

TOWN OF GOLDEN BEACH, FLORIDA

RESOLUTION NO. 2738.21

A RESOLUTION OF THE MAYOR AND THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA APPROVING THE AGREEMENT BETWEEN THE DEPARTMENT OF HEALTH AND THE TOWN OF GOLDEN BEACH FOR QUALITY WATER TESTING; PROVIDING FOR IMPLEMENTATION AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, monitoring water quality is essential for a beachfront community like our Town; and

WHEREAS, the Town wishes to formalizes our relationship with the Department of Health to provide water testing and monitoring; and

WHEREAS, the agreement calls for weekly testing of our waters.

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

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Agreement Approved. The Agreement between State of Florida, Department of Health and the Town of Golden Beach for environmental services to identify and evaluate significant problems and sources for potential disease outbreaks or disease-causing microorganisms at the beach is approved in the form attached as Exhibit "A" ("Agreement").

Section 3. Implementation. The Town Mayor is authorized to execute the Agreement on behalf of the Town.

Section 4. Effective Date. This Resolution shall be effective immediately upon approval by the Town Council.

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

Mayor Glenn Singer	<u>Aye</u>
Vice Mayor Judy Lusskin	<u>Aye</u>
Councilmember Bernard Einstein	<u>Aye</u>
Councilmember Jaime Mendal	<u>Aye</u>
Councilmember Kenneth Bernstein	<u>Aye</u>

PASSED AND ADOPTED by the Town Council of the Town of Golden Beach, Florida, this 20th day of April, 2021.

ATTEST:



LISSETTE PEREZ
TOWN CLERK



MAYOR GLENN SINGER

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



STEPHEN J. HELFMAN
TOWN ATTORNEY



TOWN OF GOLDEN BEACH

One Golden Beach Drive
Golden Beach, FL 33160

MEMORANDUM

Date: April 20, 2021

To: Honorable Mayor Glenn Singer &
Town Council Members

From: Alexander Diaz, *Alex B*
Town Manager

Subject: **Resolution No. 2738.21 – Renewing Contract with Department of Health to Test Water Quality.**

Item Number:

5

Recommendation:

It is recommended that the Town Council adopt the attached Resolution No. 2738.21 as presented.

Background:

For decades, the Town relied on Miami-Dade County to monitor the water quality of our beaches. The County's testing of the waters off our beaches was random and very infrequent. So approximately 18 months ago, we engaged the Department of Health directly to monitor and test our waters. In doing so, we learned that too often the sad reality is that there is no doubt that prior to our testing, residents swam in non-favorable waters.

The attached agreement formalizes our relationship with the Department of Health. The agreement calls for weekly testing of our waters. Because we are now testing our water more regularly, we have seen an increase in our closing of the beach. We understand how frustrating beach closings are; yet, we would rather have healthy swimming conditions for our beach goers.

On the Town's website, there is a direct link to the "live" testing results.

Fiscal Impact:

\$19,194.48 funded as part of our Recreation Budget. This is the total cost for the agreement over a three year period ending on August 31st, 2023.

MEMORANDUM OF AGREEMENT

BETWEEN

STATE OF FLORIDA, DEPARTMENT OF HEALTH
MIAMI-DADE COUNTY HEALTH DEPARTMENT

AND

THE TOWN OF GOLDEN BEACH, FLORIDA

THIS MEMORANDUM OF AGREEMENT is made and entered into by and between the Town of Golden Beach, Florida, a municipality located in the northeast corner of Miami-Dade County, Florida, between the Intracoastal Waterway and Atlantic Ocean, hereafter referred to as “Golden Beach”, and the State of Florida, Department of Health, Miami-Dade County Health Department, hereafter referred to as the “Provider” (collectively referred to as “Parties”).

WHEREAS, Golden Beach desires to engage the Provider to perform environmental services to identify and evaluate significant problems and sources for potential disease outbreaks or disease-causing microorganism at its beach (“Designated Site”).

WHEREAS, Golden Beach, realizes that the Provider has the necessary components in place to carry out environmental services to ensure that the water quality at the Designated Site meets any and all local, state and federal water standards; therefore, ensuring that all residents and visitors that utilize the Designated Site are safe from pathogens, waterborne diseases or pollutants that may propose harm to humans and the environment.

NOW, THEREFORE, in consideration of the mutual covenants and considerations set forth herein, the Parties execute this Memorandum of Agreement so same becomes binding and enforceable by and through the Parties, their heirs and assigns, and agree heretofore:

I. TERMS AND DEFINITIONS

1. Memorandum of Agreement (MOA): The MOA contains and constitutes the legal and binding language between the Provider and Golden Beach including, but not limited to, all Attachments, Exhibits, and Amendments, when applicable.
2. Clean Water Act (CWA): The CWA, 33 U.S.C. §1251 et seq., is the primary federal law in the United States governing water pollution. Passed in 1972, the objective of the CWA is to restore and maintain the chemical, physical, and biological integrity of the nation's waters by preventing point and nonpoint pollution sources, providing assistance to publicly owned treatment works for the improvement of wastewater treatment, and maintaining the integrity of wetlands.
3. Invoice: A mechanism by which the Provider requests payment from the City for services rendered for a specific cost and period.
4. Designated Site: The section of Miami-Dade County, Florida identified and located in the northeast corner of and between the Intracoastal Waterway and Atlantic Ocean.
5. Period: The time frames outlined in section III.5 (a).

II. RECITALS

The Parties mutually agree that the foregoing recitals are true and correct and incorporated herein by reference.

III. The Provider agrees to the following:

1. To conduct water testing/sampling at the Designated Site at least one (1) time per week to identify and evaluate any significant problems and sources for potential disease outbreaks, contaminants and/or pathogens during the effective period of this Agreement. Beach water samplings must be analyzed for Enterococci microbiological fecal indicators recommended by the Florida Department of Health and the United States Environmental Protection Agency to evaluate water quality to protect human health.
2. To perform beach water sampling at the Designated Site in accordance with section V.2 of this Agreement.
3. To adhere to and conduct water sampling services applicable to and within federal and state rules, regulations, guidelines, standards and laws.
4. To provide and maintain sufficient staffing to timely carry out the required activity specified in herein.
5. To invoice Golden Beach on a quarterly basis through submission of a properly completed invoice, **Exhibit A**, within 30 calendar days following the end of the quarter for which payment is requested.

(a) Golden Beach quarters will consist of the time frames listed below:

Quarter:	Covered Period:
1st.	June 1 – August 31
2nd.	September 1 – November 30
3rd.	December 1 – February 28
4th.	March 1 – May 31

- (b) To invoice the Town of Golden Beach quarterly only for water samplings completed during each quarter.
6. To notify Golden Beach and elected officials of any beach advisories, clearances (re-openings) and/or updates (advisories) using email, telephone call, media outlets and DOH Website: miamidade.floridahealth.gov.
7. To provide all staff, supplies and equipment necessary to perform, conduct, and complete the activity in section III.1.
8. The State of Florida, Department of Health, Miami-Dade County Health Department is a state agency or political subdivision as defined in Chapter 768.28, Florida Statutes, and agrees to be fully responsible for acts and/or omission of its agents and/or employees during the performance or operation of this Agreement, to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by as state agency or political subdivision of the State of Florida to be sued by third party in any matter arising out of this Agreement, any other contract or any subsequent modifications thereof, whether direct or indirect and whether to any person or tangible or intangible property.

IV. The Town of Golden Beach agrees to the following:

1. To provide the Provider with access to the Designated Site for sampling or testing for water

contaminants or pollutants during the periods outlined in section III.5 (a) of this Agreement.

2. To notify the public of any beach advisories and rescission advisories through the utilization of various local media networks (e.g., TV and Radio) and/or social media (e.g., Twitter, Instagram, Facebook).
3. To compensate the Provider within 30 calendar days of receipt of a properly completed invoice, attached as **Exhibit A** hereto, for the performance of all work completed at the Designated Site during the effective period.
4. To be fully responsible for its acts, actions, omissions, and negligence of its agents, officers, and employees during the performance or operation of this Agreement. Nothing herein shall be construed as consent by as state agency or political subdivision of the State of Florida to be sued by third party in any matter arising out of this Agreement, any other contract or any subsequent modifications thereof, whether direct or indirect and whether to any person or tangible or intangible property.

V. Parties mutually agree:

1. The total cost for the services set forth in section III.1 of this Agreement is estimated at \$19,194.48 during the effective period specified in section VIII of this Agreement. If the total cost for the services set forth in section III.1 of this Agreement may exceed \$19,194.48. Provider must obtain Golden Beach prior written authorization before it continues said services.
2. During the effective period of this MOA, the Provider shall complete no less than one (1) water sampling per week and no more than sixty-two (62) samplings (including any repeat samplings that may be required) during the effective period of this Agreement. If Golden Beach requests additional sampling beyond the sixty-two (62) water samplings, the Provider will invoice Golden Beach for each additional water sampling completed at the unit rate of \$100 per sampling.

Town of Golden Beach Water Sampling Fee Schedule

Sampling Performed	Minimum	Maximum	Unit* Rate
Weekly	1	52	\$100.00
Repeat	1	10	\$100.00

Year 2

Sampling Performed	Minimum	Maximum	Unit* Rate
Weekly	1	52	\$103.00
Repeat	1	10	\$103.00

Year 3

Sampling Performed	Minimum	Maximum	Unit* Rate
Weekly	1	52	\$106.09
Repeat	1	10	\$106.09

The environmental fees will be increased automatically by 3%, or the current inflation rate, whichever is higher, annually, beginning the 1st of October of each year as approved by the county mayor or county mayor’s designee. The Department shall round any increased fees to the next highest whole five (5) dollar increment.

VI. Termination at Will:

This Memorandum of Agreement shall be terminated by either Party upon no less than thirty (30) calendar days' notice in writing to the other Party, without cause, unless a lesser time is mutually agreed upon in writing by both Parties. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. Notices sent/addressed to persons other than who is stated below shall be deemed "undelivered". All notices must be addressed, respectively, as follow:

The Town of Golden Beach
Alexander Diaz
Town Manager
Town of Golden Beach
One Golden Beach Drive
Golden Beach, FL 33160

Florida Department of Health in Miami-Dade
1725 NW 167 Street
Miami, Florida 33056
Attention: Elmir Samir, Ph.D.
Director of Environmental Health &
Engineering Services

Modification:

Any modifications to this MOA shall only be valid when they have been reduced to writing and duly signed by the Parties.

VII. Effective Period:

This Memorandum of Agreement shall begin on the date on September 1st, 2020. This MOA shall end August 31st, 2023.

VIII. Independent Capacity of the Contractor:

In the performance of this MOA, it is agreed between the Parties that the Provider is an independent contractor and that the Provider is solely liable for the performance of all tasks contemplated by this MOA.

IX. Governing Law and Venue:

The validity and construction of this agreement, and of the rights and duties of the parties, shall be governed in accordance with the laws of the State of Florida. Venue to address any dispute arising between the Parties from this Agreement shall lie in the jurisdiction of Miami-Dade County, Florida.

X. Dispute Resolution:

In event a dispute arises regarding this Agreement, both parties agree that a representative of each entity shall be appointed for the purpose of meeting and conferring to achieve a mutually acceptable resolution of such dispute. Should such representatives fail to reach a resolution within sixty (60) days of their appointment, then the Administrator, Director, City Manager, Chief Executive Officer, Designee or Chairperson of each entity shall meet and negotiate a resolution.

XI. Benefit/Assignment:

Subject to provisions herein to the contrary, this MOA shall inure to the benefit of and be binding upon the Parties hereto and their respective legal representatives, successors and permitted assigns. No Party may assign this MOA without the prior written consent of the other Party, the consent of which shall be given at that Party's sole discretion.

XII. Waiver of Breach:

Waiver of breach of any provisions of this MOA shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this MOA. The provisions herein do not limit any Party's right to remedies at law or in equity.

XIII. Severability:

This MOA contains all the terms and conditions agreed upon by the Parties. There are no provisions, terms, conditions or obligations other than those contained herein, and this MOA shall supersede all previous communications, representations, or agreements, either verbal or written between the Parties. If any term or provision of this MOA is found to be illegal or unreasonable, the remainder of the MOA shall remain in full force and effect, and such term or provision shall be stricken.

XIV. Execution in Counterparts:

This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

XV. Entire Agreement:

This MOA represents the entire understanding of the Parties with respect to the matters covered herein and supersedes all prior and contemporary agreements, representations, and discussion, whether oral or written. This MOA may only be altered, amended, or modified in a writing signed by both Parties. All prior agreements pertaining to the subject matter of this MOA entered into between the Town of Golden Beach and the Florida Department of Health-Miami-Dade or any of its subdivisions are hereby terminated commencing on the effective date of this agreement. Said prior agreements shall be replaced by this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this 6-page Memorandum of Agreement to be executed by their officials thereunto duly authorized.

The Town of Golden Beach, Florida

State of Florida, Department of Health
(Miami-Dade)

Name: Alexander Diaz

Name: Yesenia Villalta, ARNP, MSN, DNP

Signature: _____

Signature: _____

Title: Town Manager

Title: Administrator/Health Office

Date: _____

Date: _____

END OF TEXT

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Ron DeSantis
Governor

Scott A. Rivkees, MD
State Surgeon General

Vision: To be the Healthiest State in the Nation

Exhibit A

Date: _____ **Invoice #:** _____

Bill To:

Alexander Diaz
Town Manager
Town of Golden Beach, Florida
One Golden Beach Drive
Golden Beach, FL 33160

Bill From:

Milda Belette
Operations Analyst II
Billing Office
Miami-Dade County Health Department
8175 NW 12th Street, #306
Doral, FL 33126

Contract No:

SERVICES PROVIDED	BILLING PERIOD	TOTAL SERVICES PROVIDED	RATE PER SERVICES	AMOUNT REQUESTED FOR PAYMENT

Payment requested for monitoring completed at the locations per Exhibit B.

Total amount requested for payment: \$ _____

Please make check payable to:

State of Florida, Department of Health
8175 NW 12th Street, Suite 305
Doral, FL 33126

