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

CASE NO. 2025 CA 000621
DIVISION: 49 (Judge Upchurch)

FLAGLER COUNTY – PALM COAST HOMEBUILDERS ASSOCIATION, INC., a Florida not-for-profit corporation; INTRACOASTAL CONSTRUCTION, LLC, a Florida limited liability company; INTEGRITY HOMES USA, LLC, a Florida limited liability company; THOMAS CONSULTING AND CONSTRUCTION, LLC, a Florida limited liability company; 1621 BUILDING AND REMODELING, LLC, a Florida limited liability company; FLORIDA GREEN BUILDING CONSTRUCTION, INC., a Florida corporation; and WILLIAM R. BARRICK, an individual,

Plaintiffs,

v.

CITY OF PALM COAST, a Florida municipal corporation,

Defendant.
_____/

PLAINTIFFS' MOTION FOR SUMMARY FINAL JUDGMENT

Plaintiffs, Flagler County – Palm Coast Homebuilders Association, Inc., a Florida not-for-profit corporation; Intracoastal Construction, LLC, a Florida limited liability company; Integrity Homes USA, LLC, a Florida limited liability company; Thomas Consulting and Construction, LLC, a Florida limited liability company; 1621 Building and Remodeling, LLC, a Florida limited liability company; Florida Green Building Construction, Inc., a Florida corporation; and William R. Barrick, an individual, ("Plaintiffs") move for Summary Final Judgment, pursuant to Rule 1.510(b), Florida Rules of Civil Procedure. The grounds of this motion are:

INTRODUCTION[1]

Section A. Nature of Action

1. Plaintiffs Amended Complaint challenges the validity of three impact fee ordinances and requests an injunction against their enforcement by the City.

2. As detailed in the Amended Complaint, the impact fees are invalid and unenforceable because: (a) the impact fees and ordinances are not in compliance with the Florida Impact Fee Act and unconstitutional; and (b) the impact fees are more burdensome "Land Development Regulations", in violation of Section 28, Senate Bill 180.

3. While the Amended Complaint and this motion are both lengthy, the legal issues are relatively straightforward. The City adopted three (3) impact fee Ordinances, all of which adopted and incorporated by reference Studies, purportedly to satisfy the legal requirements for the adoption of the impact fees. As evidenced by the City's own studies and Ordinances, all three (3) violate both the Florida Impact Fee Act and Constitutional standards for imposition of such fees, in numerous ways, as well as Section 28 of Senate Bill No. 180.

4. Also, unique to impact fee litigation is that under the Florida Impact Fee Act, the burden of proof lies fully on the City with no presumption of correctness.

Section B. The Ordinances Fail to Satisfy the Statutory Requirements and Violate the Florida Constitution

The Ordinances are invalid and unenforceable because:

(a) Violate the dual rational nexus test in that there is no analysis of "specific-needs" or "special-benefit" or findings for such;

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[1] Defined terms used herein shall have the meanings ascribed in the Amended Complaint, unless the context indicates otherwise.

(b) Violate the subdivision standard;

(c) The impact fees are not limited to cost for expansion;

(d) Violate requirement for most recent and localized data in studies;

(e) The impact fees exceed 50% phase-in limit without meeting criteria for extraordinary circumstances; and

(f) They constitute more burdensome amendments to the City's "Land Development Regulations" in violation of Section 28 of Senate Bill No. 180.

Section C. No Genuine Dispute as to Material Facts

The Amended Complaint attaches as Exhibits the City's three (3) Impact Fee Ordinances and the City's own supporting documentation utilized for the adoption of those Ordinances. There should be absolutely no dispute as to the authenticity of those documents.

Additionally, Plaintiffs have requested judicial notice in Section F below, of the Ordinances and Studies, as well as the Decisional Law and Statutes, which are applicable.

Plaintiffs have attached Affidavits in Support of facts relating to their standing, etc., which also should not be in dispute, in support of this Motion as Exhibits "A" through "G".

Section D. Ordinances Violate Florida Impact Fee Act and Constitutional Standards for Impact Fees

The Amended Complaint is structured into three (3) Parts. Part I consists of the General Allegations. Part III contains Count III for Declaratory Judgment and Count IV for Temporary and Permanent Injunction, all alleging violations relative to the Florida Impact Fee Act and Florida Constitution. Part II consists of Count I, an action for

Declaratory Judgment and Count II, an action for Temporary and Permanent Injunction for violation of Section 28 of Senate Bill 180.

The defined terms used herein shall have the same meaning ascribed in the Amended Complaint for Declaratory Judgment and Injunctive Relief, unless the context indicates otherwise, and all allegations and exhibits to the Amended Complaint are incorporated herein by reference. Additionally, for the convenience of the court, we have attached hereto: Appendix 1 to the Amended Complaint, which is a list of the Exhibits; Appendix 2 to the Amended Complaint, which is a Table of Contents to the Amended Complaint; and Appendix 3, which is a Table of Contents to this Motion.

PART I – GENERAL ALLEGATIONS - SUMMARIZED

Studies Incorporated into Ordinances

The impact fees are based on three (3) different studies, which are incorporated into each impact fee ordinance. (¶ 1.14 through 1.18 of Amended Complaint).

$163,217,372 In Impact Fees

The amount of Impact Fees to be imposed under the Ordinances are: (i) Fire Impact Fees in the amount of $60,318,338 (page 7 of the Fire Study); (ii) Transportation Impact Fees in the amount of $71,519,873 (as the Assignable Cost from Table 10 of the June 2025 Transportation Study); and (iii) Parks Impact Fees in the amount of $31,379,160 (taking the fee of $1,255.92 to be recovered per person on page 6 of the Parks Study, times the increase in population of 24,985 = $31,379,161); for total Impact Fees of $163,217,372. (¶ 1.19 of the Amended Complaint).

The increase in impact fees ranges from 73.1% to 116.8%, for an average of 101.7% increase. (¶ 1.20 through 1.22 of Amended Complaint).

PART III - SUMMARIZED

DECLARATORY JUDGMENT FOR VIOLATION OF FLORIDA IMPACT FEE ACT AND FLORIDA CONSTITUTION

Count III is an action for declaratory judgment for violation of the Florida Impact Fee Act and the Florida Constitution regarding all three (3) Ordinances and Count IV is an action for temporary and permanent injunction or for such violations.

B. LEGAL AUTHORITY[2]

JUDICIAL STANDARD OF REVIEW

No Deferential Standard - - City Has Burden of Proof

The court may **not** use a deferential standard in this challenge to the City's imposition of impact fees or the amount of those fees. Also, the City, not Plaintiffs, bear the burden of proving that both the imposition and the amount of impact fees meet the requirements of state legal precedent and the Florida Impact Fee Act, as mandated by Florida Statute § 163.31801(9), which states:

> (9) In any action challenging an impact fee ... the government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee ... meets the requirements of state legal precedent and this section. ***The court may not use a deferential standard for the benefit of the government.***

(Emphasis Supplied). (¶ 3.5. of the Amended Complaint).

SUMMARY OF APPLICABLE LAW

Impact Fee Act

Below, in summary, are the applicable provisions of the Impact Fee Act:

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[2] Because the Florida Impact Fee Act contains both statutory requirements and provides in Section 163.31801(9), Florida Statutes, that the adoption of the fees must also meet the requirements of State legal precedent, the Amended Complaint outlines the legal authority, including both applicable statutory law and caselaw in this section.

Section 163.31801(4), Florida Statutes, requires the City, at a minimum, must:

(a) Ensure that the calculation of the impact fee is based on a study using **most recent and localized data available**.

* * *

(f) Impact Fees must be proportional and reasonably connected to, or rational nexus with, the need for capital facilities and increase impact generated by new construction.

(g) Ensure that impact Fees must be proportional and reasonably connected to, or rational nexus with, expenditures of funds and benefits accruing to the new construction.

(h) Specifically earmarked funds collected for use in acquiring, constructing, or improving capital facilities to benefit new users.

(¶ 3.6. of the Amended Complaint).

Section 163.31801(6), Florida Statutes, only allows impact fees as follows:

(a) Only pursuant to a plan for the imposition, collection and use.

(b) An increase may not be more than 25% of the current rate and must be implemented in two (2) equal annual increments.

(c) If the impact fee exceeds 25% but is not more than 50% must be implemented in four (4) equal installments.

(d) Impact fee may not exceed 50% of the current impact fee rate.

(g) May only exceed 50% phased-in limitations with full compliance with subsection (4) and providing meeting the following criteria:

a. A demonstrated need study expressly demonstrating the extraordinary circumstances to exceed the phase-in limitations.

(¶ 3.7. of the Amended Complaint).

Mandatory Compliance with "State Legal Precedent"

The Florida Impact Fee Act[3] specifically requires all impact fees to meet the "requirements of state legal precedent and this section". Therefore, it is fundamental to understand and apply the relevant caselaw in Florida. Neither of the studies for the Fire and Rescue or Park System made any mention of any caselaw whatsoever or the requirements thereunder. (¶ 3.16. of the Amended Complaint). The Transportation Study did have a section on caselaw, however, failed to reference any of the Florida Supreme Court decisions after 1976 - - instead, referencing decisions in other states and the U.S. Supreme Court. (¶ 3.12 through 3.27 of the Amended Complaint

Historical Caselaw Evolution

Over the past fifty (50) years, the caselaw related to impact fees has evolved considerably as arguments became more refined. In **1976**, the Florida Supreme Court limited impact fees to the cost of expansion required by new development. In **1992**, the Florida Supreme Court adopted the dual nexus test requiring a special-benefit. In **1994**, the Florida Supreme Court held that in order to constitute a fee, it must benefit the party paying the fee in a manner not shared by other members of society. In **1999**, the Court held that fees are invalid if it did not provide a unique benefit to those paying the fee.

In **2000**, the Florida Supreme Court in the *Aberdeen* decision, regarding Impact Fees, held or affirmed:

(i) specific-need / special-benefit analysis was not limited to water/sewer;

[3] The Florida Impact Fee Act was first adopted in 2006 and has been amended numerous times.

(ii) the dual rational nexus test explicitly requires a nexus between the county's need and the growth in population generated by that subdivision and that benefits must accrue to that subdivision;

(iii) that the Court did not abandon the subdivision based standard and that a county-wide standard would eviscerate the substantial nexus requirement; and

(iv) fees must confer a special-benefit on the fee payors in a manner not shared by those not paying the fee. (¶ 3.21 through 3.22. of the Amended Complaint).

2006 Impact Fee Act

Then in **2006**, the Florida legislature adopted the Florida Impact Fee Act, which has been amended numerous times, including as recently as June 2025. Each time the legislature imposed greater restrictions on the adoption of impact fees.

Chronological Summary of Florida Legal Precedent

Due to the evolution, as referenced above, one must be cautious in relying on older caselaw. The early Florida cases relied on constitutional issues from the U.S. Supreme Court or cases from other states. The Florida cases then evolved into an analysis of Florida Constitutional Law and the difference between a tax and a fee, regardless of whether the fee was an impact fee, special assessment, or service fee. The Florida Supreme Court has made it clear that the same standards apply to all such fees, regardless of the nature.[4] The law is now clear, unless the fee a local government attempts to impose on any person meets the criteria promulgated by the Florida Supreme Court as summarized above, then such fee is an unconstitutional tax.

[4] However, school impact fees, must satisfy the Florida Constitution provision "free public schools", Article IX, Section 1.

Below is a chronological summary of Florida legal precedent relating to impact fees.

Contractors and Builders Ass'n of Pinellas County v. City of Dunedin,
329 So.2d 314 @ 320 (Fla. 1976)- - Water-Sewer

In 1976, the Supreme Court **limited impact fees to meeting the cost of expansion** and held it was not "just and equitable" to impose entire burden of capital expenditures, including replacement of facilities, on persons connecting after an arbitrarily chosen time. (Emphasis Supplied).

Hollywood v. Broward County,
431 So.2d 606 @ 611 (Fla. 4th DCA 1983) - - Parks

In 1983, the Florida Supreme Court confirmed impact fees **cannot exceed pro rata share of the reasonably anticipated cost of capital expansion** reasonably required by new development. (Emphasis Supplied).

City of Boca Raton v. State,
595 So.2d 25 @ 29 (Fla. 1992) - - Special Assessment Improvement Bonds

In 1992, the Florida Supreme Court held that a "legally imposed special assessment is not a tax. Taxes and special assessments are distinguishable in that, while both are mandatory, there is no requirement that taxes provide any specific-benefit to property; instead, they may be levied throughout the particular taxing unit for the general benefit of residents and property. On the other hand, **special assessments must confer a specific-benefit on the land burdened by the assessment."** (Emphasis Supplied).

It also found "there are two requirements for imposition of a valid special assessment. First, the property assessed **must derive a special-benefit** from the service provided". "Second, the assessment must be fairly and reasonably apportioned among the properties **that receive the special-benefit".** (Emphasis Supplied).

State of Florida v. City of Port Orange,
650 So.2d 1 @ 3 (Fla. 1994) - - Transportation Utility Fees

In 1994, the Florida Supreme Court now required that the service must benefit the party paying the fee in a manner not shared by other members of society.

> "In City of Boca Raton v. State, 595 So.2d 25 (Fla.1992), this court noted that **a tax is an enforced burden** imposed by sovereign right for the support of the government, the administration of law, and the exercise of various functions the sovereign is called on to perform. Klemm v. Davenport, 100 Fla. 627, 631, 129 So. 904, 907 (1930). **Funding for the maintenance and improvement of an existing municipal road system, even when limited to capital projects as the circuit court did here, is revenue for exercise of a sovereign function contemplated within this definition of a tax.**
>
> User fees are charges based upon the proprietary right of the governing body permitting the use of the instrumentality involved. Such fees share common traits that distinguish them from taxes: they are charged in exchange for a particular governmental service **which benefits the party paying the fee in a manner not shared by other members of society**."

(Emphasis Supplied).

Collier County v. State of Florida,
733 So.2d 1012 @ 1017-1019 (Fla. 1999) - - Governmental Service Fee

In 1999, the Florida Supreme Court required that the impact fee provide a unique benefit to those paying the fee - - similar to the *Port Orange* case.

> "The assessment in this case fails because it does not satisfy the first prong of the test. Contrary to the County's contention, **the first prong of the test is not satisfied by establishing that the assessment is rationally related to an increased demand for county services. If that were the test, the distinction between taxes and special assessments would be forever obliterated.**" (Id @ 1017).

(Emphasis Supplied).

> "In that aspect, user fees are similar to special assessments, in that the fee **must result in a benefit not shared by persons not required to pay the fee.**" (Id. @1018).

(Emphasis Supplied).

> "Thus, like the invalid fee in *City of Port Orange,* the fee in *St. Johns County* was invalid because it did not provide a **unique benefit** to those paying the fee. *See also* Contractors & Builders Ass'n v. City of Dunedin, 329 So.2d 314, 320 (Fla.1976) ("Users who benefit *especially* ... by the extension of [sewer] system ... should bear the cost of that extension.") (ellipses in original)." (Id. @ 1019).

(Emphasis Supplied).

Collier also contained an extensive discussion of prior caselaw and affirmed that an impact fee was invalid because it did not provide a **unique benefit** to those paying the fee.

Volusia County v. Aberdeen at Ormond Beach,
760 So.2d 126 @ 134-135 (Fla. 2000) - - School Impact Fees

In 2000, the Florida Supreme Court went to great lengths clarifying, confirming and expounding upon what is required for impact fees to be constitutional. The need must relate to growth in population generated by subdivision and that the benefits must accrue to that subdivision. The court also held that imposing a county-wide standard would eviscerate the substantial nexus requirement.

The Supreme Court did not abandon the subdivision – based standard. (Id. @ 135).

Impact Fees must offset needs sufficiently attributable to the subdivision and the fee revenue must be "sufficiently earmarked for the substantial benefit of the **subdivision residents**." (Id. @ 135). (Emphasis Supplied).

Expressly repudiated a county-wide standard for determining constitutionality of impact fees. (Id. @ 135).

The Court specifically held that the dual rational nexus test was **not limited to the water sewer line context.**

> **"The language of the test itself belies the assertion that a county-wide standard should be employed. The first prong of the test explicitly requires a nexus between the county's need and the "growth in population generated by that subdivision"**. 583 So.2d @ 637. Similarly,

> **the test's second prong insures that "benefits accru[e] to the subdivision"**. Id, thus, the explicit references to the subdivision indicate that **the standard is not tailored to county-wide growth but to a growth of a particular subdivision"**. (Id. @ 134).

(Emphasis Supplied).

The court held:

> "our repeated citations in the special-benefit" standard in our interpretation of *St. Johns County* demonstrate that **we did not abandon the subdivision-based standard. Indeed, imposing a county-wide standard would eviscerate the substantial nexus requirement**. The nexus is significant because of the distinction between taxes and fees". (Id. @ 135).

(Emphasis Supplied).

> **"Fees, by contrast, must confer a special benefit on the fee payors "in a manner not shared by those not paying the fee"**. (Id. @ 135).

(Emphasis Supplied).

Board of County Commissioners, Santa Rosa County v. Home Builders Association of West Florida Santa Rosa,
325 So.3d 981 (Fla. 1st DCA 2021)
Summary Final Judgment @ 8 [5] - - School Impact Fees

In 2020, the Trial Judge entered a temporary restraining order preventing the imposition of impact fees due to the lack of geographic impact fee zones, that there was no analysis of "special-benefit" to the fee payor or what special benefits the residents who would pay the impact fee would receive and that the studies did not rely on the most recent and localized data. The court may find the reading of the Summary Final Judgment and temporary restraining order to be instructive.

In the *Board of County Commissioners, Santa Rosa County v. Home Builders Association of West Florida, 325 So.3d 981 (Fla. 1st DCA 2021)*, the First DCA upheld a

[5] Also, see Exhibit 1 to the Summary Final Judgment, which is the Order Granting Plaintiff's Verified Motion for Temporary Injunction, page 50.

Final Summary Judgment Granting Plaintiff's Motion for Summary Judgment, finding that the County ordinance imposing school impact fees on a county-wide basis was unconstitutional and invalid, affirming the summary judgment and temporary injunction. (¶ 3.24 of Amended Complaint).

In its Summary Judgment ruling, though the trial court rejected the plaintiff's argument that there was a bright line test that local governments must assess school impact fees on a neighborhood by neighborhood basis; however, found that the lack of geographic impact fee zones or districts resulted in a violation of the dual rational nexus test. (*Santa Rosa* SFJ, Exhibit 1 @ 45). (¶ 3.25 of Amended Complaint).

The trial court found that the school district had not geographically identified new growth and generalized the fact that the county was growing. The court also found that they did **not** analyze the "special benefit" to a fee payor in either section of the county would receive relative to their payment. The Ordinances did not address what unique or special benefits residents who will pay the impact fee would receive. (*Santa Rosa* SFJ, Exhibit 1 @ 48). (¶ 3.26 of Amended Complaint).

The trial Court also found that they did not rely on the most recent and localized data but instead relied on state-wide data from Florida Department of Education for construction costs. The court held that the County was unable to meet its burden to prove by a preponderance of the evidence that the impact fees met the requirements of state legal precedent and the Florida Impact Fee Act. (*Santa Rosa* SFJ @ 8). (¶ 3.27 of Amended Complaint).

Impact Fee Act

The full pertinent provisions of the Florida Impact Fee Act are stated in 3.9 through 3.11 of the Amended Complaint. Pertinent provisions will be stated below.

POINT ONE
No Specific-Need or Special-Benefit

Legal Requirements

Section 163.31801(4), Florida Statutes, requires at a minimum, among others, that impact fees must be proportional and reasonably connected to, or rational nexus with, **need for capital facilities generated by new construction** and must be proportional and reasonably connected to, or rational nexus with, **expenditures of funds and benefits accruing to new construction**. (Emphasis Supplied). (¶ 3.6 of Amended Complaint).

Additionally, the Florida Supreme Court has clearly held that there must not only be a benefit, it must be a "special benefit" to the assessed property. (*Water Oak* @ 669).

The fee is invalid if it does not provide **a unique benefit to those paying the fee, must result in a benefit not shared by persons not required to pay the fee and the fee must be a unique benefit to those paying the fee**. (*Collier* @ 1017-1019). (Emphasis Supplied).

The first prong of the dual rational nexus test explicitly requires a nexus between the City's need and the growth in population generated by a subdivision. Further, the needs must be specific to the subdivision or area. (*Aberdeen* @ 134-135). Then the benefits must accrue to the subdivision, and to constitute a fee, they **must confer a special benefit on the fee payors in a manner not shared by those not paying the fee**. (Id.) (Emphasis Supplied).

Impact Fee Studies

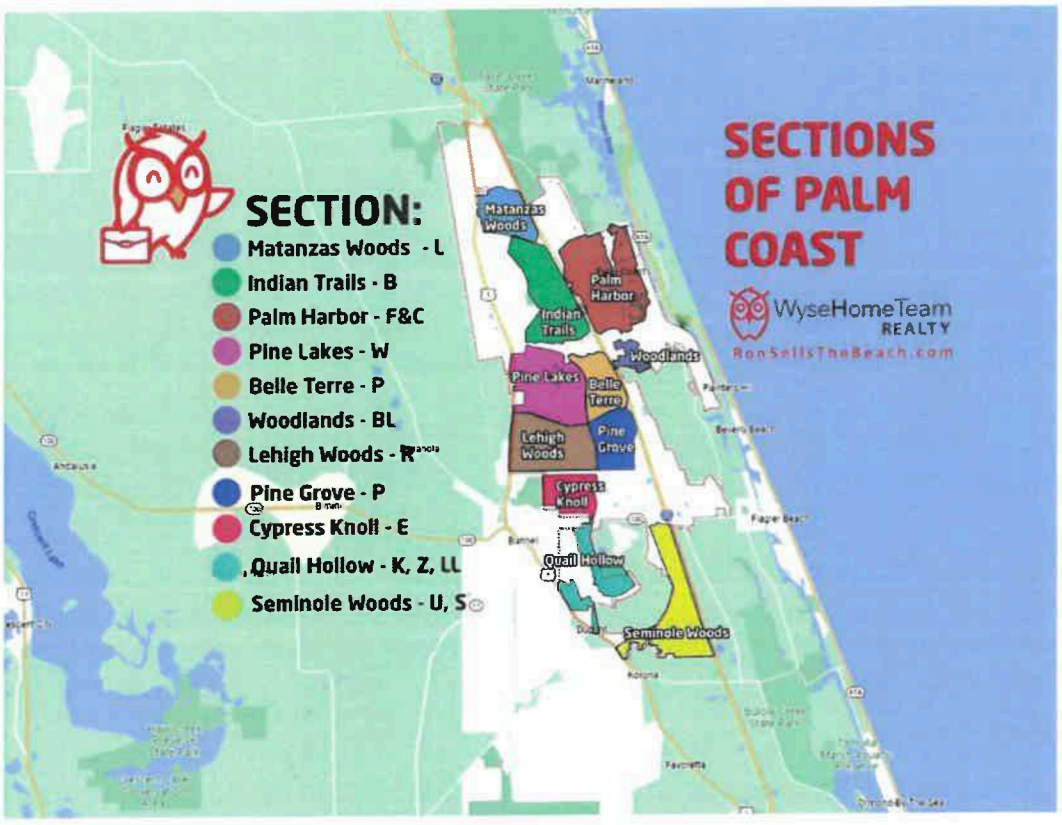
For all three (3) Ordinances, the City hired consultants to perform detailed studies, which are incorporated by reference into the Ordinances. Not once do any of the three (3) studies use the terms "special-benefit" or "specific-need". Instead, all three (3) Ordinances impose impact fees regardless of location of the new construction or any fire

station, park or road improvement. The City has not conducted any analysis as required by the Florida Supreme Court cases for special-benefit or specific-need. (Paragraphs 1.14-1.18; 3.28-3.29; and 3.31-3.43 of Amended Complaint).

In the *Santa Rosa* case from 2021, the trial court imposed a temporary restraining order, which was then upheld by the First District Court of Appeal and a subsequent Summary Final Judgment was entered. One of the principal reasons was that the school board did not analyze the "special-benefit" to the fee payor. (¶ 3.23 through 3.27 of Amended Complaint). (*Santa Rosa SJF* @ 8).

11 Distinct Areas

The City of Palm Coast has a minimum of eleven (11) different geographically distinct areas, neighborhoods or sections, with differing fire, park or transportation infrastructure needs. The City is approximately twenty-two (22) miles in length at its longest point, twelve (12) miles in width at its widest point, (90.8 square miles) boarders along the intracoastal waterway, has a municipal core, suburban neighborhoods, as well as the undeveloped DRI areas and other substantially undeveloped areas on the periphery of the City limits. See Map below generally depicting them. (¶ 3.32 of Amended Complaint).



The Impact Fee Documents relied upon by the City in adopting the Ordinances totally fail to identify the "specific need" or "special benefit" of any project versus any area being developed nor do the Impact Fee Documents even address any divergent needs or benefits from one part of the City to another, or one element versus another. (¶ 3.33 of Amended Complaint).

Additionally, the Ordinances do not establish for any subdivision or area --- that the revenues are sufficiently earmarked for the substantial benefit of that subdivision or area as required by *Aberdeen* @ 135; and Section 163.31801(4)(h), Florida Statutes.

Fire Impact Fee

Nowhere does the Fire Impact Fee Study or Ordinance identify how the current replacement of Fire Station 22, the addition of current Fire Station 26, or the future proposed fire stations, result in any benefit not shared by persons not required to pay the fee or a unique benefit to those paying the fees. (See ¶ 3.52.14 through 3.52.17 of Amended Complaint).

Transportation Impact Fee

Nowhere does the Transportation Study or Ordinance establish how roads that can be located up to sixteen (16) miles from any property paying the impact fees obtain any unique or special-benefit for the person paying the fee that is not shared by persons not required to pay the fee and that all persons have a right to utilize the public roads. (See ¶ 3.56.15 of Amended Complaint). All or substantially all of the proposed roadway improvements are major arteries or corridors, which can be utilized by any resident or person within the City at any time as they are public roads.

Parks Impact Fee

The Parks Study neither identifies where many new parks are to be located nor any special-benefit to the new homes paying the fees nor do they establish specific-need for each area for such parks caused by what development. (See ¶ 3.65.9 through 3.65.15 of Amended Complaint). All the parks are public parks equally accessible to every resident or person within the City.

Summation

The Supreme Court held, in *Collier* @ 1017, "the first prong of the test is not satisfied by establishing that the assessment is rationally related to an increase demand for county services. **If that were the test, the distinction between taxes and special assessments would be forever obliterated**". (Emphasis Supplied). Here, the City has used only city-wide increased demand, which is in direct violation of *Collier*. There is no analysis or showing as to which development is creating the specific need so that an impact fee can be levied for that area or development.

Further, under *Collier* "the fee must result in a benefit not shared by persons not required to pay the fee". (*Collier* @ 1018). The City has failed to establish any benefit to those paying the fees that is different from persons not required to pay the fee. Every

person within the City has the right to utilize the fire services, roadways and parks in a similar manner.

None of the Ordinances indicate that the revenues are sufficiently earmarked for the substantial benefit of any subdivision or area as required by *Aberdeen* @ 134-135 and Section 163.31801(4)(h), Florida Statutes.

None of the Ordinances satisfy the fundamental Constitutional criteria for a fee under the dual rational nexus test, in that there is no finding or basis establishing which areas are generating the need for new construction, and no finding or analysis as to any unique or special-benefit to those paying the fees not shared by persons not required to pay the fee, and do not ensure that the revenue is sufficiently earmarked for the substantial benefit of the subdivision or areas.

POINT TWO

Impact Fees Not Limited to "Cost of Expansion Required by New Development" and Not Proportional

Legal Requirements

The Florida Supreme Court cases going back to *Dunedin* @ 320 in 1976 required "that impact fees were **limited to the cost of expansion**". *Hollywood* @ 611 also confirmed that impact fees cannot exceed pro rata share of the reasonably anticipated cost of capital expansion reasonably required by new development. (Emphasis Supplied).

Additionally, the Florida Impact Fee Act, in its minimum mandatory requirements, require the fee be related to "**the need for additional capital facilities and the increased impact generated by the new construction**". (Section 163.31801(4)(f), Florida Statutes). (¶ 3.11 of Amended Complaint). (Emphasis Supplied).

However, all three (3) Ordinances include substantial capital improvements which are not reasonably required by new development. The Fire and Parks Impact Fees also include a "buy-in" payment for substantial existing facilities, which in no way are an increased impact generated by the additional capital facilities required by new development. The Transportation Impact Fee is proposing substantial increases in road capacity, which are not needed; and, therefore, cannot be reasonably required by new development.

The Florida Impact Fee Act imposes minimum mandatory requirements, including to "ensure that the impact fee is proportional and reasonable connected to, or has a rational nexus with, the need for additional capital facilities and the increased impact generated by the new residential or commercial construction." (Section 163.31801(4), Florida Statutes).

Impact Fee Studies

All three (3) of the Impact Fee Studies relied upon by the City in adopting the Ordinances, purported to set forth the Impact Fee Criteria. The Fire Study and Parks Study both have an Impact Fee Criteria section on page 2. The Transportation Study has a section entitled "the Impact Fee Act & Case Law Overview" from pages 2-9.

Impact Fee Criteria

The pertinent language from the "Impact Fee Criteria" sections of the Fire and Parks Study are identical and state in pertinent part, as follows:

> The statute provides specific impact fee criteria and certain precedents originally established by case law that **constitute the legal requirements** associated with the implementation of valid impact fees. The major criteria for a valid impact fee includes the following:
>
> 1. The impact fee should be reasonably equitable to all parties; that is, the amount of the fee must bear a reasonable relationship or nexus to the demand for services;
>
> 2. The system of fees and charges should be set up so that there is not an intentional windfall to existing users of municipal services;
>
> 3. The impact fee should, to the extent practical, **only cover the capital cost of construction and related costs thereto** (engineering, legal, financing, administrative, etc.) **for increases in or expansions** of capacity or capital requirements for major facilities or equipment, such as fire vehicles, **which are required due to growth**. Therefore, **expenses due to normal renewal and replacement of a facility or major equipment should be borne by all users of the facility or municipality**. Similarly, increased expenses due to operation and maintenance of that facility should be borne by all users of the facility; and
>
> 4. The local government must adopt a revenue-producing ordinance that explicitly sets forth restrictions on revenues (uses thereof) that the imposition of the impact fee generates. Therefore, the funds collected from the impact fees should be retained in a separate account, and separate accounting must be made for those funds to ensure that they are used only for the lawful purposes described.
>
> Based on the criteria provided above, the impact fees herein **will: i) include specific costs of improvements associated with the capacities needed to serve new growth; ii) <u>not</u> reflect costs of improvements associated with the renewal and replacement ("R&R") of existing capital assets** or

> deficiencies in level of service attributed to existing development; and iii) not include any costs of operation and maintenance of the capital improvements and major equipment.

(Emphasis Supplied).

Note, there is not a single reference to a case name in the Fire and Parks Studies and the first sentence above states "...precedents originally established by case law". (Emphasis Supplied). Does that mean they used old caselaw and not the more recent? Certainly, they do not address the specific-need, special-benefit, analysis for subdivision mandates, etc. from the *Collier* case on through *Aberdeen*.

However, paragraph 3 states "... Therefore, expenses due to normal renewal and replacement of a facility or major equipment should be borne by all users of the facility or municipality." The last paragraph even states "...ii) not reflect cost of improvements associated with the renewal and replacement ("R&R") of existing capital assets or deficiencies in level of service attributed to existing development." Even per the Study, the impact fee is "only to cover the capital cost of construction and related costs for increases or expansions, which are required due to growth".

The Transportation Study does have several pages of purported caselaw overview; however, the most recent Florida Supreme court case they cited was a 1976 *Dunedin* case. They totally ignored and disregarded Landmark Florida Supreme court cases and the requirements for impact fees thereafter. (¶ 3.12 – 3.27 of Amended Complaint).

Fire Impact Fee

"Buy-In"

Notwithstanding their own impact fee study's language and in total disregard for the constitutional mandates as set forth below, the impact fees impose "buy-in" mandates for all existing fire and park facilities and fail to establish any deficiency in road capacity anywhere near the magnitude of the road improvements proposed.

The Fire Impact Fees are not limited to cost of expansion because they include paying a "buy-in fee" for existing facilities, which also includes replacement of Fire Station 22 and construction of a new Fire Station 26 as a major project (which are both under construction). Such existing facilities cannot lawfully be included for future growth because an existing facility is not part of the cost of expansion nor reasonably required by new development.

Table 6 of the Fire Impact Study states, in pertinent part, as follows:

1.	**Calculation of Net Average Capital Cost per New Personnel [1]**	
2.	Recoupment Costs	$222,160
3.	Proposed Capital Additions	426,133
4.	Less Historical and Planned Future Capital Grants/Other Funding Sources Received	(84,570)
5.	Total Calculation of Net Average Capital Cost per New Personnel	$563,723
6.	**Additional Fire Personnel Anticipated to Serve Population [2]**	
7.	Existing Personnel in 2025	74.00
8.	Additional Personnel Associated with New Stations Through 2035	33.00
9.	Total Firelighters Projected by 2035	107.00
10.	**Total Costs Recovered From Impact Fees**	
11.	Total Calculation of Net Average Cost per New Personnel	$563,723
12.	Number of Total Firefighters Needed	107.00
13.	Total Capital Costs to be Recovered From Impact Fees	$60,318,338

(¶ 3.52.12 of Amended Complaint). (Emphasis Supplied).

Based upon Table 6 above, the recoupment cost of $222,160 per personnel is almost 1/3 of the total Capital Cost per new personnel, which is used as the basis for the Fire Impact Fees. Such is not permitted under *Dunedin* or any successive Florida decision and even contrary to the language of the Fire Study.

Even based upon the Impact Fee criteria from the Fire Study quoted above, the impact fee is only to cover the capital costs of construction required due to growth and not to include cost of expenses for renewal or replacement. Based on the Study's own express criteria, including a buy-in cost for existing infrastructure, is prohibited.

Further, no Florida case authorizes a "buy-in" forcing new development to pay a "fee" for something preexisting and already servicing the community. For example, how can a replacement of an existing fire station be caused by future growth if it is not increasing any capacity? (See ¶ 3.52 through 3.52.10 of Amended Complaint).

The Fire Ordinance and Study use the "buy-in" method for existing infrastructure, with a cost of $23.7 million, plus proposed capital additions of $46.4 million, of a total allocated cost of $61.5 million, which is divided by the total number of anticipated fire fighters of 107 for Capital Cost per fire fighter of $563,723. (See ¶ 3.52.11 of Amended Complaint). Simply including the cost for "buy-in" for infrastructure, whatever the amount, violates the "limited to cost of expansion reasonably required by new development mandate".

Approximately $20 million of the capital costs to be recovered from the impact fees relates to the "buy-in". Under the Florida Impact Fee Act, Section 163.31801(4)(h) and (i), Florida Statutes, require that the impact fees be earmarked for the capital facilities to benefit new users and not be used to pay any existing debt or previously approved projects absence special circumstances. What happens to the $20 million to be collected because they do not need it for the new projects?

Full Burden of All 107 Firefighters

Under the Impact Fee Act, Section 163.31801(4)(f), Florida Statutes, "impact fees must be proportional and reasonably connected to, or rational nexus with, the need for capital facilities an increase impact generated by new construction". However, as summarized below, the Fire Impact Fees are bearing the full burden of all 107 firefighters new capital cost, plus the buy-in above.

Table 6, of the Fire Study, calculates the total average Capital Cost per new personnel of $563,723 multiplied times the total number of firefighters of 107 (projected

increase from 74 current firefighters), for a total of $60,318,338, which is the basis for its impact fee. Therefore, the impact fee payors are bearing the full burden of all 107 firefighters, including, paying for all of the pre-existing and future infrastructure. (See ¶ 3.52.11 through 3.52.13 of Amended Complaint).

Here, the City is recouping its entire previous cost for fire stations, plus 100% of the cost of the new fire stations, including the $11 million Fire Station 22, all with impact fees on new development. They are also wrongfully recovering all the old costs, not simply required by expansion, but also for all 107 firefighters, which is also not a proportional amount.

With the impact fee payors having to pay a "buy-in" fee plus the full new capital cost of 107 firefighters, not limited to the 33 new additional firefighters, they are paying the full burden and such is not proportional and in direct violation of the Impact Fee Act proportionality requirement.

If the City collects the full $60 million, they will have collected $23.7 million more than the cost of the new fire stations and, with the new 20,000 residents paying for it all. What happens to the $23.7 million to be collected because they do not need it for new projects?

Parks Impact Fee

No Need for $165,000,000 – For 16 Acre @ 10 Million Dollars Per Acre

Per the Parks Study, to maintain the adopted level of service for the projected growth will only require an additional sixteen (16) acres of land and the City has a current surplus of 208 acres. Nowhere has the Parks Study identified the cost of such sixteen (16) acres, but instead proposes massive park expansion and improvements for over $185 million, with $106 million of new parks by 2035, with a projected population of only 132,387 residents. (See ¶ 3.65.1 through 3.65.8 of Amended Complaint).

Page 3 of the Parks Study also provides that the City owns approximately 1,068 acres of recreational space; however, the City has a surplus of approximately 208 acres. Through 2035 the City is expected to only need an additional sixteen (16) acres of buildout. However, the City does not propose to simply add 16 acres to meet its established level of service. Instead, the City proposes to provide recreational services at a cost, all the way to buildout, of $165,486,906 (Page 5) and spending $59,590,036 by 2035, with a Future Planned Investment through 2035 of $106,677,445. (See ¶ 3.65.4 of Amended Complaint). All at a cost to new residents of $10 million dollars per acre.

Buy-In of Existing Parks

The Parks Study, on page 3 (similar to the Fire Study), acknowledges three (3) different impact fee methods: (i) improvements-driven method utilizing a specific set of planned capital improvements; (ii) buy-in approach utilizing the cost of existing infrastructure; and (iii) standards-driven method utilizing theoretical costs. The City, as stated in the Parks Study, then proceeded to use a combination of improvements-driven method and buy-in method imposing impact fees for the cost of existing infrastructure and not limited to the cost of expansion as required under *Dunedin* @ 320. (See ¶ 3.65.5 of Amended Complaint). The City currently has the 208 acres of surplus park land, and there is no timeline for when they might need the additional 16 acres through the point of buildout. Therefore, there can be no "cost of expansion required by new development" for years, if not decades.

Based upon the Parks Impact Fee Criteria from the Parks Study quoted above, the impact fee is only to cover the capital costs of construction required due to growth and not to include cost of expenses for renewal or replacement. Based on the Study's own express standard, including such a "buy-in" cost for existing infrastructure, is prohibited.

In confirmation that the City used the "buy-in method" in the impact fees, the Parks Study, in its chart on page 5 (inserted below) entitled "Existing and Planned Future Investment Per Person", adds the estimated cost per person for Existing Investment of $450.12, plus Planned Future Investment of $805.80, for a total of $1,255.92. This total of existing investment and planned future investment of $1,255.92 was multiplied times 2.52 persons per dwelling unit on page 6 in the chart entitled "Calculation of Proposed Recreation Impact Fee", resulting in a total Impact Fee per dwelling unit of $3,164.92.

Existing and Planned Future Investment per Person [1]					
Description	Total Investment	Projected Buildout Population	Estimated Cost per Person	Projected 2035 Population	Estimated 2035 Investment
Existing Investment	$103,567,540	230,094	$450.12	132,387	$59,590,036
Planned Future Investment	185,486,906	230,094	805.80	132,387	106,677,445
Total	$289,054,446	230,094	$1,255.92	132,387	$166,267,481

(See ¶ 3.65.5 of Amended Complaint).

Additionally, in the Exhibit "E-3", Parks Power Point, slides 30-32, the City has: (i) slide #30, Existing Investment In Recreation Assets stating a Cost per person of $450.12, with the estimated 2035 population of 132,387 = 59.6 million; and (ii) slide #31, Planned Future Investment In Recreation Assets, stating Cost per person of $968.74 with estimated 2035 population of 132,387 = 130.6 million. Both the Existing Investment and Planned Future Investment, per person, are added on the chart on the Parks Power Point on slide #32, which is set forth below, to determine the Total Cost to be Recovered Per Person - - which includes existing and future investments.

Calculation of Proposed Parks and Recreation Impact Fee

Description	Basis / Amount
Total Allocated Net Existing Investment in Recreation Facilities	$59,590,036
Total Allocated Net Planned Future Investment In Recreation Facilities	130,631,547
Total Allocated Net Existing and Planned Future Investment In Recreation Facilities	$190,221,585
Total Allocated Net Existing and Planned Future Investment In Recreation Facilities	$190,221,585
Projected 2035 Population	132,387
Total Cost to be Recovered Per Person	$1,436.86
Total Cost to be Recovered Per Person	$1,436.86
Average Persons per Residential Dwelling Unit	2.52
Fee Per Dwelling Unit	$3,620.89
Fee Per Dwelling Unit (Rounded)	$3,620.00

(See ¶ 3.65.6 of Amended Complaint).

Page 25 of the Parks or Recreational Impact Fee wish list of parks in the Power Point Presentation for the City Council, which is attached to the Amended Complaint as Exhibit E-3. It includes:

- Long Creek Nature Preserve – Phase 3 for Building, Pavilions, Sitework.
- Waterfront Park Water Access – Phase 2 for Expanded Parking, Pavilion, Site Lighting and Site Furnishings.
- Neighborhood Parks for Matanzas Woods Park, Quail Hollow Park and Seminole Woods Park Expansion.
- Graham Swamp Trail – Phase 2 for 12' wide multi-use path; completes the gap between Lehigh Trail and the existing Graham Swamp Trail; and completes section of Sun Trail network.

- Existing Fire Station #22 Conversion & Community Center Parking Expansion with more parking to serve the community center.
- Skate Park location undetermined.
- Southern Recreation Facility – Phase 3 for additional parking, remote restroom facilities and maintenance building.
- Sports Complex for land purchase, lighted multi-purpose fields, restrooms and parking.
- Matanzas Woods Canoe / Kayak Launch to include parking and canoe / kayak launch.
- Cultural Arts Facility to add covering over exiting stage and other elements determined during design.
- ITSC Expanded Parking and Additional Field Lighting to add lighting and parking for baseball / softball fields, including ADA parking spaces.
- Palm Coast Family YMCA for 44,000 square foot building.

None of the documentation in the Parks Study, Power Point or otherwise establishes how those are "required by new development".

Such costs are not limited to cost of expansion reasonably required by the new development.

Therefore, the new dwelling units are not only paying for the new parks and recreational facilities that may be caused by growth, they are also paying for the existing parks. Such is not proportional to the need for new capital facilities and increased cost generated by the new residential construction, as required pursuant to Section 163.31801(4)(f), Florida Statutes, and *Dunedin* @ 320; or pro rata as required by *Hollywood* @ 611; and because it includes recapturing of existing cost, the fees are not

limited to meeting the cost of expansion as required in *Dunedin* @ 320, (See, Parks Fee Fund, Page 1). (See ¶ 3.65.7 of Amended Complaint).

Nowhere does the Parks Study discuss which homes are creating the "specific-need" necessitating the sixteen (16) acres of additional parks throughout the City or the massive city-wide Parks expansion wish list. (See ¶ 3.65.9 of Amended Complaint).

Nowhere does the Parks Study identify specifically when or where the new parks are going to be located or how any of the new parks or improvements to existing parks are going to provide any special benefit to the new homes paying the fees in a manner not shared by those not paying the fee. (*Aberdeen* @ 135). (See ¶ 3.65.10 of Amended Complaint).

Approximately $60 million of the capital costs to be recovered from the impact fees relates to the buy-in. Under the Florida Impact Fee Act, Section 163.31801(4)(h) and (i), Florida Statutes, require that the impact fees be earmarked for the capital facilities to benefit new users and not used to pay any existing debt or previously approved projects absence special circumstances. What happens to the $60 million to be collected because they do not need it for the new projects?

Transportation Impact Fee

The primary violation with respect to the Transportation Impact Fees is that the existing roads have substantially greater capacity than current needs, even as admitted by the impact fee consultant in a presentation before the City Council where he admitted that the roadways generally are not expected to be over capacity until 2050, with one (1) or two (2) roads over capacity within the next five (5) years. (See ¶ 3.56.2 through 3.56.10 of Amended Complaint). There can be no "expansion required by new development" if the City already has substantially excess capacity in its roadways. How can there be a required expansion when they already have a substantial excess capacity?

Study Shows Substantial Excess Current Capacity

Table 3, page 12, of the June 2023 Transportation Study shows that the 2023 vehicle capacity, in fact, substantially **exceeds** the amount of vehicle travel on most roads by an average of approximately 70%. The Impact Fee Consultant in a presentation before the City Council confirmed this when he admitted on May 27, 2025 at a Public Hearing before the City Council that the roadways are not projected to be over capacity until 2050 and that only one (1) or two (2) roads would be over capacity within the next five (5) years. (See ¶ 3.56.2 through 3.56.4 of Amended Complaint).

Table 6, page 15, of the June 2025 Transportation Study establishes the existing capacity of roads to be improved and the future capacity. In Table 6, as modified below, we have added the Percentage Increases in the right column. (See ¶ 3.56.6 of Amended Complaint).

TABLE 6. 2050 ROAD CAPACITY INCREASE

Road: (From & To Limits)	Existing Capacity	Future Capacity	Percentage Increase
Belle Terre Pkwy: E. Hampton Blvd. to Royal Palms Pkwy	32,940	48,690	48%
Belle Terre Pkwy: Parkview Dr (S) to Pine Lakes Pkwy	32,940	32,940	0%
Belle Terre Pkwy: Pine Lakes Pkwy to Cypress Point Pkwy	32,940	48,690	48%
Matanzas Woods Pkwy: US 1 to Bird of Paradise Dr	15,190	35,250	132%
Matanzas Woods Pkwy: Bird of Paradise Dr to I-95 SB	15,190	48,690	220%
Matanzas Woods Pkwy: I-95 SB to Old King Road Extension	15,190	32,940	117%
Palm Coast Pkwy: Cypress Point Pkwy to I-95 SB Ramps	54,100	64,200	18%
SR 100: Palm Coast City Limit to Bulldog Drive	30,700	47,700	55%
SR 100: Bulldog Drive to I-95	30,700	64,000	108%
SR 100: I-95 to Old Kings Rd	36,600	64,200	75%

Note: Percentage Increase column added.

Table 7, page 16, of the June 2025 Transportation Study, 2050 Vehicle Miles of Capacity Increase, identifies a vehicle mile capacity increase of 129,132 miles. The 2023 VMC is 531,406 from Table 3. Taking the total capacity of 660,538 divided by the existing capacity of 531,406 shows a 24% increase in capacity. (See ¶ 3.56.7 of Amended Complaint).

Combining the amount which the Current Capacity exceeds Vehicle Travel (current usage) of approximately 70% with a 24% increase, would result in a minimum of 94% increased capacity. However, there is no analysis as to the capacity actually required by new growth, especially, in that they currently have substantial excess capacity. Instead of first determining the needed capacity, the Transportation Study simply took what additional lanes were desired, then determined what those additional lanes would increase capacity, and is now charging an impact fee for the new capacity - - not needs. There was no basis for allocation of, or basis for, any specific-benefit to any area creating the demand. There is also no analysis as to which proposed road widenings are being caused by which areas of new development or how they will specially benefit just those areas. (See ¶ 3.56.8 of Amended Complaint).

The June 2025 Transportation Study does not substantiate a need for the increasing capacity on older roadways which is caused by growth in other areas of the City; especially no special benefit for any new home or business of the City over others. (See ¶ 3.56.9 of Amended Complaint).

Table 8, page 17, of the June 2025 Transportation Study, shows road improvement costs total estimated of $101,519,873 and Table 10, page 20, shows the portion attributable to impact fees of $71,519,873. Table 1 of the June 2025 Transportation Study shows 2024 population of 106,193 and 2050 projected population of 157,883, which means the new population will equal 32.7% of the total population. (See ¶ 3.56.10 of

Amended Complaint). Therefore, the City is substantially over building capacity and placing 70% of the burden on the future residents (approximately 1/3 of total). Further, placing a 70% burden on approximately 1/3 of the total residents is not proportional and in violation of the Florida Impact Fee Act.

If one combines the existing amount which the current capacity exceeds vehicle travel of approximately 70% with the proposed 24% increase in capacity, that results in a minimum 94% excess capacity for the roads. For only approximately 32% increase in population. (¶ 3.56.8 of Amended Complaint). A 94% excess capacity, or anything above the population increase, cannot be proportional or constitute a need caused by such growth.

There was also no analysis as to which proposed widenings are being caused by what development and there is no analysis as to what development in what area is creating any need for any of the road widenings.

The capital expansion must be the result of a specific-need by region or area or neighborhood and there is no such analysis - - only a city-wide burden when there is a substantial excess in capacity existing and the proposal is to substantially expand the road capacity beyond the City's own documented needs.

Transportation Impact Fees Not Proportional

Further, the Transportation Impact Fees are imposing a minimum of 70% of the burden of the massive road improvement project on new construction, which is substantially more than any needed to meet demands by new construction. On page 20 of the June Transportation Study, they have an Assignable Cost of over $100 million, which is simply used to derive a "Vehicle Miles Of Capacity Rate" in Table 10. They assume anticipated funding of approximately $30 million, resulting in assignable costs for impact fees of over $71 million. The population increase is only approximately 32% and

they are assigning 70% of the cost for the road improvements - - again, which increases capacity substantially more than the projected growth. Therefore, on its face, the Ordinance imposes a disproportional cost on new construction.

Transportation Ordinance Incorporated Wrong Reports

The third recital/whereas clause of the Transportation Ordinance referenced a Technical Report, dated June 2025, and a Extraordinary Circumstances Study, dated June 2025. However, the City in Section 29-32, on page 5 of the Transportation Ordinance incorporated the Impact Fee Technical Report Update, dated April 2025, and the Extraordinary Circumstances Study, dated May 2025, which have a different fee formula and include additional state roads, for which the City has no responsibility to maintain or improve. For example, the June 2025 Transportation Study shows on page 17 a total Estimated Improvement Cost of $101,519,873 versus the April 2025 Technical Report Update on page 17, which showed a total Road Improvement Cost of $157,685,919, a difference $56,166,046.

Further details regarding the wrong studies are referenced in paragraphs 3.59 through 3.63 of Amended Complaint.

By incorporating the wrong study, such would impose substantially higher impact fees than the City thought it was approving, which on its face would make the Ordinance unlawful and unenforceable due to the errors. (Santa Rosa SFJ @ 52-53; ("With errors of this magnitude, the County cannot meet its burden to prove by a preponderance of the evidence that "the calculation of the impact fee" meets the requirements of state legal precedent...and the County has failed to meet the burden to prove the School Impact Fee "at a minimum" satisfies "all" conditions set forth in the Florida Impact Fee Act Section 163.31801(3)(7), Florida Statutes".)

Summation

For both the Fire and Transportation Ordinance, the City is imposing a "buy-in", to in essence reimburse the City for all existing parks and fire stations, which is a clear violation of the limitation of "cost of expansion required by new development". Even based upon the purported criteria in the Fire Study and the Parks Study, imposing the cost of pre-existing infrastructure is prohibited and the cost of any renewal or replacement like Fire Station 22 is prohibited. If the City is allowed to collect all the "buy-in" fees, while at the same time they are required to utilize all such funds for the dedicated purpose of parks, what are they going to do with the excess money from the buy-in fees? It is irrational and directly conflicts with Section 163.31801, Florida Statutes, which specifically requires earmarking of the funds collected to benefit the new users. How can they benefit the new users? Where do the funds go if they are collecting more than the cost of new improvements?

The City would collect over $80 million of "buy-in" from the Fire Impact Fees and Parks Impact Fees in direct violation of the Florida Impact Fee Act, which are prohibited from being used on other projects. What does the City do with this $80 million? The funds are required to be dedicated "earmarked" to the benefit of those paying the fees. Do they refund the $80 million? This is a classic reason why fees of this nature are so strictly controlled so as to prevent cities from charging excessive fees. Looks like a City slush fund - - which is unlawful.

The Fire Impact Fee imposes the full burden of all 107 firefighters, not the 33 projected new firefighters, which itself is not proportional, and not expansion required by new development. Additionally, to impose a buy-in requirement for existing infrastructure is in direct violation of the Constitutional mandate that the impact fees be limited to cost of expansion reasonably required by new development.

The Transportation Study confirms that there is no shortage of capacity of the road system for a substantial period and the City's proposed road improvements substantially exceed the necessary capacity.

There can be no cost of road expansion imposed upon new development as a fee unless there is a need for expansion caused by the new development. The City's own study shows they have an abundance of over capacity at this point. There will be many years until there is any need for further capacity - - and will never need anywhere near the proposed over capacity they want to have impact fees pay for.

Further, to impose 70% of the cost of road improvements, particularly as they are substantially well above any needed capacity, upon impact fees is not proportional as required in the Florida Impact Fee Act, Section 163.31801(4)(f), Florida Statutes.

Additionally, the Transportation Ordinance erroneously adopted and incorporated by reference the wrong study, which includes substantially higher impact fees. (See ¶ 3.58 through 3.63 of Amended Complaint). By incorporating the wrong study, such would impose substantially higher impact fees than the City thought it was approving, which on its face would make the Ordinance unlawful and unenforceable due to the errors. (Santa Rosa SFJ @ 52-53; ("With errors of this magnitude, the County cannot meet its burden to prove by a preponderance of the evidence that "the calculation of the impact fee" meets the requirements of state legal precedent...and the County has failed to meet the burden to prove the School Impact Fee "at a minimum" satisfies "all" conditions set forth in the Florida Impact Fee Act Section 163.31801(3)(7), Florida Statutes".)

POINT THREE

Violated the "Subdivision Based Standard"

Legal Requirements

The Florida Supreme Court decision of *Aberdeen* is exceptionally clear that the Florida Constitution requires a subdivision-based standard for the application of impact fees and they cannot be adopted on a county-wide or even city-wide basis for the City.

(i) The Court was clear that it had **not abandoned any subdivision-based standard**. (*Aberdeen* @ 135). (Emphasis Supplied).

(ii) The fee must offset needs sufficiently attributable to the subdivision and must be **earmarked for the substantial benefit of subdivision residents**. (Id. @ 135). (Emphasis Supplied).

(iii) Expressly repudiated a county-wide standard for determining constitutionality of impact fees. (Id. @ 135).

(iv) Held that "[t]he language of the dual rational nexus test itself belies the assertion that a county-wide standard should be employed. The first prong of the test **explicitly requires a nexus between the need and the growth in population generated by that subdivision**." "Similarly, the test's second prong insures that the benefits accrue to the subdivision." (Id. @ 134). (Emphasis Supplied).

(v) Affirmed that they did not abandon the subdivision standard and that "**imposing a county-wide standard would eviscerate the substantial nexus requirement**." (Id. @ 135). (Emphasis Supplied).

(vi) "Fees, by contrast, must confer **a special benefit** on the fee payors **in a manner not shared by those not paying the fee**." (Id. @ 135). (Emphasis Supplied).

All City-Wide Impact Fees

The City in adopting all three (3) Ordinances on a city-wide basis directly violated every holding above from the *Aberdeen* case.

All three (3) Ordinances were adopted on a city-wide basis. No Ordinance ensures that the benefits accrue to any subdivision nor do they establish a nexus between need for such capital improvement generated by such subdivision.

The City is geographically diverse, approximately 22 miles in length at its longest and 12 miles at its width at its widest point. It constitutes approximately 90.8 square miles, borders the intracoastal waterway, has a municipal core, suburban neighborhoods, as well as undeveloped development of regional impact areas. (¶ 3.32 of Amended Complaint). However:

- None of the Ordinances earmark funds for the substantial benefit of any subdivision or residents.
- None of the Studies or Ordinances establish any nexus between any actual need and the growth in population generated by that subdivision so as to ensure that the benefits accrue to that subdivision.
- There is no basis that the fee payors are receiving a special-benefit in a manner not shared by those not paying the fee.

Ironically, the Transportation Study, erroneously on page 24 stated that "new development only pays transportation impact fees applicable to assessment area" and that there are "multiple assessment areas".[6] The Transportation Study, stated "multiple assessment areas are established for transportation impact fees to reflect differences due

[6] It actually appears that the consultants did a "cut and paste" from another local government studies and makes one wonder who on behalf of the City, if anyone, even read the study that is so wrong and yet proceeded to adopt the Transportation Ordinance.

to internal capture or external distribution of trips". However, the City disregarded it and adopted a city-wide single assessment area. (See ¶ 3.56.13 of Amended Complaint).

The Transportation Study actually acknowledged the need for geographic areas for the imposition of an impact fee. It erroneously said there were such areas. Then the City totally disregarded or ignored the mandates of *Aberdeen*, conducted no analysis whatsoever of different areas of the City and adopted a city-wide Transportation Impact Fee.

Summation

All three (3) Ordinances are in clear and direct violation of the "subdivision-based standard". It is convenient that neither the Parks Study nor the Fire Study made any reference to the past 1976 Florida Supreme Court caselaw. Most conveniently, the Transportation Study had a section discussing caselaw, but only referenced a Florida Supreme Court case back in 1976. It ignored every other Florida Supreme Court case since then.

The exclusion in all three (3) Studies of any Florida Supreme Court decision after 1976 appears to be an affirmative act of deception by exclusion. Whether the City was aware of the exclusion of the more recent caselaw requirements and chose to ignore them or was a victim of the deceptive and misleading practices of the consultants, does not matter. What matters is that the Impact Fee Ordinances and related Studies do not satisfy the constitutional criteria for the lawful adoption of impact fees.

The Transportation Study also erroneously stated there were multiple assessment areas, which is an acknowledgment of the need for such. Even the fact that the Transportation Study contained erroneous language about multiple assessment areas (obviously copied and pasted from another study) shows a gross lack of diligence in the

consultants drafting the studies and the City in reviewing and relying upon them in adopting the Ordinances.

POINT FOUR

Violated Requirement for "Most Recent and Localized Data"

Legal Requirements

The Florida Impact Fee Act mandates that the City, at a minimum, "[e]nsure that the calculation of the impact fee is based on a study using the most recent and localized data available ...". (Section 163.31801(4), Florida Statutes). (Emphasis Supplied). (Paragraph 3.9 of Amended Complaint).

Transportation Impact Fee

The Transportation Impact Fee disregarded the "most recent and localized data" requirement on its face in its own Appendices. The Appendices are replete with both national and state-wide data, disregarding the City's own traffic studies and more local or regional data referenced below.

The Transportation Ordinance relied upon Appendices, which were based upon statewide or national data not localized data, including, without limitation, the following:

(i) Appendix B, entitled Florida's Generalized Service Volume Tables for 2023 utilized State data;

(ii) Appendix F, entitled Road Improvement Cost relies on FDOT Long Range Cost Estimates 2025 utilized State data;

(iii) Appendix G, entitled Trip Generation relies on a ITE Trip Generation Manual Eleventh Edition, which is not localized;

(iv) Appendix H, entitled Vehicle Travel Demand Per Land Use, which provides no source for data; and

(v) Appendix I, entitled National Household Travel Data utilizes 2022 national household travel data survey. (See ¶ 3.56.14 of Amended Complaint).

The City failed to use: (i) local traffic data, which the City had from its 2023 Traffic Studies, including, without limitation, the City's bi-annual traffic studies of its own road and needs, with the last one being performed in 2023; (ii) the most recent localized data, including adding turn lanes on Whiteview, Citation Blvd. extension, Lake Avenue extension, Matanzas Woods Parkway extension, all of which are planned and approved, including their costs since 2024; (iii) the Central Florida Regional FDOT cost data; (iv) recent cost or road improvements readily available from local contractors; or (v) recent other costs actually incurred by the City. (See ¶ 3.56.14 of Amended Complaint). All of which is in violation of Section 163.31801(4)(a), Florida Statutes, which requires the study must be based on and use the most recent and localized data.

Fire Impact Fee

The Fire Impact Fee identifies the purported cost its paying for its current construction. However, fails to identify the basis for cost for future construction. Section 163.31801(4)(a), Florida Statutes, requires that the Study be based on the most recent and localized data available within four (4) years. The Study is silent as to the cost basis, which is in violation of Section 163.31801(4)(a), Florida Statutes.

Parks Impact Fee

The Parks Study fails to establish what cost data they even used and there is no reference to the local cost data for the sixteen (16) acres of future parkland needed to meet standards. Section 163.31801(4)(a), Florida Statutes, requires that the Study be based on the most recent and localized data available within four (4) years. The Study is silent as to the cost basis, which is a direct violation of Section 163.31801(4)(a), Florida Statutes.

Summation

None of the Ordinances comply with the Impact Fee Act requirement that the cost must be based upon the most recent and localized data available because they either don't use such data or fail to identify any source. The study is required to be based upon cost utilized in the most recent and localized data available. This was also a principal ground for rejection of the impact fees in the *Santa Rosa* case. (*Santa Rosa* SFJ @ 8).

POINT FIVE

Impact Fees Exceeded 50% and There was Unlawful Extraordinary Circumstances

Legal Requirements

The Florida Impact Fee Act, in 2021 imposed phase-in requirements for impact fees. (Section 163.31801(6), Florida Statutes). Subpart (d) provides that impact fee increases may not exceed 50% of the current impact fee rate and, unless they either have the unanimous vote of the governing body (not obtained), or must have a study that "expressly demonstrates the extraordinary circumstances necessitating the need to exceed the phase-in limitation." (Id). (Paragraph 3.11 of Amended Complaint).

Not Lawful "Extraordinary Circumstances"

None of the City Studies expressly demonstrate "extraordinary circumstances" necessitating a need to exceed phase-in limitations. Each of the studies describes a similar set of purported "extraordinary circumstances" which simply, as a matter of law, would not constitute extraordinary circumstances under the intent of the Florida Impact Fee Act. They merely describe circumstances such as inflation and growth, which they somehow claim are "extraordinary".

None of three (3) studies defined what could possibly be "extraordinary circumstances", included no definitions and no review of any Florida caselaw dealing with "extraordinary circumstances".

There are no known cases in Florida interpreting "extraordinary circumstances" with respect to the Florida Impact Fee Act. However, under other caselaw, "extraordinary circumstances" are extremely limited. Typically, these involve those matters which are unusual and unexpected, beyond the control, or have significant impact. Examples could be natural disasters, acts of terrorism or war, unexpected illness or injury, or significant

economic deterioration. None of those were present, certainly not city-wide. (¶ 3.46 of Amended Complaint).

Under Florida law, "extraordinary circumstances" are rarely found; however, two (2) examples are where a trial judge had *ex parte* communications with the opposing party which warranted granting an extension of time for filing a motion to recuse (*Klapper-Barrett v. Nurell*, 742 So.2d 851 (Fla. 5th DCA 1999); and allowing an administrative agency to alter a final judgment because consumers were being forced to pay unreasonably high fuel adjustment charges because of an illegal scheme (known as "daisy-chaining") conducted by a fuel consultant employed by the agency. (*Richter v. Florida Power Corporation*, 366 So.2d 798 (Fla. 2nd DCA 1979). (¶ 3.47 of Amended Complaint).

A simple review of the purported "extraordinary circumstances" for each of the three (3) Ordinances, are nothing more than circumstances that virtually every city or local government in Florida have faced. It would be irrational for the Florida Legislature to include a requirement for "extraordinary circumstances" that could simply be met by every local government dealing with inflation, growth or the fact that taxes might have to be raised without impact fees or that the city may have to modify its budget.

In interpreting a statute under Florida law, the starting point is the Plain Meaning Rule. This means that Florida courts give words their ordinary and common meaning, unless the statute provides a specific definition. No definition was provided. Therefore, the court can look to the caselaw referenced above or simply read that it must not include anything that is ordinary.

Every element asserted as an "extraordinary occurrence, in each of the three (3) studies, is nothing that virtually every other Florida city or local government faces in their budgetary process each year.

Additionally, in construing the statutes, the court should avoid interpretations that lead to absurd or unreasonable results. If the legislature stated "extraordinary circumstances", as a mandatory special finding to exceed the phase-in limitations, the legislature certainly meant something - - it would not be circumstances that local governments face every day. It would mean something substantially out of the ordinary. For example, if there was a catastrophic event necessitating the construction of a new bridge through a portion of the city or county; such might constitute an extraordinary circumstance due to the immediate needs for the construction of the bridge. It would be absurd to think that a rapid population growth, inflation impacts or trying to get funds to offset what should otherwise be part of the general taxes or adding major investments and new facilities are "extraordinary circumstances". Such would result in an absurd interpretation.

Fire Impact Fee

Below is a summary of the Extraordinary Circumstances from the Fire Study:

(a) A rapid population growth historically averaging 3.8% per year over the past five (5) years and projected material growth rate of 2.1% per year over the next ten (10) years.

(b) Recent large inflationary impacts to capital project construction costs have impacted the projected cost to build facilities to accommodate new growth in reliance upon a Capital Construction Materials Index.

(c) The cost of fire trucks and related apparatus have increased in an extraordinary manner in the past five (5) to six (6) years.

(d) The impact on the community, should the City not implement the fees at fully calculated level should be considered, as it would directly impact the existing residents and taxpayers.

(e) If the fees are implemented using the standard statutory approach, the revenue shortfall would be approximately $3.9 million.

(¶ 3.53 of Amended Complaint).

None of these "extraordinary circumstances" cited comes close to legally constituting extraordinary circumstances as intended by the Florida Legislature. Further, there is no showing whatsoever as to the urgent needs for exceeding the phased in provisions of the Florida Impact Fee Act. A revenue shortfall of $3.9 million, due to lack of planning or proper budgeting by the City, does not establish legally "extraordinary circumstances". Certainly, the impact on the community should the City not implement the fees cannot be any kind of extraordinary circumstances, that would be the norm in any case where no impact fee was adopted. (¶ 3.54 of Amended Complaint).

Transportation Impact Fee

The extraordinary circumstances relied upon in the Extraordinary Circumstances Study (see page 13), identified the extraordinary circumstances and stated as follows:

> (1) The City of Palm Coast over the past 30 years has experienced extraordinary population growth that has exceeded the extraordinary population growth of the State of Florida;
>
> (2) The City of Palm Coast is projected to continue experiencing extraordinary population growth by 2050 at a rate that will exceed the projected growth for the State of Florida;
>
> (3) The overall cost per mile of improvements between the 2018 Transportation Impact Fees and the 2025 Transportation Impact Fees increased roughly 124% due to inflation;
>
> (4) The Florida Department of Transportation (FDOT) Long Range Estimates for per mile construction cost of transportation facilities has increased by 123% between 2018 and 2024 due to inflation, which equates to roughly 20.5% per year, or 17.5% a year higher than historic annual inflation rates of roughly 3.0% used by FDOT;
>
> (5) The National Highway Construction Cost Index (NHCCI) has increased by 80.4% between 2018 and 2024 due to inflation,

which equates to roughly 13.4% per year, or almost 13% a year higher than national inflation rates between 2008 and 2018;

(6) The 2025 Transportation Impact Fee rate includes $30 million in reasonably anticipated funding to off-set the increase; even though the $30 million is not currently programmed for funding;

(7) The ITE Trip Generation Manual and the National Household Travel Survey have been updated between 2018 and 2025, resulting in increases in trip generation rates, vehicle trip lengths, and vehicle travel demand for a number of land uses and a subsequent increase in Transportation Impact Fees;

(8) The City of Palm Coast Transportation Impact Fee Technical Report dated June 2025 documents the need for road and intersection improvements to accommodate future travel demand. The calculation for the Transportation Impact Fee update is based on the most recent and localized data as of 2025. Limiting increases in fees will impact the ability of the City to fund improvements to ensure new development mitigates its transportation impacts. The Technical Report and this Study serves as the basis for the findings of extraordinary circumstances in support of adoption of the Transportation Impact Fee at 100% of the calculated rates.

(¶ 3.57 of Amended Complaint).

These types of issues do not constitute extraordinary circumstances under Florida Law and also utilize national or state-wide data, not even using FDOT regional data or local costs. Further, how can there be any extraordinary circumstances when there is currently no deficiency in capacity and that the City would not exceed capacity on all roads until 2050.

Parks Impact Fee

Below is a summary of the "Extraordinary Circumstances" from the Parks Study:

(a) Rapid population growth historically averaging 3.8% per year over the past five (5) years and projected material growth rate of 2.1% per year over the next ten (10) years.

(b) Recent large inflationary impacts to capital growth project construction cost have impacted the projected cost to build facilities to accommodate new growth, citing the construction materials index.

(c) The City's approved and updated capital improvement plan that identifies major investments in new facilities that will be required to serve growth that will place significantly more demand on the City for recreational services and facilities.

(d) The impact on the community should the City not implement the fees at the fully calculated level, shall be considered as these would directly impact the existing residents and taxpayers.

(¶ 3.73 of Amended Complaint).

The Parks Study shows available funds of $10,709,311, with fiscal year 2025 expenditures of only $5,107,673, therefore, there was no immediate need for substantial funds. (See ¶ 3.65.8 of Amended Complaint).

Summation

Certainly, the Florida Legislature meant something when they required a study with "extraordinary circumstances" before a local government could exceed the phase-in limitations. It would be an absurd result to think that population growth, inflation or other tax payors having to bear the burden would in any way constitute an extraordinary circumstance for the purpose of the statute. It would be an absolutely absurd result because every local government could claim that such extraordinary circumstances, which would defeat the purpose of the statute.

Section E. The Ordinances Violate Section 28 of Senate Bill No. 180

Part II of the Complaint consists of allegations relating to a violation of Section 28 of the laws of Florida 2025, together with a count for declaratory judgment as Count I and an injunction as Count II.

Count I is an action for declaratory judgment for violation of Senate Bill No. 180, Section 28, and Count II is an action for temporary or permanent injunction for such violation.

Resident Plaintiff, is a resident of the City or owner of a business within the City and has standing. (¶ 2.4 of the Amended Complaint).

City Powers Limited by Florida Constitution

Article VIII, Local Government, Section 2, Municipalities, allows municipalities to exercise any power for municipal purposes, except as otherwise provided by law. (¶ 2.5 of the Amended Complaint).

Section 28

Section 28, imposed, in essence, a moratorium on more burdensome amendments to Land Development Regulations by local governments impacted by hurricanes until October 1, 2027. Section 28, states, in pertinent part, as follows:

> **Section 28.**
>
> (1) Each county listed in the Federal Disaster Declaration for Hurricane Debby (DR-4806), Hurricane Helene (DR-4828), or Hurricane Milton (DR-4834), and each municipality within one of those counties, may not propose or adopt any moratorium on construction, reconstruction, or redevelopment of any property damaged by such hurricanes; propose or **adopt more restrictive or burdensome amendments to its comprehensive plan or land development regulations;** or propose or adopt more restrictive or burdensome procedures concerning review, approval, or issuance of a site plan, development permit, or development order, to the extent that those terms are defined by s. 163.3164, Florida Statutes, before October 1, 2027, and **any such moratorium or restrictive or**

> **burdensome comprehensive plan amendment, land development regulation, or procedure shall be null and void ab initio. This subsection applies retroactively to August 1, 2024.**
>
> * * *
>
> **(3)(a) A resident of or the owner of a business in a county or municipality may bring a civil action for declaratory and injunctive** relief against the county or municipality for a violation of this section. Pending adjudication of the action and upon filing of a complaint showing a violation of this section, the resident or business owner is entitled to a preliminary injunction against the county or municipality preventing implementation of the moratorium or the comprehensive plan amendment, land development regulation, or procedure. If such civil action is successful, **the resident or business owner is entitled to reasonable attorney fees and costs.**
>
> * * *
>
> (4) This section expires June 30, 2028.

(Emphasis Supplied). (¶ 2.6. of the Amended Complaint).

Land Development Regulations Definition § 163.3164

Section 163.3164, Florida Statutes, defines land development regulations as follows:

> (26) "Land development regulations" means ordinances enacted by governing bodies for the regulation of **any aspect of development** and includes any local government zoning, rezoning, subdivision, **building construction**, or sign regulations **or any other regulations controlling the development of land**, except that this definition does not apply in s. 163.3213.

(Emphasis Supplied). (¶ 2.7. of the Amended Complaint).

Definition of Development

Additionally, the term "development" is defined in Chapter 163, as having the same meaning as in Section 380.04, and is utilized in the definition of "land development regulations", (Section 163.3164(14), Florida Statutes).

The definition of "development" in Section 380.04, Florida Statutes, means "the carrying out of **any building activity** or ... the making of any **material change in the use or appearance of any structure or land**...". (Emphasis Supplied).

Clearly, "building construction", "any other aspect of development", "building activity" or "the making of any material change in the use or appearance of any structure or land" are restricted when a building permit is denied until payment of impact fees. Based upon such definitions, the Ordinances fall within the scope of definition of "land development regulations", which utilizes the definition of "development". (Emphasis Supplied). (¶ 2.8, 2.9 and 2.10 of the Amended Complaint).

Resident Plaintiff served Notice of a Violation, which is attached to the Amended Complaint as Exhibit "B", and the City did not withdraw the ordinances within fourteen (14) days. (¶ 2.13 of the Amended Complaint).

Violation of Section 28

The allegations of the Amended Complaint establish a *prima facie* cause of action for violation of Section 28 because the City is located within Flagler County. Flagler County was named in DR-4834-FL as being adversely affected by Hurricane Milton and the impact fees substantially increase the cost for issuance of a permit for a new home or business. (¶ 2.12 through 2.30 of Amended Complaint).

The Ordinances, imposing the Impact Fees, prohibit any building permit issuance until payment of the impact fees, falls within the definitions both "land development regulations" and/or "development" for the purposes of Section 28 because they relate to any aspect of development, building construction, a building activity and/or making any material change in the use or appearance of any structure or land. (¶ 2.7 through 2.11 of Amended Complaint).

The chart below substantially summarizes the prior existing fees, calculated fees per dwelling for a 2,000 square foot residence, dollar increase in fee and percentage increase in impact fees for all three (3) Ordinances.

New	Existing fee per dwelling unit	Calculated fee per single family detached dwelling unit	Dollar increase in fee	Percentage increase in fee
Parks & Recreation	$1,828.01	$3,164.00	$1,135.99	73.10%
Fire	$434.51	$942.00	$507.49	116.80%
Transportation	$3,502.00	$7,540.00	$4,038.00	115.30%
Unit Total	**$5,764.52**	**$11,646.00**	**$5,681.48**	**101.7% average**

The Impact Fees adopted by the Ordinances average a 101% increase in impact fees with a minimum increase of 73.10% to 116.8%. (¶ 1.22 of Amended Complaint).

Flagler County was named in the FEMA DR-4834-FL as being adversely affected by Hurricane Milton. Therefore, the City is prohibited from imposing more burdensome amendments to its "Land Development Regulations" before October 1, 2027. (¶ 2.16 through 2.19 of Amended Complaint).

All three (3) Ordinances constitute more burdensome amendments to the land development regulations and, therefore, are void *ab initio*. (¶ 2.21 and 2.22 of Amended Complaint).

Pursuant to Section 28(3)(a), the Resident Plaintiff is entitled to a preliminary injunction against the City preventing the implementation of the moratorium.

Section F. Request for Judicial Notice

Ordinances and Studies Attached to Amended Complaint

Pursuant to Section 90.202, Florida Statutes, Plaintiffs request this court take judicial notice of the following documents:

1. Fire Impact Fee Ordinance attached to Amended Complaint as Exhibit A-1;

2. Parks Impact Fee Ordinance attached to Amended Complaint as Exhibit A-2;

3. Transportation Impact Fee Ordinance attached to Amended Complaint as Exhibit A-3;

4. Fire Rescue Impact Fee Final Report, dated June 9, 2025, attached to Amended Complaint as Exhibit D-1;

5. Parks & Recreation Impact Fee Final Report, dated June 9, 2025, attached to Amended Complaint as Exhibit E-1;

6. City of Palm Coast Transportation Impact Fee Technical Report Update, dated June 2025, attached to Amended Complaint as Exhibit F-1;

7. City of Palm Coast Extraordinary Circumstances Study, dated June 2025, attached to Amended Complaint as Exhibit F-2;

8. City of Palm Coast Transportation Impact Fee Technical Report Update, dated April 2025, attached to Amended Complaint as Exhibit F-3; and

9. City of Palm Coast Extraordinary Circumstances Study, dated May 25, 2025, attached to Amended Complaint as Exhibit F-4.

Decisional and Statutory Law

Pursuant to Section 90.201, Florida Statutes, Matters Which Must Be Judicially Noticed, provides that a court shall take judicial notice of "(1) Decisional, constitutional,

and public statutory law and resolutions of the Florida Legislature and the Congress of the United States." Plaintiffs request this court take judicial notice of all statutes, Florida case law cited herein, and SB 180, of the following documents:

Florida Statutes

1. Section 163.31081, Florida Statutes, Florida Impact Fee Act;
2. Section 163.3164, Florida Statutes, Land Development Regulations;
3. Section 380.04, Florida Statutes;
4. Section 28, Senate Bill No. 180;

Constitutionality of Impact Fees

5. *Contractors and Builders Ass'n of Pinellas County v. City of Dunedin,* 329 So.2d 314 @ 320 (Fla. 1976);
6. *Hollywood v. Broward County,* 431 So.2d 606 @ 611 (Fla. 4th DCA 1983);
7. *City of Boca Raton v. State,* 595 So.2d 25 @ 29 (Fla. 1992);
8. *State of Florida v. City of Port Orange,* 650 So.2d 1 @ 3 (Fla. 1994);
9. *Collier County v. State of Florida*, 733 So.2d 1012 @ 1017-1019 (Fla. 1999);
10. *Volusia County v. Aberdeen at Ormond Beach*, 760 So.2d 126 @ 134-135 (Fla. 2000);
11. *Board of County Commissioners, Santa Rosa County v. Home Builders Association of West Florida Santa Rosa*, 325 So.3d 981 (Fla. 1st DCA 2021);
12. *Home Builders Association of West Florida, Inc., et al. v. The Board of County Commissioners, Santa Rosa County, Florida, et al.*, Circuit Court, First Judicial Circuit in and for Santa Rosa County, Florida, Case No. 2020 CA 201:

(a) Complaint;

(b) Motion for Summary Judgment;

(c) Order on Plaintiffs' Motion for Summary Judgment; and

(d) Final Summary Judgment Granting Plaintiffs' Motion for Summary Judgment.

Extraordinary Circumstances

13. *Klapper-Barrett v. Nurell,* 742 So.2d 851 (Fla. 5th DCA 1999); and

14. *Richter v. Florida Power Corporation*, 366 So.2d 798 (Fla. 2nd DCA 1979).

Section G. Affidavits in Support.

Attached hereto as Exhibit "A" is Affidavit of the Association in Support of this Motion for Summary Final Judgment; and attached hereto as Exhibit "B" is the Affidavit of William R. Barrick, an individual, in Support of this Motion for Summary Final Judgment.

Section H. Summary Judgment Standard

53. "A party may move for summary judgment, identifying each claim or defense -- or the part of each claim or defense --on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court shall state on the record the reasons for granting or denying the motion. The summary judgment standard provided for in this rule shall be construed and applied in accordance with the federal summary judgment standard." Fla. R. Civ. P. 1.510(a).

54. Under Rule 56(a) of the Federal Rules of Civil Procedure, summary judgment should be granted "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). Rule 56 mandates the entry of summary judgment ... against a party who fails

to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986). The moving party bears the initial burden of proving the absence of a genuine issue of material fact. Id. at 323. The burden then shifts to the nonmoving party, who is required to "go beyond the pleadings" to establish that there is a "genuine issue for trial." Id. at 324 (citation and internal quotation marks omitted). A dispute about a material fact is genuine "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986).

55. On a motion for summary judgment, the court must construe the evidence and all reasonable inferences arising from it in the light most favorable to the non-moving party. Adickes v. S. H. Kress & Co., 398 U.S. 144, 157 (1970); Anderson, 477 U.S. at 255. Any factual disputes will be resolved in the non-moving party's favor when sufficient competent evidence supports the non-moving party's version of the disputed facts. See Pace v. Capobianco, 283 F.3d 1275, 1276, 1278 (11th Cir. 2002) (a court is not required to resolve disputes in the non-moving party's favor when that party's version of events is supported by insufficient evidence). However, "mere conclusions and unsupported factual allegations are legally insufficient to defeat a summary judgment motion." Ellis v. England, 432 F.3d 1321, 1326 (11th Cir. 2005) (per curiam) (citing Bald Mountain Park, Ltd. v. Oliver, 863 F.2d 1560, 1563 (11th Cir. 1989)). Moreover, "[a] mere "scintilla" of evidence supporting the opposing party's position will not suffice; there must be enough of a showing that the jury could reasonably find for that party." Walker v. Darby, 911 F.2d 1573, 1577 (11th Cir. 1990) (citing Anderson, 477 U.S. at 252).

CONCLUSION

The Impact Fees imposed under the Ordinances are invalid and unenforceable. Plaintiffs are entitled to Summary Final Judgment for the relief requested in Counts I and III of the Amended Complaint.

WHEREFORE, the Plaintiffs request this Court enter a Summary Final Judgment for the relief requested in Counts I and III of Amended Complaint and such other relief deemed just and proper.

CERTIFICATE OF CONFERRAL

☐ I certify that prior to filing this motion, an email request to telephonically discuss the relief requested in this motion was forwarded to counsel for the Plaintiffs. Counsel for the Plaintiffs ☐ failed to respond to the email; ☐ agrees; or ☐ disagrees on the resolution of all or part of the Motion.

OR

X I certify that conferral prior to filing is not required as it is exempt under Rule 1.202(c)(5), Florida Rules of Civil Procedures, as it is a motion for summary judgment.

CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing was served by E-Service, this 15th day of December, 2025, to:

Jeremiah Blocker, Esquire
Douglas Law Firm
100 Southpark Blvd., Suite 414
St. Augustine, Florida 32086
(800) 705-5457
(386) 385-5914 – Fax
Email: jeremiah@dhclawyers.com
Attorney for Defendant

Isl Daniel J. Webster
Daniel J. Webster, P.A.
536 N. Halifax Ave., Suite 101
Daytona Beach, FL 32118
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Service: Service@websterpa.com
Personal: Dan@websterpa.com
(386) 258-1222 / (386) 258-1223
Attorney for Plaintiffs

ATTACHMENTS:

Appendix 1 – List of Exhibits to Amended Complaint

Appendix 2 – Table of Contents to Amended Complaint

Appendix 3 – Table of Contents to Plaintiffs' Motion for Summary Final Judgment

Exhibit "A" - Affidavit in Support of Motion for Summary Final Judgment of Flagler County – Palm Coast Homebuilders Association, Inc.

Exhibit "B" - Affidavit in Support of Motion for Summary Final Judgment of William R. Barrick, individually

Exhibit "C" - Affidavit in Support of Motion for Summary Final Judgment of Intracoastal Construction, LLC

Exhibit "D" - Affidavit in Support of Motion for Summary Final Judgment of Integrity Homes USA, LLC

Exhibit "E" - Affidavit in Support of Motion for Summary Final Judgment of Thomas Consulting and Construction, LLC

Exhibit "F" - Affidavit in Support of Motion for Summary Final Judgment of 1621 Building and Remodeling, LLC

Exhibit "G" - Affidavit in Support of Motion for Summary Final Judgment of Florida Green Building Construction, Inc.

APPENDIX 1

LIST OF EXHIBITS TO AMENDED COMPLAINT

Exhibit No.	Document	Complaint Paragraph No.
Exhibit A-1	Fire Impact Fee Ordinance	1.14
Exhibit A-2	Parks Impact Fee Ordinance	1.14
Exhibit A-3	Transportation Impact Fee Ordinance	1.14
Exhibit B	Notice of Violation, dated August 27, 2025	2.13
Exhibit C	Federal Emergency Management Association, Florida Hurricane Milton (DR-4834-FL)	2.18
	FIRE	
Exhibit D-1	Fire Rescue Impact Fee Final Report, dated June 9, 2025	3.28(a)
Exhibit D-2	Power Point Presentation entitled "Fire Impact Fee"	3.28(a)
	PARKS	
Exhibit E-1	Parks & Recreation Impact Fee Final Report, dated June 9, 2025	3.28(b)
Exhibit E-2	Recreation Impact Fee Fund, dated May 21, 2025	3.28(b)
Exhibit E-3	Power Point Presentation entitled "Recreation Impact Fee"	3.28(b)
	TRANSPORTATION	
Exhibit F-1	City of Palm Coast Transportation Impact Fee Technical Report Update, dated June 2025	3.28(c)
Exhibit F-2	City of Palm Coast Extraordinary Circumstances Study, dated June 2025	3.28(c)
Exhibit F-3	City of Palm Coast Transportation Impact Fee Technical Report Update, dated April 2025	3.28(c)
Exhibit F-4	City of Palm Coast Extraordinary Circumstances Study, dated May 25, 2025	3.28(c)

APPENDIX 2

TABLE OF CONTENTS TO AMENDED COMPLAINT

APPENDIX 3

TABLE OF CONTENTS TO PLAINTIFFS' MOTION FOR SUMMARY FINAL JUDGMENT

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

CASE NO. 2025 CA 000621
DIVISION: 49 (Judge Upchurch)

FLAGLER COUNTY – PALM COAST HOMEBUILDERS ASSOCIATION, INC., a Florida not-for-profit corporation; INTRACOASTAL CONSTRUCTION, LLC, a Florida limited liability company; INTEGRITY HOMES USA, LLC, a Florida limited liability company; THOMAS CONSULTING AND CONSTRUCTION, LLC, a Florida limited liability company; 1621 BUILDING AND REMODELING, LLC, a Florida limited liability company; FLORIDA GREEN BUILDING CONSTRUCTION, INC., a Florida corporation; and WILLIAM R. BARRICK, an individual,

Plaintiffs,

v.

CITY OF PALM COAST, a Florida municipal corporation,

Defendant.
_____/

PLAINTIFF'S, FLAGLER COUNTY – PALM COAST HOMEBUILDERS ASSOCIATION, INC., AFFIDAVIT IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

STATE OF FLORIDA
COUNTY OF VOLUSIA

BEFORE ME, the undersigned notary public, personally appeared ANNAMARIA LONG, as Executive Officer of Flagler County – Palm Coast Homebuilders Association, Inc., a Florida not-for-profit corporation ("Association), a plaintiff in this action, who, after being duly sworn on oath, states under oath as follows:

EXHIBIT "A"

1. The undersigned Association is a plaintiff in this action. This Affidavit is based upon personal knowledge.

2. All allegations of fact relative to the Association; venue; damages; pre-suit notice; conditions precedent; City of Palm Coast neighborhoods as alleged in paragraph 3.32 of Amended Complaint, status of construction of Fire Station 22 as alleged in paragraph 3.52.9 of Amended Complaint; that the City's impact fee consultant, in a public hearing before the City Council, confirmed that the majority of the roadways are not projected to be over capacity until 2050 as alleged in paragraph 3.56.4 of Amended Complaint; location of fire stations relative to population as alleged in paragraph 3.52.16 of Amended Complaint; availability of local, recent and regional cost data not utilized as alleged in paragraph 3.56.14 of Amended Complaint; location of road improvements relative to property subject to impact fees alleged in paragraph 3.56.15 of Amended Complaint, are true and correct.

3. All of the factual statements set forth in the Plaintiffs' Motion for Summary Final Judgment are true and correct, including that copies of the Exhibits attached to the Amended Complaint are those provided by the City.

FURTHER Affiant sayeth not.

DATED this 10th day of December, 2025.

ANNAMARIA LONG, as Executive Officer of Flagler County – Palm Coast Homebuilders Association, Inc.

Affiant

EXHIBIT "A"

STATE OF FLORIDA
COUNTY OF FLAGLER

Sworn to (or affirmed) and subscribed before me by means of ☑ physical presence or ☐ online notarization this 10 day of December, 2025 by Annamaria Long, as Executive Officer of Flagler County – Palm Coast Homebuilders Association, Inc., ☑ who is personally to me OR ☐ who has produced a valid Florida Driver's License or _____ as identification.

Anjanette Stevens
Notary Public

[Notary Seal]

ANJANETTE STEVENS
Notary Public - State of Florida
Commission # HH 210711
My Comm. Expires Mar 8, 2026
Bonded through National Notary Assn.

Anjanette Stevens
Name typed, printed or stamped
My Commission Expires: March 8, 2026

EXHIBIT "A"

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

CASE NO. 2025 CA 000621
DIVISION: 49 (Judge Upchurch)

FLAGLER COUNTY – PALM COAST HOMEBUILDERS ASSOCIATION, INC., a Florida not-for-profit corporation; INTRACOASTAL CONSTRUCTION, LLC, a Florida limited liability company; INTEGRITY HOMES USA, LLC, a Florida limited liability company; THOMAS CONSULTING AND CONSTRUCTION, LLC, a Florida limited liability company; 1621 BUILDING AND REMODELING, LLC, a Florida limited liability company; FLORIDA GREEN BUILDING CONSTRUCTION, INC., a Florida corporation; and WILLIAM R. BARRICK, an individual,

Plaintiffs,

v.

CITY OF PALM COAST, a Florida municipal corporation,

Defendant.
_____/

PLAINTIFF'S, WILLIAM R. BARRICK, AFFIDAVIT IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

STATE OF FLORIDA
COUNTY OF VOLUSIA

BEFORE ME, the undersigned notary public, personally appeared WILLIAM R. BARRICK, an individual ("Barrick), a plaintiff in this action, who, after being duly sworn on oath, states under oath as follows:

1. The undersigned is a plaintiff in this action. This Affidavit is based upon personal knowledge.

EXHIBIT "B"

2. All allegations of fact relative to the undersigned plaintiff; venue; damages; pre-suit notice; and conditions precedent are true and correct.

3. All of the factual statements set forth in the Plaintiffs' Motion for Summary Final Judgment are true and correct, including that copies of the Exhibits attached to the Amended Complaint are those provided by the City.

FURTHER Affiant sayeth not.

DATED this 10 day of December, 2025.

WILLIAM R. BARRICK

Affiant

STATE OF FLORIDA
COUNTY OF FLAGLER

Sworn to (or affirmed) and subscribed before me by means of ☑ physical presence or ☐ online notarization this 10 day of December, 2025 by WILLIAM R. BARRICK, ☑ who is personally to me OR ☐ who has produced a valid Florida Driver's License or _____ as identification.

Notary Public

[Notary Seal]

ANJANETTE STEVENS
Notary Public - State of Florida
Commission # HH 210711
My Comm. Expires Mar 8, 2026
Bonded through National Notary Assn.

Anjanette Stevens

Name typed, printed or stamped

My Commission Expires: March 8, 2026

EXHIBIT "B"

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

CASE NO. 2025 CA 000621
DIVISION: 49 (Judge Upchurch)

FLAGLER COUNTY – PALM COAST HOMEBUILDERS ASSOCIATION, INC., a Florida not-for-profit corporation; INTRACOASTAL CONSTRUCTION, LLC, a Florida limited liability company; INTEGRITY HOMES USA, LLC, a Florida limited liability company; THOMAS CONSULTING AND CONSTRUCTION, LLC, a Florida limited liability company; 1621 BUILDING AND REMODELING, LLC, a Florida limited liability company; FLORIDA GREEN BUILDING CONSTRUCTION, INC., a Florida corporation; and WILLIAM R. BARRICK, an individual,

Plaintiffs,

v.

CITY OF PALM COAST, a Florida municipal corporation,

Defendant.
_____/

PLAINTIFF'S, INTRACOASTAL CONSTRUCTION, LLC, AFFIDAVIT IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

STATE OF FLORIDA
COUNTY OF FLAGLER

BEFORE ME, the undersigned notary public, personally appeared Robert W. Richmond, II, as Manager of INTRACOASTAL CONSTRUCTION, LLC, a Florida limited liability company, a plaintiff in this action, who, after being duly sworn on oath, states under oath as follows:

1. The undersigned is a plaintiff in this action. This Affidavit is based upon personal knowledge.

Exhibit C

2. All allegations of fact relative to the undersigned plaintiff; venue; damages; pre-suit notice; and conditions precedent are true and correct.

3. All of the factual statements set forth in the Plaintiffs' Motion for Summary Final Judgment are true and correct, including that copies of the Exhibits attached to the Amended Complaint are those provided by the City.

FURTHER Affiant sayeth not.

DATED this 10 day of December, 2025.

Robert W. Richmond, II, as Manager of INTRACOASTAL CONSTRUCTION, LLC

Affiant

STATE OF FLORIDA
COUNTY OF FLAGLER

Sworn to (or affirmed) and subscribed before me by means of ☑ physical presence or ☐ online notarization this 10 day of December, 2025 by Robert W. Richmond, II, as Manager of Intracoastal Construction, LLC, ☑ who is personally to me OR ☐ who has produced a valid Florida Driver's License or _____ as identification.

Anjanette Stevens
Notary Public

[Notary Seal]

ANJANETTE STEVENS
Notary Public - State of Florida
Commission # HH 210711
My Comm. Expires Mar 8, 2026
Bonded through National Notary Assn.

Anjanette Stevens
Name typed, printed or stamped
My Commission Expires: March 8, 2026

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

CASE NO. 2025 CA 000621
DIVISION: 49 (Judge Upchurch)

FLAGLER COUNTY – PALM COAST HOMEBUILDERS ASSOCIATION, INC., a Florida not-for-profit corporation; INTRACOASTAL CONSTRUCTION, LLC, a Florida limited liability company; INTEGRITY HOMES USA, LLC, a Florida limited liability company; THOMAS CONSULTING AND CONSTRUCTION, LLC, a Florida limited liability company; 1621 BUILDING AND REMODELING, LLC, a Florida limited liability company; FLORIDA GREEN BUILDING CONSTRUCTION, INC., a Florida corporation; and WILLIAM R. BARRICK, an individual,

Plaintiffs,

v.

CITY OF PALM COAST, a Florida municipal corporation,

Defendant.
_____/

PLAINTIFF'S, INTEGRITY HOMES USA, LLC,
AFFIDAVIT IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

STATE OF FLORIDA
COUNTY OF FLAGLER

BEFORE ME, the undersigned notary public, personally appeared William R. Barrick, as Manager of INTEGRITY HOMES USA, LLC, a Florida limited liability company, a plaintiff in this action, who, after being duly sworn on oath, states under oath as follows:

1. The undersigned is a plaintiff in this action. This Affidavit is based upon personal knowledge.

Exhibit D

2. All allegations of fact relative to the undersigned plaintiff; venue; damages; pre-suit notice; and conditions precedent are true and correct.

3. All of the factual statements set forth in the Plaintiffs' Motion for Summary Final Judgment are true and correct, including that copies of the Exhibits attached to the Amended Complaint are those provided by the City.

FURTHER Affiant sayeth not.

DATED this 10 day of December, 2025.

William R. Barrick, as Manager of INTEGRITY HOMES USA, LLC

Affiant

STATE OF FLORIDA
COUNTY OF FLAGLER

Sworn to (or affirmed) and subscribed before me by means of ☑ physical presence or ☐ online notarization this 10 day of December, 2025 by William R. Barrick, as Manager of INTEGRITY HOMES USA, LLC, ☑ who is personally to me OR ☐ who has produced a valid Florida Driver's License or _____ as identification.

[Notary Seal]

ANJANETTE STEVENS
Notary Public - State of Florida
Commission # HH 210711
My Comm. Expires Mar 8, 2026
Bonded through National Notary Assn.

Notary Public

Anjanette Stevens

Name typed, printed or stamped
My Commission Expires: March 8, 2026

Exhibit D

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

CASE NO. 2025 CA 000621
DIVISION: 49 (Judge Upchurch)

FLAGLER COUNTY – PALM COAST HOMEBUILDERS ASSOCIATION, INC., a Florida not-for-profit corporation; INTRACOASTAL CONSTRUCTION, LLC, a Florida limited liability company; INTEGRITY HOMES USA, LLC, a Florida limited liability company; THOMAS CONSULTING AND CONSTRUCTION, LLC, a Florida limited liability company; 1621 BUILDING AND REMODELING, LLC, a Florida limited liability company; FLORIDA GREEN BUILDING CONSTRUCTION, INC., a Florida corporation; and WILLIAM R. BARRICK, an individual,

Plaintiffs,

v.

CITY OF PALM COAST, a Florida municipal corporation,

Defendant.
_____/

PLAINTIFF'S, THOMAS CONSULTING AND CONSTRUCTION, LLC, AFFIDAVIT IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

STATE OF FLORIDA
COUNTY OF FLAGLER

BEFORE ME, the undersigned notary public, personally appeared Brad M. Thomas, as Manager of THOMAS CONSULTING AND CONSTRUCTION, LLC, a Florida limited liability company, a plaintiff in this action, who, after being duly sworn on oath, states under oath as follows:

1. The undersigned is a plaintiff in this action. This Affidavit is based upon personal knowledge.

Exhibit E

2. All allegations of fact relative to the undersigned plaintiff; venue; damages; pre-suit notice; and conditions precedent are true and correct.

3. All of the factual statements set forth in the Plaintiffs' Motion for Summary Final Judgment are true and correct, including that copies of the Exhibits attached to the Amended Complaint are those provided by the City.

FURTHER Affiant sayeth not.

DATED this 10 day of December, 2025.

Brad M. Thomas, as Manager of THOMAS CONSULTING AND CONSTRUCTION, LLC

Affiant

STATE OF FLORIDA
COUNTY OF FLAGLER

Sworn to (or affirmed) and subscribed before me by means of ☑ physical presence or ☐ online notarization this 10 day of December, 2025 by Brad M. Thomas, as Manager of THOMAS CONSULTING AND CONSTRUCTION, LLC, ☑ who is personally to me OR ☐ who has produced a valid Florida Driver's License or _____ as identification.

[Notary Seal]

ANJANETTE STEVENS
Notary Public - State of Florida
Commission # HH 210711
My Comm. Expires Mar 8, 2026
Bonded through National Notary Assn.

Notary Public

Anjanette Stevens
Name typed, printed or stamped

My Commission Expires: March 8, 2026

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

CASE NO. 2025 CA 000621
DIVISION: 49 (Judge Upchurch)

FLAGLER COUNTY – PALM COAST HOMEBUILDERS ASSOCIATION, INC., a Florida not-for-profit corporation; INTRACOASTAL CONSTRUCTION, LLC, a Florida limited liability company; INTEGRITY HOMES USA, LLC, a Florida limited liability company; THOMAS CONSULTING AND CONSTRUCTION, LLC, a Florida limited liability company; 1621 BUILDING AND REMODELING, LLC, a Florida limited liability company; FLORIDA GREEN BUILDING CONSTRUCTION, INC., a Florida corporation; and WILLIAM R. BARRICK, an individual,

Plaintiffs,

v.

CITY OF PALM COAST, a Florida municipal corporation,

Defendant.
_____/

PLAINTIFF'S, 1621 BUILDING AND REMODELING, LLC, AFFIDAVIT IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

STATE OF FLORIDA
COUNTY OF FLAGLER

BEFORE ME, the undersigned notary public, personally appeared Neftali Dejesus, III, as Authorized Member of 1621 BUILDING AND REMODELING, LLC, a Florida limited liability company, a plaintiff in this action, who, after being duly sworn on oath, states under oath as follows:

1. The undersigned is a plaintiff in this action. This Affidavit is based upon personal knowledge.

Exhibit F

2. All allegations of fact relative to the undersigned plaintiff; venue; damages; pre-suit notice; and conditions precedent are true and correct.

3. All of the factual statements set forth in the Plaintiffs' Motion for Summary Final Judgment are true and correct, including that copies of the Exhibits attached to the Amended Complaint are those provided by the City.

FURTHER Affiant sayeth not.

DATED this 10 day of December, 2025.

Neftali Dejesus, III, as Authorized Member of
1621 BUILDING AND REMODELING, LLC

Affiant

STATE OF FLORIDA
COUNTY OF FLAGLER

Sworn to (or affirmed) and subscribed before me by means of ☑ physical presence or ☐ online notarization this 10 day of December, 2025 by Neftali Dejesus, III, as Authorized Member of 1621 Building and Remodeling, LLC, ☑ who is personally to me OR ☐ who has produced a valid Florida Driver's License or _____ as identification.

[Notary Seal]

ANJANETTE STEVENS
Notary Public - State of Florida
Commission # HH 210711
My Comm. Expires Mar 8, 2026
Bonded through National Notary Assn.

Notary Public

Anjanette Stevens

Name typed, printed or stamped
My Commission Expires: March 8, 2026

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

CASE NO. 2025 CA 000621
DIVISION: 49 (Judge Upchurch)

FLAGLER COUNTY – PALM COAST HOMEBUILDERS ASSOCIATION, INC., a Florida not-for-profit corporation; INTRACOASTAL CONSTRUCTION, LLC, a Florida limited liability company; INTEGRITY HOMES USA, LLC, a Florida limited liability company; THOMAS CONSULTING AND CONSTRUCTION, LLC, a Florida limited liability company; 1621 BUILDING AND REMODELING, LLC, a Florida limited liability company; FLORIDA GREEN BUILDING CONSTRUCTION, INC., a Florida corporation; and WILLIAM R. BARRICK, an individual,

Plaintiffs,

v.

CITY OF PALM COAST, a Florida municipal corporation,

Defendant.
_____/

PLAINTIFF'S, FLORIDA GREEN BUILDING CONSTRUCTION, INC., AFFIDAVIT IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

STATE OF FLORIDA
COUNTY OF FLAGLER

BEFORE ME, the undersigned notary public, personally appeared Neftali Dejesus, President of FLORIDA GREEN BUILDING CONSTRUCTION, INC., a Florida corporation, a plaintiff in this action, who, after being duly sworn on oath, states under oath as follows:

1. The undersigned is a plaintiff in this action. This Affidavit is based upon personal knowledge.

Exhibit G

2. All allegations of fact relative to the undersigned plaintiff; venue; damages; pre-suit notice; and conditions precedent are true and correct.

3. All of the factual statements set forth in the Plaintiffs' Motion for Summary Final Judgment are true and correct, including that copies of the Exhibits attached to the Amended Complaint are those provided by the City.

FURTHER Affiant sayeth not.

DATED this 10 day of December, 2025.

Neftali Dejesus, President of FLORIDA GREEN BUILDING CONSTRUCTION, INC.

Affiant

STATE OF FLORIDA
COUNTY OF FLAGLER

Sworn to (or affirmed) and subscribed before me by means of ☑ physical presence or ☐ online notarization this 10 day of December, 2025 by Neftali Dejesus, President of Florida Green Building Construction, Inc., ☑ who is personally to me OR ☐ who has produced a valid Florida Driver's License or _____ as identification.

Notary Public

[Notary Seal]

ANJANETTE STEVENS
Notary Public - State of Florida
Commission # HH 210711
My Comm. Expires Mar 8, 2026
Bonded through National Notary Assn.

Name typed, printed or stamped
My Commission Expires: March 8, 2026

ANJANETTE STEVENS
Notary Public - State of Florida
Commission # HH 210711
My Comm. Expires Mar 8, 2026
Bonded through National Notary Assn.