

**ORDINANCE NO. 03-15**

**AN ORDINANCE CREATING THE BELLALAGO EDUCATIONAL FACILITIES BENEFIT DISTRICT; AND PROVIDING THE DISTRICT NAME; PROVIDING ITS BOUNDARIES; PROVIDING FOR ITS DISTRICT PURPOSE; PROVIDING FOR DISTRICT POWERS; ESTABLISHING A GOVERNING BOARD FOR THE BENEFIT DISTRICT; MEMBERSHIP, DUTIES, COMPENSATION; PROVIDING FOR REMOVAL OF SUPERVISORS AND THE FILLING OF VACANCIES; PROVIDING FOR FINANCING AND NON-AD VALOREM ASSESSMENT COLLECTION; PROVIDING FOR AUTHORITY TO ISSUE BONDS; PROVIDING FOR THE ADOPTION OF AN ANNUAL BUDGET; PROVIDING FOR DISBURSEMENT OF EXCESS REVENUES; PROVIDING FOR NOTICE OF PUBLIC MEETINGS AND REPORTING; PROVIDING FOR CONSISTENT PLANNING COMPLIANCE; PROVIDING FOR REQUIRED DISCLOSURE ON REAL ESTATE CONTRACTS; REQUIRING AN INTERLOCAL AGREEMENT AND CONFLICT RESOLUTION. REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Board of County Commissioners is authorized pursuant to Chapters 125 and 1013, Florida Statutes, to establish an Educational Facilities Benefit District when such district is located within the County, an Interlocal Agreement has been entered into between the County and the applicable School District, and all Landowners within the proposed district consent to such inclusion; and

**WHEREAS**, the County and the School District of Osceola County (School Board) are entering into an Interlocal Agreement providing for the creation of an Educational Facilities Benefit District (Benefit District), boundaries of the district, and district procedures; and

**WHEREAS**, the Landowner within the Benefit District has submitted a written consent, attached hereto as Exhibit B, to the County consenting to Benefit District creation and inclusion of all assessable lands within the district; and

**WHEREAS**, the County has taken testimony and considered the record of the public hearing and the factors set forth in Chapters 1013 and 189, Florida Statutes; and

**WHEREAS**, the County and School Board determined that the creation and use of an Educational Facilities Benefit District for the timely construction and maintenance of school facilities is appropriate and in the public interest, and will benefit present and future landowners within the Benefit District by accelerating construction of necessary educational facilities in close

proximity to benefitted landowners' property and assuring those landowners, and their successors, access to such educational facilities.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OSCEOLA COUNTY AS FOLLOWS:**

**SECTION 1 ESTABLISHMENT; NAME**

There is hereby created an Educational Facilities Benefit District known as the Bellalago Educational Facilities Benefit District (Benefit District), a dependent special district, hereby established pursuant to Sections 1013.355 and 189.4041, Florida Statutes.

**SECTION 2 BOUNDARIES**

The boundaries of the Benefit District are set forth in the legal description contained in the attached exhibit A. The Benefit District boundaries may be amended upon written consent of the School Board and any Landowner whose land is included therein and the adoption of an Ordinance by the County.

**SECTION 3 PURPOSE; INTENT**

The purpose of the Benefit District is to provide for the timely construction and maintenance of school facilities. The Benefit District is an alternative mechanism that allows for the sharing of educational facilities costs that is necessary to accommodate new growth and development.

**SECTION 4 POWERS**

- (A) The Benefit District shall have all the power and authority provided by Chapters 1013 and 189, Florida Statutes, and other provisions of law, including but not limited to the power and authority to finance, construct and maintain educational facilities as authorized by Chapter 1013, Florida Statutes, as amended from time to time. Said power shall be discharged in accord with this Ordinance and by law; provided, however, that the merger or dissolution of the Benefit District shall only be effectuated by a duly adopted ordinance of the County.
- (B) The Benefit District has the authority to adopt resolutions and policies prescribing the powers, duties, and functions of the officers of the Benefit District, the conduct of the business of the Benefit District, and the maintenance of records and documents of the Benefit District.
- (C) The Benefit District has the authority to enter into a use agreement with the County.
- (D) The Benefit District shall be required to carry insurance to protect the Benefit District from liability, as well as Errors and Omissions insurance policies for its Supervisors and any other insurance required by the County or authorized by law.

**SECTION 5 GOVERNING BOARD OF THE BENEFIT DISTRICT; INITIAL MEMBERSHIP; COMPENSATION; ADMINISTRATION DUTIES**

- (A) The Benefit District shall be governed by a Board of Supervisors (Board) and shall be comprised of five members that serve four-year terms. The County shall appoint one Supervisor, the School Board shall appoint one Supervisor, and the Landowner shall appoint three Supervisors. The term of office shall expire on May 30 of the end of their term.
- (B) The initial County and School Board appointees shall serve 4-year terms. One Landowner appointee shall serve a 4-year term and two Landowner appointees shall serve 2-year terms, as designated by the Landowner.
- (C) At its initial meeting, the Board shall appoint a Chair, Vice Chair, Treasurer and Secretary. The Treasurer and Secretary may be the same person. The term of office for the Chair, Vice Chair and Secretary/Treasurer shall be 1 year and no member shall hold the same office for more than two consecutive terms.
- (D) Following initial Board appointments, Landowner representatives on the Board shall be elected on a one-acre/one-vote basis with each acre or fraction thereof, which is subject to Benefit District assessments representing one vote. Each Landowner or their representative as evidenced by a written proxy approved by the Board of Supervisors shall be entitled to vote their acreage. Election procedures shall be established by the Board and shall provide a date of the election in the same month every election year.
- (E) The members of the Board shall serve without pay.
- (F) Three of the Supervisors shall constitute a quorum, and a majority of those Supervisors present is necessary for the transaction of any business of the Benefit District; except a majority of the entire Board shall be necessary to authorize the issuance of bonds.

**SECTION 6 REMOVAL OF SUPERVISORS AND FILLING OF VACANCIES**

- (A) The then-existing Board shall fill vacant supervisor seats through appointment; appointees shall serve until the expiration of the term for which they are appointed.
- (B) The County's appointee may be removed by the Board, but only for grounds constituting misfeasance, neglect of duty, incompetence, permanent inability to perform his or her official duties, or commission of a felony. The County may remove its appointee at will. The School Board's appointee may be removed by the School Board, but only for grounds constituting misfeasance, neglect of duty, incompetence, permanent inability to perform his or her official duties, or commission of a felony. Any elected Supervisor may be removed by the Governor but only for grounds constituting misfeasance, neglect of duty,

incompetence, permanent inability to perform his or her official duties, or commission of a felony.

#### **SECTION 7 METHODS OF FINANCING; NON AD VALOREM ASSESSMENT COLLECTION**

- (A) The Benefit District shall be financed pursuant to Sections 1013.355 and 1013.356, Florida Statutes, and all other applicable laws, as they may be amended from time to time, and the Interlocal Agreement entered into by the County and School Board, and as later amended.
- (B) The Benefit District may levy and collect non-ad valorem assessments as provided for by Section 1013.355 and Chapter 197, Florida Statutes, and any other authority provided by law, as they may be amended from time to time.

#### **SECTION 8 BONDS ISSUANCE**

The Benefit District may issue notes, bonds and other evidence of indebtedness pursuant to Chapters 1013, 125, 189, Florida Statutes, and other applicable laws. No pledge of the Benefit District shall constitute a pledge of the full faith and credit of the County or the School Board nor shall any of the debts or obligations of the Benefit District become the responsibility of the County or School Board.

#### **SECTION 9 BUDGET**

- (A) The Benefit District shall adopt a budget annually, and has the authority to amend it during the fiscal year.
- (B)
  - 1. Prior to preparation of the annual budget, the Board shall develop an annual proposed budget according to the provisions set forth in this section by May of each year, and hold a public hearing before the Landowners of the Benefit District.
  - 2. The Board, in each fiscal year, shall prepare an annual budget for operating revenue accounts and operating expense accounts, for its operations in the ensuing fiscal year and, on or before the first day of June of each year, the Chair of the Board shall submit such budget to the County. The fiscal year for the Benefit District shall be concurrent with the fiscal year of the County. At the time the Board prepares its annual budget, it shall adopt a resolution determining and finding the estimated amounts to be expended by the Board in the ensuing year, exclusive of any bonds or other obligations of the Benefit District. A certified copy of the resolution shall be submitted to the County at the same time that it submits its annual budget referred to above.

3. The County shall review the budget and the certified copy of the resolution within 30 days of receipt, and shall approve the budget of the Benefit District if in compliance with all applicable laws.
4. Prior to becoming effective, any budget amendment adopted by the Board that increases the total budget shall be approved by the County if in compliance with all applicable laws.
5. The County shall not amend the Benefit District's assessment or budget or take any action that would prevent the Benefit District from timely payment of any bonded indebtedness or contractual obligations lawfully incurred by the Benefit District.

#### **SECTION 10 EXCESS REVENUES**

If the Benefit District has any surplus unobligated revenues within a fiscal year, these revenues shall be retained by the Benefit District in an interest bearing account and the surplus revenues and interest accrued shall be used to accelerate the payment of the Benefit District's debt service and/or to build classroom additions or other educational facilities within the Benefit District. The determination of any surplus revenue shall be made at the same time the annual budget is adopted by the Benefit District.

#### **SECTION 11 REPORTING, NOTICE AND PUBLIC MEETING REQUIREMENT**

The Benefit District shall comply with all requirements of Section 189.415, 189.417 and 189.418, Florida Statutes, as may be amended from time to time.

#### **SECTION 12 PLANNING REQUIREMENTS**

The construction and maintenance of educational facilities within the Benefit District is consistent with the approved Osceola County Comprehensive Plan. Except as may otherwise be required by general law, the Benefit District is not required by this act to do comprehensive planning but shall comply with the Osceola County Comprehensive Plan as required by Chapter 189, Florida Statutes.

#### **SECTION 13 REQUIRED DISCLOSURE**

Subsequent to the establishment of a District under this Ordinance, each contract for the initial sale of a parcel of real property and each contract for the initial sale of a residential unit within the Benefit District shall include, immediately prior to the space reserved in the contract for the signature of the purchaser, the following disclosure statement in boldfaced and conspicuous type which is larger than the type in the remaining text of the contract.

**"THE BELLALAGO EDUCATIONAL FACILITIES BENEFIT DISTRICT WILL IMPOSE AND LEVY NON-AD VALOREM ASSESSMENTS ON THIS PROPERTY.**

THESE ASSESSMENTS PAY THE CONSTRUCTION AND MAINTENANCE COSTS OF EDUCATIONAL FACILITIES WITHIN THE BENEFIT DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE BENEFIT DISTRICT. THESE ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENT PROVIDED FOR BY LAW".

In addition, the foregoing disclosure shall be included in the deed or other instrument in the chain of title relating to the initial sale of a residential unit within the Benefit District.

#### SECTION 14 EXCEPTIONS AND INTERLOCAL AGREEMENTS

While the Benefit District shall have all of the authority and power contained within Chapter 1013, Florida Statutes, and other applicable laws, the Benefit District shall not exercise any power in conflict with the Interlocal Agreement adopted by the County and School Board.

#### SECTION 15 CONFLICT

All Ordinances in conflict herewith are hereby repealed.

#### SECTION 16 EFFECTIVE DATE

This Ordinance shall become effective upon final adoption and the final approval by the School Board of the Interlocal Agreement required pursuant to Chapter 1013, Florida Statutes.

PASSED AND ADOPTED by the Board of County Commissioners of Osceola County, at it duly noticed meeting this 15 day of September, 2003.

BOARD OF COUNTY COMMISSIONERS OF  
OSCEOLA COUNTY, FLORIDA

By: [Signature]  
Chairman/Vice Chairman

ATTEST:

[Signature]  
Clerk of the Board



NOTICE THAT THIS ORDINANCE HAS BEEN FILED WITH THE FLORIDA STATE BUREAU OF ADMINISTRATIVE CODE.

ON September 19 2003

BY [Signature]  
DEPUTY CLERK OF THE BOARD

EXHIBIT A  
LEGAL DESCRIPTION

**BELLALAGO SCHOOL BENEFIT DISTRICT**

DESCRIPTION:

ALL OF GOVERNMENT LOT 4 AND THAT PORTION OF GOVERNMENT LOT 3 LYING SOUTH OF THE OSCEOLA COUNTY PROPERTY AS DESCRIBED IN DEED BOOK 1174, PAGE 1288, LYING ABOVE THE HIGH WATER MARK OF LAKE TOHOPEKALIGA, IN SECTION 28, TOWNSHIP 26 SOUTH, RANGE 29 EAST, OSCEOLA COUNTY, FLORIDA.

AND

ALL OF SECTION 29 LYING SOUTH OF THE NORTH LINE OF MAC OVERSTREET ROAD AND EAST OF THE EASTERLY RIGHT OF WAY OF PLEASANT HILL ROAD, LESS AND EXCEPT THE FOLLOWING:

FROM THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF SECTION 29, TOWNSHIP 26 SOUTH, RANGE 29 EAST, OSCEOLA COUNTY, FLORIDA, RUN WEST ALONG THE SOUTH LINE OF SAID SOUTHWEST 1/4, 1545.3 FEET TO THE POINT OF BEGINNING; RUN THENCE NORTH AT RIGHT ANGLES TO SAID SOUTH LINE, 500.0 FEET; RUN THENCE WEST, PARALLEL TO SAID SOUTH LINE, 347 FEET MORE OR LESS TO THE EAST RIGHT OF WAY LINE OF PLEASANT HILL ROAD; RUN THENCE SOUTHERLY ALONG THE EAST RIGHT OF WAY OF SAID ROAD, TO THE SOUTH LINE OF SAID SOUTHWEST 1/4; RUN THENCE EAST, 441.41 FEET MORE OR LESS TO THE POINT OF BEGINNING.

AND

ALL OF THE EAST 1/2, AND THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 32 TOWNSHIP 26 SOUTH RANGE 29 EAST.

AND

ALL OF THE WEST 1/2, AND GOVERNMENT LOTS 1 AND 2 ABOVE THE ORDINARY HIGH WATER LINE OF LAKE TOHOPEKALIGA, OF SECTION 33, TOWNSHIP 26 SOUTH, RANGE 29 EAST.

AND

A PARCEL OF LAND LOCATED IN SECTION 29, TOWNSHIP 26 SOUTH, RANGE 29 EAST, IN OSCEOLA COUNTY, FLORIDA; BEING DESCRIBED AS FOLLOWS:  
COMMENCE AT THE NORTHWEST CORNER OF THE NORTHWEST ONE-QUARTER OF SECTION 29, TOWNSHIP 26 SOUTH, RANGE 29 EAST; THENCE NORTH 89°43'56" EAST ALONG THE NORTH LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 29, A DISTANCE OF 110.00 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF PLEASANT HILL ROAD (CR-531); THENCE DEPART SAID NORTH LINE ON A BEARING OF SOUTH 01°02'01" EAST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 642.58 FEET; THENCE SOUTH 00°59'19" EAST, ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 646.44 FEET; THENCE SOUTH 00°07'22" EAST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 835.64 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, SAID CURVE HAVING A RADIUS OF 2220.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE AND SAID RIGHT OF WAY LINE, A DISTANCE OF 731.56 FEET THROUGH A CENTRAL ANGLE OF 18°52'51" (CHORD DISTANCE 728.26 FEET; CHORD BEARING SOUTH 09°33'47" EAST) TO THE POINT OF TANGENCY; THENCE SOUTH 19°00'13" EAST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 416.25 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 19°00'13" EAST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 400.20 FEET; THENCE DEPART SAID RIGHT OF WAY LINE ON A BEARING OF NORTH 75°13'36" EAST, A DISTANCE OF 1002.89 FEET; THENCE NORTH 18°35'45" WEST, A DISTANCE OF 400.00 FEET; THENCE SOUTH 75°13'36" WEST, A DISTANCE OF 1005.75 FEET TO THE POINT OF BEGINNING.

AND

THAT PORTION OF THE NORTHWEST 1/4 AND THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4, SECTION 32, TOWNSHIP 26 SOUTH, RANGE 29 EAST, OSCEOLA COUNTY, FLORIDA, LYING EAST OF PLEASANT HILL ROAD; LESS AND EXCEPT: BEGINNING AT THE NORTHWEST CORNER OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 32, THENCE N 89°59'51" E, ALONG THE NORTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 420.00 FEET; THENCE S 00°10'19" E, PARALLEL WITH THE WEST LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 420.00 FEET; THENCE S 89°59'51" W, PARALLEL WITH THE NORTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 420.00 FEET TO THE WEST LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4; THENCE N 00°10'19" WEST, ALONG SAID WEST LINE, A DISTANCE OF 420.00 FEET TO



THE POINT OF BEGINNING. LESS THE WEST 60.00 FEET THEREOF FOR RIGHT OF WAY OF PLEASANT HILL ROAD.

ALSO LESS AND EXCEPT: (CEMETERY ENCROACHMENT AREA)  
COMMENCE AT THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 32, TOWNSHIP 26 SOUTH, RANGE 29 EAST, OSCEOLA COUNTY, FLORIDA; THENCE N 89°59'51" E, ALONG THE NORTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 420.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N 89°59'51" E, ALONG SAID NORTH LINE, 34.16 FEET; THENCE S 00°06'59" W, A DISTANCE OF 437.29 FEET; THENCE S 89°39'03" W, A DISTANCE OF 391.96 FEET TO THE EAST RIGHT OF WAY LINE OF PLEASANT HILL ROAD; THENCE N 00°10'19" W, ALONG SAID EAST RIGHT OF WAY LINE 19.66 FEET; THENCE N 89°59'51" E, PARALLEL WITH THE NORTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 360.00 FEET; THENCE N 00°10'19" W, PARALLEL WITH THE WEST LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 420.00 FEET TO THE POINT OF BEGINNING.

(LESS PROPERTY TO BE DEEDED TO CEMETARY)

LEGAL DESCRIPTION:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 32, TOWNSHIP 26 SOUTH, RANGE 29 EAST, OSCEOLA COUNTY, FLORIDA; THENCE N 89°59'51" E, ALONG THE NORTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 454.16 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N 89°59'51" E, ALONG SAID NORTH LINE, 80.00 FEET; THENCE S 00°06'59" W, A DISTANCE OF 456.64 FEET; THENCE S 89°39'03" W, A DISTANCE OF 471.79 FEET TO THE EAST RIGHT OF WAY LINE OF PLEASANT HILL ROAD; THENCE N 00°10'19" W, ALONG SAID EAST RIGHT OF WAY LINE, 20.00 FEET; THENCE N 89°39'03" E, A DISTANCE OF 391.96 FEET; THENCE N 00°06'59" E, A DISTANCE OF 437.29 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

THAT PORTION OF POINCIANA OFFICE AND INDUSTRIAL PARK IV, LYING EAST OF POINCIANA BOULEVARD, AS RECORDED IN PLAT BOOK 3, PAGES 259-262, OF THE PUBLIC RECORDS OF OSCEOLA COUNTY, FLORIDA.

TOGETHER WITH:

THAT PORTION OF POINCIANA ESTATES, SECTION "C", LYING EAST OF POINCIANA BOULEVARD, AS RECORDED IN PLAT BOOK 3, PAGES 216-221, OF THE PUBLIC RECORDS OF OSCEOLA COUNTY, FLORIDA.

TOGETHER WITH:

THAT PORTION OF POINCIANA ESTATES, SECTION "D", LYING EAST OF POINCIANA BOULEVARD, AS RECORDED IN PLAT BOOK 3, PAGES 222-230, OF THE PUBLIC RECORDS OF OSCEOLA COUNTY, FLORIDA. LESS AND EXCEPT PARCELS "A", "I", "J" AND "K", ALSO KNOWN AS HORSE WORLD.


EXHIBIT B

CONSENT OF LANDOWNER

### CONSENT OF LANDOWNER

AVATAR PROPERTIES INC., a Florida corporation ("AVATAR"), whose address is 201 Alhambra Circle, Coral Gables, Florida 33134 is the fee simple owner of that certain real property within the Bellalago Community, more particularly described in Exhibit A attached hereto and made a part hereof, by reference, docs hereby consent to the creation of the Bellalago Educational Facilities Benefit District ("Educational Benefit District") and the inclusion of the described property within the boundaries of the District. The foregoing consent is contingent upon AVATAR'S sole obligation with respect to the Educational Benefit District being the payment of non-ad valorem assessments levied against property AVATAR owns within the Educational Benefit District for the express purpose of educational facility construction. Neither Osecola County, Florida nor any other party shall have any recourse against AVATAR in the event that any property owner other than AVATAR fails to pay the assessment related to such party's property within the Educational Benefit District.

AVATAR PROPERTIES INC., A Florida  
corporation

By: 

Name: Dennis J. Getman

Title: Executive Vice President