



**Town of Surfside
Special Town Commission Meeting
AGENDA
June 27, 2017
6 p.m.**

Town Hall Commission Chambers - 9293 Harding Ave, 2nd Floor
Surfside, FL 33154

Rule 7.05 Decorum. Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the commission shall be barred from further appearance before the commission by the presiding officer, unless permission to continue or again address the commission is granted by the majority vote of the commission members present. No clapping, applauding, heckling or verbal outbursts in support or opposition to a speaker or his or her remarks shall be permitted. Signs or placards may be disallowed in the commission chamber by the presiding officer. Persons exiting the commission chambers shall do so quietly.

Any person who received compensation, remuneration or expenses for conducting lobbying activities is required to register as a lobbyist with the Town Clerk prior to engaging in lobbying activities per Town Code Sec. 2-235. "Lobbyist" specifically includes the principal, as defined in this section, as well as any agent, officer or employee of a principal, regardless of whether such lobbying activities fall within the normal scope of employment of such agent, officer or employee. The term "lobbyist" specifically excludes any person who only appears as a representative of a not-for-profit corporation or entity (such as charitable organization, a trade association or trade union), without special compensation or reimbursement for the appearance, whether direct, indirect, or contingent, to express support or opposition to any item.

Per Miami Dade County Fire Marshal, the Commission Chambers has a maximum capacity of 99 people. Once reached this capacity, people will be asked to watch the meeting from the first floor.

1. Opening

- A. Call to Order**
- B. Roll Call of Members**
- C. Pledge of Allegiance**

2. Town Attorney Selection Process Discussion – Mayor Daniel D. Dietch

3. Adjournment

Respectfully submitted,



Duncan Tavares, Assistant Town Manager
On behalf of Guillermo Olmedillo, Town Manager

THIS MEETING IS OPEN TO THE PUBLIC. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS THAT ARE DISABLED; WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE TOWN CLERK AT 305-861-4863 EXT. 226 NO LATER THAN FOUR DAYS PRIOR TO SUCH PROCEEDING.

IN ACCORDANCE WITH THE PROVISIONS OF SECTION 286.0105, FLORIDA STATUTES, ANYONE WISHING TO APPEAL ANY DECISION MADE BY THE TOWN OF SURFSIDE COMMISSION, WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING OR HEARING, WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH RECORD SHALL INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

AGENDA ITEMS MAY BE VIEWED AT THE OFFICE OF THE TOWN CLERK, TOWN OF SURFSIDE TOWN HALL, 9293 HARDING AVENUE. ANYONE WISHING TO OBTAIN A COPY OF ANY AGENDA ITEM SHOULD CONTACT THE TOWN CLERK AT 305-861-4863. A COMPLETE AGENDA PACKET IS ALSO AVAILABLE ON THE TOWN WEBSITE AT www.townofsurfsidefl.gov.

TWO OR MORE MEMBERS OF OTHER TOWN BOARDS MAY ATTEND THIS MEETING.

THESE MEETINGS MAY BE CONDUCTED BY MEANS OF OR IN CONJUNCTION WITH COMMUNICATIONS MEDIA TECHNOLOGY, SPECIFICALLY, A TELEPHONE CONFERENCE CALL. THE LOCATION 9293 HARDING AVENUE, SURFSIDE, FL 33154, WHICH IS OPEN TO THE PUBLIC, SHALL SERVE AS AN ACCESS POINT FOR SUCH COMMUNICATION.

June 26, 2017

Mr. Guillermo Olmedillo
Town Manager, Town of Surfside
Municipal Building
9293 Harding Ave.
Surfside, FL 33154

Re: Retention Agreement

Dear Mr. Olmedillo:

We are pleased that the Town of Surfside (the “Town”) has decided to engage GENOVESE JOBLOVE & BATTISTA, P.A. (the “Firm”) to provide legal services to the Town as detailed in your June 16, 2017 memorandum (the “Scope of Work”), a copy of which is attached for your reference. The Scope of Work excludes labor law related work and litigation (although we would be pleased to provide such services if and when requested at our reduced municipal litigation hourly rates as discussed herein). Also, as discussed at the recent special meeting of the Commission, we understand and appreciate the significance of Sections 90–11 and 90–12 of the Town Code (and have predicated the proposed terms set forth below upon the understanding that, where appropriate, certain land-use work may be performed under circumstances where the costs thereof are essentially borne by the applicant and not the Town). As such, the Scope of Work excludes such development application costs. There is also the possibility of substantial legal work being required in connection with unanticipated extraordinary special projects, which we have no practical way of taking into consideration at this time. Accordingly, this flat fee engagement excludes such extraordinary special projects, for which our firm might need to bill separately.

Consistent with the rules of professional responsibility which govern all attorneys, it is our firm’s practice to advise clients in writing of the terms and conditions under which we undertake a representation. First, to protect both of us and to comply with our professional obligations, this engagement is subject to clearance of any conflicts of interest with present or former clients of our firm. We have performed a conflict check and have determined that no conflict exists at this time. However, in order to help us in the future, if you become aware of potential adverse parties, then please provide us with the name of any such person or entity as soon as possible.

My partner Richard Sarafan will be primarily responsible for this matter. He will also

use other attorneys and legal assistants in our firm in the best exercise of his professional judgment. Our firm will provide legal services and bill for those services and requisite out-of-pocket expenses on a monthly basis in accordance with the provisions set forth herein and in our Standard Terms and Conditions, which are annexed to and made a part of this letter agreement.

For the Scope of Services, our Firm will charge an annual flat fee of \$345,000.00 (the "Flat Fee"), to be paid in twelve equal monthly installments of \$28,750.00, payable in advance on the first day of each month.

To take into account the value being provided by the assistant in the legal department during the initial period the engagement, the Firm agrees to provide the Town a one time credit in the amount of \$6,250.00, which shall be applied to the first monthly payment due to the Firm.

If the Town wishes to renew this agreement on an annual basis, the parties agree to an increase of the Flat Fee of no more than 3% for each year.

For legal services that are outside the Scope of Work, including labor law related work and litigation, the Firm agrees to bill the Town at the following hourly rates: Partners (\$300), Associates (\$200), and Paralegals (\$100).

We want to assure you that we will endeavor to serve you effectively and strive to represent your interests efficiently. To advance these goals, you agree to disclose fully and accurately all pertinent facts and keep us apprised of all developments in the matters for which we represent the Town. You further agree otherwise to cooperate fully with us and to be available to attend such meetings as are appropriate.

Please review this agreement carefully, and if you have any questions concerning the foregoing terms and conditions, do not hesitate to contact me. If this agreement is acceptable to you, please acknowledge that you have reviewed it, understand it, and desire to retain us on the basis of the terms of this letter and attachment by signing and delivering to us the enclosed copy. We recommend that you keep a copy of this letter and our Standard Terms in your file.

Thank you for allowing us to be of service.

Sincerely,

GENOVESE JOBLOVE & BATTISTA, P.A.

By: 
Glenn D. Moses

[9000-115/2740557/1]

Attachment

THE ABOVE IS ACCEPTED AND AGREED TO:

TOWN OF SURFSIDE

By: _____

Its: _____

Dated: _____

[9000-115/2740557/1]

STANDARD TERMS AND CONDITIONS OF ENGAGEMENT

1. **Fees:** We take into account many factors in billing for services rendered. The principal factor is our schedule of hourly rates, and most statements for services are the product of the time worked (in units of tenths of an hour) multiplied by the hourly rates for the attorneys and legal assistants who did the work.

Except with respect to the Scope of Services which will be included in the Flat Fee set forth above, the client will be billed for all time spent on its behalf, including without limitation conferences, telephone calls, drafting, research, and travel. It is impossible to determine in advance how much time will be needed, since that depends on many things beyond our control. Any figures we give you for the cost of all or part of our engagement are merely estimates.

2. **Costs:** It is usually necessary for us to incur, as agent for our clients, expenses for items such as filing fees, photocopying and courier services. Many engagements require substantial amounts of costly ancillary services such as outside duplication services and computerized legal research. The client is responsible for all costs incurred on the client's behalf. In order to allocate these expenses fairly and to keep our hourly rates as low as possible for those matters which do not involve such expenditures, these items are separately itemized on our statements as "costs advanced" or "disbursements".

Major out-of-pocket expense including outside fees and expenses (such as printing costs, filing fees, etc.), may not be advanced by us unless special arrangements are made in advance. They will be billed directly or forwarded to our client.

3. **Billing:** Fees and expenses will be billed monthly. Payment is due within thirty (30) days of presentation of the statement, unless we agree otherwise in writing.

4. **Late Payments:** We are confident that our clients make every effort to pay us promptly. Occasionally, however, a client has difficulty in making timely payment. To avoid burdening those clients who pay their statements promptly with higher fees reflecting the added costs we incur as a result of clients who are delinquent, we reserve the right to impose an interest/service charge of one percent per month for late payments. In no event will the service charge be greater than permitted by applicable law.

5. **Non-Payment of Fees and Costs:** Failure to pay any statement rendered when due will constitute a default. In the event of a default, you agree that in our discretion we may immediately cease all legal services on your behalf or discontinue our representation (subject to our ethical obligations and any other applicable provision of law). In the unlikely event that we are required to institute legal proceedings to collect fees and costs owed by the client, the prevailing party will be entitled to reimbursement of its reasonable attorneys' fees and other costs of collection.

6. **Termination:** The client has the right to terminate our representation by written notice at any time. In that case, the client is not relieved of the obligation to pay for all services rendered and costs incurred on its behalf prior to receipt of such notice. We have the same right

[9000-115/2740557/1]

to terminate our engagement, subject to an obligation to give the client reasonable notice to arrange alternative representation.

7. **Applicable Law:** The laws of the State of Florida will govern the interpretation of this agreement, including all rules or codes of ethics which apply to the provision of services by us.

8. **Payment by Others:** Sometimes another party to a transaction agrees to pay our client's legal fees, or a court may order our client's adversary to pay all or a part of its legal fees and costs. However, in such case our client remains primarily liable for payment of all fees and costs. Any amounts received from others will be credited to the client's account.

9. **Venue and Consent to Jurisdiction:** All disputes arising out of and relating to this agreement shall be brought in the courts of Miami-Dade County, Florida. Client consents to the exclusive jurisdiction of the courts of Miami-Dade County in adjudicating any and all such disputes, and waives the right to a jury trial.

10. **Jury Trial Waiver:** The parties hereby knowingly and voluntarily waive their right to a trial by jury in regard to all disputes, claims, counterclaims, defenses and controversies arising out of or related to the services provided under or relating to this fee engagement letter.




TOWN OF SURFSIDE

MUNICIPAL BUILDING
9293 HARDING AVENUE - SURFSIDE, FLORIDA 33154-3009
www.townofsurfsidefl.gov

MEMORANDUM

TO: Richard J. Sarafan - Genovese Joblove & Battista
Alfredo L. Gonzalez - Genovese Joblove & Battista
Joseph S. Geller - GreenspoonMarder
Mitch A. Bierman - Weiss Serota Helfman Cole & Bierman
Lillian Arango – Weiss Serota Helfman Cole & Bierman

FROM: Guillermo Olmedillo, Town Manager 

SUBJECT: Written Proposal to Provide Legal Services to the Town of Surfside – Scope of Work

DATE: June 16, 2017

During the Special Commission Meeting held last night, June 15, 2017, regarding the Town Attorney Selection Process, the Town Commission direction was to request a written proposal from the three firms who responded to the solicitation, to include the financial terms (flat rate) for all services excluding labor and litigation. Proposals are to be submitted to me by 5 pm, Wednesday, June 21, 2017 (electronic format is acceptable).

At a minimum the scope of work includes the following:

- A mid-level associate in our offices not less than three (3) days a week, full day (9am-5pm);
- The lead attorney (partner) to attend all Commission meetings, Planning and Zoning Board (P&Z), Design Review Board (DRB) and Sustainability Sub Committee of the Planning and Zoning Board;
- Not less than an associate level attorney to attend all Tourist Board meetings;
- The associate who manages the office should attend the Development Impact Committee (DIC) meetings
- Firms must stipulate whether or not the fee to prepare Resolutions / Ordinances etc. is included in the flat fee.

Additionally, the customary service of the Town Attorney's office includes:

- Attends staff meetings, agenda review meetings
- Attends Code Compliance Special Magistrate hearings (as needed)
- Attends Personnel Appeals Board hearings (as needed)
- Attends offsite meetings related to historic preservation and/or environmental related meetings etc.
- Attends committee meetings

- Firms must provide a contact person for assistance at any time (24 hrs / day x 7 days a week)
- Firms must exclude development application costs from the proposal
- Firms must leverage the Florida League of Cities litigation cost

Thank you for responding to our solicitation.
Guillermo Olmedillo

GreenspoonMarder

Joseph S. Geller, Esq.
PNC Building
200 East Broward Boulevard, Suite 1800
Fort Lauderdale, Florida 33301
Phone: 954.491.1120
Fax: 954.771.9264
Direct Phone: 954.331.2036
Direct Fax: 954.331.2037
Email: joseph.geller@gmlaw.com

June 26, 2017

VIA golmedillo@townofsurfsidefl.gov

Guillermo Olmedillo, Town Manager
Town of Surfside
Municipal Building
9293 Harding Avenue
Surfside, FL 33154

Re: Proposed Engagement Letter

Dear Mr. Olmedillo:

Per your request, here is our proposed engagement letter. This letter is intended to set forth our understanding as to the nature and scope of the legal services we agree to render for you, the amount of our fees for those services, the manner in which our fees for those services shall be determined and the terms upon which you will make payment, should you decide to retain us.

1. Nature of Legal Services. You have engaged us to represent the Town of Surfside as Town Attorneys.

Our scope of work will include:

- At least a mid-level associate in the Surfside offices from 9 am to 5 pm, three (3) days a week;
- The lead attorney will be Joseph S. Geller, who will attend Commission meetings, Planning and Zoning Board (P&Z), Design Review Board (DRB) and Sustainability Sub Committee of the Planning and Zoning Board
- At least an associate attorney will attend all Tourist Board meetings;
- The associate attorney who manages the office shall attend the Development Impact Committee (DIC) meetings; and
- Preparation of Resolutions and Ordinances is included in the flat fee for services submitted herein.

Greenspoon Marder will also provide the following customary services of the Town Attorney's

Boca Raton | Denver | Ft. Lauderdale | Las Vegas | Miami | Miami Beach | Naples | Nashville
New York | Orlando | Port St. Lucie | Portland | San Diego | Tallahassee | Tampa | West Palm Beach

In New York, Greenspoon Marder, P.A. practices under the name Greenspoon Marder, P.A. P.C.
In California, Greenspoon Marder LLP practices using the fictitious name and trademark Greenspoon Marder under license from Greenspoon Marder, P.A.

office, at no additional fee:

- Attendance at staff meetings, agenda review meetings;
 - Attendance at Code Compliance Special Magistrate hearings as needed;
 - Attendance at Personnel Appeals Board hearings as needed;
 - Attendance at offsite meetings related to historic preservation and/or environmental related meetings, etc.;
 - Attendance at committee meetings;
 - Greenspoon Marder will negotiate and communicate with the Florida League of Cities to get the most coverage possible for the Town under our insurance coverage; and
 - Greenspoon Marder contact person for assistance at any and all times (24/7) will be Joseph S. Geller: cell: 305-409-4431 / email: Joseph.Geller@gmlaw.com.
2. Fees for Services. We have agreed to fixed fees for all legal services of \$320,000 annually, to be paid monthly in twelve (12) equal installments, excluding litigation, labor, and bond counsel services. In addition, fees which are to be charged to developers in connection with development applications, are also excluded, per your June 16, 2017 memo. Litigation services would be billed at: Associates \$215 per hour, senior attorney (partner and senior counsel) \$235 per hour, and paralegal support service at \$95 per hour.
 3. Costs. In addition to the fees discussed in paragraph 2, we anticipate that certain expenses may be incurred and advanced on your behalf. If we advance the costs, we are to be reimbursed. These expenses may include filing fees, recording costs, out-of-town expenses, delivery charges, long distance telephone charges, photocopies (xerox), special postage (express mail, certified mail and the like), computer research charges, court reporter expenses (including cost transcript and court reporter's fee for attendance), court costs (such as filing fees, etc.), accounting and appraisal fees, fees and expenses of experts necessary to assist in the preparation and hearing of your matters, investigation costs, and applicable lobbyist registration fees. In addition to our fees for legal services, you agree to pay us for such out-of-pocket expenditures. In the event large costs or advances are anticipated, we will consult with you prior to undertaking the expenditures of funds on your behalf.
 4. Termination by the Town. This agreement can be terminated by the Town at will. We will provide any reasonable transition period you may request, if you elect to do so.
 5. Withdrawal from Representation. We reserve the right to withdraw from representing you if we deem it necessary to do so. In such event, we will provide you with reasonable notice, consistent with the Rules Regulating the Florida Bar.
 6. Existing Staff. We acknowledge that there is an existing Legal Assistant employed by the Town at the present time. We agree to be responsible for one half of the cost of that legal assistant until she leaves on an anticipated maternity leave, and to make some appropriate arrangement with the Town upon her return from maternity leave.

7. Renewal. The Town shall have the option to renew the annual agreement on the terms stated herein, with up to a 3% increase annually. This does not obligate the Town at any time to continue having the firm provide services to the Town, since, as specified hereinabove, the retention is at will.

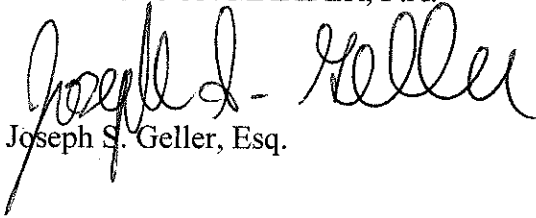
If the foregoing is agreeable to you, please acknowledge your understanding and agreement by signing this letter and delivering it to us. The contract is effective immediately.

We appreciate your confidence in our Firm and we assure you that we will make every effort to perform our services in a prompt and efficient manner.

Please let me know if there are any questions. We are looking forward to the opportunity to be of service to the Town of Surfside.

Sincerely,

GREENSPOON MARDER, P.A.

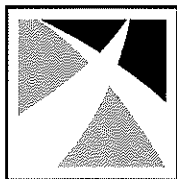


Joseph S. Geller, Esq.

Approved and Accepted:
Town of Surfside

By: _____

Date: _____



WEISS SEROTA HELFMAN COLE & BIERMAN

AT THE CROSSROADS OF BUSINESS, GOVERNMENT & THE LAW

MITCHELL A. BIERMAN
MBierman@wsh-law.com

LILLIAN M. ARANGO
LArango@wsh-law.com

June 26, 2017

Via Email

Honorable Mayor Daniel Dietch and Commission Members
c/o Guillermo Olmedillo, Town Manager
Town of Surfside
9293 Harding Avenue
Surfside, Florida 33154-3009

Re: Retainer Agreement for Legal Services

Dear Mr. Olmedillo,

We are pleased that the Town of Surfside ("Town") wishes to engage our Firm to provide legal services as the Town Attorney. Our Firm is the preeminent full-service municipal law firm in Florida dedicated to serving as the "one-stop shop" for municipalities seeking the services of a law firm that has the expertise to handle virtually all of the legal issues faced by municipalities.

This letter is intended to set forth our understanding as to the nature and scope of the legal services we will provide to the Town, the amount of our fees for those services, the manner in which our fees for services shall be determined and the terms upon which you will make payment.

1. Nature of Legal Services. You have engaged our Firm to serve as Town Attorney. We will provide all legal services to the Town customarily performed by town attorneys and as required by the Town Charter and directed by the Town Commission and administration. Our services will include the scope of work listed in the Town Manager's Memorandum dated June 16, 2017 requesting written fee proposals, excluding labor and employment representation, litigation, any legal fees paid or payable by or recoverable from third parties (including, development projects or applications subject to cost recovery), or Special Projects as further defined herein ("Excluded Services"). Litigation includes adversarial

proceedings before administrative tribunals, courts, mediators, arbitrators and appellate tribunals. Special Projects include non-recurring unanticipated major projects (e.g., rewrite of land development regulations, general obligation bond issue) not already identified in the Town's current 2016-17 Fiscal Year adopted Budget and arising subsequent to the date of this letter.

2. Fees for Services. The Firm will provide general municipal services to the Town at a fixed or flat fee of \$28,750 per month or \$345,000 annually. The fixed or flat fee does not include Excluded Services which may be performed by our Firm and billed on an hourly basis, at an hourly rate of \$250 for partners and of counsel senior attorneys, \$215 per hour for associates and \$115 per hour for paralegals, or flat rates to be mutually agreed upon as an excluded matter may arise. The flat or fixed fee includes all telephone calls, emails, teleconferences and video conferences with individual Town Commissioners, the Town Manager, and administrative staff. The Town will not be charged for travel expenses to and from the Town, or any travel-related expenses to and from Town (e.g. tolls, mileage) for providing legal services included in the scope of work or Excluded Services. Beginning with the one year anniversary of this retainer agreement, the flat or fixed fee, and hourly rates for Excluded Services, will be adjusted by a 3% increase annually.

The Town will receive a one-time credit of \$6,000 towards the first month's bill in order to absorb the costs of the Town's existing legal secretary who will assist with the transition of legal services to the Firm.

3. Costs. In addition to the fixed or flat rate for attorneys' fees discussed above, the Firm will bill the Town for incidental actual out-of-pocket costs, such as delivery and courier charges (e.g. federal express), large photocopy jobs (routine copying will not be charged), computer and legal research expenses, court reporter expenses (including cost of transcripts and court reporter's fee for attendance), court costs (such as filing fees, service of process, newspaper and advertisement publication costs, subpoena costs, witness fees, recording fees, etc.), accounting and appraisal fees, expert fees, trial/hearing exhibits costs and investigation costs.

4. Payment of Fees and Costs. Our invoices will be submitted to you on a monthly basis and each invoice will be due and payable when rendered. You must understand that if any invoice remains unpaid for more than 30 days after it is rendered, we reserve the right, in our discretion, to cease to provide further legal services to the Town.

Honorable Mayor Daniel Dietch and Commission Members
c/o Guillermo Olmedillo, Town Manager
Town of Surfside
June 26, 2017
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You will, however, be liable to us for payment of any fees earned and any costs incurred by us to the date of termination.

5. Representation of Other Clients. We are bound by the rules of legal ethics not to represent any client if the representation of that client will be directly adverse to the interests of another client, unless each such client consents to such representation after consultation. Should such a situation arise, you will be immediately informed and a proposed manner to address the conflict will be provided by us.

6. Withdrawal from Representation. The Town at any time may choose to terminate this retainer agreement with or without cause and shall only be liable for any fees and costs incurred to the date of termination. We, likewise, reserve the right to withdraw from representing the Town, if you have misrepresented or failed to disclose material facts to us, or if we disagree about the course of action which should be pursued.

7. Commencement of Representation. If the foregoing is agreeable to you, please acknowledge your understanding and agreement by signing this letter and delivering it to us. We stand ready and able to commence our representation of the Town as of July 5, 2017. We appreciate your confidence in our Firm and we assure you that we will make every effort to perform our services in a prompt and efficient manner and ensure a seamless transition from Town Attorney Linda Miller upon her retirement.

Thank you for your consideration of our Firm.

Very truly yours,

WEISS SEROTA HELFMAN
COLE & BIERMAN, PL.



Mitch Bierman and Lillian Arango



Honorable Mayor Daniel Dietch and Commission Members
c/o Guillermo Olmedillo, Town Manager
Town of Surfside
June 26, 2017
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Acknowledgement and Agreement

Having been duly authorized by an affirmative vote of the members of the Town Commission of the Town of Surfside, Florida, the undersigned has read this retainer agreement and on behalf of the Town of Surfside, Florida, agrees to the terms set forth herein.

Agreed and Accepted on _____, 2017.

TOWN OF SURFSIDE, FLORIDA

By: _____
Daniel Dietch, Mayor