

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made and entered into as of this ____ day of January ___, 2012, by and among SOMERSET ACADEMY, INC. ("Somerset" or "Property Lessee"), and the BILTMORE NEIGHBORHOOD ASSOCIATION, INC. ("Association") and CARLOS CARTA ("Carta") (collectively Neighbors").

RECITALS:

WHEREAS, University Baptist Church ("UBC") is the owner of that certain parcel of property located in Coral Gables Florida containing approximately ___ +/- acres with a street address of at 624 Anastasia Avenue, in Coral Gables, Florida, legally described as follows:

All of Block 116, Coral Gables Country Club Section Part 6, according to the plat thereof, as recorded in Plat Book 20, Page 1 of the Public Records of Miami-Dade County, Florida. (the "Property");

WHEREAS, Somerset has entered into an "Educational Facilities Lease Agreement" with UBC through which it is leasing of a portion of the Property described in **Exhibit "A", Item "Z"** attached hereto (the "Leased Premises");

WHEREAS, Somerset filed a public hearing application with the City of Coral Gables Department of Planning ("Department"), which application is currently pending under Public Hearing Application No. 07-1-113-P ("Zoning Application"), for the purpose of seeking a series of zoning approvals (a Future Land Use Map amendment, a conditional use approval and a site plan approval);

WHEREAS, Somerset acknowledges that Somerset will submit a draft declaration of restrictive covenants for the City Attorney's approval, for recordation within 30 days of City Commission approval of the Zoning Application. The declaration of restrictive covenants will restricts Somerset's interest in and use of the property consistent with the conditions set forth in the ordinance approving the Zoning Application, said Declaration of Restrictive Covenants will be set forth in **Exhibit "A", Item "B"** and will be attached hereto (the "City Covenant");

WHEREAS, Somerset desires to address the Neighbors' concerns regarding the Zoning Application, which relates to the Somerset's future use of the Property as a charter school by agreeing, among other things, to certain restrictions on Somerset's future development and use of the Property if the Application is approved, subject to the covenants, terms and conditions set forth in this Agreement; and

WHEREAS, the Neighbors intend to support the Zoning Application, subject to the covenants, terms and conditions set forth in this Agreement, because the proposed restrictions will satisfactorily resolve the Neighbors' concerns regarding the Zoning Application.

NOW, THEREFORE, in consideration of the promises, covenants and conditions hereinafter set forth, in settlement of all current disputes between the parties hereto, and for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Somerset and the Neighbors agree as follows:

1. Recitals. The foregoing Recitals are true and correct and are incorporated herein by this reference.
2. Development. In connection with Somerset's development of Property as set forth in the Zoning Application, the Somerset and the Neighbors agree to the following:
 - (a) Somerset has submitted plans to the City of Coral Gables ("City") detailing the development and use of the Property by Somerset Grace Academy Charter School ("Approved Plans"). A reduced copy of the Approved Plans are attached to this Agreement in **Exhibit " B"**. Somerset shall develop and use the property in strict accordance with the Plans, as modified herein.
 - (b) Somerset agrees to the following conditions regarding the use and development of the Property:
 - (1) The development and use of the property shall be in conformance with all of the following documents ("Required Documents") attached to this Agreement as **Exhibit "A"** as may be amended by the City Commission as part of the final approval of the Zoning Application and by the Miami-Dade County Public Works Department regarding school-zone signage issues:
 - A. Statement of Use dated 8.05.2011
 - B. Proffered Declaration of Restrictive Covenants, with proffered conditions of approval, (and included in the documents proffered to the City as part of the zoning approval) to be recorded in the public records of Miami-Dade County ("City Covenant").
 - C. Aerial Photograph, prepared by Civica, dated 10.05.2011.
 - D. (Existing to Remain) Site Photographs, prepared by Civica, dated 10.05.2011.
 - E. Map of Boundary Survey for University Baptist Church of Coral Gables, prepared by Hadonne, dated 03.23.2011.
 - F. Existing South Elevation, prepared by Civica, dated 10.05.2011.
 - G. Existing East and West Elevations prepared by Civica, dated

- 10.05.2011.
- H. Existing Site Plan and Zoning Data prepared by Civica, dated 10.05.2011.
 - I. Proposed Site Plan - Traffic Scenario 'A' (Multi-Directional Distribution) prepared by Civica, dated 10.05.2011.
 - J. Proposed Parking Plan during School Use prepared by Civica, dated 10.05.2011.
 - K. Proposed Pedestrian Plan prepared by Civica, dated 10.05.2011.
 - L. Proposed On-site Traffic Signage as may be amended pursuant to paragraph 6.G herein. & Existing Site Lighting prepared by Civica, dated 10.05.2011.
 - M. UBC Existing Educational Facility: 1st Floor Plan prepared by Civica, dated 10.05.2011.
 - N. UBC Existing Educational Facility: 2nd Floor Plan prepared by Civica, dated 10.05.2011.
 - O. Proposed Landscaping Plan prepared by Civica, dated 10.05.2011.
 - P. Planting Details Notes and Specs prepared by Civica, dated 10.05.2011.
 - Q. Traffic Operations Plan, dated 10.05.2011. Traffic Impact Study and Accumulation Assessment, prepared by Richard Garcia and Associates, Inc., dated 10.05.2011.
 - R. No School Parking Zone Signage prepared by Civica, dated 10.05.2011.
 - S. Proposed School Speed Zone Signage prepared by Civica, dated 10.05.2011, as may be amended pursuant to paragraph 6.G herein.
 - T. Parent & Student Handbook 2011 - 2012, prepared by Somerset Academy Gables.
 - U. Parent Contract 2011 - 2012, prepared by Somerset Academy Gables.
 - V. Attendance Contract 2011 - 2012, prepared by Somerset Academy Gables.
 - W. Master Calendar with events for Somerset.
 - X. Master Calendar combined with events for UBC.
 - Y. Charter School Contract between The School Board of Miami-Dade County, Florida and Somerset Academy, Inc. on behalf of Somerset Grace Academy, dated 07.15.2009.
 - Z. Somerset Lease with UBC, First Amendment to Educational Facilities Lease Agreement dated 08.13.2010.
 - AA. Planning Department Application submitted by Somerset/Agent Laura Russo, Esq., notarized 07.29.2010.
 - BB. Reynolds, Smith and Hills, Inc., Somerset Coral Gables UBC Campus (PK-8), Traffic Review Report, dated November 2011.

3. Implementation and compliance of all conditions of approval.

- A. Unless specified otherwise herein, all the conditions of approval provided herein shall be in effect at which time charter school student enrollment is increased beyond one-hundred-and-ten (110) students.
- B. The conditions of approval requiring the City building permits, including but not limited to the fence surrounding the park area and improvements to Anastasia Avenue shall be filed by the Applicant within sixty (60) days of City Commission approval. All improvements shall be completed by the start of the school year where the increase to two-hundred-and-sixty (260) students increase is implemented. An administrative extension of forty-five (45) days for completion may be granted by City administration subject to continual progress towards completion of construction.
- C. Somerset's proffered conditions, to be included in the executed Declaration of Restrictive Covenants submitted by Somerset for approval by the City Attorney in connection with the Zoning Application ("City Covenant"), an executed copy of which will be attached hereto as Exhibit A, Item B.
- D. If the City Commission approves the Land Use Change, then in the event the charter school use ceases to exist for a period of thirty (30) or more calendar days during the established Miami-Dade County Public Schools calendar year, or the charter school stops using or vacates the property, the City shall process a City-initiated change in land use map application reverting the approved City of Coral Gables Comprehensive Plan, Future Land Use application reverting the approved Future Land Use Map designation of "Community Facilities" to Future Land Use Designation of "Religious/Institutional Land Use."
- E. Somerset shall not apply to the City or any governmental entity with authority to grant such approvals or shall support or cooperate in any way with any application for an increase in student enrollment beyond two hundred and sixty (260) students, notwithstanding that the "Charter" issued by the Miami-Dade County School Board is for a greater number, and notwithstanding any current or future State of Florida legislation that would allow for an increase in student enrollment or have the effect of limiting the conditions herein.
- F. Somerset shall be for enroll only students from Pre K through 8th grade; and shall not request any change to allow a stand-alone middle school on the property or property owned or leased by Granada Presbyterian Church located at, or adjoining (including across the street) to 950 University Drive, Coral Gables, Florida.
- G. Somerset shall not file any request for the use the City of Coral

Gables War Memorial Youth Center for any physical education and/or scholastic activities.

4. Coordination and monitoring of conditional use and site plan approval. The following coordination and monitoring provisions shall be required to ensure compliance with all conditions of approval granted herein:
 - A. Charter school public information liaison/point of contact. The charter school Somerset and Neighbors each shall select a specific point of contact person to serve as the single point of contact for Somerset and the Neighbors. The role of the contact person is to shall provide a conduit for exchange of information among and between all parties.
 - 1) Somerset point of contact person's name, email, mailing address and phone, and hours of availability shall be provided by Somerset to all property owners and neighborhood associations within one-thousand (1,000) feet of the property. This notice shall be provided to Neighbors on August 1st annually. Verification of the notice provided to the Planning Department on August 1st annually also shall be provided to Neighbors' point of contact person(s) on or before that same date. Any change in contact person's name, email, mailing address and phone, and hours of availability, shall be provided to Neighbors' point of contact person(s) as provided in paragraph 18, herein.
 - 2) The Neighbors' point of contact person's name, email, mailing address and phone, and hours of availability shall be provided by Neighbors to Somerset's point of contact person. This notice shall be provided to Somerset's point of contact person on or before August 1st annually. Any change in contact person's name, email, mailing address and phone, and hours of availability, shall be provided to Somerset's point of contact person as provided in paragraph 18, herein.
 - 3) Notice shall be deemed given and effective upon receipt as evidenced by a written receipt.
 - B. Certificate of Use. Somerset shall per applicable Zoning Code provisions submit an application or other required documentation to the appropriate City department for a Certificate of Use prior to August 1st on an annual basis. A copy of such submittal shall be delivered to Neighbors at the same time it is delivered to the City pursuant to the procedure set forth in paragraph 18 herein.
 - C. Failure and noncompliance provisions. On an annual basis, no later than June 1st Somerset shall file a written report ("Written Report") with the City with a copy to Neighbors (said copy to be provided to the contact persons as set forth in paragraph 18 providing a detailed description for either of the

following:

- 1) Strict compliance with all conditions of approval, or
- 2) Failure to comply with some or all conditions of approval including the circumstances for noncompliance.

Somerset confirms that it has agreed with the City to the following process regarding the written report referenced herein:

The City shall review the Applicant's written report in association with other available and applicable information including but not limited to the following: City records, complaints filed with the City; other governmental entity notices of violations or non-compliance; code enforcement violations; City studies, etc. If the City determines that there exists a reasonable basis to revoke, amend or conduct further review of the conditional use and site plan approvals granted in this application, in order to support or maintain compliance with the approvals granted herein, the City shall notify the Applicant and property owner in writing via certified mail within thirty (30) calendar days of the receipt of the Applicant's written report and shall place the conditional use and site plan application before Planning and Zoning Board in as a public hearing in accordance with required applicable notice provisions. The Board shall review the findings of the City and the Applicant's submitted report and provide a recommendation to the City Commission for either of the available courses of action:

- 1) Revoke the Conditional Use and Site Plan Approval granted in these applications and revoke the issued Certificate of Use, or
- 2) Recommend additional conditions to the previously granted conditional use and site plan approval to allow school operations to continue to exist.

The City Commission shall review the findings of the City and recommendation of the Planning and Zoning Board and provide a final determination as to the available courses of action referenced in above items 1 and 2. If the City Commission determines additional conditions are warranted, such conditions shall be included to ensure compliance with the previously granted Conditional Use and Site Plan approval, and City Commission conditions of approval and Zoning Code, Article 3 – Development Review, Division 4 - Conditional Uses, Section 3-408 - Standards for review. These provisions are supplemental to all of the enforcement provisions of the City Codes and all other legal remedies.

Somerset (by delivery as set forth in paragraph 18 herein) shall provide Neighbors with copies of all City notices regarding the written report and any Planning and Zoning Board and/or City Commission hearing referenced herein.

5. Charter school use and operations.

A. Use of the property and facility.

- 1) The use of the property and facility as a charter school shall be limited to Somerset Grace Academy Charter School at Coral Gables pursuant to the conditions set forth herein. The installation of another charter school operator shall require re-submittal of a City Conditional Use and Site Plan review applications and any other applicable City of Coral Gables review processes.
- 2) The use of the property and facility as a senior center pursuant to the previously granted City Commission approval is exempt from the use prohibitions contained herein. The use of the property and facility as a religious institution for church related activities is exempted from the use prohibitions contained herein.
- 3) The use of the property and facilities by Somerset Academy, Inc. affiliated vendors or any charter school affiliated outside vendors or for commercial purposes such as renting, leasing, or allowing third parties unaffiliated with the operations of the church or school (Somerset Grace Academy at Coral Gables) is prohibited. This prohibition does not include charter school sponsored onsite special events such as Parent Teacher Associations meetings, bakes sales, and the like.
- 4) Somerset shall operate only during the, Miami-Dade Public School year calendar generally extending from August through June. Somerset shall not operate a summer camp, summer school or tutoring program on the property during the non Miami-Dade Public School year calendar.
- 5) The use of the facility for charter school student activities (including any after-care program) and/or events is prohibited between the hours of 6:00 PM to 6:00 AM, during the five (5) day school week.
- 6) All school special events must be approved by the City. Any City-approved special event and school events on the school site or within 1,00 feet of the school site that extends into evening hours shall be limited as follows:
 - a. Any event that extends into the evening hours must end no later than 9:00p.m.
 - b. With the exception of events shown on the school calendar as set forth in paragraph 10 and provided annually to Neighbors pursuant to paragraph 10 herein, no more than one evening or after-school events are is permitted per week.
- 7) Somerset shall not seek to expand the school onto church property on the north side of Anastasia Avenue.

- 8) An annual schedule of school special events and after 6pm events shall be submitted to Neighbors pursuant to paragraph 18 herein on August 1 concurrently with the special event submittals referenced herein. Neighbors shall be notified pursuant to paragraph 18 herein by Somerset of any school events that are not on this schedule no later than 15 days prior to the event.
- 9) In addition to paid staff, Somerset acknowledges that it utilizes parent and family volunteers to assist staff. Somerset agrees that it shall allow no more parent and family volunteers that can be accommodated in the parking lot on the property.
- 10) As a matter of Somerset policy, a parent or authorized-by-parent adult must accompany all walking or biking children to and from school.

B. Student mix and population.

- 1) Student mix. Somerset shall be limited to Pre-kindergarten through eighth (8th) grade students.
- 2) Maximum charter school student enrollment shall be no more than two hundred and sixty students.
- 3) Annual report on charter school student enrollment. On September 1st of each school year, Somerset shall submit to the City (with a copy to Neighbors pursuant to paragraph 18 herein) an executed affidavit attesting to the number of students enrolled for the academic school year in total and by grade. Somerset acknowledges that it provides enrollment information including the number of students twice each school year to the Miami-Dade County Public School System and the Florida Department of Education. Those documents shall be made available by Somerset to Neighbors upon written request.

C. Charter school special events.

- 1) Special Event permit(s) required. All charter school special events where eight-nine (89) or more vehicles are anticipated shall secure a City of Coral Gables Special Events Permit from the City's Special Events Committee. A tentative schedule of charter school events shall be submitted to the City and Neighbors August 1st of each school year to determine which events necessitate future application submittal and review by the Special Events Committee. Within thirty (30) days of the City Commission approval, for special events that are to be held within 1,000-feet of the school site, Somerset shall meet with the City and Neighbors to discuss the final "Charter School Events Traffic Management and Safety Plan" methodology and/or contents.

Within ninety (90) calendar days of City Commission approval, Somerset shall submit a "Charter School Events Traffic Management and Safety Plan" to the City's Special Events Committee for review and approval (with a copy to Neighbors prior to committee review and approval). Somerset shall notify Neighbors of any public governmental meetings regarding its "Charter School Events Traffic Management and Safety Plan."

- 2) Charter school special event parking. All visitors, parents and attendees of charter school special events shall be required to park in the parking lot or other location as approved by the City. For special events that are to be held within 1,000-feet of the school site, Somerset shall inform in writing the neighbors (pursuant to paragraph 18 herein) of the "approved location" for Charter School Event parking. All Charter school event parking shall be prohibited within the rights-of-way, swales, grass areas, and lawn areas of the property.
- 3) Charter school special event signage. Temporary and/or permanent event signage is prohibited both on the property and offsite.
- 4) Simultaneous church and charter school special events. Simultaneous church and school events shall not be permitted. Somerset shall not hold Special Events simultaneously with Church special events. Bereavement church services shall be exempt from these provisions.

6. Traffic and traffic circulation.

- A. No charter school associated vehicles shall backup or accumulate, or park on any surrounding rights-of way/streets or swales as a result of student arrivals/dismissals and/or any other school related operations, functions or activities. The parking, stopping, standing of buses/vans solely for student arrivals/dismissals on Anastasia Avenue as designated on Somerset's plans shall be exempt from these provisions. Consistent with the provisions in this paragraph and the conditions imposed by the City in its approval of the school's application for Conditional Use, the school shall not permit deliveries on Segovia Avenue, Riviera Drive, Cardena Street or Anastasia Avenue. All deliveries must be made within the parking area on the property.
- B. All street intersections analyzed as a part of Somerset's submitted Traffic Study, (referenced as the "Traffic Impact Study and Accumulation Assessment, prepared by Richard Garcia and Associates, Inc., dated 10.05.2011") shall meet the respective levels of service as identified in the Report.
- C. Somerset and the Neighbors understand that the City staff has recommended that the City Commission approve the following condition as part of any approval of the Zoning Application:

a) Charter school student arrival/dismissal frequency refinement and traffic distribution review for two-hundred-and-sixty (260) students.

1) Upon City Commission approval, the City shall select and engage an independent traffic consultant to perform a traffic operations analysis and review of charter school arrivals/dismissals during various times/dates from the start of the school year to October 15, 2012 to evaluate the following:

i. Determine if the frequency of student arrivals/dismissals can be reduced from three (3) to two (2) time intervals. The traffic operations review shall be consistent with the methodology and findings per the Applicant's submitted Traffic Operations Plan, dated 10.05.2011 and Traffic Impact Study and Accumulation Assessment, prepared by Richard Garcia and Associates, Inc., dated 10.05.2011. At a minimum the review shall include the following:

- Record all vehicles entering and exiting the site (vehicle counts) from 7:00 AM – 9:00 AM and 1:30 PM – 4:00 PM in five (5), fifteen (15) and sixty (60) minute intervals.
- Record vehicle accumulation data from 7:00 AM – 9:00 AM and 1:30 PM – 4:00 PM consistent with the methodology followed for the surrogate school, Doral Academy referenced in the Applicant's Traffic Impact Study and Accumulation Assessment dated October 15, 2011. This survey shall include recordation of all parked vehicles during this time to determine maximum accumulation for the arrival/dismissal shifts.
- Record Levels of Service (LOS) at the intersection of Segovia Street and Anastasia Avenue from 7:00 AM to 9:00 AM. This data shall be utilized to conduct a LOS analysis for this intersection.
- Observe and record traffic operations per the submitted Traffic Operating Plan with specific emphasis on the efficiency of the "platooning" for student arrival/dismissal shifts; and management of pedestrian activities.
- Prepare a photographic and/or video log of all traffic operations.

- Record frequency of use of the identified onsite traffic contingency plans for student arrivals/dismissals.
 - ii. Examine traffic distribution with the intent to direct, channel and/or minimize charter school arrival/dismissal traffic away from the adjoining residential neighborhoods, more specifically to channel vehicle arrivals from Segovia Street via University Court/Riviera Drive and Cardena Street and channel vehicle dismissals from Cardena Street to Anastasia Avenue and Segovia Street. If attainable, the consultant shall recommend applicable traffic management methods (i.e., traffic management signs, directional devices, etc.) to accomplish the same.
- 2) The independent City traffic consultant shall provide a written analysis of above items (d) (1)(i) and (ii) to the City on or about October 15, 2012. The City shall have thirty (30) calendar days upon receipt of the written analysis to conclude its review. If the City determines two (2) arrivals/dismissals and associated traffic distribution may be directed away from the adjoining residential neighborhoods, such approval with or without conditions may be administratively approved by the City. The charter school upon City administrative review and approval may initiate the above at the next calendar year (January 2013). The independent traffic consultant and/or City may request additional data and analysis to supplement the previously completed methodology and findings of the Applicant's submitted Traffic Operations Plan, dated 10.05.2011 and Traffic Impact Study and Accumulation Assessment, prepared by Richard Garcia and Associates, Inc., dated 10.05.2011, to assist in its review.
- 3) All costs, fees, etc. associated with condition (6)(d) shall be the responsibility of the charter school including but not limited to consultant fees, permit fees, traffic management improvements, etc."

Notwithstanding this City-proposed condition, Somerset and the Neighbors agree that Neighbors will present the traffic circulation option in sub section D.1. below to the City Commission for its approval as a condition to its approval of the Zoning Application. Should City Commission approve sub section D.1. below it shall be a part of this Settlement Agreement. If the City Commission does not approve sub section D.1. it shall not be applicable and shall be null and void.

- D. The school shall utilize one off-duty Coral Gables police officer each year of school operation for the first 30 school days of the school year during drop-

off and pick-up times. At the end of the 30-day period each school year, the school shall retain the use of a police officer for 30 additional days during the school year on a random basis as determined by the Coral Gables Police Department. for the purpose of insuring that traffic conforms with the following:

1. All school-related traffic must enter the property by right-turn from Cardena Street (via Segovia Avenue onto Riviera Drive and right-turn onto Cardena) and exit the property by right-turn only onto Cardena Street and right-turn only onto Anastasia Avenue. Furthermore, no school related traffic shall:
 - a. turn left from Cardena Street on to Anastasia Avenue; and
 - b. turn left from Anastasia to Cardena.
- E. Neighbors and Somerset acknowledge that an acceptable traffic operation plan would require Somerset to utilize a two-shift program (with a maximum of 140 students in any given shift) for morning drop-off and afternoon pick-up. The traffic operation plan would be modified to reflect the revised shifts and submitted to the City with a copy to Neighbors representatives as set forth in paragraph 18 herein. If the City's consultant documents pursuant to procedures as set forth in Paragraph 6. C. above that this two shift program causes stacking and/or vehicular spill-over onto/into adjacent streets, then Somerset would commence no later than the beginning of the next school year the three shift program originally proposed to the City. Somerset acknowledges that Neighbors may propose this plan for City Commission approval at its second reading hearing on the Zoning Application and Somerset will support such proposal so long as it does not modify the timeframe for the Zoning Approval or the total number of students permitted.
- F. Parents or parent-authorized adults picking up children shall not be allowed to stack off site prior to the school-mandated pick-up time (not more than ten minutes prior to that student/grade group's dismissal).
- G. Traffic Signage. Somerset shall present to the applicable county agency the Neighbors' position regarding traffic signage that includes the following:
 - i. No traffic signage on any non UBC property or swale.
 - ii. No "school zone" with flashing lights sign on the 700 block of Anastasia Avenue and the 3200 block of Riviera Drive.If these requests cannot be accommodated or approved by the appropriate county reviewing and permitting agencies, then Somerset shall actively seek a meeting with the appropriate county reviewing and permitting agencies, the applicant, a neighborhood representative and the City in order to discuss the neighborhood's objectives and reach an acceptable resolution to the matter.

7. Parking and deliveries.

- A. The parking areas of the facility shall not be used for charter school related activities, physical education, student activities, playground, events, staging or storage area for any events or similar activities. The parking area shall function as a vehicular and pedestrian support service area to the school for the sole purpose of vehicle parking and associated vehicular circulation, deliveries and pedestrian circulation.
- B. Charter school vehicle parking prohibition within all rights-of way. All vehicles associated with Somerset functions and operations (i.e., parents; employees; teachers; administrators; delivery vehicles; etc. and the like.) shall be prohibited from parking or standing (temporary or permanent) during all hours along all neighborhood street rights-of-way including adjacent and surrounding Somerset/church property including but not limited to the following rights-of-ways: Anastasia Avenue; Cardena Street; Riviera Avenue and Segovia Street. Where not currently posted, the appropriate City approved “No parking” signs shall be installed by the school. The location and number of signs shall be subject to the Parking Director’s approval after consultation with the Neighbors. Where possible such signs should be co-located with other existing sign posts and/or required new Miami-Dade County school zone/circulation signage to avoid sign proliferation. Somerset shall be responsible for all costs associated with the installation of all signs.
- C. Pursuant to the approved site plan, Somerset shall install and stripe parallel parking spaces on the south side of Anastasia Avenue between Segovia and Cardena streets after obtaining necessary City approvals.
- D. Coral Gables War Memorial Youth Center and Miami-Dade County/Coral Gables Library parking lots and open areas shall not be used for parking, stopping, standing, student pickup/drop-off by Somerset. This includes all users associated with Somerset including but not limited to the following: students; faculty; administrative staff; employees; parents; charter school support personnel; and deliveries.
- E. Coral Gables War Memorial Youth Center and Miami-Dade County/Coral Gables Library parking lots and open areas shall not be used for organized charter school related activities including but not limited to the following: physical education; student activities scholastic activities; playground; events, staging or storage area for any events or similar activities.

- F. Charter school staging of delivery and service vehicles. No queuing, standing or waiting of delivery or service vehicles shall occur at any time on or along any portion of all adjoining and surrounding rights-of-way including but not limited to the following rights-of-ways: Anastasia Avenue; Cardena Street; Riviera Avenue and Segovia Street. All staging of delivery and service vehicles shall be onsite within the parking lot.
- G. All vehicles (including trailers) in excess of twenty-five (25) feet in length are prohibited from parking in the parking lot.
- H. The storage of equipment, materials, or other related items (such as dumpsters and storage containers) by Somerset is prohibited within all parking areas.

8. Signs.

- A. The placement of temporary and/or permanent freestanding charter school signs is prohibited on any portion of the property.
- B. Somerset may erect one (1), non-illuminated façade mounted design sign on the building fronting Segovia Avenue up to a total of seven-hundred-and-fifty (750) square inches with a maximum sign height of eighteen (18) inches. All other façade mounted signs are prohibited. Review and/or approval of the sign shall be pursuant the Zoning Code requirements.
- C. Representatives of Somerset in association with the City's Public Works Department shall coordinate with Miami-Dade County Public Works to minimize the number of school zone/circulation signs to be installed on the surrounding streets/rights-of-way. Co-location of all signs (i.e., no parking signs, school zone signs, speed limit signs, etc.) shall be required to minimize the number of sign posts.

9. Landscaping.

- A. Anastasia Avenue rights-of-way landscaping.
 - 1) Additional parallel parking may be provided on Anastasia Avenue (church/school property line side) subject to Coral Gables Public Works and Public Service Department further review of the plan in association with Somerset and property owner.
 - 2) Plant material installation protection measures shall be provided, including but not limited to type of planting soil, root barriers, etc. on the Anastasia Avenue planters subject to review and approval of the Coral Gables Public Service Department.

- B. Maintenance. Somerset shall be responsible for the maintenance and upkeep of all landscaping (except trees) on the adjoining rights-of-way of Anastasia Avenue; Cardena Street; Riviera Avenue and Segovia Street in perpetuity. This shall include removal of trash and debris.

10. Other requirements.

- A. Lighting. Somerset shall not apply for or install any additional exterior lighting for the purpose of lighting the parking areas and open areas. Lighting required for safety and emergency purposes pursuant to applicable local and state life-safety requirements shall be exempt from these limitations.
- B. Amplified sound/speakers. Somerset shall not install or use any temporary and/or fixed (permanent) outside amplified speaker/announcer equipment or similar audible enhancing equipment is prohibited on the exterior portions of the building or exterior of the site. Amplified sound from the buildings shall not be audible from the perimeter property line boundaries. Security alarms, fire alarm and other similar emergency notification/preparedness audible sounds shall be exempt from this provision. Somerset shall not install or use any megaphones (amplified such as “bull horns” or non amplified) outside of the buildings on the property. Somerset shall not install or use of any electronic or other bells outside of the buildings on the property.

11. Within thirty (30) days following the expiration of the appeal period after the approval of the Zoning Application by the City of Coral Gables City Commission, the Somerset shall submit the executed Declaration of Restrictive Covenants for the City to record in the public records of Miami-Dade County the Declaration of Restrictive Covenants referenced herein as the City Covenant, and will be attached hereto as **Exhibit “A”, Item “B”**.

12. Within thirty (30) days following the expiration of the appeal period after the approval of the Zoning Application by the Coral Gables City Commission, Somerset shall record in the public records of Miami-Dade County, a “Notice of Settlement Agreement” that shall state that this Settlement Agreement including all exhibits referenced herein is on file with the City of Coral Gables and may be reviewed and copied as a public record. The parties shall include this Settlement Agreement as part of the record of the Zoning Application hearing as a purely private agreement and not in any way as part of the City’s ordinances approving Somerset’s Zoning Applications and seek City Commission direction that this document and all exhibits shall remain in the public records of the City of Coral Gables until such time that Somerset Academy ceases to operate a school on this property.

13. Obligations of Neighbors. The Neighbors agree to be bound by the following obligations, which are to the benefit of Somerset and are a material inducement to Somerset's execution of this Agreement:

(a) No Opposition. The Neighbors shall not, directly or indirectly, object to, oppose, interfere with, appeal or seek review, reversal or modification of the Zoning Application, (subject to the reservation to Neighbors of their rights to object to any efforts by Somerset the Property Owner and/or Lessee (or any affiliated or related entity(ies)) to amend, modify or change the application including any conditions set forth in the resolution approving the application as reserved to it herein) as of the date of this Agreement.

(b) Affirmative Support at Somerset's request. The Neighbors, or their duly designated legal representative(s) shall be present at all public hearings, including all City Commission hearing(s) on the Zoning Application and shall speak in favor of the Zoning Application as modified herein.

However, if the Neighbors reasonably believe that the development or use is not substantially in compliance with the Plans and Application as modified herein, then, the Neighbors shall notify Somerset or any successor in interest of its reasonable belief and the parties hereto shall meet to address the concerns. If those concerns are not addressed to the satisfaction of the Neighbors the Neighbors, their successors and assigns shall retain their rights, without limitation, to appear and comment to any staff person, or before any public board, administrative body, and/or court of law in respect to any such violation. If Somerset or any successor in interest violates the terms of this Agreement or applicable laws, the Neighbors, their successors and assigns shall retain their rights, without limitation, to appear and comment to any staff person or before any public board, administrative body, and/or court of law or in respect to any such violation.

14. Dismissal of Lawsuits. Within 30 days of the final non-appealable approval of the Zoning Application:

- a. Neighbors agree to file a Notice of Voluntary Dismissal of their lawsuit styled *Biltmore Neighborhood Association and Carlos Carta v. City of Coral Gables*, Miami-Dade Circuit Court Case No.:10-39826 CA21.
- b. Somerset agrees to file a Notice of Voluntary Dismissal of its lawsuit styled *Somerset, Inc. v. City of Coral Gables*, Miami-Dade Circuit Court Case No. 10-36228 CA 03

15. The parties to this Agreement understand and agree that their agreement to comply with the foregoing obligations are a material inducement to entering into this

Agreement, and that the parties would not have otherwise done so. Accordingly, to the extent that any of such obligations are hereafter determined to be invalid by any court or administrative body having jurisdiction over this Agreement, Somerset's obligations hereunder shall likewise be deemed invalid and unenforceable.

16. Any violation or breach of any of the terms of this Agreement may be remedied by any relief available at law or in equity, including injunctive relief and/or damages and sanctions for contempt of court, by any party to this Agreement. The prevailing party in any proceeding seeking to enforce this Agreement or any portion hereof shall be entitled to receive from the other party court costs and reasonable attorney's fees, including paraprofessional fees and attorney's fees and costs incurred in connection with any appeal.
17. This Agreement shall be binding upon and inure to the benefit of Somerset, the Association and Carta, as well as their respective successors in interest and assigns. Somerset shall disclose the existence and contents of this Agreement to its successors in interest. The Notice of Settlement Agreement as set forth in paragraph 12 above shall be recorded in the Public Records of Miami-Dade County as provided herein, to insure that any successor in interest of Somerset or future owner of the Property shall have knowledge of the rights and obligations set forth in this Agreement. This Agreement is between Somerset and the Neighbors and relates only to Somerset's use of the Property as set forth herein.
18. Notices and Deliveries. Any notices to be given hereunder shall be in writing and shall be deemed to have been given if sent by hand delivery by courier with a written return receipt, recognized overnight courier (such as Federal Express), and (b) if to Somerset, it shall be addressed to Suzette Ruiz, Principal, 624 Anastasia Avenue, Coral Gables, Florida 33134; with a copy to Laura L. Russo, Esq., 2655 S Le Jeune Rd Ste PH2-B, Coral Gables, FL 33134-5832; and (b) if to the Association it shall be addressed to Carlos Carta, Biltmore Neighborhood Association 715 Anastasia Ave., Coral Gables, and (c) if to the Carlos Carta it shall be addressed to Carlos Carta, 715 Anastasia Avenue, Coral Gables, Florida 33134. In the event of a change of address, the applicable party shall promptly notify the other in writing of such change pursuant to the foregoing notice provisions. Any documents required to be delivered pursuant to this Settlement Agreement shall be deemed to have been delivered as set forth in this paragraph.
19. Governing Law. This Agreement shall be governed by Florida law.
20. Miscellaneous. This Agreement may be executed in counterparts, including facsimile counterparts, and all of such counterparts shall constitute one instrument. Somerset, and the Neighbors have participated fully in the negotiation and preparation of this Agreement; each one fully understands all of the respective agreements, rights and

obligations set forth herein; and each one has entered into this Agreement knowingly and voluntarily. Accordingly, this Agreement shall not be more strictly construed against either or any one of the parties hereto, each one intending to be legally bound hereby. If the Biltmore Neighborhood Association ceases to exist for a period of three consecutive years after a notice of dissolution has been issued by the Florida Secretary of State, its interest in this agreement shall be terminated and it shall have no right or authority to enforce the provisions of this document.

21. **Effective Date:** This Agreement shall become effective upon the non appealable approval of the Zoning Application (Thirty days after the filing with the City clerk of the signed ordinance(s) approving the zoning application) provided that the City Commission's conditions of approval are not contradictory to those contained herein. Notwithstanding any language to the contrary in this Agreement, if the City Commission conditions for approval are contradictory to those contained in this Agreement, Neighbors and Somerset retain their rights to object to the Zoning Application retaining their right to challenge any such approval by appeal and original action in court. If Somerset and Neighbors agree on the public record at the second reading hearing on the Zoning Application that they accept the city's conditions, said conditions will not be deemed "contradictory".
22. **Entire Agreement.** This Agreement (including the attached Exhibits) constitutes the entire agreement between the parties hereto with respect to the subject matter hereof. It is specifically intended by the parties that all prior understandings and agreements between them with respect to the subject matter hereof be merged into this Agreement. Except as expressly set forth herein, there are no representations, understandings or agreements between the parties with respect to the subject matter hereof.
23. **Amendment.** This Agreement and the documents attached hereto and made a part hereof as exhibits may not be amended changed, altered or modified, except only by an instrument in writing signed by the parties hereto.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement, intending for same to become effective, on the date first above written.

WITNESSES:

SOMERSET ACADEMY, INC.
a Florida not for profit corporation



Witness

Annette M. Iraola

Printed Name



Witness

TWINKY R. PEREZ

Printed Name

By: 
Andreina Figueroa
President / Chair

STATE OF FLORIDA)
)SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 24 day of January, 2012, by Andreina Figueroa as President of Somerset Academy, Inc. on behalf of said company, who is personally known to me or has produced identification. as

My Commission Expires: 3/01/15


Notary Public – State of Florida

Annette M. Iraola
Printed Name



WITNESSES:

CARLOS CARTA, *an individual*

Maria Iles
Witness

Carlos Carta

MARIA I Iles
Printed Name

Print Name: Carlos Carta

W. Tucker Smith
Witness

W. TUCKER SMITH
Printed Name

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 8th day of February, 2012 by Carlos Carta. He personally appeared before me, is personally known to me or produced as identification.

[Signature]
Name: MICHELLE PERAZA
Notary Public, State of Florida
Commission No.

My commission expires:



EXHIBIT "A"
"REQUIRED DOCUMENTS"

EXHIBIT "B"
"APPROVED PLANS"