

**RESOLUTION NO. 157-2023**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING A MEMORANDUM OF UNDERSTANDING AND AGREEMENT AND FEE AGREEMENT WITH JONES FOSTER P.A.; AUTHORIZING THE TOWN COUNCIL PRESIDENT TO EXECUTE THE MEMORANDUM OF UNDERSTANDING AND AGREEMENT; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE FEE AGREEMENT; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Jones Foster P.A. and the Town wish to memorialize in writing the long standing agreement between Jones Foster P.A. and the Town and to provide for and approve fees for legal services;

WHEREAS, it is the desire of the Town Council to approve the attached Memorandum of Understanding and Agreement and the December 1, 2023 letter agreement ("Fee Agreement") with Jones Foster P.A.; and,

WHEREAS, the terms agreed to by the parties in this regard are incorporated within the Memorandum of Understanding and Agreement and the Fee Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, AS FOLLOWS:

Section 1.     The foregoing recitals are incorporated herein.

Section 2.     The Town Council hereby approves and accepts the terms of the Memorandum of Understanding and Agreement and authorizes the Town Council President to execute said Memorandum of Understanding and Agreement on behalf of the Town. A copy of the Memorandum of Understanding and Agreement is attached as Exhibit A and incorporated herein.

Section 3. The Town Council hereby approves and accepts the terms of the Fee Agreement between Jones Foster P.A. and the Town of Palm Beach and authorizes the Town Manager to execute said Fee Agreement on behalf of the Town. A copy of the Fee Agreement is attached as Exhibit B and incorporated herein.

Section 4. This Resolution shall become effective immediately upon passage.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 12<sup>th</sup> day of December, 2023.

\_\_\_\_\_  
Danielle H. Moore, Mayor

\_\_\_\_\_  
Margaret A. Zeidman, Town Council President

\_\_\_\_\_  
Bobbie D. Lindsay, Council President Pro Tem

\_\_\_\_\_  
Julie Araskog, Town Council Member

ATTEST:

\_\_\_\_\_  
Edward A. Cooney, Town Council Member

\_\_\_\_\_  
Kelly Churney, Acting Town Clerk

\_\_\_\_\_  
Lewis S.W. Crampton, Town Council Member

## **MEMORANDUM OF UNDERSTANDING AND AGREEMENT**

The purpose of this Memorandum of Understanding and Agreement is to ratify and confirm the longstanding agreement between the Town of Palm Beach and the law firm of Jones Foster P.A. and to formally designate Joanne M. O'Connor as the Town Attorney effective January 1, 2024, as follows.

By custom and practice, the law firm of Jones Foster P.A. has been and is engaged by the Town to conduct the legal work of the Town, unless another attorney or law firm is designated by the Town Council or the Town Manager to handle a specific matter. The Town designates Joanne M. O'Connor of the law firm of Jones Foster P.A. as the designated Town Attorney, with the authority to designate attorneys within the firm of Jones Foster P.A. to handle all legal matters relating to the Town of Palm Beach. The term of this Memorandum of Understanding and Agreement runs from year to year and is renewable each year automatically unless and until either party terminates the agreement, which either party may do with or without cause.

Signed, sealed and delivered in the  
presence of:

TOWN OF PALM BEACH

\_\_\_\_\_  
Witness

By \_\_\_\_\_  
Margaret A. Zeidman  
Town Council President

Dated: \_\_\_\_\_

\_\_\_\_\_  
Witness

JONES FOSTER P.A.

\_\_\_\_\_  
Witness

By \_\_\_\_\_  
Larry B. Alexander  
President

Dated: \_\_\_\_\_

\_\_\_\_\_  
Witness

December 1, 2023

Town of Palm Beach  
360 South County Road  
Palm Beach, Florida 33480

Attn: Kirk Blouin, Town Manager

**Re: Town Attorney Engagement Agreement**

Dear Council Members:

Thank you for the opportunity for Jones Foster, P.A. (the "Firm") to continue to serve as Town Attorney for the Town of Palm Beach ("Town"). This letter agreement is to confirm the scope and terms of the engagement to represent the Town as general legal counsel. The agreement will be effective as of January 1, 2024; the rates and rate structure will be reflected in the invoice for January legal services that the Firm will send the Town at the beginning of February 2024.

I will have primary responsibility for this representation with other Firm attorneys being assigned matters and responsibilities based upon need and expertise. Different lawyers in the Firm may be involved to provide specialized legal talent and help us do your work more quickly or economically.

Our fees will be based in part on a fixed fee arrangement and in part on an hourly basis.

**Flat Fee for Non-Litigation Services**

The Town will pay the Firm a flat rate non-refundable fee of \$45,000 per month for non-litigation legal services described below. This fee is earned upon receipt and is non-refundable. The fee is earned upon receipt in consideration of the fact that legal work for other clients will have to be postponed or declined to perform the Town's work.

For the flat monthly fee, the Firm will provide the following legal services to the Town:

- (a) Attendance at all regular or special meetings of the Town Council, Town Council – Development Review, and Town Council workshop meetings; attendance at all meetings of the Town's Architectural Review Commission, Landmarks Preservation Commission and Code Enforcement Board; and attendance at meetings and hearings held by such other

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1 9 2 4

12/12/23 TCM Backup

joconnor@  
jonesfoster.com  
561-650-0498 T  
561-650-5300 F

505 S. Flagler Drive  
Suite 1100  
West Palm Beach  
Florida 33401

EXHIBIT B

advisory boards, commission, task forces as requested by the Town Manager or directed by the Town Council;

- (b) Preparation or review of ordinances, resolutions, and other official documents and legal instruments for legal form and sufficiency so as to carry out the Town's business and legislative affairs;
- (c) Overall management of Town legal affairs (excluding the services provided on litigation and extraordinary matters encompassed by the hourly rate agreement outlined below);
- (d) Research and rendition of written or oral legal opinions to Town Staff, the Town Manager and Town Council, as requested;
- (e) Counsel to the Code Enforcement Board in accordance with Section 2-401 of the Town Code;
- (f) Such assistance as may be required for the proper legal functioning of the various Town departments consistent with the Town's Charter; and,
- (g) Such additional legal items identified by the Town Council or the Town Manager.

In consideration of the flat monthly fee, I will principally attend the Town Council meetings and Firm associate attorneys will principally attend meetings of the Architectural Review Commission, Landmarks Preservation Commission, and Code Enforcement Board.

The Firm and the Town believe the flat rate represents the cost and value of the non-litigation legal services the Firm will provide the Town. However, should Town needs be materially higher or lower, we can revisit and discuss modification to this agreement. Further, the Town Manager is authorized to deem any service—for instance, land use advice in connection with a complex or contested development project—as an extraordinary matter subject to the hourly fee arrangement discussed below.

The Firm will bill the flat fee monthly, generally soon after the first of each month, for the preceding month. This statement will be due and payable upon receipt by the Town.

### **Hourly Basis Fee Arrangement for Litigation and Other Extraordinary Matters**

In litigation matters and other extraordinary, non-litigation matters agreed to in advance by the Firm and the Town Manager, the Firm will bill the Town at standard hourly rates not to exceed \$600 per hour for shareholders and \$350 per hour for associates. Paralegal time will be billed at the firm's standard hourly rate.

Each month we will send an invoice which reflects the time spent by us and the costs incurred on each litigation and extraordinary matter. Costs for which the Town will be responsible will include, but are not limited to, filing fees, deposition costs, court reporter fees, travel expenses, copying, messenger services, overnight delivery fees, computerized legal research services, and other out-

of-pocket expenses. These expenses will be invoiced in addition to the rates set forth above. Expenses advanced by the Firm will be on the monthly invoices. Invoices are payable upon receipt.

### **Conflicts of Interest**

The Town acknowledges that the Firm provides legal services for many clients, including other governmental entities. The Town agrees to identify any actual or perceived conflicts of interest and review them with the Firm. The Firm agrees to disclose all conflicts of interest as defined by the Rules Regulating The Florida Bar.

### **Miscellaneous**

This agreement shall only be amended in a writing executed by the Town and the Firm.

The above provisions outline in reasonable detail the agreement as to this representation. If the terms are acceptable, please authorize the Town Manager to sign this letter below.

On behalf of the Firm, we sincerely appreciate the opportunity to continue our long-standing representation of the Town. If you have any questions or require additional information, please contact me.

Sincerely,

JONES FOSTER P.A.

/s/ Joanne M. O'Connor

Joanne M. O'Connor

Florida Bar Board Certified Business Litigation Attorney

### **ACCEPTANCE**

On behalf of the Town of Palm Beach, the undersigned accepts and agrees to retain, engage and employ Jones Foster, P.A. as legal counsel on the terms and conditions set forth in this agreement.

TOWN OF PALM BEACH

By: \_\_\_\_\_  
Kirk Blouin, Town Manager

Date: \_\_\_\_\_