

**STATE OF SOUTH CAROLINA  
COUNTY OF ABBEVILLE**

**CITY OF ABBEVILLE,**

Plaintiff,

v.

**TOWN OF CALHOUN FALLS;  
TERRICO HOLLAND IN HIS  
OFFICIAL CAPACITY AS MAYOR  
OF THE TOWN OF CALHOUN  
FALLS; AND WENDI W. LEWIS IN  
HER OFFICIAL CAPACITY AS  
CLERK/TREASURER OF THE  
TOWN OF CALHOUN FALLS,**

Defendant.

**IN THE COURT OF COMMON PLEAS  
EIGHTH JUDICIAL CIRCUIT**

**Case No.: 2025-CP-01-00036**

**ANSWER, AFFIRMATIVE DEFENSES,  
AND COUNTERCLAIMS  
(JURY TRIAL DEMAND)**

### INTRODUCTION

Defendants, by and through undersigned counsel, hereby answer the Complaint of Plaintiff, asserting defenses and counterclaims as follows:

Pursuant to the South Carolina Rules of Civil Procedure, the Defendant, by and through her undersigned counsel, while reserving any motions filed or to be filed, hereby respectfully answers the Verified Complaint, and respectfully asserts as follows

**FOR A FIRST DEFENSE**

1. Unless expressly admitted herein, Defendants deny each and every allegation, inference, and conclusion contained in Plaintiff's Complaint.
2. Defendants admit the allegations in Paragraph 1 upon information and belief.
3. Defendants admit the allegations in Paragraph 2.
4. Defendants admit the allegations in Paragraph 3.
5. Defendants admit the allegations in Paragraph 4.
6. Defendants admit the allegations in Paragraph 5.
7. Defendants admit that jurisdiction and venue are proper in the Court of Common Pleas for Abbeville County under South Carolina law.
8. Defendants admit Paragraph 7.
9. Defendants admit Paragraph 8.
10. Defendants admit Paragraph 9.
11. Defendants admit Paragraph 10.
12. Defendants admit Paragraph 11.
13. Defendants admit Paragraph 12.
14. Defendants admit that the parties entered into the 1996 Water Purchase Contract, the terms of which speak for themselves. To the extent the allegations in Paragraph 13 are inconsistent with the terms of the Contract, they are denied.
15. Defendants admit that they are obligated to purchase water under the Contract, but deny any breach or failure to perform as alleged in Paragraph 14.
16. Defendants admit that water service has been provided under the Contract, but affirmatively state that performance has been impacted by limited resources, payment

disputes, and other material issues discussed herein. To the extent Plaintiff implies a breach by Defendants, the same is denied.

17. Defendants admit that monthly invoices were submitted by Plaintiff but deny liability for any amounts inconsistent with the Contract or law.
18. Defendants admit the content of Paragraph 17.
19. Defendants admit Paragraph 18.
20. Defendants admit Paragraph 19.
21. Defendants deny Paragraph 20 as stated. Defendants affirmatively state that transfer of water withdrawal rights is governed by the terms of the Contract, applicable law, and regulatory agency approval, and that Plaintiff has not satisfied those conditions.
22. Defendants deny the allegations of Paragraph 21. At no time has the Town of Calhoun Falls willfully disregarded its obligations. The Town has operated in good faith under financial and administrative constraints and disputes any implication of intentional misconduct.
23. Defendants deny the allegations in Paragraph 22. Defendants further deny that they are violating any pledge under the Revenue Bond Act and assert that any financial prioritization must comply with applicable law and equitable principles, including the Town's statutory duties to its citizens.
24. Defendants admit that a water rate increase was proposed and that it was not adopted by ordinance at the time referenced, but deny any implication of bad faith or breach. Defendants affirmatively state that the rate-setting process is governed by state law, budgetary limitations, and the need to balance system-wide fairness.

25. Defendants admit that certain actions were taken by the Town, including temporary suspensions of payments, in response to unresolved disputes and economic hardship, but deny any inference of wrongdoing or unlawful conduct.
26. Defendants deny the allegations in Paragraph 25. Defendants affirmatively state that they are entitled to challenge any amounts billed in accordance with the dispute resolution provisions of the Contract, including Articles XII and XVI.
27. Defendants admit Paragraph 26 insofar as Plaintiff has provided written notices regarding past due balances. Defendants deny any implication that such notices were not addressed in good faith or that Defendants have refused to engage in resolution.
28. Defendants lack sufficient knowledge to admit or deny the specific monetary allegations in Paragraph 27 and therefore deny same. Strict proof is demanded.
29. Defendants deny the allegations in Paragraph 28. The amounts allegedly owed are subject to dispute and offset under the terms of the Contract and applicable law.
30. Defendants deny the allegations in Paragraph 29. Defendants affirmatively state that any failure to pay amounts allegedly due was not willful but a consequence of economic constraint and ongoing contractual dispute.
31. Defendants deny the allegations in Paragraph 30. Defendants further assert that Plaintiff has not satisfied conditions precedent to compel certain performance, including cooperation under Article IV and observance of equitable duties.
32. Defendants deny the allegations in Paragraph 31 as stated. The alleged breach is denied, and Defendants reserve all rights under the Contract.

33. Defendants deny the allegations in Paragraph 32. Defendants further assert that enforcement of the alleged lien is premature, contested, and potentially improper under South Carolina law.
34. Defendants admit that Articles XII and XVI contain dispute resolution mechanisms and affirmatively state that Plaintiff failed to exhaust those mechanisms prior to filing suit.
35. Defendants admit the language of Section 12.1 of the Contract speaks for itself but deny Plaintiff's interpretation and enforcement of the same without due process.
36. Defendants deny the allegations in Paragraph 35, including any suggestion that Plaintiff has followed proper dispute resolution procedures as required under the Contract.

**GENERAL DENIAL OF CAUSES OF ACTION:**

Defendants deny each and every allegation of the Complaint not expressly admitted herein and demand strict proof thereof. Defendants specifically deny all allegations contained in Plaintiff's "First," "Second," "Third," and "Fourth" Causes of Action.

**RESPONSE TO FIRST CAUSE OF ACTION – BREACH OF CONTRACT**

37. Defendants reallege and incorporate all prior responses as if fully set forth herein.
38. Defendants deny the allegations of Paragraph 37.
39. Defendants admit that a Water Purchase Contract was entered into on or about October 15, 1996, and affirmatively state that the Contract speaks for itself. To the extent the allegations in Paragraph 38 misstate, mischaracterize, or inaccurately summarize the Contract, they are denied.

40. Defendants deny the allegations of Paragraph 39 and further assert that Plaintiff has failed to perform key obligations under the Contract, including duties of cooperation and mutual assistance expressly and impliedly incorporated therein.

**RESPONSE TO SECOND CAUSE OF ACTION – VIOLATION OF PLEDGE:  
CONVERSION**

41. Defendants reallege and incorporate all prior responses as if fully set forth herein.
42. Defendants deny the allegations of Paragraph 41 and specifically deny any material breach of contract or resulting liability therefrom. Defendants further assert that any alleged damages were caused by Plaintiff's own breach or failure to cooperate under the Contract.
43. Defendants deny the allegations of Paragraph 42 and further deny that S.C. Code Ann. § 6-21-350 creates a statutory obligation that supersedes the contractual and equitable limitations applicable to the Town of Calhoun Falls. Defendants assert that any revenue pledge under the statute is subject to legal defenses and the Town's ability to perform in light of limited resources and competing public obligations.
44. Defendants deny the allegations of Paragraph 43 and specifically deny that they have violated any statutory pledge or misapplied system revenues.
45. Defendants admit that the Water Purchase Contract references monthly service charges payable from system revenues but deny that Plaintiff's interpretation of the contract or the statute is binding. Defendants further deny that payment priority under the statute is absolute or self-executing without judicial determination.
46. Defendants deny the allegations of Paragraph 45 and affirmatively assert that no misuse or reallocation of pledged revenues has occurred in a manner inconsistent with South Carolina law or the express terms of the Contract.

**RESPONSE TO THIRD CAUSE OF ACTION – INSUFFICIENCY OF RATES**

47. Defendants reallege and incorporate all prior responses as if fully set forth herein.
48. Defendants deny the allegations of Paragraph 47 and deny that any monies owed to Plaintiff have been wrongfully retained or withheld.
49. Defendants deny the allegations of Paragraph 48. Defendants affirmatively state that all funds have been managed in accordance with applicable law and subject to lawful budgetary constraints and oversight.
50. Defendants deny the allegations of Paragraph 49 and specifically deny that any acts or omissions constitute conversion, misappropriation, or unauthorized withholding of funds.
51. Defendants deny the allegations of Paragraph 50 and further assert that Plaintiff has failed to state a cause of action for conversion or accounting. Plaintiff has an adequate remedy at law under the Contract and has not established any equitable right to special relief.

**RESPONSE TO FOURTH CAUSE OF ACTION – SPECIFIC PERFORMANCE /  
INJUNCTION**

52. Defendants reallege and incorporate all prior responses as if fully set forth herein.
53. Defendants deny the allegations of Paragraph 52.
54. Defendants deny the allegations of Paragraph 53. Defendants further assert that Plaintiff has not satisfied the legal requirements for specific performance under South Carolina law, including the requirement that there be no adequate remedy at law. The alleged harm — nonpayment of water charges — constitutes an economic injury that is compensable through monetary damages and therefore does not support equitable relief.

See *Roach v. Combined Util. Comm'n*, 290 S.C. 437, 442, 351 S.E.2d 168, 170 (Ct. App. 1986).

55. Defendants deny the allegations of Paragraph 54. Defendants further assert that Plaintiff seeks a **mandatory injunction**, which compels affirmative conduct and is disfavored under South Carolina law. Such relief is only appropriate where the requesting party makes a clear showing of entitlement, necessity, irreparable harm, and the lack of a legal remedy. Plaintiff has not met this burden, nor has it demonstrated that equity weighs in its favor, particularly where its own performance under the Contract is disputed.
56. Defendants deny the allegations of Paragraph 55 and further assert that Plaintiff failed to exhaust the dispute resolution procedures under Articles XII and XVI of the Water Purchase Contract, which are a condition precedent to any equitable enforcement.
57. Defendants deny the allegations of Paragraph 56. Defendants assert that injunctive relief is not appropriate in this matter because Plaintiff has not shown that it lacks an adequate remedy at law. This dispute centers on monetary claims, and equitable relief is therefore improper.

### **AFFIRMATIVE DEFENSES**

Without waiving any prior denials and pursuant to Rule 8(c) of the South Carolina Rules of Civil Procedure, Defendants assert the following affirmative defenses:

#### **FIRST AFFIRMATIVE DEFENSE** (Failure to State a Claim)

1. The Complaint fails to state facts sufficient to constitute a cause of action upon which relief can be granted.

## **SECOND AFFIRMATIVE DEFENSE**

(Breach by Plaintiff)

2. The plaintiff has materially breached the Water Purchase Contract by failing to:

- Cooperate with the Town in its efforts to recover or restructure its debt obligations;
- Assist with infrastructure planning and grant acquisition;
- Engage in good faith dispute resolution under Articles XII and XVI of the Contract.

These failures constitute material breaches that excuse any alleged nonperformance by Defendants.

## **THIRD AFFIRMATIVE DEFENSE**

(Failure to Mitigate Damages)

3. Plaintiff failed to mitigate its alleged damages by:

- Refusing to engage in timely dispute resolution,
- Declining to recognize Calhoun Falls' resource limitations, and
- Failing to apply reasonable collection alternatives before filing this litigation.

## **FOURTH AFFIRMATIVE DEFENSE**

(Estoppel and Waiver)

4. Plaintiff is estopped and has waived its right to assert claims inconsistent with its own past conduct, including:

- Acceptance of late or partial payments,
- Failure to enforce the dispute resolution mechanism prior to litigation,
- Accepting continued service without immediate enforcement of payment obligations.

**FIFTH AFFIRMATIVE DEFENSE**

(Conflict of Interest / Dual Representation)

5. Upon information and belief, both parties were represented by the same or affiliated counsel during negotiation of the Water Purchase Contract in 1996. Plaintiff is therefore estopped from asserting an interpretation of the Contract contrary to the understanding conveyed at the time of formation.

**SIXTH AFFIRMATIVE DEFENSE**

(Unclean Hands)

6. Plaintiff's own conduct—including refusal to engage in good faith dispute resolution and insistence on injunctive relief while breaching cooperative obligations—bars recovery under the equitable doctrine of unclean hands.

**SEVENTH AFFIRMATIVE DEFENSE**

(Offset and Credit)

7. Any alleged amounts owed to Plaintiff must be offset by:
  - Overcharges,
  - Plaintiff's breach of contract,
  - Undelivered infrastructure support,
  - And the Town's good faith efforts to resolve billing disputes.

**EIGHTH AFFIRMATIVE DEFENSE**

(Breach of Duty of Good Faith and Fair Dealing)

8. Plaintiff has breached the covenant of good faith and fair dealing by:

- Demanding payment in violation of agreed procedures,
- Refusing to accommodate the Town's financial constraints,
- And seeking extraordinary equitable relief without exhausting contractual options.

**NINTH AFFIRMATIVE DEFENSE**

(Failure to Exhaust Contractual Remedies)

9. Articles XII and XVI of the Contract require a structured dispute resolution process, including negotiation and submission to a Dispute Resolution Committee. Plaintiff failed to follow or exhaust these remedies before filing suit.

**TENTH AFFIRMATIVE DEFENSE**

(Reservation of Additional Defenses)

10. Defendants reserve the right to assert additional defenses that may become known through discovery or further investigation.

## **COUNTERCLAIMS OF DEFENDANT TOWN OF CALHOUN FALLS**

The Town of Calhoun Falls ("Counterclaim Plaintiff"), by and through undersigned counsel, hereby asserts the following counterclaims against the City of Abbeville ("Counterclaim Defendant" or "Plaintiff"), and respectfully shows unto the Court as follows:

### **COUNT ONE** (Breach of Contract)

1. The allegations set forth in the preceding paragraphs are realleged and incorporated herein by reference.
2. On or about October 15, 1996, the parties entered into the "Intergovernmental Contract for Sale and Purchase of Water" (the "Contract"), pursuant to which the City of Abbeville agreed to construct infrastructure and provide potable water to Calhoun Falls and surrounding areas.
3. The Contract obligates the City of Abbeville to cooperate with the Town of Calhoun Falls in infrastructure planning, debt repayment support, and mutual communication. *See* Contract § 3.4, § 3.11, and Article IV.
4. The City of Abbeville has materially breached the Contract by:
  - Failing to assist in the Town's efforts to manage and retire its indebtedness
  - Failing to engage in good faith efforts to resolve payment disputes
  - Unilaterally demanding payment without supporting resolution processes or documentation.
  - Attempting to impose rate interpretations inconsistent with the Contract and original mutual understanding

5. These breaches have caused substantial harm to Calhoun Falls, which relies on the agreed contractual structure for service provision and budgetary planning.
6. Calhoun Falls is entitled to damages, costs, and such other relief as the Court deems appropriate.

**COUNT TWO**

(Declaratory Judgment (S.C. Code § 15-53-10 et seq.)

7. The allegations in the preceding paragraphs are realleged and incorporated herein by reference.
8. A justiciable controversy exists between the parties concerning the interpretation and application of several provisions of the Contract, including but not limited to:
  - The interpretation of Article III, § 3.9 (billing and first payment obligations)
  - Article XII and XVI (mandatory dispute resolution process)
  - § 3.11 (water rights reservation and transfer procedures)
9. Calhoun Falls seeks a declaratory judgment that:
  - a. The Town's water withdrawal rights from Lake Russell are reserved and cannot be transferred to Abbeville without express written consent and regulatory approval;
  - b. Plaintiff's attempt to compel specific performance or payment without exhausting contractual remedies violates the Contract's terms;
  - c. Abbeville's unilateral imposition of rates, absent ordinance and mutual agreement, exceeds its authority under the Contract.
10. A declaratory judgment is necessary to clarify the rights, obligations, and expectations of the parties under the Contract.

**COUNT THREE**

(Failure to Follow Contractual Dispute Resolution Procedures)

11. The allegations in the preceding paragraphs are realleged and incorporated herein by reference.
12. The Contract includes mandatory dispute resolution provisions that require the parties to:
  - Refer billing disputes to a joint Dispute Resolution Committee (Article XVI)
  - Engage in arbitration or formal negotiation before resorting to litigation (Article XII)
- 13 Plaintiff failed to initiate or exhaust these processes prior to filing its Complaint, in breach of its obligations under the Contract.
- 14 As a result of Plaintiff's breach of these procedural obligations, Defendant has incurred unnecessary litigation costs and has been deprived of the Contractually agreed process for dispute resolution.
- 15 Calhoun Falls is entitled to dismissal of Plaintiff's claims, or alternatively, damages and equitable relief as determined by the Court.

**PRAYER FOR RELIEF ON COUNTERCLAIMS**

**WHEREFORE**, having answered the Complaint and asserted the foregoing counterclaims, the Town of Calhoun Falls respectfully requests the following relief:

1. That Plaintiff's Complaint be dismissed with prejudice;
2. That the Court enter judgment in favor of Calhoun Falls on its counterclaims;
3. That the Court issue a declaratory judgment as requested;
4. That Calhoun Falls be awarded actual damages in an amount to be determined;
5. Defendants hereby demand a trial by jury on all issues so triable as a matter of right.

6. That Calhoun Falls recovers its attorneys' fees, costs, and such other and further relief as the Court deems just and proper.

April 14, 2025,

Respectfully submitted,

THE LAW OFFICE OF JUAN SHINGLES

By: s/Juankell Shingles

Juan Shingles

SC Bar 105914

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Greenwood, SC 29649

864.376.0914 [jshingles@jshingleslaw.com](mailto:jshingles@jshingleslaw.com)

\*Did you called the meeting - email  
\*copy?  
\*legality of meeting? (a Sean mentioned  
local ordinance - emergency meeting?  
\*provide an explanation of emergency?  
\*agenda 3 minutes available?  
accessibility w/ FOIA?

STATE OF SOUTH CAROLINA  
COUNTY OF ABBEVILLE

IN THE COURT OF COMMON PLEAS  
EIGHTH JUDICIAL CIRCUIT

CITY OF ABBEVILLE,

Case No.: 2025-CP-01-00036

Plaintiff,

VERIFICATION


v.

TOWN OF CALHOUN FALLS;  
TERRICO HOLLAND IN HIS  
OFFICIAL CAPACITY AS MAYOR  
OF THE TOWN OF CALHOUN  
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TOWN OF CALHOUN FALLS,

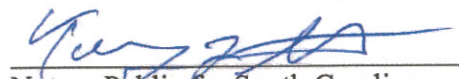
Defendant.

PERSONALLY appeared before me, the undersigned, who being duly sworn, deposes and says:

That I am the Mayor of the Town of Calhoun Falls, a Defendant in the foregoing Answer and Counterclaim; that I have read the foregoing Answer and Counterclaim and know the contents thereof; and that the statements contained therein are true and correct to the best of my knowledge, information, and belief.

  
Terrico Holland, Mayor  
Town of Calhoun Falls

SWORN to before me this 16<sup>th</sup> day of April, 2025.

  
Notary Public for South Carolina  
My Commission Expires: 3/6/2033

