

RESOLUTION NO. 2026 - 3511

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, RATIFYING AND APPROVING AGREEMENTS WITH OUTSIDE LEGAL COUNSEL TO REPRESENT THE TOWN IN CERTAIN MATTERS; FINDING THAT THE SERVICES ARE EXEMPT FROM COMPETITIVE BIDDING PURSUANT TO SECTION 3-13(2) OF THE TOWN CODE AS PROFESSIONAL SERVICES; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on Dec. 9, 2025, in Resolution No. 2025-3473, the Town Commission ratified the retention of certain firms, including The Barthet Firm, to represent the Town of Surfside (“Town”) in certain, important specialized legal matters requiring subject area expertise and trial work; and

WHEREAS, the Town Attorney has found it necessary and prudent to engage The Barthet Firm to represent the Town in the matter relating to Lunacon and the 96th Street Park dispute, through and including trial and all appeals (the “Lunacon Dispute”); and

WHEREAS, the Town Attorney has found it necessary and prudent to engage Nabors Giblin & Nickerson, P.A. to represent the Town through and including trial and all appeals in the matter involving a Mayoral run-off election date challenge presented via a Verified Amended Emergency Petition for Temporary Injunction asserted against the Town and others in the Eleventh Judicial Circuit of Miami-Dade County, Florida, Case No. 2026-006370-CA-01, by The Shul of Bal Harbour, Inc. and other plaintiffs (the “Election Challenge”); and

WHEREAS, both The Barthet Firm and Nabors Giblin & Nickerson, P.A. have agreed to and are providing services in the respective matters on behalf of the Town and

have submitted proposed legal agreements for each of the matters (the "Agreements") which are attached hereto as Composite Exhibit "A"; and

WHEREAS, pursuant to Section 3-13(2) of the Town's Code, professional services are exempt from competitive bidding; and

WHEREAS, the services being provided by The Barthet Firm in the Lunacon Dispute and by Nabors Giblin Nickerson P.A. in the Election Challenge are collectively referred to as the "Services"; and

WHEREAS, the Town Commission wishes to approve the Services and ratify the agreements with The Barthet Firm and Nabors Giblin Nickerson P.A., respectively, as deemed necessary or prudent by the Town Attorney; and

WHEREAS, the Town Commission finds that the Services are in the best interests and welfare of the Town.

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

1. **Recitals Adopted.** Each of the above stated recitals are hereby adopted, confirmed, and incorporated herein.

2. **Services Approved; Exemption from Competitive Bidding.** The Town hereby ratifies and approves the agreements attached hereto as Exhibits "A" and "B". The Town Commission finds that pursuant to Section 3-13(2) of the Town's Code, the Services are exempt from competitive bidding as professional services.

3. **Implementation.** The Acting Town Manager, Town Attorney and Town Officials are authorized to take any and all necessary or further action to implement the the purposes of this Resolution, including the execution of the Agreements for the Services and any further necessary agreements for the Services.

4. **Effective Date.** This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED on this 14th day of April, 2026.

Motion by Commissioner Vildostegui,

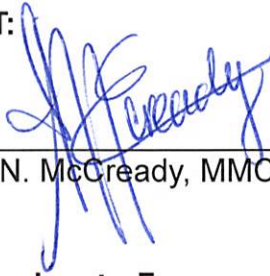
Second by Commissioner Travani.

FINAL VOTE ON ADOPTION:

Commissioner Andrea Travani	<u>Yes</u>
Commissioner Gerardo Vildostegui	<u>Yes</u>
Commissioner David Weingot	<u>Absent</u>
Vice Mayor Dayana Benmergui	<u>Absent</u>
Mayor Charles W. Burkett	<u>Yes</u>

Charles W. Burkett, Mayor

ATTEST:



Sandra N. McCready, MMC, Town Clerk



Approved as to Form and Legal Sufficiency:



Thais Hernandez, Town Attorney

THE
BARTHET
FIRM *Legal Assistants*

50 S. Biscayne Blvd., Ste. 1650, Miami, Florida 33133
Tel: 305.375.2100 or 305.375.8235
www.barthet.com

Engagement Agreement

Client: Town of Surfside

Matter: Surfside v. Lunacon & Lunacon v. American Layout

Rate: \$495/hr. for Partners; \$425/hr. for Associates;
\$155/hr. for Legal Assistants

Retainer: Waived
Credit card and wire instructions below

Thank you for providing us this opportunity to assist you. This Agreement shall be the basis of our current and future engagements. If you agree with the noted terms, please sign and return a copy. Of course, if you have any questions, feel free to call or email us.

Scope of Representation: The "Client" noted above will be our client (referenced in this Engagement Agreement as "you"). We have been engaged to represent you in the above referenced "matter". You may limit or expand the scope of our representation from time to time, provided that any expansion must be agreed to by us. This Agreement will serve as the basis for the above-described matter and any continuing, expanded or different representation by the firm of you or your direct or related interests (collectively "Matter"). You consent to our use of unencrypted email, text messages and internet/cellular telephones.

Fees and Expenses: Our fees will be based on the billing rate for each attorney and legal assistant devoting time to each Matter at the rates above. These rates and fees are subject to change from time to time. Certain tasks may be quoted in writing at a flat fee. Should anyone other than you be required to pay attorney's fees, the billing rate will be the greater of that listed herein, as adjusted over time, or such amount as is determined by the court. Charges for any costs such as, but not limited to, filing, service of process, court reporters, delivery, copying, scanning, and travel will be added to our invoices. Fees and expenses of others, such as consultants and experts, will be forwarded to you for direct payment.

Retainer: We will hold the retainer interest free and apply it to your last, not first invoice. You will pay any additional or subsequent retainer we may request to continue the representation. At the conclusion of this Agreement and after payment of all our fees and expenses, we will return to you, without interest, any unused retainer.

Invoices: Invoices will be rendered monthly for work performed and expenses incurred. Payment is due on receipt of the invoice. If any invoice remains unpaid, we may cease performing services until arrangements satisfactory to us have been made for payment of our invoices and for the

payment of future fees and expenses. You agree to timely pay our invoices via check or wire. You will pay an additional 3% processing fee if you pay our invoices with a credit card.

Joint/Trust Checks and Retaining Lien: There may be instances when we receive checks which are either jointly issued to you and our firm or payable to our trust account and you agree we may deposit such checks into our account for subsequent disbursement as called for under the terms of the specific transaction as well as the payment of our outstanding fees and costs. We shall have a lien on all your documents, property and money in our possession for the payment of all sums due us.

Term of Engagement: Either of us may terminate this Agreement at any time for any reason by written notice, subject on our part to applicable Rules of Professional Conduct. You agree to engage successor counsel to represent you and pay our costs and fees incurred through termination or the point when the court relieves us of responsibility, whichever is later.

Any nonpublic information you supplied to us will be kept confidential in accordance with applicable Rules of Professional Conduct. If you request that your papers and property be returned to you, we shall do so promptly upon our receipt of payment for outstanding fees and costs. Our own files, including lawyer work product, pertaining to each Matter will be retained by us. Unless instructed in writing otherwise, 30 days after the conclusion of each Matter, we will destroy all materials in our possession.

You understand that changes in facts or law may occur after the conclusion of our representation of each Matter that could impact your future rights. Unless you engage us in writing to provide such additional advice, we have no continuing obligation to advise you with respect to related or future legal developments, including the enforcement, satisfaction, recording, renewal or collection of any lien or judgment.

Disclaimer: Our fees and costs relating to each Matter are not predictable. The payment of our fees and costs is in no way contingent on the ultimate outcome of each Matter. We have made no representations or guarantees to you concerning the maximum fees and costs that will be necessary to resolve or complete your Matter, the result or disposition of any phase of your Matter, the recovery of your incurred legal fees, costs or interest, or the collectability of any party involved in your Matter. You understand that there exists no certainty as to the outcome of your Matter. For Matters involving contract drafting, review, or negotiations, you understand that we provide no advice as to scope, price, schedule, or means and methods. You will have all contracts reviewed by your insurance and bonding agents for compliance with your insurance and bonding programs.

Conflict of Interest: If we become aware of an actual, direct conflict of interest, we will inform you of such conflict. At such time, we may be requested or obligated to withdraw from further representation, and you may be required to retain new counsel. To the extent the representation of another client in an unrelated matter does not involve a direct conflict with you, you agree we can proceed with such representation. We may also represent another client in unrelated Matters which may be adverse to you.

Client Responsibilities: You agree to be truthful, to cooperate fully with us and to promptly provide all documents and information known or available to you relevant to our representation. You represent that you have, are and will comply with all rules, laws, regulations, and ordinances. You agree to pay our invoices for services and expenses when rendered. You

will be responsible for 12% interest per annum on any unpaid balance and for our incurred legal fees and costs if you fail to timely pay our invoices. You will verify in advance by phone to this number, 305-347-5290, all instructions related to the transfer of funds, by wire or otherwise. You may have insurance coverage for some or all of the claims and defenses and you will timely report same to your carrier.

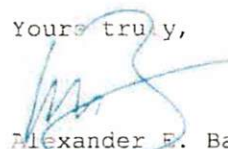
Data Preservation: For each Matter, if it is in litigation or may result in litigation, you agree to collect, preserve and retain all records that are or could be related thereto, be they in physical or electronic form. This "litigation hold" will remain in place until each Matter is fully and finally resolved. You understand that failure to take reasonable steps to collect and preserve evidence, including data, metadata, and backups stored electronically on personal, business, mobile and cloud computers, could result in severe sanctions being imposed by the Court. If you have already disposed of digital or physical files, you will attempt to recover such data and to suspend any document retention/destruction program until each Matter is concluded. You will also instruct all relevant parties over which you have control of these obligations and ensure their compliance.

Dispute Resolution: Should a dispute arise between us, we agree to first contact each other to resolve the dispute. Thereafter, we agree the dispute shall be submitted to an impartial mediator selected by both of us. If we are unable to agree, we both agree to Salmon & Dulberg Mediation Services, Inc. in Miami-Dade County, Florida, which shall assign a random certified mediator with at least 15 years of mediation experience. Each of us shall bear our own costs and fees at mediation and equally split the mediator's fee. The mediation shall be treated as confidential. If unresolved after 60 days from first notice of the dispute, it shall be submitted to binding arbitration governed by the applicable American Arbitration Association rules with jurisdiction in Miami-Dade County, Florida where the prevailing party shall be entitled to only recover its actual and direct monetary damages plus reasonably incurred attorney's fees and costs. You and we waive all claims for consequential damages.

Commencement of Representation: Until we receive this signed Agreement, the retainer and the documents related to each Matter, no attorney-client relationship exists between us. There may be important deadlines involved in your claim or defense. If you fail to take appropriate action in a timely manner, you may permanently lose some, if not all of your rights or defenses. If you wish to pursue your claim or defense, you need to act promptly.

Once again, we are pleased to provide you this Engagement Agreement, and we very much appreciate this opportunity to represent your interests.

Yours truly,



Alexander E. Barthet
For the Firm

Client signature on next page.

Acknowledged and agreed to by the Client.

Print:

Sign:

Title:

Approved as to Form and Legal Sufficiency:

Name:

Thais Hernandez, Town Attorney

If you wish to pay the retainer by credit card, please complete the following section.

Credit card type: MasterCard Visa AmEx

Name on the Card:

Credit Card Number:

Expiration Date:

Security Code:

Amount to be Charged:

I authorize The Barthet Firm to charge my card. Initials:

If you wish to pay the retainer by wire, our wire instructions are:

The Barthet Firm, PA
200 S. Biscayne Blvd., Suite 1650
Miami, Florida 33131

United Community
125 Highway 515 East, Blairsville, GA 30512
ABA No. 061112843

Final Credit to:
THE BARTHET FIRM
A PROFESSIONAL ASSOCIATION
Trust Account Number: 2000089215

PLANTATION
8201 Peters Road
Suite 1000
Plantation, Florida 33324
(954) 315-0268 Tel

Nabors
Giblin &
Nickerson P.A.
ATTORNEYS AT LAW

TAMPA
2502 Rocky Point Drive
Suite 1060
Tampa, Florida 33607
(813) 281-2222 Tel
(813) 281-0129 Fax

TALLAHASSEE
1500 Mahan Drive
Suite 1500
Tallahassee, Florida 32308
(850) 224-4070 Tel
(850) 224-4073 Fax

March 30, 2026

Sent via Email

Thais Hernandez, Esq.
Town Attorney
Town of Surfside, FL
9293 Harding Avenue
Surfside, FL 33154

Re: Legal Services - Emergency Petition for Temporary Injunction
Mayoral Run-Off Election

Dear Ms. Hernandez:

Thank you for providing Nabors, Giblin & Nickerson, P.A. (the "Firm") with the opportunity to represent the Town of Surfside (the "Town") in connection with the petition filed against the Town for Temporary Injunction related to the scheduling of the Mayoral run-off election.

To memorialize the terms of our engagement with the Town, we propose that the legal services for such proceedings be compensated on an hourly basis at the following hourly rates:

Firm Partners and Of Counsel	\$350 per hour
Firm Associates	\$275 per hour
Law Clerks/Paralegals	\$75 per hour

Time spent in travel would not be charged.

In addition to the compensation specified above, expenses incurred which are directly related to the provision of services will be reimbursed, including, but not limited to: copy and fax costs, long distance telephone costs, and express mail. Travel expenses, to the extent required, will be reimbursed in accordance with the provisions governing the travel of public officers and employees contained in section 112.061, Florida Statutes.

The Firm understands that the legal file created in this representation of the Town is a public record, except to the extent it is temporarily exempt from disclosure under Chapter 119, Florida Statutes,

and that Section 286.011, Florida Statutes, may apply to this provision of legal services pursuant to this Engagement.

Pursuant to Florida Statutes s. 119.0701, the Firm shall:

- 1) Keep and maintain public records that ordinarily and necessarily would be required by the Town in order to perform the service.
- 2) Provide the public with access to public records on the same terms and conditions that the Town would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- 3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- 4) Meet all requirements for retaining public records and transfer, at no cost, to the Town all public records in possession of the Firm upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Town in a format that is compatible with the information technology systems of the Town.

IF THE FIRM HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SPECIAL COUNSEL'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS ENGAGEMENT, CONTACT THE PUBLIC RECORDS CUSTODIAN FOR THE TOWN.

All written and oral information not in the public domain and not previously known, and all information and data obtained, developed, or supplied by the Town or at its expense shall be kept confidential by the Firm and shall not be disclosed to any other party, directly or indirectly, without the Town's prior written consent unless required by an order issued by a court or like authority of lawful jurisdiction.

To the extent you provide us with original documents during the course of this matter, we will hold these records for you during the pendency of your action. At the conclusion of your matter, we will contact you and make arrangements for the return of the records you provided. We will retain our file of your matter for our Firm's normal retention period, which may be retained in electronic format.

All requests for payment of expenses eligible for reimbursement under this Engagement shall include copies of paid receipts, invoices, or other documentation acceptable to the Town. Such documentation shall be sufficient to establish that the expenses were actually incurred and necessary in the performance of the legal services. Payment of each statement will be due within forty-five (45) days of its date, pursuant to §218.70, Florida Statutes, the Local Government Prompt Payment Act.

We appreciate your consideration of our Firm for this matter. Should you require any additional information, please do not hesitate to contact me. Otherwise, I request that you sign and return a copy of this agreement at your convenience.

Very truly yours,

/s/Valerie Vicente

Valerie Vicente
Shareholder

Acceptance by the
Town of Surfside:

By: _____

Print Name: _____

Title: _____