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Mayor and Commissioners of the Town of Surfside  
Surfside Town Manager  
9293 Harding Avenue  
Surfside, FL 33154

**RE: November 13 Commission Meeting**

Dear Mayor, Commissioners and Town Manager:

To our surprise and dismay, we have heard a rumor that a resolution is being proposed by a Surfside Commissioner to terminate the Surfside Town Center Project at the November 13 Town of Surfside Commission meeting. Based on the history of this project and the repeated indications of support, both orally and in writing, from each of you for months, a proposal to terminate before we have had a chance to conduct our public outreach and question and answer sessions and to let the voters decide via referendum would be unfair, undemocratic and a complete and improper reversal of the position of the Commission as represented to us in the past. We respectfully request that you allow the democratic process to take its course and let the public decide via referendum if the project should or should not move forward.

It is important to put this matter in context at this time. Approximately one year ago, we began having discussions with each of the five Town Commissioners and the Town Manager regarding the possibility of making an unsolicited proposal for a new Town Center project. We were completely transparent about our intentions and sought to receive input from the Town's elected officials and Town Manager before incurring the extraordinary expense and investing the enormous amount of time to prepare and submit our proposal. Simply put, there was no way we would have decided to move forward if we had been told by you that you did not support the project, or that the project wasn't needed, or that you didn't support public-private projects. However, to the contrary, we were consistently and repeatedly told by each of you that you supported our project and wanted us to move forward. (And we have copies of multiple emails and texts from you evidencing these expressions of support.) Among other things:

- You told us there is a clear, documented need for more parking in Surfside.
- You told us the Town has been trying to build more parking in Surfside for years but has been unable to do so because of inability to acquire land, either due to lack of funds or lack of desire by private property owners to sell.
- You told us Collins Avenue condominium residents have no place to park their cars overnight.
- You told us Surfside residents have no place to store their cars in a hurricane.

- You told us the police station is out of space and out of date. You told us that the police department offices are scattered throughout town hall and there is not even a holding cell for persons under arrest. You told us there is no emergency operations center for hurricanes.
- You told us Town Hall is out of space and out of date.
- You told us the residents want more amenities and you want to give them more amenities but a second floor cannot be built on the existing Community Center and the Town has no money anyway to build an addition to the Community Center.
- You told us that there is no support to raise taxes for construction or bond payments to build any of the items above and the only way to get this done is through a public-private partnership.
- You even gave us specific recommendations about what our project should contain in terms of resident amenities and other details.

Therefore, it is overwhelmingly clear that at no time during our discussions with you over the course of months did we receive anything but encouragement to move forward. In fact, the only caveat to your support was the comment from a couple of Commissioners that our project may require a referendum. As you know, we have already agreed to put our project to the voters with a referendum.

Subsequent to this process of getting input from all of you and the Town Manager, we proceeded to prepare and submit a comprehensive, professional and well-thought out P3 proposal, at a huge expense to our team. The proposal directly reflected what each of you had told us you wanted to see. After submitting the proposal, the Town had the right not to accept the proposal and not proceed. However, once again, the Town Commission and Town Manager showed their support and opted to continue moving ahead with our proposal.

As its next step, the Town hired the prestigious Coral Gables firm of Lambert Advisors to perform thorough due diligence on our proposers and our proposal. And, we were asked to pay for all of Lambert's consulting fees, which we did. Lambert then proceeded to engage in a thorough review of our proposal, which included multiple meetings with our team to ask questions and obtain additional information. We complied with every request and, at the end of this due diligence phase, Lambert issued a glowing report basically indicating that all components of our project were highly satisfactory. Once again, the Commission could have decided to stop the project but instead gave us encouragement and again told us to proceed forward.

Because a Cone of Silence had been in place since the submission of our proposal, the next step was to present this proposal to the public and commence the public dialogue and public input portion of the process. We gladly agreed and a Special Commission meeting was scheduled for September 26<sup>th</sup>. Even though you indicated that our proposal would have to be made to the public a week before the meeting, in our continuing display of transparency and good faith, we made our proposal available more than four weeks before the meeting.

At the meeting of September 26<sup>th</sup>, the Commission voted 3 to 2 to continue evaluation of our project and to let the project move forward. However, we were stunned and disappointed to learn that two of the Commissioners at that meeting were willing to terminate the project after months of consistent support and encouragement from those very same Commissioners and our reliance upon that support. (In fact, one of the Commissioners who supported terminating the project had met with me in my office that very same day and told me that the Commissioner supported our proposal subject only to having a referendum.) Because we had been told clearly and repeatedly that there was a documented need for our project and that the Town supported our project, the only plausible reason for this complete reversal of position by these two Commissioners was the political pressure applied by a small number of residents who spoke out against the project on September 26 and purported to represent the “entire community” of Surfside and its 6,000 residents. Ironically, not only does that small group of residents not represent anyone but themselves, but their request to terminate the project would prevent their fellow residents and the rest of the community from getting information about our project. Their request to terminate would silence public debate, and would stop the process of getting to a referendum, which is the most direct way for residents to have their say on this issue.

Now, we are once again hearing calls to prevent a full public discussion of our project, to prevent and silence public debate, and even to block the occurrence of a referendum, where everyone will have his or her say! How can this be consistent with our democratic principles and with notions of fairness and the free flow of ideas in our country? And again, we reiterate that the idea of terminating public dialogue of our project after the Town’s repeated written and oral indications of support, upon which we relied and expended tens of thousands of dollars, would be highly improper, inappropriate and unprofessional.

We respectfully request that you allow public debate on this matter to take its democratic course and not seize the right of the voters to educate themselves and decide via referendum whether or not to accept our proposal. Thank you.

Sincerely,

Shutts & Bowen LLP



Alexander I. Tachmes, Esq.

cc: Town Attorney  
Town Manager  
Assistant Town Manager

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