



AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ITEM No.:

EE-38.

MEETING DATE	2018-06-12 10:05 - School Board Operational Meeting
AGENDA ITEM	ITEMS
CATEGORY	EE. OFFICE OF STRATEGY & OPERATIONS
DEPARTMENT	Procurement & Warehousing Services

Special Order Request	
<input type="radio"/> Yes	<input checked="" type="radio"/> No
Time	
Open Agenda	
<input checked="" type="radio"/> Yes	<input type="radio"/> No

TITLE:
 Recommendation of \$500,000 or Less - 59-027V - Agreement with Carlton Palms Educational Center, Inc. d/b/a Bellwether Behavioral Health

REQUESTED ACTION:
 Approve the Agreement with Carlton Palms Educational Center, Inc. d/b/a Bellwether Behavioral Health. Contract Term: July 1, 2018 through June 30, 2019; 1 Year; User Department: Exceptional Student Learning Support; Award Amount: \$40,000; Awarded Vendor(s): Carlton Palms Educational Center, Inc. d/b/a Bellwether Behavioral Health; Small/Minority/Women Business Enterprise Vendor(s): None.

SUMMARY EXPLANATION AND BACKGROUND:
 Florida Administrative Code 6A 6.0361, Contractual Agreements with Non-Public Schools allows for Broward County Public School (District) to contract with a residential facility when another public agency has placed the student for non-educational purposes.
 See Supporting Docs for the continuation of Summary Explanation and Background.
 This Agreement has been reviewed and approved as to form and legal content by the Office of the General Counsel.

SCHOOL BOARD GOALS:

Goal 1: High Quality Instruction
 Goal 2: Continuous Improvement
 Goal 3: Effective Communication

FINANCIAL IMPACT:
 The estimated financial impact to the District will be \$40,000. The specific dollar amount is based on the individual student's matrix level at the time of placement at Carlton Palms. The source of funding is the student's allocation from Florida Education Finance Program. The financial amount represents an estimated contract value; however, the amount authorized will not exceed the estimated contract award amount.

EXHIBITS: (List)
 (1) Executive Summary (2) Agreement (3) Financial Analysis Worksheet (4) Contract Projection

BOARD ACTION:

APPROVED

(For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:	
Name: Antoine Hickman / Sonja Clay	Phone: 754-321-3400
Name: Mary C. Coker	Phone: 754-321-0501

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
 Senior Leader & Title

Maurice L. Woods - Chief Strategy & Operations Officer

Signature

Maurice Woods
 5/23/2018, 9:05:16 AM

Approved In Open Board Meeting On: JUN 12 2018
 By: *Nora Ruper*
 School Board Chair

EXECUTIVE SUMMARY

Recommendation of \$500,000 or Less 59-027V – Agreement with Carlton Palms Educational Center Residential Program

The School Board of Broward County, Florida, has entered into an agreement with Carlton Palms Educational Center, Inc. d/b/a Bellwether Behavioral Health.

Under FAC 6A-6.0361, Contractual Agreements with Non-Public Schools, an agency can place a student in a residential placement for non-educational purposes. The Agency for Persons with Disabilities (APD) is the agency that has placed student(s) at Carlton Palms. The District and Carlton Palms work collaboratively to ensure the implementation of the Individual Education Plan (IEP) has been fulfilled.

APD independently agrees to place students at Carlton Palms for non-educational purposes. The District determines if Broward students do not need residential placement for educational purposes and develops an IEP that provides an appropriate program at one (1) of the District's center schools. This contract is a multi-student agreement that outlines the District's agreement to provide for the costs associated with the provision of special education for any District student residing at Carlton Palms when APD has recommended placement for non-educational reasons. The source of the funding for the education of any District student is from the Florida Education Finance Program (FEFP) and is based on the matrix level for each individual District student. The agreement limits the District's financial responsibility to only those funds generated by a District student during the twelve (12) month period to end on June 30, 2019.

Historically, students in the program have been either 254 or 255 WFTE on the matrix of services. For the 2017-2018 school year, a student would generate approximately \$14,982 for a 254 matrix and \$22,330 for a 255 matrix. There is currently one (1) student contracted for placement with Carlton Palms.

The initial agreement was developed in 2010. Agreements were renewed for 2011- 2012, 2012-2013, 2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018 school years. Students are still in attendance at Carlton Palms, therefore, approval is requested for the 2018-2019 school year.

Financial Impact

The recommended spending authority is \$ 40,000, as demonstrated below:

<u>Monthly Spend</u>	<u>\$ 2,838</u>
<u>Term</u>	<u>12</u>
<u>Total Spend:</u>	<u>\$ 34,053</u>

It is recommended that the spending authority be \$40,000 based upon the number of students placed in this program. The program will be supported by funds generated by Exceptional Student Learning Support, FTE.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 17th day of June, 2018, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

CARLTON PALMS EDUCATIONAL CENTER, INC.
dba BELLWETHER BEHAVIORAL HEALTH
(hereinafter referred to as "Carlton Palms"),
whose principal place of business is
28308 Churchill Smith Lane
Mount Dora, Florida 32757

WHEREAS, Carlton Palms is approved by the SBBC as a school conducting programs of education, training, and related services for students with disabilities; and

WHEREAS, SBBC agrees to support the educational services as outlined in the Individualized Education Program (hereinafter referred to as "IEP") of any SBBC district student in residential placement at Carlton Palms; and

WHEREAS, this Agreement applies to any SBBC student residing at Carlton Palms who have been appropriately classified as a student with disabilities by SBBC in compliance with Florida Statutes and all pertinent state and SBBC rules, regulations and criteria; and

WHEREAS, an IEP indicating specific educational needs and such plan and needs as are determined necessary by each individual student's IEP team must be established for each SBBC district student based on assessment results; and

WHEREAS, the parents of each SBBC district student and the Agency for Persons with Disabilities (hereinafter referred to as "Agency") have agreed to place their students served by this Agreement for residential care in Carlton Palms.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2018** and shall conclude on **June 30, 2019**.

2.02 **Disclosure of Education Records.**

(a) SBBC will provide Carlton Palms with access to the EasyIEP (Electronic Records Management System) and additional records contingent upon SBBC receiving the appropriate consent pursuant to FERPA requirements as listed in 2.02 (b). Easy IEP access will be limited only to records of SBBC students enrolled at Carlton Palms and limited only to Carlton Palms staff involved in developing and implementing the IEP, and providing the services listed in this Agreement. EasyIEP contains the following records:

1. Individual Educational Plan (IEP)
2. Consent for Evaluation/Re-evaluation
3. Functional Behavior Assessment/Positive Behavior Intervention Plan
4. Any other document necessary for the provision of FAPE

(b) Additional education records include Social security number, grades, progress notes and any other information necessary to enroll the student.

(c) SBBC will obtain consent from each student's parent/guardian or student age 18 or older prior to disclosing or providing access to education records to Carlton Palms. Consent form shall list the types of educational records to be disclosed, purpose(s) and recipient.

2.03 **Carlton Palms Confidentiality of Education Records.**

(a) Notwithstanding any provision to the contrary within this Agreement, Carlton Palms shall:

- 1) fully comply with the requirements of Sections 1002.22, 1002.221, and 1002.222, Florida Statutes; the Family Educational Rights and Privacy Act, 20 U.S.C § 1232g (FERPA) and its implementing regulations (34 C.F.R. Part 99), and any other state or federal law or regulation regarding the confidentiality of student information and records;
- 2) hold any education records in strict confidence and not use or re-disclose same except as required by this Agreement or as required or permitted by law unless the parent of each student or a student age 18 or older whose education records are to be shared provides prior written consent for their release;
- 3) ensure that, at all times, all of its employees who have access to any education records during the term of their employment shall abide strictly by its obligations under this Agreement, and that access to education records is limited only to its employees that require the information to carry out the

responsibilities under this Agreement and shall provide said list of employees to SBBC upon request;

- 4) safeguard each education record through administrative, physical and technological standards to ensure that adequate controls are in place to protect the education records and information in accordance with FERPA's privacy requirements;
 - 5) utilize the education records solely for the purposes of providing products and services as contemplated under this Agreement; and shall not share, publish, sell, distribute, target advertise, or display education records to any third party;
 - 6) notify SBBC immediately upon discovery of a breach of confidentiality of education records by telephone at 754-321-0300 (Manager, Information Security), and 754-321-1900 (Privacy Officer), and email at privacy@browardschools.com; and take all necessary notification steps as may be required by federal and Florida law, including, but not limited to, those required by Section 501.171, Florida Statutes;
 - 7) fully cooperate with appropriate SBBC staff, including Privacy Officer and/or Information Technology staff to resolve any privacy investigations and concerns in a timely manner;
 - 8) prepare and distribute, at its own cost, any and all required breach notifications, under federal and Florida Law, or reimburse SBBC any direct costs incurred by SBBC for doing so, including, but not limited to, those required by Section 501.171, Florida Statutes;
 - 9) be responsible for any fines or penalties for failure to meet breach notice requirements pursuant to federal and/or Florida law;
 - 10) provide SBBC with the name and contact information of its employee who shall serve as SBBC's primary security contact and shall be available to assist SBBC in resolving obligations associated with a security breach of confidentiality of education records; and
 - 11) securely erase education records from any media once that media equipment is no longer in use or is to be disposed; secure erasure will be deemed the deletion of the education records using a single pass overwrite Secure Erase (Windows) or Wipe (Unix).
- (b) All education records shall remain the property of SBBC, and any party contracting with SBBC serves solely as custodian of such information pursuant to this Agreement and claims no ownership or property rights thereto and, upon termination of this Agreement shall, at SBBC's request, return to SBBC or dispose of the education records in compliance with the applicable Florida Retention Schedules and provide SBBC with a written acknowledgment of said disposition.

- (c) Carlton Palms shall, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes. This section shall survive the termination of all performance required or conclusion of all obligations existing under this Agreement.

2.04 **Compliance Documentation.** SBBC acknowledges that Carlton Palms has provided SBBC with documentation demonstrating compliance with the requirements of Rule 6A-6.0361, Florida Administrative Code.

2.05 **Student Enrollment.** Carlton Palms shall accept the enrollment of up to ten (10) SBBC district students each school year, who have been evaluated by SBBC as students with disabilities, and place such students in appropriate educational programs to fit each student's special needs.

2.06 **Notice of Acceptance.** Carlton Palms will provide a completed Notice of Acceptance Form (attached hereto as **Exhibit A** to this Agreement and incorporated herein by reference) to SBBC's Executive Director of Exceptional Student Learning Support or designee prior to the first day each SBBC district student is placed at Carlton Palms.

2.07 **Educational Expenses.** SBBC shall pay Carlton Palms the educational expenses for each individual SBBC district student placed at Carlton Palms during the term of this Agreement as set forth in Section 2.01. The educational expenses payable by SBBC shall be a fixed fee (non-cost), as calculated according to the current state matrix level as funded by the State of Florida for each individual SBBC district student. Carlton Palms shall invoice SBBC for each individual SBBC district student at the end of each month during which the student was provided an educational program. SBBC shall not pay for costs of any SBBC district student's residence at Carlton Palms. Funding for this contract shall be based funding generated via the Florida Education Finance Program for each student.

2.08 **Eligible Services.** The SBBC district students enrolled at Carlton Palms will receive special education services according to the IEPs developed by SBBC prior to their residence at Carlton Palms. SBBC shall only be invoiced by Carlton Palms for the instruction portion of services provided to SBBC district students according to the current state matrix level. The program provided by Carlton Palms will comply with all provisions of the current SBBC approved *Special Programs and Procedures for Exceptional Students*.

2.09 **Certifications and Licensure.** All instructional personnel provided by Carlton Palms to serve any SBBC district student shall be certified in accordance with Sections 6-A-1.0503 and 6A-4.002, F.A.C., and shall hold a professional or temporary Florida certificate of Exceptional Education. Occupational therapy will be provided by a licensed occupational therapist. Carlton Palms shall provide SBBC with copies of teacher certification and therapist licensure. If changes in instructional personnel and/or occupational therapists are made by Carlton Palms, SBBC will be notified and provided with copies of certification and licensure for such personnel and/or therapists within ten (10) days.

2.10 **Educational Program.** Carlton Palms shall provide an educational program for each SBBC district student consisting of six (6) hours per day of instruction, five (5) days per week, excluding school holidays. Carlton Palms shall provide SBBC with a monthly attendance record of each SBBC district student. This attendance record for each SBBC district student shall accompany the monthly invoice of that student's educational expenses as referenced in Section 2.02. In addition, a monthly report of each SBBC district student's progress toward the IEP annual goals and short-term objectives shall be submitted to SBBC. Carlton Palms shall also provide SBBC with an evaluation of each SBBC district student's progress, including grades, course credits, and progress toward a standard diploma and Sunshine State Florida Standards at the end of each school semester.

2.11 **Revision of Student's IEP.** Meetings to review or revise each SBBC district student's IEP may be initiated by either Carlton Palms or SBBC. The parties agree that SBBC is the local education agency ("LEA"). SBBC and Carlton Palms shall ensure that each SBBC district student's parent(s) and SBBC representative(s) are involved in any decision about each student's IEP.

2.12 **Payment of FEFP Funds.** SBBC will receive funds from the Florida Education Finance Program (FEFP) for each SBBC district student for the 2018-2019 school year according to each SBBC student's current state matrix level. SBBC agrees to pay Carlton Palms in monthly installments for educational services provided to each SBBC district student during the term of this Agreement. Should any SBBC district student be absent for more than ten (10) consecutive school days, Carlton Palms will contact SBBC to negotiate an adjusted payment. Each SBBC district student's placement at Carlton Palms is co-funded by SBBC and the Agency. SBBC provides funding for a thirty (30) hour per week educational program and the Agency provides funding for the residential placement. The educational costs payable by SBBC are for six (6) hours per day of instruction during a two hundred forty-eight (248) day school year, which includes the traditional 180 days and 68 days of extended school year instruction as determined by the IEP team.

2.13 **Co-Funding Agencies.** In the event of funding to Carlton Palms under separate contracts with co-funding agencies, the discharge of any SBBC district student because of default by any co-funding agency shall not be a default of this Agreement. Prior to discharge of a SBBC district student because of the co-funding agency's default, the Carlton Palms will give notice to SBBC. In addition, SBBC shall be reimbursed for all unearned tuition received by the Carlton Palms.

2.14 **Inspection of Carlton Palms' Records by SBBC.** Carlton Palms shall maintain records and documents sufficient to reflect each SBBC district student's daily attendance in the Carlton Palms' educational program. All Carlton Palms' Records of each SBBC district student's attendance, regardless of the form in which they are kept, shall be open to inspection and subject to inspection and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative.

(a) **Carlton Palms' Records Defined.** For the purposes of this Agreement, the term "Carlton Palms' Records" shall include each SBBC district student's daily attendance in the educational program and monthly progress reports, in addition to the documents required in Section 2.02 of this Agreement.

(b) **Duration of Right to Inspect.** For the purpose of such inspections or reproductions, SBBC's agent or authorized representative shall have access to Carlton Palms' Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to Carlton Palms pursuant to this Agreement.

(c) **Notice of Inspection.** SBBC's agent or its authorized representative shall provide Carlton Palms reasonable advance notice [a minimum of two (2) weeks] of any intended inspection and/or reproduction.

(d) **Audit Site Conditions.** SBBC's agent or its authorized representative shall have access to Carlton Palms' facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) **Failure to Permit Inspection.** Failure by Carlton Palms to permit inspection, and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause.

(f) **Inspector General Audits.** Carlton Palms shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.15 **Notice.** When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving notice:

To SBBC: *Superintendent of Schools
The School Board of Broward County, Florida
600 Southeast Third Avenue
Fort Lauderdale, Florida 33301*

With a Copy to: *Executive Director, Exceptional Student Learning Support
The School Board of Broward County, Florida
1701 N.W. 23rd Avenue
Fort Lauderdale, FL 33311*

To Carlton Palms: *Brenda Horton
Carlton Palms Education Center
28334 Churchill Smith Lane
Mount Dora, FL 32757*

With a Copy to: *Kyle Bailey
Chief Financial Officer
2520 Wrangle Hill Road, Suite 200
Bear, DE 19701*

2.16 **Background Screening.** Carlton Palms shall comply with all requirements of Sections 1012.32, 1012.465, 101467, and 101.468 Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening shall be performed in advance of Carlton Palms or its personnel providing any services under the conditions described in the previous sentence. Carlton Palms shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to Carlton Palms and its personnel. The parties agree that the failure of Carlton Palms to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. Carlton Palms agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from Carlton Palms' failure to comply with the requirements of this section or with Sections 1012.32, 1012.465, 101467, and 101.468 Florida Statutes.

2.17 **Insurance Requirements.** Carlton Palms shall comply with the following insurance requirements throughout the term of this Agreement:

(a) **General Liability.** Carlton Palms shall maintain General Liability insurance during the term of this Agreement with limits not less than \$1,000,000 per occurrence for Bodily Injury/Property Damage; \$1,000,000 General Aggregate; and limits not less than \$1,000,000 for Products/Completed Operations Aggregate.

(b) **Professional Liability/Errors & Omissions.** Carlton Palms shall maintain Professional Liability/Errors & Omissions insurance during the term of this Agreement with a limit of not less than \$1,000,000 per occurrence covering services provided under this Agreement.

(c) **Workers' Compensation.** Carlton Palms shall maintain Workers' Compensation insurance during the term of this Agreement in compliance with the limits specified in Chapter

440, Florida Statutes, and Employer's Liability limits shall not be less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).

(d) Auto Liability. Carlton Palms shall maintain Owned, Non-Owned and Hired Auto Liability insurance with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit.

(e) Acceptability of Insurance Carriers. The insurance policies required under this Agreement shall be issued by companies qualified to do business in the State of Florida and having a rating of at least A- VI by AM Best or Aa3 by Moody's Investor Service.

(f) Verification of Coverage. Proof of the required insurance must be furnished by Carlton Palms to SBBC's Risk Management Department by Certificate of Insurance within fifteen (15) days of the date of this Agreement. To streamline this process, SBBC has partnered with EXIGIS Risk Management Services to collect and verify insurance documentation. All certificates (and any required documents) must be received and approved by SBBC's Risk Management Department before any work commences to permit Carlton Palms to remedy any deficiencies. Carlton Palms must verify its account information and provide contact details for its Insurance Agent via the link provided to it by email.

(g) Required Conditions. Liability policies must include the following terms on the Certificate of Insurance:

1. The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.
2. All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.
3. Certificate Holder: The School Board of Broward County, Florida, c/o EXIGIS Risk Management Services, P.O. Box 4668-ECM, New York, New York 10163-4668.

(h) Cancellation of Insurance. Carlton Palms is prohibited from providing services under this Agreement with SBBC without the minimum required insurance coverage and must notify SBBC within two (2) business days if required insurance is cancelled.

(i) SBBC reserves the right to review, reject or accept any required policies of insurance, including limits, coverage or endorsements, herein throughout the term of this Agreement.

2.18 **Public Records.** The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. Carlton Palms shall keep and maintain public records required by SBBC to perform the services required under this Agreement. Upon request from SBBC's custodian of public records, Carlton Palms shall provide SBBC with a copy of any requested public records or to allow the requested public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law. Carlton Palms shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement's term and following completion of the

Agreement if Carlton Palms does not transfer the public records to SBBC. Upon completion of the Agreement, Carlton Palms shall transfer, at no cost, to SBBC all public records in possession of Carlton Palms or keep and maintain public records required by SBBC to perform the services required under the Agreement. If Carlton Palms transfers all public records to SBBC upon completion of the Agreement, Carlton Palms shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Carlton Palms keeps and maintains public records upon completion of the Agreement, Carlton Palms shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

IF A PARTY TO THIS AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 754-321-1900, REQUEL.BELL@BROWARDSCHOOLS.COM, RISK MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600 SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.

2.19 **Liability.** This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

(a) By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

(b) By Carlton Palms: Carlton Palms agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by Carlton Palms, its agents, servants or employees; the equipment of Carlton Palms, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of Carlton Palms or the negligence of Carlton Palms' agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by Carlton Palms, SBBC or otherwise.

2.20 **Equal Opportunity Provision.** The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression, marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

2.21 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

2.22 **Excess Funds.** Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

2.23 **Incorporation by Reference.** Exhibit A is attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any Agreement.

3.03 **Independent Contractor.** The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party nor its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, and contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to

cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period; this Agreement may be terminated by the non-defaulting party upon thirty (30) days' notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.05 **Termination.** This Agreement may be canceled with or without cause by SBBC or Carlton Palms during the term hereof upon thirty (30) days written notice to the other party of its desire to terminate this Agreement. In the event of such termination, SBBC shall pay Carlton Palms for all services rendered pursuant to this Agreement through the effective date of termination.

3.06 **Compliance with Laws.** Each party shall comply with all applicable federal, state and local laws, SBBC policies that are pertinent to the services provided under this Agreement.

3.07 **Place of Performance.** All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Lake County, Florida and shall be payable and performable in Lake County, Florida.

3.08 **Governing Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted exclusively to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida or to the jurisdiction of the United States District Court for the Southern District of Florida. Each party agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward County, Florida or the United States District Court for the Southern District of Florida shall have jurisdiction over it for any dispute arising under this Agreement.

3.09 **Entirety of Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.10 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.11 **Assignment.** Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.12 **Captions.** The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.13 **Severability.** In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.14 **Preparation of Agreement.** The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein express their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.15 **Amendments.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.16 **Waiver.** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.17 **Force Majeure.** Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.18 **Survival.** All representations and warranties made herein regarding indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.19 **Agreement Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.21 **Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC


(Corporate Seal)

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA


By


Nora Rupert, Chair

ATTEST:


Robert W. Runcie, Superintendent of
Schools

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams, Esq.
- kathelyn.jacques-adams@gbrowardschools.com
Reason: Carlton Palms Educational Center, Inc.
dba Bellwether Behavioral Health
Date: 2018.04.25 13:27:35 -04'00'

Office of the General Counsel

[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE TO FOLLOW]

FOR CARLTON PALMS

(Corporate Seal)

CARLTON PALMS EDUCATION
CENTER, INC. dba BELLWETHER
BEHAVIORAL HEALTH

ATTEST:

By Mark Donati
MARK Donati, CDO

_____, Secretary

-or-

Brian Stof
Witness

Naley Harper
Witness

**The Following Notarization is Required for Every Agreement Without Regard to
Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.**

STATE OF FLORIDA

COUNTY OF LAKE

The foregoing instrument was acknowledged before me this 10th day of
MAY, 2018 by MARK Donati of
Name of Person
Carlton Palms Educational Center, Inc. on behalf of the corporation/agency.

He/She is personally known to me or produced _____ as
~~identification and did~~ did not first take an oath. Type of Identification

My Commission Expires:

Brenda A. Horton
Signature - Notary Public

BRENDA A. HORTON
Printed Name of Notary

(SEAL)

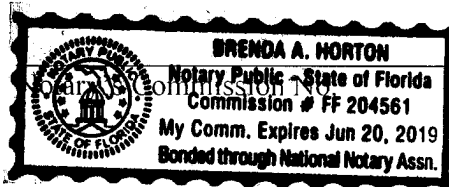


Exhibit A

ADVOSERV	STUDENT ANNOUNCEMENT
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STUDENT NAME:

DATE:

DOB:

CAMPUS:

S.S.#

ADMISSION CONFIRMATION --- ACTUAL DOA:

PARENT/GUARDIAN #1:	PARENT/GUARDIAN #2:
HOME #	HOME #
WORK #	WORK #
FUNDING SOURCE #1:	FUNDING SOURCE #2:
WORK #	WORK #
FAX #	FAX #
PARENT/GUARDIAN #1:	PARENT/GUARDIAN #2:
WORK #	WORK #
FAX #	FAX #
MEDICAL BILLING CONTACT: Primary	MEDICAL BILLING CONTACT: Secondary
PHONE #	PHONE #

ANNOUNCEMENT MADE BY: Gail Courtney _____

DATE OF ANNOUNCEMENT: _____

EXHIBIT "A"

The School Board of Broward County, Florida
 ESE Contract - Carlton Palms Educational Center
 2017-18 Contract Projection

	2017-18 FEFP 2nd Calculation	
	254	255
State BSA*	\$4,048.40	\$4,048.40
Broward DCD	1,0260	1,0260
Broward BSA	\$4,153.66	\$4,153.66
17-18 Program cost factors	3.607	5.376
FEFP revenue	\$1,248.50	\$1,860.83

Per contract 248 days of six hours per day instruction (30 hours per week)

\$ Per Day 60.41 90.04

*Adjusted from \$4,153.66 to \$4,048.40 due to the State rolling the 13-14 Teacher Salary Allocation categorical into the BSA.

Functional Area 5250630200000000
 Commitment Item 53990000

CARLTON PALMS (Funding Model)

Students	Projected UnWtd Oct FTE	Projected UnWtd FTE	Matrix	17-18 Cost Factor (School)	Wtd FTE	School TOTAL IA per WTD FTE	School Instructional Revenue for Activity 63020	School	Cost Center	Estimated Categorical	Required Budget Amount
RM	0.5	1.00	254	3.607	3.607	3.716	13,404	Cross Creek	3272432220	1,578	14,982
MZB	0.5	0.97	255	5.376	5.237	1,897	9,935	Plantation High	3853314510	12,395	22,330
							<u>23,339</u>			<u>13,973</u>	<u>37,312</u>
Projection Factor											
Plantation High											
Cross Creek											

*Funding Estimated based on 2017-18 FEFP BSA and 17-18 Cost Factors.