

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	(6,000)	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match County	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>(6,000)</u>	=====	=====	=====	=====
# ADDITIONAL FTE POSITIONS (Cumulative)	-0-	_____	_____	_____	_____

Is Item Included In Current Budget? Yes ___ No X

Budget Account No.: Exp Fund 1427 Dept. 660 Unit 7140 Object Various
 Rev Fund 1427 Dept. 660 Unit 7140 Source 4900

Reporting Category _____

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

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

C. Departmental Fiscal Review:

[Signature]

III. REVIEW COMMENTS

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

[Signature] 6-23-08
 6/19/08 OFMB 6/16/08
[Signature] 6/23/08
 Contract Administration 6/23/08

B. Legal Sufficiency:

[Signature] 6-24-08
 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, made and entered into this _____ day of 2008, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida ("County") and the Florida Atlantic University Board of Trustees, a State of Florida public university ("University"), 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 University 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 Roster-based Notification System ("CommunicatorNXT") that meets the needs of Palm Beach County Emergency Management and various Palm Beach County general government agencies; and

WHEREAS the County and the University have determined that the ability to provide consistent, timely notifications to students, 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 University can directly access the County's Roster-based Alert and Notification System, saving the taxpayers of both the County and the State of Florida, as well as receiving the public safety benefit of consistent and timely roster-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 Roster-based Alert and Notification System (“System”) available to the University. This Agreement identifies the conditions of use, the cost of access and on-going use, and the ability of the University to participate in the operational decisions relating to the CommunicatorNXT System.
- 1.02 Definitions
- 1.021 Dialogic Alert: A roster-based callout to alert students, 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 students, staff and associated personnel 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 Roster-based Alert and Notification System funded, purchased, installed, maintained, and owned by the County. The 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 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 University’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 University 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 University by the System Administrator. The University agrees to comply with any enforcement actions required by these policies and procedures for misuse or abuse of the County System.

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

- 3.01 The Dialogic Roster-based Alert and Notification System consists of a computer server, the CommunicatorNXT web software, multiple SQL databases, the Dialogic CommunicatorNXT server, 58 telephone lines, and 24 fax-enabled telephone lines..
- 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 and databases associated with the System, but not including University's equipment.

SECTION 4: UNIVERSITY RESPONSIBILITIES AND EQUIPMENT

- 4.01 The University's equipment will be a computer or computers connected to the Internet, each equipped with a web browser. The University shall be required to keep its equipment in proper operating condition and ensure a functioning Internet connection to access the System. The University 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 University shall provide the County with a single University Representative who shall be the University's single point of contact for matters relating to this Agreement.
- 4.03 Within 15 days of the execution of this Agreement, the University shall provide the County with a list of person/positions who are authorized to utilize the System on behalf of the University, under the authority of the University Representative.
- 4.04 The University 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 University shall be responsible for notifying the System Administrator prior to, as soon as reasonably possible, 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 University shall be considered authorized to receive access codes for maintenance of the University'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 University executing its contract with a commercial system provider.
- 4.05 The University is solely responsible for the performance and operation of the University's equipment. Should the County identify malfunctioning University-owned equipment, the County will notify the University Representative and the University 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 University 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 University's Equipment or Internet connectivity.

SECTION 5: SYSTEM, ACCESS AND USAGE CHARGE

- 5.01 A one-time fee of \$3000 (Three Thousand Dollars) will be required by Dialogic Communications Corporation for creation of a database for the University. That fee will be invoiced by Dialogic Communications Corporation directly to the University and paid by the University directly to Dialogic Communications Corporation.
- 5.02 The University will be assessed an annual access and usage charge in the amount of \$6,000. The annual access and usage charge may be reviewed every three (3) years beginning three (3) from the effective date and adjusted for the following fiscal year by notice to the University 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 June 1st of the applicable year for which the University agrees to be bound.

- 5.03 If the effective date of this Agreement is between November 15th and September 30th, the University will be charged pursuant to section 5.01. This charge will not be prorated.
- 5.04 The University agrees that in the event of any termination of the Agreement by University other than due to material failure of the County to maintain the System and provide University access, the annual access and usage charge shall not be reimbursed.

SECTION 6: BILLING SCHEDULE

- 6.01 Each May 1st, the County will invoice the University 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 University 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 University 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 University Representative or designee if access to the System will be inaccessible for more than two hours.
- 7.06 To the extent the County has access to University data associated with University's use of the System, specifically including data pertaining to student information, the County shall not release such data to any unauthorized party and shall preserve the confidentiality of such data pursuant to federal and state privacy laws pertaining to student records.

SECTION 8: INDEMNIFICATION AND LIABILITY

The County makes no representations about the design and capabilities of the County System. The University 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 University with the use of the System described in this Agreement, but makes no guarantee as to the continual, uninterrupted use of the Dialogic Roster-based Alert and Notification System, or its fitness for the alert and notification needs of the University.

The University as a Florida Public University 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 University 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 University, 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 University 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 University 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 University at all times. Parts incorporated into assets owned by the University will immediately become a part of the asset and will be the property of the University. All other assets involved in the System will remain the County's, despite the University'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 entities 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 University 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 University.

SECTION 12: TERMINATION

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

SECTION 13: ANNUAL BUDGET APPROPRIATIONS

The County and University'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 University.

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 University:

Florida Atlantic University
VP, Facilities
777 Glades Road
Boca Raton, FL 33431

Florida Atlantic University
Office of the General Counsel
777 Glades Road, ADM 367
Boca Raton, FL 33431

SECTION 15: APPLICABLE LAW/ENFORCEMENT COSTS

This section shall be governed by the laws of the State of Florida and venue shall lie in Palm Beach County.

SECTION 16: EQUAL OPPORTUNITY PROVISION

The County and the University 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 by the County 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 University 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 University 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 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

By: _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
County Attorney

ATTEST:

By: _____

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

By: _____
Vincent J. Bonvento, Asst. County Admin
Public Safety Department

APPROVED AS TO TERMS AND
CONDITIONS

By: _____

FLORIDA ATLANTIC UNIVERSITY
BOARD OF TRUSTEES

By: _____
Authorized Signee

APPROVED AS TO FORM
AND LEGALITY
General Counsel
Florida Atlantic University

08-

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA
BUDGET AMENDMENT

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BGEX 660-060408-2839

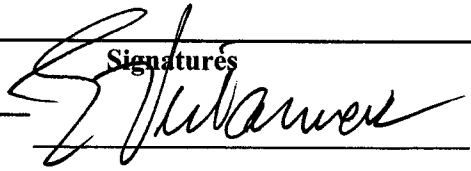
BGRV 660-060408-614

FUND 1427 Emergency Management

Use this form to provide budget for items not anticipated in the budget.

ACCT.NUMBER	ACCT. NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF	REMAINING BALANCE
<u>REVENUES</u>								
660-7140-4900	Charges for Services-Other	30,000	30,000	6,000		36,000	0	
	Total Revenues and Balances	<u>921,271</u>	<u>1,425,036</u>	<u>6,000</u>	<u>0</u>	<u>1,431,036</u>		
<u>EXPENDITURES</u>								
660-7140-5121	Data Processing Software/Accessories	30,000	30,000	6,000		36,000	0	
	Total Appropriations and Expenditures	<u>921,271</u>	<u>1,425,036</u>	<u>6,000</u>	<u>0</u>	<u>1,431,036</u>		

INITIATING DEPARTMENT/DIVISION
Administration/Budget Department Approval
OFMB Department - Posted

Signatures


Date
6/10/08

By Board of County Commissioners
At Meeting of
Deputy Clerk to the
Board of County Commissioners