

RESOLUTION NO. 14-18

A RESOLUTION OF THE CAPITAL TRUST AGENCY EXPRESSING ITS INTENT TO ISSUE ONE OR MORE SERIES OF CAPITAL TRUST AGENCY REVENUE BONDS, EITHER TAXABLE OR TAX-EXEMPT, OR BOTH, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$11,500,000 FOR THE PURPOSE OF FINANCING OR REFINANCING, INCLUDING THROUGH REIMBURSEMENT, THE COSTS OF THE PROJECT (AS HEREINAFTER DEFINED) AND PAYING THE COSTS OF ISSUANCE OF THE BONDS; AND APPROVING AND AUTHORIZING OTHER ACTIONS IN CONNECTION THEREWITH.

WHEREAS, Somerset Academy Foundation, Inc., a Florida nonprofit corporation (the "Borrower"), has represented that the Borrower, acting for itself or through its affiliates, plans to acquire and own charter school facility fully described on Schedule I attached hereto, which, by this reference thereto, is incorporated herein (the "Educational Facility"), such Educational Facility to be located in Port St. Lucie, St. Lucie County, Florida (each, and as applicable, a "Host Jurisdiction"); and

WHEREAS, the Capital Trust Agency (the "Agency") is a legal entity and public agency of the State of Florida (the "State"), organized and existing under the provisions of Chapter 163, Part I, Chapter 166, Part II, and Chapter 617, Florida Statutes; Ordinance No. 5-97 duly enacted by the City Council of the City of Gulf Breeze, Florida (the "City"), on July 7, 1997, as amended, restated and supplemented; Ordinance No. 2-00 duly enacted by the Town Council of the Town of Century, Florida (the "Town"), on August 7, 2000, as amended and supplemented; an Interlocal Agreement dated as of August 2, 1999, between the City and the Town, as amended and supplemented, and with powers as a "local agency" under Chapter 159, Part II, Florida Statutes, and other applicable provisions of law (collectively the "Act"), and is empowered pursuant to the Act to issue revenue bonds for the purpose of providing funds to finance or refinance all or any part of the cost of any "project" (as defined in the Act); and

WHEREAS, the Borrower has requested the Agency issue its Educational Facilities Revenue Bonds in an amount not to exceed \$11,500,000 (the "Bonds") in one or more series, either taxable or tax-exempt, or both, and loan the proceeds thereof to the Borrower for the purpose of financing or refinancing, including through reimbursement (i) the acquisition of the Educational Facility, (ii) certain renovations and improvements to the Educational Facility, and (iii) the payment of certain costs of issuing the Bonds (collectively, the "Project"); and

WHEREAS, subject to final approval of the Agency prior to such issuance, the Agency desires to issue the Bonds and desires to authorize certain officers to take certain actions in preparation for the marketing, sale and issuance of such Bonds; and

WHEREAS, it is the Agency's intent that this Resolution constitute an "official intent" within the meaning of Treasury Regulations Section 1.150-2 for the Agency to declare its intent to use proceeds of the Bonds to reimburse prior capital expenditures of the Borrower in connection with financing the Educational Facility;

NOW, THEREFORE, BE IT RESOLVED by the governing board of the Agency that:

Section 1. The Agency hereby expresses its intent to issue the Bonds in one or more series, either taxable or tax-exempt, or both, in an aggregate principal amount not to exceed \$11,500,000 under and pursuant to the Act, and to loan the proceeds thereof to the Borrower, for the purpose of financing or refinancing, including through reimbursement, the Project, subject to the final approval of the terms and conditions thereof by the Agency.

Section 2. The officers, officials, the Executive Director and Bryant Miller Olive P.A., bond counsel ("Bond Counsel"), are hereby authorized, jointly and severally, to cooperate with the Borrower in obtaining the required approval of the Bonds by the applicable elected representative of each Host Jurisdiction, after notice and a public hearing for the purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code").

Section 3. The Bonds shall be sold at negotiated sale to Regions Capital Advantage, Inc., or such other purchaser or underwriter selected by the Borrower and approved by the Agency as purchaser or underwriter with respect to the Bonds. There is hereby acknowledged at the appropriate time, if necessary, the distribution of a preliminary offering document to potential purchasers of the Bonds, upon approval of the information attributable to the Agency in the form thereof by the Chairman, the Executive Director or each of their designees.

Section 4. The officers, officials, attorneys and agents of the Agency are hereby authorized and directed, jointly and severally, to take such actions as they may deem necessary or advisable to assist in the marketing, sale, issuance and administration of the Bonds and otherwise effectuate the purposes of this Resolution. All actions heretofore taken by the officers of the Agency for such purposes are hereby confirmed and ratified.

Section 5. Prior to the issuance of the Bonds, the appropriate local agency or agencies must determine, with respect to the Educational Facility that:

- (i) the Educational Facility will be appropriate to the needs and circumstances of, and will make a significant contribution to the economic growth of the community in which it will be located, will provide or preserve gainful employment, will promote commerce within the State and will serve a public purpose by providing educational facilities and advancing the economic prosperity and the general welfare of the State and its people;
- (ii) the Borrower is the financially responsible party which is fully capable and willing

to fulfill (A) its obligations under the financing documents, including the obligation of the Borrower to make loan repayments under one or more loan agreements in the amounts and at the times required to provide for the timely payment of the principal of, premium, if any, and interest on the Bonds herein authorized, and (B) all other obligations and responsibilities imposed under the financing documents;

- (iii) such local agency is able to cope satisfactorily with the impact of the Educational Facility and is able to provide, or cause to be provided when needed, the public facilities, including utilities and public services, necessary for the Educational Facility, including operation, repair and maintenance thereof and on account of any increase in population or other circumstances resulting therefrom;
- (iv) adequate provision will be made in the financing documents for the operation, repair and maintenance of the Educational Facility at the expense of the Borrower and for the payment by the Borrower of certain fees and expenses incurred in connection with the issuance of the Bonds, and that the loan repayments under one or more loan agreements are sufficient to pay the principal of, premium, if any, and interest on the Bonds herein authorized;
- (v) the Educational Facility constitutes a "project" within the meaning of the Act; and
- (vi) all or a portion of the Educational Facility will be operated exclusively for educational purposes and will be financed with tax-exempt bonds under applicable provisions of the Code, as well as any necessary taxable bonds.

Section 6. Nothing herein shall obligate the Agency to issue the Bonds if, at any time prior to the sale thereof by the Agency to the purchaser or underwriter thereof, the Agency shall determine that it is not in the public interest or the interest of the Agency to proceed with the issuance of the Bonds for any reason whatsoever, including, without limitation, the marketing plan for the sale of the Bonds to investors.

Section 7. It is the intention of the Agency to issue the Bonds pursuant to the Act to create a financing program to make loans to assist in financing or refinancing projects meeting the criteria set forth in the Act, which loans shall mature not later than the final maturity of the applicable series of the Bonds. The amounts to be held in any reserve fund, any loan fund, amounts to be received from the repayment of principal of and interest on the loans, the income to be derived from the investment thereof and any other available moneys under the financing program for the Project are expected to be sufficient to pay the debt service on the Bonds.

Section 8. The Executive Director of the Agency is hereby authorized to execute the Agency's letter or letters addressed to the Borrower in substantially the form attached to this Resolution as Exhibit A, which by this reference thereto, is incorporated herein, with such changes therein, whether made prior to the execution thereof or thereafter, as shall be approved

from time to time by the officer executing the same on behalf of the Agency.

Section 9. The Agency hereby authorizes Bond Counsel to take all necessary action to validate the Bonds under Chapter 75, Florida Statutes, if such action shall be deemed necessary or appropriate by such counsel. The appropriate officials of the Agency are hereby authorized to provide such assistance, take such action, and execute and deliver on behalf of the Agency such documents or instruments as may be necessary or required in connection with any validation of the Bonds or satisfaction of any conditions therefor. Notwithstanding the foregoing, the Agency acknowledges that it has validated bonds for qualifying purposes, and some of such validated bonds may be allocated to the Bonds.


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Section 10. This Resolution shall take effect immediately upon its adoption.

Adopted on July 17, 2018.



CAPITAL TRUST AGENCY

By: 
Its: Chairman

ATTEST:

By: 
Its: Secretary

CERTIFICATE OF SECRETARY

I, Robert F. Cleveland, Secretary of the Capital Trust Agency, Santa Rosa County, Florida, do hereby certify that the above and foregoing is a true and correct copy of Resolution No. 14-18 and its supporting exhibit and schedule as the same was duly adopted and passed at a public meeting of the Board of Directors of the Capital Trust Agency on the 17th day of July, 2018, and as the same appears on record in my office.

IN WITNESS WHEREOF, I hereunto set my hand and official seal this 17th day of July, 2018.

CAPITAL TRUST AGENCY

By: _____
Its: Secretary



EXHIBIT A
FORM OF LETTER

[CTA Letterhead]

July __, 2018

Somerset Academy Foundation, Inc.
20805 Johnson Street
Pembroke Pines, Florida 33029

Re: Proposed (i) acquisition by Somerset Academy Foundation, Inc., a Florida nonprofit corporation, and/or one or more related and/or affiliated entities (collectively the "Borrower"), of the charter school facility described on Schedule I to Resolution No. 14-18 of the Capital Trust Agency (the "Educational Facility"), to be located in Port St. Lucie, St. Lucie County, Florida, (ii) certain renovations and improvements to the Educational Facility, and (iii) the payment of certain costs of issuing the Bonds (as herein defined) (collectively, the "Project") with revenue bonds issued by the Capital Trust Agency.

Ladies and Gentlemen:

Based upon recent discussions with representatives of the Borrower, it is the understanding of the officials and representatives of the Capital Trust Agency (the "Agency"), that: (i) the Borrower is currently undertaking the acquisition of the above-referenced Educational Facility, a portion of the cost of which will be financed or refinanced, including through reimbursement, with revenue bonds of the Agency in an aggregate principal amount not to exceed \$11,500,000; (ii) the acquisition of the Educational Facility by the Borrower will provide educational facilities within the meaning of the Act, as defined in Resolution No. 14-18 adopted by the Agency on July 17, 2018 (the "Inducement Resolution"), advance the public purposes of the Act, improve living conditions and provide and preserve employment in the community where the Educational Facility are or will be located, and (iii) the willingness of the Agency to issue and sell the Bonds for the purpose of financing or refinancing, including through reimbursement, the Project are important factors under consideration by the Borrower in determining the extent of the feasibility of the Educational Facility.

The Agency has determined that the Agency's issuance of the Bonds to assist the Borrower by financing or refinancing, including through reimbursement, such Project will promote the public purposes for which the Agency was created, will enable the Borrower to serve a public purpose by providing needed educational facilities and increasing the bargaining power of the Borrower to obtain favorable financing for its educational programs, and will promote and

advance the economic prosperity, living conditions and the general welfare of the State of Florida (the "State") and its people. Neither this letter nor the Inducement Resolution constitutes final authorization to issue the Bonds. Final approval will be in the form of an authorizing resolution that must be approved upon receipt of the finalized plan of finance and substantially complete bond and offering documents acceptable to the Agency.

Accordingly, in order to induce the Borrower to incur expenses for the initiation of such Facility and their financing or refinancing, the Agency hereby makes the following proposal:

1. The Agency will, subject to the requirements of applicable law and financial feasibility, issue the Bonds in one or more series or installments, either taxable or tax-exempt, or both, totaling in the aggregate principal amount a sum of not to exceed \$11,500,000 (the "Bonds") for the purpose of paying, financing or refinancing the cost of the Project. The Bonds will be secured by the source of security provided for in the financing documents for the Bonds, and will be issued in one or more series, either taxable or tax exempt, or both, in such aggregate principal amount, mature at such times, bear interest at such rates and be subject to such other terms and have such security as shall be agreed upon between the Agency and the Borrower.

2. The Agency and the Borrower will enter one or more loan agreements (collectively, the "Agreement") which shall provide for the loan of the proceeds from the sale of the Bonds to the Borrower, for the financing or refinancing of the Project (including eligible reimbursement to the Borrower for costs of the Educational Facility incurred prior to the delivery of the Agreement) and repayment of such loan by the Borrower. The installment payments to be made by the Borrower in repayment of the loan pursuant to the Agreement shall be pledged to the payment of the principal of, interest on and redemption premium, if any, applicable to the Bonds and the fees and expenses of the trustee. The loan installments shall be fully sufficient to pay the cost of the Educational Facility, the cost and expenses of financing or refinancing the same and the fees and expenses of the Borrower, the trustee and the Agency related thereto.

3. The Agency will cooperate in the prompt preparation of the Agreement and the necessary resolutions for the authorization and sale of the Bonds and, to the extent the Bonds are not allocated to any series of Bonds already validated, will promptly proceed with validation of the Bonds in the appropriate Circuit Court, pursuant to the provisions of Chapter 75, Florida Statutes, if, in the opinion of Bond Counsel, such validation proceedings are necessary or desirable.

4. Upon delivery of the Bonds, the provisions of this proposal and the agreement resulting from its acceptance by the Borrower shall have no further effect, and in the event of any inconsistency between the terms of this proposal and the terms of the Agreement in the form in which it shall be finally approved by resolution of the Agency, the provisions of the Agreement as so approved shall control.

5. Upon acceptance by the Borrower, the Agency shall keep open and outstanding this commitment and inducement to the Borrower for a reasonable time so long as the Borrower shall be proceeding with appropriate efforts toward conclusion of any arrangements necessary

to the financing or refinancing, including through reimbursement, of the Project; provided, however, if for any reason (other than that which shall be the fault of the Agency) the Bonds are not delivered to the purchaser or purchasers thereof by July 1, 2019, then the provisions of this proposal and the agreement resulting from its acceptance by the Borrower may be cancelled at any time thereafter, at the option of the Agency and without notice to the Borrower, by resolution of the Agency, duly adopted. In such event, or in the event of its earlier cancellation by agreement between the Borrower and the Agency, neither party shall have any rights against the other and no third party shall have any rights against either party except:

(a) the Borrower pay to the Agency the amount of all expenses which shall have been incurred by the Agency in connection with the Project;

(b) the Borrower will assume and be responsible for all contracts entered into by the Agency at the request of the Borrower in connection with the Project; and

(c) the Borrower will pay the out-of-pocket expenses of officials and representatives of the Agency and counsel for the Agency incurred in connection with the financing or refinancing of the Educational Facility and will pay Bond Counsel a reasonable retainer and legal fees for legal services related to the issuance of the Bonds or the financing or refinancing of the Project, whether or not the financing or refinancing actually closes.

6. The Borrower shall have responsibility to arrange for the purchase of the Bonds by investors or an underwriter acceptable to the Agency and the payment of all costs of issuing the Bonds, and such Bonds shall only be offered and marketed in accordance with the applicable securities laws and such offering limitations as may be approved by the Agency.

7. The Agency shall not be obligated to pay any of the Bonds or the interest thereon from any funds of the Agency derived from any source other than the Agreement, and each Bond shall contain a statement to that effect upon its face. The Agency shall not be required to incur any expense with respect to the Project or the Bonds unless requested to do so by the Borrower, in which event the Borrower hereby agrees to reimburse the full amount of such expense to the Agency; and the Agency may require payment to it of such amount as a prerequisite to its incurring any such expense. The Borrower, in accepting this proposal, hereby agrees to pay the annual fees of the Agency and agrees to indemnify and defend the Agency and its officials, employees, attorneys and agents and the members of the governing board of the Agency, and hold the Agency and its officials, employees, attorneys and agents and the members of the governing board of the Agency, harmless against any and all claims, losses, liabilities or damages to property or any injury or death of any person or persons occurring in connection with the acquisition and operation of the Educational Facility by or on behalf of the Borrower, or in any way growing out of or resulting from this proposal (upon its becoming an agreement if accepted) or from the issuance, sale or delivery of the Bonds, including, but not limited to, all forms of negligence by the Agency and any and all liabilities arising under the Internal Revenue Code of 1986, as amended, the Securities Act of 1933, the Securities Exchange Act of 1934 or any applicable securities law of the State, including, without limitation, all costs and expenses of the Agency, including reasonable attorneys' fees, incurred in the enforcement of any agreement of the

Borrower herein contained or in the Agreement. Any provision hereof to the contrary notwithstanding, the obligations of the Borrower under this Section 7, Section 8 hereof or in the Inducement Resolution shall survive the termination of this agreement.

8. The Borrower shall comply with all requirements and pay all costs and expenses as may be required of the Borrower or the Agency pursuant to all applicable approvals by, or any interlocal agreements between, the Agency and any applicable public agencies having jurisdiction over the Educational Facility.

9. As a condition of any future submittal to the Agency for an authorizing resolution to issue the Bonds, substantially final documents must be delivered to the Agency 14 calendar days before a scheduled board meeting date. When applicable, the Agency will require a feasibility study, sources and uses of funds, historical financial statements, and pro forma statements in addition to the indenture, loan or financing agreement and preliminary offering document in substantially completed forms.

If this proposal shall be satisfactory to the Borrower, please have the acceptance statement which follows this proposal executed by the proper officers of the Borrower on behalf of itself duly authorized and provide an executed copy to the Agency, whereupon this proposal will constitute an agreement in principle with respect to the matters herein contained.

Yours very truly,

CAPITAL TRUST AGENCY

(SEAL)

By: _____
Ed Gray, III, Executive Director

[Acceptance by Borrower Follows]

Acceptance by Borrower

The terms and conditions contained in the foregoing proposal by the governing board of the Agency are hereby accepted as obligations of the Borrower, as of this ____ day of _____, 2018.

SOMERSET ACADEMY FOUNDATION, INC.

By: _____

Name: Suzette Ruiz

Title: Chairman

WITNESS:

SCHEDULE I

THE EDUCATIONAL FACILITY

The Project consists primarily of the acquisition of an approximately 42,100 square-foot charter school facility known as Somerset Academy St. Lucie, located at 4402 Southwest Yamada Drive, Port St. Lucie, St. Lucie County, Florida 34953.