

IN THE CIRCUIT COURT OF THE FIFTEENTH  
JUDICIAL CIRCUIT OF FLORIDA, IN AND FOR  
PALM BEACH COUNTY, FLORIDA

BANYAN CAY COMMUNITY DEVELOPMENT  
DISTRICT, a local unit of special-purpose  
government organized and existing under the laws  
of the State of Florida,

Plaintiff,

v.

THE STATE OF FLORIDA, AND THE  
TAXPAYERS, PROPERTY OWNERS AND  
CITIZENS OF BANYAN CAY COMMUNITY  
DEVELOPMENT DISTRICT, INCLUDING NON-  
RESIDENTS OWNING PROPERTY OR  
SUBJECT TO TAXATION THEREIN, AND  
OTHERS HAVING OR CLAIMING ANY  
RIGHTS, TITLE OR INTEREST IN PROPERTY  
TO BE AFFECTED BY THE ISSUANCE OF THE  
BONDS HEREIN DESCRIBED, OR TO BE  
AFFECTED IN ANY WAY THEREBY,

Defendants.

CASE NO. 50-2019-CA-009229-XXXX-  
MB AD

**FINAL JUDGMENT**

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The above and foregoing cause has come for final hearing on the date and at the time and place set forth in the Notice and Order to Show Cause Why Said Bonds Should Not Be Validated and Confirmed heretofore issued by this Court in the notice addressed to the State of Florida, and the taxpayers, property owners and citizens of Banyan Cay Community Development District, including nonresidents owning property or subject to taxation therein, and others having or claiming any right, title or interest in property to be affected by the issuance of not to exceed \$11,000,000 Banyan Cay Community Development District Special Assessment Bonds, in one or more series (the "Bonds"), or to be affected in any way thereby, and the Court having considered the same and heard the

evidence and being fully advised in the premises, finds as follows:

FIRST. The District is a local unit of special-purpose government organized and existing in accordance with the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes, as amended through the date hereof (the "Act") and a political subdivision of the State of Florida. The District was created pursuant to the Act and established pursuant to Ordinance No. 4823-19 of the City Commission (the "City Commission") of the City of West Palm Beach, Florida (the "City") enacted on January 28, 2019 (the "Ordinance").

SECOND. The governing body of the District consists of a Board of Supervisors (the "District Board"), which is comprised of five (5) members. Each member of the District Board was duly elected in accordance with the Act. The District Board is lawfully constituted and authorized under the Act to exercise all powers of a board of supervisors of a community development district.

THIRD. A Notice of Establishment of the District with a metes and bounds legal description of the District was recorded in the Public Records of Palm Beach County.

FOURTH. Pursuant to Section 190.016(12) of the Act, bonds of the District maturing over a period of more than five (5) years must be presented for validation and confirmation by this Court, under the provisions of Chapter 75, Florida Statutes, and laws amendatory thereof and supplementary thereto. This Court is authorized by Chapter 75, Florida Statutes, to validate the bonds of the District, including the Bonds.

FIFTH. The District is authorized by the Act, and particularly by Sections 190.021(7) and 190.022 of the Act and Chapter 170 and Sections 197.3632 and 197.3635, Florida Statutes, as amended, and other applicable provisions of Florida law (collectively, the "Assessment Statutes"), to

declare, assess, equalize, levy and collect special assessments on property within the District specially benefited by assessable improvements (the "Special Assessments"), as provided in Section 190.016 of the Act.

SIXTH. The District was created and established for the purpose of financing and managing the acquisition, construction, installation, maintenance, and operation of community development facilities, services, and improvements within and without the boundaries of the District, including, but not limited to, roadway and sidewalk improvements; stormwater management and control facilities; water and wastewater systems; landscaping, including irrigation in public rights-of-way; and related incidental costs, pursuant to the Act (collectively, the "Project"), all as more specifically described in the Engineer's Report attached as Exhibit C to the Complaint and made a part thereof.

SEVENTH. On April 16, 2018, the District Board duly adopted Resolution 2018-01 (the "Bond Resolution") entitled:

"AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$11,000,000 AGGREGATE PRINCIPAL AMOUNT OF BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT SPECIAL ASSESSMENT BONDS, IN ONE OR MORE SERIES, TO PAY ALL OR A PORTION OF THE DESIGN, ACQUISITION AND/OR CONSTRUCTION COSTS OF CERTAIN PUBLIC INFRASTRUCTURE IMPROVEMENTS, INCLUDING BUT NOT LIMITED TO, STORMWATER MANAGEMENT AND CONTROL SYSTEMS INCLUDING RELATED EARTHWORK; WATER DISTRIBUTION AND SANITARY SEWER SYSTEM; ROADWAY IMPROVEMENTS; AND RELATED INCIDENTAL COSTS, PURSUANT TO CHAPTER 190, FLORIDA STATUTES, AS AMENDED; APPOINTING U.S. BANK, NATIONAL ASSOCIATION, TO SERVE AS TRUSTEE; APPROVING THE EXECUTION AND DELIVERY OF A MASTER TRUST INDENTURE AND FIRST SUPPLEMENTAL TRUST INDENTURE IN SUBSTANTIALLY THE FORMS ATTACHED

HERETO; PROVIDING THAT SUCH BONDS SHALL NOT CONSTITUTE A DEBT, LIABILITY OR OBLIGATION OF THE BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT (EXCEPT AS OTHERWISE PROVIDED HEREIN), OF THE CITY OF WEST PALM BEACH, FLORIDA, OF THE COUNTY OF PALM BEACH, FLORIDA, OR OF THE STATE OF FLORIDA OR OF ANY OTHER POLITICAL SUBDIVISION THEREOF, BUT SHALL BE PAYABLE SOLELY FROM SPECIAL ASSESSMENTS ASSESSED AND LEVIED ON THE PROPERTY WITHIN THE DISTRICT BENEFITED BY THE IMPROVEMENTS AND SUBJECT TO ASSESSMENT; PROVIDING FOR THE JUDICIAL VALIDATION OF SUCH BONDS; AND PROVIDING FOR OTHER RELATED MATTERS.”

Pursuant to the Bond Resolution the District Board proposes to issue not to exceed \$11,000,000 Banyan Cay Community Development District Special Assessment Bonds in one or more series under and pursuant to a Master Trust Indenture, expected to be dated the first day of the month the first series of Bonds are sold (the "Master Indenture"), for the District to U.S. Bank National Association, and its successors in trust under the herein defined Indenture, as trustee (the "Trustee"), to be amended and supplemented with respect to each Series of Bonds (each a "Supplemental Indenture") issued thereunder (as so amended and supplemented, the "Indenture"), which is subject to such changes as shall be approved by the District Board, is attached as an exhibit to the Bond Resolution. The Trustee is bonded to the extent required by laws of the State of Florida, and has the power to accept and administer the trusts created by the Indenture and any and all supplemental indentures thereto, and shall certify to the proper expenditure of the proceeds of the Bonds to be issued under the Indenture. Having met the foregoing criteria, the District believes the Trustee is a trustee acceptable to this Court under the laws of the State of Florida.

**EIGHTH.** Proceeds of the Bonds will be expended to pay for the cost of the planning, acquisition, construction, reconstruction, equipping and installation of such systems, facilities and improvements comprising the Project. Proceeds of Bonds will be deposited with the Trustee in accordance with the Bond Resolution and the Indenture, and, after payment of expenses of issuing the Bonds and after making certain deposits required by the terms of the Indenture, the remaining proceeds will be disbursed by the Trustee to pay cost of the planning, acquisition, construction, reconstruction, equipping and installation of such systems, facilities and improvements comprising the Project. The principal of, and interest on, the Bonds shall be payable from, and secured by, the Special Assessments to be levied and collected by the District with respect to the Project, and certain other pledged amounts, all as provided in the Indenture.

**NINTH.** The cost of the planning, acquisition, construction, reconstruction, equipping and installation of such systems, facilities and improvements comprising the Project will constitute "assessable improvements" within the meaning of the Act and the Assessment Statutes and the District is authorized to issue the Bonds and to apply the net proceeds received from the sale of the Bonds in the manner and for the purposes described above and in the Indenture. It is necessary and proper for the health, safety and economic welfare of the District and of its landowners and inhabitants that the improvements comprising the Project be planned, financed, acquired, constructed, reconstructed, equipped and installed by the District. The District is empowered and authorized by Section 190.012 of the Act to plan, finance, acquire, construct, reconstruct, equip and install, in one or more stages, and, thereafter to operate and maintain, the facilities comprising the Project to be owned by the District, or any portions of the systems, facilities and improvements

comprising the Project, and is further empowered and authorized to impose, levy and collect Special Assessments to finance the Project and to incur indebtedness and to issue bonds for the purpose of financing the cost of all or a portion of the planning acquisition, construction, reconstruction, equipping and installation of such systems, facilities and improvements comprising the Project.

TENTH. The District, through the District Board, has lawful power and authority to declare assess, levy, and collect the Special Assessments to defray the cost of the planning, acquisition, construction, reconstruction, equipping and installation of such systems, facilities and improvements comprising the Project pursuant to and in accordance with the procedure set forth in the Act and in the Assessment Statutes.

ELEVENTH. Authority is conferred upon the District by the Constitution and laws of the State of Florida, specifically pursuant to Sections 190.011(9), 190.011(14), 190.012, 190.016(2), 190.016(8), 190.016(13), 190.021(2), 190.022 and 190.023 of the Act, and Chapters 170 and 197 of the Florida Statutes, to issue, without the approval of the qualified electors of the District, the Bonds for the purposes and in the amounts set forth herein, and to secure and make each series of such Bonds, including the principal thereof, redemption premium, if any, and interest thereon, payable from the Special Assessments levied on the lands within the District subject to assessment and benefited by the systems, facilities and improvements comprising the Project in respect of which the Bonds are being issued, pursuant to Sections 190.011(14), 190.021(2), 190.22 and 190.023 of the Act and payable from the other pledged amounts in the manner and priority described in the Indenture.

TWELFTH. Having equalized, approved, and confirmed the Special Assessments in

accordance with the Act and the Assessment Statutes, the Board has the lawful power and authority to levy, collect and pledge the Special Assessments and take the other acts contemplated hereby in connection with the issuance, sale, delivery, and payment of the Bonds, and, the Special Assessments shall, when equalized and confirmed in accordance with the Act and the Assessment Statutes, constitute liens co-equal with the liens of all State, County, district and municipal taxes, superior in dignity to all other State liens, titles and claims.

THIRTEENTH. The Indenture and the Bonds provide that neither the Bonds nor the interest and redemption premium, if any, payable thereon shall constitute a general obligation or general indebtedness of the District, the City, Palm Beach County, or the State of Florida, or any other political subdivision thereof within the meaning of the Constitution and laws of Florida; that the Bonds and the interest and redemption premium, if any, payable thereon do not constitute either a pledge of the full faith and credit of the District or a lien upon any property of the District other than as provided in the Indenture authorizing the issuance of the Bonds; that no Owner (as defined in the Indenture) or any other person shall ever have the right to compel the exercise of any ad valorem taxing power of the District or any other public authority or governmental body to pay debt service or to pay any other amounts required to be paid pursuant to the Indenture, or the Bonds, shall be payable solely from, and shall be secured solely by the pledged revenues which includes the Special Assessments pledged to the Bonds, all as provided in the Bonds, and in the Indenture.

FOURTEENTH. The Bonds will be in the principal denominations; will be dated, will be stated to mature on such date or dates in such year or years as described in the Indenture and as permitted by Florida law; will be subject to the right of prior optional and mandatory redemption on

the dates and in the principal amounts as specified in the Supplemental Indenture relating to each series; will bear interest at the rate or rates not exceeding the maximum rate permitted by Florida law at the time of issuance; will have such other details and may be secured in whole or in part by a credit facility as shall be determined by subsequent resolution or resolutions of the District Board.

FIFTEENTH. Section 190.016(1) of the Act authorizes the District to sell its Bonds at public or private sale and the Bonds, and any series thereof, may be sold by the District at public sale by competitive bids or by negotiated sale or pursuant to a private placement, as shall be set forth in a subsequent resolution of the District Board pertaining to the series of Bonds in question; provided, however, that no Bonds shall be sold at a price of less than ninety percent (90%) of the par value thereof, together with accrued interest thereon.

SIXTEENTH. The Bonds will be executed by the Chairperson, Vice Chairperson or any other member of the District Board designated for such purpose and attested by the Secretary, Assistant Secretary or any member of the District Board designated for such purpose.

SEVENTEENTH. The Bond Resolution provides that prior to the issuance and delivery of any series of Bonds, the District shall have undertaken and, to the extent then required under applicable law, completed all necessary proceedings, including, without limitation, the approval of assessment rolls, the holding of hearings, the adoption of resolutions and the establishment of all necessary collection procedures, in order to be able to levy and collect Special Assessments upon the lands within the District subject to assessment, all as more specifically required and provided for by the Act and the Assessment Statutes, as the same may be amended from time to time, or any successor statutes.



EIGHTEENTH. Pursuant to the Indenture, the District shall covenant to levy and collect Special Assessments in an amount sufficient to pay the debt service on the Bonds and to meet the requirements for debt service reserves as established in the Indenture to the extent other pledged amounts are not sufficient.

NINETEENTH. The revenues to be derived from such Special Assessments in each year are expected, when combined with certain other pledged revenues (together with the Special Assessments, the "Pledged Revenues") on deposit with the Trustee, to pay the principal of, redemption premium, if any, and interest on the Bonds to be issued, as well as to fund all debt service reserves required to be maintained under the Indenture. Said principal, redemption premium, if any, interest, and debt service reserve obligations will be secured by a first lien upon and pledge of the Pledged Revenues, as provided in the Indenture.

TWENTIETH. All proceedings relating to the District's decision to undertake the Project and to levy pursuant to Section 190.022, Florida Statutes, or to annually determine, order and levy pursuant to Section 190.021(2), Florida Statutes, Special Assessments to defray the costs thereof have been, or will be, properly noticed, held and undertaken as required by applicable law. In this regard, Plaintiff asserts that:

A. on May 21, 2019, the District Board adopted Resolution No. 2019-26 confirming its decision to undertake the 2018 Project and to levy Special Assessments to defray the costs thereof. Said resolution, including the report of the District Engineer incorporated therein, sets forth the findings required by Section 170.03, Florida Statutes, and provides, in compliance with Section 170.04, Florida Statutes, that an assessment plat showing the area of lands to be assessed with plans

and specifications, and an estimate of the cost of the proposed improvements is on file in the District and open to inspection by the public;

B. notice of the resolution referred to above was published twice in a newspaper of general circulation within Palm Beach County, in compliance with Section 170.05, Florida Statutes;

C. a preliminary assessment roll showing the lots and lands within the District to be assessed, the amount of the special and peculiar benefit to, and reasonably and fairly apportioned assessment against, each lot and the installments into which the Special Assessments are to be divided was prepared in compliance with Section 170.06, Florida Statutes;

D. a public hearing was held on July 9, 2019, at which time owners of property to be assessed or any other person interested therein were able to appear before the Board and be heard as to the propriety and advisability of making the improvements included within the Project, the cost thereof, the manner of payment therefor, the special benefit to the property and the amount to be reasonably and fairly apportioned to, and assessed against, each property so improved. Resolution No. 2019-27 of the District established the date of such public hearing and required that notice thereof be given in accordance with requirements of Chapters 170 and 190, Florida Statutes, and such public hearing was held, and all required notices were given, in compliance with Section 170.07, Florida Statutes, and other applicable provisions of law; and

E. following such public hearing the Board adopted Resolution No. 2019-28 of the District making its final determination to levy the Special Assessments to provide financing for the Project. The Board acted as an equalizing board to hear and consider any and all complaints as to the Special Assessments, adjusted, equalized and fairly and reasonably apportioned the Special Assessments on the basis of ascertained special and peculiar benefit to the benefitted property, by

justice and right, provided for the filing of a final assessment roll with the Board reflecting the equalized Special Assessments and declared the Special Assessments to be legal, valid and binding first liens against the lots until paid.

**TWENTY-FIRST.** The District has acted in accordance with the law in all respects and particulars, and when issued and sold, the Bonds will be valid and binding special revenue obligations of the District, secured by a pledge of and payable solely from the Special Assessments and other Pledged Revenues as more particularly described in the Indenture.

**TWENTY-SECOND.** The Special Assessments, when imposed in accordance with the Assessment Statutes will constitute liens against the property so assessed co-equal with the liens of State, County, municipal and school board taxes.

**NOW THEREFORE IT IS ORDERED AND ADJUDGED that:**

(a) the District has been validly established and lawfully exists as a community development district under the Act and is an independent special district within the meaning of Chapter 189, Florida Statutes;

(b) the District has the power to issue the Bonds and to incur the bonded debt as set forth in the Complaint and has properly approved the issuance of the Bonds;

(c) the proceedings essential to the Bonds when issued pursuant thereto, the Special Assessments pledged for the payment of the principal thereof, redemption premium, if any, and interest thereon, and the Bond Resolution are valid and in conformity with law;

(d) the lien of the Special Assessments is co-equal with the liens of State, County, municipal and school board taxes;

(e) upon due issuance of the Bonds in conformance with the Bond Resolution and the Indenture, the Bonds will constitute valid and binding obligations of the District and will be enforceable by their terms as established by the Bond Resolution and the Indenture;

(f) the District has power to plan, finance, acquire, construct, reconstruct, equip and install, in one or more stages, the Project; and

(g) the use of Bond proceeds to finance the Project shall serve a valid public purpose.

DONE, ORDERED AND ADJUDGED at the Palm Beach County Courthouse in the City of West Palm Beach, Palm Beach County, Florida this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**SIGNED & DATED**

**SEP 26 2019**

JAIMIE GOODMAN  
Circuit Court Judge

CIRCUIT JUDGE  
JAIMIE GOODMAN

c: William G. Capko, Esq. and Amy Taylor Petrick, Esq., Lewis Longman & Walker, P.A., 515 North Flagler Drive, Suite 1500, West Palm Beach, FL 33401  
Leigh Miller, Esq., Legal Affairs and Appeals Unit, 401 North Dixie Highway, West Palm Beach, FL 33401