

RESOLUTION NO. 2026-3541

**A RESOLUTION OF THE TOWN COMMISSION OF THE
TOWN OF SURFSIDE, FLORIDA, APPROVING A
SETTLEMENT AGREEMENT WITH JOEL ZELIK LUSKY
AND ALEXANDRIA LUSKY; PROVIDING FOR
AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE
DATE.**

WHEREAS, on November 20, 2025, the Town of Surfside ("Town") filed an action in the Eleventh Judicial Circuit Court in and for Miami-Dade County, Case No. 2025-023081-CA-01, requesting a declaratory judgment and injunctive relief, naming Joel Zelik Lusky and Alexandria Lusky (collectively, "Defendant") and several other property owners as defendants that had claimed by letters to the Town that certain ordinances adopted by the Town in 2024 violated §28 SB 180 (§28, Ch. 2025-190, Laws of Florida) (the "Litigation"); and

WHEREAS, on December 22, 2025, Defendant filed a counterclaim against the Town in the Litigation seeking relief pursuant to SB 180; and

WHEREAS, in an effort to avoid the uncertainty and expense of continued and protracted litigation, the Town finds that it is in the best interest and welfare of the public to enter into a Settlement Agreement, in substantially the form attached hereto as Exhibit "A" (the "Settlement Agreement"), with the intent to resolve all claims or potential claims between the Town and Defendant; and

WHEREAS, the Town Commission wishes to authorize the Town Manager to execute the Settlement Agreement, in substantially the form attached hereto as Exhibit "A", and to take all action necessary to effectuate the settlement of the Litigation; and

WHEREAS, the Town Commission finds that this Resolution is in the best interest and welfare of the residents 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. Approving Settlement Agreement. The Town Commission hereby approves the Settlement Agreement, in substantially the form attached hereto as Exhibit "A."

Section 3. Authorization. The Town Manager is authorized to execute the Settlement Agreement, in substantially the form attached hereto as Exhibit "A," and all documents deemed necessary to implement the intent of this Resolution, subject to approval by the Town Attorney as to form, content, and legal sufficiency, and to take such other action as may be necessary and appropriate to implement the terms of the Settlement Agreement and this Resolution.

Section 4. Effective Date. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED on this 16th day of July, 2026.

Motion By: Commissioner Weingot

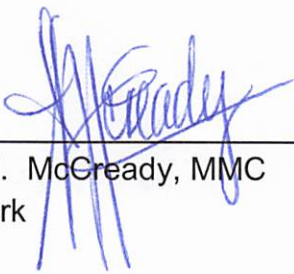
Second By: Mayor Danzinger

FINAL VOTE ON ADOPTION:

Commissioner Andrea Travani	<u>No</u>
Commissioner Gerardo Vildostegui	<u>No</u>
Commissioner Dovid Weingot	<u>Yes</u>
Vice Mayor Dayana Benmergui	<u>Yes</u>
Mayor Shlomo Danzinger	<u>Yes</u>


Shlomo Danzinger, Mayor

Attest:


Sandra N. McGready, MMC
Town Clerk



Approved as to Form and Legal Sufficiency:


Weiss Serota Helfman Cole & Bierman, P.L.
Town Attorney

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement ("Agreement") is entered into this ____ day of _____ 2026, by and between Joel Zelik Luskys, Alexandria Luskys (the "Luskys"), husband and wife, and their heirs, successors and assigns, and the Town of Surfside, a Florida municipal corporation, including its current and former elected or appointed members, officials, attorneys, representatives, agents, officers, executives, and employees, whether acting in their official, individual, or personal capacity (the "Town"). The Luskys and the Town are hereinafter collectively referred to as the "Parties."

RECITALS

WHEREAS, the Luskys own the improved real property located at 8826 Hawthorne Avenue, Surfside, FL 33154 in Miami-Dade County and which real property is identified as Folio Number 14-2235-005-3570 (the "Property"); and

WHEREAS, the Property is located within the H30A zoning district on the Town's Zoning Map; and

WHEREAS, on October 8, 2024, the Town enacted Ordinances 2024-1785 and 2024-1786, and on December 10, 2024 the Town enacted Ordinance 2024-1788 ("Ordinances") which in part amended Sections 90-45, 90-47, 90-48, 90-49, 90-50.1, 90-54 and 90-2 of the Town Zoning Code ("Code") which regulate H30A zoned property regarding floor area ratio, lot coverage, lot standards, setbacks, and LEED building standards; and

WHEREAS, in 2025, the Florida Legislature adopted §28 SB 180 (§28, Ch. 2025-190, Laws of Florida), an act relating to emergencies, providing that municipalities in Florida may not propose or adopt more restrictive or burdensome amendments to its land development regulations between August 1, 2024 and October 1, 2027 ("SB 180");

WHEREAS, on November 20, 2025 the Town filed an action in the Eleventh Judicial Circuit Court in and for Miami-Dade County, Case No.: 2025-023081-CA-01, requesting a declaratory judgment and injunctive relief, and naming the Luskys and several other property owners as Defendants that had claimed by letters to the Town that the Ordinances violate SB 180 (the "SB 180 Lawsuit"); and

WHEREAS, on December 22, 2025, the Luskys filed a counterclaim against the Town in the SB180 Lawsuit seeking relief pursuant to SB 180 (the "Counterclaim"); and

WHEREAS, the Parties each deny liability for the claims and counterclaims against them and enter into this Agreement solely to compromise disputed claims and avoid the costs and risks of continued litigation, without any admission of wrongdoing; and

WHEREAS, the Parties wish to settle the entire lawsuit and any claims or counterclaims asserted or unasserted that the Town or the Luskys may have relating to the Property; and

WHEREAS, the Parties have stipulated that, solely for purposes of this Agreement, neither party shall be treated as the prevailing party in either the SB180 Lawsuit or the Counterclaim and each party shall bear its own attorneys' fees and costs except as otherwise set forth herein; and

WHEREAS, the Parties, without establishing precedent or admitting liability, seek to avoid the uncertainties and expense of further litigation by resolving the SB180 Lawsuit, the Counterclaim and any other claims asserted or unasserted in the Lawsuit or otherwise related to the Property in exchange for the consideration described herein; and

WHEREAS, the public interest of citizens throughout the Town is protected by avoiding the expense and financial risk in litigating the SB 180 Lawsuit and the Counterclaim; and

WHEREAS, the Town has the authority and policy discretion to exercise the avoidance of expense and financial risk in entering into settlement agreements.

NOW THEREFORE, in consideration of the premises and the mutual undertakings and covenants set forth herein, the receipt, sufficiency and legality of which are hereby acknowledged, the Parties agree as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by reference.
2. **Land development/zoning regulations to be applied on the Property.** the Luskys shall be entitled to develop the Property based on the land development/zoning regulations in force as of October 1, 2024, for such time period as is necessary to allow the Luskys to obtain development approval for a detached single-family home and receive a final certificate of occupancy from the Town. The Luskys or their agent must apply to the Town for building permits within three (3) years of the effective date of this Settlement Agreement.
3. **No waiver/modification.** Nothing in this Settlement Agreement shall be construed as a waiver or modification of the Town's single-family development review and approval process as set forth in Chapter 90 of its Code of Ordinances or Chapter 90, Exhibit "A" – Design Guidelines for Single Family Residential Properties, Multifamily and Commercial Properties. This paragraph is strictly limited to the process and in no way allows the Town, through the process, to impose any new regulation or reimpose any regulation that was enacted after October 1, 2024.

4. **Voluntary Dismissals of claims.** Within five (5) business days following the Effective Date of this Agreement, the Town and the Luskys agree as follows: The Parties shall dismiss without prejudice all claims and counterclaims presently pending against each other in the case identified as *Town of Surfside v. Joel Zelik Lusky, et al.*, Case No. 2025-023081-CA-01 filed in the Circuit Court, Eleventh Judicial Circuit, in and for Miami-Dade County, Florida and agree that upon the issuance of a final certificate of occupancy to the Luskys for development of the Property, the Parties will not seek further judicial review or action of the claims or counterclaims in the SB 180 Lawsuit or the Counterclaim and will file a dismissal with prejudice.
5. **Tolling and Non-Severability.** If this Agreement is appealed or challenged and any portion of this Agreement is finally adjudicated to be invalid, the entire Agreement is void unless the Parties mutually agree otherwise. If the Agreement is void, the Town and the Luskys may each immediately proceed with the SB 180 Lawsuit and Counterclaim, respectively, as if this Agreement had never been entered into by the Parties and any applicable time periods, filing deadlines and statutes of limitation shall be deemed tolled as of the filing date of such challenge and shall begin to run again upon such final adjudication. This Paragraph shall survive any event that invalidates or voids this Agreement.
6. **Attorneys' Fees and Costs/Consideration.** As additional consideration for the mutual promises and covenants contained here, the Town shall remit to the Luskys, collectively, within twenty (20) days of the Effective Date of this Agreement, the total sum of Ten Thousand Dollars and 00/100 (\$10,000.00). In addition, the Town shall waive all Town Planning and Zoning Department fees for review of application(s) and meetings before the Planning and Zoning Board applicable to development or redevelopment of the Property for a maximum period of three (3) years after the Effective Date of this Agreement. Should any Party to this Settlement Agreement be declared the prevailing party in any action to enforce any term or condition of this Settlement Agreement, said prevailing party shall be entitled to an award of its reasonably incurred attorney fees, paralegal fees, litigation costs, and expenses, and fees, costs, and expenses for appeals related thereto, to be assessed against the non-prevailing party or parties, as determined by the court, in such an action.
7. **Releases.**
 - a. **Release by the Luskys:** Subject to the full and complete satisfaction of all conditions set forth herein, including, for the avoidance of doubt, the Town's issuance of a final certificate of occupancy, the Luskys, and each of their past and present predecessors, successors, successors in interest, and heirs, hereby release, acquit, and forever discharge the Town, its elected officials, officers, attorneys, associates, representatives, employees, agents, and all others acting or claiming by, through, under or in concert with any of the foregoing, from any and all claims and causes of action arising out of the SB 180 Lawsuit and the Counterclaim including any other claims and/or counterclaims for the recovery of attorneys' fees or costs. Notwithstanding the foregoing, this release shall not extend to claims for breach

of this Agreement or the warranties or representations contained herein.

- b. **Release by Town:** Subject to the full and complete satisfaction of all conditions set forth herein, including, for the avoidance of doubt, the Town's issuance of a final certificate of occupancy, the Town, and each of its past and present predecessors and successors in form of local government, elected officials, officers, attorneys, associates, representatives, employees, and agents hereby releases, acquits and forever discharges the Luskys, including any of their predecessors, successors, successors in interest, heirs, and all others acting or claiming by, through, under or in concert with any of the foregoing, from any and all claims and causes of action arising out of the SB 180 Lawsuit and the Counterclaim, including any other claims for the recovery of attorneys' fees or costs. Notwithstanding the foregoing, this release shall not extend to claims for breach of this Agreement or the warranties or representations contained herein.
8. **Land Development Code.** The terms of this Agreement shall not be construed as making the Property or its development pursuant to the terms in this Agreement in any way non-conforming with the Town's Comprehensive Plan, Zoning Code, or Code of Ordinances in force as of October 1, 2024.
9. **Town Cooperation.** None of the Town's elected officials, officers, employees, contractors, representatives or agents shall in any way unreasonably obstruct the efforts of the Luskys to develop on the Property a new, detached, single-family home as defined in the Comprehensive Plan and H30A zoning district prior to the adoption of the Ordinances, as contemplated in this Agreement, including, but not limited to, (i) delaying the review or approval of any development applications or building permit applications submitted by the Luskys, (ii) delaying the issuance of any final certificate of occupancy, or (iii) anything else that would unreasonably delay the Luskys' ability to redevelop the Property.
10. **Applicable Law.** This Agreement is to be construed and enforced according to the laws of the State of Florida. Any action filed to enforce the terms of this Agreement shall be filed in federal district court or Florida circuit court having jurisdiction in Miami-Dade County, Florida.
11. **Judicial Interpretation.** Should any of the provisions of this Agreement require judicial interpretation, the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agents prepared the same, it being agreed that the Parties and their agents have participated in the preparation hereof.
12. **Authority.** The signatories to this Agreement have the authority and are expressly authorized to resolve all matters as set forth herein and by their signatures here represent and affirm their authority to execute this Agreement.
13. **Entire Agreement.** This is the entire agreement by and between the Town and the

Luskys, and no verbal or written assurance or promise by any party hereto is effective or binding unless included in this document. This Agreement may not be modified or amended without a written instrument signed by all Parties.

14. **Binding Effect: Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of all Parties to this Agreement.
15. **Agreement Runs with the Land.** The Parties acknowledge that the rights, covenants, restrictions, terms and conditions set forth in this Agreement touch and concern the Property and run with the land. The Parties intend the Agreement to be binding upon and inure to the benefit of any future owner of the Property subject to the limitation set forth in section 2 herein.
16. **Waiver.** The waiver by one party of the performance of any covenant or condition herein shall not invalidate this Agreement, nor shall it be considered to be a waiver by such party of any other covenant or condition herein. The waiver by either party of the time for performing any act shall not constitute a waiver at the time for performing any act by the other party required to be performed at a later date. Additionally, the exercise of any remedy provided by law in the provisions of this Agreement shall not exclude other remedies unless they are expressly excluded.
17. **Recorded.** This Agreement shall be recorded by the Town in the public records of Miami-Dade County, Florida, within fourteen (14) calendar days after the Effective Date.
18. **Effective Date.** This Settlement Agreement shall be effective as of the date it is ratified and approved by the Town Commission.
19. **Counterparts.** This Agreement may be executed by the Parties hereto individually or in combination, in one or more counterparts, each of which shall be an original and all of which constitute one and the same Agreement. The Parties may execute counterparts of this Agreement by facsimile or electronic mail in PDF format and accordingly agree and intend that an electronic signature delivered by facsimile machine or electronic mail shall bind the party so signing with the same effect as though the signature were an original signature.
20. **Further Assurances.** The Parties agree to execute and deliver any other documents reasonably required to carry out the terms of this Agreement.
21. **Notices.** All notices required or permitted to be given hereunder shall be in writing and shall be deemed given when (a) hand delivered, or (b) delivered via Federal Express, UPS or other nationally recognized overnight courier service, receipt required, or (c) transmitted via email or facsimile, provided a copy is sent the next business day by method (a) or (b). Notices shall be deemed delivered on the date hand delivered or on the date shown on the receipt. All notices shall be addressed as follows:

Town: Town Manager
9293 Harding Avenue
Surfside, FL 33154

With a copy to: Town Attorney
9293 Harding Avenue
Surfside, FL 33154

The Luskys: The Luskys'
8826 Hawthorne Avenue
Surfside, FL 33154

With a copy to: Tom Robertson, Esq.
Bercow Radell Fernandez Larkin +
Tapanes
200 S. Biscayne Blvd.
Suite 300
Miami, Florida 33131

22. **Third Party Rights.** The Parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the Parties intend to benefit a third party directly or substantially by this Agreement. The Parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the Parties based upon this Agreement. Nothing herein shall be construed as consent by either party to be sued by third parties in any manner arising out of this Agreement, or other obligations, whether known or unknown to the Parties.
23. **Compromise of Disputed Claim; No Admission of Liability.** The terms and conditions set forth above are in compromise of disputed claims, including the SB 180 claim, the Counterclaim and any other asserted or unasserted claims related to the Property, and shall not be construed as an admission of liability or fault by either party, which is expressly denied by both parties.
24. **Breach of Agreement.** For breach of any provision of this Agreement, the Parties will have such remedies and rights as are available at law or in equity.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by the undersigned officials as duly authorized.

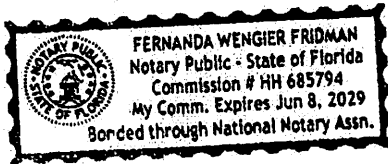
THE LUSKY'S:

By: [Signature]
Joel Zelik Lusky

By: [Signature]
Alexandria Lusky

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I HEREBY CERTIFY that the foregoing instrument was sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization, this day of July 1st, 2026, by Joel Zelik Lusky.

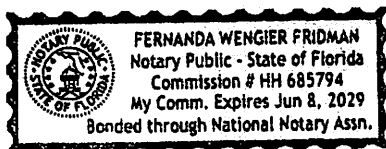


[Signature]
Notary Public – State of Florida
Name of Notary:

Personally Known ☒ OR Produced Identification ☐ Type of Identification Produced _____.

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I HEREBY CERTIFY that the foregoing instrument was sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization, this day of July 1st, 2026, by Alexandria Lusky.



[Signature]
Notary Public – State of Florida
Name of Notary:

Personally Known ☒ OR Produced Identification ☐ Type of Identification Produced _____.

BY TOWN:

ATTEST:

By: _____

By: _____

Sandra N. McCready, MMC
Town Clerk

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I HEREBY CERTIFY that the foregoing instrument was sworn to (or affirmed) and subscribed before me by means of ☐ physical presence or ☐ online notarization, this day of _____, 2026, by Mario A. Diaz, as Acting Town Manager for the **TOWN OF SURFSIDE, FLORIDA.**

Notary Public – State of Florida

Name of Notary: _____

Personally Known ____ OR Produced Identification ____ Type of Identification Produced
