

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

ALAN LOWE,  
Plaintiff,

CIRCUIT CIVIL DIVISION  
Case No.:

vs.

CITY OF PALM COAST, a Florida  
municipal corporation; and KAITI  
LENHART, in her official capacity as  
Supervisor of Elections of Flagler County;  
Defendants.

\_\_\_\_\_ /

**VERIFIED COMPLAINT FOR EXPEDITED  
DECLARATORY AND INJUNCTIVE RELIEF**

**Permanent and Temporary Injunction Requested**

Plaintiff, ALAN LOWE (“Plaintiff”), through his counsel, files this verified complaint for expedited declaratory and injunctive relief against the Defendants, the CITY OF PALM COAST, a Florida municipal corporation, and KAITI LENHART, in her official capacity as Supervisor of Elections of Flagler County.

**JURISDICTION AND VENUE**

1. This Court has jurisdiction under Article V, Section 5(b), Florida Constitution, and Sections 26.012(2)(a) and 86.011, Florida Statutes.
2. This court has jurisdiction to issue orders for declaratory judgments pursuant to Section 86.011, Florida Statutes.
3. This Court has jurisdiction to issue injunctions pursuant to Section 26.012(3), Florida Statutes, and Rule 1.610, Florida Rule of Civil Procedure.

4. Venue is appropriate in Flagler County, Florida, because this action involves the propriety of an election that will take place within the City of Palm Coast, and because the events giving rise to this action otherwise took place in Flagler County, Florida.

5. All conditions precedent have occurred, been performed, been met, been waived, would be futile, or are otherwise inapplicable.

### **PARTIES**

6. Plaintiff, **ALAN LOWE**, is an individual and a citizen of Flagler County, Florida, and is competent to bring this action. He is a registered voter residing in the City of Palm Coast, with his primary residence located at 47 Collingwood Lane, Palm Coast, FL 32137. The Affidavit of Alan Lowe is attached hereto as **EXHIBIT B** and its contents are incorporated into this Complaint as if set forth herein. The Sample Ballot which Mr. Lowe received is attached to this Exhibit.

7. As a registered voter of the City of Palm Coast, Plaintiff has standing to challenge the relevant ballot language. *See City of Hialeah v. Delgado*, 963 So. 2d 754, 756 (Fla. 3d DCA 2007).

8. Likewise, the Plaintiff has standing to seek to enjoin an election alleged to be procedurally and substantively illegal. *See City of Miami Beach v. Herman*, 346 So. 2d 122, 123 (Fla. 3d DCA 1977); *see also Mullen v. Bal Harbour Vill.*, 241 So. 3d 949, 957 (Fla. 3d DCA 2018).

9. Plaintiff retained the undersigned law firm, and there has been an agreement to pay the undersigned law firm a reasonable fee to prosecute this action.

10. Defendant, **CITY OF PALM COAST** (the “City”), is a municipality (municipal corporation) in the State of Florida in accordance with the Florida Statutes as well as Article

VIII, Section II of the Florida Constitution. The City is joined as a necessary and indispensable party for the purposes of the relief sought by this action because it has placed a Charter Amendment on the ballot that is the subject of this action. The City operates under its own City Charter (the “Charter”).

11. Defendant, **KAITI LENHART** (“Supervisor Lenhart”) is the Supervisor of Elections for Flagler County, Florida, and is sued in her official capacity as the county constitutional officer overseeing the November 5, 2024 General Election upon which the Charter Amendment has been placed as a referendum. Supervisor is joined as a necessary and indispensable party for the purposes of the relief sought by this action as she has placed a Charter Amendment on the ballot that is the subject of this action.

### **BACKGROUND**

12. This is an election case, seeking declaratory and injunctive relief to remove Ordinance 2024-13 (“Charter Amendment”) from the November 5, 2024, City of Palm Coast election ballot and all future election ballots, and to enjoin the Defendants from tabulating, counting, releasing, or certifying the results of the Charter Amendment vote. Pursuant to Section 86.111, Florida Statutes, Plaintiff requests an accelerated hearing on this matter, with this action given priority over other pending actions. For the reasons discussed below, the Charter Amendment is prohibited by Section 101.161, Florida Statutes.

13. The City Charter Amendment, involving the removal of Article VI Section 3(e), was first contemplated on June 25, 2024, introduced as a draft for first reading on July 2, 2024, after its second reading, voted on July 16, 2024 and adopted as Ordinance 2024-13, which authorized a ballot measure on the November 5, 2024 general election ballot, into the extant Charter

Amendment, and further discussed on August 27, 2024, attached hereto as **EXHIBIT A** and incorporated into this Complaint.

14. The requested relief is needed because the City of Palm Coast has submitted the Charter Amendment to be voted upon in the November 5, 2024 citywide ballot.

15. Here is a comparison between Article VI Section 3(e) and the Charter Amendment Summary:

**City of Palm Coast Charter  
Article VI – Budget and  
appropriations**

**(3) Appropriation amendments during  
the fiscal year: [...] limitations to  
Council’s contracting authority.**

(e) Limitations to Council’s Contracting Authority. Unless authorized by the electors of the City at a duly held referendum election, the Council shall not enter into lease purchase contracts or any other unfunded multiyear contracts, the repayment of which: extends in excess of 36 months; or exceeds \$15,000,000.00.

**Title: Charter Amendment to Update  
Provisions Related to City Council’s  
Contracting Authority.**

**Summary:**

Shall Article VI of the Charter be amended by removing provisions related to Contracting Authority that limit the City’s ability to enter into public private partnerships, respond to emergencies, and have the ability to address growth by having future residents contribute to infrastructure costs. Shall the above amendment be adopted?

16. The existing Article VI (3)(e) enfranchises city voters to have voting authority over City contracting which extends lease purchase contracts or other unfunded multiyear contracts in excess of 36 months or exceeds \$15,000,000.00. Notably, the proposed Charter Amendment is devoid of any such language.

17. The title to the Ballot Summary is misleading where it states that the Charter Amendment will “update provisions related to the City Council’s Contracting Authority,” when it will, in fact, completely eliminate Article VI, Section 3(e) without any revisions or replacement language.

18. The Ballot Summary itself is misleading by discussing limitations on the “City’s ability to enter into public private partnerships, address growth by having future residents contribute to infrastructure costs, respond to emergencies and use available financial instruments, including, but not limited to, bonds” when not one of these items are referenced or specifically limited in Article VI, Section 3(e).

19. The Ballot Summary is also misleading by failing to explain the chief purpose of the proposed amendment to the City Charter, which is to take away the right of the citizens of Palm Coast to approve by referendum vote clearly defined fiscal limitations placed on the City and, effectively, to allow the City unlimited discretion.

20. The Charter Amendment Summary makes no reference to the pre-existing limitations on the Council’s Contracting Authority, the cost threshold on which those limitations apply, the time threshold on which those limitations apply, the types of contracts on which those limitations apply, and vaguely refers to public-private partnerships, emergencies, growth, and resident contributions to infrastructure costs.

21. Concisely, the amendment repeals the necessity for voter referendum approving lease purchase contracts or other unfunded multiyear contracts in excess of 36 months or exceeding \$15,000,000.00, without alerting the voter as to their extant authority while somewhat tangentially making references to emergencies, growth, future residents and infrastructure costs.

22. The language of the Charter Amendment fails to comply with the Florida Election Code’s mandate at Section 101.161, Florida Statutes, requiring ballot language to be “clear and unambiguous.”

23. The language of Charter Amendment omits vital information and is unclear and misleading to voters. The ballot language starts with the false proposition that the City Council is

currently unable to enter public private partnerships, respond to emergencies, or respond to growth by having future residents contribute to infrastructure costs (all of which are allowed provided they are under \$15,000,000.00 and for a term less than 36 months or approved by voter referendum).

24. This confusing language has been raised as a concern and discussed at City Council Meetings.

25. Notwithstanding the foregoing, the City Counsel has submitted a misleading and unclear Charter Amendment to the November 5, 2024 general election ballot.

26. As set forth below, Florida law is clear that “a ballot title and summary cannot either ‘fly under false colors’ or ‘hide the ball’ as to the amendment’s true effect.” *Detzner v. League of Women Voters of Fla.*, 256, So. 3d 803, 808 (Fla. 2018). Yet, the Charter Amendment does just this.

27. The Charter Amendment is a leading question because it suggests the City’s desired answer within its title and summary. The Charter Amendment fails to make clear that the limitations on the City’s ability to enter public private partnerships is affected through the enfranchisement of City residents.

28. For these reasons, where the Charter Amendment violates the Florida Election Code’s requirement for clarity in a referendum so that voters will know what they are voting on, declaratory and injunctive relief is needed to prevent the Charter Amendment’s consideration on the November 5, 2024 ballot.

29. Additionally, the Vice Mayor raised concerns at City Commission meeting dated August 27, 2024, as to the confusing nature of the Charter Amendment and its references to emergencies, but such concerns went unheeded by the majority of the City Commission.

30. Because of how the Charter Amendment is written, the Plaintiff does not understand the connection to the current language of Article VI Section 3(e), whether it retains citizen referendum based oversight of lease purchase contracts or other unfunded multiyear contracts in excess of 36 months or exceeding \$15,000,000.00, or how it impacts the City Council's authority as it pertains to public private partnerships, emergencies, growth, and resident contributions to infrastructure costs.

**Count I**  
**VIOLATION OF SECTION 101.161,**  
**FLORIDA STATUTES**

***Charter Amendment Violates the Florida Election Code Because  
the Title is Omissive and the Summary is Misleading***

31. Plaintiff restates and realleges paragraphs 12 to 30 as if fully set forth herein.

32. This is a count for declaratory judgment pursuant to Section 86.011, Florida Statutes.

33. There is an actual, bona fide, practical, and present need for declaratory relief and a continuing controversy between the parties regarding Section 101.161, Florida Statutes.

34. Plaintiff is in doubt as to his rights, privileges, immunities, and obligations under Section 101.161, Florida Statutes.

35. Absent the issuance of declaratory relief, Plaintiff will be irreparably injured and has no adequate remedy at law.

36. Section 101.161(1), Florida Statutes, requires, in part:

Whenever a constitutional amendment or other public measure is submitted to the vote of the people, a ballot summary of such amendment or other public measures shall be printed in clear and unambiguous language on the ballot after the list of candidates, followed by the word "yes" and also by the word "no," and shall be styled in such a manner that a "yes" vote will indicate approval of the proposal and a "no" vote will indicate rejection.

37. Implicit in this provision is the requirement that the proposed amendment be accurately represented on the ballot; otherwise, voter approval would be a nullity.” *Detzner*, 256 So. 3d at 807 (citing sources) “What the law requires is that the ballot be fair and advise the voter sufficiently to enable him intelligently to cast his ballot.” *Askew v. Firesone*, 421 So. 2d 151, 155 (Fla. 1982) (quoting *Hill v. Milanders*, 72 So. 2d 796, 798 (Fla. 1954)). “Simply put, the ballot must give the voter fair notice of the decision he must make.” *Askew*, 21 So. 2d at 155 (citing *Miami Dolphins, Ltd. V. Metropolitan Dade County*, 394 So. 2d 981 (Fla. 1981)). “A ballot title and summary cannot either ‘fly under false colors’ or ‘hide the ball’ as to the amendment’s true effect.” *Detzner*, 256 So. 3d at 808 (quoting *Armstrong*, 773 So. 2d at 16).

38. Florida law is clear that “the only remedy for a misleading ballot measure is its removal from the ballot” and that because “it is the only remedy available, ... the law requires we impose it.” *Florida Ass’n of Realtors*, 350 So. 3d at 130 (citing *Let Miami Beach Decide*, 120 So. 3d at 1292)

39. “In this analysis, we consider two questions: ‘(1) whether the ballot title and summary, in clear and unambiguous language, fairly inform the voter of the chief purpose of the amendment; and (2) whether the language of the title and summary, as written, misleads the public.’” *Fla. Dept. of State v. Fla. State Conference of NAACP Branches*, 43 So. 3d 662, 667 (Fla 2010) (citing sources).

40. The Charter Amendment fails both questions. The ballot title does not accurately reflect what the amendment would do, as it would not “update” but rather erase provisions, and the ballot summary language impermissibly flies under false colors and hides the ball because it fails to, in clear and unambiguous language, fairly inform the voter of the chief purpose of the amendment, and because its language, as written, misleads the public.



41. The ballot language is biased and misleading both because of what it says and because of what it does not say. *See Florida Ass'n of Realtors*, 350 So. 3d at 129 (a ballot summary can be misleading and unlawful because of what it “does not say”); *See also skew*, 421 So. 2d at 156 (“The problem, therefore, lies not with what the summary says, but, rather, with what it does not say”). In that regard, Florida law is clear that “a ballot summary may be defective if it ‘omits material facts necessary to make the summary not misleading.’” *Florida Ass'n of Realtors*, 350 So. 3d at 129 (quoting *Advisory Op. to Att’y Gen.—Ltd. Pol. Terms in Certain Elective Offs.*, 592 So. 2d 225, 228 (Fla. 1991)). Although “Florida law does not require a ballot summary to explain every detail in the seventy-five-word limit ... it cannot mislead with what it does not say.” *Florida Ass'n of Realtors*, 350 So. 3d at 129; *Wadhams v. Board of County Commissioners*, 567 So. 2d 414, 417 (Fla. 1990) (holding ballot question was invalid where it failed to explain that it would have the actual effect of superseding an existing charter provision).

42. The Florida Supreme Court has also explained that Section 101.161 prohibits “editorial comment” because “the ballot summary is no place for subjective evaluation of special impact. The ballot summary should tell the voter the legal effect of the amendment, and no more. The political motivation behind a given change must be propounded outside the voting booth.” *Evans v. Firestone*, 457 So. 2d 1351, 1355 (Fla. 1984).

43. When the City asks whether it should be able to address emergencies and citizen growth through future infrastructure costs, the City has put its thumb on the scale, and has engaged in unlawful editorial commentary that Section 101.161 prohibits. *See Evans*, 457 So. 2d at 1355.

44. The Charter Amendment language, as phrased, amounts to a leading question that suggests the City’s desired answer of “Yes.” As phrased, the Charter Amendment misleads voters into thinking that the City is unable to address public private partnerships, emergencies, growth,

and resident contributions to infrastructure costs. The ballot summary hides the ball by failing to explain that Article VI Section 3(e) already permits the City to enter into lease purchase contracts or other unfunded multiyear contracts, but those in excess of 36 months or exceeding \$15,000,000.00 must be approved by referendum election. By drawing attention to **emergencies** and **future resident contribution to growth** while omitting **the pre-existing citizen referendum** required for **contracts exceeding \$15,000,000.00**, the Charter Amendment misleads voters away from the actual results such a vote would effect. Worse, the Charter Amendment, by using such language, is arguably drafted as a scare tactic to achieve the desired result.

45. A voter reading the Charter Amendment would incorrectly conclude that he or she is being asked whether the City should be allowed to address emergencies and citizen growth infrastructure, instead of whether he or she should waive her voting right to extensive City contracting.

46. Injunction is a proper remedy for this cause of action.

47. Plaintiff prays for relief as outlined in the conclusion of this complaint.

## **COUNT II TEMPORARY INJUNCTION**

48. Plaintiff restates and realleges paragraphs 12 to 30 as if fully set forth herein.

49. Plaintiff seeks that Defendants are enjoined from placing the Charter Amendment for consideration on the November 5, 2024 general election ballot.

50. Plaintiff has a substantial likelihood of success on the merits.

51. Plaintiff has shown, through the caselaw described in Count I, that the Charter Amendment language is violative of Florida Statutes 101.161 and therefore must be prohibited.

52. There is no adequate remedy at law if this Charter Amendment is allowed to proceed to the November 5, 2024, general election and is passed.

53. Ordinary processes of law are not sufficient to furnish full relief to the Plaintiff, wherein the City has proposed a Charter Amendment which is materially ambiguous and misleading as to its effect if passed.

54. Irreparable harm will be suffered if this Charter Amendment is allowed to proceed to the November 5, 2024, general election and is passed.

55. The Charter Amendment is improperly titled and misleading to the public, therefore an injunctive relief preventing the Charter Amendment, as written, from proceeding to the November 5, 2024, general election ballot would serve the public interest.

56. A temporary injunction does not purport to decide any material points in controversy. *Adoption Hotline, Inc. v. State Dept. Of Health and Rehabilitative Services*, 385 So. 2d 682, 684 (Fla. 3d DCA 1980).

57. Plaintiff prays for relief as outlined in the conclusion of this complaint.

**COUNT III  
DECLARATORY RELIEF**

58. Plaintiff restates and realleges paragraphs 12 to 30 as if fully set forth herein.

59. There is a bona fide, actual, present practical need for the declaration.

60. The declaration will deal with a controversy as to a state of facts.

61. The Plaintiff's rights are dependent on law applicable to the facts as set forth above.

62. Plaintiff and Defendant have adverse interests relative to the facts, as Plaintiff finds the Charter Amendment to be ambiguous and misleading, while Defendant seeks to have the Charter Amendment placed on the November 5, 2024, general election ballot.

63. Relief sought is not merely legal advice but a declaration as to the sufficiency of the Charter Amendment's proposed language relative to its effective purpose.

64. Plaintiff is entitled to a declaratory judgment because the City Council saw fit to have the Charter Amendment language put forward for the November 5, 2024, general election despite the title stating it is updating provisions rather than repealing and replacing them, and the ballot summary not mentioning anything about prior existing city resident rights to limit City Council spending.

WHEREFORE, the Plaintiff respectfully asks this Honorable Court for the following relief as to Counts I - III:


65. A declaration, judgment, or order, accompanied by appropriate injunctive relief, holding that:

- a. The Defendants shall be required to remove Charter Amendment from the November 5, 2024 City of Palm Coast election ballot.
- b. The Defendants shall be prohibited from tabulating, counting, releasing, or certifying the election results of Charter Amendment vote.
- c. The Defendants shall be prohibited from submitting the Charter Amendment to the voters on any future City of Palm Coast election ballots.
- d. The Charter Amendment violates Section 101.161, Florida Statutes, because it is unclear, ambiguous, and misleading, and because it omits necessary information, requiring its removal from the November 5, 2024 City of Palm Coast election ballot and any future election ballots.
- e. The Charter Amendment cannot proceed as any other form of referendum because it fails to explain its actual legal effect, and is otherwise violative of Section 101.161, Florida Statutes and other operative law.
- f. Temporary and permanent injunctive relief requiring that the Defendants remove the Charter Amendment from the November 5, 2024 City of Palm Coast election ballot and all future election ballots.
- g. Temporary and permanent injunctive relief requiring that the City of Palm Coast, City Clerk, Supervisor, and any other officials working under or in conjunction with any of them, be enjoined from tabulating, counting, releasing, or certifying the results of the Charter Amendment vote, including in the interim pending final resolution of this action, and permanently into the future.
- h. A judgment or order assessing the costs and attorney's fees of this action against the Defendants.

- i. Alternatively, reserve jurisdiction in this matter to nullify the results of the election in the event the Charter Amendment passes.
- j. Any other relief the Court deems just and proper.

## VERIFICATION

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in the Background and all other Paragraphs are true and correct to the best of my knowledge and belief.



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Alan Lowe

Dated September 20, 2024

Respectfully submitted

**ST. JOHNS LAW GROUP**

/s/ Douglas N. Burnett

Douglas N. Burnett

Florida Bar No. 146234

Alex Nunchuck

Florida Bar No. 1011745

104 Sea Grove Main Street

St. Augustine, Florida 32080

(904) 495-0400 (Telephone)

(904) 495-0506 (Facsimile)

sjlgservice@gmail.com

anunchuck@sjlawgroup.com

*Attorneys for Plaintiff, Alan Lowe.*

**LIVINGSTON & SWORD PA**

/s/ Jay W. Livingston

Jay W. Livingston, Esq.

Florida Bar No. 0011278

391 Palm Coast Parkway SW #1

Palm Coast, FL 32137

Phone: (386) 439-2945

Fax: (866) 896-5573

jay.livingston314@gmail.com

[lslawinfo@gmail.com](mailto:lslawinfo@gmail.com)

*Co-Counsel*

# **EXHIBIT A**



**ORDINANCE 2024-13  
AMENDING THE CITY CHARTER**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA SUBMITTING TO THE ELECTORS OF PALM COAST A PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF PALM COAST AMENDING ARTICLE VI, BUDGET AND APPROPRIATIONS TO DELETE FROM OUTDATED PROVISION RELATING TO LIMITATIONS TO COUNCIL'S FISCAL CONTRACTING AUTHORITY WHICH SHALL BE CONSIDERED BY BALLOT; PROVIDING BALLOT TITLE AND SUMMARY FOR THE PROPOSED CHARTER AMENDMENT; PROVIDING FOR DIRECTION TO THE CITY CLERK; PROVIDING FOR CONFLICTS, SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE FOR THE ORDINANCE AND FOR THE APPROVED AMENDMENT**

**WHEREAS**, the Charter of the City of Palm Coast may be amended from time to time in accordance with the provisions of the Municipal Home Rule Powers Act, Chapter 166, Florida Statutes; and

**WHEREAS**, the City Council of Palm Coast may establish the form, content and certification of petition to amend the Charter through establishment of ordinance; and

**WHEREAS**, the City Council continues to remain committed to following the principles of financial accountability and transparency as outlined in Resolution 2013-111; and

**WHEREAS**, as a result of input, recommendations and advice from staff and after careful deliberation and consideration, the City Council finds that it is in the best interest of the public health, safety, and welfare of the citizens of Palm Coast to propose revisions to the Palm Coast City Charter in accordance with Article IX. – General Provisions of the Palm Coast City Charter and Section 166.031, Florida Statutes; and

**WHEREAS**, the proposed revisions will amend Article VI, Section (3)(e), to remove limitations to the Council's fiscal contracting authority; and

**WHEREAS**, the City Council finds that the proposed ballot question and summary should be submitted to the City electorate for its consideration and final approval or disapproval; and

**WHEREAS**, the City Council of the City of Palm Coast desires to put to a vote of the citizens the issue of whether the Charter should be changed as proposed by the City Council; and

**WHEREAS**, Section 166.031, Florida Statutes, provides that the governing body of a municipality may, by ordinance, submit to the electors of said municipality a proposed amendment to its Charter, which said amendment may be to any part or all of its Charter; and

**WHEREAS**, the City Charter provides that an amendment to the Charter may be submitted to the electors through ordinance approved by a majority vote of the Council members, and if the proposition amend is approved by a majority of the electors, the amendment shall become law; and

**WHEREAS**, the City Council finds it to be in the best interest of its citizens to submit the said proposed Charter amendment to the voters at a referendum election conducted by the Flagler County Supervisor of Elections on Tuesday, November 5<sup>th</sup> 2024.

**NOW THEREFORE, IT IS HEREBY ORDAINED BY THE CITY OF PALM COAST, FLORIDA:**

**SECTION 1. REFERENDUM ELECTION.** The City Council of the City of Palm Coast, pursuant to Section 166.031 Florida Statutes, hereby proposes and approves amendments to the Charter of the City of Palm Coast, which proposed amendments are set forth below. Each question shall be voted on separately and approved or disapproved based on its own merit. Such referendum election shall be held in conformity with the laws of the State of Florida. The Supervisor of Elections of Flagler County is to coordinate all matters of said referendum election with the Palm Coast City Clerk, pursuant to that Interlocal Agreement between the City and the Supervisor of Elections.

**SECTION 2. AMENDMENTS TO CITY CHARTER.** The form of the ballot for the Charter Amendments proposed in this Ordinance shall be as follows:

**CITY CHARTER AMENDMENT 1:**

**TITLE:**

**CHARTER AMENDMENT TO UPDATE PROVISIONS RELATED TO CITY COUNCIL'S CONTRACTING AUTHORITY.**

**SUMMARY:**

Shall Article VI of the Charter be amended by removing provision (3)(e) related to fiscal Contracting Authority that limit the City's ability to enter into public private partnerships, have the ability to address growth by having future residents contribute to infrastructure costs, respond to emergencies and use available financial instruments including, but not limited to, bonds.

Yes

No

**SECTION 3.** The proposed amendments, the ballot titles and summaries of the proposed amendments to the Charter, as contained in this Ordinance, shall appear on the ballot in the form of questions as set forth in Section 2 of this Ordinance.

**SECTION 4. SEVERABILITY.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

**SECTION 5. CONFLICTS.** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

**SECTION 6. EFFECTIVE DATE OF ORDINANCE.** This Ordinance shall become effective immediately upon its passage and adoption.

**SECTION 7. EFFECTIVE DATE OF CHARTER AMENDMENTS.** The revised Charter provisions proposed for approval in this Ordinance shall become effective upon their approval following election of the electors of the City of Palm Coast in accordance with Section 166.031, Florida Statutes, and Article IX of the City Charter. If the electors reject an amendment, the rejected amendment shall not take effect. The City Clerk is hereby

directed, upon adoption of the revised Charter, to renumber the Charter to logically organize all Charter amendments, and to promptly file the revised Charter with the State of Florida, Department of State, as required by Section 166.031, Florida Statutes.

**APPROVED** on first reading this 2<sup>nd</sup> day of July 2024.

**ADOPTED** on the second reading after due public notice and hearing this 16<sup>th</sup> day of July 2024.

ATTEST:

CITY OF PALM COAST

  
KALEY COOK, CITY CLERK

  
DAVID ALFIN, MAYOR

APPROVED AS TO FORM AND LEGALITY

  
MARCUS DUFFY, CITY ATTORNEY



# **EXHIBIT B**

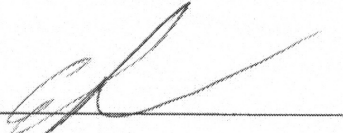
**AFFIDAVIT OF ALAN LOWE**

STATE OF FLORIDA     )  
  ) SS:  
COUNTY OF FLAGLER    )

Before me this day personally appeared Alan Lowe who, being duly sworn deposes and says:

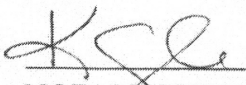
1. My name is Alan Lowe. I am over the age of 18 and am competent to execute this affidavit.
2. This affidavit and the information herein is based upon my personal knowledge.
3. I am a registered voter residing in the City of Palm Coast.
4. I have been involved in City Council meetings regarding the voting and discussion of Ordinance 2024-13 pertaining to the Charter Amendment to remove Article VI Section 3(e). I have attended these meetings and followed them closely.
5. As of the time I executed this affidavit, I have not yet voted in the November 5, 2024 election. However, I intend to vote in this election.
6. I have carefully read the Sample Ballot language for City Charter Amendment 1, as found on the Sample Ballot from the Flagler County Supervisor of Elections website, copy attached as Exhibit B hereto.
7. I find the proposed Ballot Summary language to be confusing, ambiguous, and misleading as to how it would impact and eliminate the voters' enfranchised approval authority and other restrictions on the City's ability to contract.
8. I do not understand what the Charter Amendment will result in, regardless of whether it passes or fails. The referendum does not explain the necessity for voter referendum approving lease purchase contracts or other unfunded multiyear contracts in excess of 36 months or exceeding \$15,000,000.00, without alerting the voter as to their extant authority while somewhat tangentially making references to emergencies, growth, future residents and infrastructure costs.

Under penalties of perjury, I declare that I have read the foregoing affidavit and the facts stated in it are true.

  
\_\_\_\_\_  
Alan Lowe

Sworn to (or affirmed) and subscribed before me by means of  physical presence or  online notarization, this 20<sup>th</sup> day of September, 2024 by Alan Lowe and who  is personally known to me or who  produced a \_\_\_\_\_ as identification.



  
\_\_\_\_\_  
NOTARY PUBLIC



# OFFICIAL SAMPLE BALLOT

## GENERAL ELECTION ★ NOVEMBER 5, 2024

DEADLINE FOR NEW  
VOTER REGISTRATIONS:  
**OCTOBER 7, 2024**

**President and Vice President**  
(Vote for One)

Donald J. Trump REP  
JD Vance

Kamala D. Harris DEM  
Tim Walz

Chase Oliver LFP  
Mike ter Maat

Claudia De la Cruz PSL  
Karina Garcia

Randall Terry CPF  
Stephen Broden

Peter Sonski ASP  
Lauren Onak

Jill Stein GRE  
Rudolph Ware

Write-in:

**United States Senator**  
(Vote for One)

Rick Scott REP

Debbie Mucarsel-Powell DEM

Feena Bonoon LFP

Tuan TQ Nguyen NPA

Ben Everidge NPA

Write-in:

**Representative in Congress, District 6**  
(Vote for One)

Michael Waltz REP

James David Stockton III DEM

Write-in:

**State Senator, District 7**  
(Vote for One)

Tom Leek REP

George Anthony "T" Hill II DEM

**State Representative, District 19**  
(Vote for One)

Sam Greco REP

Adam Morley DEM

**Board of County Commissioners, District 3**  
(Vote for One)

Kim M. Carney REP

Write-in:

**Board of County Commissioners, District 5**  
(Vote for One)

Pam Richardson REP

Write-in:

**Justice of the Supreme Court**  
Shall Justice Renatha Francis of the Supreme Court be retained in office?

Yes

No

**Justice of the Supreme Court**  
Shall Justice Meredith Sasso of the Supreme Court be retained in office?

Yes

No

**District Court of Appeal**  
Shall Judge Joe Boatwright of the Fifth District Court of Appeal be retained in office?

Yes

No

**District Court of Appeal**  
Shall Judge Eric Eisnagle of the Fifth District Court of Appeal be retained in office?

Yes

No

**Why is there a line for write-in?**

In order for your vote to count for a write-in, the candidate must be qualified to run as a write-in candidate.

View the list of qualified write-in candidates here:  
[FlaglerElections.gov/candidates](http://FlaglerElections.gov/candidates)

**District Court of Appeal**  
Shall Judge Harvey Jay of the Fifth District Court of Appeal be retained in office?

Yes

No

**District Court of Appeal**  
Shall Judge Paige Kilbane of the Fifth District Court of Appeal be retained in office?

Yes

No

**District Court of Appeal**  
Shall Judge John MacIver of the Fifth District Court of Appeal be retained in office?

Yes

No

**District Court of Appeal**  
Shall Judge Jordan Pratt of the Fifth District Court of Appeal be retained in office?

Yes

No

**District Court of Appeal**  
Shall Judge Adrian G. Soud of the Fifth District Court of Appeal be retained in office?

Yes

No

**ONLY VOTERS WHO RESIDE IN PALM COAST - THESE OFFICES ARE ELECTED CITY-WIDE**

**City of Palm Coast Mayor**  
(Vote for One)

Cornelia Downing Manfre

Mike Norris

**City of Palm Coast Council Member, District 1**  
(Vote for One)

Ty Miller

Jeffery Cortland Seib

**City of Palm Coast Council Member, District 3**  
(Vote for One)

Ray Stevens

Andrew Werner

**ONLY VOTERS WHO RESIDE IN THE EAST FLAGLER MOSQUITO CONTROL DISTRICT**

**East Flagler Mosquito Control District, Seat 1**  
(Vote for One)

Julius "Jules" Kwiatkowski

Perry Mitrano

**East Flagler Mosquito Control District, Seat 3**  
(Vote for One)

Lance Alred

Ralph E. Lightfoot

**ONLY VOTERS WHO RESIDE IN DEER RUN COMMUNITY DEVELOPMENT DISTRICT**

**Deer Run CDD, Seat 5**  
(Vote for One)

Barbara DeSantis

Melissa Tabaras

**ONLY VOTERS WHO RESIDE IN DUNES COMMUNITY DEVELOPMENT DISTRICT**

**Dunes CDD, Seat 3**  
(Vote for One)

Bill White

Bill Baxter White

**ONLY VOTERS WHO RESIDE IN GRAND HAVEN COMMUNITY DEVELOPMENT DISTRICT**

**Grand Haven CDD, Seat 4**  
(Vote for One)

Steve Lorin Brazen

John M. Chism

**ONLY VOTERS WHO RESIDE IN TOWN CENTER AT PALM COAST COMMUNITY DEVELOPMENT DISTRICT**

**Town Center at Palm Coast CDD, Seat 4**  
(Vote for One)

Gregory C. Eckley

Frances Estrada

**No. 1 Constitutional Amendment, Article IX, Section 4 and Article XII Partisan Election of Members of District School Boards**

Proposing amendments to the State Constitution to require members of a district school board to be elected in a partisan election rather than a nonpartisan election and to specify that the amendment only applies to elections held on or after the November 2026 general election. However, partisan primary elections may occur before the 2026 general election for purposes of nominating political party candidates to that office for placement on the 2026 general election ballot.

Yes

No

**No. 2 Constitutional Amendment, Article I, Section 28 Right to Fish and Hunt**

Proposing an amendment to the State Constitution to preserve forever fishing and hunting, including by the use of traditional methods, as a public right and preferred means of responsibly managing and controlling fish and wildlife. Specifies that the amendment does not limit the authority granted to the Fish and Wildlife Conservation Commission under Section 9 of Article IV of the State Constitution.

Yes

No

**No. 3 Constitutional Amendment, Article X, Section 29 Adult Personal Use of Marijuana**

Allows adults 21 years or older to possess, purchase, or use marijuana products and marijuana accessories for non-medical personal consumption by smoking, ingestion, or otherwise; allows Medical Marijuana Treatment Centers, and other state licensed entities, to acquire, cultivate, process, manufacture, sell, and distribute such products and accessories. Applies to Florida law, does not change, or immunize violations of, federal law. Establishes possession limits for personal use. Allows consistent legislation. Defines effective date.

The amendment's financial impact primarily comes from expected sales tax collections. If legal today, sales of non-medical marijuana would be subject to sales tax and would remain so if voters approve this amendment. Based on other states' experiences, expected retail sales of non-medical marijuana would generate at least \$195.6 million annually in state and local sales tax revenues once the retail market is fully operational, although the timing of this occurring is unclear. Under current law, the existing statutory framework for medical marijuana is repealed six months after the effective date of this amendment which affects how this amendment will be implemented. A new regulatory structure for both medical and nonmedical use of marijuana will be needed. Its design cannot be fully known until the legislature acts; however, regulatory costs will probably be offset by regulatory fees. Other potential costs and savings cannot be predicted. **THIS PROPOSED CONSTITUTIONAL AMENDMENT IS ESTIMATED TO HAVE A NET POSITIVE IMPACT ON THE STATE BUDGET. THIS IMPACT MAY RESULT IN GENERATING ADDITIONAL REVENUE OR AN INCREASE IN GOVERNMENT SERVICES.**

Yes

No

**No. 4 Constitutional Amendment, Article I, New Section Amendment to Limit Government Interference with Abortion**

No law shall prohibit, penalize, delay, or restrict abortion before viability or when necessary to protect the patient's health, as determined by the patient's healthcare provider. This amendment does not change the Legislature's constitutional authority to require notification to a parent or guardian before a minor has an abortion.

The proposed amendment would result in significantly more abortions and fewer live births per year in Florida. The increase in abortions could be even greater if the amendment invalidates laws requiring parental consent before minors undergo abortions and those ensuring only licensed physicians perform abortions. There is also uncertainty about whether the amendment will require the state to subsidize abortions with public funds. Litigation to resolve those and other uncertainties will result in additional costs to the state government and state courts that will negatively impact the state budget. An increase in abortions may negatively affect the growth of state and local revenues over time. Because the fiscal impact of increased abortions on state and local revenues and costs cannot be estimated with precision, the total impact of the proposed amendment is indeterminate. **THE FINANCIAL IMPACT OF THIS AMENDMENT CANNOT BE DETERMINED DUE TO AMBIGUITIES AND UNCERTAINTIES SURROUNDING THE AMENDMENT'S IMPACT.**

Yes

No

**No. 5 Constitutional Amendment, Article VII, Section 6 and Article XII Annual Adjustments to the Value of Certain Homestead Exemptions**

Proposing an amendment to the State Constitution to require an annual adjustment for inflation to the value of current or future homestead exemptions that apply solely to levies other than school district levies and for which every person who has legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another person legally or naturally dependent upon the owner is eligible. This amendment takes effect January 1, 2025.

Yes

No

**No. 6 Constitutional Amendment, Article VI, Section 7 Repeal of Public Campaign Financing Requirement**

Proposing the repeal of the provision in the State Constitution which requires public financing for campaigns of candidates for elective statewide office who agree to campaign spending limits.

Yes

No

**ONLY VOTERS WHO RESIDE WITHIN THE CITY LIMITS OF PALM COAST**

**City of Palm Coast Charter Amendment 1 CHARTER AMENDMENT TO UPDATE PROVISIONS RELATED TO CITY COUNCIL'S CONTRACTING AUTHORITY**

Shall Article VI of the Charter be amended by removing provision (3)(e) related to fiscal Contracting Authority that limits the City's ability to enter into public private partnerships, have the ability to address growth by having future residents contribute to infrastructure costs, respond to emergencies and use available financial instruments including, but not limited to, bonds.

Yes

No

**KNOW BEFORE YOU GO!** This will be a busy election! Research the candidates & amendments BEFORE you go vote. More info: [FlaglerElections.gov](http://FlaglerElections.gov)

**How To Vote**

Use only the marking device provided or a black pen. If you make a mistake, don't hesitate to ask for a new ballot. If you erase or make other marks, your vote may not count. Completely fill in the oval next to your choice.

INCORRECT

INCORRECT

CORRECT

**Attention Candidates & Political Committees:**

This Official Sample Ballot is not intended for use by candidates or committees as a political advertisement to advocate for the election or defeat of candidates and/or issues. Taxpayer funds are used to publish, print, mail, and display these sample ballots as a public service in advance of each election. The Elections Office is a nonpartisan administrative agency.

Political advertisements should be purchased and paid for by political parties, political committees, and/or candidates, with the proper disclaimer required by Section 106.143, Florida Statutes. Please call the Elections Office to report a violation: (386) 313-4170



**Kaiti Lenhart**  
FLAGLER COUNTY SUPERVISOR OF ELECTIONS  
Office located in the Government Services Building  
1769 E. Moody Boulevard, Building 2, Suite 101 • Bunnell, FL 32110  
Mailing Address: PO Box 901 • Bunnell, FL 32110  
Phone: (386) 313-4170 • Fax: (386) 313-4171  
Online: [FlaglerElections.gov](http://FlaglerElections.gov) • Hablamos Español

**Know Before You Go!**

This sample ballot is being provided to you in advance of the election to give you the opportunity to study the candidates and issues. **This will be a busy election and a very long ballot! Please research the candidates and amendments BEFORE you go vote.** I encourage you to take this sample ballot with you when voting, to use as a reference. **Make a plan to vote!** You can choose to vote by mail, vote early, or vote on Election Day. More information: [FlaglerElections.gov](http://FlaglerElections.gov)