

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

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Meeting Date: January 14, 2014       Consent       Regular  
    Ordinance       Public Hearing  
=====

Department:            Department of Public Safety  
Submitted By:        Department of Public Safety  
Submitted For:        Division of Emergency Management  
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**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to: Receive and File executed agreement with the City of Palm Beach Gardens in the amount of \$9,500 for the use of the Geographic-based Notification System, "Dialogic" for a period of three (3) years beginning on January 14, 2014.

**Summary:** The agreement provides access to the County's Geographic-based and/or NXT, roster-based Alert and Notification System (Dialogic System). The County's Dialogic System has been in place for over eight years and allows Palm Beach County agencies, municipalities, State and County Departments to access the dialogic system to make approximately 2,000,000 calls. It has been used for Amber Alerts, hurricane evacuations, boil water notices, etc. Resolution R2006-0799 authorized the County Administrator or his designee to sign Dialogic agreements on behalf of the Board of County Commissioners. **Countywide (PGE)**

**Background and Justification:** Many agencies have requested access to the system to provide specific notices and information to residents and professionals. The agreement has been created to allow access on a secondary need to the County as long as the agency or municipality pay a proportioned fee for the System's maintenance. The agreement establishes the County's responsibilities and the agency's responsibilities in using the System. The County will retain ownership and management of the System.

**Attachment:**  
1) City of Palm Beach Gardens Agreement

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Recommended by: *Vincent J. Bonvento*      *12/18/13*  
   Department Director      Date

Approved By: *Vincent J. Bonvento*      *12/18/13*  
   Assistant County Administrator      Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact**

Fiscal Years	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	(9,500)	(9,500)	(9,500)	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>Net Fiscal Impact</b>	<u>(9,500)</u>	<u>(9,500)</u>	<u>(9,500)</u>	_____	_____
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

Is Item Included In Current Budget? Yes X No \_\_\_\_\_

Budget Account Exp No: Fund Department Unit Object  
 Rev No: Fund 0001 Department 660 Unit 7140 Source 4900

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

Fund: General Fund  
 Unit: Dialogic System Services

This program is already fully funded. The income from the City of Palm Beach Gardens will offset the County's operating cost of the Dialogic system.

Departmental Fiscal Review: Stephanie Sepucha 12/18/13

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Dev. and Control Comments:**

[Signature] 12/20  
 OFMB 12/19 AM 12/19

[Signature] 12/23/13  
 Contract Administration  
 12-23-13 B. Wheeler

**B. Legal Sufficiency:**

[Signature] 12/23/13  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

This summary is not to be used as a basis for payment.

**INTERLOCAL AGREEMENT**

This Interlocal Agreement ("Agreement" or "Contract"), made and entered into this 14<sup>th</sup> day of January 2014, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida, through its' Department of Public Safety, Division of Emergency Management (hereinafter, collectively referred to as "COUNTY,") and the CITY OF PALM BEACH GARDENS, each 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 CITY OF PALM BEACH GARDENS have identified a more effective service delivery method which will result in overall savings to the taxpayers of the COUNTY and the State of Florida; and

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

WHEREAS the COUNTY and the CITY OF PALM BEACH GARDENS have determined that the ability to provide consistent, timely notifications to staff and associated personnel is critical to the effective and efficient provision of public safety and general government services; and

WHEREAS it has been determined mutually beneficial to both parties to execute this Agreement which sets forth the parameters under which the CITY OF PALM BEACH GARDENS can directly access the COUNTY's Dialogic System, providing citizens the public safety benefit of consistent and timely alerts and notifications; and

WHEREAS Section 163.01, Florida Statutes, permits public agencies to enter into inter local 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 System available to the CITY OF PALM BEACH GARDENS. This Agreement identifies the conditions of use, the cost of access and ongoing use, and the ability of the CITY OF PALM BEACH GARDENS to participate in the operational decisions relating to the Dialogic System.
- 1.02 Definitions
- 1.021 Dialogic Alert: A roster-based callout to alert staff and associated personnel 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 roster-based callout to notify staff and associated personnel of important or useful information. An example of a Dialogic Notification would be a call notifying a citizen of license expiration.
- 1.023 Dialogic System: The Dialogic System funded, purchased, installed, maintained, and owned by the COUNTY. The Dialogic System includes a computer server, the CommunicatorNXT web software, multiple SQL databases, the Dialogic CommunicatorNXT server, 58 telephone lines, and 24 fax-enabled telephone lines.
- 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 Dialogic System and the COUNTY's designated contact person pursuant to various sections of this Agreement.
- 1.025 Agreement: This Agreement, including any amendments or supplements hereto, executed and delivered in accordance with the terms hereof.

## SECTION 2: ADMINISTRATION OF THE COUNTY DIALOGIC SYSTEM AND USE PROCEDURES

- 2.01 The Palm Beach County Division of Emergency Management is responsible for administering the Dialogic System. Within the Emergency Management Division a position entitled "911 Specialist/Dialogic /Dialogic System Administrator" will be the CITY OF PALM BEACH GARDENS' day-to-day contact and can be reached at 561-712-6327. The Division of Emergency Management is staffed from 8:00 a.m. to 5:00 p.m., 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 CITY OF PALM BEACH GARDENS 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 CITY OF PALM BEACH GARDENS by the Dialogic System Administrator. The CITY OF PALM BEACH GARDENS agrees to comply with any enforcement actions required by these policies and procedures for misuse or abuse of the COUNTY Dialogic System, which include, but are not limited to, the use of the COUNTY Dialogic System for political or personal gain.

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

- 3.01 The Dialogic System consists of a computer server, the CommunicatorNXT web software, the GeoCast web software, an ArcIMS license, multiple SQL databases, the Dialogic CommunicatorNXT server, 58 telephone lines, and 24 fax-enabled telephone lines and geocoded maps.
- 3.02 The COUNTY will perform and coordinate routine and preventative maintenance on the Dialogic 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 Dialogic System including, but not limited to, server equipment and databases associated with the Dialogic System, but not including the CITY OF PALM BEACH GARDENS' equipment. The COUNTY will coordinate with Dialogic Corp., the equipment and software Dialogic System proprietary entity, the maintenance and troubleshooting beyond the COUNTY's control and in the control of Dialogic Corp. as per the COUNTY/Dialogic Corp. maintenance agreement.

**SECTION 4: CITY OF PALM BEACH GARDENS' RESPONSIBILITIES AND EQUIPMENT**

- 4.01 The CITY OF PALM BEACH GARDENS' equipment will consist of a designated computer(s) connected to the Internet, each equipped with a web browser. The CITY OF PALM BEACH GARDENS shall be required to maintain its equipment in proper operating condition and ensure a functioning Internet connection to access the Dialogic System. The CITY OF PALM BEACH GARDENS shall be solely responsible for maintenance of its computers, web browsers, and Internet-connectivity.
- 4.02 Within fifteen (15) days of the execution of this Agreement, the CITY OF PALM BEACH GARDENS shall notify the COUNTY in writing, the name and contact information for the CITY OF PALM BEACH GARDENS' Representative who shall be the CITY OF PALM BEACH GARDENS' single point of contact for matters relating to this Agreement.

- 4.03 Within fifteen (15) days of the execution of this Agreement, the CITY OF PALM BEACH GARDENS shall provide the COUNTY in writing with a list of persons/positions that are authorized to utilize the Dialogic System on behalf of the CITY OF PALM BEACH GARDENS, under the authority of the CITY OF PALM BEACH GARDENS' Representative.
- 4.04 The CITY OF PALM BEACH GARDENS shall receive certain access codes to the COUNTY's Dialogic System and shall be responsible for safe guarding the code information from release to unauthorized parties. The CITY OF PALM BEACH GARDENS shall be responsible for notifying the Dialogic System Administrator prior to, or within two (2) hours of, terminating employees or commercial service providers that had knowledge of the access codes so that the access codes can be modified and the Dialogic System secured.
- 4.041 Service staff directly employed by the CITY OF PALM BEACH GARDENS shall be considered authorized to receive access codes for maintenance of the CITY OF PALM BEACH GARDENS' connection to the Dialogic System.
- 4.042 Commercial service providers are not considered authorized to receive access codes for the COUNTY Dialogic System. Agencies or departments 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 Dialogic System Administrator and the COUNTY Attorney's Office prior to the CITY OF PALM BEACH GARDENS executing its contract with a commercial Dialogic System provider.
- 4.05 The CITY OF PALM BEACH GARDENS is solely responsible for the performance and operation of the CITY OF PALM BEACH GARDENS' equipment and any damages or liability resulting from the use thereof. Should the COUNTY identify malfunctioning CITY OF PALM BEACH GARDENS-owned equipment, the COUNTY will notify the CITY OF PALM BEACH GARDENS' Representative and the CITY OF PALM BEACH GARDENS shall discontinue use of the specific equipment until repairs are completed.
- 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 CITY OF PALM BEACH GARDENS' Equipment or Internet connectivity.

**SECTION 5: DIALOGIC SYSTEM, ACCESS AND USAGE CHARGE**

- 5.01 The CITY OF PALM BEACH GARDENS will be assessed an annual access and usage charge in the amount of \$9,500 (Nine Thousand Five Hundred Dollars). The annual access and usage charge may be reviewed every year in October and adjusted for the following fiscal year by notice to the CITY OF PALM BEACH GARDENS by the COUNTY's Division of Emergency Management. This adjusted fee will be applicable for the new fiscal year and will automatically become part of this Agreement for the balance for the contract term.
- 5.02 The CITY OF PALM BEACH GARDENS agrees that in the event either party terminates the Agreement, the annual access and usage charge shall not be reimbursed. No portion of the annual access and usage fee will be prorated.

**SECTION 6: BILLING SCHEDULE**

- 6.01 Each November 15<sup>th</sup>, the COUNTY will invoice the CITY OF PALM BEACH GARDENS for the annual access and usage charge, in the amount described in Section 5.01.
- 6.02 The CITY OF PALM BEACH GARDENS may pre-pay any or all of the annual access and usage fee for additional year(s) as defined in Section 5.01, at its discretion with written notice to the COUNTY'S Division of Emergency Management of Intent to Pay so that an invoice can be generated.
- 6.03 Upon receipt of any invoice, the CITY OF PALM BEACH GARDENS will immediately review same and report any discrepancies to the COUNTY within ten (10) days of receipt. Payment will be due to the COUNTY within thirty (30) days of receipt of the invoice. Payments shall be sent to:

Public Safety Department  
Finance Director  
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 Dialogic System. The COUNTY shall notify the CITY OF PALM BEACH GARDENS' Representative seventy-two (72) hours in advance of scheduled maintenance which impacts the users of the Dialogic 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 Dialogic System.

- 7.03 The COUNTY shall be responsible for the management of all payments made pursuant to Section 5.
- 7.04 The COUNTY shall maintain access to the Dialogic System throughout the term of this Agreement except for times of scheduled preventative maintenance, where it will be required to disable access to the Dialogic System for a pre-determined length of time or during times of Dialogic System failures.
- 7.05 The COUNTY will provide notification of Dialogic System problems and time for Dialogic System restoration to the CITY OF PALM BEACH GARDENS' Representative or designee if access to the Dialogic System will be inaccessible for more than two (2) hours.

#### **SECTION 8: INDEMNIFICATION AND LIABILITY**

##### **8.01 Governmental Agencies:**

Both the COUNTY, and the CITY OF PALM BEACH GARDENS, as state agencies or subdivisions of the state, as defined in Section 768.28, F.S. agree to be fully responsible to the limits set forth in Section 768.28, F.S. for their own negligent acts which result in claims or suits against each party respectively and agree to be liable to the limits set forth in Section 768.28, F.S., for any damages caused by said acts. Nothing herein shall be construed as a waiver of sovereign immunity by either the COUNTY, or the CITY OF PALM BEACH GARDENS.

- 8.02 The COUNTY makes no representations about the design and capabilities of the COUNTY Dialogic System. The CITY OF PALM BEACH GARDENS has decided to enter into this Agreement and use the COUNTY's Dialogic System based on its review of the Dialogic System design, Dialogic 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 CITY OF PALM BEACH GARDENS with the use of the Dialogic System described in this Agreement, but makes no guarantee as to the continual, uninterrupted use of the Dialogic Roster-based Alert and Notification Dialogic System and the Geographical Alert and Notification System, or its fitness for the alert and notification needs of the CITY OF PALM BEACH GARDENS.

- 8.03 Neither the COUNTY nor the CITY OF PALM BEACH GARDENS shall be liable to each other for any third-party claim which may arise out of the services provided hereunder or of the alert and notification Dialogic System itself, its operation or use, or its failure to operate as anticipated, upon whatever cause of action any claim is based. The Dialogic 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.



8.04 The terms and conditions of this Agreement incorporate all the rights, responsibilities, and obligations of the parties to each other. The remedies provided herein are exclusive. The COUNTY and the CITY OF PALM BEACH GARDENS 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 CITY OF PALM BEACH GARDENS at all times. Parts incorporated into assets owned by the CITY OF PALM BEACH GARDENS will immediately become a part of the assets and will be the property of the CITY OF PALM BEACH GARDENS. All other assets involved in the Dialogic System will remain the COUNTY's, despite the CITY OF PALM BEACH GARDENS' financial contribution to their maintenance, renewal and replacement.

**SECTION 10: TERM OF AGREEMENT**

The term of this Agreement is for three (3) years and shall commence upon the date the Agreement is filed with the Clerk of the Circuit Court as provided in Sec.17.

**SECTION 11: AMENDMENTS TO THIS AGREEMENT**

This Agreement may be amended from time to time by written agreement of the parties executed by the signatories of this Agreement.

**SECTION 12: TERMINATION**

This Agreement may be terminated by either party. No portion of the annual access and usage fee will be prorated nor reimbursed.

**SECTION 13: ANNUAL BUDGET APPROPRIATIONS**

The COUNTY and the CITY OF PALM BEACH GARDENS' performance and obligations for payment pursuant to this Agreement are contingent upon annual appropriation for its purpose by the COUNTY and the CITY OF PALM BEACH GARDENS.

**SECTION 14: NOTICES**

Any notice given pursuant to the terms of this Agreement shall be in writing and via 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 CITY OF PALM BEACH GARDENS:

Attn: City Manager  
10500 North Military Trail  
Palm Beach Gardens, Florida 33410

With a copy to:

Attn: City Attorney  
10500 North Military Trail  
Palm Beach Gardens, Florida 33410

**SECTION 15: APPLICABLE LAW/ENFORCEMENT COSTS**

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

**SECTION 16: EQUAL OPPORTUNITY PROVISION**

The COUNTY and the CITY OF PALM BEACH GARDENS agree that no person shall, on the grounds of race, color, sex, national origin, disability, religion, ancestry, marital or familial status, gender identity and expression 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**

An executed 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 the CITY OF PALM BEACH GARDENS concerning the Dialogic 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 the COUNTY or the CITY OF PALM BEACH GARDENS 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 the COUNTY's or the CITY OF PALM BEACH GARDENS' officers.

**SECTION 20: ACCESS AND AUDITS**

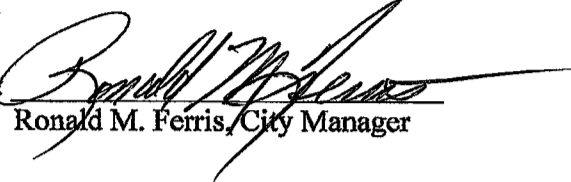
Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes, but is not limited to, the power to review past, present and proposed COUNTY contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the CITY OF PALM BEACH GARDENS, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second-degree misdemeanor.

The remainder of this page intentionally left blank.

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida, on behalf of the COUNTY, and CITY OF PALM BEACH GARDENS, have made and executed this Agreement on the first day and year above written.


**CITY OF PALM BEACH GARDENS**

By:   
Ronald M. Ferris, City Manager

**PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS**

By:   
Vincent Bonvento, Director  
Public Safety Department

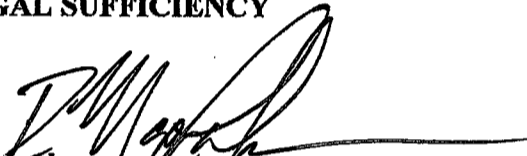
**ATTEST:**

By:   
Patricia Snider, CMC, City Clerk

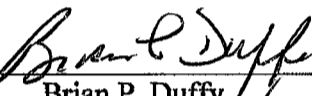
**APPROVED AS TO FORM AND LEGAL SUFFICIENCY**

By:   
Assistant County Attorney

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY**

By:   
R. Max. Lohman  
City Attorney

**APPROVED AS TO TERMS AND CONDITIONS**

By:   
Brian P. Duffy  
Palm Beach County Dialogic  
Administrator