



Application No.: CU-2015-013

Appendix "B"

**Letter of Intent and Conditional Use
Application**

Mater Academy

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING A CONDITIONAL USE APPLICATION TO PERMIT A SCHOOL (WITH NO RESIDENTIAL COMPONENT) AT 22025 SW 87 AVENUE, AS LEGALLY DESCRIBED IN EXHIBIT "A", CONSISTING OF APPROXIMATELY 44.03 ACRES; AND PROVIDING FOR AN EFFECTIVE DATE.

Holland & Knight

701 Brickell Avenue, Suite 3300 | Miami, FL 33131 | T 305.374.8500 | F 305.789.7799
Holland & Knight LLP | www.hklaw.com

Hugo P. Arza
305-789-7783
hugo.arza@hklaw.com

VIA HAND DELIVERY

May 2, 2016

Ms. Kathryn Lyon
Planning and Zoning Director
Department of Community Development
Town of Cutler Bay
10720 Caribbean Boulevard, Suite 105
Cutler Bay, Florida 33189

**Re: Mater Academy Foundation, Inc. / Folio No. 36-6015-000-0040 / School Use /
Letter of Intent for Conditional Use to Permit a Charter School Use**

Dear Ms. Lyon:

This law firm represents Mater Academy Foundation, Inc., (“Applicant”), the owner of the property located at 22025 SW 87 Avenue, in the Town of Cutler Bay (“Cutler Bay”), further identified by Miami-Dade County Folio No. 36-6015-000-0040 (the “Property”). This letter shall serve as the Applicant’s letter of intent for Conditional Use to permit a charter school use on the Property, pursuant to Section 3-61 of the Town of Cutler Bay Land Development Regulations (“Town Code”). The Applicant has also filed a concurrent application for administrative site plan review (“ASPR”) and approval.

Property. The Property is approximately 44.03 acres of land located south of SW 216 Street and east of SW 87 Avenue. The Property is currently vacant and improved with six (6) 1-story and 2-story buildings encompassing 104,492 square feet of floor area. The Property was previously the site of a private school operated by Bay Point Schools. The Property has a land use designation of “Institutional”, “Water”, and “Estate-Density Residential-Conservation”. The Institutional land use category allows governmental facilities, educational facilities, communications facilities, religious institutions, fraternal organizations, hospitals, and congregate care and nursing homes.

The Property is zoned “INT (Institutional District)” and “WU (Water Use District)”. The INT zoning district provides for the continued and future use, expansion, and new development of academic and religious campuses, as well as government and health related facilities. As delineated in Section 3-61 of the Town Code, educational facilities/schools are permitted as a conditional use. Pursuant to Resolution No. 11-27, approved on April 20, 2011, the Town Council has identified the Property as a potential site for a municipal charter school. See Exhibit “A” (Town Resolution No. 11-27). As such, approval of the proposed use would be consistent with the character of the community and consistent with the Town’s delineated goals and needs.

Ms. Kathryn Lyon
Planning and Zoning, Director
May 2, 2016
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Project. Accompanying this ASPR application are architectural plans for the proposed “Mater Academy Bay Elementary”, as prepared by Civica Architecture and Urban Design, LLC, and consisting of 14 sheets (the “Site Plan”). As shown on the Site Plan, the Applicant is proposing to utilize the existing structures of the Property in order to operate a 1,200 student (K–8) charter school (the “Project”). The Project will serve to provide a world-class teaching atmosphere and enhanced learning environment for the Mater Academy faculty and student body. The Site Plan delineates that work will be done to the internal components of the existing buildings, in order to enhance office and administration facilities and instructional/classroom areas. In fact, the Site Plan does not propose any new buildings on the Property. The Site Plan also sets forth a proposed minor driveway adjustment and the addition of a new cul-de-sac, which will provide stacking for 87 vehicles. The proposed development also meets all of the Town’s FAR, setback, lot coverage, and parking requirements.

Mater Academy is a not-for-profit educational organization operating 27 schools, across 16 campuses, which serve 14,065 students in South Florida. The organization’s first charter school, Mater Academy Elementary, was established in the City of Hialeah Gardens in 1998, and was one of the first charter schools to open in Miami-Dade County. In establishing their innovative programs, Mater Academy has identified three basic concepts, which serve as the foundation of their operations: (1) a learning environment that allows children to learn and progress at their individual pace; (2) small class sizes in a culture that supports personalized instruction; and (3) parental involvement programs to ensure that all parents play an active role in the education of their children. Each Mater Academy program follows a state standards-based curriculum unique to the community and students it serves, and implements research-based instructional strategies in technology-rich environment. This has proven highly successful, as evidenced by the fact that each of the Mater Academy schools has been recognized at local and state levels and won multiple awards for high academic achievement, while serving a high percentage of minority students.

Analysis. Pursuant to Section 3-39(B) of the Town of Cutler Bay Land Development Regulations, in considering approval or disapproval of a Conditional Use Permit application, the Town Council shall use the following criteria in making their decision:

1. *Compliance with the Town’s Growth Management Plan.*
2. *Consistent with the “character and purpose” of the zoning district.*
3. *The size, shape and character of the property are suited for the proposed use.*
4. *Is compatible with the existing uses near the property.*
5. *Will not adversely affect the development of the general neighborhood or district.*
6. *Will not generate vehicular traffic or create vehicular circulation problems or parking demands that have an unfavorable impact on surrounding properties when compared with uses permitted by right in the same district.*
7. *Potential for fire and/or other equally or greater dangerous hazards.*
8. *Create an unfavorable environment impacts on surrounding uses (e.g. noise, glare, smoke, dust, odor, fumes, water pollution, or general nuisance).*
9. *Is consistent with existing and planned pedestrian and vehicular circulation adjacent to and near the property.*

10. *Site is adequately served by essential public services and facilities not requiring additional public expense in infrastructure improvements.*
11. *Will not adversely affect any site or feature of historical, cultural, natural or scenic importance.*
12. *Will not be contrary to the public health, safety, and welfare, provided that a denial based exclusively on this language shall include explicitly findings regarding the way in which granting the special exception would be contrary to the public health, safety and welfare.*

The Property encompasses a Town Growth Management Plan Future Land Use Map designation of “Institutional”, which allows and promotes educational facilities. As such, the proposed Project will serve to meet the needs of the Town’s growing diverse community, and will contribute the Town’s economic prosperity and viability by creating much-needed jobs, improving access to quality education, cultivating the aesthetic character of the surrounding neighborhood, and enhancing property values by providing high-quality public-school opportunities. Additionally, and as set forth in Policy EDU-7H of the Town Growth Management Plan, the Project will serve to eliminate infrastructure deficiencies surrounding existing school sites, and pursuant to Policy EDU-7I, will provide an adequate site for required education facilities. The Project is also in-line with Objective EDU-5, as it will also help to develop programs and opportunities to bring schools and the community closer together.

The Project is also compatible with the “character and purpose” of the INT zoning district, which provides for the continued and future development of academic campuses, and is compatible with the general neighborhood and existing uses near the Property. The Project is also consistent with the Town Council’s vision, which pursuant to Resolution No. 11-27, designated the Property as a potential site for a municipal charter school. The Site Plan also delineates that the scope of work will deal primarily with interior renovations to existing buildings (previously operated as Bay Point School), and as such, the size and shape are well-suited for the proposed use.

No significant impacts or hazards will be created by the Project, and all essential public services and facilities shall be adequately served. Ingress and egress to the Property shall be provided exclusively at SW 87th Avenue, and all student drop-off/pick-up stacking and queuing shall take place exclusively within the Property. The unification of the Property into one unified site plan will also reduce traffic congestion and improve traffic circulation both internally to the Project and in the surrounding community. In order to address any additional issues pertaining to traffic, the Applicant is working with the Town of Cutler Bay’s consultants, as well as with the Miami-Dade County Public Works Traffic Engineering Division, to provide a traffic study and analysis.

The development will also have a favorable impact on the environmental and natural resources of the Town of Cutler Bay, as a conservation easement has been provided, and will be incorporated into the school curriculum, providing students with the opportunity to learn about the native Florida eco-system and environmental conservation. As such, the Project will ultimately serve to protect the public health, safety, and welfare of the Town and its residents.

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Planning and Zoning, Director
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In summary, we believe that the proposed application represents a compatible and effective use that will serve the operational needs of Mater Academy, while exemplifying the high quality of development that is representative of the Town of Cutler Bay, and meeting the goals of the Town Council. Based on the forgoing, we look forward to your favorable recommendation. Should you have any questions or concerns regarding this Application, please do not hesitate to phone my direct line at (305) 789-7783.

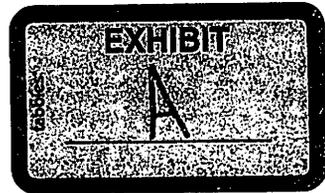
Respectfully submitted,

HOLLAND & KNIGHT LLP

A handwritten signature in blue ink, consisting of several overlapping loops and a trailing line to the right.

Hugo P. Arza, Esq.

Enclosures



RESOLUTION 11-27

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, IDENTIFYING PROPERTY LOCATED AT 22025 SOUTHWEST 87 AVENUE (A.K.A. BAY POINT SCHOOL) AS A POTENTIAL SITE FOR A MUNICIPAL CHARTER SCHOOL, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the "Town") has been exploring the possibility of operating a municipal charter school within the Town; and

WHEREAS, the town council has examined several properties within the town where a municipal charter school could be located; and

WHEREAS, the town council desires to formally identify the property located at 22025 Southwest 87 Avenue (a.k.a. Bay Point School) as a potential site; and

WHEREAS, the town council finds that this resolution is in the best interest and welfare of the residents of the town.

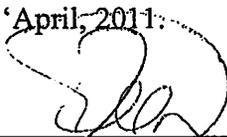
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Municipal Charter School Property. The town council hereby identifies property located at 22025 Southwest 87 Avenue (a.k.a. Bay Point School) as a potential site for a municipal charter school.

Section 3. Effective Date. This resolution shall take effect immediately upon adoption.

PASSED and ADOPTED this 20th day of April, 2011.

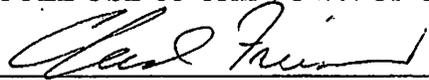

EDWARD P. MACDOUGALL, Mayor

Attest:


ESTHER B. COULSON
Town Clerk



APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:



WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

Moved By: Vice Mayor Sochin
Seconded By: Councilmember Bell

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall	<u>Yes</u>
Vice Mayor Ernest N. Sochin	<u>Yes</u>
Councilmember Peggy R. Bell	<u>Yes</u>
Councilmember Mary Ann Mixon	<u>Yes</u>
Councilmember Sue Ellen Loyzelle	<u>Yes</u>



Community Development Department
10720 Caribbean Boulevard, Suite 120
Phone: 305-234-4262 Fax: 305-234-4251

CONDITIONAL USE (SPECIAL EXCEPTION) APPLICATION

LIST ALL FOLIO #S: 36-6015-000-0040

DATE RECEIVED: _____

1. NAME OF APPLICANT (Provide complete name of applicant, exactly as recorded on deed, if applicable. If applicant is a lessee, an executed 'Owner's Sworn-to-Consent' and copy of a valid lease for 1 year or more is required. If the applicant is a corporation, trust, partnership, or like entity, a 'Disclosure of Interest' is required).

Hugo P. Arza, Esq. on behalf of Mater Academy Foundation, Inc.

2. APPLICANT'S MAILING ADDRESS, TELEPHONE NUMBER:

Mailing Address: 7901 NW 103 Street

City: Hialeah Gardens State: FL Zip: 33016 Phone#: (305) 789-7783

3. OWNER'S NAME, MAILING ADDRESS, TELEPHONE NUMBER:

Owner's Name (Provide name of ALL owners): Mater Academy Foundation, Inc.

Mailing Address: 7901 NW 103 Street

City: Hialeah Gardens State: FL Zip: 33016 Phone#: (305) 789-7783

4. CONTACT PERSON'S INFORMATION:

Name: Hugo P. Arza, Esq. Company: Holland & Knight, LLP

Mailing Address: 701 Brickell Avenue, Suite 3300

City: Miami State: FL Zip: 33131

Phone# (305) 789-7783 Fax# (305) 679-6302 E-mail: hugo.arza@hkllaw.com





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5. LEGAL DESCRIPTION OF ALL PROPERTY COVERED BY THE APPLICATION

(Provide complete legal description, i.e., lot, block, subdivision name, plat book & page number, or metes and bounds. Include section, township, and range. If the application contains multiple rezoning requests, then a legal description for each sub-area must be provided. Attach separate sheets, as needed).

See Exhibit "A"

6. ADDRESS OR LOCATION OF PROPERTY (For location, use description such as NE corner of, etc.)

22025 SW 87 Avenue, Cutler Bay, Florida 33190

7. SIZE OF PROPERTY (in acres): 44.03 (divide total sq. ft. by 43,560 to obtain acreage)

8. DATE property acquired leased: March 2016 **9. LEASE TERM:** _____ Years
(Month & year)

10. IF CONTIGUOUS PROPERTY IS OWNED BY THE SUBJECT PROPERTY OWNER(S), provide Complete legal description of said contiguous property.

N/A





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11. Is there an option to purchase or lease the subject property or property contiguous thereto?

no yes (if yes, identify potential purchaser or lessee and complete 'Disclosure of Interest' form)

12. PRESENT ZONING CLASSIFICATION: INT (Institutional District) & WU (Water Use District)

13. APPLICATION REQUESTS (check all that apply and describe nature of the request in space provided) (DBC's require special exception to permit site plan approval unless rezoning 3 acres or less to residential categories)

District Boundary Changes (DBC) (Zone class requested): _____

Unusual Use: _____

Variance: _____

Alternative Site Development (PUD): _____

Special Exception: Conditional Use for Educational Facilities/School

Administrative Waiver: _____

Modification of previous resolution/plan: _____

Modification of Declaration or Covenant: _____

Other: _____

14. Has a public hearing been held on this property within the last year & a half?
No Yes.

If yes, provide applicant's name, and date, purpose and results of hearing, and resolution number:





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15. Is this hearing is as a result of a violation notice? No Yes. If yes, give name to whom the Violation notice was served: _____ and describe the violation:

16. Describe structures on the property: +/- 94,965 sq. ft. educational facility/school building

17. Is there any existing use on the property? No Yes. If yes, what use and when established?

Use: School Year: 1997

18. Submitted Materials Required:
Please check all that Apply:

- Letter of intent
- Justifications for change
- Statement of hardship
- Proof of ownership or letter from owner
- Power of attorney
- Contract to purchase
- Current survey (1 original sealed and signed/ 1 reduced copy at 11" x 17")
- (12) Copies of Site Plan and Floor Plans
(1) Reduced copy at 11"x 17"
- 20% Property owner signatures (If required)
- Mailing Labels (3 sets) and map (If required)
- Required Fee(s)





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APPLICANT'S AFFIDAVIT

The Undersigned, first being duly sworn depose that all answers to the questions in this application, and all supplementary documents made a part of the application are honest and true to the best of (my)(our) knowledge and belief. (I)(We) understand this application must be complete and accurate before the application can be submitted and the hearing advertised.

OWNER OR TENANT AFFIDAVIT

(I)(WE), _____, being first duly sworn, depose and say that (I am)(We are) the a owner a tenant of the property described and which is the subject matter of the proposed hearing.

Signature

Signature

Sworn to and subscribed to before me
This ____ day of _____, _____

Notary Public: _____
Commission Expires: _____

CORPORATION AFFIDAVIT

(I)(WE), Antonio L. Roca, being first duly sworn, depose and say that (I am) (We are) the President Vice-President Secretary Asst. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application for public hearing; and that said corporation is the owner tenant of the property described herein and which is the subject matter of the proposed hearing.

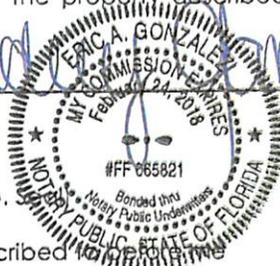
Attest: _____

[Handwritten signature]

[Handwritten signature]

Authorized Signature

(Corp. _____)



Office Held
Mater Academy Foundation, Inc.

Sworn to and subscribed to before me

Notary Public: _____

This 12 day of April, 2016

Commission Expires: _____





Community Development Department
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PARTNERSHIP AFFIDAVIT

(I)(WE), _____, being first duly sworn, depose and say that (I am)(We are) partners of the hereinafter named partnership, and as such, have been authorized to file this application for a public hearing; and that said partnership is the owner tenant of the property described herein which is the subject matter of the proposed hearing.

By _____ %
By _____ %
By _____ (Name of Partnership)
By _____

Sworn to and subscribed to before me
This _____ day of _____, _____
Notary Public: _____
Commission Expires: _____

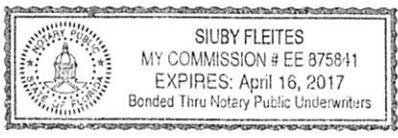
ATTORNEY AFFIDAVIT

I, Hugo P. Arza, Esq., being first duly sworn, depose and say that I am a State of Florida Attorney at Law, and I am the Attorney for the Owner of the property described and which is the subject matter of the proposed hearing.



Signature

Sworn to and subscribed to before me
This 4th day of April, 2016
Notary Public: Siuby Fleites
Commission Expires: _____





Community Development Department
10720 Caribbean Boulevard, Suite 120
Phone: 305-234-4262 Fax: 305-234-4251

RESPONSIBILITIES OF THE APPLICANT

I AM AWARE THAT:

1. The Department Environmental Resources Management (DERM), and other agencies review and critique zoning applications which may affect the scheduling and outcome of applications. These reviews may require additional public hearings before DERM's Environmental Quality Control Board (EQCB), or other boards, and /or the proffering of agreements to be recorded. I am also aware that I must comply promptly with any DERM conditions and advise this office in writing if my application will be withdrawn.
2. Filing fees may not be the total cost of a hearing. Some requests require notices to be mailed to property owners up to a mile from the subject property. In addition to mailing costs, fees related to application changes, plan revisions, deferrals, re-advertising, etc., may be incurred. Application withdrawn within 30 days of the filing are eligible for a refund of 25% of the hearing fee but after that time hearings withdrawn or returned will be ineligible for a refund. I understand that fees must be paid promptly.
3. The South Florida Building Code requirements may affect my ability to obtain a building permit even if my zoning application is approved; and that a building permit will probably be required. I am responsible for obtaining permits and inspections for all structures and additions proposed, or built without permits. And that a Certificate of Use and Occupancy must be obtained for the use of the property after it has been approved at Zoning Hearing and that failure to obtain the required permits and/or Certificates of Completion or of Use and Occupancy will result in enforcement action against any occupant and owner. Submittal of the Zoning Hearing application may not forestall enforcement action against the property.
4. The 3rd District Court of Appeal has ruled that zoning applications inconsistent with the Comprehensive Development Master Plan (CDMP) cannot be approved by a zoning board based upon considerations of fundamental fairness. Therefore, I acknowledge that if the hearing request is inconsistent with the CDMP and I decide to go forward then my hearing request can only be denied or deferred, but not approved.
5. In *Miami-Dade County v. Omnipoint Holdings, Inc.* Case No. 3d01-2347 (Fla. 3rd DCA 2002), the 3rd District Court of Appeal has held invalid the standards for non-use variances, special exceptions, unusual uses, new uses requiring a public hearing and modification of covenants. This is not a final decision and the County Attorney's Department professional staff to develop new standards that will address the Court's concerns. While the new standards are being developed, applicants are advised that any non-use variance, special exception, unusual use, new use requiring a public hearing or request for modification of covenants granted under the existing standards are subject to being reversed in the courts. An applicant wishing to avoid the substantial legal risks associated with going forward under the existing standard may seek a deferral until the new standards are developed.





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- 6. Any covenant to be proffered must be submitted to the Town of Cutler Bay Legal Counsel, on Town form, at least 1 month prior to the hearing date. The covenant will be reviewed and the applicant will be notified if changes or corrections are necessary. Once the covenant is acceptable, the applicant is responsible to submit the executed covenant with a current 'Opinion of Title' within 1 week of the hearing. And that Legal Counsel must carry a cover letter indicating subject matter, application number and hearing date.
- 7. The Town of Cutler Bay Department of Public Works reviews and critiques Zoning applications and may require conditions for approval.
- 8. **THE APPLICANT IS RESPONSIBLE FOR TRACKING THE STATUS OF THE APPLICATION AND ALL HEARINGS THAT MAY BE ASSOCIATED WITH THIS APPLICATION.**

(Applicant's Signature)

Sworn to and subscribed before me this 4th day of April, 2016.
Affiant is personally known to me or has produced _____ as
identification.

(Notary Public)

My Commission Expires: _____





COST RECOVERY AFFIDAVIT

I hereby acknowledge and consent to the payment of all applicable fees involved as part of my application process. These fees include but are not limited to: application fees, postage, advertising, and attorney fees **regardless of the outcome of the public hearing.**

Please type or print the following:

Date: 3/22/16 Public Hearing No. _____

Full Name:
I Mr. I Mrs. I Ms. Antonio L. Roca, Mater Academy Foundation, Inc.

Current Address: 7901 NW 103 Street City: Hialeah Gardens

State: Florida Zip: 33016 Telephone Number (305) 789-7783

Date of Birth: _____

[Signature]

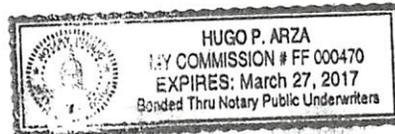
Signature
Mater Academy Foundation, Inc.

SWORN AND SUBSCRIBED BEFORE ME THIS 22 DAY OF March 2016

[Signature]

Notary Public, State of Florida at Large

My Commission expires March 27 2017



Pursuant to Ordinance No. 2000-09-33-Cost Recovery



EXHIBIT "A"

LEGAL DESCRIPTION of PARCEL HM-12:

A Tract or Parcel of Land lying in the N.W. 1/4 of Section 15, Township 56 South, Range 40 East, Dade County, Florida, more particularly described as follows:

For a point of reference, COMMENCE at the Northwest Corner of said Section 15; run thence South $00^{\circ} 58' 00''$ East along the West Line of said Section 15, a distance of 1255.43 feet to a point; thence North $89^{\circ} 05' 55''$ East, a distance of 125 feet to the POINT of BEGINNING.

From the POINT of BEGINNING, continue North $89^{\circ} 05' 55''$ East, a distance of 1380 feet to a point; thence South $00^{\circ} 58' 00''$ East a distance of 1415 feet to the South Line of the N.W. 1/4 of said Section 15; thence South $89^{\circ} 05' 55''$ West, a distance of 1380 feet to a point; thence North $00^{\circ} 58' 00''$ West, a distance of 1415 feet to the POINT of BEGINNING, containing 44.83 acres, more or less.

LEGAL DESCRIPTION OF ACCESS EASEMENT:

A Tract or Parcel of Land 110 feet x 125 feet, located in the N.W. 1/4 of Section 15, Township 56 South, Range 40 East, Dade County, Florida, more particularly described as follows:

A Tract or Parcel of Land lying adjacent to and 55 feet on each side of the following described centerline in said Section 15.

For a point of reference, COMMENCE at the Northwest Corner of said Section 15; run thence South $00^{\circ} 58' 00''$ East along the West Line of said Section 15, a distance of 1255.43 feet to a point; thence North $89^{\circ} 05' 55''$ East, a distance of 125 feet; thence South $00^{\circ} 58' 00''$ East, for a distance of 785.49 feet to the POINT of BEGINNING.

From the POINT of BEGINNING, run thence South $89^{\circ} 05' 55''$ West, a distance of 125 feet to the POINT of TERMINATION, containing 0.32 acres, more or less.

EXHIBIT "B"

Mater Academy Foundation
Board Members & Officers

- 1. Antonio L. Roca, Esq., President (Non-Voting)**
- 2. Roberto C. Blanch, Chair / Vice-President / Director (Voting)**
- 3. Chris Crousillat, Secretary / Director (Voting)**
- 4. Shannie Sadesky, Director (Voting)**