RESOLUTION NO. 2024-3343

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING A MEMORANDUM OF UNDERSTANDING WITH RIVKAH SONTAG AND SAMUEL S. SONTAG REGARDING A UNITY OF TITLE, EXTENSION OF SITE PLAN APPROVAL AND WITHDRAWAL OF 2024 SITE PLAN APPLICATION FOR THE PROPERTY AT 9250 BAY DRIVE; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission of the Town of Surfside ("Town") approved Town Resolution 2024-3268 ("Waiver of Plat") to split for development real property in Town located at 9250 Bay Drive ("Property"); and

WHEREAS, Rivkah Sontag and Samuel S. Sontag ("Owner") and the Town (collectively, the "Parties") remain in dispute regarding the Waiver of Plat for the Property but seek to resolve same by entry into a Memorandum of Understanding ("MOU"), in substantially the form attached hereto as Exhibit "A", regarding development of the Property, as more specifically set forth in the MOU; and

WHEREAS, the Town finds this MOU to be in the best interest and welfare of the Town and its residents.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The above-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. **Approval of MOU.** The MOU, in substantially the form attached hereto as Exhibit "A", is approved.

Section 3. **Authorization.** The Town Manager is hereby authorized to execute the MOU, in substantially the form attached hereto as Exhibit "A", subject to review by the Town Attorney as to form, content and sufficiency.

Section 4. **Implementation.** The Town Manager is hereby authorized to take all necessary action to implement the MOU and the purposes of this Resolution.

Section 5. **Effective Date.** This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED this 12th day of November, 2024.

Motion By: Commissioner Velasquez

Second By: Commissioner Coto

FINAL VOTE ON ADOPTION:

Commissioner Ruben A. Coto	Yes
Commissioner Nelly Velasquez	Yes
Commissioner Gerardo Vildostegui	Yes
Vice Mayor Tina Paul	Yes
Mayor Charles W. Burkett	Yes

Charles W. Burkett, Mayor

ATTEST:

Sandra N. McCready, MMC
Town Clerk

TOWN OF SURFSIDE INCORPORATED SEAL 1935 DADE COUNTY FLA.

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:

Mark Blumstein
Town Attorney

TOWN OF SURFSIDE
INCORPORATED
SEAL
1939
DADE COUNTY, FLA.

MEMORANDUM OF UNDERSTANDING
BETWEEN THE TOWN OF SURFSIDE AND
RIVKAH SONTAG AND SAMUEL S. SONTAG

This Memorandum of Understanding ("MOU") is entered into this ___day of _____ 2024, by and between the Town of Surfside, Florida (the "Town") and Rivkah Sontag and Samuel S. Sontag, successors to 9250 Bay BSD II, LLC (collectively the "Owners"). The Town and the Owners are collectively referred to as the "Parties" and individually as a "Party."

WHEREAS, the Town is a municipality located within Miami-Dade County; and

WHEREAS, the Owners own certain real property located at 9250 Bay Drive, Surfside, Florida 33154 (the "Property"); and

WHEREAS, the Property has been assigned Folio Number 14-2235-006-2900 by the Miami-Dade County Property Appraiser; and

WHEREAS, in 2022, the Owners made application to the Town to develop a single-family home (the "Home") on the Property; and

WHEREAS, on August 25, 2022, the Town's Planning and Zoning Board approved the plan for the Home; and

WHEREAS, on August 20, 2024, the Owners filed notification of their intent to exercise state statutory tolling and extensions for the deadline to obtain a building permit for the Home pursuant to the States of Emergency for Hurricane Ian and Hurricane Nicole ("Extension"); and

WHEREAS, on March 12, 2024, the Town approved Resolution 2024-3268, which approved a "waiver of plat" under Miami-Dade County File Number D-25025 (the "Waiver of Plat") that created two legal building sites on the Property; and

WHEREAS, Resolution 2024-3268 and the Waiver of Plat remain valid and unexpired; and

WHEREAS, the Owners have filed a site plan application seeking approval of a new home on the north lot created by the Waiver of Plat (the "2024 Site Plan Application"); and

WHEREAS, subsequent to the Town's passage of the Waiver of Plat, disagreements arose between the Town and Owners regarding the Property; and

WHEREAS, the Parties have agreed to resolve the above-referenced disputes in accordance with the terms of this Memorandum of Understanding ("MOU"); and

WHEREAS, the Town finds that the adoption of this MOU is in the best interest of the residents of the Town; and

NOW, THEREFORE, the Parties agree as follows:

1. **Recitals:** The above recitals are true and correct and are incorporated herein by reference.

2. **Abandonment of Waiver of Plat and 2024 Site Plan Application.** Within twenty (20) working days following the Effective Date, the Owners shall: (1) record a Unity of Title for the Property, at the expense of the Owners and in a form acceptable to the Town, requiring the Property to remain a single development site unless released following a supermajority vote by the Town Commission or as required by the Town's Charter, whichever is stricter; and (2) formally withdraw the 2024 Site Plan Application by letter delivered to the Town Manager

3. **Town Acknowledgement of Home and Extension.** Within ten (10) days of the Owners' compliance with Paragraph 2 and delivery of a payment to the Town in the amount of $1,000.00, the Town will formally acknowledge the validity of both the Planning and Zoning Board approval of the Home and the Extension of the deadline to obtain a building permit for the Home. The Town agrees that the Extension will extend the time to obtain a building permit for the Home to July 29, 2030. The Town will further acknowledge that the Owners or their successors may file additional extension notifications, as permitted by law. The Town's formal acknowledgement will act as a finding of vested rights pursuant to Section 90-5(11) of Town Code.

4. **Effective Date.** This MOU shall become effective the date on which it is fully ratified by the Parties ("Effective Date").

5. **Binding Nature of the MOU.** The Parties agree to be bound by the terms of this MOU following the Effective Date.

6. **Amendment.** The terms and provisions of this Agreement may not be amended, modified or supplemented orally or by course of conduct or course of dealing, but only in a writing authorized, approved, and signed by each of the Parties.

IN WITNESS WHEREOF, the Parties hereto have caused this Memorandum of Understanding to be executed and delivered as of the latest date set forth below.

Town of Surfside, Florida	**Rivkah Sontag and Samuel S. Sontag**
By:_____	By:_____
Title:_____	By:_____
Date:_____	Date:_____