

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT,  
IN AND FOR BREVARD COUNTY, FLORIDA

THE CITY OF PALM BAY,  
FLORIDA, a municipal corporation,

CASE NO. 05-2017-CA-041041

Plaintiff,

vs.

THE STATE OF FLORIDA, ET AL.,

VALIDATION OF NOT  
EXCEEDING \$30,000,000 IN  
AGGREGATE PRINCIPAL  
AMOUNT OF CITY OF PALM  
BAY, FLORIDA STORMWATER  
REVENUE BONDS, SERIES 2017

Defendants.

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M. DAVID MOALLEM; ET AL.,

CASE NO. 05-2017-CA-037868

Plaintiffs,

v.

CITY OF PALM BAY, a Florida  
municipal corporation, and LISA  
CULLEN, as Tax Collector for Brevard  
County, Florida,

Defendants.

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**FINAL JUDGMENT ON BOND VALIDATION**

The above cause originally came for final hearing on the date and at the time and place set forth in the Order to Show Cause heretofore issued by this Court on September 25, 2017, and in the notice addressed to the State of Florida and the several property owners, taxpayers and citizens of the City of Palm Bay, Florida,

including non-residents owning property or subject to taxation therein, and all others having or claiming any right, title or interest in property to be affected by the issuance of not exceeding \$30,000,000 in aggregate principal amount of City of Palm Bay, Florida Stormwater Revenue Bonds, Series 2017 (the “Bonds”) (this proceeding shall be referred to as the “Validation Action”). The State Attorney was duly served with the Amended Complaint and Order to Show Cause as required by section 75.05, Florida Statutes, and served his Acknowledgement of Service on October 5th, 2017. The hearing was held pursuant to the Order to Show Cause on November 20, 2017.

In addition to the Amended Complaint for Validation filed by the City, various landowners (the “Landowners”) have separately filed an action styled M. David Moallem, et al. v. City of Palm Bay and Lisa Cullen, Case No. 05-2017-CA-037868, contesting the validity of the assessments at issue in this cause.<sup>1</sup> That action seeks declaratory and supplemental relief under Chapter 86, Florida Statutes, and requests the issuance of a temporary and permanent injunction as to the collection of the

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<sup>1</sup> The Landowners named as Plaintiffs in the Declaratory Action are M. David Moallem; M. David Moallem and Joan P. Moallem; M. David Moallem a/k/a David Moallem and Joan P. Moallem; Cogan-Wingham Partnership; Saraland, LLC; Sarasea, LLC; Emiland Corporation; MPX Land Company; Interchange Plaza Partnership; Chang Babcock Partnership; Palm Bay Greens, LLC; Sutton Properties of Palm Bay, LC; Sutton Properties of Palm Bay, II, LLC; Sutton Properties Tower, LLC; W.C.P. of Palm Bay, LLC; HF Partnership, LLP; Foundation Park Industrial of Palm Bay, LLC; Charles E. Glentz and Penelope A. Glentz.

special assessments at issue (this proceeding shall be referred to as the "Declaratory Action"). The Landowners, in the Declaratory Action, filed a Motion for Temporary and Injunction Against Defendant Lisa Cullen as Tax Collector of Brevard County, Florida seeking the issuance of an injunction prohibiting the levy of the special assessments and enjoining the issuance of the bonds. That Motion was scheduled for hearing at the same date and time as set forth in the Order to Show Cause in the Validation Action. As the two actions contain many of the same issues, the Validation Action, and the Declaratory Action were consolidated by a separate Order of this Court.

The Court, having heard and reviewed the file and considered the pleadings, the authorities cited by the parties, the testimony of the witnesses and considered the evidence submitted, along with the argument of counsel, makes the following determinations.

#### Scope of Validation Proceedings

The scope of judicial inquiry in bond validation proceedings is limited to three issues: "(1) whether the public body has the authority to issue bonds; (2) whether the purpose of the obligation is legal; and (3) whether the bond issuance complies with the requirements of the law." City of Winter Springs v. State, 776 So. 2d 255, 257 (Fla. 2001).

## Findings and Conclusions of Law

FIRST. The Court has subject matter jurisdiction and jurisdiction over the parties. Venue is proper within Brevard County, Florida.

SECOND. The City of Palm Bay, Florida (the "City") was created pursuant to the Constitution and laws of the State of Florida, and the enactment of Chapter 59-1617, as amended by Chapter 59-1618, by the Florida Legislature. Pursuant to its Charter (City Exhibit 1), the City has the following powers:

### **SECTION 1.01 – Creation, Powers, and Definitions:**

The existing municipal corporation known as the city of Palm Bay, Brevard County, Florida, is hereby continued and re-established. It shall have and may exercise all governmental, corporate and proprietary powers under the Constitution, general and special acts of the state of Florida as fully and completely as if specifically enumerated in this charter to enable it to conduct municipal government, perform municipal functions and render municipal services.

THIRD. In the context of the management of stormwater, the Legislature has empowered local governments, including municipalities, to develop stormwater management programs through section 403.0893, Florida Statutes, and the broad home rule powers granted to municipalities. The City has exercised these powers through the incorporation of provisions within its Comprehensive Plan to require management of stormwater (City Exhibit 2) and the adoption of Title XVII, Chapter

174, Floodplain and Stormwater Management, of its Code of Ordinances (City Exhibits 4 and 5) , and has implemented its provisions to address the management of stormwater within its boundaries.

FOURTH. As to the initial inquiry within the scope of judicial review in a bond validation proceeding, under the provisions of Section 166.11, Florida Statutes, municipalities are authorized to incur debt and issue bonds for projects authorized by the Constitution. The City, pursuant to its Charter, has implemented these powers and is authorized to incur indebtedness and issue bonds. Section 7.01 and 7.02 of Article VII of the Charter provides:

**Section 7.01 Authority to Borrow.**

The council may borrow money, contract loans, and issue notes and bonds as may be authorized by state law.

**Section 7.02 Bond Issues**

(a) The council may authorize the issuance of bonds and notes by resolution or ordinance, or if required by the Constitution of the state of Florida by affirmative vote of the electors of Palm Bay, to finance approved city projects.

(b) The council shall approve the terms and manner of sale and distribution or other disposition of any and all notes and bonds it may issue and it shall have any and all powers necessary or convenient to such disposition.

(City Exhibit 1)

Based upon Florida law, and the Charter of the City, it is authorized under the law to issue the Bonds that are the subject of the Validation Action.

FIFTH. As to the second inquiry within a bond validation proceeding, whether the purpose of the Bonds is lawful and serves a public purpose, substantial evidence was presented. The testimony at the hearing reflects that the stormwater management system of the City consists predominantly of swales and culverts that were primarily installed by General Development Corporation during the early development of the City. Those drainage systems were designed when regulations concerning the managing stormwater were limited and water quality issues related to stormwater were generally not addressed. Additionally, there is a system of canals throughout the City which are managed by the Melbourne–Tillman Water Control District and are interconnected with the City’s stormwater management system.

Currently, the stormwater management system within the City is antiquated and in substantial need of repair, replacement and improvement. The system consists of aging infrastructure, primarily of galvanized corrugated pipe, which have failed, and culverts in need of replacement and general disrepair. The failure of the pipes and culverts has greatly diminished the effectiveness of the City’s stormwater management system and adversely impacted properties.

To address these systemwide needs, the City has developed a project list of stormwater improvements (the “Projects”). The Projects will include canal restoration and improvement, replacement and improvement of stormwater piping and culverts, the acquisition of capital equipment and capital improvements to the

stormwater management system infrastructure. The Projects, which will be funded with the Bond proceeds, are located throughout the City. The Projects will beneficially impact properties within the City and will address numerous deficient capital facilities which have deteriorated over the years. Apart from the assessment revenues component which will go towards the capital improvements, the stormwater assessments will also be utilized to provide greater maintenance of the various culverts and swale system which convey stormwater from the properties. The Court finds that the Projects will serve a public purpose and that the purpose of the Bond obligation is lawful.

SIXTH. The final issue for resolution in a bond validation is whether the proposed Bond issue complies with the essential requirements of the law. This includes an analysis as to whether the underlying revenue source is lawful under the laws of the State of Florida. See State v. City of Port Orange, 650 So. 2d 1, 5 (Fla. 1994); Donovan v. Okaloosa County, 82 So. 3d 801 (Fla. 2012). The City proposes to fund the Project through the issuance of the not exceeding \$30,000,000 aggregate principal amount of City of Palm Bay, Florida Stormwater Revenue Bonds, Series 2017. The Bonds would be for a term not to exceed 30 years at an interest rate currently projected to be approximately 4%, or such rate as in effect at the time of closing on the Bonds. Under no event shall the interest rate exceed the maximum rate allowed by law. In furtherance of the requirements of the Charter, the City

adopted Resolution 2017-37 (City Exhibit 11), which constitutes the Bond Resolution and which authorizes the issuance of the Bonds in the Validation Action (the “Bond Resolution”).

SEVENTH. The City is duly authorized by the Act and the Bond Resolution to: (a) issue bonds for the acquisition and construction of the Project; (b) to apply a portion of the proceeds of the Bonds to construct and acquire the Project, all in the manner and to the extent set forth in the Bond Resolution as it may be subsequently supplemented; (c) pay costs associated with issuing the Bonds; and (d) establish a debt service Reserve Account, if required.

EIGHTH. To repay the Bonds, the City has imposed assessments against benefited properties (the “Stormwater Assessments”) and pledged those assessments toward the repayment of such Bonds as part of the Gross Revenues of the System as described within the Bond Resolution. The primary contested issue raised in both the Validation Action and the Declaratory Action is the validity of Stormwater Assessments levied by the City and pledged to repay the Bonds.

Previously, the Charter of the City contained a limitation that prior to the levy of any special assessment, the voters of the City were required to approve that levy in a referendum. In 2016, the electors of the City voted to amend Section 6.02 of the Charter of the City to allow the imposition of assessments for a wide variety of



purposes, including stormwater purposes, without voter approval. That amended language of the Charter provides as follows:

**Section 6.02 SPECIAL ASSESSMENTS.**

City Council shall have the power to impose special assessments for the construction, reconstruction, repair and related maintenance of all roads, streets, boulevards, sidewalks, related lighting, landscaping, street furniture, signage, greenbelts, gutters, pedestrian canopies, swales, culverts, sanitary sewers, storm sewers, outfalls, canals, primary, secondary and tertiary drains, a comprehensive stormwater management system, water mains, water laterals, alternative water supply systems, reclaimed water, aquifer storage and recovery, desalination systems and water distribution systems, including all of the necessary appurtenances and structures thereto. Before the governing body for the city may levy any special assessment, other than those set forth above, involving more than fifty (50) property owners or involving a project expenditure of greater than twenty-five thousand dollars (\$25,000.00), the proposed assessment must first be approved, in writing, by a majority vote of the affected property owners who return a ballot. (Emphasis added)

NINTH. The Projects consists of improvements which are authorized to be funded by assessments under section 6.02 of the Charter without the approval of the affected property owners.

TENTH. On May 4, 2017, the City adopted Ordinance No. 2017-35 (City Exhibit 8), which adopted procedures and standards for the imposition of assessments within the City (the "Assessment Ordinance"). Pursuant to the procedures set forth in the Assessment Ordinance, on May 18, 2017, the City

adopted Resolution No. 2017-19, as the Initial Assessment Resolution under the Assessment Ordinance to establish a Stormwater Management Service Area for the imposition of Stormwater Service Assessments and Stormwater Service Fees (City Exhibit 9) (the “Initial Assessment Resolution”). Among other provisions, the Initial Assessment Resolution established the proposed assessment area (City Exhibit 13), the proposed services and improvements to be provided, the preliminary cost to be assessed, the method of apportionment, and authorized the setting of a public hearing to consider the final assessment resolution and the notice to be provided. The Initial Assessment Resolution also adopted the Stormwater Utility Mitigation Credit Policy of the City, whereby developed properties with properly designed and functional on-site stormwater mitigation facilities that reduce the burden on the City’s Stormwater Utility may receive a mitigation credit to reduce their Assessment. (City Exhibit 25)

ELEVENTH. Pursuant to the Assessment Ordinance and the Initial Assessment Resolution, the City published and provided individual mailed notice to each property owner subject to the assessment as required by section 197.3632, Florida Statutes. The Initial Assessment Resolution also made various legislative findings as to the presence of a special benefit to the properties from the proposed Projects and that the apportionment of methodology for the Stormwater Assessments was fair and reasonable.

TWELFTH. On July 6, 2017, the City adopted Resolution 2017-28 (City Exhibit 10), which constituted the Final Assessment Resolution as contemplated by the Assessment Ordinance. The Final Assessment Resolution amended provisions of the Initial Assessment Resolution and adopted its provisions, as amended, as the final assessment resolution (the "Final Assessment Resolution"). The Final Assessment Resolution also approved the Stormwater Assessment methodology. The Final Assessment Resolution imposed the Stormwater Assessment and a service fee on government property for Fiscal Year 2017-2018.

THIRTEENTH. The proposed Stormwater Assessment methodology apportions the cost of the Project against the benefited properties within the Stormwater Service Area as set forth in a report entitled "City of Palm Bay, Florida Stormwater Services Assessment Project," dated June 2017 and prepared by Government Services Group, Inc. (City Exhibit 24). The Stormwater Assessment methodology allocates and apportions the cost of stormwater services to each parcel of property within the Service Area on the basis of the effective impervious area of that property. The effective impervious area of each benefited property is determined by an analysis of both the pervious and impervious areas of the property. The impervious area is allocated on a basis of 100% of the impervious area of the property, while the pervious area is allocated on the basis of 15% of the pervious area of the property. These factors are then used to determine the effective

impervious area of a typical single-family residence in the City. The effective impervious area determination for that typical single-family is then used to calculate the size of the Equivalent Residential Unit (“ERU”). The methodology determined that the typical single-family residence in the City is a medium size residence consisting of 4,693 square feet of effective impervious area, and therefore those properties were assigned an ERU of 1. The ERU is then applied in allocating the cost of the Projects to other benefitted properties. The methodology, to provide greater equity, also seeks to address the impact of other single-family residential units that fall outside the range of a typical medium size residential property. Therefore, a separate ERU is calculated for small, large and very large residential units based upon their ratio of effective impervious area to the standard 1 ERU.

FOURTEENTH. Under Florida law, a valid special assessment must satisfy two criteria. See Donovan v. Okaloosa County, 82 So. 3d 801 (Fla. 2012); Citizens Advocating Responsible Env'tl. Solutions, Inc. v. City of Marco Island, 959 So. 2d 203 (Fla. 2007). First, the assessed property must derive a special benefit from the improvement or service provided by the assessment. See City of North Lauderdale v. SMM Props., Inc., 825 So. 2d 343 (Fla. 2002); City of Naples v. Moon, 269 So. 2d 355 (Fla. 1972); Atlantic Coast Line RR. Co. v. City of Gainesville, 91 So. 118, 121 (Fla. 1922) (special assessments are "charges assessed against the property of some particular locality because that property derives some special benefit from the

expenditure of the money collected by the assessment"). Second, the special assessment must meet the "fair apportionment" test; that is, the costs of providing the improvements must be fairly and reasonably apportioned among the benefited properties. See City of Boca Raton, 595 So. 2d at 29-30.

FIFTEENTH. As to the special benefit prong of the test, the services and improvements funded by the Stormwater Assessment will specially benefit the parcels subject to the Stormwater Assessment. The stormwater management system the City provides significant benefits to the properties subject to the Stormwater Assessment. The system provides benefits to property in the management of stormwater generated from the benefited property and in the provision of additional capacity to manage stormwater from other properties. This enhances the ability of the system to have increased capacity for the provision of stormwater needs of all property. It also benefits property by removing and transporting stormwater from roads thereby allowing adequate and safe access to benefited properties. The properties are also benefited by significant pollution control provisions that result from the City's stormwater management system and the environmentally responsible use and enjoyment of natural resources within the stormwater service area. The obtaining of various state and federal permits by the City and the implementation of their requirements benefits the property through mitigation of pollution and water

degradation within the City caused by stormwater. Additionally, the City's compliance with those state and federal permits allows property owners to avoid more onerous and expensive treatment requirements for the runoff generated by their property. The benefits of the Projects and the greater maintenance to those properties subject to the Assessment exceeds the amount of the Assessment itself. The Court finds that the Stormwater Assessment is valid and enforceable under the laws of the State of Florida.

SIXTEENTH. The Landowners initially contest that the Stormwater Assessment should be applied only to impervious surface. However, the evidence presented demonstrates that stormwater runoff from both pervious and impervious property impact the stormwater management system of the City. State v. Sarasota County, 693 So. 2d 546 (Fla. 1997).

The Landowners also suggest that the Stormwater Assessment negatively impacts them because, as to commercial properties, it reduces their net operating income. However, the Court rejects this argument as it fails to consider the substantial benefits that are derived by the stormwater improvements and services. The Court determines that the benefits derived from the improvements and services funded by the Stormwater Assessment greatly exceeds the cost of the Assessment itself.

Landowner Mr. Moallem, who owns numerous properties within the Service Area, including within an area known as the “Compound”, also testified. His property is primarily unimproved and he objected that the assessment should not be imposed until all the improvements have been made. First, all of the properties of Mr. Moallem receive the benefit from the City’s stormwater management system as the City system serves his property throughout the City, including the Compound area. Further the Court rejects the view that the improvements should be constructed prior to the levy of the assessment. Initially, there is no legal requirement that the improvements must be constructed prior to the levy of an assessment and such a requirement would effectively prohibit the making of many improvements unless there were sufficient existing revenues available. More importantly, the manner in which the assessment programs is imposed and the determinations as to the projects to be constructed are ultimately within the province of the governing body and not the courts.

SEVENTEENTH. As to the second prong of the test for a valid special assessment, the Court finds that the methodology used is fair and reasonable. The apportionment of benefits through a consideration of both pervious and impervious areas in arriving at the effective impervious surface is a fair, reasonable and appropriate methodology to allocate the cost of stormwater management services and improvements to the benefited properties and supported by science and

engineering. Further, the ERU methodology is recognized and utilized throughout the State of Florida for stormwater purposes and is a reasonable approach to the allocation of the cost for stormwater. The Court also finds that the apportionment methodology treats all property owners equally and is nondiscriminatory.

EIGHTEENTH. The City has also adopted, as part of the Stormwater Assessment, a mitigation policy that allows property owners to address individual concerns as to their property. The adoption of the mitigation policy further supports the validity of the apportionment methodology. Several of the Landowners utilized the provisions of the mitigation policy and sought adjustments to the amount of their Stormwater Assessments and several of the properties of the Landowners were able to receive adjustments, including some properties not being assessed at all. The Mitigation Policy is a fair and reasonable process to allow the Landowners to seek adjustments to the Stormwater Assessment based upon the individual circumstances of their property.

NINETEENTH. In reviewing the apportionment methodologies for special assessments, courts generally find that it is not appropriate for a court to substitute its own judgment as to which methodology is the best, as that is the exclusive function of the governmental entity imposing the assessment. The Court's analysis as to this issue is directed solely to whether that methodology selected by the governmental entity is fair, reasonable and not arbitrary. The Court finds that the



apportionment methodology utilized in this case is, in fact, fair, reasonable and not arbitrary.

TWENTIETH. As to the apportionment methodology, the Landowners contest both the 15% runoff coefficient applied for pervious surfaces and the 100% runoff coefficient applied for impervious surfaces. Both arguments are without merit. The testimony presented was that the 15% runoff coefficient was reasonable and supported by a variety of resources including the FDOT Drainage Design Guide (Table B-4) (City Exhibit 23). Additionally, testimony was provided as to a specific analysis of the soil and slope of land with the boundaries of the City utilizing data from the United States Department of Agriculture, Natural Resources Conservation Services. That analysis validated the application of a runoff coefficient of 15 % for pervious surfaces.

As to the 100% runoff coefficient applied for impervious property, the Landowners argue that information from an FDOT table reflected in a Technical Memorandum of the City's expert (City Exhibit 19 and the Amended Technical Memorandum City Exhibit 21) reflected a maximum runoff coefficient for impervious surface of 95%. However, the evidence reflected that the table applied only to a 10-year storm event while the City, in providing its stormwater management system, was required to address the potential of significantly larger storm events which would result in greater runoff. Further, the 100% coefficient

was applied equally to the impervious surface of all property owners subject to the Stormwater Assessment and did so in a non-discriminatory manner. Therefore, the Court finds that the use of the 15% and 100% runoff coefficients was reasonable and appropriate and supported by science and engineering.

Landowner, Palm Bay Greens, LLC asserted that their property received runoff from other properties and that they should be entitled to a credit. First, the evidence submitted was that the determination of the Stormwater Assessment was based upon the amount of discharge from the property into the City stormwater management system and not the extent that other properties may receive stormwater from other properties. Further, Palm Bay Greens, LLC was one of the Landowners that sought mitigation credits under the City's system and were granted a credit equal to 44% of the Stormwater Assessment. The argument of Palm Bay Greens, LLC is without merit.

TWENTY-FIRST. Further the City, in its adoption of Resolution 2017-19 (City Exhibit 9) made various legislative findings of benefit and fair apportionment. In determining whether these two criteria have been met, courts properly defer to the enacting body's legislative findings unless those findings are clearly arbitrary. City of Boca Raton v. State, 595 So. 2d 25 (Fla. 1992). Based upon the evidence submitted, those findings are reasonable and appropriate and are not arbitrary.

TWENTY-SECOND. The Landowners also raised an issue concerning the use of the non-ad valorem collection process contained in section 197.3632, Florida Statutes. They suggest that the City is obligated to set forth in the Resolution the number of years that it intends to use the non-ad valorem collection process. The City adopted a Resolution 2017-03 reflecting its intent to use the non-ad valorem collection process on February 2, 2017 (City Exhibit 7). The Resolution was in conformity with the law and there is no provision of section 197.3632, Florida Statutes that requires the Resolution to contain the total number of years that the Stormwater Assessment will ultimately be imposed.<sup>2</sup>

TWENTY-THIRD. Pursuant to the terms of the Bond Resolution and the Act, the Bonds, and the interest thereon, shall be limited obligations of the City, the payment of which shall be made from the pledged funds, as defined in the Bond Resolution (the “Pledged Funds”). The Pledged Funds consist of net revenues of the City’s stormwater management system, including the Assessment proceeds.

TWENTY-FOURTH. The principal of the Bonds, including redemption premium, if any, and interest on the Bonds, and all other payments provided for in the Bond Resolution will be paid solely from the Pledged Funds. The Bonds shall

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<sup>2</sup> The Landowners also raised the issue as to whether an agreement with the Property Appraiser and Tax Collector to allow the adoption of the Notice of Intent Resolution by March 1, had to be entered into prior to January 1. The Landowners abandoned this argument at the hearing.

neither constitute general indebtedness of the City nor a pledge of its full faith and credit and taxing power within the meaning of any constitutional or statutory provision or limitation. No bondholder shall ever have the right to require or compel the exercise of the ad valorem taxing power of the City to pay such Bonds or the interest thereon or to make any other payment provided in the Bond Resolution; and the Bonds shall not constitute a lien upon the Project or on any other property of the City.

TWENTY-FIFTH. The City is authorized under the authority of Chapter 75, Florida Statutes, to file this Complaint in this Court in order that the power of the City to issue the Bonds for the purposes stated herein may be determined and in order that said Bonds be validated and confirmed.

TWENTY-SIXTH. All the requirements of law incident to the authorization of the acquisition and construction of the Project, the imposition of the Stormwater Assessment, the use of the Pledged Funds, including the Stormwater Assessment, and the issuance of the Bonds have been duly and legally met and complied with.

TWENTY-SEVENTH. Due and proper notice addressed to the State of Florida, and the several property owners, taxpayers and citizens of the City of Palm Bay, Florida, including nonresidents owning property or subject to taxation therein, and all others having or claiming any right, title or interest in the property to be

affected by the Bonds hereinbefore described, was duly published in a newspaper of general circulation in the City of Palm Bay, Florida, once each week for at least two consecutive weeks, with the first publication being at least twenty (20) days prior to the date of said hearing, as required by law.

TWENTY-EIGHTH. Neither the State Attorney, for and on behalf of the State of Florida, the Landowners, or any other party have shown cause as to why the prayer of the City should not be granted and have disclosed no irregularity or illegality in the proceedings set forth in said Complaint.

NOW, THEREFORE, IT IS ORDERED AND ADJUDGED that the issuance of the not exceeding \$30,000,000 in aggregate principal amount of the City of Palm Bay, Florida Stormwater Revenue Bonds, Series 2017, which shall contain such terms and details as described herein and in the Bond Resolution, is for proper, legal and valid purposes and is fully authorized by law, and that such Bonds, and each of them to be issued as aforesaid, and all proceedings incident thereto are hereby validated and confirmed.

The Projects serve a public purpose and provide both a general and special benefit to property within the boundaries of the City. The Stormwater Assessment will fund the Projects and services that specially benefit all properties subject to the Stormwater Assessment. Further, that the Stormwater Assessment is fairly apportioned and does not discriminate among benefited properties. The Stormwater

Assessment is valid and enforceable under Florida law and all proceedings relating to their adoption, imposition and collection are validated and confirmed.

The provisions made in the proceedings authorizing the Project, and the financing thereof by the issuance of the Bonds, the validity of the Pledged Funds, including the Stormwater Assessment, the payment of such Bonds from the Pledged Funds to the extent and in the manner provided in the Bond Resolution, and the pledge of and lien on the Pledged Funds granted to the Bondholders in accordance with the terms of the Bond Resolution are hereby validated and confirmed. All parties shall bear their own attorney's fees and costs incurred in connection with this proceeding.

There shall be stamped or written on the back of each of said Bonds a statement in substantially the following form:

The Bond is one of a series of Bonds which were validated by judgment of the Circuit Court in and for Brevard County, Florida rendered on November \_\_\_\_, 2017.

CITY OF PALM BAY, FLORIDA,

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Mayor,  
City Council of the City of Palm Bay,  
Florida

Limited Stay

To allow any Landowner an opportunity to pursue appellate relief, this court's order is stayed to the limited extent that no tax deed shall issue for any property of the Landowners, as a result of the non-payment of the Stormwater Assessment, unless and until the Florida Supreme Court issues a decision in this matter or no party files an appeal. However, upon this decision being upheld by the Florida Supreme Court or if no party files an appeal of this decision, then this limited stay shall be lifted, the Final Judgment on Bond Validation shall be deemed final to the full extent provided by Section 75.09, Florida Statutes, and any properties that have failed to pay the Stormwater Assessment shall be subject to the tax certificate/tax deed process in the same manner as the failure to pay ad valorem taxes. The Landowners shall file within ten (10) days of the entry of this Final Judgment, a listing of all properties, by tax account number, which are owned by them and which they assert are the subject of this ruling. The limited stay shall only apply to those properties identified by tax account number included within this filing.

ORDERED, ADJUDGED and DECREED in Viera, Brevard County, Florida, this 18<sup>th</sup> day of December 2017.

  
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Charles Roberts  
Circuit Judge

cc: Counsel of Record