

**CHARTER SCHOOL
MANAGEMENT AGREEMENT**

between

SCHOOL BOARD OF OSCEOLA COUNTY, FLORIDA

and

THE FOUNDATION FOR OSCEOLA EDUCATION, INC.

a Florida non-profit corporation

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**CHARTER SCHOOL
MANAGEMENT AGREEMENT**

THIS MANAGEMENT AGREEMENT is made and entered into as of the 20th day of April, 2004, by and between SCHOOL BOARD OF OSCEOLA COUNTY, FLORIDA, a political subdivision of the State of Florida (“Administrator”), and THE FOUNDATION FOR OSCEOLA EDUCATION, INC., a Florida municipal corporation (“Foundation”).

WITNESSETH:

WHEREAS, Foundation wishes to hire Administrator, and Administrator wishes to be hired by Foundation to organize, manage, staff, and operate its Charter School upon the terms and conditions set forth herein;

NOW, THEREFORE, for mutual and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree with each other as follows:

1. Definitions.

The following terms when capitalized and used in this agreement shall have the following meanings:

“Act” means Sections 1002.33 and 1013.62, Florida Statutes (2003), , the applicable rules, regulations and procedures established by the DOE and the School Board, and other provisions of law, whether federal, state, or local, applicable to the establishment, operation, and funding of the Charter School and the conducting of Other Programs, as amended from time to time.

“Additional Revenues” means any moneys, income, investments, or amounts received by Administrator or by Foundation specifically for the operation of the Charter School for activities at the School Facility in addition to FTE Revenues, Contribution Revenues, and Investment Earnings, including but not limited to Other Program Revenues, and Grant Revenues, excluding Before/After School Revenues, Summer School Revenues, PreK programs, Foundation Funds, and Supplemental Services Revenues.

“Administrative Allocation” means the compensation to which Administrator is entitled for performing its services, as described in and calculated in accordance with, and subject to such conditions for payment as are provided in the provisions of this Agreement.

“Administrator” means the School Board of Osceola County, Florida or its successors under this Agreement.

“Agreement” means this Charter School Management Agreement, as amended and/or supplemented from time to time.

“Annual Audit” means an audit of the financial statements of the Charter School for the applicable Fiscal Year as performed by the Auditor.

“Annual Budget” means the budget for the Charter School for a Fiscal Year showing expected Revenues, Operating Expenses, Foundation Expenses, Administrative Allocation, and Surplus, together with a statement of the assumptions upon which the various line items in the Annual Budget have been based, prepared in accordance with the provisions of Paragraph 19 of this Agreement.

“Auditor” means such firm of independent certified public accountants as shall be retained by the Administrator and approved by Foundation.

“Before/After School Revenues” means any fees, incomes, or other Revenues, received by Administrator from the offering of Before/After School Programs at the School Facility.

“Benefit District” means the Bellalago Educational Facilities Benefit District.

“Charter” means the Charter held by Foundation from the Osceola County School Board for Bellalago Charter School.

“Charter School” means the educational institution created pursuant to the Charter, in accordance with the terms of this Agreement.

“Charter School Operating Account” means the account established pursuant to Paragraph 32 of this Agreement.

“Commencement Date” means the date of execution of this Agreement by both parties.

“Consumer Price Index” means Consumer Price Index, all Urban Consumers (CPI-U) as published by the United States Department of Labor. The base month for the Consumer Price Index shall be July, 2004.

“Contributions” means all gifts, bequests, donations, any transfers in any other form of cash, securities, investments, or other liquid assets, for use in connection with the Charter School, if received by Administrator.

“Contribution Revenues” means the dollar amount of Contributions received in any given Fiscal Year.

“Direct Services” means reasonable expenses budgeted for services provided by Administrator which are not paid for from Administrative Allocation, including but not limited to, professional development services, transportation costs in excess of state funding received, and other expenses as included in the Annual Budget. Administrator shall present to Foundation a plan and rationale for any Direct Service item that exceeds \$50,000.00 for each Fiscal Year.

“DOE” means the State Education Agency.

“Enrolled Student” means each elementary and/or secondary student considered as participating in the educational programs at the Charter School as a result of the most recent FTE Count or the FTE Initial Estimate, as the case may be.

“Entitlements” means any entitlement given by the State or Federal government to a targeted student population.

“Expiration Date” means June 30, 2007.

“FFE” means furniture, fixtures, equipment, library books, and technology for use in operation of the Charter School.

“Fiscal Year” means the annual period beginning on July 1 and ending on the next succeeding June 30.

“Force Majeure” shall mean acts of God, strikes, lockouts, inability to procure materials or equipment, failure of power, restrictive legal requirements, riots and insurrections, acts of the public enemy, wars, earthquakes, hurricanes and other natural disasters, fires, explosions, unavoidable casualties or the action or promulgation of any statute, rule, regulation or order by any federal, state or local governmental or judicial agency or official (including the revocation or refusal to grant licenses or permits, where such revocation or refusal is not directly caused by the party claiming Force Majeure), any act, failure to act or default of the other party to this Agreement.

“Foundation” means The Foundation for Osceola Education, Inc., which holds the Charter for the Charter School and which has accepted the responsibility to oversee the operation and management of the Charter School.

“Foundation Expenses” means the fees and expenses budgeted in the Annual Budget for such expenses as Foundation shall incur from time to time as a result of its entering into the Charter, this Agreement, and the Lease and Security Agreement, including the expenses for such accountants, attorneys, financial consultants, and other independent professional advisors and consultants as Foundation may retain and be obligated to pay from time to time as a result of entering into the Charter and this Agreement, for such purposes as Foundation, in its sole discretion, shall deem necessary or desirable to effectuate the purposes of the Charter and of this Agreement.

“Foundation Funds” means all gifts, bequests, donations, any transfers in any other form of cash, securities, investments, or other liquid assets, for use in connection with the Charter School, if received by Foundation and moneys awarded by governmental, charitable, or other organizations for the providing of specific facilities, programs, resources, or personnel in connection with the operation of the Charter School, if such moneys are received by Foundation.

“FTE Revenues” means all FEFP and categorical moneys provided by the State for the current operation of the Charter School.

“GAAP” means generally accepted accounting principles as applied in the context of the operation of public educational institutions.

“Grants” means moneys awarded by governmental, charitable, or other organizations for the providing of specific facilities, programs, resources, or personnel in connection with the operation of the Charter School, if such moneys are received by Administrator.

“Grant Revenues” means the dollar amount of Grants received in any given Fiscal Year.

“Investment Earnings” means the income and gain (net of any loss) realized on the moneys invested by the Administrator on behalf of the Charter School.

“Operating Expenses” means the current expenses of operating the Charter School, including, without limiting the generality of the foregoing: payroll processing expenses, personnel salaries, cost of assessment materials, insurance premiums, costs for public utility services, custodial expenses, expenses for maintenance of grounds and buildings, marketing expenses, auditing expenses, one-time opening expenses, and other items reflected in the Annual Budget including but not limited to Direct Services by Administrator and required to be paid from Total Revenues and not from Administrative Allocation and the expenses incurred by Administrator from time to time hereafter, in connection with the opening of any Charter School and the expenses incurred by Administrator in connection with moving any Charter School to a new School Facility. The payment of Operating Expenses is subject to availability and payment of FTE funds from the State of Florida, as provided by law.

“Other Programs” means additional programs with an educational purpose offered by Administrator at the School Facility, excluding before school programs, after school programs, pre-kindergarten programs, summer school programs and Supplemental Services.

“Other Program Revenues” means any fees, income, or other revenues received by Administrator from the offering of Other Programs at the School Facility.

“Plans and Specifications” means the site plans, architectural drawings, schedules of FF&E, and other descriptions of the School Facility.

“Proprietary Materials” means all copyrighted and other proprietary rights to all instructional materials, training materials, curriculum and lesson plans, and any other materials created and developed by Administrator, its employees, agents or subcontractors, or by any individual working for or supervised by Administrator, which material is developed during working hours or during time for which the individual is being paid by Administrator.

“Renewal and Replacement Expense” means the expenses incurred for the long-term renewal and replacement of the School Facility.

“Renewal and Replacement Fund” means the account established and funded pursuant to the Trust Indenture between The Bellalago Educational Facilities Benefit District and SunTrust

Bank, as Trustee dated as of _____ authorizing the Osceola County Industrial Development Authority Revenue Bonds, Series 2004A (Bellalago Charter School Project).

“School Board” means The School Board of Osceola County, Florida, a public corporation of the State.

“School District Administrative Fee” means the fee authorized by § 1002.33(20)(a)1., Florida Statutes, withheld from state funds earned by the Charter School.

“School Facility” means the real property and improvements thereon for the operation of any Charter School and any other School Facility that Foundation may use for the Charter School.

“School Year” means the portion of the calendar year during which classes are required to be in session at the Charter School, excluding vacations.

“Summer School Revenues” means any fees, incomes, or other revenues, received by Administrator from the offering of Summer School Programs at the School Facility.

“Supplemental Services” means any supplemental educational services offered by the Administrator at the Charter School that is funded primarily through the No Child Left Behind Act.

“Supplemental Services Revenues” means any fees, income, or other revenues received by Administrator from the offering of Supplemental Services Programs at the School Facility.

“Surplus” means the residual Fund Balance remaining in the Charter School General Fund and Special Revenue Funds at the end of each Fiscal Year after the payment of the Operating Expenses, and the Administrative Allocation.

“Term” means the period from the Commencement Date to the Expiration Date, without reference to any extensions of the Expiration Date.

“Total Revenues” means, for any Fiscal Year, the aggregate of FTE Revenues, Contribution Revenues, Investment Earnings, Entitlements, Summer School Revenues, and Additional Revenues received, or budgeted to be received, as the case may be, by Foundation and Administrator, specifically for the operation of the Charter School.

“Transportation Revenues” means all moneys provided from the State for the provision of transportation services to eligible Enrolled Students.

“Trustees Payments” means the payments due the Trustee to fund the Renewal and Replacement Fund as presented in the financial pro forma statements attached as Exhibit A to the Funding Agreement between the School Board, the Bellalago Educational Facilities Benefit District, and Avatar Properties, Inc.

2. Hiring and Term.

Foundation hereby hires Administrator as an independent contractor, and Administrator hereby agrees to serve, as an independent contractor, as a administrator for the purpose of organizing, managing, staffing, and operating the Charter School pursuant to the provisions of this Agreement, the Charter and the Act.

Subject to provisions regarding termination as provided in this Agreement and as provided in the Charter, the Term of this Agreement shall be for three (3) years, unless terminated or cancelled earlier pursuant to the provisions of this Agreement.

Foundation shall have access to all financial, and operational records of the Charter School and nothing contained in this Agreement shall be construed to restrict Foundation's right and obligation to govern the Charter School pursuant to the Charter, the Act, and other applicable law.

3. Services to be provided by Administrator.

Administrator shall operate the Charter School and provide administrative and management services for the Charter School from within the Total Revenues as set forth in this Agreement.

4. School Facility.

Foundation shall provide to Administrator the School Facility for use as a Charter School. Administrator shall provide all FFE necessary for operation of the Charter School, funded by the proceeds of the Bellalago Educational Facilities Benefit District Capital Improvement Revenue Bonds, Series 2004A.

5. Pre-Opening Administration.

Administrator shall provide in a timely manner customary pre-opening management and operational services. The services contemplated are those outlined in Exhibit A attached hereto, and shall be funded from the proceeds of the Bellalago Educational Facilities Benefit District Capital Improvement Revenue Bonds, Series 2004A. It is the intent of the parties hereto to allow Administrator to utilize all of the excess bond proceeds to fund FFE expenses. Attached hereto as Exhibit C is the current budgeted uses for bond proceeds, and any monies not used for said purposes shall be made available to the Administrator for FFE.

6. School Name and Identity.

The Charter School will be identified as Bellalago Charter Academy.

7. Performance.

Administrator shall use reasonable efforts to ensure that the Charter School and the students of such Charter School meet or exceed all performance criteria set forth in the Charter.

Administrator shall perform its duties and responsibilities as set forth in this Agreement to the reasonable satisfaction of Foundation.

8. Accreditation.

Administrator shall apply for appropriate accreditation of the Charter School.

9. Compliance with Applicable Laws.

Administrator and Foundation shall be jointly responsible for ensuring that the operation of the Charter School complies with the provisions of this Agreement, the Charter, the Act, and any other laws, ordinances, rules and regulations applicable to such operation. Administrator shall further be responsible for ensuring that all Other Programs and all other activities at the School Facility are conducted in compliance with all applicable local, state, and federal laws and regulations and with the policies of the Foundation.

If Administrator is notified by the State, by DOE, or by any other governmental authority or by any other person or entity that Administrator or Foundation may be in violation of the Charter or the Act, then Administrator shall immediately notify Foundation of the claimed violation and shall take steps to cure in a timely fashion any and all such violations which relate to responsibilities of Administrator hereunder. Administrator and Foundation jointly shall be responsible for coordinating any and all activities of the Charter School with the requirements of the School Board and for complying with reasonable requests of the School Board regarding the Charter School.

10. Curriculum.

Administrator and Foundation jointly shall develop and plan a curriculum design for the Charter School which complies with the Act, the Charter, and the applicable policies of DOE and the School Board and the Foundation.

11. Assessment.

Administrator shall administer to the students of the Charter School all standard tests which are required by the Act, the Charter, and the applicable policies of DOE and the School Board.

12. Personnel Administration.

Administrator shall employ sufficient personnel to operate the Charter School. Such personnel will be employees of the Administrator. Administrator shall employ such personnel as Administrator, in its sole judgment, determines is necessary to properly operate the Charter School.

Administrator shall determine, the employee benefits that will be offered to such personnel and shall administer the provision of such benefits. Administrator shall use commercially reasonable efforts to prevent the interruption of the educational activities of the Charter School caused by the absence of school personnel.

The Administrator acknowledges that the Foundation is in the process of formally documenting certain personnel policies it wishes to implement at its Charter Schools. The parties further acknowledge that certain personnel policies may not be able to be implemented based upon collective bargaining requirements. Accordingly, the parties will cooperate with each other with regard to the Foundation's personnel policies, and will implement those policies which do not violate collective bargaining requirements.

13. Training and Staff Development.

Administrator shall be responsible for all appropriate training and staff development for school staff. Administrator shall present to Foundation an annual plan for professional staff development in conjunction with its presentation of the budget pursuant to Paragraph 19.

14. Transportation Management Service.

Administrator shall provide for transportation services. In the event Administrator expends funds for the provision of transportation services in excess of the Transportation Revenues, the excess shall be paid as an Operating Expense of the School. The Charter School shall comply in all material respects with all federal, state, local and School Board laws, ordinances, rules, and regulations regarding the provision of transportation to eligible Enrolled Students attending the Charter School.

15. Cafeteria Management Service.

Charter School shall comply in all material respects with all federal, state, local and School Board laws, ordinances, rules, and regulations regarding the provision of food service to eligible Enrolled Students attending such Charter School.

16. Parent Activities.

Administrator and Foundation shall jointly coordinate and oversee all organized parental involvement with the Charter School. In addition, Administrator shall establish and shall work with, parent-teacher organizations for the purposes of furthering the goals of the Charter School. This joint coordination may include but is not limited to the school improvement planning process and School Advisory Council.

17. Public Relations.

Administrator shall provide, public relations for the Charter School, to include press releases and media relations. In times of crisis or after incidents which may be construed as adverse or negative, Administrator shall consult with Foundation on matters relating to public advertising and press communications.

18. Before/After School Programs and Summer School Programs.

Administrator shall present to Foundation an annual plan for Before/After School Programs and Summer School Programs.

19. Financial Budgeting, Accounting and Reporting.

Administrator shall manage all budget, accounting, and financial reporting functions for the Charter School in accordance with GAAP and the provisions of the Charter, including, without limiting the generality of the foregoing: approving and making payment of all Trustee Payments, Administrative Allocation, Foundation Expenses, and Operating Expenses in accordance with the Annual Budget; and recording amounts due to and payable by the Charter School.

- a. Annual Budget. Administrator shall prepare and submit to Foundation for its review and approval for each Fiscal Year an Annual Budget for the Charter School. Each Annual Budget shall state an estimate for the coming Fiscal Year for: the total number of unweighted FTE; the total number of personnel; Total Revenues; Operating Expenses; Foundation Expenses; Administrative Allocation; Trustee Payments, and Surplus.
 - i. Administrator shall submit to Foundation for its review and approval a preliminary Annual Budget for the next Fiscal Year for the Charter School, on or before April 30 of the current Fiscal Year. It is the intent of this provision that Administrator prepare and submit to Foundation a balanced Annual Budget, which shall provide for full payment of the Operating Expenses, Foundation Expenses, Administrative Allocation, and Trustee Payments with respect to the Charter School.
 - ii. Foundation must notify Administrator in writing that it approves the Annual Budget within sixty (60) days of submission by Administrator, which approval shall not be unreasonably withheld or delayed. If Foundation does not approve the Annual Budget, Foundation shall give specific reasons therefore. If Foundation does not approve the Annual Budget within thirty (30) days of submission by Administrator, Administrator shall operate the Charter School from the Total Revenues available according to the previous year's budget, adjusted for present student enrollment, and continue to fulfill its obligations under this Agreement, the Charter and the Act, and Foundation shall continue to negotiate in good faith to agree upon a new Annual Budget. If Foundation does not approve the Annual Budget within ninety (90) days of submission by Administrator, Administrator and Foundation shall attempt to resolve the dispute through non-binding mediation. If the parties do not promptly agree on a mediator, either party may request the then-chief judge of the Ninth Judicial Circuit of Florida, to appoint a circuit mediator certified by the Supreme Court of Florida.
 - iii. Administrator will amend the Annual Budget(s) not less frequently than semi-annually in order to reflect the results of the most recent FTE count and may make such other modifications as it may from time to time find necessary or advisable pursuant to the terms of Paragraph 19 (i) and (ii) above, including, but not limited to, a \$25,000.00 line item budget change and a \$50,000.00 total budget change. Administrator shall submit the amended Annual Budget to Foundation within forty-five (45) days of the FTE count.

- iv. Administrator shall operate the Charter School according to its Annual Budget.
 - v. Ending Fund Balance: Fund Balances remaining at the close of each fiscal year after payment of all Operating Expenses, Foundation Expenses, Administrative Allocation, and Trustee Payments, shall be retained by the School and carried forward to the next year's budget as Beginning Fund Balance.
 - vi. Unanticipated expenditures may occur near the end of a Fiscal Year that could result in a negative Ending Fund Balance. Negative Ending Fund Balances will be carried forward as Beginning Fund Balance in the subsequent year's budget. In the event of termination of this Agreement, any excess of liabilities over assets of the Charter School will survive as liabilities of the Foundation, payable from available Total Revenues.
- b. Audits. The Annual Budget shall provide for payment of the cost of an Annual Audit of the financial statements maintained by Administrator with respect to the Charter School. Foundation must approve the selection of the Auditor. Administrator shall make the required accommodations for the Annual Audit of the Charter School, which shall include: maintaining all records of the Charter School financial operations; making available of office space at the School Facility or District Office; use of telephone and copying equipment; and access to all school records and source documents; all subject to the providing of reasonable prior written notice to Administrator of the scheduling of such audit functions. The Annual Audit shall be addressed to Administrator and Foundation.
 - c. Monthly Reports. Administrator shall prepare and submit to Foundation monthly financial statements, which shall include a balance sheet, a statement of revenues and expenditures, year-to-date, including a comparison with the Annual Budget for the current Fiscal Year reported on a modified cash basis of accounting.
 - d. Other. Administrator shall report any changes in the assumptions upon which the Annual Budget was based within a reasonable time after Administrator becomes aware of such changes.

20. Payroll.

Administrator shall maintain, administer, and report payroll for the Charter School, including, without limitation, processing and issuing all checks, maintaining all reports and payroll records and filing all necessary forms and returns. All Payroll and other financial transactions shall be recorded in a manner allowing the payroll costs to be traced directly to the financial expenditures of the Charter School.

21. Management Information Systems.

Administrator shall comply with all Charter Contract requirements.

22. Records Retention.

Administrator shall protect, preserve and maintain all records affecting the Charter School, pursuant to the provisions of Chapter 119, Florida Statutes as amended from time to time.

23. Insurance.

Administrator shall obtain and maintain policies of insurance in accordance with the requirements as set forth in the Charter, except that Administrator may rely upon sovereign immunity limits where applicable and may maintain property insurance for wind damage with a deductible of 2% of the affected location for named storms. Administrator shall provide proof of such insurance to Foundation. Administrator shall review these insurance coverages on an annual basis and provide recommendations to the Foundation as needed.

24. Maintenance.

Administrator shall oversee the required daily and other routine maintenance for the School Facility. Administrator shall supervise and oversee capital repairs on the School Facility with funds available from the Renewal and Replacement Fund. Amounts in the Renewal and Replacement Fund may be also applied to address any extraordinary health/safety maintenance items which may arise during the term of this Agreement. Amounts on deposit in the Renewal and Replacement Fund shall be disbursed to Administrator pursuant to the procedure set forth in Section 6.07 of the Trust Indenture between the Bellalago Educational Facilities Benefit District and SunTrust Bank, as Trustee dated _____ authorizing the Osceola County Industrial Development Authority Revenue Bonds, Series 2004A (Bellalago Charter School Project).

25. Grants.

Administrator shall actively identify, apply for, and pursue such Grants as may be available to support or enhance the achievement of the purposes of the Charter School. With the consent of Foundation, grants may be applied for in the name of Foundation.

26. Additional Revenue Sources.

In order to supplement FTE Revenues, to enhance the programs offered at the Charter School, and to improve the quality of education at the Charter School, Administrator shall endeavor to obtain revenue from additional sources, including Grants and Contributions.

27. Balanced Budget.

Administrator shall use reasonable efforts to operate the Charter School within its Annual Budget. It is the specific intent of the parties that the Charter School's Annual Budget provide for payment of: (1) Foundation Expenses, (2) Operating Expenses, (3) Direct Services, (4) Administrative Allocation, (5) Trustee Payments.

28. Subcontracts.

Administrator may subcontract within the Annual Budget for the performance of its responsibilities provided that Administrator shall remain individually responsible for, and accountable to Foundation for, the performance of all the duties and responsibilities of Administrator under this Agreement, the Charter, and the Act, whether or not Administrator engages subcontractors to perform such duties and responsibilities on its behalf. Administrator shall be responsible for the management of all subcontractors in the performance of their work.

Notwithstanding the above, however, Administrator may only subcontract its responsibilities pursuant to Paragraph 10 hereunder with the consent of Foundation, which consent shall not be unreasonably withheld.

29. Administrative Allocation

An Administrative Allocation shall be paid each year to the Administrator. The Administrative Allocation shall be payable monthly second only to Trustee Payments and prior to any other expenses of the school.

The Administrative Allocation shall be computed by multiplying total state revenues subject to the School District Administrative Fee by a percentage determined annually as described below. The Administrative Allocation shall be the amount so computed reduced by the amount of the School District Administrative Fee. The Administrative Allocation shall be adjusted periodically throughout the year based on changes in state revenues.

The Administrative Allocation percentage shall be computed based on School District data from the prior fiscal year using the methodology presented in Exhibit B, modified as may be necessary from year to year due to changes in the state funding model or District operations. For initial budget purposes, the percentage shall be based on data from the second prior fiscal year and adjusted in a subsequent budget amendment when final data for the prior fiscal year is known.

In exchange for payment of the Administrative Allocation, the School District will provide district services to the School in kind and cost in a manner resembling as closely as feasible the manner in which it provides district services to non-charter schools. Because all categorical and FEFP revenues must be distributed directly to the school, however, there will be differences. Examples of the planned treatment of certain services and costs are as follows:

Maintenance: District level costs of the Maintenance Department are included in the Administrative Allocation. Therefore, the School will be charged only for the cost of parts and not labor in the same manner as non charter schools. The School will not have access to PECO Health and Safety funds.

Psychological and ESE services: The district level costs of these departments are included in the Administrative Allocation. Therefore, the School will be provided the same services provided non charter schools without additional charge.

Warehouse: The School will be charged in the same manner as non charter schools.

Professional Development: In the District, a large proportion of the Teacher Training categorical is used to fund the district Office of Professional Development. Because the school will receive its full Teacher Training categorical in budgeted revenues, the School must pay a proportionate share of funds received as an operating expense to the District to receive services from the Office of Professional Development.

Transportation: Transportation is excluded from the cost base in determining the Administrative Allocation. Therefore, the school will pay as a direct cost to the District any costs incurred in transporting students in excess of state categorical funding.

Insurance. Property and liability insurance is recorded as a District level cost and included in the Administrative Allocation. The School would be responsible for any additional costs of insurance not required for non charter schools.

Other categoricals and District holdbacks: The School will receive full funding of categoricals and FEFP except for the Administrative Allocation. The School will not be eligible for funds expended at the District level from categoricals or FEFP funds.

Extended Day: Extended Day services, if provided at the School, will not be recorded as either revenues or expenditures of the School.

PreK: District level costs of the PreK program are excluded from the Administrative Allocation. Accordingly, if a PreK program is offered at the school, the school will pay its proportionate share of District level costs as a direct operating expenditure. Otherwise revenues and expenditures of PreK programs will not be recorded as revenues or expenditures of the School.

Personnel, Information Systems, Finance, Accounts Payable, Payroll, Purchasing, Curriculum, ESOL: The School will receive the same level of service from the District as non charter schools. The cost of these services is included in the Administrative Allocation.

To the extent this subparagraph conflicts with the provisions contained in the School District's Technical Assistance Guide for Charter Schools, this subparagraph shall prevail.

30. Foundation Expenses:

The School will reimburse Foundation actual expenditures incurred in connection with the school in an amount not to exceed \$30,000 per year based on invoices submitted to Administrator by Foundation. The Foundation shall submit its budget for these expenses on an annual basis to the Administrator to be included in the Annual Budget.

31. Subordination of Fees

The Administrative Allocation provided in Paragraph 29 shall be subordinate only to Trustee Payments. In the event cash flows are insufficient to pay the Administrative Allocation as set forth in Paragraph 29 above, the Administrative Allocation shall accrue without Interest and shall be paid as soon as cash flows are sufficient.

32. Charter School Operating Account.

Total Revenues shall be deposited directly into the Charter School Operating Account, which is physically within the School Board's General Operating Account. Separate accountability for Charter School Funds will be maintained by Administrator.

- a. Designation of Administrator as Managing Agent for Accounts. Foundation hereby appoints Administrator as its managing agent for the purpose of managing the Accounts on behalf of Foundation. In this regard, Foundation expressly authorizes Administrator to access and disburse funds from the Accounts for the specific and limited purposes set forth in this Agreement.
- b. Limitations on Use of Funds from Accounts. Administrator is expressly authorized to disburse funds from the Accounts. These funds may be used only for the Charter School. The funds in the Charter School Operating Account below must be used in the following manner and in accordance with the Annual Budget:
 - i. Trustee Payments: Administrator shall disburse funds to Trustee for Trustee Payments when due.
 - ii. Administrative Allocation. Administrator shall disburse funds from the Charter School Operating Account to pay for Administrative Allocation as they become due and payable (including any accrued and unpaid Administrative Allocation).
 - iii. Foundation Expenses. Administrator shall disburse funds from the Charter School Operating Account to pay for Foundation Expenses.
 - iv. Operating Expenses. Administrator shall disburse funds from the Charter School Operating Account to pay for all Operating Expenses of the Charter School as they become due and payable.

33. Insufficient Funds.

To the extent that there are not sufficient funds in the Operating Account to pay Operating Expenses, Administrator may, at Administrator's option, deposit funds into the Charter School Operating Account. Foundation shall reimburse Administrator all such funds paid by Administrator, without Interest from Total Revenues as and when the funds become available.

34. Reimbursement of Disallowed Operating Expenses and FTE Revenues.

Administrator covenants to use the monies on deposit in the Charter School Operating Account solely to pay for its Operating Expenses permitted hereunder. Administrator shall immediately reimburse Foundation for any payments from the Charter School Operating Account that are determined to be an unallowable expenditure by the Auditor together with Interest earned

thereon, by a licensed auditor of the School Board, or by any department or division of the state or of the federal government.

35. Rights and Responsibilities of Foundation.

Foundation shall have the following rights with respect to the School Facility and the following responsibilities with respect to the Charter School:

- a. Sharing of Information. Foundation shall, in good faith, share information received related to the Charter School so as to permit Administrator to fulfill its obligations under this Agreement. If Foundation is notified by the state, by DOE, or by any other governmental authority or by any other person or entity, that Administrator or Foundation may be in violation of the Charter or the Act, Foundation shall immediately notify Administrator of the claimed violation and shall take steps to cure in a timely fashion any and all such violations which relate to responsibilities of Foundation hereunder.
- b. School Policy. Administrator shall consult with Foundation and obtain Foundation approval concerning general policies of the Charter School, the Annual Budget, educational programs recommended by Administrator, annual changes in enrollment targets, and any plans for the School Facility.

36. Cancellation/Termination by Foundation.

This Agreement may be canceled or terminated by the Foundation pursuant to the terms and conditions set forth in the Charter and may be terminated for cause as set forth herein:

- a. Notice. At least sixty (60) days prior to canceling/terminating the Agreement for cause as set forth herein, the Foundation shall notify the Administrator of the proposed cancellation/termination in writing. This written notice shall state in reasonable detail the grounds for the proposed action and shall provide the Administrator sixty (60) days in which to cure the alleged default or basis for termination. If the alleged default or basis for termination is not cured within the sixty (60) day cure period, this Agreement may be terminated without further obligations accruing for the benefit of the Administrator. The Foundation may not eliminate existing financial obligations for services already performed by terminating this Agreement. The Foundation may not eliminate existing financial obligations pursuant to Paragraph 38 herein. At the option of the Foundation, the cure period may be extended if the Administrator has made reasonable efforts to cure the alleged default or basis for termination.
- b. Termination for Cause. "Termination for Cause" may be for reasons including, but not limited to: a material violation of the Charter by the Administrator, a material violation of the Act, the failure of the Administrator to account for its expenditures or a failure to pay Operating Expenses if funds are available to do so, a failure to meet generally accepted standards of fiscal management, the insolvency or bankruptcy of the Administrator, the revocation, suspension or termination of licenses/certificates needed for Charter School operations, the revocation by the School Board of the Charter, and the failure to comply with

Foundation policies where such failure leads to a violation of the Act or the policies of the School Board that provided the Charter.

- c. Notwithstanding the foregoing, Foundation reserves the right and option to terminate this Agreement without cause and without penalty at the end of the third year of the contract term, consistent with applicable federal tax laws, rules and regulations affecting the transaction contemplated in this Agreement; provided, however, that in the event Foundation terminates this Agreement without cause pursuant to this paragraph, Foundation shall provide Administrator ninety (90) days written notice.

37. Termination by Administrator.

Administrator may terminate this Agreement prior to the end of the term specified in Paragraph 2, but not before the end of the then-current semester if terminated for any reason other than failure to make payments to the Charter School Operating Account or failure to pay Administrative Allocation, in the event Foundation fails to remedy a material breach within sixty (60) days after notice from Administrator. A material breach may include, but is not limited to, failure to make payments to the Charter School Operating Account or failure to pay Administrative Allocation for thirty days; the termination of the Charter Contract; or the failure of the School Facility to be substantially complete by commencement of the 2004/2005 school year or the unavailability of a suitable alternative school facility acceptable to Administrator which complies with all applicable federal and state statutes, rules, regulations and building codes for the operation of the school. No changes will be made by Foundation to the Charter that directly affect Administrator's performance without Administrator's prior written consent and approval, unless said modification is required by amendments to the Charter School legislation. In any event, Administrator shall not unreasonably withhold its consent.

38. Termination due to Loss of Charter.

Notwithstanding anything in Paragraphs 36 and 37, this Agreement shall terminate upon the termination of the Charter.

39. Transfer of Operations upon Termination; Payment of Subordinated Accrued Payments.

In recognition of the paramount importance of maintaining the integrity of, and continuing the operations of, the Charter School, in the event this Agreement is terminated pursuant to Paragraph(s) 36 or 37, or for any other reason as provided in this Agreement, Administrator agrees to cooperate with Foundation during the transition of operations of such Charter School from Administrator to Foundation, to the School Board, to another administrator, or otherwise. Such cooperation shall include, but not be limited to:

- a. Transfer to such entity of all student records.
- b. Providing reasonable assistance for up to thirty (30) days to effect the transition to another program or education service provider.

- c. Transferring any and all other information and providing necessary assistance to the new program or education service provider to ensure the least disruption of the Charter School operation as a result of the termination of this Agreement.
- d. If allowed pursuant to contract, transferring and/or assigning to Foundation all contracts, agreements, licenses, permissions, and other rights and privileges related to the operation of the Charter School.

Upon termination of this Agreement, for any reason other than by Foundation for "cause", Foundation shall remit to Administrator all outstanding Administrative Allocation and all deferred Administrative Allocation together with accrued Interest earned thereon and shall reimburse Administrator all operating funds advanced by Administrator pursuant to Paragraph 38 together with accrued Interest earned thereon and any other funds expended by Administrator on behalf of Foundation within thirty (30) days of termination.

40. Proprietary Information.

Foundation agrees that Administrator shall own all Proprietary Materials. All materials developed at the Charter School for the sole and exclusive use of the Charter School shall be the property of the Charter School.

Administrator shall have the sole and exclusive right to license such Proprietary Materials for use by other school districts, public schools, or customers or to modify and/or sell such materials to other schools and customers, including this Charter School. During the term of this Agreement, Administrator may disclose such proprietary information, including that which is currently in existence as well as that which may be created in the future. Foundation, to the extent permitted by law, shall treat all such Proprietary Materials, if identified thereof as copyrighted or otherwise identified by Administrator in writing to Foundation as a trade secret or as copyrighted, and shall use reasonable efforts not to disclose, publish, copy, transmit, modify, alter or utilize such Proprietary Materials during the term of this Agreement or at any time after its expiration other than to the extent necessary for implementation of this Agreement. Foundation shall use reasonable efforts to assure that no Foundation personnel or agent disclose, publish, copy, transmit, modify, alter or utilize the Proprietary Materials.

41. Other Programs.

Administrator may offer Other Programs at the School Facility. Other Programs will be consistent with Foundation's mission.

42. Supplemental Services.

Administrator may offer Supplemental Services at the School Facility. Supplemental Services Revenues shall be retained by Administrator.

43. Facility Use Fee.

Foundation acknowledges that Administrator will use and operate the School Facility for extended hours and for Other Programs and Supplemental Services and on varying schedules depending on the programs in place. When the School Facility is not in use by Administrator, the Bellalago Educational Facilities Benefit District may use the School Facility consistent with established policy. When the School Facility is not in use by either Administrator or the Bellalago Educational Facilities Benefit District, and with prior written notice to Administrator of the time, duration and scope of use, Foundation may use the School Facility for its own purposes, consistent with established policy. The Bellalago Educational Facilities Benefit District or the Foundation will reimburse Administrator for all costs associated with extended hours programs, including, but not limited to janitorial services, security, and insurance.

44. Use Fee by Administrator.

Foundation acknowledges that Administrator will provide Supplemental Services at the School Facility. The Administrator may use the School Facility to provide Supplemental Services, consistent with established policy.

45. Indemnification.

If and to the extent allowed by law, and without waiving the limits of sovereign immunity, each party hereto shall indemnify and hold harmless the other party, its public officials, officers, employees, agents and consultants from and against any and all actions, claims, suits, liabilities, proceedings, penalties, fines, costs, and expenses (including reasonable attorneys' fees at both the trial and appellate levels, including paralegal expenses) relating directly or indirectly to any breach of this Agreement or of the Charter or any violation of the Act or any other applicable law by such indemnifying party, its public officials, officers, employees, agents and consultants, servants or subcontractors, as applicable.

46. Entire Agreement.

This Agreement represents the entire understanding and agreement between the parties with respect to the subject matter hereof, and supersedes all other negotiations, understandings, and representations (if any) made by and between such parties. The provisions of this Agreement may not be amended, supplemented, or waived orally, but only by a writing signed by the parties and making specific reference to this Agreement.

47. Assignments.

No party shall assign its rights or obligations hereunder without the prior written consent of the other party to this Agreement, which consent may be withheld in the sole discretion of the party.

48. Further Assurances.

The parties hereby agree from time to time to execute and deliver such further and other assurances, assignments and documents and do all matters and things which may be convenient or necessary to more effectively and completely carry out the intentions of this Agreement.

49. Relationship of Parties.

The relationship between the parties hereto shall be solely as set forth herein and neither party shall be deemed to be an employee, agent, partner, or joint venture of the other.

50. Interpretations.

This Agreement shall not be construed more strictly against one party than against the other merely because it may have been prepared by counsel for one of the parties, it being recognized that both parties have been represented by counsel in connection with the negotiation of the terms hereof and have contributed substantially and materially to its preparation.

51. Time of the Essence.

Time of performance by either party of each and every provision or covenant herein contained is of the essence of this Agreement.

52. Binding Effect.

All of the terms and provisions of this Agreement, whether so expressed or not, shall be binding upon, inure to the benefit of, and be enforceable by the parties and their respective legal representatives, successors, and permitted assigns.

53. Notices.

All notices and other communications required or permitted under this Agreement shall be in writing and given by hand delivery; certified mail, return receipt requested; overnight courier, or facsimile to:

If to Administrator:

SCHOOL BOARD OF OSCEOLA
COUNTY
817 Beck Boulevard
Kissimmee, FL 34744
Attention: Blaine A. Muse, Superintendent

If to Foundation:

THE FOUNDATION FOR
OSCEOLA EDUCATION, INC.
c/O School District of Osceola County
817 Beck Boulevard
Kissimmee, FL 34744
Attention: Executive Director

Each such notice shall be deemed delivered:

- a. on the date delivered if by personal delivery or overnight courier,
- b. on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed; and
- c. on the date of transmission with confirmed answer back if by fax.

54. Headings.

The headings contained in this Agreement are for convenience of reference only, and shall not limit or otherwise affect in any way the meaning or interpretation of this Agreement.

55. Severability.

If any part of this Agreement or any other agreement entered into pursuant hereto is contrary to, prohibited by or deemed invalid under applicable law or regulation, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid, but the remainder hereof shall not be invalidated thereby and shall be given full force and effect so far as possible.

56. Survival.

All covenants, agreements, representations, and warranties made herein or otherwise made in writing by any party pursuant hereto shall survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

57. Waivers.

The failure or delay of any party at any time to enforce this Agreement shall not affect such party's right to enforce this Agreement at any other time. Any waiver by any party of any breach of any provision of this Agreement should not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right, power, or remedy under this Agreement. No notice to or demand on any party in any case shall entitle such party to any other or further notice or demand in any other circumstance.

58. Third Parties.

Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies on any person other than the parties hereto and their respective legal representatives, successors, and permitted assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third person to any party to this Agreement, nor shall any provision give any third person any right to subrogation or action over or against any party to this Agreement.

59. Jurisdiction and Venue.

The parties acknowledge that a substantial portion of the negotiations, anticipated performance and execution of this Agreement occurred or shall occur in Osceola County, Florida and shall agree that any suit, action or legal proceeding arising out of or relating to this agreement shall be brought in the courts of the State of Florida in Osceola County or the United States District Court, Middle District of Florida, and waive any objection which it may have to the laying of venue of any such suit, action, or proceeding in any of such courts. Each party by signing this Agreement waives its right to a trial by jury of any matters arising hereunder or related hereto and agrees that the trial of such matters shall be before a judge. Each party shall bear its own costs and expenses, including expenses of counsel, resulting from any such trial or dispute.

60. Remedies.

Either party to this Agreement may bring suit to enforce provisions hereof in appropriate judicial proceedings, including mediation or arbitration. No remedy herein conferred upon any party is 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 given hereunder or now or hereafter existing at law, in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

61. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

62. Dispute Resolution.

Except with respect to injunctive relief as provided in this Agreement, neither party shall institute a proceeding in any court or administrative agency to resolve a dispute between the parties before that party has sought to resolve the dispute through direct negotiation with the other party. If the dispute is not resolved within three (3) weeks after a demand for direct negotiation, the parties shall attempt to resolve the dispute through non-binding mediation. If the parties do not promptly agree on a mediator, either party may request the then-chief judge of the Ninth Judicial Circuit of Florida, to appoint a circuit mediator certified by the Supreme Court of Florida. If the mediator is unable to facilitate a settlement of the dispute within a reasonable time, as determined by the mediator, the mediator shall issue a written statement to the parties to that effect and the aggrieved party may then seek relief through the courts. All proceedings hereunder shall be held in Osceola County, Florida. The fees and expenses of the mediator shall be paid one-half (½) each by Administrator and Foundation.

63. Governing Law.

This Agreement and all transactions contemplated by this Agreement shall be governed by, construed, and enforced in accordance with the internal laws of the State of Florida, without regard to principles of conflicts of laws.

64. Force Majeure.

Notwithstanding anything herein to the contrary, Administrator shall not be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder for any unavoidable casualties or the action or promulgation of any statute, rule, regulation or order by any federal, state or local governmental or judicial agency or official (including the revocation or refusal to grant licenses or permits, where such revocation or refusal is not directly caused by Administrator), or any other event constituting Force Majeure or any other event of Force Majeure under the Charter or other contracts related to the operation of the Charter School.

65. Limitation of Liability.

It is understood and agreed between the parties that any obligation or liability created by this Agreement or services rendered in accordance with this Agreement shall only be funded from funds received specifically for the operation of the Charter School. Neither party has an obligation to utilize any funds other than funds received specifically for the operation of the Charter School, to pay for any obligations created by this Agreement or by services rendered pursuant to this Agreement.

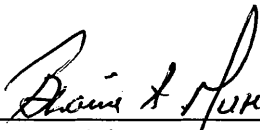
66. Effective Date.

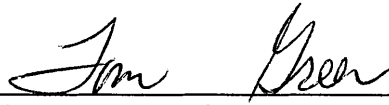
This Agreement shall be deemed to be effective as of the Commencement Date.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

ATTEST:

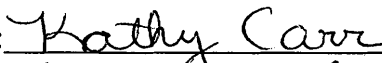
**THE SCHOOL BOARD OF OSCEOLA
COUNTY, FLORIDA**

By: 
Printed Name: Blaine A. Muse
Date: April 20, 2004

By: 
Printed Name: Tom Greer
Date: April 20, 2004

ATTEST:

**THE FOUNDATION FOR OSCEOLA
EDUCATION, INC.**

By: 
Printed Name: Kathy Carr
Date: 4/30/04

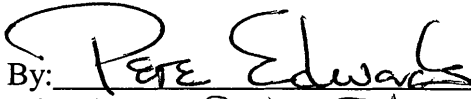
By: 
Printed Name: Pete Edwards
Date: 4/30/04

EXHIBIT A

This is Exhibit A to the Contract between Foundation and Administrator, and sets forth the pre-opening services to be rendered under this Agreement.

CURRICULUM DESIGN

- Recommend educational standards and expectations for the Charter School;
- Develop the scope and sequence of a curriculum, including selection of materials, and identification of student assessment instruments;

ESTABLISHING SCHOOL OPERATIONS

- Identify and purchase FF&E supplies for the Charter School and supervise installation thereof;
- Secure transportation arrangements for the Charter School;
- Secure food services arrangements for the Charter School;
- Conduct other procurement activities as necessary to start up the Charter School;
- Prepare specifications for technology and related services;
- Recruit School personnel, including teachers and administrators;
- Recommend business service systems, policies and procedures for accounts payable, audits, accounting and internal accounting;

SCHOOL MANAGEMENT

- Develop a proposed Annual Budget, pro-forma and revenue and expense statement subject to review and approval by Foundation;
- Register Eligible Students
- Identify and apply for a start-up Grant for the Charter School where eligible.

EXHIBIT B

Bellalago Administrative Fee Calculation
 Tentative for 2005, Based on 2003 Data
 (Revised 4/13/04)

Rate %	17.0
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<u>Administrative Cost Base</u>	
Total District Exp	33,135,498
Less Charter Reimbursement	-553,611
Less PreK District Exp 9503.19004	-62,692
Less Categorical Expenses at District Centers	
Inst Mtls	-152,066
Pub School Technology	-591,770
Teacher Training	-325,312
Safe Schools (FEFP)	-38,018
SAI Categorical (FEFP)	-502,412
Cost Base	30,909,617

<u>Revenue Base</u>	
Gross State and Local FEFP (includes Safe Schools, SAI, and ESE Guarantee)	173,770,503
Discretionary Lottery	2,917,001
Instructional Materials	4,049,619
Public School Technology	1,001,306
Teacher Training	578,295
Discretionary Millage	7,370,921
Discretionary Equalization	0
Workforce Development	4,632,722
Adults w/ Disabilities	43,711
Less: Charter Revenues	-12,402,451
Revenue Base	181,961,627

<u>Categorical/ FEFP Earmark Analysis</u>					
Categoricals:	Revenue	Tot Exp	Dist Exp	AFR Exp	Adjust Base
Discr Lottery (151010+164010)	2,917,001	10,640,234	48,225	0	no
Inst Materials (105200+162100)	4,049,619	2,677,411	152,066	3,916,259	yes
Public School Tech (190350)	1,001,306	1,080,688	591,770	1,007,506	yes
Teacher Training (151040)	578,295	366,190	325,312	578,295	yes
Summer Reading	0				
FEFP Earmarks:					
Safe Schools (151450)	948,018	1,195,566	38,018	948,018	yes
SAI (151020+151030)	9,132,219	6,833,972	502,412	8,949,575	yes
ESE Guaranteed Allocation					no

<u>Centers Excluded</u>	
Ext day	9016
Perf Arts Center	9103
Foundation	9126
Special Programs	9309
Transportation	9402

EXHIBIT C

Bellalago Budget
2004-05
(Revised 4/16/2004)

Sources	Bonds- FFE	Bonds- Foundation Contingency (4)	Civil Engineeri ng (5)	Startup Grant #1	FEFP 576 Students	Constructi on Contingen cy (6)	Total
	552,000	275,000	100,000	240,000	2,589,896	75,000	3,831,896

Needs	Total						Funded	Unfunded
PreOpening OCSB (1)	30,000		30,000				30,000	0
PreOpening Foundation (6)	11,000		11,000				11,000	0
FFE	1,238,000	552,000	234,000	100,000	150,000	75,000	1,111,000	127,000
Trustees Payments	0						0	0
Administrative Allocation (2)	342,750					342,750	342,750	0
Foundation Expense (6)	20,000					20,000	20,000	0
Audit	10,000					10,000	10,000	0
Textbooks	182,000				30,000	58,496	86,496	95,504
Startup Supplies	60,000				60,000		60,000	0
Operations (3)	2,216,227					2,160,650	2,160,650	55,577
Total	4,109,977	bal	bal	bal	bal	bal	3,831,896	278,081

(1) PreOpening cost per mo.
School Starts Aug 5
Principal/ month 8,082
Secretary 3,211
Data Entry 3,211

(2) Administrative Allocation
5% Holdback 117,509
17% Gross 342,750

(3) Operations
Normal budget 2,136,595
Utilities 90,000
Less: Textbooks -10,368
Total 2,216,227

(4) Foundation Contingency
Per Construction Budget 275,000
Less: Estimate for Found -50,000
Balance 225,000

(5) Civil Engineering
Per Taylor Smith 4/8/04

(6) Foundation Expenses
Per Kathy Carr 4/15/04