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AGENDA ITEM SUMMARY

Department

Submitted For: **Emergency Management**

Date _____

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT, made and entered into this _____ day of 2006, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida ("County") and Lake Clarke Shores, Florida, a municipal corporation ("Municipality"), each one constituting a public agency as defined in Part I of Chapter 163, Florida Statutes.

WITNESSETH:

WHEREAS Section 163.01 of the Florida Statutes, known as the Florida Interlocal Cooperation Act of 1969, authorized local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities, and

WHEREAS the County and the Municipality are continually identifying more effective service delivery methods which result in overall savings to the taxpayers of the County and the Municipality; and

WHEREAS the County has committed to purchase, install and operate a Dialogic Geographic-based Alert and Notification System ("GeoCast Web") that meets the needs of Palm Beach County Emergency Management and various Palm Beach County general government agencies; and

WHEREAS the County and the Municipality have determined that the ability to provide consistent, timely geographic-based alerts and notifications to residents and visitors is critical to the effective and efficient provision of public safety and general government services; and

WHEREAS it has been determined mutually beneficial to all Parties to execute this Agreement which sets forth the parameters under which the Municipality can directly access the County's Geographic-based Alert and Notification System, saving the taxpayers of both the County and the Municipality, as well as receiving the public safety benefit of consistent and timely geographic-based alerts and notifications; and

WHEREAS Section 163.01, Florida Statutes, permits public agencies to enter into interlocal agreements with each other to jointly exercise any power, privilege or authority which such agencies share in common and which each might exercise separately.

NOW THEREFORE in conjunction with the mutual covenants, promises and representations contained herein, the parties hereto agree as follows:

SECTION 1: PURPOSE

- 1.01 The purpose of this Agreement is to set forth the parameters under which the County will make access to its Dialogic Geographic-based Alert and Notification System ("System") available to the Municipality. This Agreement identifies the conditions of use, the cost of access and on-going use, and the ability of the Municipality to participate in the operational decisions relating to the GeoCast Web System.
- 1.02 Definitions
- 1.021 Dialogic Alert: A Geographic-based callout to alert citizens and visitors of an imminent threat to life or property, or an instruction to take immediate protective action. An example of a Dialogic Alert would be an evacuation order.
- 1.022 Dialogic Notification: A Geographic-based callout to notify citizens and visitors of important or useful information. An example of a Dialogic Notification would be a call notifying a citizen of a license expiration.
- 1.023 System: The Dialogic Geographic-based Alert and Notification System funded, purchased, installed, maintained, and owned by the County. The system includes a computer server, the GeoCast web software, an ArcIMS license, the Dialogic Communicator 9.2 server, 58 telephone lines, and geocoded maps.
- 1.024 Dialogic System Administrator: An employee with the Emergency Management Division of the County's Department of Public Safety responsible for day to day administration and management of the System and the County's designated contact person pursuant to various sections of this Agreement.
- 1.025 Agreement: This Interlocal Agreement, including any amendments or supplements hereto, executed and delivered in accordance with the terms hereof.

SECTION 2: ADMINISTRATION OF THE COUNTY'S SYSTEM AND USE PROCEDURES

- 2.01 The Palm Beach County Division of Emergency Management is charged with responsibility for administering the System. Within the Emergency Management Division a position entitled "911 Specialist/Dialogic System Administrator" will be the Municipality's day to day contact and can be reached at 561-712-6485. The Division of Emergency Management is staffed from 8:00am to 5:00pm, Monday through Friday, excluding County holidays. After hours emergency contact will be

made through the Emergency Management Division's County Warning Point at 561-712-6428 and the County Warning Point will notify the on-call Emergency Management Division personnel.

- 2.02 The Municipality shall follow all policies, procedures, and standard operating procedures in place at the time of this Agreement, as well as those developed in the future and issued to the Municipality by the System Administrator. The Municipality agrees to comply with any enforcement actions required by these policies and procedures for mis-use or abuse of the County System.

SECTION 3: DIALOGIC GEOGRAPHIC-BASED ALERT AND NOTIFICATION SYSTEM MAINTENANCE PROGRAM

- 3.01 The Dialogic Geographic-based Alert and Notification System consists of a computer server, the GeoCast web software, an ArcIMS license, the Dialogic Communicator 9.2 server, 58 telephone lines, and geocoded maps.
- 3.02 The County will perform routine and preventative maintenance on the System according to its established procedures. This maintenance includes trouble shooting and making all repairs on a 24/7/365 basis as well as performing preventative maintenance on the entire System including, but not limited to, server equipment, GIS maps, and databases associated with the System, but not including Municipality's equipment.

SECTION 4: MUNICIPALITY RESPONSIBILITIES AND EQUIPMENT

- 4.01 The Municipality's equipment will be a computer or computers connected to the Internet, each equipped with a web browser compatible with ArcIMS. The Municipality shall be required to keep its equipment in proper operating condition and ensure a functioning Internet connection to access the System. The Municipality shall be solely responsible for maintenance of its computers, web browsers, and Internet-connectivity.
- 4.02 Within 15 days of the execution of this Agreement, the Municipality shall provide the County with a single Municipal Representative who shall be the Municipality's single point of contact for matters relating to this Agreement.
- 4.03 Within 15 days of the execution of this Agreement, the Municipality shall provide the County with a list of person/positions who are authorized to utilize the System on behalf of the Municipality, under the authority of the Municipal Representative.
- 4.04 The Municipality shall receive certain access codes to the County's System and shall be responsible for safe guarding the code information from release to unauthorized parties. The Municipality shall be responsible for notifying the System

Administrator prior to, or within 2 hours of terminating employees or commercial service providers which had knowledge of the access codes so that the access codes can be modified and the System secured.

- 4.041 Service staff directly employed by the Municipality shall be considered authorized to receive access codes for maintenance of the Municipality's connection to the System.
- 4.042 Commercial service providers are not considered authorized to receive access codes for the County system. Municipalities that plan to use commercial services for subscriber maintenance must include confidentiality requirements in their contracts with the commercial service providers. These requirements must be reviewed and approved (which approval will not unreasonably be withheld) by the System Administrator and the County Attorney's Office prior to the Municipality executing its contract with a commercial system provider.
- 4.05 The Municipality is solely responsible for the performance and operation of the Municipality's equipment and any damages or liability resulting from the use thereof. Should the County identify malfunctioning Municipality-owned equipment, the County will notify the Municipal Representative and the Municipality shall discontinue use of the specific equipment until repairs are completed. The County may, after proper notification, disable the connection of the equipment to the System after properly notifying the Municipality in writing if the equipment is causing problems with the System.
- 4.06 Nothing in this Agreement shall represent a commitment by the County or shall be construed as intent by the County to fund any portion of the Municipality's Equipment or Internet connectivity.

SECTION 5: SYSTEM, ACCESS AND USAGE CHARGE

- 5.01 A one-time fee of \$2000 (Two Thousand Dollars) will be required by Dialogic Communications Corporation for creation of additional municipal accounts after July 15th, 2005. That fee will be invoiced by Dialogic Communications Corporation directly to the Municipality and paid by the Municipality directly to Dialogic Communications Corporation.
- 5.02 The Municipality will be assessed an annual access and usage charge in the amount of \$3000. The annual access and usage charge may be reviewed every three (3) years beginning October 2008 and adjusted for the following fiscal year by notice to the Municipality by the County's Division of Emergency Management issued by April 1st. This adjusted fee will be applicable for the upcoming fiscal year and will

automatically become part of this Agreement on October 1st of the applicable year for which the Municipality agrees to be bound.

- 5.03 If the effective date of this Agreement is between November 15th and September 30th, the Municipality will be charged pursuant to section 5.01. This charge will not be prorated.
- 5.04 The Municipality agrees that in the event of any termination of the Agreement, the annual access and usage charge shall not be reimbursed.

SECTION 6: BILLING SCHEDULE

- 6.01 Each November 15th, the County will invoice the Municipality for the annual access and usage charge, in the amount of the charge described in Section 5.02.
- 6.02 Upon receipt of any invoice, the Municipality will immediately review same and report any discrepancies to the County within 10 days of receipt. Payment will be due to the County within 30 days of receipt of the invoice. Payments shall be sent to:

Public Safety Department
Fiscal Manager
20 S. Military Trail
West Palm Beach, FL 33415

Attn: Alert and Notification Interlocal Agreement # _____, Invoice # _____

SECTION 7: COUNTY RESPONSIBILITIES

- 7.01 The County shall be responsible for the maintenance and operation of the System. The County shall notify the Municipal Representative in advance of scheduled maintenance which impacts the users of the System and shall respond to emergencies in the time frames and according to the procedures identified.
- 7.02 The County shall be responsible for all costs and fees associated with the operation of the System.
- 7.03 The County shall be responsible for the management of all payments made pursuant to Section 5.01
- 7.04 The County shall maintain access to the System throughout the term of this Agreement except for times of scheduled preventative maintenance, where it will be required to disable access to the System for a pre-determined length of time or during times of system failures.

- 7.05 The County will provide notification of System problems and time for System restoration to the Municipal Representative or designee if access to the System will be inaccessible for more than two hours.

SECTION 8: INDEMNIFICATION AND LIABILITY

The County makes no representations about the design and capabilities of the County System. The Municipality has decided to enter into this Agreement and use the County's System based on its review of the system design, system capability, manufacturing and install details contained in the County's contract with Dialogic Communications Corporation and subsequent testing data that may exist. The County agrees to use its best efforts to provide the Municipality with the use of the System described in this Agreement, but makes no guarantee as to the continual, uninterrupted use of the Dialogic Geographic-based Alert and Notification System, or its fitness for the alert and notification needs of the Municipality.

The Municipality as a Florida municipality agrees to be fully responsible as set forth in Section 768.28, Florida Statutes, for its own negligent acts or omissions or tortious acts which result in claims or suits against the County and agrees to be liable to the limits set forth in Section 768.28, Florida Statutes, for any damages proximately caused by said acts or omissions. Nothing herein is intended to serve as a waiver of sovereign immunity by the Municipality to which sovereign immunity applies. Nothing herein shall be construed as consent by a State agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

The County, as a political subdivision of the State, agrees to be fully responsible as set forth in Section 768.28, Florida Statutes, for its own negligent acts or omissions or tortious acts which result in claims or suits against the Municipality, and shall be liable to the limits set forth in Section 768.28, Florida Statutes, for any damages proximately caused by said acts or omissions. Nothing herein is intended to serve as a waiver of sovereign immunity by the County to which sovereign immunity applies. Nothing herein shall be construed as consent to be sued by third parties in any matter arising out of any contract.

The parties to this Agreement and their respective officers and employees shall not be deemed to assume any liability for the acts, omissions, and negligence of the other party. Further, nothing herein shall be construed as a waiver of sovereign immunity by either party, pursuant to Section 768.28, Florida Statutes.

Neither the County or the Municipality shall be liable to each other and for any third party claim, which may arise out of the services provided hereunder or of the alert and notification system itself, its operation or use, or its failure to operate as anticipated, upon whatever cause of action any claim is based. The System is

designed to assist qualified governmental and emergency service professionals. It is not intended to be a substitute for the exercise of judgment or supervision of those professionals.

The terms and conditions of this Interlocal Agreement incorporate all the rights, responsibilities, and obligations of the parties to each other. The remedies provided herein are exclusive. The County and the Municipality waive all remedies, including, but not limited to, consequential and incidental damages.

SECTION 9: OWNERSHIP OF ASSETS

All assets and services maintained under Section 4 of this Agreement will remain assets of the Municipality at all times. Parts incorporated into assets owned by the Municipality will immediately become a part of the asset and will be the property of the Municipality. All other assets involved in the System will remain the County's, despite the Municipality's financial contribution to their maintenance, renewal and replacement.

SECTION 10: TERM OF AGREEMENT

The initial term of this Agreement is for three (3) years and shall commence upon the effective date of the agreement. The effective date of the Agreement is the date the Agreement is filed with the Clerk of the Circuit Court as provided in Sec.17. herein, after execution by all municipalities joining in the Agreement and the Board of County Commissioners. The Agreement may be renewed for an additional three (3) year term thereafter. At least eight months prior to the expiration of this Agreement's term, the Municipality shall provide the County with a request to renew this Agreement. Such Renewal Amendment will require approval of both parties and the County may not unreasonably withhold its approval of the Renewal Agreement.

SECTION 11: AMENDMENTS TO THIS AGREEMENT

This Agreement may be amended from time to time by written amendment executed by both the Board of County Commissioners and the Municipality.

SECTION 12: TERMINATION

This Agreement may be terminated by either party with or without cause. Any termination shall be effective only on October 1st of any year and shall be with a minimum of six months notice.

SECTION 13: ANNUAL BUDGET APPROPRIATIONS

The County and Municipality's performance and obligations to pay pursuant to this Agreement are contingent upon annual appropriation for its purpose by the Board of County Commissioners and the Municipality.

SECTION 14: NOTICES

Any notice given pursuant to the terms of this Agreement shall be in writing and done by Certified Mail, Return Receipt Requested. The effective date of such notice shall be the date of receipt as evidenced by the Return Receipt. All notices shall be addressed to the following:

As to the County:

County Administrator
301 North Olive Avenue
West Palm Beach, FL 33401

Director, Public Safety Department
20 S. Military Trail
West Palm Beach, FL 33415

With copy to:

Dialogic System Administrator
20 S. Military Trail
West Palm Beach, FL 33415

County Attorney's Office
301 North Olive Avenue
West Palm Beach, FL 33401

As to the Municipality:

Joann Hatton, Town Administrator
Town of Lake Clarke Shores
1701 Barbados Road
Lake Clarke Shores, FL 33406

Jo H. Plyler, CMC, Town Clerk
Town of Lake Clarke Shores
1701 Barbados Road
Lake Clarke Shores, FL 33406

SECTION 15: APPLICABLE LAW/ENFORCEMENT COSTS

This section shall be governed by the laws of the State of Florida.

SECTION 16: EQUAL OPPORTUNITY PROVISION

The County and the Municipality agree that no person shall, on the grounds of race, color, sex, national origin, disability, religion, ancestry, marital status or sexual orientation be excluded from the benefits of, or be subjected to, any form of discrimination under any activity carried out by the performance of this Agreement.

SECTION 17: FILING

A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County, Florida.

SECTION 18: ENTIRE AGREEMENT

This Agreement and any Exhibits attached hereto and forming a part thereof as if fully set forth herein, constitute all agreements, conditions, and understandings between the County and Municipality concerning the System. All representations, either oral or written, shall be deemed to be merged into this Agreement. Except as herein otherwise provided, no subsequent alteration, waiver, change or addition to this Agreement shall be binding upon County or Municipality unless reduced to writing and signed by them.

SECTION 19: DELEGATION OF DUTY

Nothing contained herein shall be deemed to authorize the delegation of the Constitutional or Statutory duties of County or Municipal officers.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first above written.

ATTEST:

SHARON R. BOCK
Clerk & Comptroller

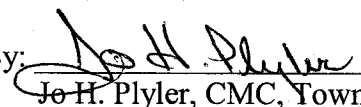
PALM BEACH COUNTY, FLORIDA
FOR ITS BOARD OF COUNTY
COMMISSIONERS

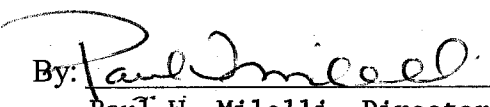
By: _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By:  _____
County Attorney

ATTEST:

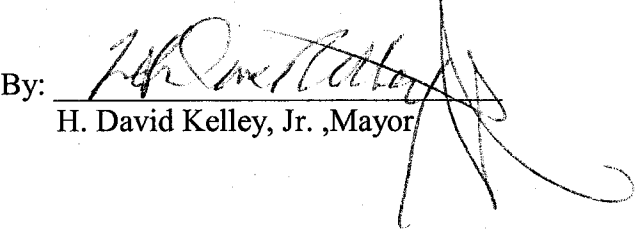
By:  _____
Jo H. Plyler, CMC, Town Clerk

By:  _____
Paul W. Milelli, Director
Public Safety Department

APPROVED AS TO TERMS AND
CONDITIONS

By:  _____

TOWN OF LAKE CLARKE SHORES

By:  _____
H. David Kelley, Jr., Mayor