

## AGREEMENT

**THIS AGREEMENT** is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2015, 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

**HEERY INTERNATIONAL, INC.**  
(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
999 Peachtree Street, N.E.  
Atlanta, Georgia 30309

**WHEREAS**, SBBC issued a Request for proposal identified as RFP 15-115C – Program Manager – Owner’s Representative Services dated April 13, 2015 and amended by Addendum No. 6, dated May 14, 2015, Addendum No. 5, dated May 5, 2015, Addendum No. 4, dated April 30, 2015, Addendum No. 3, dated April 22, 2015, Addendum No. 2 dated April 22, 2015 and Addendum No. 1, dated April 14, 2015 herein referred to as "RFP" all of which are incorporated by reference as if fully set forth herein for the purpose of receiving proposals for Program Manager – Owner’s Representative Services; and

**WHEREAS**, VENDOR offered a proposal dated May 5, 2015 (hereinafter referred to as "Proposal" which is incorporated by reference herein) in response to this RFP; and

**WHEREAS**, VENDOR is willing to provide Program Manager – Owner’s Representative Services as more fully described in the Scope of Services of the RFP.

**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 **August 19, 2015 and conclude on August 18, 2018.** The term of the contract may, at the sole discretion of SBBC along with the agreement of **VENDOR**, be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. Procurement & Warehousing Services Department, will, if considering renewing, request a letter to renew from **VENDOR**, prior to the end of the contract period. Any renewal period shall be approved by the Amendment to this Agreement.

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

- First: This Agreement, then;
- Second: Addendum No. 6, then;
- Third: Addendum No. 5, then;
- Fourth: Addendum No. 4, then;
- Fifth: Addendum No. 3, then;
- Sixth: Addendum No. 2, then;
- Seventh: Addendum No. 1, then;
- Eighth: RFP 15-115C - Program Manager – Owner’s Representative Services
- Ninth: Proposal submitted in response to the RFP by **VENDOR**

2.03 **Cost of Services.** SBBC shall pay **VENDOR** for services rendered under this Agreement and Fee Schedule on a time and material basis with a not to exceed amount of \$16,200,000 for the first three years of the contract. If SBBC and **VENDOR** desire to renew this contract for one or two additional years beyond the original term, the Fee Schedule for years four and five may be re-negotiated with **VENDOR**. If there is no negotiation regarding the Fee Schedule, the Fees Schedule for years four and five shall remain the same as presented in **Attachment A**. Fee Schedule is defined as the rate per hour or task for which services can be billed to SBBC. These fees are full compensation for **VENDOR**’s direct personnel expenses, mandatory and customary contribution, overhead costs, project costs and profit. For all services rendered, the **VENDOR** will be paid upon actual hourly or salaried rates paid by the **VENDOR**, times the actual hours worked, times a fixed multiplier of 2.25. As payments for services are based upon actual salaries paid, SBBC shall not be billed for hours worked for salaried employees in excess of forty (40) hours per week. The **VENDOR** shall obtain prior approval, by SBBC, for all materials and reimbursables. All SBBC approved materials and reimbursables will be paid by SBBC at actual costs as a pass through expense. **Attachment A** is only a reference document used for the estimate of the not to exceed amount. **VENDOR** shall obtain prior approval of any and all staff, including their hourly rate selected for commissioning services.

2.04 **Billing Instructions and Payment.** **VENDOR** shall be required to bill on not less than a monthly basis, and in no event shall **VENDOR** submit an invoice for services and costs more than ninety (90) days after the services and/or costs occurred, otherwise such services and costs shall not be considered by SBBC and same services and costs are admitted by the **VENDOR** as waived and not due to the **VENDOR**. All costs shall be reasonable and subject to SBBC’s approval.

Additionally, VENDOR shall timely, on a monthly basis, provide SBBC with a written three (3) month look ahead document which, among other things, lists the staffing plan (including the staff rates and other fees) for the three (3) months following the date of the three (3) month plan, and the month prior to the date of the three (3) month plan. SBBC, at its sole discretion shall approve the monthly written three (3) month look ahead document prior to its implementation.

2.05 **Services:** VENDOR shall provide SBBC with services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda.

2.06 **M/WBE Participation.** VENDOR shall provide for M/WBE participation during its performance of services under this contract agreement by using De Zayas-Bitar Construction Co. (14%); Garth Solutions, Inc. (11%); and Keith & Associates, Inc. (7%) and as set forth in the VENDOR's proposal.

VENDOR shall obtain prior written approval from the Coordinator of Supplier Diversity & Outreach Program for any replacement of any of the entities listed above. Utilizing any entity other than the ones listed, respectively will be considered a breach of this Agreement. VENDOR is subject to debarment and any other remedy available for any breaches to this Agreement.

2.07 **Inspection of VENDOR's Records by SBBC.** VENDOR 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 VENDOR'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 VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR'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. VENDOR'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) **VENDOR's Records Defined.** For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, and any 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 VENDOR'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 VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR 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 VENDOR'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 VENDOR 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 VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR 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. VENDOR 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 VENDOR 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 VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR 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.

2.08 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: Director of Procurement and Warehousing  
The School Board of Broward County, Florida  
7720 West Oakland Park Blvd., Suite 323  
Sunrise, Florida 33351

Chief Facilities Officer  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: Robert Chomiak, Sr. Vice President  
Heery International, Inc.  
7650 Corporate Center Drive, Suite 300  
Miami, Florida 33126

2.09 **Background Screening:** VENDOR 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 VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR 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 VENDOR and its personnel. The parties agree that the failure of VENDOR 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. VENDOR 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 VENDOR failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

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

2.11 **Insurance.** Professional Liability (Errors and Omissions): The VENDOR shall procure a Professional Liability Insurance Policy with coverage of not less than Five Million (\$5,000,000) Dollars and a deductible, to be paid by VENDOR, of not more than Fifty Thousand (\$50,000) Dollars, providing for all sums which the VENDOR shall be legally obligated to pay as damages for claims arising out of or relating to the Work performed by the VENDOR or any person employed or acting on the VENDOR's behalf, but not limited to Subconsultants/Subcontractors, in connection with this Agreement. The insurance policy, or a policy with the same terms and conditions, shall remain in full force and effect during the project and for a period of time terminating three (3) years after final completion of the project. If the Owner, at its sole discretion, agrees that such coverage is not commercially reasonably available, the Owner may authorize the VENDOR to alter the coverage by substituting a lower aggregate or changing any other terms and conditions of the coverage, including but not limited to deductible amounts, based upon the scope of the Project. Notwithstanding any provision in this Agreement, nothing in this Agreement shall be construed as a limitation of the VENDOR's liability to SBBC.

**Worker's Compensation Insurance.** The VENDOR shall maintain Worker's Compensation Insurance in accordance with Florida Statutory Limits and Employers Liability Insurance with a limit of not less than Five Hundred Thousand \$500,000/\$500,000/\$500,000 (each accident/disease-each employee/disease-policy limit).

**Commercial General Liability Insurance.** The VENDOR shall maintain Comprehensive General Liability Insurance, including Products & Completed Operations, Personal and Bodily Injury, and Contractual Liability, to cover the indemnification language set forth herein. Limits shall not be less than \$1,000,000 per occurrence; \$2,000,000 general aggregate. Products Completed Operations aggregate shall not be less than \$2,000,000. **The School Board of Broward County must be named as an Additional Insured on the Certificate along with the RFP Number.**

**Automobile Liability Insurance.** The VENDOR shall maintain Automobile Liability Insurance covering all Owned, Non-Owned and Hired vehicles in the amount of not less than One Million Dollars (\$1,000,000) per occurrence Combined Single Limit for Bodily Injury and Property Damage and shall not be any less restrictive than the standard ISO Business Auto Policy CA 00 01. In the event the VENDOR does not own any vehicles, VENDOR shall obtain hired and non-owned coverage for \$1,000,000 Combined Single Limits and provide an affidavit signed by the VENDOR indicating the following:

(Insured) does not own any vehicles. In the event we acquire any vehicles throughout the term of this Agreement, Insured agrees to provide of "Any Auto" coverage effective date of acquisition.

**Certificate of Insurance Requirements.** Prior to the commencement of any Work, as evidence of required coverage, VENDOR must provide a Certificate of Insurance to The School Board of Broward County, Florida's Risk Management Department for approval. **Certificates must be faxed to the School Board of Broward County's Certificate Tracking System at 1-866-897-0425.**

Liability Policies are to contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:

The School Board of Broward County, Florida, its members, officers, employees, and agents are added as additional insured. The endorsement # is \_\_\_\_\_.

All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.

Contractual liability is included in the General Liability policy.

2.12 **Nonconformance to Contract Conditions.** Services offered must be in compliance with RFP conditions and specifications and any resulting Agreement at all times. Service(s) not conforming to RFP conditions, specifications or time frames will have a written nonconformance letter sent to the vendor to provide an opportunity to remedy the nonconformance. Failure of the VENDOR to remedy the nonconformance, within thirty (30) days from receipt of notification, shall result in termination of contract. Additionally, for a period of two (2) years, any RFP submitted by VENDOR will not be considered or recommended for award, as such, all departments being advised not to do business with VENDOR.

2.13 **Travel.** Local travel will be billed as a reimbursable expense in accordance with the current or updated School Board Policy 3400 and any other relevant School Board Policies. Out of county travel and per diem may be allowable at the sole discretion of SBBC. SBBC has delegated authority to the Superintendent of Schools or his/her designee to provide prior approval to VENDOR for any and all travel and per diem. Should any out of county travel and/or per diem be allowed, then it shall be billed and reimbursed in compliance with the current or updated School Board Policy 3400 and/or other relevant School Board Policies.

PLEASE BE ADVISED THAT SCHOOL BOARD POLICY 3400, UNDER THE “**ALL TRAVEL**” SECTION PARAGRAPH 2 STATES “NEITHER SUBSISTENCE NOR PER DIEM SHALL BE ALLOWED FOR ANY CLASS OF TRAVEL **IN BROWARD COUNTY** EXCEPT FOR AUTHORIZED BUSINESS OR WORKSHOPS OCCURRING BEFORE 6:00 A.M. OR EXTENDING BEYOND 8:00 PM.” Additionally, the travel requires prior approval.

2.14 **Working Environment.** SBBC will provide a functional working environment within an existing school to include, but not limited to, office space, office furniture and appliances, housekeeping, internet service and office network cabling, utilities, use of SBBC’s email service, server(s) for file storage, office supplies, and in-house printing, copying, plotting and fax equipment services. VENDOR shall obtain prior approval from SBBC for any additional goods or services required for the working environment.

### **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 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 the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate. VENDOR will be compensated for services performed up to the date of termination and be reimbursed for any and all reimbursable expenses allowed under the Agreement.

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.

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.** Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. 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 Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and 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 Sections 1002.22 and/or 1002.221, Florida Statutes.

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.

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 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.

3.17 **Incorporation by Reference.** Exhibits attached hereto **Attachment A** 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.

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 **Contract 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.

3.26 **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

ATTEST:

By \_\_\_\_\_  
Donna P. Korn, Chair

\_\_\_\_\_  
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

*Nathelyn Lagunas-Adams 8-13-15*  
\_\_\_\_\_  
Office of the General Counsel

**FOR VENDOR**

(Corporate Seal)

HEERY INTERNATIONAL, INC.

ATTEST:

By [Signature]

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

-or- [Signature]

Witness

[Signature]

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 Georgia

COUNTY OF Clayton

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of August, 2015 by Robert T. Chomiak of Heery Intl., Inc. Name of Person  
Name of Corporation or Agency

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

My Commission Expires:

[Signature]  
Signature - Notary Public

**DEBORAH A. COATS**

(SEAL)

Printed Name of Notary

April 26, 2018  
Notary's Commission No.



Heery International, Inc.

Position	Total Hours			TOTAL HOURS	Total Hours		TOTAL HOURS
	Yr 1	Yr 2	Yr 3	Years 1-3	Yr 4	Yr 5	Years 1-5
<b>Core Team Manhours</b>							
Program Manager	1,920	1,920	1,920	5,760	1,920	1,920	9,600
PM 1	1,920	1,920	1,920	5,760	1,920	1,920	9,600
PM 2	1,920	1,920	1,920	5,760	1,920	1,920	9,600
PM 3	1,760	1,920	1,920	5,600	1,920	1,920	9,440
PM 4	1,760	1,920	1,920	5,600	1,920	1,920	9,440
PM 5	1,760	1,920	1,920	5,600	1,920	1,920	9,440
PM 6 School Choice Projects	1,920	1,920	1,920	5,760	1,920	1,920	9,600
PM 7 Music Program	1,760	1,920	1,920	5,600	1,920	1,920	9,440
Document Control	1,920	1,920	1,920	5,760	1,920	1,920	9,600
Project Controls Coordinator	1,920	1,920	1,920	5,760	1,920	1,920	9,600
Outreach Monitor	432	480	480	1,392	480	480	2,352
Scheduler	960	960	960	2,880	960	960	4,800
Design Reviewers	1,600	1,920	1,920	5,440	1,920	1,920	9,280
Program Safety Coordinator	192	192	192	576	192	192	960
Specification/Guidelines	432	192	192	816	192	192	1,200
PMIS Coordinator	480	480	480	1,440	480	480	2,400
Student Intern Program (2)	960	960	960	2,880	960	960	4,800
Sr. Management Overview	48	48	48	144	48	48	240
Sr. Management Overview	48	48	48	144	48	48	240
Principal In Charge/Launch	192	96	96	384	96	96	576
Program Launch Team 1	280	-	-	280	-	-	280
Program Launch Team 2	280	-	-	280	-	-	280
	24,464	24,576	24,576	73,616	24,576	24,576	122,768
<b>COSTS</b>							
<b>Core Team</b>							
Total Labor Costs	\$ 2,608,812	\$ 2,609,086	\$ 2,674,313	\$ 7,892,210	\$ 2,741,171	\$ 2,809,700	\$ 13,443,081
<b>Design Criteria Packages</b>							
2.0% of Program Cost	2,150,400	1,928,640	1,412,040	\$ 5,491,080	1,157,873	237,364	\$ 6,886,317
<b>Commissioning</b>							
1.0% of Program Cost	268,800	1,102,080	706,020	\$ 2,076,900	723,671	741,762	\$ 3,542,333
<b>Total Expenses</b>	\$ 256,600	\$ 80,400	\$ 82,410	\$ 419,410	\$ 84,470	\$ 86,582	\$ 590,462
<b>TOTAL ESTIMATED FEE</b>	\$ 5,284,612	\$ 5,720,206	\$ 4,874,783	\$ 15,879,600	\$ 4,707,184	\$ 3,875,408	\$ 24,462,192
<b>Proposed Not To Exceed</b>	\$ 5,390,000	\$ 5,830,000	\$ 4,980,000	\$ 16,200,000	\$ 4,810,000	\$ 3,980,000	\$ 24,990,000
	Year 1	Year 2	Year 3	Years 1 through 3	Year 4	Year 5	Years 1 through 5

**PROGRAM YEAR 1**

Position	Annual Salary - Budgeted	Budgeted Hourly Raw Rate	Multiplier	Budgeted Billing Rate	Estimated Year 1 Hours	Budgeted Year 1 Fee
Program Manager	\$ 166,400	\$ 80.00	2.25	\$ 180.00	1920	\$ 345,600
PM 1	\$ 118,560	\$ 57.00	2.25	\$ 128.25	1920	\$ 246,240
PM 2	\$ 114,400	\$ 55.00	2.25	\$ 123.75	1920	\$ 237,600
PM 3	\$ 104,000	\$ 50.00	2.25	\$ 112.50	1760	\$ 198,000
PM 4	\$ 93,600	\$ 45.00	2.25	\$ 101.25	1760	\$ 178,200
PM 5	\$ 93,600	\$ 45.00	2.25	\$ 101.25	1760	\$ 178,200
PM 6 School Choice Projects	\$ 93,600	\$ 45.00	2.25	\$ 101.25	1920	\$ 194,400
PM 7 Music Program	\$ 93,600	\$ 45.00	2.25	\$ 101.25	1760	\$ 178,200
Document Control	\$ 54,080	\$ 26.00	2.25	\$ 58.50	1920	\$ 112,320
Project Controls Coordinator	\$ 72,800	\$ 35.00	2.25	\$ 78.75	1920	\$ 151,200
Outreach Monitor	\$ 70,720	\$ 34.00	2.25	\$ 76.50	432	\$ 33,048
Scheduler	\$ 93,600	\$ 45.00	2.25	\$ 101.25	960	\$ 97,200
Design Reviewers	\$ 83,200	\$ 40.00	2.25	\$ 90.00	1600	\$ 144,000
Program Safety Coordinator	\$ 93,600	\$ 45.00	2.25	\$ 101.25	192	\$ 19,440
Specification/Guidelines	\$ 97,760	\$ 47.00	2.25	\$ 105.75	432	\$ 45,684
PMIS Coordinator	\$ 87,360	\$ 42.00	2.25	\$ 94.50	480	\$ 45,360
Student Intern Program (2)	\$ 31,200	\$ 15.00	2.25	\$ 33.75	960	\$ 32,400
Sr. Management Overview	\$ 187,200	\$ 90.00	2.25	\$ 202.50	48	\$ 9,720
Sr. Management Overview	\$ 187,200	\$ 90.00	2.25	\$ 202.50	48	\$ 9,720
Principal In Charge/Launch	\$ 187,200	\$ 90.00	2.25	\$ 202.50	192	\$ 38,880
Program Launch Team 1	\$ 187,200	\$ 90.00	2.25	\$ 202.50	280	\$ 56,700
Program Launch Team 2	\$ 187,200	\$ 90.00	2.25	\$ 202.50	280	\$ 56,700
Design Criteria Packages Labor Budget	Varies	Varies	2.25	Varies	Varies	\$ 2,150,400
Commissioning Labor Budget	Varies	Varies	2.25	Varies	Varies	\$ 268,800

Labor \$ 5,028,012

Reimbursable Expenses Cell Phones, Travel, Local Mileage, Printing, Mail, Relocation, Equipment, Supplies Reimbursable Expenses \$ 256,600

Estimated Total \$ 5,284,612

Year 1 Not-to-Exceed \$ 5,390,000

**PROGRAM YEAR 2**

Position	Annual Salary - Budgeted	Budgeted Hourly Raw Rate	Multiplier	Budgeted Billing Rate	Estimated Year 2 Hours	Budgeted Year 2 Fee
Program Manager	\$ 170,560	\$ 82.00	2.25	\$ 184.50	1920	\$ 354,240
PM 1	\$ 121,524	\$ 58.43	2.25	\$ 131.46	1920	\$ 252,396
PM 2	\$ 117,260	\$ 56.38	2.25	\$ 126.84	1920	\$ 243,540
PM 3	\$ 106,600	\$ 51.25	2.25	\$ 115.31	1920	\$ 221,400
PM 4	\$ 95,940	\$ 46.13	2.25	\$ 103.78	1920	\$ 199,260
PM 5	\$ 95,940	\$ 46.13	2.25	\$ 103.78	1920	\$ 199,260
PM 6 School Choice Projects	\$ 95,940	\$ 46.13	2.25	\$ 103.78	1920	\$ 199,260
PM 7 Music Program	\$ 95,940	\$ 46.13	2.25	\$ 103.78	1920	\$ 199,260
Document Control	\$ 55,432	\$ 26.65	2.25	\$ 59.96	1920	\$ 115,128
Project Controls Coordinator	\$ 74,620	\$ 35.88	2.25	\$ 80.72	1920	\$ 154,980
Outreach Monitor	\$ 72,488	\$ 34.85	2.25	\$ 78.41	480	\$ 37,638
Scheduler	\$ 95,940	\$ 46.13	2.25	\$ 103.78	960	\$ 99,630
Design Reviewers	\$ 83,200	\$ 40.00	2.25	\$ 90.00	1920	\$ 172,800
Program Safety Coordinator	\$ 95,940	\$ 46.13	2.25	\$ 103.78	192	\$ 19,926
Specification/Guidelines	\$ 100,204	\$ 48.18	2.25	\$ 108.39	192	\$ 20,812
PMIS Coordinator	\$ 89,544	\$ 43.05	2.25	\$ 96.86	480	\$ 46,494
Student Intern Program (2)	\$ 31,980	\$ 15.38	2.25	\$ 34.59	960	\$ 33,210
Sr. Management Overview	\$ 191,880	\$ 92.25	2.25	\$ 207.56	48	\$ 9,963
Sr. Management Overview	\$ 191,880	\$ 92.25	2.25	\$ 207.56	48	\$ 9,963
Principal In Charge/Launch	\$ 191,880	\$ 92.25	2.25	\$ 207.56	96	\$ 19,926
Program Launch Team 1	\$ 191,880	\$ 92.25	2.25	\$ 207.56	0	\$ -
Program Launch Team 2	\$ 191,880	\$ 92.25	2.25	\$ 207.56	0	\$ -
Design Criteria Packages Labor Budget	Varies	Varies	2.25	Varies	Varies	\$ 1,928,640
Commissioning Labor Budget	Varies	Varies	2.25	Varies	Varies	\$ 1,102,080

Labor \$ 5,639,806

Reimbursable Expenses Cell Phones, Travel, Local Mileage, Printing, Mail, Relocation, Equipment, Supplies Reimbursable Expenses \$ 80,400

Estimated Total \$ 5,720,206

Year 2 Not-to-Exceed \$ 5,830,000

**PROGRAM YEAR 3**

Position	Annual Salary - Budgeted	Budgeted Hourly Raw Rate	Multiplier	Budgeted Billing Rate	Estimated Year 3 Hours	Budgeted Year 3 Fee
Program Manager	\$ 174,824	\$ 84.05	2.25	\$ 189.11	1920	\$ 363,096
PM 1	\$ 124,562	\$ 59.89	2.25	\$ 134.74	1920	\$ 258,706
PM 2	\$ 120,192	\$ 57.78	2.25	\$ 130.01	1920	\$ 249,629
PM 3	\$ 109,265	\$ 52.53	2.25	\$ 118.20	1920	\$ 226,935
PM 4	\$ 98,339	\$ 47.28	2.25	\$ 106.38	1920	\$ 204,242
PM 5	\$ 98,339	\$ 47.28	2.25	\$ 106.38	1920	\$ 204,242
PM 6 School Choice Projects	\$ 98,339	\$ 47.28	2.25	\$ 106.38	1920	\$ 204,242
PM 7 Music Program	\$ 98,339	\$ 47.28	2.25	\$ 106.38	1920	\$ 204,242
Document Control	\$ 56,818	\$ 27.32	2.25	\$ 61.46	1920	\$ 118,006
Project Controls Coordinator	\$ 76,486	\$ 36.77	2.25	\$ 82.74	1920	\$ 158,855
Outreach Monitor	\$ 74,300	\$ 35.72	2.25	\$ 80.37	480	\$ 38,579
Scheduler	\$ 98,339	\$ 47.28	2.25	\$ 106.38	960	\$ 102,121
Design Reviewers	\$ 85,280	\$ 41.00	2.25	\$ 92.25	1920	\$ 177,120
Program Safety Coordinator	\$ 98,339	\$ 47.28	2.25	\$ 106.38	192	\$ 20,424
Specification/Guidelines	\$ 102,709	\$ 49.38	2.25	\$ 111.10	192	\$ 21,332
PMIS Coordinator	\$ 91,783	\$ 44.13	2.25	\$ 99.28	480	\$ 47,656
Student Intern Program (2)	\$ 32,780	\$ 15.76	2.25	\$ 35.46	960	\$ 34,040
Sr. Management Overview	\$ 196,677	\$ 94.56	2.25	\$ 212.75	48	\$ 10,212
Sr. Management Overview	\$ 196,677	\$ 94.56	2.25	\$ 212.75	48	\$ 10,212
Principal In Charge/Launch	\$ 196,677	\$ 94.56	2.25	\$ 212.75	96	\$ 20,424
Program Launch Team 1	\$ 196,677	\$ 94.56	2.25	\$ 212.75	0	\$ -
Program Launch Team 2	\$ 196,677	\$ 94.56	2.25	\$ 212.75	0	\$ -
Design Criteria Packages Labor Budget	Varies	Varies	2.25	Varies	Varies	\$ 1,412,040
Commissioning Labor Budget	Varies	Varies	2.25	Varies	Varies	\$ 706,020

Labor \$ 4,792,373

Reimbursable Expenses Cell Phones, Travel, Local Mileage, Printing, Mail, Relocation, Equipment, Supplies

Reimbursable Expenses \$ 82,410

Estimated Total \$ 4,874,783

Year 3 Not-to-Exceed \$ 4,980,000

REIMBURSABLE EXPENSES

	Year 1 basis				Year 1	Year 2	Year 3	Total
	Qty	Unit \$	\$/mo	# of mo				
Truck N/A	-	\$ 600	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Cell Phone	11	\$ 125	\$ 1,375	\$ 12	\$ 16,500	\$ 12,000	\$ 12,300	\$ 40,800
Travel - Other	1	\$ 2,000	\$ 2,000	\$ 12	\$ 35,000	\$ 18,000	\$ 18,450	\$ 71,450
Copier SBBC	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Travel - Mileage	15	\$ 350	\$ 5,250	\$ 12	\$ 63,000	\$ 33,600	\$ 34,440	\$ 131,040
Printing	1	\$ 700	\$ 700	\$ 12	\$ 8,400	\$ 6,000	\$ 6,150	\$ 20,550
Long Dista SBBC	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Overnight Mail	1	\$ 250	\$ 250	\$ 12	\$ 3,000	\$ 3,000	\$ 3,075	\$ 9,075
Regular Mail	1	\$ 200	\$ 200	\$ 12	\$ 2,400	\$ 2,400	\$ 2,460	\$ 7,260
Misc	1	\$ 300	\$ 300	\$ 12	\$ 3,600	\$ 3,000	\$ 3,075	\$ 9,675
					\$ 131,900	\$ 78,000	\$ 79,950	\$ 289,850
Safety Supplies	1	\$ 100	\$ 100	\$ 12	\$ 3,600	\$ 1,200	\$ 1,230	\$ 6,030
Small Tools/Consumal	1	\$ 100	\$ 100	\$ 12	\$ 11,100	\$ 1,200	\$ 1,230	\$ 13,530
Computers	14	\$ 5,000	\$ 70,000	\$ 1	\$ 70,000	\$ -	\$ -	\$ 70,000
Relocation	1	\$ 40,000	\$ 40,000	\$ 1	\$ 40,000	\$ -	\$ -	\$ 40,000
					\$ 124,700	\$ 2,400	\$ 2,460	\$ 129,560
<b>TOTAL EXPENSES</b>					\$ 256,600	\$ 80,400	\$ 82,410	\$ 419,410



**Cost Proposal**  
**Project Information and Assumptions**

Project information	Full Program	Split Program
1 Value of 2015 Projects	\$134.4M	\$67.2M
2 No. of Projects/Schools listed for 2015	107	53
3 Biggest Project	\$14.8M	\$14.8M
4 Average Project Size	\$1.23M	\$1.23M
5 Number of \$100K Projects	29	14
6 Average Project Size w/o Small Projects	\$1.69M	\$1.69M

**Assumptions**

1	Each PM will handle project through all phases	
2	Ave Number of Projects Grouped into a Design/Construction Package	4
3	Max Package Size per typical PM - concurrent	\$15.0M
4	Max Package Count per typical PM - concurrent	4
5	Project Duration in Months - average	
	< \$200K	6
	> \$200K and < \$1.0M	8
	> \$1.0M and < \$5.0M	10
	> \$5.0M	12
6	Project Mix for typical PM	
	< \$200K	
	> \$200K and < \$1.0M	2
	> \$1.0M and < \$5.0M	1
	> \$5.0M	1
7	Expected Number of PMs Required	5
8	Max Number of PMs Required	8
9	All estimating will be performed by the Program Controls consultant.	