARY OF TRACT "L-1" AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 30°13'53", A DISTANCE OF 342.96 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 23°24'09" WEST, CONTINUING ALONG SAID BOUNDARY OF TRACT "L-1" FOR THIS AND ALL OF THE REMAINING COURSES, A DISTANCE OF 315.00 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE EAST, HAVING A RADIUS OF 1569.70 FEET; THENCE, NORTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 15°55'25", A DISTANCE OF 436.25 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 270.00 FEET; THENCE, NORTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 81°19'25", A DISTANCE OF 383.23 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 88°48'09" WEST, A DISTANCE OF 259.16 FEET; THENCE, NORTH 01°11'51" EAST, A DISTANCE OF 174.00 FEET; THENCE, SOUTH 88°48'09" EAST, A DISTANCE OF 155.00 FEET; THENCE, SOUTH 75°53'17" EAST, A DISTANCE OF 104.65 FEET TO A POINT ON A CURVE CONCAVE WEST, HAVING A RADIUS OF 200.00 FEET AND WHOSE RADIUS POINT BEARS NORTH 15°58'16" EAST; THENCE, NORTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 210°08'26", A DISTANCE OF 733.53 FEET TO THE END OF SAID CURVE; THENCE, SOUTH 78°19'36" WEST, A DISTANCE OF 102.58 FEET; THENCE, NORTH 88°48'09" WEST,

A DISTANCE OF 155.00 FEET; THENCE, NORTH 01°11'51" EAST, A DISTANCE OF 234.00 FEET; THENCE, SOUTH 88°48'09" EAST, A DISTANCE OF 105.00 FEET; THENCE, SOUTH 69°33'43" EAST, A DISTANCE OF 105.92 FEET TO A POINT ON A CURVE CONCAVE WEST, HAVING A RADIUS OF 200.00 FEET AND WHOSE RADIUS POINT BEARS NORTH 30°12'36" EAST; THENCE, NORTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 209°00'45", A DISTANCE OF 729.59 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 88°48'09" WEST, A DISTANCE OF 342.00 FEET TO THE POINT OF BEGINNING.

CONTAINING: 95.24 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESERVATIONS, RESTRICTIONS AND RIGHTS-OF-WAY OF RECORD.

LESS

TRACT MF, OF THE PLAT OF BANYAN CAY RESORT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 125, PAGES 114-117, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING: 3.21 ACRES, MORE OR LESS.

**PHASE ONE ASSESSMENT AREA: CONTAINING 92.03 ACRES MORE OR LESS.**

**PRELIMINARY FIRST SUPPLEMENTAL  
SPECIAL ASSESSMENT METHODOLOGY REPORT**

**SPECIAL ASSESSMENT BONDS, SERIES 2020  
(PHASE ONE ASSESSMENT AREA PROJECT)**

**FOR**

**BANYAN CAY  
COMMUNITY DEVELOPMENT DISTRICT**

Prepared for the  
Board of Supervisors

April 30, 2020 revised  
May 20,2020, revised October 27,2020

**SPECIAL DISTRICT SERVICES, INC.**  
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Palm Beach Gardens, Florida 33410  
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## **1.0 INTRODUCTION**

The Banyan Cay Community Development District (the “District”) is a local unit of special-purpose government located in the City of West Palm Beach (the “City”) in Palm Beach County, Florida (the “County”). The District was established on January 28, 2019, by Ordinance No. 4823-19 (the “Ordinance”) enacted by the City of West Palm Beach Commission to provide for the financing, construction and/or acquisition, and long term administration and maintenance of certain public infrastructure of the Development, as defined herein. The entire District contains approximately 95.24 gross acres lying within the City as shown herein on **Exhibit A**. The plan for the first phase of development for the District proposes a mix of residential unit types, a clubhouse component and a hotel (herein the “Development”), totaling 74 residential dwelling units (Estate Homes and Villas), 150 hotel rooms and approximately 18,250 square feet (“s.f.”) of non-residential clubhouse space (the “Clubhouse Component”) all to be located in a designated assessment area within the District referred to as the “Phase One Assessment Area”.

<b>Development Plan</b>	<b>Estate Home Unit</b>	<b>Hotel Units/Rooms</b>	<b>Resort Villa Unit</b>	<b>Clubhouse Component (s.f.)</b>
<b>95.24 Acres</b>	52	150	22	18,243 s.f.
<b>Totals</b>	<b>52</b>	<b>150</b>	<b>22</b>	<b>18,243 s.f.</b>

This First Supplemental Special Assessment Methodology Report dated April 30, 2020 (the “First Supplemental Report”), prepared by Special District Services, Inc. will demonstrate the allocation of special assessments as it relates to the sale and issuance of special assessment bonds designated as Special Assessment Bonds, Series 2020 (Phase One Assessment Area) (herein, the “Bonds”) for financing public infrastructure and will equitably allocate the costs being incurred by the District to provide the benefits of the Project (defined herein) to all of the developable lands in the Phase One Assessment Area within the District as identified herein on **Exhibit “A”**. The Project improvements are described in the adopted Banyan Cay Community Development District Engineer’s Report dated April 30, 2019 (the “Engineer’s Report”), prepared by Engenuity Group Inc. (the “District’s Engineer”).

## **2.0 PROJECTS TO BE FUNDED BY THE DISTRICT**

The District intends to finance all or a portion of the construction of the public infrastructure improvements associated with District, including, but not limited to, roadway improvements (on site and off site), drainage and stormwater management system, water distribution system, the wastewater collection system, lake excavation and site preparation and other related improvements relating to the Phase One Assessment Area (the “Project”). The Project, as designed, is an integrated system of facilities that provides specific benefits to all assessable lands within the Phase One Assessment Area within the District. The total cost of the Project is currently estimated to be approximately \$7,463,830.00. A detail of the Project costs are included herein on **Table A**. Any portion of the Project costs not financed

through the issuance of the proposed Bonds is expected to be paid for by Banyan Cay Dev, LLC (the “Developer”).

Each component of the infrastructure works as a system to provide benefits to the lands in the District. It is useful to consider three (3) distinct states or conditions of development within a community. The initial condition is the “undeveloped state”. At this point the infrastructure may or may not be installed and none of the units in the plan of development have received a certificate of occupancy (CO). This condition exists when the infrastructure is financed prior to any development. In the undeveloped state all the lands within the Phase One Assessment Area within the District receive benefit from the Project and all of the lands within the Phase One Assessment Area within the District will be assessed to repay the Bonds. These assessments would be calculated on an equal acreage basis.

The second condition is “on-going development”. During this stage the installation of infrastructure has commenced. Additionally, the plan of development has started to unfold. Therefore, each platted unit would be assigned a proportionate debt service assessment amount. The remaining unassigned debt would continue to fall on the balance of the unplatted land and the unplatted land would continue to be assessed on an equal acre basis.

The third condition is the “completed development state”. In this condition the entire plan of development has been completed and the total par value of the Bonds has been assigned as specific assessments to each development unit within the Phase One Assessment Area within the District as shown herein on **Table F**.

Construction and/or acquisition and maintenance obligations for the District’s proposed infrastructure improvements are described as follows:

**Roadway System Improvements:** Include onsite and offsite improvements. The onsite roadways contemplated are known as Banyan Resort Way, Banyan Club Road and Banyan Cay Drive. The onsite roadways will be constructed by the Developer, then, acquired by the District upon certification of completion. Upon such acquisition, the ownership, operation and maintenance of the improvements will be the responsibility of the District; however, it is anticipated that the District will enter into a maintenance agreement with the Banyan Cay Master Association (hereinafter the “HOA”) after which the HOA will have operation and maintenance responsibilities of the improvements pursuant to a qualified management agreement.

The offsite roadway improvements contemplated are for Congress Avenue and the required offsite roadway improvements will be constructed by the Developer, then, acquired by the District upon certification of completion. The District will convey the offsite roadway improvements to the City after which the ownership, operation and maintenance of these improvements will be the responsibility of the City.

The stormwater management system consisting of system of lakes, inlets, storm drain pipes and control structure will be constructed by the Developer, then, acquired by the District upon certification of completion. Upon such acquisition, the ownership, operation and maintenance of the improvements will be the responsibility of the District; however, it is anticipated that the District will enter into a maintenance agreement with the HOA after

which the HOA will have operation and maintenance responsibilities of the improvements pursuant to a qualified management agreement.

The water distribution and wastewater collection systems will be constructed by the Developer, then, acquired by the District and dedicated to the City of West Palm Beach Utilities upon certification of construction and completion. Upon such transfer by the District, the ownership, operation, and maintenance of these systems will be the responsibility of the City.

The construction costs identified in this Preliminary First Supplemental Report were provided by the District's Engineer. Special District Services, Inc., as District Manager, makes no representation regarding the accuracy or validity of those costs and did not undertake any analysis or verification regarding such costs.

### **3.0 FUNDING OF IMPROVEMENTS**

To defray the costs of construction and acquisition of the Project, the District will impose capital non-ad valorem special assessments on all benefited real property within the District. These non-ad valorem special assessments are based on the special and peculiar benefits accruing to such property from the improvements comprising the Project. The use of non-ad valorem special assessments has an advantage in that the properties that receive the special benefits from the Project are the only properties that are obligated to pay for those facilities and services. Without these improvements, development of the property would not be possible. The capital facilities, which will be funded (by the Bonds) through these special assessments, include only facilities which may be undertaken by a community development district under Chapter 190, *F.S.*

In summary, special assessments may be levied only against certain property: (1) for facilities which provide special benefits to such property as distinct from general benefits, (2) only against property which receives that special benefit, (3) in proportion to the benefits received by the properties, and (4) according to methods that the governing body of the jurisdiction determines. The assessments placed upon various benefited properties in the District must be sufficient to cover the debt service of the Bonds that will be issued for financing the Project and the costs to maintain those portions of the infrastructure that remain under the ownership of the District. The special assessments must be fairly and reasonably allocated to the properties being assessed.

### **4.0 ALLOCATION OF BENEFIT AND ASSESSMENTS**

In developing the methodology used for special assessments in the District, two interrelated factors were used:

- A. Allocation of Benefit: Each parcel/lot/unit within the District benefits from the proposed improvements.
- B. Allocation of Debt/Cost: The special assessments imposed on each parcel/lot/unit cannot exceed the value of the benefits provided to such parcel/lot/unit.



The planned improvements comprising the Project are an integrated system of facilities designed to provide benefits to the Phase One Assessment Area within the District. The Project is intended to work as a total system which will provide special benefits for each land use type within the Phase One Assessment Area within the District. The fair and reasonable method of allocating the benefit to each planned residential unit within the Phase One Assessment Area in the District would be to assign an *equivalent residential unit* (“ERU”) to the different product types based on relative size. Therefore, for the purpose of this First Supplemental Report, each Estate Home Unit will be the base unit upon which the other product type will be compared and has been assigned one (1) ERU; each Hotel Room Unit is defined as one (1) ERU; each Resort Villa Unit is defined as 0.80 ERU; and each square foot of Clubhouse Unit is defined as 0.001 ERU. Accordingly, the planned Project benefits the units in these same proportions resulting in the debt service assessments also being allocated to each unit type in these proportions. The Project benefit allocation and the allocation of Bond debt are shown herein on **Table C** and **Table D**.

In view of the approved land use plan for the Project in the District and the type of infrastructure to be funded by the proposed special assessments, this method results in a fair allocation of benefits and an equitable allocation of costs for the Bonds. However, if future platting results in changes in land use or proportion of benefit per acre and/or unit type, this allocation methodology may not be applicable, and it may be necessary for the District to revise the allocation methodology.

To defray the operation and maintenance costs for the portions of the Project that will be owned and maintained by the District, the District will impose on an annual basis non-*valorem* Operations and Maintenance (“O&M”) special assessments on the benefitted real property within the Phase One Assessment Area within the District.

## **5.0 COLLECTION OF SPECIAL ASSESSMENTS**

The proposed special assessments relating to the Project will be collected through the Uniform Method of Collection described in Chapter 197, Section 197.3632; *F.S.* or any other legal means available to the District.

Since there are costs associated with the collection of the special assessments (whether by uniform method of collection as authorized under Chapter 197.3632, *F.S.*, or other methods allowed by Florida law), these costs must also be included in the special assessment levy. These costs generally include the 1% collection fee of the County Tax Collector, a 1% service fee of the County Property Appraiser and a 4% discount for early payment of taxes. These additional costs may be reflected by dividing the annual debt service and maintenance assessment amounts by a factor of 0.94. In the event the special assessments are direct billed, then, the collections costs and discounts may not apply.

## **6.0 FINANCING STRUCTURE**

The cost of the Project will be approximately \$7,463,830.00. The construction program and the costs associated therewith are identified herein on **Table A**. All, or a portion of the capital improvements comprising the Project will be financed by the Bonds, which will be

payable from and secured by special assessments levied annually on all assessable properties/lots/units within the Phase One Assessment Area in the District. The total aggregate principal amount of the Bonds projected to be issued to finance the Project is estimated to be approximately \$6,065,000.00. The sizing of the Bonds includes a debt service reserve fund equal to the annual maximum debt service, capitalized interest, issuance costs and other assumptions as shown herein on **Table B**.

## **7.0 MODIFICATIONS, REVISIONS AND TRUE-UP MECHANISM**

Allocation of costs and benefit, shown herein on **Table C**, for the infrastructure improvements proposed comprising the Project to be financed by the District shall be based on a total of 52 Estate Home Units, 22 Resort Villa Units, 150 Hotel Room Units and a Clubhouse Component Unit, all of which are benefited by the infrastructure improvements. Based on an anticipated par Bond size of approximately \$6,065,000.00 at an assumed interest rate of 5.13% the estimated maximum annual debt service on the Bonds will be approximately \$400,010.00 which *has not* been grossed up to include the 1% County Tax Collector fee, 1% County Property Appraiser fee, and 4% discount for early payment of taxes.

To ensure that each planned unit/room/square footage is assessed no more than their pro-rata amount of the annual debt service shown in **Table D**, the District will be required to perform a “true-up” analysis, which requires a computation at the time of submission of each plat or re-plat to determine the potential remaining assessable units. The District shall, at the time a plat or re-plat is submitted to the City and/or the County:

**A.** Assume that the total number of assessable units being utilized as a basis for this assessment methodology is 52 estate home units, 22 resort villa units, 150 hotel room units and a clubhouse component unit. (“Total Assessable Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Unit and Clubhouse Component Unit”), with a total of 237.84 ERUs.

**B.** Ascertain the number of assessable residential dwelling estate units/lots, resort villa units/lots, hotel room units and clubhouse component unit in the proposed plat or re-plat and all prior plats (“Planned Assessable Residential Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Units and Clubhouse Component Unit”) and total amount of ERUs associated with such Planned Assessable Residential Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Units and the Clubhouse Component Unit.

**C.** Ascertain the current amount of potential remaining assessable residential estate units/lots, resort villa units/lots, hotel room units and clubhouse component unit (“Remaining Assessable Residential Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Units and Clubhouse Component Unit Units”) and total number of ERUs associated with the Remaining Assessable Residential Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Units and Clubhouse Component Unit Units.

For the development, if the ERUs associated with the Planned Assessable Residential Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Units and Clubhouse Component Unit are equal to the ERUs associated with Total Assessable Residential Estate Units/Lots,

Resort Villa Units/Lots, Hotel Room Unit and Clubhouse Component Units, no action would be required at that time. However, if the sum of the ERUs associated with the Planned Assessable Residential Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Units and Clubhouse Component Unit and the ERUs associated with the Remaining Assessable Residential Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Units and Clubhouse Component Unit are less than the ERUs associated with the Total Assessable Residential Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Unit and Clubhouse Component Unit, then, the Developer will be obligated by the District to remit to the District an amount of money sufficient to enable the District to retire an amount of proposed Bonds plus accrued interest such that the amount of debt service allocated to each ERU associated with the Planned Assessable Residential Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Units and Clubhouse Component Unit does not exceed the amount of debt service that would have been allocated thereto had the total number of Planned Assessable Residential Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Units and Clubhouse Component Unit been, 52 Estate Home Units, 22 Resort Villa Units, 150 Hotel Room Units and a Clubhouse Component Unit totaled 237.84 ERUs. Conversely, if the Planned Assessable Residential Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Units and Clubhouse Component Unit or the mix of units/rooms/clubhouse is greater than the Total Assessable Estate Units/Lots, Resort Villa Units/Lots, Hotel Room Unit and Clubhouse Component Units, with a total of 237.84 ERUs, then, there will be a pro-rata decrease in the annual non-ad valorem assessments to all of the benefited properties.

All assessments levied run with the land within the Phase One Assessment Area. A determination of a true-up payment shall be in accordance with a true-up agreement to be entered into between the Developer and the District. It is the responsibility of the landowner of record to make any required true-up payments that are due. The District will not release any liens on the property for which true-up payments are due until provision for such payment has been satisfied.

In the event that additional land is annexed into the District which is currently not subject to the assessments and is developed in such a manner as to receive special benefit from the Project described herein, it will be necessary for this assessment methodology to be re-applied to include such parcels. The additional land will, as a result of re-applying this allocation methodology, then be allocated an appropriate share of the special assessments while all currently assessed parcels will receive a relative reduction in their assessments

## **8.0 PRELIMINARY ASSESSMENT ROLL**

As of the date of this First Supplemental Report, the District consists of not all platted acreage. The debt associated with the District's improvement plan will initially be distributed on an equal acreage basis across all benefiting gross acreage within the District. As folio numbers are assigned to lots/units/rooms/square footage the different product type will be assessed in the manner described herein and as shown herein on **Table F**.

Assessable lands within the Phase One Assessment Area within the District consist of 92.03 +/- acres as described in **Exhibit "A"** attached hereto and as outlined herein on **Table F**. The anticipated par amount of Bonds to be issued by the District to pay for the Project will be approximately \$6,065,000.00. For the purpose of this First Supplemental

Report each gross acre will be assigned approximately \$65,902.42 of par Bond debt as described herein on **Table F**. Prior to final plat approval the assessments levied against the lands/lots within the Phase One Assessment Area within the District will be apportioned on a gross acre basis. As platting occurs the special assessments will be assigned to the 52 Estate Home units, 22 Resort Villa units, 150 Hotel Room units and a Clubhouse Component unit consisting of approximately 18,243 square feet. The total proposed mixed uses to be developed within the Phase One Assessment Area in the District are identified herein on **Tables C and D**.

## **9.0 ADDITIONAL STIPULATIONS**

Certain financing, development, and engineering data was provided by members of District staff, the District's Engineer and/or the Developer. The allocation methodology described herein was based on information provided by those professionals. Special District Services, Inc. makes no representations regarding said information transactions beyond restatement of the factual information necessary for compilation of this First Supplemental Report.

Special District Services, Inc. does not represent the District as a Municipal Advisor or Securities Broker nor is Special District Services, Inc. registered to provide such services as described in Section 15B of the Securities and Exchange Act of 1934, as amended. Similarly, Special District Services, Inc. does not provide the District with financial advisory services or offer investment advice in any form.

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EXHIBIT A

**EXHIBIT 2**

**LEGAL DESCRIPTION  
BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT**

**LEGAL DESCRIPTION OF BANYAN CAY CDD**

TRACTS "B", "C", "L-1", "L-2", "L-3", "L-4", "O-1", "O-2", "O-2", AND "O-4", BANYAN CAY RESORT COMMUNITY PLAT 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 124, PAGE 182, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. TOGETHER WITH ALL OF THE PLAT OF BANYAN CAY RESORT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 125, PAGE 114, SAID PUBLIC RECORDS.

**ALSO BEING DESCRIBED AS:**

BEGIN AT THE NORTHWEST CORNER OF SAID TRACT "O-1", THENCE, SOUTH 01°11'51" WEST, ALONG THE BOUNDARY OF SAID TRACT "O-1", A DISTANCE OF 1999.30 FEET TO A POINT ON THE BOUNDARY OF TRACT "RW" OF SAID BANYAN CAY RESORT COMMUNITY PLAT 1; THENCE, SOUTH 43°48'09" EAST, ALONG SAID BOUNDARY OF TRACT "RW", AND CONTINUING ALONG SAID BOUNDARY OF TRACT "O-1", A DISTANCE OF 16.97 FEET; THENCE, SOUTH 01°11'51" WEST, DEPARTING SAID BOUNDARY OF TRACT "O-1", AND CONTINUING ALONG THE BOUNDARY OF SAID TRACT "RW", A DISTANCE OF 288.74 FEET TO A POINT ON THE BOUNDARY OF TRACT "M" OF SAID BANYAN CAY RESORT COMMUNITY PLAT 1; THENCE, SOUTH 88°48'09" EAST, DEPARTING SAID BOUNDARY OF TRACT "RW", AND ALONG SAID BOUNDARY OF TRACT "M", A DISTANCE OF 13.00 FEET; THENCE, SOUTH 34°33'26" EAST, CONTINUING ALONG SAID BOUNDARY OF TRACT "M" FOR THIS AND THE NEXT TWO COURSES, A DISTANCE OF 431.79 FEET; THENCE, SOUTH 27°38'07" WEST, A DISTANCE OF 49.16 FEET; THENCE, NORTH 88°48'09" WEST, A DISTANCE OF 255.41 FEET TO A POINT ON THE BOUNDARY OF SAID PLAT OF BANYAN CAY RESORT; THENCE, SOUTH 01°11'51" WEST, ALONG SAID PLAT BOUNDARY, A DISTANCE OF 32.00 FEET; THENCE, SOUTH 88°48'09" EAST, CONTINUING ALONG SAID PLAT BOUNDARY FOR THIS AND THE NEXT FORTY-FIVE COURSES A DISTANCE OF 150.00 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 180.00 FEET; THENCE, SOUTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 42°37'46", A DISTANCE OF 133.92 FEET TO THE END OF SAID CURVE; THENCE, SOUTH 29°41'51" WEST, A DISTANCE OF 150.70 FEET; THENCE, SOUTH 01°11'51" WEST, A DISTANCE OF 309.61 FEET; THENCE, SOUTH 49°48'09" EAST, A DISTANCE OF 1219.91 FEET; THENCE, SOUTH 10°00'04" WEST, A DISTANCE OF 296.05 FEET; THENCE, SOUTH 80°01'55" EAST, A DISTANCE OF 186.63 FEET; THENCE, NORTH 09°58'05" EAST, A DISTANCE OF 215.46 FEET; THENCE, SOUTH 89°03'38" EAST, A DISTANCE OF 434.43 FEET; THENCE, SOUTH 00°56'22" WEST, A DISTANCE OF 124.00 FEET; THENCE, SOUTH 89°03'38" EAST, A DISTANCE OF 33.11 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 20.00 FEET; THENCE, SOUTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 101°36'03", A DISTANCE OF 35.47 FEET TO THE POINT OF TANGENCY; THENCE, SOUTH 12°32'25" WEST, A DISTANCE OF 154.87 FEET TO A POINT ON A CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 440.00 FEET AND WHOSE RADIUS POINT BEARS SOUTH 21°34'29" WEST; THENCE, SOUTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 38°05'30", A DISTANCE OF 292.52 FEET TO THE END OF SAID CURVE; THENCE, NORTH 58°21'56" EAST, A DISTANCE OF 60.18 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWEST, HAVING A RADIUS OF 80.00 FEET; THENCE, NORTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 63°42'43", A DISTANCE OF 88.96 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 05°20'47" WEST, A DISTANCE OF 248.00 FEET; THENCE, SOUTH 89°03'38" EAST, A DISTANCE OF 276.74 FEET; THENCE, SOUTH 11°56'22" WEST, A DISTANCE OF 20.20 FEET; THENCE, SOUTH 78°03'38" EAST, A DISTANCE OF 40.00 FEET; THENCE, NORTH 11°56'22" EAST, A DISTANCE OF 59.86 FEET; THENCE, NORTH

48°03'38" WEST, A DISTANCE OF 64.70 FEET; THENCE, NORTH 01°11'51" EAST, A DISTANCE OF 109.65 FEET; THENCE, NORTH 76°19'06" WEST, A DISTANCE OF 19.24 FEET; THENCE, NORTH 27°09'45" EAST, A DISTANCE OF 843.47 FEET; THENCE, NORTH 57°00'00" WEST, A DISTANCE OF 421.36 FEET; THENCE, NORTH 33°00'00" EAST, A DISTANCE OF 200.00 FEET; THENCE, NORTH 57°00'00" WEST, A DISTANCE OF 10.00 FEET; THENCE, SOUTH 33°00'00" WEST, A DISTANCE OF 240.00 FEET; THENCE, NORTH 57°00'00" WEST, A DISTANCE OF 4.00 FEET; THENCE, NORTH 17°00'37" WEST, A DISTANCE OF 49.79 FEET; THENCE, NORTH 42°57'50" WEST, A DISTANCE OF 61.85 FEET; THENCE, NORTH 56°27'52" WEST, A DISTANCE OF 107.15 FEET; THENCE, NORTH 49°33'23" WEST, A DISTANCE OF 108.06 FEET; THENCE, NORTH 51°17'21" WEST, A DISTANCE OF 50.25 FEET; THENCE, NORTH 50°01'01" WEST, A DISTANCE OF 57.58 FEET; THENCE, NORTH 52°11'56" WEST, A DISTANCE OF 107.53 FEET; THENCE, NORTH 53°15'44" WEST, A DISTANCE OF 107.38 FEET; THENCE, NORTH 66°32'10" WEST, A DISTANCE OF 108.65 FEET; THENCE, NORTH 66°00'56" WEST, A DISTANCE OF 108.49 FEET; THENCE, SOUTH 88°00'30" WEST, A DISTANCE OF 48.83 FEET; THENCE, NORTH 69°35'31" WEST, A DISTANCE OF 68.80 FEET; THENCE, NORTH 57°00'00" WEST, A DISTANCE OF 136.16 FEET; THENCE, NORTH 21°03'11" WEST, A DISTANCE OF 105.80 FEET; THENCE, NORTH 47°49'37" WEST, A DISTANCE OF 87.15 FEET TO A POINT ON THE BOUNDARY OF SAID BANYAN CAY RESORT COMMUNITY PLAT 1; THENCE, CONTINUE NORTH 47°49'37" WEST, DEPARTING SAID BOUNDARY OF THE PLAT OF BANYAN CAY RESORT, AND ALONG SAID BOUNDARY OF BANYAN CAY RESORT COMMUNITY PLAT 1, A DISTANCE OF 27.99 FEET; THENCE, NORTH 48°08'56" WEST, CONTINUING ALONG SAID PLAT BOUNDARY FOR THIS AND ALL OF THE REMAINING COURSES, A DISTANCE OF 115.14 FEET; THENCE, NORTH 41°00'37" WEST, A DISTANCE OF 115.24 FEET; THENCE, NORTH 55°40'14" WEST, A DISTANCE OF 123.87 FEET; THENCE, NORTH 55°12'31" WEST, A DISTANCE OF 41.83 FEET; THENCE, NORTH 09°22'53" WEST, A DISTANCE OF 86.00 FEET; THENCE, NORTH 14°27'11" WEST, A DISTANCE OF 119.08 FEET; THENCE, NORTH 17°55'23" WEST, A DISTANCE OF 115.14 FEET; THENCE, NORTH 20°14'46" WEST, A DISTANCE OF 114.74 FEET; THENCE, NORTH 17°04'09" WEST, A DISTANCE OF 115.43 FEET; THENCE, NORTH 07°57'02" WEST, A DISTANCE OF 115.44 FEET; THENCE, NORTH 02°48'06" WEST, A DISTANCE OF 115.33 FEET; THENCE, NORTH 01°38'18" WEST, A DISTANCE OF 111.92 FEET; THENCE, NORTH 01°28'27" WEST, A DISTANCE OF 107.27 FEET; THENCE, NORTH 02°16'01" EAST, A DISTANCE OF 107.17 FEET; THENCE, NORTH 06°32'33" EAST, A DISTANCE OF 109.17 FEET; THENCE, NORTH 12°31'50" EAST, A DISTANCE OF 115.97 FEET; THENCE, NORTH 07°20'45" EAST, A DISTANCE OF 114.45 FEET; THENCE, NORTH 18°20'21" EAST, A DISTANCE OF 114.48 FEET; THENCE, NORTH 13°06'08" EAST, A DISTANCE OF 115.20 FEET; THENCE, NORTH 18°10'30" WEST, A DISTANCE OF 30.62 FEET; THENCE, NORTH 30°22'24" WEST, A DISTANCE OF 51.26 FEET; THENCE, NORTH 38°22'25" WEST, A DISTANCE OF 150.48 FEET; THENCE, NORTH 37°48'17" WEST, A DISTANCE OF 100.40 FEET; THENCE, NORTH 42°56'51" WEST, A DISTANCE OF 100.00 FEET; THENCE, NORTH 46°50'49" WEST, A DISTANCE OF 71.47 FEET; THENCE, NORTH 79°42'44" WEST, A DISTANCE OF 25.32 FEET; THENCE, NORTH 86°30'43" WEST, A DISTANCE OF 100.08 FEET; THENCE, NORTH 78°02'40" WEST, A DISTANCE OF 101.79 FEET; THENCE, SOUTH 87°00'45" WEST, A DISTANCE OF 41.11 FEET; THENCE, SOUTH 39°29'16" WEST, A DISTANCE OF 24.21 FEET; THENCE, NORTH 40°20'04" WEST, A DISTANCE OF 46.76 FEET; THENCE, NORTH 88°48'09" WEST, A DISTANCE OF 212.98 FEET TO THE POINT OF BEGINNING.

LESS THE FOLLOWING DESCRIBED PARCEL OF LAND:

BEGIN AT THE NORTHWEST CORNER OF LOT 1 OF SAID BANYAN CAY RESORT COMMUNITY PLAT 1; THENCE, SOUTH 01°11'51" WEST, ALONG THE BOUNDARY OF SAID TRACT "O-1", A DISTANCE OF 1806.17 FEET; THENCE, SOUTH 43°48'09" EAST, CONTINUING ALONG SAID BOUNDARY OF TRACT "O-1" FOR THIS AND THE NEXT FIVE COURSES, A DISTANCE OF 48.26 FEET; THENCE, SOUTH 88°48'09" EAST, A DISTANCE OF 96.07 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWEST, HAVING A RADIUS OF 23.00 FEET; THENCE, NORTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 78°47'39", A DISTANCE OF 31.63 FEET TO THE END OF SAID CURVE; THENCE, NORTH 68°15'43" EAST, A DISTANCE OF 24.16 FEET; THENCE, SOUTH 12°24'12" WEST, A DISTANCE OF 13.56 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWEST, HAVING A RADIUS OF 43.00 FEET; THENCE, SOUTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 37°29'18", A DISTANCE OF 28.13 FEET TO A POINT ON THE BOUNDARY OF TRACT "A" OF SAID BANYAN CAY RESORT COMMUNITY PLAT 1, AND THE

END OF SAID CURVE; THENCE, NORTH 49°53'30" EAST, DEPARTING SAID BOUNDARY OF TRACT "O-1", AND ALONG SAID BOUNDARY OF TRACT "A", A DISTANCE OF 26.42 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTH, HAVING A RADIUS OF 116.00 FEET; THENCE, EASTERLY, ALONG SAID CURVE AND CONTINUING ALONG SAID BOUNDARY OF TRACT "A" FOR THIS AND THE NEXT FIVE COURSES, THROUGH A CENTRAL ANGLE OF 55°58'44", A DISTANCE OF 113.34 FEET TO THE POINT OF CUSP OF A CURVE CONCAVE NORTHEAST, HAVING A RADIUS OF 44.00 FEET AND WHOSE RADIUS POINT BEARS NORTH 15°52'14" EAST; THENCE, NORTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 49°29'31", A DISTANCE OF 38.01 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 501.00 FEET; THENCE, NORTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 15°32'39", A DISTANCE OF 135.92 FEET TO THE END OF SAID CURVE; THENCE, NORTH 43°48'09" WEST, A DISTANCE OF 162.02 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE EAST, HAVING A RADIUS OF 90.00 FEET; THENCE, NORTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 45°00'00", A DISTANCE OF 70.69 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 01°11'51" EAST, A DISTANCE OF 64.63 FEET TO A POINT ON THE BOUNDARY OF SAID TRACT "L-2"; THENCE, SOUTH 88°48'09" EAST, DEPARTING SAID BOUNDARY OF TRACT "A", AND ALONG SAID BOUNDARY OF TRACT "L-2", A DISTANCE OF 205.00 FEET; THENCE, SOUTH 00°10'14" EAST, CONTINUING ALONG SAID BOUNDARY OF TRACT "L-2", A DISTANCE OF 29.57 FEET TO A POINT ON A CURVE CONCAVE EAST, HAVING A RADIUS OF 1909.70 FEET AND WHOSE RADIUS POINT BEARS NORTH 79°48'33" EAST; THENCE, SOUTHERLY, ALONG SAID CURVE AND CONTINUING ALONG SAID BOUNDARY OF TRACT "L-2", THROUGH A CENTRAL ANGLE OF 09°00'38", A DISTANCE OF 300.33 FEET TO A POINT ON THE BOUNDARY OF SAID TRACT "O-4"; THENCE, DEPARTING SAID BOUNDARY OF TRACT "L-2" AND ALONG SAID BOUNDARY OF TRACT "O-4", CONTINUE SOUTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 04°12'04", A DISTANCE OF 140.02 FEET TO THE POINT OF TANGENCY; THENCE, SOUTH 23°24'09" EAST, CONTINUING ALONG SAID BOUNDARY OF TRACT "O-4", A DISTANCE OF 121.33 FEET TO A POINT ON THE BOUNDARY OF SAID TRACT "L-4"; THENCE, CONTINUE SOUTH 23°24'09" EAST, DEPARTING SAID BOUNDARY OF TRACT "O-4", AND ALONG SAID BOUNDARY OF TRACT "L-4", A DISTANCE OF 193.67 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEAST, HAVING A RADIUS OF 990.00 FEET; THENCE, SOUTHEASTERLY, ALONG SAID CURVE AND CONTINUING ALONG SAID BOUNDARY OF TRACT "L-4", THROUGH A CENTRAL ANGLE OF 15°18'57", A DISTANCE OF 264.64 FEET TO THE END OF SAID CURVE; THENCE, SOUTH 35°48'09" EAST, CONTINUING ALONG SAID BOUNDARY OF TRACT "L-4", A DISTANCE OF 116.18 FEET TO A POINT ON THE BOUNDARY OF SAID BANYAN CAY RESORT COMMUNITY PLAT 1 AND ON A CURVE CONCAVE NORTHWEST, HAVING A RADIUS OF 500.00 FEET AND WHOSE RADIUS POINT BEARS NORTH 25°20'48" WEST; THENCE, NORTHEASTERLY, DEPARTING SAID BOUNDARY OF TRACT "L-4", AND ALONG SAID PLAT BOUNDARY AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 05°50'05", A DISTANCE OF 50.92 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 58°49'07" EAST, CONTINUING ALONG SAID PLAT BOUNDARY, A DISTANCE OF 320.53 FEET TO A POINT ON THE BOUNDARY OF SAID TRACT "L-1" AND ON A CURVE CONCAVE NORTHEAST, HAVING A RADIUS OF 650.00 FEET AND WHOSE RADIUS POINT BEARS NORTH 36°21'58" EAST; THENCE, NORTHWESTERLY, DEPARTING SAID PLAT BOUNDARY, AND ALONG SAID BOUNDARY OF TRACT "L-1" AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 30°13'53", A DISTANCE OF 342.96 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 23°24'09" WEST, CONTINUING ALONG SAID BOUNDARY OF TRACT "L-1" FOR THIS AND ALL OF THE REMAINING COURSES, A DISTANCE OF 315.00 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE EAST, HAVING A RADIUS OF 1569.70 FEET; THENCE, NORTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 15°55'25", A DISTANCE OF 436.25 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 270.00 FEET; THENCE, NORTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 81°19'25", A DISTANCE OF 383.23 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 88°48'09" WEST, A DISTANCE OF 259.16 FEET; THENCE, NORTH 01°11'51" EAST, A DISTANCE OF 174.00 FEET; THENCE, SOUTH 88°48'09" EAST, A DISTANCE OF 155.00 FEET; THENCE, SOUTH 75°53'17" EAST, A DISTANCE OF 104.65 FEET TO A POINT ON A CURVE CONCAVE WEST, HAVING A RADIUS OF 200.00 FEET AND WHOSE RADIUS POINT BEARS NORTH 15°58'16" EAST; THENCE, NORTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 210°08'26", A DISTANCE OF 733.53 FEET TO THE END OF SAID CURVE; THENCE, SOUTH 78°19'36" WEST, A DISTANCE OF 102.58 FEET; THENCE, NORTH 88°48'09" WEST,

A DISTANCE OF 155.00 FEET; THENCE, NORTH 01°11'51" EAST, A DISTANCE OF 234.00 FEET; THENCE, SOUTH 88°48'09" EAST, A DISTANCE OF 105.00 FEET; THENCE, SOUTH 69°33'43" EAST, A DISTANCE OF 105.92 FEET TO A POINT ON A CURVE CONCAVE WEST, HAVING A RADIUS OF 200.00 FEET AND WHOSE RADIUS POINT BEARS NORTH 30°12'36" EAST; THENCE, NORTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 209°00'45", A DISTANCE OF 729.59 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 88°48'09" WEST, A DISTANCE OF 342.00 FEET TO THE POINT OF BEGINNING.

CONTAINING: 95.24 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESERVATIONS, RESTRICTIONS AND RIGHTS-OF-WAY OF RECORD.



**TABLE A**  
**PROJECT COST ESTIMATES**  
**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT**

	<b>ESTIMATED COSTS</b>
<u>DRAINAGE and STORMWATER MANAGEMENT SYSTEM</u>	\$ 1,402,000.00
<u>WATER DISTRIBUTION SYSTEM</u>	\$ 1,485,000.00
<u>WASTEWATER COLLECTION SYSTEM</u>	\$ 1,068,000.00
<u>ROADWAY SYSTEM (On-Site and Off-Site)</u>	\$ 1,046,000.00
<u>EARTHWORK (Lake Excavation and Site Preparation)</u>	\$ 1,257,130.00
<u>IMPACT FEES FOR COUNTY ROADS and PARKS</u>	\$ 180,000.00
<u>CONNECTION FEES FOR WATER and SEWER</u>	\$ 843,800.00
<u>INSTALLATION FEES FOR PORTABLE WATER ONLY</u>	\$ 181,900.00
<b><u>TOTAL ESTIMATED PROJECT COSTS</u></b>	<b>\$ 7,463,830.00</b>

**TABLE B**

**BOND SIZING**

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT**

	<b>BOND SIZING</b>
<b>Par Amount (Estimated)</b>	<b>\$ 6,065,000.00</b> *
Debt Service Reserve Fund (DSRF)	\$ (400,010.00)
Capitalized Interest (12 months)	\$ (310,702.00)
Issuance Costs	\$ (321,250.00)
<b>Construction Funds</b>	<b>\$ 5,033,038.00</b>
Bond Interest Rate (Assumed)	5.13%
Principal Amortization Period (Years)	30

\*Subject to change at final Bond pricing

**TABLE C**

**ALLOCATION OF PROJECT BENEFITS**

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT**

<b>Development Plan - Type of Use</b>	<b>Number of Units by Type</b>	<b>ERU Factor*</b>	<b>Total ERUs*</b>	<b>Project Cost Allocation Per Type*</b>	<b>Project Cost Allocation Per Unit*</b>
Estate Home Unit	52	1.00	52	\$1,631,829	\$31,381.33
Hotel Unit/Room	150	1.00	150	\$4,707,200	\$31,381.33
Resort Villa Unit	22	0.80	18	\$552,311	\$25,105.07
Clubhouse Component Unit	18,243 SqFt	0.001	18.243	\$572,490	\$41.15 Per SqFt
<b>Total Units</b>	<b>N/A</b>	<b>N/A</b>	<b>237.84</b>	<b>\$ 7,463,830.00</b>	<b>N/A</b>

\*Rounded

**TABLE D**

**ALLOCATION OF BOND DEBT**

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT**

<b>Development Plan Type of Use</b>	<b>Number of Units by Type</b>	<b>ERU Factor*</b>	<b>Total ERUs*</b>	<b>Bond Debt Allocation Per Unit Type*</b>	<b>Bond Debt Allocation Per Unit*</b>
Estate Home Unit	52	1.00	52	\$1,326,001	\$25,500.01
Hotel Unit/Room	150	1.00	150	\$3,825,002	\$25,500.01
Resort Villa Unit	22	0.80	18	\$448,800	\$20,400.01
Clubhouse Component	18,243 SqFt	0.001	18.24	\$465,197	\$25.50 per SqFt
<b>Total Units</b>	<b>N/A</b>	<b>N/A</b>	<b>237.84</b>	<b>\$6,065,000</b>	<b>N/A</b>

\*Rounded

**TABLE E**

**CALCULATION OF ANNUAL DEBT SERVICE ASSESSMENT**

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT**

	<b>Bond Debt</b>
1 Maximum Annual Debt Service	\$ 400,010.00
2 Maximum Annual Debt Service Assessment to be Collected	\$ 425,542.55 *
3 Total Number of Gross Acres	<b>92.03</b>
4 Total Number of Residential Units/Hotel Rooms Planned	<b>403</b>
5 Total Number of Recreation/Amenity Square Feet Space	<b>18,243</b>
6 Maximum Annual Debt Service per Unit Type	<b>See Table F</b>

\*Grossed up to include 1% collection fee of the County Tax Collector, 1% service fee of the County Property Appraiser and 4% for early payment of taxes. These costs may not apply if the special assessments securiung the Bonds are being direct billed.

**TABLE F**

**ALLOCATION OF DEBT SERVICE ASSESSMENTS**

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT**

<b>Development Plan Type of Use</b>	<b>Number of Units by Type</b>	<b>ERU Factor*</b>	<b>Total ERUs*</b>	<b>**Maximum Annual Debt Assessment Per Unit*</b>	<b>**Maximum Annual Debt Assessment Per Unit Type*</b>
Estate Home Unit	52	1.000	52	\$1,789	\$93,037
Hotel Unit/Room	150	1.000	150	\$1,789	\$268,376
Resort Villa Unit	22	0.800	18	\$1,431	\$31,489
Clubhouse Component	18,243 SqFt	0.001	18	\$1.79 per SqFt	\$32,640
<b>Total Units</b>	<b>N/A</b>	<b>N/A</b>	<b>237.84</b>	<b>N/A</b>	<b>\$425,543</b>

\*Rounded

\*\*Grossed up to include 1% collection fee of the County Tax Collector, 1% service fee of the County Property Appraiser and 4% for early payment of taxes. These costs may not apply of the special assessments securing the Bonds are being direct billed.

<b>Parcel Description</b>	<b>Acreage</b>	<b>Par Debt/Acre</b>
Banyan Cay	92.03	\$ 65,902.42

**APPENDIX E**

**PROPOSED FORM OF CONTINUING DISCLOSURE AGREEMENT**

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## CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (this “Disclosure Agreement”) dated \_\_\_\_\_, 2020 is executed and delivered by Banyan Cay Community Development District (the “Issuer” or the “District”), Banyan Cay Dev. LLC, a Delaware limited liability company, Banyan Cay Villas, LLC, a Delaware limited liability company and Banyan Cay Resort & Golf LLC, a Delaware limited liability company (collectively, the “Developer”), and Special District Services Inc., Palm Beach Gardens, Florida, as dissemination agent (together with its successors and assigns, the “Dissemination Agent”) in connection with the Issuer’s Special Assessment Bonds, Series 2020 (Phase One Assessment Area) (the “Bonds”). The Bonds are secured pursuant to a Master Trust Indenture dated as of December 1, 2020 (the “Master Indenture”) and a First Supplemental Trust Indenture dated as of December 1, 2020 (the “First Supplemental Indenture”) and, together with the Master Indenture, the “Indenture”), each entered into by and between the Issuer and U.S. Bank National Association, a national banking association duly organized and existing under the laws of the United States of America and having a designated corporate trust office in Fort Lauderdale, Florida, as trustee (the “Trustee”). The Issuer, the Developer and the Dissemination Agent covenant and agree as follows:

1. **Purpose of this Disclosure Agreement.** This Disclosure Agreement is being executed and delivered by the Issuer, the Developer and the Dissemination Agent for the benefit of the Beneficial Owners (as defined herein) of the Bonds and to assist the Participating Underwriter (as defined herein) of the Bonds in complying with the Rule (as defined herein). The Issuer and the Developer have no reason to believe that this Disclosure Agreement does not satisfy the requirements of the Rule and the execution and delivery of this Disclosure Agreement is intended to comply with the Rule. To the extent it is later determined by a court of competent jurisdiction, a governmental regulatory agency, or an attorney specializing in federal securities law, that the Rule requires the Issuer or the Developer to provide additional information, the Issuer and the Developer, as applicable, each agrees to promptly provide such additional information.

The provisions of this Disclosure Agreement are supplemental and in addition to the provisions of the Indenture with respect to reports, filings and notifications provided for therein, and do not in any way relieve the Issuer, the Trustee or any other person of any covenant, agreement or obligation under the Indenture (or remove any of the benefits thereof) nor shall anything herein prohibit the Issuer, the Trustee or any other person from making any reports, filings or notifications required by the Indenture or any applicable law.

2. **Definitions.** Capitalized terms not otherwise defined in this Disclosure Agreement shall have the meaning assigned in the Rule or, to the extent not in conflict with the Rule, in the Indenture. The following capitalized terms as used in this Disclosure Agreement shall have the following meanings:

“Annual Filing Date” means the date set forth in Section 3(a) hereof by which the Annual Report is to be filed with each Repository.

“Annual Financial Information” means annual financial information as such term is used in paragraph (b)(5)(i)(A) of the Rule and specified in Section 4(a) of this Disclosure Agreement.

“Annual Report” shall mean any Annual Report provided by the Issuer pursuant to, and as described in, Sections 3 and 4 of this Disclosure Agreement.

“Assessments” shall mean the non-ad valorem Series 2020 Special Assessments (as defined in the Indenture), pledged to the payment of the Bonds, pursuant to the Indenture.

“Audited Financial Statements” means the financial statements (if any) of the Issuer for the prior fiscal year, certified by an independent auditor as prepared in accordance with generally accepted accounting principles or otherwise, as such term is used in paragraph (b)(5)(i) of the Rule and specified in Section 4(a) of this Disclosure Agreement.

“Audited Financial Statements Filing Date” means the date set forth in Section 3(a) hereof by which the Audited Financial Statements are to be filed with each Repository if the same are not included as part of the Annual Report.

“Beneficial Owner” shall mean any person which, (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

“Business Day” means any day other than (a) a Saturday, Sunday or a day on which banks located in the city in which the designated corporate trust office of the Trustee is located are required or authorized by law or executive order to close for business, and (b) a day on which the New York Stock Exchange is closed.

“Disclosure Representative” shall mean (i) as to the Issuer, the District Manager or its designee, or such other person as the Issuer shall designate in writing to the Dissemination Agent from time to time as the person responsible for providing information to the Dissemination Agent; and (ii) as to each entity constituting an Obligated Person (other than the Issuer), the individuals executing this Disclosure Agreement on behalf of such entity or such person(s) as such entity shall designate in writing to the Dissemination Agent from time to time as the person(s) responsible for providing information to the Dissemination Agent.

“Dissemination Agent” shall mean the Issuer or an entity appointed by the Issuer to act in the capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the Issuer pursuant to Section 9 hereof. Special District Services Inc., Palm Beach Gardens, Florida, has been designated as the initial Dissemination Agent hereunder.

“District Manager” shall mean Special District Services, Inc., Palm Beach Gardens, Florida, and its successors and assigns.

“EMMA” means the Electronic Municipal Market Access system for municipal securities disclosures located at <http://emma.msrb.org/>.

“EMMA Compliant Format” shall mean a format for any document provided to the MSRB (as hereinafter defined) which is in an electronic format and is accompanied by identifying information, all as prescribed by the MSRB.

“Financial Obligation” means a (a) debt obligation, (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation, or (c) guarantee of an obligation or instrument described in either clause (a) or (b). Financial Obligation shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

“Fiscal Year” shall mean the period commencing on October 1 and ending on September 30 of the next succeeding year, or such other period of time provided by applicable law.

“Listed Events” shall mean any of the events listed in Section 6(a) of this Disclosure Agreement.

“MSRB” means the Municipal Securities Rulemaking Board.

“Obligated Person(s)” shall mean, with respect to the Bonds, those person(s) who either generally or through an enterprise fund or account of such persons are committed by contract or other arrangement to support payment of all or a part of the obligations on such Bonds (other than providers of municipal bond insurance, letters of credit, or other liquidity facilities), which person(s) shall include the Issuer, and for the purposes of this Disclosure Agreement, the Developer, and its affiliates, successors or assigns (excluding homebuyers who are end users), for so long as the Developer or its affiliates, successors or assigns (excluding homebuyers who are end users) are the owner or optionee (or is responsible for developing, as the case may be) of lands responsible for payment of at least 20% of the Assessments.

“Participating Underwriter” shall mean FMSbonds, Inc.

“Phase One Assessment Area” shall mean that portion of the District lands subject to the Assessments.

“Quarterly Filing Date” shall mean for the quarter ending: (i) March 31, each May 1; (ii) June 30, each August 1; (iii) September 30, each November 1; and (iv) December 31, each February 1 of the following year. The first Quarterly Filing Date shall be May 1, 2021.

“Quarterly Report” shall mean any Quarterly Report provided by the Developer and any other Obligated Person (other than the Issuer) pursuant to, and as described in, Section 5 of this Disclosure Agreement.

“Repository” shall mean each entity authorized and approved by the SEC (as hereinafter defined) from time to time to act as a repository for purposes of complying with the Rule. The Repositories currently approved by the SEC may be found by visiting the SEC’s website at <http://www.sec.gov/info/municipal/nrmsir.htm>. As of the date hereof, the Repository recognized by the SEC for such purpose is the MSRB, which currently accepts continuing disclosure submissions through its EMMA web portal. As used herein, “Repository” shall include the State Repository, if any.

“Rule” shall mean Rule 15c2-12 adopted by the SEC under the Securities Exchange Act of 1934, as the same has and may be amended from time to time.

“SEC” means the Securities and Exchange Commission.

“State” shall mean the State of Florida.

“State Repository” shall mean any public or private repository or entity designated by the State as a state repository for the purposes of the Rule.

3. **Provision of Annual Reports.**

(a) Subject to the following sentence, the Issuer shall provide the Annual Report to the Dissemination Agent no later than one hundred eighty (180) days after the close of the Issuer’s Fiscal Year (the “Annual Filing Date”), commencing with the Annual Report for the Fiscal Year ending September 30, 2020. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Agreement; *provided that* the Audited Financial Statements of the Issuer may be submitted separately from the balance of the Annual Report, and may be submitted in accordance with State law, which currently requires such Audited Financial Statements to be provided up to, but no later than, nine (9) months after the close of the Issuer’s Fiscal Year (the “Audited Financial Statements Filing Date”). The Issuer shall, or shall cause the Dissemination Agent to, provide to the Repository the components of an Annual Report which satisfies the requirements of Section 4(a) of this Disclosure Agreement within thirty (30) days after same becomes available, but in no event later than the Annual Filing Date or Audited Financial Statements Filing Date, if applicable. If the Issuer’s Fiscal Year changes, the Issuer shall give notice of such change in the same manner as for a Listed Event under Section 6.

(b) If on the fifteenth (15<sup>th</sup>) day prior to each Annual Filing Date or the Audited Financial Statements Filing Date, as applicable, the Dissemination Agent has not received a copy of the Annual Report or Audited Financial Statements, as applicable, the Dissemination Agent shall contact the Disclosure Representative by telephone and in writing (which may be via email) to remind the Issuer of its undertaking to provide the Annual Report or Audited Financial Statements, as applicable, pursuant to Section 3(a). Upon such reminder, the Disclosure Representative shall either (i) provide the Dissemination Agent with an electronic copy of the Annual Report or the Audited Financial Statements, as applicable, in accordance with Section 3(a) above, or (ii) advise the Dissemination Agent in writing that the Issuer will not be able to file the Annual Report or Audited Financial Statements, as applicable, within the times required under this Disclosure Agreement, state the date by which the Annual Report or the Audited Financial Statements for such year, as applicable, will be provided and instruct the Dissemination Agent that a Listed Event as described in Section 6(a)(xvii) has occurred and to immediately send a notice to the Repository in substantially the form attached hereto as Exhibit A.

(c) If the Dissemination Agent has not received an Annual Report by 12:00 noon on the first (1<sup>st</sup>) Business Day following the Annual Filing Date for the Annual Report or the Audited Financial Statements by 12:00 noon on the first (1<sup>st</sup>) Business Day following the Audited Financial Statements Filing Date for the Audited Financial Statements, then a Listed Event as described in Section 6(a)(xvii) shall have occurred and the Issuer irrevocably directs the

Dissemination Agent to immediately send a notice to the Repository in substantially the form attached as Exhibit A.

(d) The Dissemination Agent shall:

(i) determine each year prior to the Annual Filing Date the name, address and filing requirements of the Repository; and

(ii) promptly upon fulfilling its obligations under Section 3(a) above, file a notice with the Issuer stating that the Annual Report or Audited Financial Statement has been provided pursuant to this Disclosure Agreement, stating the date(s) it was provided and listing all Repositories with which it was filed.

(e) All documents, reports, notices, statements, information and other materials provided to the MSRB under this Disclosure Agreement shall be provided in an EMMA Compliant Format.

#### 4. **Content of Annual Reports.**

(a) Each Annual Report shall contain or incorporate by reference Annual Financial Information with respect to the Issuer, including the following:

(i) The amount of Assessments levied in the Phase One Assessment Area for the most recent prior Fiscal Year.

(ii) The amount of Assessments collected in the Phase One Assessment Area from the property owners during the most recent prior Fiscal Year.

(iii) If available, the amount of delinquencies in the Phase One Assessment Area greater than one hundred fifty (150) days, and, in the event that delinquencies amount to more than ten percent (10%) of the amounts of the applicable Assessments due in any fiscal year, a list of delinquent property owners.

(iv) If available, the amount of tax certificates sold for lands within the Phase One Assessment Area, if any, and the balance, if any, remaining for sale from the most recent Fiscal Year.

(v) All fund balances in all Funds, Accounts and subaccounts for the Bonds. In addition, the Issuer shall provide any Bondholder with this information no more frequently than annually within thirty (30) days of the written request of the Bondholder.

(vi) The total amount of Bonds Outstanding.

(vii) The amount of principal and interest to be paid on the Bonds in the current Fiscal Year.

(viii) The most recent Audited Financial Statements of the Issuer.

(b) In the event of any amendment or waiver of a provision of this Disclosure Agreement, a description of such amendment or waiver shall be included in the next Annual Report, and in each case shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or, in the case of a change in accounting principles, or the presentation) of financial information or operating data being presented by the Issuer. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements: (i) notice of such change shall be given in the same manner as for a Listed Event under Section 6(b); and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

(c) To the extent any of the items set forth in subsections (i) through (vii) above are included in the Audited Financial Statements referred to in subsection (viii) above, they do not have to be separately set forth (unless Audited Financial Statements are being delivered after the Annual Filing Date pursuant to Section 3(a) hereof). Any or all of the items listed above may be incorporated by reference from other documents, including limited offering memoranda and official statements of debt issues of the Issuer or related public entities, which have been submitted to the MSRB or the SEC. If the document incorporated by reference is a final limited offering memorandum or official statement, it must be available from the MSRB. The Issuer shall clearly identify each such other document so incorporated by reference.

(d) Any Annual Financial Information containing modified operating data or financial information is required to explain, in narrative form, the reasons for the modification and the impact of the change in the type of operating data or financial information being provided.

(e) The Developer agrees to assist the Issuer and the Dissemination Agent in providing the information necessary to prepare the Annual Report and the applicable Quarterly Reports described below. If the Developer transfers the lands within the District to an entity which will in turn own or have the option to acquire lands within the District, which lands are responsible for the payment of at least 20% of the Assessments, the Developer agrees to assign and retain, if applicable, its respective obligations set forth herein to its successor in interest.

## 5. **Quarterly Reports.**

(a) Each Obligated Person (other than the Issuer), or the Developer on behalf of any other Obligated Person that fails to execute an Assignment (as hereinafter defined), shall provide an electronic copy of the Quarterly Report to the Dissemination Agent no later than fifteen (15) days prior to each Quarterly Filing Date. Promptly upon receipt of an electronic copy of the Quarterly Report, but in any event within ten (10) days after receipt thereof, the Dissemination Agent shall provide a Quarterly Report to the Repository.

(b) Each Quarterly Report shall contain an update of the following information with respect to such Obligated Person for the Bonds, to the extent available:

## General Information

(i) Materially adverse changes or determinations to permits/approvals for the development of the Phase One Assessment Area which necessitate changes to the land use plans of any Obligated Person.

(ii) The occurrence of any new or modified mortgage debt on the land owned by the Obligated Person in the Phase One Assessment Area, including the amount, interest rate and terms of repayment.

## Residential Information

The following residential information shall be included in the Quarterly Report in substantially the form attached hereto as Exhibit B:

(iii) The number and type of units planned in the Phase One Assessment Area subject to the Assessments.

(iv) The number and type of units owned in the Phase One Assessment Area by the Obligated Person, third-party builders and homebuyers.

(v) The number of units planned, developed and completed in the Phase One Assessment Area by product type.

(vi) The number and type of units under construction in the Phase One Assessment Area (during the quarter).

(vii) The number and type of units constructed in the Phase One Assessment Area (cumulative).

(viii) The number and type of units under contract with homebuyers in the Phase One Assessment Area (during the quarter).

(ix) The number and type of units closed with homebuyers (delivered to end users) in the Phase One Assessment Area (during the quarter and cumulative).

(x) Any change to the number or type of units planned to be developed in the Phase One Assessment Area by the Obligated Person.

## Hotel Information

(i) The overall budgeted amount to complete the Hotel (as defined in the Limited Offering Memorandum).

(ii) The overall percentage of the Hotel that has been constructed.

(iii) The amount spent by the Obligated Person towards the construction of the Hotel.

- (iv) Any change to the number rooms planned for the Hotel.
- (v) Whether a certificate of occupancy has been issued for the Hotel.

(c) If an Obligated Person sells, assigns or otherwise transfers ownership of real property in The Phase One Assessment Area (a “Transferor Obligated Person”) to a third party (a “Transferee”), which will in turn be an Obligated Person for purposes of this Disclosure Agreement as a result thereof (a “Transfer”), the Transferor Obligated Person hereby agrees to use its best efforts to contractually obligate such Transferee to agree to comply with the disclosure obligations of an Obligated Person hereunder for so long as such Transferee is an Obligated Person hereunder, to the same extent as if such Transferee were a party to this Disclosure Agreement (an “Assignment”). The Transferor Obligated Person shall notify the District and the Dissemination Agent in writing of any Transfer within five (5) Business Days of the occurrence thereof. Nothing herein shall be construed to relieve the Developer from its obligations hereunder except to the extent a written Assignment from a Transferee is obtained and delivered to the Dissemination Agent and then only to the extent of such Assignment.

(d) If the Dissemination Agent has not received a Quarterly Report from each Obligated Person that contains, at a minimum, the information in Section 5(b) of this Disclosure Agreement by 12:00 noon on the first (1<sup>st</sup>) Business Day following each Quarterly Filing Date, a Listed Event described in Section 6(a)(xvii) shall have occurred and the District and each Obligated Person hereby direct the Dissemination Agent to send a notice to the Repository in substantially the form attached as Exhibit A, with a copy to the District. The Dissemination Agent shall file such notice no later than thirty (30) days following the applicable Quarterly Filing Date.

## 6. **Reporting of Significant Events.**

(a) This Section 6 shall govern the giving of notices of the occurrence of any of the following Listed Events with respect to the Bonds:

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults, if material;
- (iii) Unscheduled draws on the Series 2020 Debt Service Reserve Account reflecting financial difficulties;
- (iv) Unscheduled draws on credit enhancements reflecting financial difficulties;\*
- (v) Substitution of credit or liquidity providers, or their failure to perform;\*
- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-

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\* The Bonds are not credit enhanced at their date of issuance.



TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;

(vii) Modifications to rights of Bond holders, if material;

(viii) Bond calls, if material, and tender offers;

(ix) Defeasances;

(x) Release, substitution, or sale of property securing repayment of the Bonds, if material;

(xi) Rating changes;

(xii) Bankruptcy, insolvency, receivership or similar event of the Issuer or any Obligated Person (which is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the Issuer or any Obligated Person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Issuer or any Obligated Person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Issuer or any Obligated Person);

(xiii) Consummation of a merger, consolidation, or acquisition involving the Issuer or any Obligated Person or the sale of all or substantially all of the assets of the Issuer or any Obligated Person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

(xiv) Appointment of a successor or additional trustee or the change of name of the Trustee, if material; and

(xv) The incurrence of a Financial Obligation of the Obligated Person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Obligated Person, any of which affect Bond holders, if material.

(xvi) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Obligated Person, any of which reflect financial difficulties.

(xvii) Failure to provide (A) any Annual Report or Audited Financial Statements as required under this Disclosure Agreement that contains, in all material respects, the information required to be included therein under Section 4(a) of this Disclosure Agreement, or (B) any Quarterly Report that contains, in all material respects, the information required to be

included therein under Section 5(b) of this Disclosure Agreement, which failure shall, in all cases, be deemed material under federal securities laws.

(b) The Issuer shall give, or cause to be given, notice of the occurrence of any of the above subsection (a) Listed Events to the Dissemination Agent in writing in sufficient time in order to allow the Dissemination Agent to file notice of the occurrence of such Listed Event in a timely manner not in excess of ten (10) Business Days after its occurrence, with the exception of the Listed Event described in Section 6(a)(xvii), which notice will be given in a timely manner. Such notice shall instruct the Dissemination Agent to report the occurrence pursuant to subsection (d) below. Such notice shall identify the Listed Event that has occurred, include the text of the disclosure that the Issuer desires to make, contain the written authorization of the Issuer for the Dissemination Agent to disseminate such information, and identify the date the Issuer desires for the Disclosure Dissemination Agent to disseminate the information (provided that such date is not later than the tenth (10<sup>th</sup>) Business Day after the occurrence of the Listed Event or such earlier time period as required under this Agreement).

(c) Each Obligated Person shall notify the Issuer and the Dissemination Agent of the occurrence of a Listed Event described in subsections (a)(x), (xii), (xiii), (xv), (xvi) or (xvii) above as to such Obligated Person within five (5) Business Days after the occurrence of the Listed Event so as to enable the Issuer to comply with its obligations under this Section 6.

(d) If the Dissemination Agent has been instructed by the Issuer to report the occurrence of a Listed Event, the Dissemination Agent shall immediately file a notice of such occurrence with each Repository.

7. **Termination of Disclosure Agreement.** This Disclosure Agreement shall terminate with respect to the Bonds upon the defeasance, prior redemption or payment in full of all of the Bonds.

8. **No Prior Undertakings.** The Developer has not entered into any prior continuing disclosure undertakings in connection with the Rule.

9. **Dissemination Agent.** Upon termination of the Dissemination Agent's services as Dissemination Agent, whether by notice of the Issuer or the Dissemination Agent, the Issuer agrees to appoint a successor Dissemination Agent or, alternatively, agrees to assume all responsibilities of Dissemination Agent under this Disclosure Agreement for the benefit of the Holders of the Bonds. If at any time there is not any other designated Dissemination Agent, the District shall be deemed to be the Dissemination Agent. Notwithstanding any replacement or appointment of a successor, the Issuer shall remain liable until payment in full for any and all sums owed and payable to the Dissemination Agent hereunder. The initial Dissemination Agent shall be Special District Services, Inc., Palm Beach Gardens, Florida. The acceptance of such designation is evidenced by the execution of this Disclosure Agreement by a duly authorized signatory of the Dissemination Agent. The Dissemination Agent may terminate its role as Dissemination Agent at any time upon delivery of thirty (30) days prior written notice to the District and each Obligated Person.

10. **Amendment; Waiver.** Notwithstanding any other provision of this Disclosure Agreement, the Issuer, the Developer and the Dissemination Agent may amend this Disclosure Agreement, and any provision of this Disclosure Agreement may be waived, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws, acceptable to the Issuer, to the effect that such amendment or waiver would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule.

In the event of any amendment or waiver of a provision of this Disclosure Agreement, the Issuer shall describe such amendment and/or waiver in the next Annual Report and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or, in the case of a change in accounting principles, or the presentation) of financial information or operating data being presented by the Issuer. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements: (i) notice of such change shall be given in the same manner as for a Listed Event under Section 6(b); and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

Notwithstanding the above provisions of this Section 10, no amendment to the provisions of Section 5(b) hereof may be made without the consent of each Obligated Person.

11. **Additional Information.** Nothing in this Disclosure Agreement shall be deemed to prevent the Issuer from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If the Issuer chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Agreement, the Issuer shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

12. **Default.** In the event of a failure of the Issuer, the Disclosure Representative, any Obligated Person or the Dissemination Agent to comply with any provision of this Disclosure Agreement, the Trustee shall, at the written request of any Participating Underwriter or the Beneficial Owners of at least twenty-five percent (25%) aggregate principal amount of Outstanding Bonds and receipt of indemnity satisfactory to the Trustee, or any Beneficial Owner of a Bond may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the Issuer, the Disclosure Representative, any Obligated Person or a Dissemination Agent, as the case may be, to comply with its obligations under this Disclosure Agreement. A default under this Disclosure Agreement by any Obligated Person, the Disclosure Representative or Dissemination Agent shall not be deemed a default by the Issuer hereunder and no default hereunder shall be deemed an Event of Default under the Indenture, and the sole remedy under this Disclosure Agreement in the event of any failure of the Issuer, the Disclosure Representative, any Obligated Person, or a

Dissemination Agent, to comply with this Disclosure Agreement shall be an action to compel performance.

13. **Duties of Dissemination Agent.** The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement. The Dissemination Agent shall have no obligation to notify any other party hereto of an event that may constitute a Listed Event. The District, each Obligated Person and the Disclosure Representative covenant that they will supply, in a timely fashion, any information reasonably requested by the Dissemination Agent that is necessary in order for the Dissemination Agent to carry out its duties under this Disclosure Agreement. The District, the Developer and the Disclosure Representative acknowledge and agree that the information to be collected and disseminated by the Dissemination Agent will be provided by the District, Obligated Person(s), the Disclosure Representative and others. The Dissemination Agent's duties do not include authorship or production of any materials, and the Dissemination Agent shall have no responsibility hereunder for the content of the information provided to it by the District, any Obligated Person or the Disclosure Representative as thereafter disseminated by the Dissemination Agent. Any filings under this Disclosure Agreement made to the MSRB through EMMA shall be in an EMMA Compliant Format and shall include the applicable CUSIP number(s) for the Bonds set forth in Exhibit A hereto, to which any such filing relates.

14. **Beneficiaries.** This Disclosure Agreement shall inure solely to the benefit of the Issuer, the Developer, the Dissemination Agent, the Trustee, the Participating Underwriter and the Owners of the Bonds (the Dissemination Agent, Participating Underwriter and Owners of the Bonds being hereby deemed express third party beneficiaries of this Disclosure Agreement), and shall create no rights in any other person or entity.

15. **Tax Roll and Budget.** Upon the request of the Dissemination Agent, the Trustee or any Bondholder, the Issuer, through its District Manager, if applicable, agrees to provide such party with a certified copy of its most recent tax roll provided to the Palm Beach County Tax Collector and the Issuer's most recent adopted budget.

16. **Governing Law.** The laws of the State of Florida and Federal law shall govern this Disclosure Agreement and venue shall be any state or federal court having jurisdiction in Palm Beach County, Florida.

17. **Counterparts.** This Disclosure Agreement may be executed in several counterparts and by PDF signature and all of which shall constitute but one and the same instrument.

18. **Trustee Cooperation.** The Issuer represents that the Dissemination Agent is a bona fide agent of the Issuer and the Issuer instructs the Trustee to deliver to the Dissemination Agent at the expense of the Issuer, any information or reports in the possession of or readily available to the Trustee which the Dissemination Agent requests in writing.

19. **Binding Effect.** This Disclosure Agreement shall be binding upon each party to this Disclosure Agreement and upon each successor and assignee of each party to this Disclosure Agreement and shall inure to the benefit of, and be enforceable by, each party to this Disclosure

Agreement and each successor and assignee of each party to this Disclosure Agreement. Notwithstanding the foregoing, as to any entity comprising the Developer or any assignee or successor thereto that becomes an Obligated Person pursuant to the terms of this Disclosure Agreement, only successors or assignees to such parties who are, by definition, Obligated Persons, shall be bound or benefited by this Disclosure Agreement.

[Signature Page Follows]

**IN WITNESS WHEREOF**, the undersigned has executed this Disclosure Agreement as of the date and year set forth above.

**BANYAN CAY COMMUNITY  
DEVELOPMENT DISTRICT, AS ISSUER**

[SEAL]

By: \_\_\_\_\_  
Chairperson, Board of Supervisors

ATTEST:

By: \_\_\_\_\_  
Assistant Secretary

**BANYAN CAY DEV., LLC, AS DEVELOPER**

By: DJG DEV. LLC, a Florida limited liability company, its Manager

By: \_\_\_\_\_  
Name: Domenic J. Gatto, Jr.  
Title: Sole member and manager

**BANYAN CAY VILLAS, LLC, AS  
DEVELOPER**

By: DJG DEV. LLC, a Florida limited liability company, its Manager

By: \_\_\_\_\_  
Name: Domenic J. Gatto, Jr.  
Title: Sole member and manager

**BANYAN CAY RESORT & GOLF, LLC, AS  
DEVELOPER**

By: DJG DEV. LLC, a Florida limited liability company, its Manager

By: \_\_\_\_\_  
Name: Domenic J. Gatto, Jr.  
Title: Sole member and manager

**SPECIAL DISTRICT SERVICES INC., AS  
DISSEMINATION AGENT**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CONSENTED TO AND AGREED TO BY:**

**DISTRICT MANAGER**

**SPECIAL DISTRICT SERVICES, INC.,  
AS DISTRICT MANAGER**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Acknowledged and agreed to for purposes of  
Sections 12, 14 and 18 only:

**U.S. BANK NATIONAL ASSOCIATION, AS  
TRUSTEE**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



**EXHIBIT A**

**FORM OF NOTICE TO REPOSITORIES OF FAILURE TO FILE [ANNUAL REPORT]  
[AUDITED FINANCIAL STATEMENTS] [QUARTERLY REPORT]**

Name of Issuer: Banyan Cay Community Development District

Name of Bond Issue: \$ \_\_\_\_\_ original aggregate principal amount of Special Assessment Bonds, Series 2020 (Phase One Assessment Area)

Obligated Person(s): Banyan Cay Community Development District; Banyan Cay Dev. LLC; Banyan Cay Villas, LLC; Banyan Cay Resort & Golf LLC

Original Date of Issuance: \_\_\_\_\_, 2020

CUSIP Numbers: [\_\_\_\_\_,\_\_\_\_\_,\_\_\_\_\_]

NOTICE IS HEREBY GIVEN that the Issuer has not provided an [Annual Report] [Audited Financial Statements] [Quarterly Report] with respect to the above-named Bonds as required by [Section 3] [Section 5] of the Continuing Disclosure Agreement dated \_\_\_\_\_, 2020 by and between the Issuer, the Developer and the Dissemination Agent named therein. The [Issuer] [Obligated Person] has advised the undersigned that it anticipates that the [Annual Report] [Audited Financial Statements] [Quarterly Report] will be filed by \_\_\_\_\_, 20\_\_\_\_.

Dated: \_\_\_\_\_

Special District Services, Inc., as Dissemination Agent

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

cc: Issuer  
Trustee

**EXHIBIT B**

§ \_\_\_\_\_  
**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT  
 SPECIAL ASSESSMENT BONDS, SERIES 2020  
 (PHASE ONE ASSESSMENT AREA)**

**Quarterly Report – Residential Information**

	<b><u>Estate Homes</u></b>	<b><u>Villas</u></b>
Units Planned	52	22
Units Developed (completed)		
Units Platted		
<b><u>Ownership</u></b>		
Developer		
Third Party Builders		
Homebuyers		
<b>Total</b>		
<b><u>Construction</u></b>		
# of Units Under Construction (during quarter)		
# of Units Constructed (cumulative)		
<b><u>Sales Information</u></b>		
# of Units Under Contract With Homebuyer (during quarter)		
# of Units Closed with Homebuyer (during quarter)		
# of Units Closed with Homebuyer (total/cumulative)		

**APPENDIX F**  
**AUDITED FINANCIAL STATEMENTS**

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**BANYAN CAY  
COMMUNITY DEVELOPMENT DISTRICT  
WEST PALM BEACH, FLORIDA  
FINANCIAL REPORT  
FOR THE PERIOD FROM INCEPTION JANUARY 28, 2019 TO  
SEPTEMBER 30, 2019**

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT  
WEST PALM BEACH, FLORIDA**

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**Grau & Associates**  
CERTIFIED PUBLIC ACCOUNTANTS

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(561) 994-9299 • (800) 299-4728  
Fax (561) 994-5823  
www.graucpa.com

**INDEPENDENT AUDITOR'S REPORT**

To the Board of Supervisors  
Banyan Cay Community Development District  
West Palm Beach, Florida

**Report on the Financial Statements**

We have audited the accompanying financial statements of the governmental activities and each major fund, of Banyan Cay Community Development District, West Palm Beach, Florida ("District") as of and for the period from inception January 28, 2019 to September 30, 2019, and the related notes to the financial statements, which collectively comprise the District's basic financial statements as listed in the table of contents.

**Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

**Auditor's Responsibility**

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

**Opinions**

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities and each major fund of the District as of September 30, 2019, and the respective changes in financial position thereof for the period from inception January 28, 2019 to September 30, 2019 in accordance with accounting principles generally accepted in the United States of America.

## **Other Matters**

### *Required Supplementary Information*

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis and budgetary comparison information be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

### **Other Reporting Required by *Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated August 25, 2020, on our consideration of the District's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the District's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the District's internal control over financial reporting and compliance.

*GRAV + ASSOCIATES*

August 25, 2020



## MANAGEMENT'S DISCUSSION AND ANALYSIS

Our discussion and analysis of Banyan Cay Community Development District, West Palm Beach, Florida ("District") provides a narrative overview of the District's financial activities for the period from inception January 28, 2019 to September 30, 2019. Please read it in conjunction with the District's Independent Auditor's Report, basic financial statements, accompanying notes and supplementary information to the basic financial statements.

This information is being presented to provide additional information regarding the activities of the District and to meet the disclosure requirements of Government Accounting Standards Board Statement ("GASB") No. 34, *Basic Financial Statements – and Management's Discussion and Analysis – for State and Local Governments* issued June 1999. Comparative information between the current year and the prior year is required to be presented in the Management's Discussion and Analysis ("MD&A"). However, because this is the first year of operations of the District, comparative information is excluded from this report. Subsequent reports will include the comparative information.

### FINANCIAL HIGHLIGHTS

- The assets of the District equaled its liabilities at September 30, 2019 resulting in a net position balance of \$0.
- The change in the District's total net position during the current fiscal period was \$0. The key components of the District's net position and change in net position are reflected in the table in the government-wide financial analysis section.
- At September 30, 2019, the District's governmental fund reported ending fund balance of \$0.

### OVERVIEW OF FINANCIAL STATEMENTS

This discussion and analysis are intended to serve as the introduction to the District's basic financial statements. The District's basic financial statements are comprised of three components: 1) government-wide financial statements, 2) fund financial statements, and 3) notes to the financial statements. This report also contains other supplementary information in addition to the basic financial statements themselves.

#### Government-Wide Financial Statements

The government-wide financial statements are designed to provide readers with a broad overview of the District's finances, in a manner similar to a private-sector business.

The statement of net position presents information on all the District's assets, deferred outflows of resources, liabilities, and deferred inflows of resources with the residual amount being reported as net position. Over time, increases or decreases in net position may serve as a useful indicator of whether the financial position of the District is improving or deteriorating.

The statement of activities presents information showing how the government's net position changed during the most recent fiscal year. All changes in net position are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in this statement for some items that will only result in cash flows in future fiscal periods.

The government-wide financial statements include all governmental activities that are principally supported by special assessment revenues. The District does not have any business-type activities. The governmental activities of the District include the general government (management) function.

#### Fund Financial Statements

A fund is a grouping of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives. The District, like other state and local governments, uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements. The District has one fund category: governmental funds.

## OVERVIEW OF FINANCIAL STATEMENTS (Continued)

### Governmental Funds

Governmental funds are used to account for essentially the same functions reported as governmental activities in the government-wide financial statements. However, unlike the government-wide financial statements, governmental fund financial statements focus on near-term inflows and outflows of spendable resources, as well as on balances of spendable resources available at the end of the fiscal year. Such information may be useful in evaluating a District's near-term financing requirements.

Because the focus of governmental funds is narrower than that of the government-wide financial statements, it is useful to compare the information presented for governmental funds with similar information presented for governmental activities in the government-wide financial statements. By doing so, readers may better understand the long-term impact of the District's near-term financing decisions. Both the governmental fund balance sheet and the governmental fund statement of revenues, expenditures, and changes in fund balances provide a reconciliation to facilitate this comparison between governmental funds and governmental activities.

The District maintains one governmental fund. Information is presented separately in the governmental fund balance sheet and the governmental fund statement of revenues, expenditures, and changes in fund balances for the general fund, which is considered a major fund.

The District adopts an annual appropriated budget for its general fund. A budgetary comparison schedule has been provided for the general fund to demonstrate compliance with the budget.

### Notes to the Financial Statements

The notes provide additional information that is essential to a full understanding of the data provided in the government-wide and fund financial statements.

### GOVERNMENT-WIDE FINANCIAL ANALYSIS

As noted earlier, net position may serve over time as a useful indicator of an entity's financial position. In the case of the District, assets equaled its liabilities at the close of the period from inception January 29, 2019 to September 30, 2019.

Key components of the District's net position are reflected in the following table:

	NET POSITION SEPTEMBER 30,	2019
Assets, excluding capital assets		\$ 23,220
Total assets		<u>23,220</u>
Current liabilities		<u>23,220</u>
Total liabilities		<u>23,220</u>
Net position		
Unrestricted		-
Total net position		<u>\$ -</u>

## GOVERNMENT-WIDE FINANCIAL ANALYSIS (Continued)

Key elements of the change in net position are reflected in the following table:

CHANGES IN NET POSITION	
FOR THE PERIOD FROM INCEPTION JANUARY 28, 2019	
TO SEPTEMBER 30,	
	<u>2019</u>
Revenues:	
Program revenues	
Operating grants and contributions	\$ 65,657
General revenues	
Unrestricted investment earnings	<u>7</u>
Total revenues	<u>65,664</u>
Expenses:	
General government	<u>65,664</u>
Total expenses	<u>65,664</u>
Change in net position	<u>-</u>
Net position - beginning	<u>-</u>
Net position - ending	<u>\$ -</u>

As noted above and in the statement of activities, the cost of all governmental activities during the period from inception January 28, 2019 to September 30, 2019 was \$65,664. The costs of the District's activities were funded by program revenues. Program revenues were comprised entirely of Developer contributions.

### GENERAL BUDGETING HIGHLIGHTS

An operating budget was adopted and maintained by the governing board for the District pursuant to the requirements of Florida Statutes. The budget is adopted using the same basis of accounting that is used in preparation of the fund financial statements. The legal level of budgetary control, the level at which expenditures may not exceed budget, is in the aggregate. Any budget amendments that increase the aggregate budgeted appropriations must be approved by the Board of Supervisors. The general fund budget for the fiscal year ended September 30, 2019 was amended to decrease revenues and appropriations by (\$8,729). Actual general fund expenditures did not exceed appropriations for the period from inception January 28, 2019 to September 30, 2019.

### ECONOMIC FACTORS AND NEXT YEAR'S BUDGETS AND OTHER EVENTS

It is anticipated that the general operations of the District will increase as the District is being built.

During the current fiscal year end, the Board is considering issuing Bonds; however, the terms of the issuance have not yet been established.

### CONTACTING THE DISTRICT'S FINANCIAL MANAGEMENT

This financial report is designed to provide our citizens, land owners, taxpayers, customers, investors and creditors with a general overview of the District's finances and to demonstrate the District's accountability for the financial resources it manages and the stewardship of the facilities it maintains. If you have questions about this report or need additional financial information, contact the Banyan Cay Community Development District's management services at Special District Services, Inc., 2501A Burns Road, Palm Beach Gardens, Florida 33410.

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT  
WEST PALM BEACH, FLORIDA  
STATEMENT OF NET POSITION  
SEPTEMBER 30, 2019**

	Governmental Activities
<b>ASSETS</b>	
Cash	\$ 2,563
Accounts receivables	20,657
Total assets	23,220
 <b>LIABILITIES</b>	
Accounts payable	23,220
Total liabilities	23,220
 <b>NET POSITION</b>	
Unrestricted	-
Total net position	\$ -

See notes to the financial statements

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT  
WEST PALM BEACH, FLORIDA  
STATEMENT OF ACTIVITIES  
FOR THE PERIOD FROM INCEPTION JANUARY 28, 2019 TO SEPTEMBER 30, 2019**

<u>Functions/Programs</u>	<u>Expenses</u>	<u>Program Revenues Operating Grants and Contributions</u>	<u>Net (Expense) Revenue and Changes in Net Position</u> Governmental Activities
Primary government:			
Governmental activities:			
General government	\$ 65,664	\$ 65,657	\$ (7)
Total governmental activities	<u>65,664</u>	<u>65,657</u>	<u>(7)</u>
General revenues:			
Unrestricted investment earnings			<u>7</u>
Total general revenues			<u>7</u>
Change in net position			<u>-</u>
Net position - beginning			<u>-</u>
Net position - ending			<u>\$ -</u>

See notes to the financial statements

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT  
WEST PALM BEACH, FLORIDA  
BALANCE SHEET  
GOVERNMENTAL FUNDS  
SEPTEMBER 30, 2019**

	Major Fund	Total
	General	Governmental Funds
<b>ASSETS</b>		
Cash	\$ 2,563	\$ 2,563
Accounts receivable	20,657	20,657
Total assets	\$ 23,220	\$ 23,220
<b>LIABILITIES AND FUND BALANCES</b>		
Liabilities:		
Accounts payable	\$ 23,220	\$ 23,220
Total liabilities	23,220	23,220
Fund balances:		
Unassigned	-	-
Total fund balances	-	-
Total liabilities and fund balances	\$ 23,220	\$ 23,220

See notes to the financial statements

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT  
WEST PALM BEACH, FLORIDA  
STATEMENT OF REVENUES, EXPENDITURES,  
AND CHANGES IN FUND BALANCES  
GOVERNMENTAL FUNDS  
FOR THE PERIOD FROM INCEPTION JANUARY 28, 2019 TO SEPTEMBER 30, 2019**

	Major Fund	Total
	General	Governmental Funds
<b>REVENUES</b>		
Developer contributions	\$ 65,657	\$ 65,657
Interest revenues	7	7
Total revenues	65,664	65,664
<b>EXPENDITURES</b>		
Current:		
General government	65,664	65,664
Total expenditures	65,664	65,664
Excess (deficiency) of revenues over (under) expenditures	-	-
Fund balances - beginning	-	-
Fund balances - ending	\$ -	\$ -

See notes to the financial statements

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT  
WEST PALM BEACH, FLORIDA  
NOTES TO FINANCIAL STATEMENTS**

**NOTE 1 – NATURE OF ORGANIZATION AND REPORTING ENTITY**

Banyan Cay Community Development District ("District") was created on January 28, 2019 by Ordinance 4823-19 of the City of West Palm Beach, Florida, pursuant to the Uniform Community Development District Act of 1980, otherwise known as Chapter 190, Florida Statutes. The Act provides among other things, the power to manage basic services for community development, power to borrow money and issue bonds, and to levy and assess non-ad valorem assessments for the financing and delivery of capital infrastructure.

The District was established for the purposes of financing and managing the acquisition, construction, maintenance and operation of a portion of the infrastructure necessary for community development within the District.

The District is governed by the Board of Supervisors ("Board"), which is composed of five members. The Supervisors are elected on an at large basis by the landowners of the property within the District. The Board of Supervisors of the District exercises all powers granted to the District pursuant to Chapter 190, Florida Statutes. At September 30, 2019, all of the Board members are affiliated with Banyan Cay Dev., LLC ("Developers").

The Board has the responsibility for:

1. Assessing and levying assessments.
2. Approving budgets.
3. Exercising control over facilities and properties.
4. Controlling the use of funds generated by the District.
5. Approving the hiring and firing of key personnel.
6. Financing improvements.

The financial statements were prepared in accordance with Governmental Accounting Standards Board ("GASB") Statements. Under the provisions of those standards, the financial reporting entity consists of the primary government, organizations for which the District is considered to be financially accountable and other organizations for which the nature and significance of their relationship with the District are such that, if excluded, the financial statements of the District would be considered incomplete or misleading. There are no entities considered to be component units of the District; therefore, the financial statements include only the operations of the District.

**NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**Government-Wide and Fund Financial Statements**

The basic financial statements include both government-wide and fund financial statements.

The government-wide financial statements (i.e., the statement of net position and the statement of activities) report information on all of the non-fiduciary activities of the primary government.

The statement of activities demonstrates the degree to which the direct expenses of a given function or segment is offset by program revenues. *Direct expenses* are those that are clearly identifiable with a specific function or segment. *Program revenues* include 1) charges to customers who purchase, use, or directly benefit from goods, services, or privileges provided by a given function or segment; operating-type special assessments for maintenance and debt service are treated as charges for services and 2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular function or segment. Other items not included among program revenues are reported instead as *general revenues*.



## NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

### **Measurement Focus, Basis of Accounting and Financial Statement Presentation**

The government-wide financial statements are reported using the *economic resources measurement focus* and the *accrual basis of accounting*. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows. Assessments are recognized as revenues in the year for which they are levied. Grants and similar items are to be recognized as revenue as soon as all eligibility requirements imposed by the provider have been met.

Governmental fund financial statements are reported using the *current financial resources measurement focus* and the *modified accrual basis of accounting*. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be *available* when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the government considers revenues to be available if they are collected within 60 days of the end of the current fiscal period. Expenditures are recorded when a liability is incurred, as under accrual accounting. However, debt service expenditures are recorded only when payment is due.

### **Assessments**

Assessments are non-ad valorem assessments on certain land and all platted lots within the District. Assessments are levied each November 1 on property of record as of the previous January. The fiscal year for which annual assessments are levied begins on October 1 with discounts available for payments through February 28 and become delinquent on April 1. For debt service assessments, amounts collected as advance payments are used to prepay a portion of the Bonds outstanding. Otherwise, assessments are collected annually to provide funds for the debt service on the portion of the Bonds which are not paid with prepaid assessments.

Assessments and interest associated with the current fiscal period are considered to be susceptible to accrual and so have been recognized as revenues of the current fiscal period. The portion of assessments receivable due within the current fiscal period is considered to be susceptible to accrual as revenue of the current period.

The District was completely funded with Developer contributions for the period from inception January 29, 2019 to September 30, 2019.

The District reports the following major governmental fund:

### **General Fund**

The general fund is the general operating fund of the District. It is used to account for all financial resources except those required to be accounted for in another fund.

When both restricted and unrestricted resources are available for use, it is the government's policy to use restricted resources first for qualifying expenditures, then unrestricted resources as they are needed.

## **NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

### **Assets, Liabilities and Net Position or Equity**

#### Restricted Assets

These assets represent cash and investments set aside pursuant to contractual restrictions.

#### Deposits and Investments

The District's cash and cash equivalents are considered to be cash on hand and demand deposits (interest and non-interest bearing).

The District has elected to proceed under the Alternative Investment Guidelines as set forth in Section 218.415 (17) Florida Statutes. The District may invest any surplus public funds in the following:

- a) The Local Government Surplus Trust Funds, or any intergovernmental investment pool authorized pursuant to the Florida Interlocal Cooperation Act;
- b) Securities and Exchange Commission registered money market funds with the highest credit quality rating from a nationally recognized rating agency;
- c) Interest bearing time deposits or savings accounts in qualified public depositories;
- d) Direct obligations of the U.S. Treasury.

Securities listed in paragraph c and d shall be invested to provide sufficient liquidity to pay obligations as they come due.

The District records all interest revenue related to investment activities in the respective fund. Investments are measured at amortized cost or reported at fair value as required by generally accepted accounting principles.

#### Prepaid Items

Certain payments to vendors reflect costs applicable to future accounting periods and are recorded as prepaid items in both government-wide and fund financial statements.

#### Capital Assets

Capital assets which include property, plant and equipment, and infrastructure assets (e.g., roads, sidewalks and similar items) are reported in the government activities columns in the government-wide financial statements. Capital assets are defined by the government as assets with an initial, individual cost of more than \$5,000 (amount not rounded) and an estimated useful life in excess of two years. Such assets are recorded at historical cost or estimated historical cost if purchased or constructed. Donated capital assets are recorded at estimated fair market value at the date of donation.

The costs of normal maintenance and repairs that do not add to the value of the asset or materially extend assets lives are not capitalized. Major outlays for capital assets and improvements are capitalized as projects are constructed.

#### Unearned Revenue

Governmental funds report unearned revenue in connection with resources that have been received, but not yet earned.

#### Long-Term Obligations

In the government-wide financial statements long-term debt and other long-term obligations are reported as liabilities in the statement of net position. Bond premiums and discounts are deferred and amortized ratably over the life of the Bonds. Bonds payable are reported net of applicable premiums or discounts. Bond issuance costs are expensed when incurred.

In the fund financial statements, governmental fund types recognize premiums and discounts, as well as issuance costs, during the current period. The face amount of debt issued is reported as other financing sources. Premiums received on debt issuances are reported as other financing sources while discounts on debt issuances are reported as other financing uses. Issuance costs, whether or not withheld from the actual debt proceeds received, are reported as debt service expenditures.

## **NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

### **Assets, Liabilities and Net Position or Equity (Continued)**

#### Deferred Outflows/Inflows of Resources

In addition to assets, the statement of financial position will sometimes report a separate section for deferred outflows of resources. This separate financial statement element, deferred outflows of resources, represents a consumption of net position that applies to a future period(s) and so will not be recognized as an outflow of resources (expense/expenditure) until then.

In addition to liabilities, the statement of financial position will sometimes report a separate section for deferred inflows of resources. This separate financial statement element, deferred inflows of resources, represents an acquisition of net position that applies to a future period(s) and so will not be recognized as an inflow of resources (revenue) until that time.

#### Fund Equity/Net Position

In the fund financial statements, governmental funds report non spendable and restricted fund balance for amounts that are not available for appropriation or are legally restricted by outside parties for use for a specific purpose. Assignments of fund balance represent tentative management plans that are subject to change.

The District can establish limitations on the use of fund balance as follows:

Committed fund balance – Amounts that can be used only for the specific purposes determined by a formal action (resolution) of the Board of Supervisors. Commitments may be changed or lifted only by the Board of Supervisors taking the same formal action (resolution) that imposed the constraint originally. Resources accumulated pursuant to stabilization arrangements sometimes are reported in this category.

Assigned fund balance – Includes spendable fund balance amounts established by the Board of Supervisors that are intended to be used for specific purposes that are neither considered restricted nor committed. The Board may also assign fund balance as it does when appropriating fund balance to cover differences in estimated revenue and appropriations in the subsequent year's appropriated budget. Assignments are generally temporary and normally the same formal action need not be taken to remove the assignment.

The District first uses committed fund balance, followed by assigned fund balance and then unassigned fund balance when expenditures are incurred for purposes for which amounts in any of the unrestricted fund balance classifications could be used.

Net position is the difference between assets and deferred outflows of resources less liabilities and deferred inflows of resources. Net position in the government-wide financial statements are categorized as net investment in capital assets, restricted or unrestricted. Net investment in capital assets represents net position related to infrastructure and property, plant and equipment. Restricted net position represents the assets restricted by the District's Bond covenants or other contractual restrictions. Unrestricted net position consists of the net position not meeting the definition of either of the other two components.

### **Other Disclosures**

#### Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenditures during the reporting period. Actual results could differ from those estimates.

### **NOTE 3 – BUDGETARY INFORMATION**

The District is required to establish a budgetary system and an approved Annual Budget. Annual Budgets are adopted on a basis consistent with generally accepted accounting principles for the general fund. All annual appropriations lapse at fiscal year-end.

The District follows these procedures in establishing the budgetary data reflected in the financial statements.

- a) Each year the District Manager submits to the District Board a proposed operating budget for the fiscal year commencing the following October 1.
- b) Public hearings are conducted to obtain public comments.
- c) Prior to October 1, the budget is legally adopted by the District Board.
- d) All budget changes must be approved by the District Board.
- e) The budgets are adopted on a basis consistent with generally accepted accounting principles.
- f) Unused appropriation for annually budgeted funds lapse at the end of the year.

### **NOTE 4 – DEPOSITS**

#### **Deposits**

The District's cash balance was entirely covered by federal depository insurance or by a collateral pool pledged to the State Treasurer. Florida Statutes Chapter 280, "Florida Security for Public Deposits Act", requires all qualified depositories to deposit with the Treasurer or another banking institution eligible collateral equal to various percentages of the average daily balance for each month of all public deposits in excess of any applicable deposit insurance held. The percentage of eligible collateral (generally, U.S. Governmental and agency securities, state or local government debt, or corporate bonds) to public deposits is dependent upon the depository's financial history and its compliance with Chapter 280. In the event of a failure of a qualified public depository, the remaining public depositories would be responsible for covering any resulting losses.

### **NOTE 5 – DEVELOPER TRANSACTIONS**

The Developer owns all of the land within the District and has agreed to fund the operations of the District as outlined in the funding agreement. In connection with that agreement, Developer Contributions to the general fund were \$65,657 during the period from inception January 28, 2019 to September 30, 2019, with a receivable of \$20,657 at September 30, 2019.

### **NOTE 6 – CONCENTRATION**

The District's activity is dependent upon the continued involvement of the Developer, the loss of which could have a material adverse effect on the District's operations.

### **NOTE 7 – MANAGEMENT COMPANY**

The District has contracted with a management company to perform management advisory services, which include financial and accounting advisory services. Certain employees of the management company also serve as officers of the District. Under the agreement, the District compensates the management company for management, accounting, financial reporting, computer and other administrative costs.

### **NOTE 8 – RISK MANAGEMENT**

The District is exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions; and natural disasters. The District has obtained commercial insurance from independent third parties to mitigate the costs of these risks; coverage may not extend to all situations. The District has not filed any claims under this commercial coverage since inception of the District.

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT  
WEST PALM BEACH, FLORIDA  
SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN  
FUND BALANCE - BUDGET AND ACTUAL – GENERAL FUND  
FOR THE PERIOD FROM INCEPTION JANUARY 28, 2019 TO SEPTEMBER 30, 2019**

	Budgeted Amount		Actual Amounts	Variance with Final Budget - Positive (Negative)
	Original	Final		
<b>REVENUES</b>				
Developer contributions	\$ 78,350	\$ 69,615	\$ 65,657	\$ (3,958)
Interest income	-	6	7	1
Total revenues	78,350	69,621	65,664	(3,957)
<b>EXPENDITURES</b>				
Current:				
General government	78,350	69,621	65,664	3,957
Total expenditures	78,350	69,621	65,664	3,957
Excess (deficiency) of revenues over (under) expenditures	\$ -	\$ -	-	\$ -
Fund balances - beginning			-	
Fund balances - ending			\$ -	

See notes to required supplementary information

**BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT  
WEST PALM BEACH, FLORIDA  
NOTES TO REQUIRED SUPPLEMENTARY INFORMATION**

The District is required to establish a budgetary system and an approved Annual Budget for the general fund. The District's budgeting process is based on estimates of cash receipts and cash expenditures which are approved by the Board. The budget approximates a basis consistent with accounting principles generally accepted in the United States of America (generally accepted accounting principles).

The legal level of budgetary control, the level at which expenditures may not exceed budget, is in the aggregate. Any budget amendments that increase the aggregate budgeted appropriations must be approved by the Board of Supervisors. The general fund budget for the fiscal year ended September 30, 2019 was amended to decrease revenues and appropriations by (\$8,729). Actual general fund expenditures did not exceed appropriations for the period from inception January 28, 2019 to September 30, 2019.



**INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS**

To the Board of Supervisors  
Banyan Cay Community Development District  
West Palm Beach, Florida

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities and each major fund of Banyan Cay Community Development District, West Palm Beach, Florida ("District") as of and for the period from inception January 28, 2019 to September 30, 2019, and the related notes to the financial statements, which collectively comprise the District's basic financial statements, and have issued our opinion thereon dated August 25, 2020.

**Internal Control Over Financial Reporting**

In planning and performing our audit of the financial statements, we considered the District's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the District's internal control. Accordingly, we do not express an opinion on the effectiveness of the District's internal control.

*A deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. *A material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. *A significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or, significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

**Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the District's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We noted a matter that we reported to management of the District in a separate letter dated August 25, 2020.

The District's response to the finding identified in our audit is described in the accompanying Management Letter. We did not audit the District's response and, accordingly, do not express an opinion on it.

## **Purpose of this Report**

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

GRAY + ASSOCIATES

August 25, 2020





**INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE WITH THE  
REQUIREMENTS OF SECTION 218.415, FLORIDA STATUTES, REQUIRED BY  
RULE 10.556(10) OF THE AUDITOR GENERAL OF THE STATE OF FLORIDA**

To the Board of Supervisors  
Banyan Cay Community Development District  
West Palm Beach, Florida

We have examined Banyan Cay Community Development District, West Palm Beach, Florida's ("District") compliance with the requirements of Section 218.415, Florida Statutes, in accordance with Rule 10.556(10) of the Auditor General of the State of Florida during the period from inception January 28, 2019 to September 30, 2019. Management is responsible for District's compliance with those requirements. Our responsibility is to express an opinion on District's compliance based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the District complied, in all material respects, with the specified requirements referenced in Section 218.415, Florida Statutes. An examination involves performing procedures to obtain evidence about whether the District complied with the specified requirements. The nature, timing, and extent of the procedures selected depend on our judgment, including an assessment of the risks of material noncompliance, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion. Our examination does not provide a legal determination on the District's compliance with specified requirements.

In our opinion, the District complied, in all material respects, with the aforementioned requirements for the period from inception January 28, 2019 to September 30, 2019.

This report is intended solely for the information and use of the Legislative Auditing Committee, members of the Florida Senate and the Florida House of Representatives, the Florida Auditor General, management, and the Board of Supervisors of Banyan Cay Community Development District, West Palm Beach, Florida and is not intended to be and should not be used by anyone other than these specified parties.

*GRAU & ASSOCIATES*

August 25, 2020



**MANAGEMENT LETTER PURSUANT TO THE RULES OF  
THE AUDITOR GENERAL FOR THE STATE OF FLORIDA**

To the Board of Supervisors  
Banyan Cay Community Development District  
West Palm Beach, Florida

**Report on the Financial Statements**

We have audited the accompanying basic financial statements of Banyan Cay Community Development District, West Palm Beach, Florida (the "District") as of and for the period from inception January 28, 2019 to September 30, 2019 and have issued our report thereon dated August 25, 2020.

**Auditor's Responsibility**

We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Chapter 10.550, Rules of the Florida Auditor General.

**Other Reporting Requirements**

We have issued our Independent Auditor's Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of the Financial Statements Performed in Accordance with *Government Auditing Standards*; and Independent Auditor's Report on an examination conducted in accordance with *AICPA Professional Standards*, AT-C Section 315, regarding compliance requirements in accordance with Chapter 10.550, Rules of the Auditor General. Disclosures in those reports, which are dated August 25, 2020, should be considered in conjunction with this management letter.

**Purpose of this Letter**

The purpose of this letter is to comment on those matters required by Chapter 10.550 of the Rules of the Auditor General for the State of Florida. Accordingly, in connection with our audit of the financial statements of the District, as described in the first paragraph, we report the following:

- I. Current year findings and recommendations.**
- II. Status of prior year findings and recommendations.**
- III. Compliance with the Provisions of the Auditor General of the State of Florida.**

Our management letter is intended solely for the information and use of the Legislative Auditing Committee, members of the Florida Senate and the Florida House of Representatives, the Florida Auditor General, Federal and other granting agencies, as applicable, management, and the Board of Supervisors of Banyan Cay Community Development District, West Palm Beach, Florida and is not intended to be and should not be used by anyone other than these specified parties.

We wish to thank Banyan Cay Community Development District, West Palm Beach, Florida and the personnel associated with it, for the opportunity to be of service to them in this endeavor as well as future engagements, and the courtesies extended to us.

*GRAU & ASSOCIATES*

August 25, 2020

## REPORT TO MANAGEMENT

### I. CURRENT YEAR FINDINGS AND RECOMMENDATIONS

#### 2019-01 Prompt Payment Act and Financial Condition:

Observation: During the audit it was noted that certain expenditures, that were not disputed with the vendor, were not paid within the statutory requirement of 45 days pursuant to FL Statute 218.74(2). In addition, subsequent to year end and through the date of the report certain vendors have not been paid. Further since the District failed to pay vendors timely as a result of a lack of funds, a financial emergency condition was triggered pursuant to FL Statute 218.503 (1) (b).

Recommendation: The District should rectify the statutory non-compliance and ensure that going forward vendors are paid timely.

Management Response: Developer Contributions to the District have been on hold due to a major real estate closing in the Development being delayed. It is estimated that the real estate closing will occur by August 31, 2020. After the closing, it is anticipated that the developer contributions to the District will resume and vendors will be paid on a timely basis.

### II. PRIOR YEAR FINDINGS AND RECOMMENDATIONS

Not Applicable. First year audit.

### III. COMPLIANCE WITH THE PROVISIONS OF THE AUDITOR GENERAL OF THE STATE OF FLORIDA

Unless otherwise required to be reported in the auditor's report on compliance and internal controls, the management letter shall include, but not be limited to the following:

1. A statement as to whether or not corrective actions have been taken to address findings and recommendations made in the preceding annual financial audit report.

N/A. First year audit.

2. Any recommendations to improve the local governmental entity's financial management.

There were no such matters discovered by, or that came to the attention of, the auditor, to be reported for the period from inception January 28, 2019 to September 30, 2019, except as noted above.

3. Noncompliance with provisions of contracts or grant agreements, or abuse, that have occurred, or are likely to have occurred, that have an effect on the financial statements that is less than material but which warrants the attention of those charged with governance.

There were no such matters discovered by, or that came to the attention of, the auditor, to be reported, for the period from inception January 28, 2019 to September 30, 2019.

4. The name or official title and legal authority of the District are disclosed in the notes to the financial statements.

5. In connection with our audit, we determined that the District met a condition described in Section 218.503 (1), Florida Statutes. Certain invoices presented for payment were not paid within the statutory guidelines as a result of a lack of funds.

## **REPORT TO MANAGEMENT (Continued)**

### **III. COMPLIANCE WITH THE PROVISIONS OF THE AUDITOR GENERAL OF THE STATE OF FLORIDA (Continued)**

6. Although the District met a condition described in Section 218.503 (1), Florida Statutes, we applied financial condition assessment procedures pursuant to Rule 10.556(7), and no deteriorating financial conditions were noted from the period of inception January 29, 2019 to September 30, 2019. It is management's responsibility to monitor financial condition, and our financial condition assessment was based in part on representations made by management and the review of financial information provided by same. Management does not consider the District to be in a state of financial emergency as of the report date.





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