

TOWN OF GOLDEN BEACH, FLORIDA

RESOLUTION NO. 1853.07

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, APPROVING A CLOSING AGREEMENT WITH THE IRS RELATED TO THE TOWN'S EMPLOYEE PENSION PLAN AND AUTHORIZING THE MAYOR AND THE TOWN MANAGER TO TAKE ALL ACTION NECESSARY TO EFFECTUATE THE AGREEMENT INCLUDING THE PAYMENT OF \$8,000.00 RELATED TO THE CLOSING AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Golden Beach, Florida (the "Town") has created and continues to fund the Town's Employee Pension Plan (the "Plan"); and

WHEREAS, it has been determined by the IRS that the Plan was not in compliance with various tax laws during certain years; and

WHEREAS, the Plan has been amended in order to be compliant with the law; and

WHEREAS, the IRS has proposed that the Town enter into the attached Closing Agreement with the IRS, which by its terms, brings the Plan into compliance with the law for the years for which the Plan was non-compliant; and

WHEREAS, the Town believes it is in the best interest of the Town and Plan that the Town enter into the attached Closing Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That each of the above-stated recitals is hereby adopted and confirmed.

Section 2. Approval and Authorization. The attached Closing Agreement is hereby approved and the Mayor and Town Manager are hereby authorized to take any

and all action necessary to effectuate the closing agreement including payment of \$8,000.00 to the IRS in conformance with the attached Closing Agreement.

Section 3. Effective Date. That this Resolution shall be effective immediately upon adoption.

Sponsored by **Administration**

The Motion to adopt the foregoing resolution was offered by Council Member Lusskin, seconded by Vice Mayor Bernstein and on roll call the following vote ensued:

Mayor Glenn Singer	<u>Aye</u>
Vice Mayor Ken Bernstein	<u>Aye</u>
Councilmember Ben Einstein	<u>Absent</u>
Councilmember Judy Lusskin	<u>Aye</u>
Councilmember Amy Rojas	<u>Aye</u>

PASSED AND ADOPTED by the Town Council of the Town of Golden Beach, Florida, this 17th day of July, 2007.



MAYOR GLENN SINGER

ATTEST:



ELIZABETH SEWELL
TOWN CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



STEPHEN J. HELFMAN
TOWN ATTORNEY

Internal Revenue Service

Department of the Treasury
P. O. Box 2508
Cincinnati, OH 45201

Date: **AUG 16 2007**

Town of Golden Beach, Florida
One Golden Beach Drive
Golden Beach, FL 33160

Person to Contact:

Marilyn Carson Ross

Telephone Number:

(404) 338-8182

Year(s):

1989 - 2005

Plan Number:

001

Plan Name(s):

Town of Golden Beach, Florida
Pension Plan

EIN:

59-6000326

OFFICE OF THE
TOWN CLERK

AUG 20 2007

RECEIVED

Dear Sir or Madam:

I have approved and signed the closing agreement you submitted pertaining to the qualification of the plan identified above for the period shown above. The enclosed copy of the agreement is for your records.

Thank you for your cooperation.

Sincerely yours,



Gary L. Runge

Manager, EP Determinations
Quality Assurance

Enclosure:

Executed closing agreement

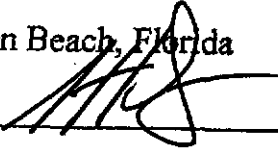
cc: Kenneth R. Harrison, Sr.
2801 Ponce De Leon Boulevard, Suite 750
Coral Gables, FL 33134

Statement of Operational Compliance for
Town of Golden Beach Employees Pension Plan & Trust

The Town of Golden Beach Employees Pension Plan and Trust operated in compliance with the requirements of the Uruguay Round Agreements Act of 1994 (GATT), the Uniformed Services Employment and Reemployment Rights of 1994 (USERRA), the Small Business Job Protection Act of 1996 (SBJPA), the Taxpayer Relief Act of 1997 (TRA '97), the Internal Revenue Service Restructuring and Reform Act of 1998 and the Community Renewal Tax Relief Act of 2000, collectively, "GUST" by the required compliance date in accordance with section 401(b) of the Code and Regulations for the period October 1, 1995 through March 8, 2007. The Plan also operated in compliance with Tax Reform Act of 1986 (TRA '86) for the period October 1, 1989 through March 8, 2007.

Town of Golden Beach, Florida

By: _____



Title: MAYOR GLENN SENCER

Date: 7/31/07

**CLOSING AGREEMENT ON FINAL DETERMINATION
COVERING SPECIFIC MATTERS**

Under section 7121 of the Internal Revenue Code (the Code), Town of Golden Beach, Florida (the Employer), One Golden Beach Drive, Golden Beach, FL 33160, EIN 59-6000326, and the Commissioner of Internal Revenue make the following closing agreement:

WHEREAS, the Employer established the Town of Golden Beach Employees Pension Plan (the Plan) effective October 1, 1978; and

WHEREAS, the Plan is a governmental plan within the meaning of section 414(d) of the Internal Revenue Code; and

WHEREAS, the Employer amended the Plan on April 20, 2004 to bring the Plan into compliance with the requirements of the Tax Reform Act of 1986 (TRA '86); the document adopted on this date also brought the Plan into compliance with the requirements of the Uruguay Round Agreements Act of 1994 (GATT), the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), the Small Business Job Protection Act of 1996 (SBJPA), the Taxpayer Relief Act of 1997 (TRA '97), and the Internal Revenue Service Restructuring and Reform Act of 1998, collectively, "GUST"; and

WHEREAS, the Employer submitted Form 5300, Application for Determination for Employee Benefit Plan, on June 22, 2004; and

WHEREAS, pursuant to the review of the Application by the Atlanta TE/GE Division Office of the Internal Revenue Service (the Service), it was determined that the Plan was not timely amended to comply with TRA '86, GUST, the Unemployment Compensation Amendments Act of 1992 (UCA '92), the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) and the Community Renewal Tax Relief Act of 2000 (CRA) by the required compliance dates in accordance with section 401(b) of the Code and Regulations thereunder;
(continued on next page)

Closing Agreement with Town of Golden Beach, Florida
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NOW IT IS HEREBY DETERMINED AND AGREED for Federal income tax purposes that:

1. The total amount due to the United States Treasury under this agreement is eight thousand dollars (\$8,000.00). This payment shall be paid by the Employer to the United States Treasury contemporaneously with the execution of the agreement by the duly authorized representative of the Service.

2. The Employer will neither attempt to nor otherwise amortize, deduct, or recover any portion of the payment described in paragraph 1 from the Service or to receive any Federal tax benefit on account of such payment.

3. No portion of the payment described in paragraph 1 shall be considered as: (a) compensation to, or the discharge of any obligation or liability of, any employee or former employee of the Employer; or (b) taxable income to any employee or former employee of the Employer.

4. The Service will treat the Plan as being in compliance with section 401(a)(9)(B)(ii) of the Code; the Service shall also treat the Plan as having being timely amended to comply with TRA '86, UCA '92, OBRA '93, GUST and CRA.

5. This agreement constitutes a resolution under the Code of specific matters discussed herein. No inference shall be made with respect to whether this resolution satisfies other Federal law including Title I of the Employee Retirement Income Security Act of 1974.

Closing Agreement with Town of Golden Beach, Florida
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This agreement is final and conclusive except:

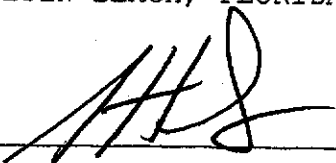
(a) the matter it relates to may be reopened in the event of fraud, malfeasance, or misrepresentation of material fact;

(b) it is subject to the Code sections that expressly provide that effect be given to their provisions notwithstanding any other law or rule of law except Code section 7122; and

(c) if it relates to any taxable period ending after the date of this agreement, it is subject to any law enacted after the agreement date that applies to that taxable period.

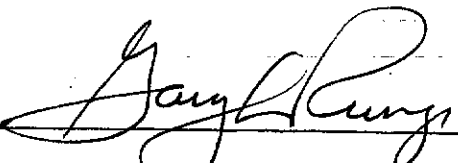
By signing, the above parties certify that they have read and agreed to the terms of this document.

TOWN OF GOLDEN BEACH, FLORIDA

By: 

Title: MAYOR GLENN SINGER Date Signed: 7/31/07

COMMISSIONER OF INTERNAL REVENUE

By: 

Title: Manager, EP Determinations Quality Assurance Date Signed: 8/10/07