

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

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Meeting Date: July 12, 2016	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
	<input type="checkbox"/> Ordinance	<input type="checkbox"/> 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: notice of termination of Interlocal Agreement, R2012-0189, with the Town of Lake Clarke Shores to provide geographic-based alert and notifications to town residents and visitors, effective October 1, 2016.

Summary: The Interlocal Agreement provided the Town of Lake Clarke Shores access to the County’s Communicator! NXT® system, which provides geographic-based alert and notifications to town residents, businesses, and visitors, notifying them of significant public safety information such as severe weather warnings, road closures, boil water notices, missing person alerts, public events, and other situations the Town of Lake Clarke Shores chose to inform its residents, businesses, and visitors. On March 28, 2016, the Town requested to terminate the Agreement as they elected to purchase their own notification system. Termination with or without cause by either party is provided for in the Agreement upon a minimum of six months notice. Countywide (LDC)

Background and Justification: On December 22, 2011, the County entered into an Interlocal Agreement with the Town of Lake Clarke Shores to provide geographic-based alert and notifications to town residents and visitors at an annual access and usage charge of \$3,000 for an initial term of three (3) years commencing on January 24, 2012 with automatic renewals unless notified by either party.

- Attachments**
- 1) Interlocal Agreement (R2012-0189)
 - 2) March 28, 2016 letter from the Town of Lake Clarke Shores

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Recommended by:	<u>Stephanie Sepioles</u>	<u>6/20/16</u>
	Department Director	Date

Approved By:	<u>[Signature]</u>	<u>6/29/16</u>
	Deputy County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact

Fiscal Years	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
Capital Expenditures					
Operating Costs					
External Revenues		\$3,000	\$3,000	\$3,000	\$3,000
Program Income (County)					
In-Kind Match (County)					
Net Fiscal Impact		\$3,000	\$3,000	\$3,000	\$3,000

ADDITIONAL FTE

POSITIONS (Cumulative)	0
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Is Item Included In Current Budget? Yes No

Budget Account Exp No: Fund _____ Department _____ Unit _____ Object _____
Rev No: Fund _____ Department _____ Unit _____ RevSc _____

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

Fund: General Fund
Unit: Dialogic System Services

Termination of interlocal agreement with the Town of Lake Clarke Shores will result in the reduction of \$3,000 in annual revenue beginning October 1, 2016.

Departmental Fiscal Review: Stephanie Serich

III. REVIEW COMMENTS


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

John H. C.

OFMB ET 6/22 NK 6/22.

[Signature]
Contract Administration

B. Legal Sufficiency:


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"), made and entered into this 22nd day of December 2011, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida ("COUNTY") and the TOWN OF LAKE CLARKE SHORES ("MUNICIPALITY") 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 MUNICIPALITY are continually identifying more effective service delivery methods which 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 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 municipalities ; and

WHEREAS the COUNTY and the MUNICIPALITY 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 all Parties to execute this Agreement which sets forth the parameters under which the MUNICIPALITY can directly access the COUNTY's Dialogic System, providing the taxpayers of both the COUNTY and the State of Florida 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 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 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 Dialogic 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 Dialogic 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 NXT 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 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 MUNICIPALITY's day to day contact and can be reached at 561-712-6327. 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 Dialogic System Administrator. The MUNICIPALITY agrees to comply with any enforcement actions required by these policies and procedures for misuse or abuse of the COUNTY Dialogic system.

**SECTION 3: DIALOGIC GEOGRAPHIC-BASED ALERT AND NOTIFICATION
DIALOGIC 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 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 MUNICIPALITY equipment. 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: MUNICIPALITY RESPONSIBILITIES AND EQUIPMENT

- 4.01 The MUNICIPALITY equipment will consist of a designated computer(s) connected to the Internet, each equipped with a web browser. The MUNICIPALITY shall be required to maintain its equipment in proper operating condition and ensure a functioning Internet connection to access the Dialogic 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 MUNICIPALITY Representative in writing 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 in writing with a list of person/positions who are authorized to utilize the Dialogic System on behalf of the MUNICIPALITY, under the authority of the MUNICIPALITY Representative.
- 4.04 The MUNICIPALITY 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 MUNICIPALITY shall be responsible for notifying the Dialogic 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 Dialogic 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 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 MUNICIPALITY executing its contract with a commercial Dialogic 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 MUNICIPALITY 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 Dialogic System after properly notifying the MUNICIPALITY in writing if the equipment is causing problems with the Dialogic 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: DIALOGIC SYSTEM, ACCESS AND USAGE CHARGE

- 5.01 The MUNICIPALITY has paid a one-time fee of \$2,000 (Two Thousand Dollars) to the Dialogic Communications Corporation for creation of a database for the MUNICIPALITY.
- 5.02 The MUNICIPALITY will be assessed an annual access and usage charge in the amount of \$3,000 (Three Thousand Dollars). The annual access and usage charge may be reviewed every three (3) years beginning October 2013 and adjusted for the following fiscal year by notice to the MUNICIPALITY by the COUNTY's Division of Emergency Management. 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.
- 5.03 If the effective date of this Agreement is between October 15th and September 30th, the MUNICIPALITY will be charged pursuant to section 5.02. 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
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 MUNICIPALITY Representative 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 MUNICIPALITY Representative or designee if access to the Dialogic System will be inaccessible for more than two hours.

SECTION 8: INDEMNIFICATION AND LIABILITY

- 8.01 Governmental Agencies:

Both the COUNTY, through its PUBLIC SAFETY DEPARTMENT, and the MUNICIPALITY, as state agencies or subdivisions of the state, as defined in Section 768.28, F.S. agrees 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 agrees 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, through its PUBLIC SAFETY DEPARTMENT or the MUNICIPALITY.

- 8.02 The COUNTY makes no representations about the design and capabilities of the COUNTY Dialogic System. The MUNICIPALITY 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 MUNICIPALITY with the use of the Dialogic System described in this Agreement, but makes no guarantee as to the continual, uninterrupted use of the Dialogic Geographic-based Alert and Notification Dialogic system, or its fitness for the alert and notification needs of the MUNICIPALITY.
- 8.03 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 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 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 Dialogic System will remain the COUNTY's, despite the MUNICIPALITY's financial contribution to their maintenance, renewal and replacement.

SECTION 10: TERMS OF AGREEMENT AND AUTOMATIC RENEWAL

The initial 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. Herein, after execution by all entities joining in the Agreement and the Board of COUNTY Commissioners. The Agreement will be automatically renewed for increments of three (3) year terms thereafter unless otherwise notified by the MUNICIPALITY and/or the COUNTY.

SECTION 11: AMENDMENTS TO THIS AGREEMENT

This Agreement may be amended from time to time by written amendment only executed by COUNTY 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 given year and shall be conditioned upon a minimum of six months notice.

SECTION 13: ANNUAL BUDGET APPROPRIATIONS

The COUNTY and MUNICIPALITY's performance and obligations for payment pursuant to this Agreement are contingent upon annual appropriation for its purpose by the COUNTY and the MUNICIPALITY.

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 MUNICIPALITY:

Daniel P. Clark, Town Administrator
Town of Lake Clarke Shores
1701 Barbados Road
Lake Clarke Shores, FL 33406

Mary Pinkerman, 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 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 MUNICIPALITY 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 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 MUNICIPALITY officers.

SECTION 20: ACCESS AND AUDITS

Palm Beach County has established the Office of the Inspector General in Ordinance 2009-049, as may be amended, which is authorized and empowered to review past, present and proposed County contracts, transactions, accounts and records. The Inspector General has the power to subpoena witnesses, administer oaths and require the production of records, and audit, investigate, monitor and inspect the activities of the Municipality, 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 interference or impeding any investigation shall be in violation of Ordinance 2009-049, 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 parties have caused this Agreement to be executed on the day and year first above written.

R2012 0189 JAN 24 2012

APPROVE AS TO FORM AND
LEGAL SUFFICIENCY

By: _____

County Attorney

APPROVED AS TO TERMS AND
CONDITIONS

By: _____

Vincent J. Bonvento

Assistant County Administrator
and Director of Public Safety

ATTEST:

TOWN OF LAKE CLARKE SHORES

By: _____

Mary Pinkerman
Mary Pinkerman, Town Clerk

By: _____

Gregory Freebold
Gregory Freebold, Mayor



Town of Lake Clarke Shores

Palm Beach County's Premier Lakeside Community Since 1957

March 28, 2016

Robert M. W. Shalhoub
Mayor

Gregory Freebold
Vice Mayor

Valentin Rodriguez, Jr.
President Pro-Tem

Malcolm K. Lewis
Council Member

Thomas C. Mayes, Jr.
Council Member

Daniel P. Clark, P.E.
Town Administrator

Mary Pinkerman
Town Clerk

William Smith, III
Chief of Police

Verdenia C. Baker
Palm Beach County Administrator
301 North Olive Avenue
West Palm Beach, FL 33401

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

**RE: NOTICE OF TERMINATION / DIALOGIC GEOGRAPHIC-BASED
ALERT AND NOTIFICATION SYSTEM / TOWN OF LAKE CLARKE
SHORES**

Dear Ms. Baker:

Pursuant to Section 12 of the Interlocal Agreement between Palm Beach County and the Town of Lake Clarke Shores, dated December 22, 2011, this letter serves as the required Notice of Termination of the Interlocal Agreement by the Town. Per the Interlocal Agreement, the termination will be effective on October 1, 2016.

If you have any questions or require additional information, please feel free to contact me or Deputy Town Clerk, Tammy House, at (561) 964-1515.

Sincerely,

Daniel P. Clark, P.E.
Town Administrator

cc: Stephanie Sejhona, Public Safety Director
Dialogic System Administrator
Denise Nieman, County Attorney

Division of Emergency Management
MAR 30 2016
Palm Beach County

U:\Tammy\Contracts\GEOCast\Notice of Termination of GEOCast Contract COUNTY ADMINISTRATOR.docx

Attachment #

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