

TOWN OF GOLDEN BEACH, FLORIDA

RESOLUTION NO. 2052.09

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWN AND THE U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT DIVISION OF THE U.S. DEPARTMENT OF HOMELAND SECURITY; PROVIDING FOR IMPLEMENTATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Golden Beach, Florida (the "Town") wishes to enter into a Memorandum of Understanding (the "Agreement") with the U.S. Immigration and Customs Enforcement (ICE) Division of the U.S. Department of Homeland Security, regarding ICE designating certain Golden Beach Police Officers as Customs Officers and providing training to perform the duties of an ICE Officer; and

WHEREAS, while the Agreement provides that designated Customs Officers who are to perform the duties of an ICE Officer will have the authority to enforce "Customs" laws, the Agreement does not grant these designated Customs Officers the authority to enforce "Immigration" laws; and

WHEREAS, the Town Council believes that it is in the best interests of the Town to enter into the 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. Agreement Approved. That the Agreement is hereby

approved in substantially the form attached hereto as Exhibit "A," and the Mayor is hereby authorized to execute the Agreement on behalf of the Town, once approved by the Town Attorney as to form and legal sufficiency.

Section 3. Implementation. That the Mayor and Town Manager are authorized to take any and all action which is necessary to implement this Resolution and the Agreement.

Section 4. Effective Date. That this Resolution shall become effective immediately upon adoption by the Town Council.

Sponsored by Town Administration.

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

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

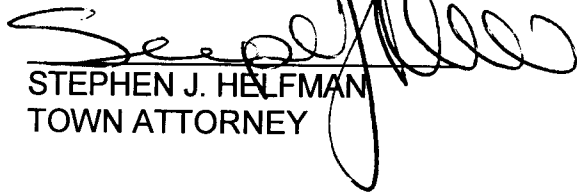
PASSED AND ADOPTED by the Town Council of the Town of Golden Beach, Florida, this 17th day of November, 2009.

ATTEST:


MAYOR GLENN SINGER


ELIZABETH SEWELL
TOWN CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



STEPHEN J. HELFMAN
TOWN ATTORNEY

MEMORANDUM OF UNDERSTANDING
Between the
U.S. Immigration and Customs Enforcement (ICE)
And the
Town of Golden Beach, Florida

I. Purpose

The Town of Golden Beach (the "Town") and the U.S. Immigration & Customs Enforcement (ICE) of the U.S. Department of Homeland Security (DHS) agree that effective enforcement of the laws relating to ICE jurisdiction requires close cooperation and coordination between the two agencies, and have therefore entered into this agreement to govern the use of ICE designations by certain employees of the Town.

II. Agreement

There may be instances when it may be desirable on occasion for certain sworn law enforcement officers of the Town's Police Department ("GBPD") to be able to perform certain ICE duties. Pursuant to section 401(i), Tariff Act of 1930, as amended, (19 U.S.C. 1401(i)), the Secretary of Homeland Security or his/her designee is authorized to designate persons as Customs Officers (Excepted) who are designated to perform the duties of an ICE Officer. The designated Customs Officers will have the authority to enforce "Customs" laws. This Agreement does not grant the designated Customs Officers the authority to enforce "immigration" laws.

The forms and authorities referenced herein may be renamed or replaced by ICE without prejudice to this Agreement.

The two agencies have, therefore, entered into this Agreement as follows:

A. The U.S. Immigration and Customs Enforcement (ICE) agrees:

1. To designate certain employees of the GBPD as Customs Officers (Excepted), without additional compensation, to perform the duties shown on the attached "Designation, Customs Officer" form (which is hereby made part of the Agreement);
2. To provide appropriate training in Customs laws, policies, and procedures to the designated employees;
3. To issue a "Designation, Customs Officer," as described in A. 1. above to each qualified employee;
4. To advise the GBPD regarding any court proceedings that question any seizures or arrests that are made in accordance with this Agreement;
5. To process, under appropriate regulations, any Injury claim submitted as a result of injuries occurring to local law officers of the GBPD acting pursuant to this Agreement, for compensation under the Federal Employee Workers Compensation Act (5 U.S.C. 8101, et. seq.).

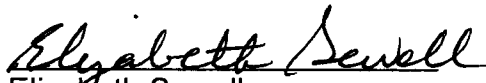
- B. The Town of Golden Beach Police Department agrees:
1. To advise ICE of each situation in which the GBPD proposes to use an ICE designation;
 2. That ICE designations to employees of the GBPD will be used only in situations where there has been specific advance approval by the appropriate Special Agent in Charge or Resident Agent in Charge. Designations will be used only for the duration of the specified law enforcement activity for which the approval was extended, and to the extent of such approval.
 3. That only personnel who are sworn law enforcement officers of the GBPD and who successfully complete the appropriate ICE cross-designation training and received a "Designation, Customs Officer" form will be granted Customs Officer status;
 4. To report to ICE, in writing, the results of all activity undertaken by the designated Customs Officer as a consequence of the Customs cross- designation authority;
 5. To advise ICE of each court proceeding in which the validity of ICE searches, seizures, or arrest authority has become an issue, and to permit ICE to provide legal memorandum or other assistance in such cases when desired by ICE;
 6. To follow ICE directives and instructions that are applicable to ICE concerning ICE search, seizure, and arrest authority;
 7. To return all ICE equipment and identification, if issued, when a cross- designated Officer terminates employment for any reason.
- C. Both agencies agree to:
1. Recognize that any abuse of ICE cross-designation authority may lead to the revocation of such cross-designations by ICE;
 2. Agree to exchange implementing instructions prior to issuance; and
 3. Agree to periodic meetings to review this Agreement.

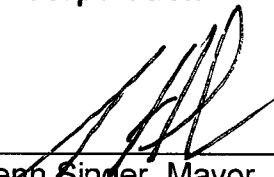
[SIGNATURE PAGE TO FOLLOW]

This Memorandum of Understanding is an internal agreement between government agencies. It does not create or confer any rights, privileges, or benefits to any private person or party.

**Town of Golden Beach, a Florida
municipal corporation**

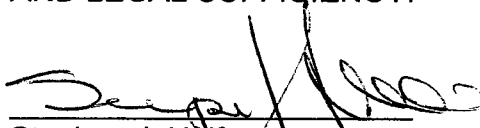
ATTEST:


Elizabeth Sewell
Town Clerk

By: 
Glenn Singer, Mayor

Date: 11/17/09, 2009

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:


Stephen J. Helfman
Town Attorney

**U.S. Immigration & Customs Enforcement,
of the U.S. Department of Homeland Security**

By: _____
Name: _____
Title: _____

Date: _____, 2009