

AGENDA REQUEST FORM
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Meeting Date <div style="border: 1px solid black; text-align: center; padding: 2px;">1/25/11</div>	<table style="width: 100%;"><tr><td style="width: 50%; text-align: center; padding: 2px;">Open Agenda __Yes __X No</td><td style="width: 50%; text-align: center; padding: 2px;">Time Certain Request __Yes __X No</td></tr></table>	Open Agenda __Yes __X No	Time Certain Request __Yes __X No	Agenda Item Number <div style="border: 1px solid black; text-align: center; padding: 2px;">F-3</div>
Open Agenda __Yes __X No	Time Certain Request __Yes __X No			

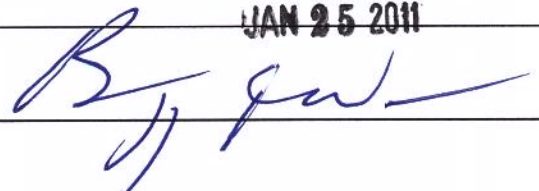
TITLE:	F- 3 Contract Agreement between The Florida Heiken Children's Vision Program, Liability Limited Company (LLC), and The School Board of Broward County, Florida				
REQUESTED ACTION:	Approve the agreement between The Florida Heiken Children's Vision Program, LLC, and The School Board of Broward County, Florida (SBBC).				
SUMMARY EXPLANATION AND BACKGROUND:	<p>The Florida Heiken Children's Vision Program, LLC, Agreement for 2010-2011 with The School Board of Broward County, Florida will provide comprehensive eye examinations and eye glasses, when prescribed, to children in need who otherwise have no insurance; and have failed their school vision screening twice.</p> <p>Students eligible to receive these services must meet the eligibility requirements of being enrolled in free and reduced lunch program or attend a Title I school, and have no insurance, and failed vision screening. Services will be provided to students in conjunction with input from the school principal or designee, and with parental permission. Eye exams will be performed at three satellite clinic locations. (See the attached list of the Satellite Clinics.)</p> <p>The SBBC will identify the students that qualify to participate in the program; and perform a second vision screening to be certain that the children did indeed fail and qualify for the vision services.</p> <p>This agreement has been reviewed and approved as to form and legal content by the School Board Attorney. This agreement will be executed after School Board approval.</p>				
SCHOOL BOARD GOALS:	<p><input type="checkbox"/> •Goal One: Raise achievement of all students to ensure graduation from high school and readiness for post-secondary education.</p> <p><input checked="" type="checkbox"/> •Goal Two: Improve the health and wellness of students and personnel.</p> <p><input type="checkbox"/> •Goal Three: Provide a safe and secure physical and technological environment for all students and employees.</p> <p><input type="checkbox"/> •Goal Four: Promote innovation which focuses on best practices and quality efforts that improve our best-in-class position.</p> <p><input type="checkbox"/> •Goal Five: Recruit, develop, retain, and recognize high performing and diverse faculty and personnel.</p> <p><input checked="" type="checkbox"/> •Goal Six: Build strong partnerships with family, business, community and government at the classroom, school, area, and district level.</p> <p><input type="checkbox"/> •Goal Seven: Ensure district's leadership as an environmental steward through innovative ecology and energy conservation programs.</p>				
FINANCIAL IMPACT:	There is no financial impact to the School District.				
EXHIBITS: (List)	Agreement with The Florida Heiken Children's Vision Program; LLC				
BOARD ACTION:	<div style="text-align: center; font-weight: bold; font-size: 1.2em;">APPROVED</div>				
SOURCE OF ADDITIONAL INFORMATION:	<table style="width: 100%;"><tr><td style="width: 60%;">Marcia Bynoe</td><td style="width: 40%;">754-321-2274</td></tr><tr><td>Kathrine Francis</td><td>754-321-2560</td></tr></table>	Marcia Bynoe	754-321-2274	Kathrine Francis	754-321-2560
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(For Official School Board Records' Office Only)	<table style="width: 100%;"><tr><td style="width: 60%;">Name</td><td style="width: 40%;">Phone</td></tr></table>	Name	Phone		
Name	Phone				

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Joanne W. Harrison, Ed., D., Deputy Superintendent
Educational Programs & Student Support

Approved in Open Board Meeting
on: _____

JAN 25 2011

By:  School Board Chair

The Florida Heiken Children's Vision Program, LLC, Cooperative Agreement 2011

Satellite Clinics of Broward County, Florida

- A- NOVA Southeastern University
3200 South University Drive
Sanford Ziff Building (2nd Floor)
Davie, Florida 3328
954-262-4200

- B- Eye Care Institute (KIDS)
1111 West Broward Blvd. (2nd Floor)
Specialty Care Center
Fort Lauderdale, Florida 33312
954-262-4200

- C- Kids in Distress Campus
819 North East 26th Street, Building, 2nd Floor
Wilton Manor, Florida 33305
954-567-5640

AGREEMENT

THIS AGREEMENT is made and entered into as of this 25 day of January, 2011, 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

THE FLORIDA HEIKEN CHILDREN'S VISION PROGRAM; LLC,

(hereinafter referred to as ("*FLORIDA HEIKEN*")),
Florida Limited Liability Company whose principal place of business is
601 Southwest 8th Avenue, Miami, Florida 33130

WHEREAS, the Florida Heiken proposes to provide comprehensive eye examinations and eye glasses, when prescribed, to children in need who otherwise have no insurance; and have failed their school vision screening twice.

WHEREAS, SBBC students eligible to receive these services must meet eligibility requirements by being enrolled in the schools free and reduce lunch program or attend a Title I school and also have no other means of insurance (including Medicaid, and other such insurance plans). They must also fail the school vision screening twice before any services can be acquired.

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 3.04 of this Agreement, the term of this Agreement shall commence on January 26, 2011 and conclude on June 30, 2011.

2.02 **Services to be Provided:**

Florida Heiken Agrees to:

- (a)-Provide comprehensive eye exams by optometrists in their offices and prescription glasses to eligible SBBC students who need them;
- (b)-Contact screening coordinator/designee at each SBBC school regarding scheduling for eye exams;
- (c)-Collaborate with each SBBC school's screening coordinator/designee to ensure proper protocol
- (d)-Send school forms, brochures, and instructions regarding vision exams to the school screener/designee to enable the school screening coordinator/designee to forward materials to the children and their parents;
- (e)-Comply with SBBC procedures to protect the confidentiality of student records and information and it assures the parents, or the student who is beyond the age of eighteen (18), the right of access, as specified in Section 1002.22, Florida Statutes, and Rule 6A-1.0955, F.A.C.;
- (f)-Comply with the requirements of Sections 1012.32, 1012.456, and 435.04, Florida Statutes as well with the requirements of HB 1877, The Jessica Lunsford Act; and
- (g)-Services shall be provided to SBBC students in conjunction with input from the school principal, or designee, and can be adjusted at anytime. Services are to be provided at three satellite clinics located in Broward County;

A- NOVA Southeastern University
3200 South University Drive
Sanford Ziff Building (2nd Floor)
Davie, Florida 3328
954-262-4200

B- Eye Care Institute (KIDS)
1111 West Broward Blvd. (2nd Floor)
Specialty Care Center
Fort Lauderdale, Florida 33312
954-262-4200

C- Kids in Distress Campus
819 North East 26th Street, Building, 2nd Floor
Wilton Manor, Florida 33305
954-567-5640

2.03 **SBBC Performance:**

SBBC Agrees to:

- (a)-Identify the students that qualify to participate in the program;
- (b)-Perform a second vision screening to be certain that the children did indeed fail and qualify for the vision services;
- (c)-Instruct participating schools to send the Florida Heiken forms, brochures etc. home to students who qualify for the vision services; and

(d) Follow-up with the parents of the students who qualified to see if services were provided and the outcome of the referral.

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

2.05 **Indemnification.**

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 agent's 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 Florida Heiken: Florida Heiken 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 Florida Heiken, its agents, servants or employees; the equipment of Florida Heiken, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of Florida Heiken or the negligence of Florida Heiken 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 Florida Heiken, 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.

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 **Non-Discrimination.** The parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this Agreement because of race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.

3.04 **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.

3.05 **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.

3.06 **Entire 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.

3.07 **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.

3.08 **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.

3.09 **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. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

3.10 **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.

3.11 **Governing Law.** 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.

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

3.13 **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.

3.14 **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.

3.15 **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.

3.16 **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unlawful, unenforceable or void in any respect, the invalidity, illegality, unenforceability or unlawful or void nature of that provision shall not effect any other provision and this Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

3.17 **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: Marcia Bynoe, Director
Health Education Services
600 Southeast Third Avenue
Fort Lauderdale, Florida 33301

To Florida Heiken: Florida Heiken Children Vision Program
601 SW 8th Avenue, Miami Florida 33132
Virginia Jacko, President

With a Copy to:

Name to be Provided by Other Party

Address

3.18 **Captions.** The captions, section numbers, article numbers, title and headings appearing in this Agreement are inserted only as a matter of convenience 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 **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.

3.20 **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.

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

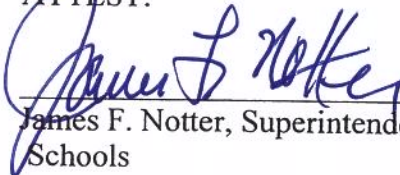
FOR SBBC

(Corporate Seal)

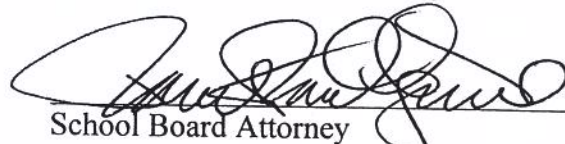
THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

By 
Benjamin J. Williams, Chair

ATTEST:

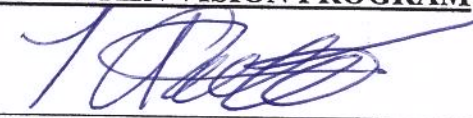

James F. Notter, Superintendent of
Schools

Approved as to Form and Legal Content:


School Board Attorney

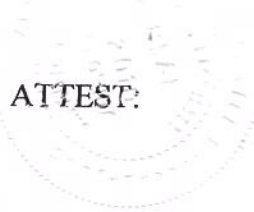
FOR THE FLORIDA HEIKEN CHILDREN VISION PROGRAM


(Corporate Seal)



THE FLORIDA HEIKEN CHILDREN'S VISION PROGRAM, LLC

ATTEST:



By 

Virginia A. Jacko
President & CEO

, Secretary

-or-

The Florida Heiken Children's Vision Program, LLC a division of
The Miami Lighthouse for the Blind and Visually Impaired, Inc.

Witness

Witness

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

STATE OF Florida

COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 25th day of January, 2011 by Virginia A. Jacko of The Florida Heiken Children's Vision Program, Inc. Name of Person
a div. of The Miami Lighthouse for the Blind & Visually Impaired, 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:

9/15/2013

[Signature]

Signature – Notary Public

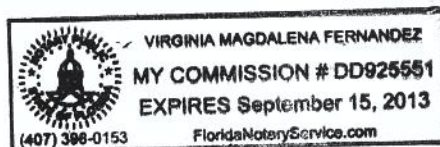
Virginia Fernandez

Printed Name of Notary

DD925551

Notary's Commission No.

(SEAL)



Virginia A. Jacko
CEO & President