

PRESERVATION RESTRICTION AGREEMENT

between the

CITY OF SOMERVILLE, MASSACHUSETTS

and the

SOMERVILLE HISPANIC ASSOCIATION FOR COMMUNITY DEVELOPMENT, INC.

THIS PRESERVATION RESTRICTION (this “Restriction”), is made this ____ day of _____, 2021, between Somerville Hispanic Association For Community Development, Inc. (“Grantor”), 59 Cross Street, Somerville, MA 02145, and the City of Somerville acting by and through its Historic Preservation Commission (“Grantee”), a governmental body in the Commonwealth of Massachusetts, with an address of 93 Highland Avenue, Somerville, MA 02143.

WITNESSETH:

WHEREAS, Grantor is owner in fee simple of certain real property located at 59 Cross Street, in the City of Somerville, Middlesex County, Massachusetts (hereinafter referred to as the “Property”), being that property conveyed by Grace Baptist Church in a deed dated June 22, 2006 and recorded on June 28, 2006 with the Middlesex South Registry of Deeds, Book 47708, Page 261, more particularly described in the Legal Description (Exhibit A), attached hereto and incorporated herein by this reference; and shown on an Assessor Parcel Map for Parcel 90-G-19 (Exhibit B), attached hereto and incorporated herein by this reference, said Property including the following building (hereinafter referred to as the “Building”):

This church is designed in the Romanesque Revival style, also known as the “Round Style”. This church is rectangular in form with a large two-story, gable-front main block. This main block is enlivened with a prominent one-story, semi-circular bay centered on the front elevation; a square, hip-roof tower that is flush with the front elevation on the left (south) side; a second square, hip-roof tower set well back on the right (north) elevation; and cross-gable, stepped-down ells at the rear of main gable block. The building is constructed of red brick, and the elevations are further enlivened with rough-faced granite beltcourses. Fenestration surrounds have flared yellow brick lintels and rough-faced granite sills. Fenestration includes Queen Anne-style windows on the first story of the front bay and side elevations. These windows all have colored glass, and the center panels of the windows in the front bay have stained glass. Fenestration on the second story consists primarily of 1/1 double-hung sash. Some openings are currently boarded over which may have originally contained sash. The large cross-gable ells that extend from both sides of the rear (west) end of the main block have shallow brick buttresses. Centered in the gable end of these ells are large round openings, currently boarded over. These openings likely contained round windows, the design of which is unknown. The surrounds of both window openings have multiple courses of yellow brick. The main entrance is located within the front tower which has round-headed openings on all three sides. A secondary entrance is located on the front (east) elevation of the tower that is set back on the north elevation of the main block. All the entrances have replacement, paired vertical board doors. The roof is clad in gray-green slate. The cornice of the rounded bay has courses of denticulated bricks, as do the side elevations of the main block. Both tower roofs have cornices with large modillion blocks and are capped with copper finials;

WHEREAS, the Building is historically significant for its architecture and historical associations in Somerville, retaining integrity of craftsmanship, setting, materials and design;

WHEREAS, the Building and Property are included in a single-building local historic district established by the City of Somerville on October 31, 1989, are subject to preservation restrictions held by the Massachusetts Historical Commission and recorded August 28, 2018, are listed in the State Register of Historic Places, are historically significant for their architecture, associations and/or archaeology, and qualify for the protections of perpetual preservation restrictions under M.G.L. Chapter 184, sections 31, 32 and 33 (hereinafter “the Act”);

WHEREAS, Grantor and Grantee both recognize the architectural, historic and cultural values (hereinafter “Preservation Values”) of the Building and Property, and have the common purpose of preserving the aforesaid preservation values and significance of the Building and Property;

WHEREAS, the Preservation Values of the Building and the Property are documented with the following: Legal Property Description (Exhibit A); City of Somerville Assessors Map for Parcel 90-G-19 (Exhibit B); MHC Inventory Form prepared by Eric Dray, March, 2019 (Exhibit C); and six (6) Photographs, taken by Eric Dray, February, 2019 (Exhibit D). Exhibits A, B, C, and D all attached hereto and incorporated herein by this reference, are hereinafter referred to as the “Baseline Documentation,” which Baseline Documentation Grantor and Grantee agree provides an accurate representation of the Building and the Property as of the effective date of this Preservation Restriction Agreement;

WHEREAS, the grant of a preservation restriction by Grantor to Grantee on the Property will assist in preserving and maintaining the Building and Property and their architectural, historic, and cultural features for the benefit of the people of the City of Somerville, Middlesex County, the Commonwealth of Massachusetts, and the United States of America;

WHEREAS, the City of Somerville Board of Aldermen appropriated the sum of Five Hundred Thousand Dollars (\$500,000) of Community Preservation Act funds (the “Grant”) in a meeting convened on January 24, 2019, Agenda item #207286, for the rehabilitation of the Building;

WHEREAS, to that end, Grantor desires to grant to Grantee, and Grantee desires to accept a preservation restriction (the "Restriction") in gross in perpetuity over the Property and the exterior of the Building pursuant to the Act.

NOW, THEREFORE, for other good and valuable consideration, Grantor does hereby irrevocably grant and convey unto the Grantee this Restriction in gross in perpetuity over the Property.

1. Purpose. It is the purpose of this Restriction to assure that the architectural, historic, and cultural features of the exterior of the Building and the Property, as described and documented in the Baseline Documentation, will be retained and maintained forever substantially in their historically-appropriate condition for preservation purposes and to prevent any use or change to the exterior of the Building or the Property that will significantly impair or interfere with the Preservation Values of the Building and the Property (the “Purpose of this Restriction”). Characteristics that contribute to the architectural and historical integrity of the Property include, but are not limited to, the setting and location of the Building; and architectural features, materials, appearance, and workmanship of the Building.

2.1 Grantor's Covenants: Covenant to Maintain. Grantor agrees at all times and to the best of its ability to maintain the Building and the Property in sound structural condition and good state of repair in accordance with the terms of this paragraph (allowing for historically-accurate restoration that may be made from time to time). It is the Grantor’s intent that the exterior of the

Building be maintained in a physical appearance and composition that is as close to its current appearance and composition as is reasonably possible. Grantor's obligation to maintain shall require replacement, repair, and reconstruction by Grantor whenever necessary to preserve the exterior of the Building in sound structural condition and a good state of repair. Subject to the casualty provisions of Paragraphs 7 and 8, this obligation to maintain shall require repair, restoration, replacement, rebuilding, and reconstruction of the Building whenever necessary in accordance with The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (36 C.F.R. 67 and 68), as these may be amended from time to time (the "Secretary's Standards"), and in accordance with the Restriction Guidelines in Exhibit E which is attached hereto and incorporated herein by this reference.

2.2 Grantor's Covenants: Prohibited Activities. The following acts or uses are expressly forbidden on, over, or under the Property, except as otherwise conditioned in this paragraph:

- (a) the Building (or any portion thereof) shall not be demolished, removed, moved or razed except as provided in Paragraphs 7 and 8;
- (b) the dumping of ashes, trash, or rubbish is prohibited on the Property; and
- (c) no above-ground utility transmission lines, except those reasonably necessary for the existing Building, may be created on the Property, subject to any utility easements already recorded.

3.1 Conditional Rights Requiring Approval by Grantee. Without the prior express written approval of the Grantee, which approval may not be unreasonably withheld but which may be subject to such reasonable conditions as Grantee in its discretion may determine, Grantor shall not make any changes to the exterior of the Building, including the alteration, partial removal, construction, remodeling, or other physical or structural change, or any changes in material or color or any change to the footprint, size, mass, ridgeline, and rooflines of the Building, or removal, replacement or alteration of any character-defining features, such as doors and surrounds and cornice trim. Activities by Grantor to maintain the exterior of the Building which are intended to be performed in accordance with the provisions of Paragraph 2.1, and which are of a minor nature, shall not require the prior approval of the Grantee. For the purposes of this section, interpretation of what constitutes ordinary maintenance of a minor nature is governed by the Restriction Guidelines (Exhibit E).

3.2 Review of Grantor's Requests for Approval. Where Grantee's permission is required under Paragraph 3.1, Grantor shall submit to the Grantee two copies of information (including plans, specifications, and designs where appropriate) identifying the proposed activity with reasonable specificity. In connection therewith, Grantor shall also submit to the Grantee a timetable for the proposed activity sufficient to permit the Grantee to monitor such activity. Within forty-five (45) days of the Grantee's receipt of any plan or written request for approval hereunder, the Grantee shall certify in writing that (a) it approves the plan or request, or (b) it disapproves the plan or request as submitted, in which case the Grantee shall provide Grantor with written suggestions for modification or a written explanation for the Grantee's disapproval. Any failure by the Grantee to act within forty-five (45) days of receipt of Grantor's submission or resubmission of plans or requests shall be deemed to constitute approval by the Grantee of the plan or request as submitted and to permit Grantor to undertake the proposed activity in accordance with the plan or request submitted so long as the request sets forth the provision of this section relating to deemed approval following the passage of time, provided that nothing herein shall be construed to permit Grantor to undertake any of the activities prohibited hereunder.

3.3 Archaeological Activities. The conduct of archaeological activities, including without limitation survey, excavation, and artifact retrieval, may occur only following the submission of an archaeological field investigation plan prepared by Grantor and approved in writing by the Grantee and the State Archaeologist of the Massachusetts Historical Commission pursuant to M.G.L. c. 9, § 27C and 950 C.M.R. 70.00.

4. Standards for Review. In exercising any authority created by the Restriction to inspect the Building; to review any construction, repair, restoration, alteration, reconstruction or construction; or to review casualty damage or to reconstruct or approve reconstruction of the Building following casualty damage, the Grantee shall apply the Secretary's Standards and the Restriction Guidelines in Exhibit F.

5. Public Access. There is no public access requirement. The Grantee recognizes the benefit of preserving this historical asset for the community's enjoyment as well as the social services the Grantor provides in the building, including a food pantry, bilingual day care that accepts vouchers, and a family homeless shelter. The Grantee expects that the Grantor will continue to serve the public through these uses and other similar future uses for the benefit of the Somerville community.

6. Grantor's Reserved Rights. Subject to the provisions of Paragraphs 2.1, 2.2, and 3.1, the following rights, uses, and activities of or by Grantor on, over, or under the Property are permitted by this Restriction and by the Grantee without further approval by the Grantee:

- (a) the right to engage in all those acts and uses that: (i) are permitted by governmental statute or regulation; (ii) do not substantially impair the Preservation Values of the Building and Property; and (iii) are not inconsistent with the Purpose of this Restriction;
- (b) pursuant to the provisions of Paragraph 2.1, the right to maintain and repair the exterior of the Building strictly according to the Secretary's Standards. As used in this subparagraph, the right to maintain and repair shall mean the use by Grantor of in-kind materials and colors, applied with workmanship comparable to that which was used in the construction or application of those materials being repaired or maintained, for the purpose of retaining in good condition the appearance and construction of the exterior of the Building and Property. The right to maintain and repair as used in this subparagraph shall not include the right to make changes in appearance, materials, colors, and workmanship from that existing prior to the maintenance and repair without the prior approval of the Grantee in accordance with the provisions of Paragraphs 3.1 and 3.2;
- (c) subject to prior review and approval by Grantor, under the terms and conditions of paragraphs 3.1 and 3.2 herein, which approval shall not be unreasonably withheld, the right to new construction on the Property not attached to the Building, and not blocking the view of the Building from public ways, subject to all applicable licenses, permits, and approvals, provided in addition that any new construction shall meet the Secretary's Standards; and
- (d) the right to provide and maintain a plaque on the Property giving notice of the historical significance of the Building, subject to Grantee's reasonable approval.

7. Casualty Damage or Destruction. In the event that the Building shall be materially damaged or destroyed by fire, flood, windstorm, hurricane, earth movement, or other casualty, Grantor shall notify the Grantee in writing within fourteen (14) days of the damage or destruction, such notification including what, if any, emergency work has already been completed. No repairs to or reconstruction of the exterior of any type, other than emergency work to prevent further damage to the structural integrity of the Building or the exterior of the Building, shall be undertaken by Grantor without the Grantee's prior written approval of the work. Within seventy-five (75) days

of the date of damage or destruction, if required by the Grantee, Grantor at its expense shall submit to the Grantee a written report prepared by a qualified restoration architect and an engineer who are acceptable to the Grantor and the Grantee, which report shall include the following:

- (a) an assessment of the nature and extent of the damage;
- (b) a determination of the feasibility of the restoration of the Building and/or reconstruction of damaged or destroyed portions of the Building; and
- (c) a report of such restoration/reconstruction work necessary to return the Building to the condition existing at the date hereof.

8. Review After Casualty Damage or Destruction. If, after reviewing the report provided in Paragraph 7 and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under Paragraph 9, Grantor and the Grantee agree that the Purpose of the Restriction will be served by such restoration/reconstruction, Grantor and the Grantee shall establish a schedule under which Grantor shall complete the restoration/reconstruction of the Building in accordance with plans and specifications consented to by the parties up to at least the total of the casualty insurance proceeds available to Grantor.

If, after reviewing the report and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under Paragraph 9, Grantor and the Grantee agree that restoration/reconstruction of the Building is impractical or impossible, or agree that the Purpose of the Restriction would not be served by such restoration/reconstruction, Grantor may, with the prior written consent of the Grantee, alter, demolish, remove or raze the Building, and/or construct new improvements on the Property. In the event that the Building is razed or removed with the approval of the Grantee, Grantor and Grantee may seek to extinguish this Restriction in accordance with the laws of the Commonwealth of Massachusetts and Paragraph 22 hereof.

If, after reviewing the report and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under Paragraph 9, Grantor and the Grantee are unable to agree that the Purpose of the Restriction will or will not be served by such restoration/reconstruction, the matter may be referred by either party to binding arbitration and settled in accordance with the Commonwealth of Massachusetts arbitration statute then in effect, and all other applicable laws, rules, regulations, and ordinances.

9. Insurance. Grantor shall keep the Building insured by an insurance company rated "A-" or better by Best's, or its current-day equivalent, as the case may be, for the full replacement value against loss from the perils commonly insured under standard fire and extended coverage policies and comprehensive general liability insurance against claims for personal injury, death, and property damage. Property damage insurance shall include change in condition and building ordinance coverage, in form and amount sufficient to replace fully the damaged Building without cost or expense to Grantor or contribution or coinsurance from Grantor. Grantor shall deliver annually and within ten (10) business days of any additional written request by the Grantee, certificates of such insurance coverage. Upon presentation of evidence by the Grantee that the insured value is less than the actual replacement value, then the Grantor shall purchase additional insurance sufficient to cover the actual replacement value. In the event that such a presentation has been made that the insurance is insufficient, the Grantor shall pay for the Grantee's cost in procuring such evidence. Provided, however, that whenever the Property is encumbered with a mortgage or deed of trust nothing contained in this paragraph shall jeopardize the prior claim, if any, of the mortgagee/lender to the insurance proceeds.

10. Hold Harmless. Grantor hereby agrees to protect, hold harmless, and defend Grantee, its boards, commissions, appointees, agents, directors, employees, or independent contractors from and against any and all claims, liabilities, expenses, costs, damages, losses, and expenditures (including reasonable attorneys' fees and disbursements hereafter incurred) arising out of or in connection with injury to or death of any person as a result of the existence of this Restriction; physical damage to the Building and the Property; the presence or release in, on, or about the Building and the Property, at any time, of any substance now or hereafter defined, listed, or otherwise classified pursuant to any law, ordinance, or regulation as a hazardous, toxic, polluting or contaminating substance; or other injury or other damage occurring on or about the Building and the Property; unless such injury, death, or damage is caused by Grantee or its boards, commissions, appointees, agents, directors, employees, or independent contractors.

11. Written Notice. Any notice which either Grantor or Grantee may desire or be required to give to the other party shall be in writing and shall be mailed postage prepaid by overnight courier, registered or certified mail with return receipt requested, or hand delivered as follows:

To Grantor: Somerville Hispanic Association For Community Development, Inc.
59 Cross Street
Somerville, MA 02145

To Grantee: City of Somerville by and through
Somerville Historic Preservation Commission
Somerville City Hall
93 Highland Avenue
Somerville, MA 02143

or to such address as any of the above parties shall designate from time to time by written notice to the other. In the event no current address is known or can be reasonably obtained for the party to which notice is intended to be given, then the party giving notice shall publish such notice in a newspaper of general circulation covering on at least a weekly basis the City of Somerville, or its modern-day functional equivalent.

12. Evidence of Compliance. Upon request by Grantor, Grantee shall promptly furnish Grantor with certification that, to the best of Grantee's knowledge, Grantor is in compliance with the obligations of Grantor contained herein, or that otherwise evidences the status of this Restriction to the extent of Grantee's knowledge thereof.

13. Inspection. Upon reasonable prior notice to Grantor, there is hereby granted to Grantee and its representatives the right to enter the Property, including the interior of the Building, at reasonable times and in a reasonable manner for the purpose of inspecting the same to determine compliance with this Preservation Restriction Agreement. Grantee shall inspect the property a minimum of one time per year.

14. Grantee's Remedies The rights hereby granted shall include the right to enforce this Agreement by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Property to its condition prior to the time of the injury complained of (it being agreed that Grantee shall have no remedy at law), and shall be in addition to and not in limitation of any other rights and remedies available to Grantee; provided, however, prior to commencement of any legal proceedings the Grantee shall first send a written notice of its intention to pursue legal action with a statement of the factual and legal basis of such claim and within thirty (30) days of receipt of such notice by the Grantor both parties shall enter in good faith into mediation with a mutually

agreeable neutral third-party trained in resolving disputes. The expense of mediation shall be split evenly between the parties.

Provided that a violation of this Agreement is acknowledged by Grantor or determined by a court of competent jurisdiction to have occurred, Grantor covenants and agrees to reimburse Grantee all reasonable costs and expenses (including without limitation reasonable counsel fees) incurred in enforcing this Agreement or in taking reasonable measures to remedy or abate any violation thereof. By its acceptance, Grantee does not undertake any liability or obligation relating to the condition of the Property, including with respect to compliance with hazardous materials or other environmental laws and regulations. This Agreement shall be enforced by Grantee in its sole discretion. Nothing herein shall impose upon the Grantee any affirmative obligation or liability relating to the condition of the Property. Failure by the Grantee to enforce any provision or condition set forth herein, or to exercise any rights hereby conveyed, shall not constitute a release or waiver of any such right or condition.

15. Notice from Government Authorities. Grantor shall deliver to Grantee copies of any notice of violation or lien relating to the Building and the Property received by Grantor from any government authority within five (5) days of receipt by Grantor. Upon request by Grantee, Grantor shall promptly furnish Grantee with evidence of Grantor's compliance with such notice or lien where compliance is required by law.

16. Notice of Proposed Sale. Grantor shall promptly notify Grantee in writing of any proposed sale of the Property and provide the opportunity for Grantee to explain the terms of the Restriction to potential new owners prior to sale closing.

17. Runs with the Land. Except as provided in Paragraphs 8 and 22, the obligations imposed by this Restriction shall be effective in perpetuity and shall be deemed to run as a binding servitude with the Property. This Restriction shall extend to and be binding upon Grantor and Grantee, their respective successors in interest and all persons hereafter claiming under or through Grantor and Grantee, and the words "Grantor" and "Grantee" when used herein shall include all such persons. Any right, title, or interest herein granted to Grantee also shall be deemed granted to each successor and assign of Grantee and each such following successor and assign thereof, and the word "Grantee" shall include all such successors and assigns.

Anything contained herein to the contrary notwithstanding, an owner of the Property shall have no obligation pursuant to this instrument where such owner shall cease to have any ownership interest in the Property by reason of a *bona fide* transfer. The restrictions, stipulations and covenants contained in this Restriction shall be inserted by Grantor, verbatim or by express reference, in any subsequent deed or other legal instrument by which Grantor divests itself of either the fee simple title or any lesser estate in the Property or any part thereof, including by way of example and not limitation, a lease of all or a portion of the Property.

18. Assignment. In the event that Grantee shall cease to function in its present capacity, Grantee may convey, assign, or transfer this Restriction to a unit of federal, state, or local government or to a similar local, state, or national organization that is a charitable corporation or trust qualified under the Act to hold a preservation restriction, provided that any such conveyance, assignment or transfer requires that the Purpose for which the Restriction was granted will continue to be carried out. Grantor shall give prior written approval of such conveyance, assignment, or transfer by Grantee, such approval not to be unreasonably withheld.

19. Repayment. At such time as the property is transferred, in whole or in part, to an entity unaffiliated with the Grantor or at such time as this restriction is no longer in effect (a

“Determining Event”), then upon such Determining Event, the sum to be repaid to the Grantee shall be:

- (a) fifty (50%) of the total Grant, if the Determining Event occurs on or before the tenth anniversary of the effective date as defined by Paragraph 21;
- (b) twenty-five (25%) of the total Grant; if between the tenth anniversary and the twenty-fifth anniversary of the effective date as defined by Paragraph 21;
- (c) ten (10%) of the total Grant; if between the twenty-fifth anniversary and the fiftieth anniversary of the effective date as defined by Paragraph 21n;
- (d) zero (0%) of the total Grant; if after the fiftieth anniversary of the effective date as defined by Paragraph 21.

Should the Grantee’s Community Preservation Fund no longer exist for any reason, such as the Grantee having opted out of Chapter 44B, the proceeds shall be used in a manner consistent with the preservation purpose set forth herein as a continuing trust.

20. Alternate Designee. Grantee may, at its discretion, remove and replace its designee to administer, manage, and enforce this Restriction, provided that any new designee is qualified as such under the Act and other applicable law.

21. Recording and Effective Date. Grantor shall do and perform at its own cost all acts necessary to the prompt recording of this instrument in the Middlesex South Registry of Deeds. Grantor and Grantee intend that the restrictions arising under this Restriction take effect on the day and year this instrument is recorded in the Middlesex South Registry of Deeds.

22. Extinguishment. Grantor and Grantee hereby recognize that an unexpected change in the conditions surrounding the Property may make impossible the continued ownership or use of the Property for the Purpose of this Restriction and necessitate extinguishment of the Restriction. Such a change in conditions may include, but is not limited to, partial or total destruction of the Building resulting from casualty. Such an extinguishment must meet all the requirements of the Act and the Laws of the Commonwealth for extinguishment, including approvals by the City of Somerville and the Massachusetts Historical Commission following public hearings to determine that such extinguishment is in the public interest.

23. Condemnation. If all or any part of the Property is taken under the power of eminent domain by public, corporate, or other authority, or otherwise acquired by such authority through a purchase in lieu of a taking, Grantor and Grantee shall join in appropriate proceedings at the time of such taking to recover the full value of those interests in the Property that are subject to the taking and all incidental and direct damages resulting from the taking. All expenses reasonably incurred by Grantor and Grantee in connection with such taking shall be paid out of the recovered proceeds. Such recovered proceeds shall be paid in the manner as set forth in Paragraph 19.

24. Insertion in Subsequent Instruments

Grantor shall insert a reference to this Agreement, such reference to include Registry book and page number of this Agreement, into any subsequent deed or other legal instrument by which Grantor divests itself of either the fee simple title or any lesser estate in the Property. Concurrently with its entering into any such deed or other legal instrument, Grantor shall give written notice to Grantee of same. Failure by Grantor to comply with the requirements of this paragraph 24 shall not affect the validity, enforceability or priority of this Agreement or any lien arising hereunder.

25. Interpretation. The following provisions shall govern the effectiveness, interpretation, and duration of the Restriction:

- (a) Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of the Property shall not apply in the construction or interpretation of this Restriction and this instrument shall be interpreted broadly to effect its Purpose and the transfer of rights and the restrictions on use herein contained.
- (b) This instrument may be executed in two counterparts, one of which is to be retained by Grantor and the other, after recording, to be retained by Grantee. In the event of any disparity between the counterparts produced, the recorded counterpart shall in all cases govern. Except as provided in the preceding sentence, each counterpart shall constitute the entire agreement of the parties.
- (c) This instrument is made pursuant to the Act, but the invalidity of such Act or any part thereof shall not affect the validity and enforceability of this Restriction according to its terms, it being the intent of the parties to agree and to bind themselves, their successors and their assigns in perpetuity to each term of this instrument whether this instrument be enforceable by reason of any statute, common law or private agreement either in existence now or at any time subsequent hereto.
- (d) Nothing contained herein shall be interpreted to authorize or permit Grantor to violate any ordinance or regulation relating to building materials, construction methods, or use. In the event of any conflict between any such ordinance or regulation and the terms hereof Grantor promptly shall notify Grantee of such conflict and shall cooperate with Grantee and the applicable governmental entity to accommodate the purposes of both this Restriction and such ordinance or regulation.
- (e) The invalidity or unenforceability of any provision of this Restriction shall not affect the validity or enforceability of any other provision of this Restriction.

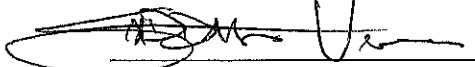
26. Amendment. If circumstances arise under which an amendment to or modification of this Restriction would be appropriate, Grantor and Grantee may by mutual written agreement jointly amend this Restriction, provided that no amendment shall be made that will adversely affect the qualification of this Restriction or the status of Grantee under any applicable law. Any such amendment shall be consistent with the protection of the Preservation Values of the Property and the Purpose of this Restriction; shall not affect its perpetual duration; shall not permit any private inurement to any person or entity; and shall not adversely impact the overall architectural and historic values protected by this Restriction. Any such amendment shall be effective when the requirements of the Act with respect to amendments have been met and the amendment is recorded in the Middlesex South Registry of Deeds. Nothing in this paragraph shall require Grantor or Grantee to agree to any amendment or to consult or negotiate regarding any amendment.

27. Subordination. Grantor and Grantee acknowledge that of the date of this Agreement, the Property and the Building are subject to a Perpetual Preservation Restriction Agreement held by the Commonwealth of Massachusetts by and through the Massachusetts Historical Commission and recorded with the Middlesex South Registry of Deeds on August 28, 2018 in Book 71535, Page 201 (hereinafter the "MHC Agreement"). Grantor agrees that in addition to complying with the terms and conditions of this Restriction, Grantor will continue to comply with the restrictions contained in the MHC Agreement, as it may be amended from time to time. Grantor and Grantee agree that this Agreement shall be subservient to the MHC Agreement, and further agree that should any dispute arise between Grantee and the Massachusetts Historical Commission in the process of fulfilling the requirements of these restrictions, the Grantee shall defer to the demands and requirements set out by the Massachusetts Historical Commission.

TO HAVE AND TO HOLD, the said Preservation Restriction, unto the said Grantee and its successors and permitted assigns forever.

IN WITNESS WHEREOF, Grantor and Grantee have set their hands under seal on the days and year set forth below.

GRANTOR: Somerville Hispanic Association For Community Development, Inc.
By and through its Chief Operating Officer,


Shaddai Vargas, President

and


Somerville Hispanic Association For Community Development, Inc.
By and through its Treasurer,


Lourdes Demallistre, Treasurer


COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 04th day of Sept., 2021, before me, the undersigned notary public, personally appeared Shaddai Vargas, provided to me through satisfactory evidence of identification which was His Drivers License to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that Shaddai Vargas signed it voluntarily for its stated purpose, as Chief Operating Officer of Somerville Hispanic Association For Community Development, Inc.

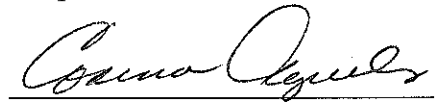

Notary Public
My commission expires:

(seal)



MARANDA A. TRAVASSOS
Notary Public
Commonwealth of Massachusetts
My Commission Expires
April 19, 2024

Middlesex, ss.

On this 09 day of 03, 2021 before me, the undersigned notary public, personally appeared Lourdes Demallistre provided to me through satisfactory evidence of identification which was Drivers' License to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that Lourdes Demallistre signed it voluntarily for its stated purpose, as Treasurer of Somerville Hispanic Association For Community Development, Inc.


Notary Public
My commission expires:

(seal)


CORINA AGUILAR
Notary Public
Commonwealth of Massachusetts
My Commission Expires July 24, 2026

APPROVAL AND ACCEPTANCE BY CITY OF SOMERVILLE

On _____, 2021, the Somerville City Council, by majority vote, voted to Approve and Accept this Agreement.

Katjana Ballantyne, President, Ward 7 Councilor

Matthew McLaughlin, Vice-President, Ward 1 Councilor

Kristen Strezo, At-Large

Wilfred N. Mbah, At-Large

Mary Jo Rossetti, At-Large

William A. White, Jr., At-Large

Jefferson Thomas Scott, Ward 2

Ben Ewen-Campen, Ward 3

Jesse Clingan, Ward 4

Mark Niedergang, Ward 5

Lance Davis, Ward 6

Joseph A. Curtatone, Mayor

Middlesex, ss.

On this ___ day of _____, 2021, before me, the undersigned notary public, personally appeared Katjana Ballantyne, provided to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that Katjana Ballantyne signed it voluntarily for its stated purpose as Ward 7 Councilor and City Council President, City of Somerville.

Notary Public
My commission expires:

(seal)

Middlesex, ss.

On this ___ day of _____, 2021, before me, the undersigned notary public, personally appeared Matthew McLaughlin, provided to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that Matthew McLaughlin signed it voluntarily for its stated purpose as Ward 1 Councilor and City Council Vice-President, City of Somerville.

Notary Public
My commission expires:

(seal)

Middlesex, ss.

On this ___ day of _____, 2021, before me, the undersigned notary public, personally appeared Kristen Strezo, provided to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that Stephanie Hirsch signed it voluntarily for its stated purpose as an At-Large City Councilor, City of Somerville.

Notary Public
My commission expires:

(seal)

Middlesex, ss.

On this ___ day of _____, 2021, before me, the undersigned notary public, personally appeared Wilfred N. Mbah, provided to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that Wilfred N. Mbah signed it voluntarily for its stated purpose as an At-Large City Councilor, City of Somerville.

Notary Public
My commission expires:

(seal)

Middlesex, ss.

On this ___ day of _____, 2021, before me, the undersigned notary public, personally appeared Mary Jo Rossetti, provided to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that Mary Jo Rossetti signed it voluntarily for its stated purpose as an At-Large City Councilor, City of Somerville.

Notary Public
My commission expires:

(seal)

Middlesex, ss.

On this ___ day of _____, 2021, before me, the undersigned notary public, personally appeared William A. White, Jr., provided to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that William A. White, Jr. signed it voluntarily for its stated purpose as an At-Large City Councilor, City of Somerville.

Notary Public
My commission expires:

(seal)

Middlesex, ss.

On this ___ day of _____, 2021, before me, the undersigned notary public, personally appeared Jefferson Thomas Scott, provided to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that Jefferson Thomas Scott signed it voluntarily for its stated purpose as Ward 2 City Councilor, City of Somerville.

Notary Public
My commission expires:

(seal)

Middlesex, ss.

On this ___ day of _____, 2021, before me, the undersigned notary public, personally appeared Ben Ewen-Campen, provided to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that Ben Ewen-Campen signed it voluntarily for its stated purpose as Ward 3 City Councilor, City of Somerville.

Notary Public
My commission expires:

(seal)

Middlesex, ss.

On this ___ day of _____, 2021, before me, the undersigned notary public, personally appeared Jesse Clingan, provided to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that Jesse Clingan signed it voluntarily for its stated purpose as Ward 4 City Councilor, City of Somerville.

Notary Public
My commission expires:

(seal)

Middlesex, ss.

On this ___ day of _____, 2021, before me, the undersigned notary public, personally appeared Mark Niedergang, provided to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that Mark Niedergang signed it voluntarily for its stated purpose as Ward 5 City Councilor, City of Somerville.

Notary Public
My commission expires:

(seal)

Middlesex, ss.

On this ___ day of _____, 2021, before me, the undersigned notary public, personally appeared Lance Davis, provided to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that Lance Davis signed it voluntarily for its stated purpose as Ward 6 City Councilor, City of Somerville.

Notary Public
My commission expires:

(seal)

Middlesex, ss.

On this ___ day of _____, 2021, before me, the undersigned notary public, personally appeared Joseph A. Curtatone, provided to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that Joseph A. Curtatone signed it voluntarily for its stated purpose, as Mayor, City of Somerville.

Notary Public
My commission expires:

(seal)

ACCEPTANCE BY SOMERVILLE HISTORIC PRESERVATION COMMISSION

On _____, 2021, the Somerville Historic Preservation Commission, by majority vote, voted to Accept this Agreement.

Historic Preservation Commission:

Alan Bingham, Chairman, duly authorized

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this ___ day of _____, 2021, before me, the undersigned notary public, personally appeared Alan Bingham, provided to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that Alan Bingham signed it voluntarily for its stated purpose, as Chairman, City of Somerville Historic Preservation Commission.

Notary Public
My commission expires:

(seal)

APPROVAL BY THE MASSACHUSETTS HISTORICAL COMMISSION

COMMONWEALTH OF MASSACHUSETTS

The undersigned Executive Director and Clerk of the Massachusetts Historical Commission, hereby certifies that the foregoing Preservation Restriction to the City of Somerville, acting by and through its Somerville Historic Preservation Commission (Grantee), has been approved by the Massachusetts Historical Commission in the public interest pursuant to MGL, Chapter 184, Section 32.

By: _____
Brona Simon, Executive Director and Clerk

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this ___ day of _____, 2021, before me, the undersigned notary public, personally appeared Brona Simon proved to me through satisfactory evidence of identification which was personal knowledge to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that Brona Simon signed it voluntarily for its stated purpose, as Executive Director and Clerk of the Massachusetts Historical Commission.

Notary Public
My commission expires:

(seal)

EXHIBIT A
LEGAL DESCRIPTION

A certain parcel of land, with the buildings thereon situated in Somerville in the County of Middlesex and Commonwealth of Massachusetts, bounded and described as follows:

Beginning at the Northeasterly corner of Cross Street, by land now or late of one Doane, thence running Southwesterly by Cross Street, five rods and five links; thence Northwesterly in a line parallel with said Doane's land by land formerly of Samuel S. and George S. Runey, twenty-three rods and seventeen links; thence Northeasterly by land now or late of Luther B. Bell and Columbus Tyler, five rods and five links to land now or late of said Doane; thence Southeasterly by land now or late of Doane twenty-three rods and seventeen links to said Cross Street to the point of beginning. Containing thirty three thousand, five hundred and three square feet, more or less.

Source: Middlesex South District Registry of Deeds, Book 47708, Page 261.

EXHIBIT B Assessor Map, Parcel 90-G-19



H:\GIS\Projects\Somerville\Community Preservation Committee\mtd05CrossSt.mxd

EXHIBIT C
MHC INVENTORY BUILDING FORM, prepared by Eric Dray, March, 2019

FORM B – BUILDING

MASSACHUSETTS HISTORICAL COMMISSION
 MASSACHUSETTS ARCHIVES BUILDING
 220 MORRISSEY BOULEVARD
 BOSTON, MASSACHUSETTS 02125

Assessor's Number USGS Quad Area(s) Form Number

90 G 19 Lexington SMV.316
 LHD, 1989; PR, 2018

Town/City: SOMERVILLE

Place: (*neighborhood or village*): East Somerville

Photograph



Address: 59 Cross Street

Historic Name: Grace Baptist Church

Uses: Present: Religious - Church

Original: Religious - Church

Date of Construction: 1892

Source: Samuel, Edward, *Somerville: Past and Present*, 1897.

Style/Form: Romanesque Revival

Architect/Builder: Unknown

Exterior Material:

Foundation: Granite

Wall/Trim: Red brick/ Yellow brick, granite

Roof: Slate shingles

Outbuildings/Secondary Structures:

None

Major Alterations (*with dates*):

None

Condition: Good

Moved: no yes **Date:**

Acreage: 20,065 sq. ft.

Setting:

This parcel rises slightly from the street. The church is set back from the street but occupies a large percentage of the parcel. A low granite retaining wall runs along the sidewalk in front of the church. Low pyramidal bollards mark cement walkways to both sides of the church. A chain link fence spans the front and right (north) side elevations. The surrounding area is densely developed with multi-family residential buildings, commercial resources and the East Somerville Community School across the street.

Locus Map



Recorded by: Eric Dray, Preservation Consultant, for

Organization: Somerville Community Pres. Comm.

Date (*month / year*): March, 2019

INVENTORY FORM B CONTINUATION SHEET
MASSACHUSETTS HISTORICAL COMMISSION
220 MORRISSEY BOULEVARD, BOSTON, MASSACHUSETTS 02125

SOMERVILLE

59 CROSS STREET

Area(s) Form No.

SMV.316

Recommended for listing in the National Register of Historic Places.

If checked, you must attach a completed National Register Criteria Statement form.

Use as much space as necessary to complete the following entries, allowing text to flow onto additional continuation sheets.

ARCHITECTURAL DESCRIPTION:

Describe architectural features. Evaluate the characteristics of this building in terms of other buildings within the community.

This church is designed in the Romanesque Revival style, also known as the "Round Style" (not to be confused with the Richardsonian Romanesque style also employed in the late-19th century). This church is rectangular in form with a large two-story, gable-front main block. This main block is enlivened with a prominent one-story, semi-circular bay centered on the front elevation; a square, hip-roof tower that is flush with the front elevation on the left (south) side; a second square, hip-roof tower set well back on the right (north) elevation; and cross-gable, stepped-down ells at the rear of main gable block.

The building is constructed of red brick, and the elevations are further enlivened with rough-faced granite beltcourses. A granite tablet is centered on the front bay with the words "Perkins Street Baptist Church." Fenestration surrounds have flared yellow brick lintels and rough-faced granite sills. Fenestration includes Queen Anne-style windows on the first story of the front bay and side elevations. These windows all have colored glass, and the center panels of the windows in the front bay have stained glass. Fenestration on the second story consists primarily of 1/1 double-hung sash. Some openings are currently boarded over which may have originally contained sash, including rounded panels above some rectangular sash on both towers and a large semi-circular opening above six rounded-headed windows on the front gable. Some of these smaller windows have what appear to be the original 2/2 double-hung sash.

As noted above, large cross-gable ells extend from both sides of the rear (west) end of the main block. These ells have shallow brick buttresses. Centered in the gable end of these ells are large round openings, currently boarded over. These openings likely contained round windows, the design of which is unknown. The surrounds of both window openings have multiple courses of yellow brick. The left (south) cross-gable is currently reinforced on the exterior by two tall metal beams.

The main entrance is located within the front tower which has round-headed openings on all three sides. A secondary entrance is located on the front (east) elevation of the tower that is set back on the north elevation of the main block. All the entrances have replacement, paired vertical board doors.

The roof is clad in gray-green slate. The cornice of the rounded bay has courses of denticulated bricks, as do the side elevations of the main block. Both tower roofs have cornices with large modillion blocks and are capped with copper finials.

HISTORICAL NARRATIVE

Discuss the history of the building. Explain its associations with local (or state) history. Include uses of the building, and the role(s) the owners/occupants played within the community.

(Narrative restated, with edits/additions, from the earlier undated version of this Form B)

East Somerville was one of the most densely settled parts of Somerville by the mid to late-1800s, due in part to the level topography and fine soil for drainage, and clay for brick and pottery making. Broadway and Washington Street were main thoroughfares from the 18th century connecting Charlestown with Medford and Cambridge. Several farms cropped up in the East Somerville area, and by the mid-1800s there were shops, taverns and industries with brick yards and pottery enterprises. In the mid-1800s, most residents were Boston businessmen and from the 1870s, many multi-family buildings were built to accommodate the increasing number of workers in the area due to the expanding brickyards, spike factories and potteries.

In 1845, the Neck Village Baptist Church was organized under the Reverend John R. Gow. It soon became known as the Charlestown and Somerville Baptist Church, and by 1853 was named the Perkins Street Baptist Church. There was a meeting house on Perkins Street that burned in 1866. It was rebuilt and then enlarged in 1873 to accommodate 1,000 people. This is an indicator of the rapidly increasing local population. The congregation split in the 1880s and the new parish used the Franklin Street

Continuation sheet 1

INVENTORY FORM B CONTINUATION SHEET
MASSACHUSETTS HISTORICAL COMMISSION
220 MORRISSEY BOULEVARD, BOSTON, MASSACHUSETTS 02125

SOMERVILLE

59 CROSS STREET

Area(s) Form No.

SMV.316

Congregational Church until this building was built in 1892 for \$46,000. There were 373 resident members at that time. The church became known as the Grace Baptists Church. In 2006, the Grace Baptist Church conveyed this property to the Somerville Hispanic Association For Community Development, Inc. (Book 47708/ Page 261).

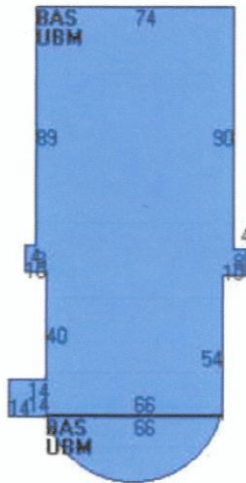
BIBLIOGRAPHY and/or REFERENCES

Form B, SMV.316, (no date or author)

Middlesex South County Registry of Deeds

Samuel, Edward, *Somerville: Past and Present*, 1897.

Zellie, Carol, *Beyond the Neck: The Architecture and Development of Somerville, Massachusetts*, 1983.



Somerville Assessor Sketch.

Continuation sheet 2

EXHIBIT D
Six (6) Photographs, taken by Eric Dray, February, 2019



Photo 1. View of front (east) elevation, looking west.



Photo 2. View of front (east) and partial left (south) side elevations, looking northwest.



Photo 3. View of partial left (south) side elevation, looking north.



Photo 4. View of rear (west) elevation, looking northeast.



Photo 5. View of right (north) side elevation, partial, looking southwest.



Photo 6. View of front (east) and right (north) side elevation, partial, looking south.

EXHIBIT E RESTRICTION GUIDELINES

A. MAJOR VS. MINOR

The purpose of the Restriction Guidelines is to clarify Paragraph 3 of the terms of the preservation restriction, which deals with alterations to the Property. Under this section permission from the GRANTEE is required for any major alteration. Alterations of a minor nature, which are part of ordinary maintenance and repair, do not require GRANTEE review. In an effort to explain what constitutes a minor alteration and what constitutes a major change, which must be reviewed by the GRANTEE, the following list has been developed. By no means is this list comprehensive: it is only a sampling of some of the more common alterations, which may be contemplated by the property owner.

PAINT

Minor - Hand scraping and repainting of non-decorative and non-significant surfaces as part of periodic maintenance.

Major - Painting or fully stripping decorative surfaces or distinctive stylistic features including murals, stenciling, ornamental woodwork, stone, masonry, decorative or significant original stucco or plaster.

WINDOWS AND DOORS

Minor - Regular maintenance including caulking, painting and necessary reglazing. Repair or in-kind replacement of existing individual decayed window parts.

Major - Wholesale replacement of units; change in fenestration or materials; alteration of profile or setback of windows. The addition of storm windows is also considered a major change; however, with notification it is commonly acceptable.

EXTERIOR

Minor - Spot repair of existing cladding and roofing including in-kind replacement of clapboards, shingles, slates, etc.

Major - Large-scale repair or replacement of cladding or roofing. Change involving inappropriate removal or addition of materials or building elements (i.e. removal of chimneys or cornice detailing; installation of architectural detail which does not have a historical basis); altering or demolishing building additions; spot repointing of masonry. Structural stabilization of the property is also considered a major alteration.

LANDSCAPE/OUTBUILDINGS

Minor - Routine maintenance of outbuildings and landscape including lawn mowing, pruning, planting, painting, and repair.

Major - Moving or subdividing buildings or property; altering of property; altering or removing significant landscape features such as gardens, vistas, walks, plantings, walls, fences; ground disturbance affecting archaeological resources.

HEATING/AIR CONDITIONING/ELECTRICAL/PLUMBING SYSTEMS

Minor - Repair of existing systems.

Major - Installing or upgrading systems which will result in major exterior appearance changes (i.e. exterior ducts, piping, ventilators, HVAC units); the removal of substantial quantities of original materials in the course of construction.

Changes classified as major alterations are not necessarily unacceptable. Under the preservation restriction such changes must be reviewed by the GRANTEE and their impact on the historic integrity of the property assessed. It is the responsibility of the property owner to notify the GRANTEE in writing when any major alterations are contemplated. Substantial alterations may necessitate review of plans and specifications. The intent of the preservation restriction is to enable the GRANTEE to review proposed alterations and assess their impact on the integrity of the building, not to preclude future change. GRANTEE will attempt to work with property owner to develop mutually satisfactory solutions, which are in the best interests of the Property.

B. SPECIFIC STANDARDS

The following standards are included to establish a general level of quality for all work, and are considered essential to achieve the City's primary objective for the Building and Property, and to guide the Grantee in its review of proposed alterations which are subject to Grantee review.

1. *Doors*: All exterior doors are non-original. If they require replacement, the new doors must be wood, and be compatible in design, color, and finish. Storm doors are allowed provided they are as visually minimal as possible, including use of full-light panels to maximize visibility of the underlying doors, as approved by the Grantee. It is encouraged that, if documentation is found of the original door designs, that those doors be restored (see Par. 6 below).
2. *Equipment*: Window-mounted HVAC or other ventilation equipment are not permitted. Openings made for HVAC or other equipment on the exterior of the Building must be located in a manner that does not detract from the Building.
3. *Exterior Landscape Features*: Exterior landscape features, including plantings, trees, walkways and fences must not obscure the view of the Building from public streets.
4. *Light fixtures (Building-attached)*: Light fixtures may be used but must be minimal in appearance, appropriate to the Building, and not damage the Building or obscure ornamental detail when attached.
5. *Masonry*: If repointing is needed, the mortar must match the joint depth, profile and color of existing mortar, and be of a composition that is similar or compatible to the existing mortar. Masonry may not be painted. Proposals to clean the masonry must be reviewed by the Grantee to ensure that the masonry will not be damaged.
6. *Missing Features*: Missing historic features may be restored, provided there is adequate documentation of the appearance, color and material of the missing features.
7. *Paint*: Existing paint colors must be replaced-in-kind unless historic evidence indicates a different original paint color, in which case the original color may be used.
8. *Roof material*: The existing gray-green slate must be retained and repaired where possible. If replacement is required, replacement must match the existing or be similar in size, color and profile.
9. *Skylights and Dormers*: Dormers and skylights are not permitted.
10. *Trim and Decoration*: Original trim and ornamental details must be retained and repaired where possible. If replacement is required, the replacement must match the existing in size, color and profile.
11. *Windows*: Original windows must be repaired. If replacement is required, the replacement windows must match the existing in design, including colored glass, and material, where possible. If non-original windows require replacement, or if currently-in-filled window openings are to be restored, the new windows must replicate the original windows in design and material, based on documentation of the original window design (see Par. 6).