

**AGENDA REQUEST FORM**  
**THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA**

Meeting Date <b>07/23/13</b>	<table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%; padding: 5px;"> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align:center; padding: 5px;"><b>Open Agenda</b></td> <td style="text-align:center; padding: 5px;"><b>Special Order Request</b></td> </tr> <tr> <td style="text-align:center; padding: 5px;">Yes <input checked="" type="checkbox"/> No</td> <td style="text-align:center; padding: 5px;">Yes <input checked="" type="checkbox"/> No</td> </tr> </table> </td> <td style="width:10%;"></td> <td style="width:40%; padding: 5px;">Agenda Item Number <b>E-4</b></td> </tr> </table>	<table style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align:center; padding: 5px;"><b>Open Agenda</b></td> <td style="text-align:center; padding: 5px;"><b>Special Order Request</b></td> </tr> <tr> <td style="text-align:center; padding: 5px;">Yes <input checked="" type="checkbox"/> No</td> <td style="text-align:center; padding: 5px;">Yes <input checked="" type="checkbox"/> No</td> </tr> </table>	<b>Open Agenda</b>	<b>Special Order Request</b>	Yes <input checked="" type="checkbox"/> No	Yes <input checked="" type="checkbox"/> No		Agenda Item Number <b>E-4</b>
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<b>Open Agenda</b>	<b>Special Order Request</b>							
Yes <input checked="" type="checkbox"/> No	Yes <input checked="" type="checkbox"/> No							

**TITLE:**  
**Request for Proposals (RFP) Recommendation - 14-008V - Financial Advisory Consultant Services**

**REQUESTED ACTION:**  
 Approve RFP recommendations as stated on the attached award recommendation and Agreement with Public Financial Management, Inc.

<u>RFP</u>	<u>TITLE</u>	<u>LOCATION</u>	<u>AMOUNT</u>	<u>M/WBE VENDORS</u>
14-008V	Financial Advisory Consultant Services Contract period: July 23, 2013 through June 30, 2016	Treasurer's Office	N/A	Includes an award recommendation to one certified M/WBE Vendor: Fidelity Financial Services, L.C. (Co-Consultant) African-American M/WBE: Fort Lauderdale, FL)

**SUMMARY EXPLANATION AND BACKGROUND:**  
 Financial Advisory Consultant Services are used to provide financial advisory services for the issuance of General Obligation and other bonds, Certificate of Participation (COPs), short/long term notes, and refinancing of debt to provide financing for the District's facilities. This consultant service provides financial advisory services in connection with anticipated District financings.

Fees will be paid from proceeds of financings completed. There is no financial impact to the District at this time.  
 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:**  
 There is no financial impact to the District at this time.

**EXHIBITS: (List)**  
 1. RFP 14-008V  
 2. Proposed Agreement

<p style="font-size: 24px; margin: 0;"><b>APPROVED</b></p>	<p><b>SOURCE OF ADDITIONAL INFORMATION:</b></p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:70%; padding: 5px;">Ivan Perrone</td> <td style="padding: 5px;">754-321-0592</td> </tr> <tr> <td style="padding: 5px;">Carol Barker</td> <td style="padding: 5px;">754-321-0506</td> </tr> <tr> <td style="padding: 5px;">Name</td> <td style="padding: 5px;">Phone</td> </tr> </table>	Ivan Perrone	754-321-0592	Carol Barker	754-321-0506	Name	Phone
Ivan Perrone	754-321-0592						
Carol Barker	754-321-0506						
Name	Phone						

(For Official School Board Records' Office Only)

**THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA**  
**Maurice L. Woods** *M.L.W.*  
**Chief Strategy & Operations Officer**  
**Office of Strategy & Operations**

Approved in Open Board Meeting on: **JUL 23 2013**  
 \_\_\_\_\_  
 By: *Laurie Richerson* School Board Chair

The School Board of Broward County, Florida  
Supply Management & Logistics Department

RFP No.: 14-008V Board Meeting: JULY 23, 2013  
Description: FINANCIAL ADVISORY CONSULTANT SERVICES Notified: 215 Downloaded: 20  
TERM CONTRACT RFP Rec'd: 2 No Bids: 0  
For: TREASURER'S OFFICE RFP Opening: APRIL 16, 2013  
(School/Department)  
Fund: (\*\*) Advertised Date: MARCH 19, 2013

**POSTING OF RFP RECOMMENDATION/TABULATION:** RFP Recommendations and Tabulations will be posted in the Supply Management & Logistics Department and [www.Demandstar.com](http://www.Demandstar.com) on **MAY 10, 2013 @ 3:00 PM**, and will remain posted for 72 hours. Any person who is adversely affected by the decision or intended decision shall file a notice of protest, in writing, within 72 hours after the posting of the notice of decision or intended decision. The formal written protest shall be filed within ten (10) days after the date the notice of protest is filed. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under this chapter. Section 120.57(3)(b), Florida Statutes, states that "The formal written protest shall state with particularity the facts and law upon which the protest is based." Saturdays, Sundays, state holidays and days during which the school district administration is closed shall be excluded in the computation of the 72-hour time period provided. Filings shall be at the office of the Director of Supply Management & Logistics Department, 7720 West Oakland Park Boulevard, Suite 323, Sunrise, Florida 33351. Any person who files an action protesting an intended decision shall post with the School Board, at the time of filing the formal written protest, a bond, payable to The School Board of Broward County, Florida, (SBBC), in an amount equal to one percent (1%) of the estimated value of the contract. Failure to post the bond required by SBBC Policy 3320, Part VIII, Purchasing Policies, Section N, within the time allowed for filing a bond shall constitute a waiver of the right to protest.

**RECOMMENDATION/TABULATION**

TWO PROPOSALS WERE RECEIVED IN RESPONSE TO THIS RFP 14-008V. PROPOSALS WERE EVALUATED BY THE FOLLOWING COMMITTEE CONSISTING OF:

I. BENJAMIN LEONG – CHIEF FINANCIAL OFFICER, OFFICE OF THE CHIEF FINANCIAL OFFICER  
HENRY ROBINSON – TREASURER, TREASURER'S OFFICE  
OMAR SHIM – DIRECTOR, CAPITAL BUDGET  
SHELLY MELONI – CHIEF FACILITIES & CONSTRUCTION OFFICER – TASK ASSIGNED, OFFICE OF THE  
FACILITIES & CONSTRUCTION DEPARTMENT

M/WBE ADVISOR: MARCY HOUSER, M/WBE SPECIALIST III

BASED UPON SECTION 5.0 OF THE RFP, THE COMMITTEE INTERVIEWED AND RECEIVED PRESENTATIONS, EVALUATED PROPOSALS AND ASSIGNED POINTS TO ALL QUALIFIED PROPOSERS, THE COMMITTEE THEN ENTERED INTO NEGOTIATIONS WITH SELECTED PROPOSER. THE COMMITTEE SELECTED THE FOLLOWING FIRM AS THE TOP RANKED PROPOSER AND RECOMMENDATION FOR AWARD:

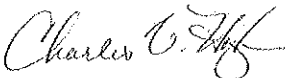
PUBLIC FINANCIAL MANAGEMENT, INC. (PRIMARY)  
\*FIDELITY FINANCIAL SERVICES, L.C. (CO-CONSULTANT)  
(MBE: AFRICAN-AMERICAN, FORT LAUDERDALE, FL)

\*M/WBE VENDOR

\*\*NOTE: FEES WILL BE PAID FROM PROCEEDS OF FINANCINGS COMPLETED. THERE IS NO FINANCIAL IMPACT TO THE DISTRICT.

THIS AWARD SHALL BE CONTINGENT UPON SUCCESSFUL COMPLETION OF A WRITTEN AGREEMENT

CONTRACT PERIOD: JULY 23, 2013 THROUGH JUNE 30, 2016

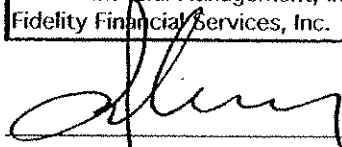
By:  Date: 05/09/13  
(Purchasing Agent)

The School Board of Broward County, Florida, prohibits any policy or procedure which results in discrimination on the basis of age, color, disability, gender expression, national origin, marital status, race, religion, sex or sexual orientation. Individuals who wish to file a discrimination complaint, may call the Executive Director, Benefits & EEO Compliance at 754-321-2150 or Teletype Machine (TTY) at 754-321-2158.

Individuals with disabilities requesting accommodations under the Americans with Disabilities Act (ADA) may call the Equal Educational Opportunities (EEO) at 754-321-2150 or Teletype Machine (TTY) at 754-321-2158.

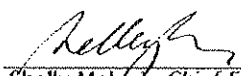
RFP 14-008V  
FINANCIAL ADVISORY CONSULTANT SERVICES

Financial Advisory Consultant Services - 14-008V	Maximum Points	Ben Leong	Henry Robinson	Omar Shim	Shelly Meloni	Average Points
<b>Experience and Qualifications</b>	<b>30</b>					
FirstSouthwest Company		25	25	26	25	25
Public Financial Management, Inc. Fidelity Financial Services, Inc.		30	30	30	30	30
<b>Scope of Services</b>	<b>35</b>					
FirstSouthwest Company		30	30	26	35	30
Public Financial Management, Inc. Fidelity Financial Services, Inc.		34	35	34	35	35
<b>Cost of Services</b>	<b>30</b>					
FirstSouthwest Company		27	27	27	27	27
Public Financial Management, Inc. Fidelity Financial Services, Inc.		20	20	20	20	20
<b>MWBE Participation</b>	<b>5</b>					
FirstSouthwest Company		2	2	2	2	2
Public Financial Management, Inc. Fidelity Financial Services, Inc.		5	5	5	5	5
<b>Total Score</b>	<b>100</b>					
FirstSouthwest Company						85
Public Financial Management, Inc. Fidelity Financial Services, Inc.						90

  
I. Benjamin Leong - Chief Financial Officer,  
Office of the Chief Financial Officer

  
Omar Shim, Director - Capital Budget

  
Henry Robinson - Treasurer, Treasurer's Office

  
Shelly Meloni - Chief Facilities & Construction Officer -  
Task Assigned, Office of the Facilities & Construction  
Officer

# AGREEMENT

THIS AGREEMENT is made and entered into as of this 23<sup>rd</sup> day of July, 2013, 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

**PUBLIC FINANCIAL MANAGEMENT, INC.**  
(hereinafter referred to as "PFM")  
whose principal place of business is  
300 South Orange Avenue, Suite 1170  
Orlando, Florida 32801

PFM and SBBC hereinafter referred to as "Parties".

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP 14-008V, Financial Advisory Consultant Services (hereinafter referred to as "RFP"), dated March 19, 2013 and amended by Addendum No. 1, dated March 26, 2013 and Addendum No. 2, dated April 9, 2013 which are incorporated by reference herein for the purpose of receiving proposals for Financial Advisory Consultant Services; and

**WHEREAS**, PFM submitted a proposal with its co-consultant Fidelity Financial Services, L.C., ("Proposal") which is incorporated herein by reference; and

**WHEREAS**, SBBC is desirous of obtaining the services by PFM and its co-consultant Fidelity Financial Services, L.C. for the purposes of assisting SBBC in financial planning, financing and/or refinancing of certain capital improvements through the issuance of bonds, certificates of participation and other forms of indebtedness.

**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 23, 2013** and conclude on **June 30, 2016**. The term of the contract may, by mutual agreement between SBBC and PFM be extended of two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. Supply Management & Logistics Department, will, if considering renewing, request a letter to renew from PFM, prior to the end of the contract period. PFM will be notified when any recommendation for renewal has been acted upon by SBBC.

**ARTICLE 2 – SPECIAL CONDITIONS**

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern:

- First: This Agreement
- Second: Addendum No. 2
- Third: Addendum No. 1
- Fourth: RFP 14-008V – Financial Advisory Consultant Services
- Fifth: Proposal submitted in response to the RFP 14-008V and PFM’s transmittal letter

2.03 **Deliverables.** PFM agrees to provide SBBC with the Scope of Services as described in **Attachment A.**

2.04 **Cost of Services.** SBBC shall pay PFM for services rendered under this Agreement in accordance with the following schedule:

PFM has agreed to 55/45 split of all transaction related fees.

2.04.1 Issuance of **General Obligation Bonds (New Money).** Fees per \$1,000 per par value.

a. First \$50 Million Bonds issued	\$.65/Bond
b. Next \$50 Million Bonds issued	\$.55/Bond
c. Per Bond Thereafter	\$.25/Bond
d. Refundings/Refinancing \$1,000 per \$25 Million	No additional fee for refundings
e. Minimum Transaction Fee	\$17,500/Issue
f. Maximum Transaction Fee	\$95,000/Issue
g. Flat amount for expenses	\$1,500

Expenses include all out-of-pocket costs with the exception of out-of-state travel, if needed.

2.04.2 Issuance of **Tax-Exempt Lease/Purchase Financing (COP’s) (New Money).** Fees per \$1,000 per par value.

h. First \$50 Million Bonds issued	\$.65/Bond
i. Next \$50 Million Bonds issued	\$.55/Bond
j. Per Bond Thereafter	\$.25/Bond
k. Refundings/Refinancing \$1,000 per \$25 Million	No additional fee for refundings
l. Minimum Transaction Fee	\$17,500/Issue
m. Maximum Transaction Fee	\$95,000/Issue
n. Flat amount for expenses	\$1,500

Expenses include all out-of-pocket costs with the exception of out-of-state travel, if needed.

## ARTICLE 2 – SPECIAL CONDITIONS

2.04.3 Issuance of **Short Term Notes**, per note.

o. Up to \$50 Million	\$17,500
p. Over \$50 Million	\$17,500
q. Minimum Fee	\$17,500
r. Maximum Fee	\$17,500

Expenses include all out-of-pocket costs with the exception of out-of-state travel, if needed.

2.04.4 Issuance of **Equipment Lease Program**. Fee per \$1,000 per par value and per master lease agreement.

s. First \$50 Million Bonds issued	\$.50/Bond
t. Next \$50 Million Bonds issued	\$.20/Bond
u. Per Bond Thereafter	\$.00/Bond
v. Minimum Transaction Fee	\$20,000/Issue
w. Maximum Transaction Fee	\$40,000/Issue
x. Flat amount for expenses	\$1,000

Expenses include all out-of-pocket costs with the exception of out-of-state travel, if needed.

2.04.5 Hourly Rates for **other than financial advisory services**.

y. Senior Personnel/Managing Directors	\$180/Hour
z. Managing Consultant	\$170/Hour
aa. Associate Consultant	\$150/Hour
bb. Financial Analyst	\$125/Hour
cc. Clerical/Administrative Staff	\$40/Hour

2.04.6 SBBC often requests the financial advisory team to complete additional projects to facilitate (i) long-term strategic planning, (ii) capital planning, (iii) enhancements to the operating budget and (iv) evaluation of new/evolving financial concepts (i.e., public private partnerships, facility management agreements, etc.) The financial advisory team is also often engaged to provide additional services related to financings that are outside of the traditional debt issuance process (escrow structuring, arbitrage compliance evaluations, continuing disclosure evaluations, etc.) The financial advisory team will provide these services to SBBC, solely at SBBC's discretion and with prior approval by SBBC. The services may be provided by PFM at the discretion of SBBC upon disclosure of all fees and roles to SBBC. Fees will be allocated to PFM based on the scope of the project.

## ARTICLE 2 – SPECIAL CONDITIONS

2.05 Inspection of PFM's Records by SBBC. PFM shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All PFM's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by PFM or any of PFM's payees pursuant to this Agreement. PFM's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. PFM's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) PFM's Records Defined. For the purposes of this Agreement, the term "PFM's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to PFM's 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 PFM pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide PFM reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to PFM's 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 PFM to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any PFM's claims for payment by SBBC.

## ARTICLE 2 – SPECIAL CONDITIONS

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by PFM in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by PFM. If the audit discloses billings or charges to which PFM is not contractually entitled, PFM shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. PFM shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by PFM to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to PFM pursuant to this Agreement and such excluded costs shall become the liability of PFM.

(h) Inspector General Audits. PFM 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.

2.06 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, 10 <sup>th</sup> Floor Fort Lauderdale, Florida 33301
With a Copy to:	Chief Financial Officer The School Board of Broward County, Florida 600 Southeast Third Avenue, 10 <sup>th</sup> Floor Fort Lauderdale, Florida 33301
To PFM:	David M. Moore, Managing Director Public Financial Management, Inc. 300 South Orange Avenue, Suite 1170 Orlando, Florida 32801
With a Copy to:	Steve Boyle, Managing Director Two Logan Square, Suite 1600 Philadelphia, PA 10903



## **ARTICLE 2 – SPECIAL CONDITIONS**

2.07 **Background Screening**: PFM agrees to comply with all requirements of Sections 1012.32 and 1012.465, 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 will be conducted by SBBC in advance of PFM or its personnel providing any services under the conditions described in the previous sentence. PFM 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 PFM and its personnel. The parties agree that the failure of PFM 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. PFM 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 in PFM's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

2.08 **Indemnification**. 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 PFM: PFM 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 PFM, its agents, servants or employees; the equipment of PFM, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of PFM or the negligence of PFM's 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 PFM, SBBC or otherwise.

## **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.

### **ARTICLE 3 – GENERAL CONDITIONS**

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 contract.

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 or 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, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **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.

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

3.06 **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.

3.07 **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.

### **ARTICLE 3 – GENERAL CONDITIONS**

3.08 **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 with interest calculated from the date of the erroneous payment or overpayment. Interest shall be calculated using the interest rate for judgments under Section 55.03, Florida Statutes, applicable at the time the erroneous payment or overpayment was made by SBBC.

3.09 **Public Records.** Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records:** Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Section 1002.22, Florida Statutes, or any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, 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 Section 1002.22, 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.

3.11 **Compliance with Laws.** Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

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

3.13 **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 to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

### **ARTICLE 3 – GENERAL CONDITIONS**

3.14 **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.

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

3.16 **Assignment.** Neither this Agreement or 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.

3.17 **Incorporation by Reference.** Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **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 effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **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.

3.20 **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 expresses 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.

3.21 **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.

3.22 **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.

**ARTICLE 3 – GENERAL CONDITIONS**

3.23 **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.

3.24 **Survival.** All representations and warranties made herein, 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.

3.25 **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)

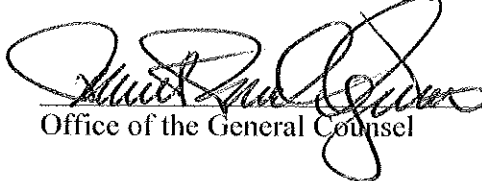
THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Laurie Rich Levinson, Chair

ATTEST

  
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

 07/05/13  
Office of the General Counsel

**FOR PFM**

(Corporate Seal)

PUBLIC FINANCIAL MANAGEMENT, INC.

ATTEST:

By *David M. Moore*  
David M. Moore, Managing Director

\_\_\_\_\_, Secretary

-or-

*Laura Howe*  
Witness Laura Howe

*Nicklas T. Rocca*  
Witness Nicklas T. Rocca

**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 ORANGE

The foregoing instrument was acknowledged before me this 28th day of June, 2013 by David M. Moore of

Name of Person

Public Financial Management, Inc., on behalf of the corporation/agency.

Name of Corporation or 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: 4/18/2016

*Dorrena B. Davis*

Signature – Notary Public

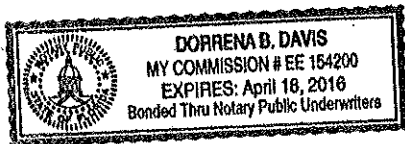
(SEAL)

Dorrena B. Davis

Printed Name of Notary

EE 154200

Notary's Commission No.



**DELIVERABLES**

1. PFM shall assist on debt management with respect to projects to be financed through issuances of bonds and assist in the preparation of official statements and rating presentations.
2. PFM shall review existing debt and other financial commitments to determine potential effects, if any, on the proposed financing, and make recommendations to SBBC.
3. PFM shall analyze the financial impact of projects costs, cash-flow projections and interest rate implications. Participate in the development of alternate strategies with SBBC's Financial Advisory Committee.
4. PFM shall advise SBBC on any new financing opportunities and refinancing options.
5. PFM shall prepare all necessary cash flow and millage projection schedules.
6. PFM shall analyze and report on the advantages and disadvantages of each proposed financing methodology and program.
7. PFM shall coordinate the bond financing process and assist underwriters in coordination of sale.
8. PFM shall evaluate market access and performance criteria of SBBC's debt offerings.
9. PFM shall assist in reviewing the interest rates being proposed by underwriters and provide advice on the acceptability of such interest rates.
10. PFM shall prepare all necessary State of Florida treasury applications and monitor the approval process.
11. PFM shall assist in the negotiation of bond insurers and/or other appropriate credit enhancement vehicles.
12. PFM shall provide independent advice on bond issues.
13. PFM shall submit revisions to school construction financing models and feasibility studies. Advise SBBC as to suggested methods of financing the desired improvements, amortization schedules, debt retirement plans, and recommendations on revenue necessary to meet established debt service requirements and capital plans and legislative proposals.
14. PFM shall evaluate feasibility studies or other documentation generated by SBBC and/or parties relative to the financing of projects and submit findings to SBBC.

**DELIVERABLES**

15. PFM shall assist in the preparation of any official statements setting forth financial and other information about SBBC and a description of the security issue. The preparation of the material will be in general conformance with Government Finance Officers Association, Disclosure Guidelines for Offerings of Securities by State and Local Governments, or successor requirements. Conduct due diligence meetings with concerned parties to release official statements in participation with SBBC.
16. PFM shall work cohesively and effectively to participate as a member of SBBC's Financial Advisory Committee, which will consist of various SBBC staff members, external Bond Counsel, Financial institutions and/or underwriters (if applicable), and specialized consultants (if applicable).
17. PFM shall arrange for the printing of any bonds or other securities, and the "Official Statement" of SBBC, as necessary, and arrange for book entry bonds as required. Arrange for the widest possible distribution of the official statement to bond underwriters and potential investors.
18. PFM shall assist in obtaining and maintaining the highest possible credit ratings and coordinate SBBC's representation before credit rating agencies.
19. PFM shall assist with the selection of printers, paying agent/registrars, escrow agents, trustees, verification agents and other providers, as necessary.
20. PFM shall advise SBBC on proposed and actual changes in tax laws and financial market developments that could affect SBBC debt financing plans.
21. PFM shall continually monitor existing debt for potential refunds.
22. PFM shall assist in assembling information and preparation of materials for rating agencies, and assist in obtaining a favorable rating on each of the offerings.
23. PFM shall analyze, report, and recommend underwriters who have met the criteria required by SBBC when securities are to be sold by negotiation.
24. PFM shall coordinate and attend all bond closings.
25. PFM shall monitor and report, federal, state and local statutory and regulatory change that may affect the legal and financial standing of SBBC audits and debt.
26. PFM shall provide research and testimony as appropriate for legislative items and activities related to school bonds and financing.