

**IN THE CIRCUIT COURT, SEVENTH JUDICIAL CIRCUIT,
IN AND FOR FLAGLER COUNTY, FLORIDA**

PALM COAST HOLDINGS, INC. and
FLORIDA LANDMARK COMMUNITIES,
LLC,

Case No.: 2025-CA-670
Division: 49

Plaintiff,

vs.

CITY OF PALM COAST, a Florida Municipal
Corporation

Defendants.

DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES

COMES NOW, Defendant, City of Palm Coast, by and through the undersigned counsel and respectfully files this Answer to Plaintiffs' Amended Complaint (the "Complaint") in the above-styled case. In support thereof, Defendant states as follows:

1. Admitted solely to the extent a Development of Regional Impact application related to the Town Center development was submitted to the City in or around 2003, otherwise denied.
2. Admitted solely to the extent that public infrastructure obligations were memorialized in 2003, otherwise denied.
3. Denied.
4. Without knowledge and therefore denied.
5. Denied as phrased.
6. Denied.
7. Denied.
8. Denied.
9. Admitted solely for jurisdictional purposes.

10. Admitted solely for jurisdictional purposes.
11. Admitted solely for venue purposes.
12. Admitted.
13. Without knowledge and therefore denied.
14. Admitted.
15. Admitted.
16. Admitted.
17. Admitted.
18. Denied.
19. Admitted.
20. Denied.
21. Admitted.
22. Admitted.
23. Admitted.
24. Admitted.
25. Admitted.
26. Denied.
27. Admitted.
28. Admitted.
29. Admitted.
30. Admitted.
31. Denied.
32. Admitted.

- 33. Denied.
- 34. Admitted.
- 35. Admitted.
- 36. Admitted.
- 37. Admitted.
- 38. Denied.
- 39. Admitted.
- 40. Admitted.
- 41. Denied.
- 42. Admitted.
- 43. Admitted.
- 44. Admitted.
- 45. Denied.
- 46. Denied.
- 47. Admitted.
- 48. Denied.
- 49. Admitted.
- 50. Without knowledge and therefore denied.
- 51. Denied.
- 52. Admitted.
- 53. Denied and demands strict proof thereof.
- 54. Denied.
- 55. Denied.

- 56. Denied.
- 57. Denied.
- 58. Denied and demands strict proof thereof.
- 59. Denied.
- 60. Denied.
- 61. Denied.
- 62. Denied.
- 63. Denied.
- 64. Denied.
- 65. Denied.
- 66. Denied.
- 67. Denied and demands strict proof thereof.
- 68. Denied.
- 69. Denied.
- 70. Denied.
- 71. Denied.
- 72. Denied.
- 73. Denied.
- 74. Denied.
- 75. Denied.
- 76. Denied.
- 77. Denied.
- 78. Denied.

- 79. Denied.
- 80. Denied.
- 81. Denied.
- 82. Denied.
- 83. Admitted.
- 84. Without knowledge as written and therefore denied.
- 85. Denied as phrased.
- 86. Denied as phrased.
- 87. Denied as phrased.
- 88. Denied and demands strict proof thereof.
- 89. Denied.
- 90. Denied and demands strict proof thereof.
- 91. Denied.
- 92. Denied.
- 93. Denied.
- 94. Denied.
- 95. Denied.
- 96. Denied as phrased.
- 97. Denied as phrased.
- 98. Denied and demands strict proof thereof.
- 99. Denied.
- 100. Denied.
- 101. Denied.

102. Denied.

103. Denied.

104. Denied.

105. Denied.

106. Denied.

WHEREFORE, Defendant respectfully request that this Court deny the relief requested in the Complaint and grant further relief as this Court deems just and proper.

AFFIRMATIVE DEFENSES

Defendant, by and through undersigned counsel, assert the following Affirmative Defenses:

FIRST AFFIRMATIVE DEFENSE

County II is barred by the doctrine of sovereign immunity. In Count II, Plaintiffs seek a claim of promissory estoppel and specifically seek damages. The Florida legislature has not extended the limited waiver of sovereign immunity to include claims for economic damages framed in a claim for promissory estoppel. Thus, Defendant is entitled to the protections and limitations of sovereign immunity as provided by Florida Statute.

To the extent that this Court finds that such a claim for damages is authorized under the waiver of sovereign immunity, Plaintiffs' claim still fails as Plaintiff failed to provide the required statutory pre-suit notice on sovereign immunity pursuant to Section 768.28, Florida Statutes.

SECOND AFFIRMATIVE DEFENSE

Defendant's ordinance code provides for an administrative process to determine a party's vested rights. Plaintiffs have filed this action prior to fully availing themselves of said

administrative processes. Thus, Plaintiff's claims are barred because Plaintiffs failed to exhaust its available administrative remedies.

THIRD AFFIRMATIVE DEFENSE

Count I is a claim for breach of contract stemming from allegations that the "Amended DO" is a contract. Under Florida law, development orders, including development orders approving developments of regional impact, are orders granting, denying, or granting with conditions an application for a development permit. Under Florida law, "Development permit" includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or **any other official action of local government having the effect of permitting the development of land.**

As such, Plaintiffs' claim for breach of contract is legally impermissible because the document on which it is based is not a contract under Florida law.

FOURTH AFFIRMATIVE DEFENSE

As part of the Complaint, Plaintiffs seek an injunction preventing Defendant from further annexation of unincorporated Flagler County into Defendant's municipal jurisdiction. While unclear from the pleading, it appears that Plaintiffs, as part of this injunction, seek to prevent Defendant from providing central sewer and water to areas which may not currently have such services.

Annexation is a multi-step process which involves notice to the public, public hearings, notice to the state legislatures and a referendum. *See Section 171.0413, Florida Statutes.*

Annexation is a legislative act and because of separation of powers a court cannot enjoin a municipality from engaging in further annexation absent a claim for illegality or fraud, which Plaintiffs have failed to plea. As such, Plaintiffs' claims for injunctive relief are barred.

Further, providing water and sewer capacity and directing where capital improvements are made to government owned utilities are legislative and executive functions and it would be a violation of the separation of powers for this Court to interfere with said functions.

FIFTH AFFIRMATIVE DEFENSE

Plaintiffs' claims concern the "Remaining Entitlements." The Remaining Entitlements are outside Phase 1 of the development of regional impact. As such, there is no possible claim that the Remaining Entitlements are guaranteed availability of capacity for water or sewer.

SIXTH AFFIRMATIVE DEFENSE

Count III is a count solely for injunctive relief. Injunctive relief is a remedy not a cause of action. As such Plaintiffs have failed to state a cause of action as to Count III.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the failure to mitigate damages doctrine. The Plaintiffs have not taken reasonable steps to avoid or minimize the alleged damages arising from the purported cancellation of its contracts and the City's alleged repudiation of obligations under the Development Order.

CERTIFICATE OF SERVICE

I certify that, in compliance with Fla. R. Gen. Prac. & Jud. Admin. 2.516, the foregoing document has been filed with the Florida Courts E-Filing Portal System on this 23rd day of March 2026. Accordingly, a copy of the foregoing is being served on this day to the attorneys or interested parties identified in the e-Portal Electronic Service List, including those listed below, via transmission of Notices of Electronic Filing generated by the e-Portal System.

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