



ADDED ITEM

AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

MEETING DATE	2018-08-07 10:05 - School Board Operational Meeting
AGENDA ITEM	ITEMS
CATEGORY	JJ. OFFICE OF FACILITIES & CONSTRUCTION
DEPARTMENT	Facilities Pre-Construction

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

ITEM No.:
JJ-18.

TITLE:
Third Amendment and First Extension of Program Manager - Owner's Representative Services Agreement - CBRE | Heery, Inc.

REQUESTED ACTION:
Approve the Third Amendment and First Extension for Program Manager, Owner's Representative Services Agreement, CBRE | Heery, Inc. This Amendment has been reviewed and approved as to form and legal content by the Office of the General Counsel.

SUMMARY EXPLANATION AND BACKGROUND:
See Executive Summary (Exhibit 1) for details.

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.

EXHIBITS: (List)
(1) Executive Summary (2) Agreement

BOARD ACTION:
APPROVED
(For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:

Name: Shelley N. Meloni, Director	Phone: (754) 321-1515
Name:	Phone:

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

Leo Bobadilla - Chief Facilities Officer

Signature
Leo Bobadilla Jr
8/6/2018 10:28:03 AM

Approved In Open Board Meeting On:

AUG - 7 2018

By: *Nora Kupar*
School Board Chair

EXECUTIVE SUMMARY

On August 18, 2015, the District entered into a contract with Heery International, Inc. ("Heery") to provide Program Manager - Owner's Representative Services ("OR"). The term of the Agreement was for three (3) years from August 19, 2015 to August 18, 2018, with an option to be extended for two (2) additional, one (1) year periods, and if needed, 180 days beyond the expiration date of the renewal period.

At the time the original Agreement was negotiated, the District had contemplated the engagement of two firms to provide OR services to oversee the District's SMART Program, and one separate Cost and Program Controls Manager to manage control systems for the program. However, negotiations with the second OR firm were unsuccessful. Instead, the District asked Heery to manage the scope of both OR firms in order to continue to move the SMART Program forward.

On May 2, 2017, the Board approved the First Amendment to the Heery Agreement to include the additional scope and services required to move the SMART Program forward. The First Amendment also increased the original base fee of \$16,200,000 (to managing a volume of work representing approximately half of the SMART program) to \$27,498,000 (to oversee the entire SMART program with a volume of work that is approximately \$900 million).

This Third Amendment is requesting a bifurcation into two periods of the first one (1) year renewal period to extend the initial term of the Agreement for a period of 60 days from August 19, 2018 through and including October 18, 2018.

The purpose of this 60-day initial extension is to allow staff to assess the organizational structure of CBRE | Heery, Inc. ("CBRE") to make sure the proposed staffing recommendations for the renewal year appropriately address the progress of the SMART Program.

Additionally, staff has evaluated CBRE over the past two years and wishes to formally incorporate measurable criteria into the Agreement to evaluate CBRE's performance via metrics.

It is the intent of staff to bring forth another Board item for approval in September, 2018 to extend for the second renewal period from October 19, 2018 through and including August 20, 2019 at which time the proposed staffing recommendation, evaluation tool, description of any added services and proposed fee for the renewal period will be included.

This Amendment has been reviewed and approved as to form and legal content by the Office of the General Counsel.

**THIRD AMENDMENT TO AGREEMENT FOR
PROGRAM MANAGER/OWNER'S REPRESENTATIVE SERVICES**

between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

and

CBRE HEERY, INC.

THIS THIRD AMENDMENT to the Program Manager/Owner's Representative Services Agreement by and between The School Board of Broward County, Florida ("SBBC") and CBRE Heery, Inc. ("CBRE") dated August 18, 2015 (the "Agreement"), is hereby entered into this 7th day of August 2018.

WHEREAS, SBBC and CBRE acknowledge and agree that the Agreement is in full force and effect as revised by the First Amendment dated May 2, 2017, the Second Amendment dated April 24, 2018 and this Third Amendment; and

WHEREAS, the parties mutually desire to bifurcate the first one (1) year renewal period available under the Agreement and provide greater detail about the one hundred eighty (180) day extension of term available under the Agreement; and

WHEREAS, the parties mutually desire to extend the initial term of the Agreement for a period of sixty (60) days to enable SBBC to fully assess the services provided by CBRE prior to SBBC's consideration of a longer period of Agreement renewal.

NOW THEREFORE, in exchange for the mutual covenants and promises set forth herein and other good and valuable consideration, the parties agree as follows:

1. **Revised Terms.** Article 2.01 **Term of the Agreement** is amended by the addition of terms identified by *underlined and italicized text* as follows:

Unless terminated earlier pursuant to Section 3.05 of this Agreement, the *initial* 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. *After the initial term of this Agreement, the term of the Agreement may be extended upon mutual agreement of the parties for the following durations:*

- (a) *First Renewal Period: August 19, 2018 through and including October 18, 2018 (60 days);*
- (b) *Second Renewal Period: October 19, 2018 through and including August 20, 2019 (305 days); and*
- (c) *Third Renewal Period: August 21, 2019 through and including August 20, 2020 (365 days).*

If considering renewal of the Agreement, SBBC's Procurement & Warehousing Services Department will request a letter to renew from CBRE prior to the end of the then current term. The exercise of implementation of any renewal period shall be approved by an Amendment to this Agreement.

In addition, SBBC may elect at its sole discretion to extend the Agreement for an additional one hundred and eighty (180) day period beyond the conclusion of the Third Renewal Period.

2. **Exercise of First Renewal Period.** The parties agree to exercise the First Renewal Period as revised through this Third Amendment and to extend the term of the Agreement from August 19, 2018 through and including October 18, 2018.

3. **Other Provisions Remain in Force.** All other terms and conditions of the Contract shall remain in full force and effect. Except as expressly provided herein and as may have been previously amended, all other portions of the Agreement remain in full force and effect.

4. **Order of Precedence among Agreement Documents.** In the event of conflict between the provisions of the Agreement and the provisions contained herein, the provisions of the following documents shall take precedence in this order:

- a) this Third Amendment to Agreement; then
- b) the Second Amendment to Agreement; then
- c) the First Amendment to Agreement; then
- d) the Agreement.

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

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IN WITNESS WHEREOF, the Parties hereto have made and executed this Third Amendment to Agreement on the day and year first above written.



FOR SBBC

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

By Nora Rupert
Nora Rupert, Chair

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

Approved as to Form and Legal Content:

M. Money
Office of the General Counsel

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FOR CBRE

(Corporate Seal)

CBRE HEERY, INC.

ATTEST:

, Secretary

By MC
Rob Chomiak, Senior Managing
Director, South Region

-or-

Carolyn Newwood
Witness

Mark Adum
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 FULTON

The foregoing instrument was acknowledged by for me this 30th day of July, 2018,
by ROB CHOMIAK of CBRE HEERY, INC. on behalf of the corporation or agency, who is
personally known to me and did/did not first take an oath.

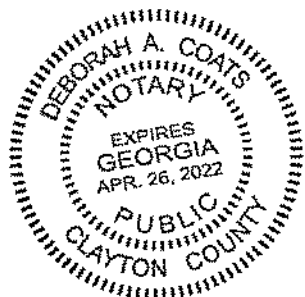
My commission expires:

April 26, 2022

Deborah A. Coats
Signature - Notary Public

Deborah A. Coats
Printed Name of Notary

(SEAL)



**CONSENT RESOLUTION OF THE BOARD OF DIRECTORS
OF CBRE HEERY, INC.
IN LIEU OF MEETING**

Pursuant to O.C.G.A. § 14-2-821, the Board of Directors of CBRE Heery, Inc. f/k/a Heery International, Inc., (the "Corporation") adopts the following resolution by unanimous consent in lieu of a meeting, and hereby directs that the written consent be filed in the minute book of the Corporation.

Resolved, that Robert Chomiak is vested with authority to execute on behalf of and legally bind the Corporation with regard to Amendment No. 3 of the contract dated August 18, 2015 between the Corporation and The School Board of Broward County, Florida.

Effective as of July 27, 2018.


Michael A. Holleman, Sole Director