



***Application No.: ModRes-2017-004***

**Attachment "B"**

**Applicant Submittal**

Mater Academy

Modifications to Certain Conditions in Resolution 16-37  
for Mater Academy.



DEPARTMENT OF COMMUNITY DEVELOPMENT  
PLANNING AND ZONING

APR 21 2017

MODIFICATION TO DEVELOPMENT ORDER  
APPLICATION

BY: W  
# 5,000-20  
C# 1366

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

DATE RECEIVED: \_\_\_\_\_

PROPOSED PROJECT NAME: Mater Academy - Cutler Bay (Modification of Resolution No. 16-37)

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: 33131 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@hklaw.com



# Holland & Knight

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Holland & Knight LLP | www.hklaw.com

RECEIVED  
APR 05 2017

BY: \_\_\_\_\_  
Hugo P. Arza  
305-789-7783  
hugo.arza@hklaw.com

VIA HAND DELIVERY

April 5, 2017

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 / Charter School / Letter of Intent for a Modification of Resolution No. 16-37**

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 (the "Town"), 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 a request to modify Condition 18(a) of Resolution No. 16-37, approving a charter school use on the Property, pursuant to Section 3-61 of the Town of Cutler Bay Land Development Regulations ("Town Code").

**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.

**Project.** On July 20, 2016, pursuant to Resolution No. 16-37, the Town Council approved a Conditional Use Permit approving a charter school, Mater Academy Cutler Bay, a tuition-free public charter school. See **Exhibit "A"**. The school is currently in its first school year (2016 – 2017), and has a student enrollment of under 600 students. As was approved by a separate administrative site plan review ("ASPR") approval, the Applicant will 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. Improvements will be done to the internal components of the existing buildings, in order to enhance office and administration facilities and instructional/classroom areas. No new buildings will be developed on the Property. The Project 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.

**Request.** The approval granted by the Town Council, pursuant to Resolution No. 16-37, was subject to nineteen (19) conditions, to which the Applicant stipulated and agreed to at the public hearing. The Applicant has complied with these conditions, and will complete all pertinent and required improvements prior to the start of the 2017 – 2018 school year. However, due to the current and projected school enrollment, the Applicant requests the modification of Condition 18(a) of Resolution No. 16-37, as follows:

FROM:

18. Subject to the receipt of all necessary governmental approvals, prior to the start of the 2017 – 2018 school year, the Owner shall design and construct the following off-site improvements:
  - a. an exclusive southbound left turn lane on SW 87<sup>th</sup> Avenue onto the Property's southern driveway entrance;
  - b. the extension of the northbound left turn lane on SW 87<sup>th</sup> Avenue at SW 216<sup>th</sup> Street; and
  - c. a pedestrian connection from the school site to the shared path on the west side of SW 87<sup>th</sup> Avenue. This improvement shall be provided in the traffic operational plan within the traffic impact study.

TO:

18. Subject to the receipt of all necessary governmental approvals, ~~prior to the start of the 2017—2018 school year~~, the Owner shall design and construct the following off-site improvements:
- a. an exclusive southbound left turn lane on SW 87<sup>th</sup> Avenue onto the Property's southern driveway entrance; to be completed upon the earlier of the school exceeding a student enrollment of 748 students, or prior to the start of the 2018 – 2019 school year;
  - b. the extension of the northbound left turn lane on SW 87<sup>th</sup> Avenue at SW 216<sup>th</sup> Street; to be completed prior to the start of the 2017 – 2018 school year; and
  - c. a pedestrian connection from the school site to the shared path on the west side of SW 87<sup>th</sup> Avenue; to be completed prior to the start of the 2017 – 2018 school year. This improvement shall be provided in the traffic operational plan within the traffic impact study.

Ultimately, only the exclusive southbound left turn lane on SW 87 Avenue onto the Property's southern driveway entrance, would be delayed until the earlier of the school exceeding a student enrollment of 748 students, or prior to the start of the 2018 – 2019 school year. Conditions 18(b) and 18(c), and all other Conditions and required improvements, pursuant to Resolution No. 16-37, will be completed prior to the start of the 2017 – 2018 school year. The modification to Condition 18(a) is due to the fact that the left turn lane into the southern driveway entrance will involve the widening of the road and the milling and resurfacing of about 1,000 feet of roadway, a significant improvement, in light of the fact that pursuant to the Traffic Analysis prepared by John P. Kim, P.E., PTOE, of Langan Engineering; the southern driveway is expected to operate at Level of Service (LOS) "A" without the dedicated left turn lane, until enrollment reaches 748 students.

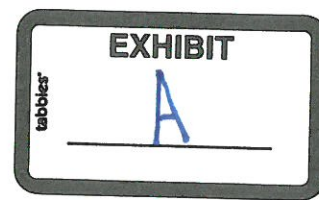
In summary, we believe that the proposed application and modification represents a compatible and effective use that will serve the operational needs of Mater Academy, while exemplifying the high quality of development that is representative of the Town of Cutler Bay. Based on the forgoing, we look forward 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



Hugo P. Arza, Esq.



**RESOLUTION NO. 16-37**

**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.**

**WHEREAS**, Mater Academy Foundation, Inc. (the "Applicant" or "Owner") has submitted a Conditional Use Application (the "Application") for the property located at 22025 S.W. 87<sup>th</sup> Avenue (Folio #36-6015-000-0040) (the "Property"), as legally described in Exhibit "A" to permit an educational facility/school (with no residential component) pursuant to Sections 3-61(2) and 3-212(F) of the Town Code; and

**WHEREAS**, Town staff has reviewed the Application and is recommending approval, subject to conditions; and

**WHEREAS**, public notice was provided in accordance with law; and

**WHEREAS**, after a duly noticed public hearing, the Town Council, based upon competent substantial evidence in the record, found that the Application does meet the requirements of the Town Land Development Regulations and is consistent with the Town's Comprehensive Plan; 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. Recital.** The above recitals are true and correct and are incorporated herein by this reference.

**Section 2. Approval.** The Town Council, after review of competent substantial evidence in the record and a duly noticed public hearing, hereby approves the Application and finds that it does meet the conditional use requirements set forth in Sections 3-61(2) and 3-212(F) of the Town Code.

**Section 3. Conditions.** The approval granted by this Resolution is subject to compliance with the following conditions, to which the Applicant stipulated and agreed to at the public hearing:



1. The Owner shall enter into a use agreement with the Town for the use by the Town of Building D (as shown on the proposed site plan) on weekends and during summer/winter breaks (to the extent not used by the Owner) for the purpose of providing meeting space for the Town to hold public meetings, particularly environmental education programs. The use agreement shall define the availability of the building for Town use, permitted and anticipated uses, and any other considerations the parties deem appropriate.
2. The Applicant shall be responsible for associated costs for traffic management requiring police assistance at the school's ingress and egress point(s) following the charter school's opening.
3. The charter school approved by this Resolution shall only operate at 22025 SW 87<sup>th</sup> Avenue, as indicated in the Application. Operating this school from another location will require approval from the Town and other regulatory agencies as required.
4. This approval shall only apply to grades pre-K through 8<sup>th</sup>.
5. The proposed charter school total population shall not exceed a maximum of 1,200 students.
6. The proposed charter school will operate from Monday through Friday, between the hours of 7:00 AM to 6:00 PM. Special events, except for traditional school functions pre-identified by the Applicant at the beginning of the school year, will be subject to Town permit and Code requirements.
7. There shall be no queuing of vehicles off the school site.
8. There shall be no parking of vehicles off the school site.
9. All students shall be maintained on site during schools hours, except for field trips.
10. There shall be no residential component to the proposed charter school.
11. The Applicant must secure administrative site plan approval for the site prior to operation of the charter school.
12. The Applicant shall reimburse the Town for professional fees incurred (cost recovery) as part of the conditional use application approval process. The cost-recovery reimbursement shall be paid to the Town prior to the issuance of the Certificate of Use.
13. The Applicant shall provide the Town's Department of Community Development a certified copy of the enrollment on November 1st of each school year.
14. The school must comply with the approved Traffic Operations Plan and Site Plan.

15. The Applicant understands and acknowledges that it must comply with all other applicable requirements of the Town Code of Ordinances, and this Resolution may be revoked by the Town Council at any time upon a determination that the Applicant is not in compliance with the Town Code or the conditions of this Resolution.
16. All state and local permits shall be obtained by the Applicant prior to the issuance of the Certificate of Use.
17. The Applicant agrees to provide a travel time and delay study for the road segments of SW 87th Avenue (Galloway Road) between SW 216th Street and SW 208th Street during normal traffic conditions. The 2018 Total Traffic per the Build conditions is 1,518 vehicles and 1,457 vehicles respectfully in the A.M. and P.M. peak hours. The LOS D capacity is 1,600 vehicles. The travel time and delay study should be conducted after the charter school is operating per the criteria in the FDOT Manual of Uniform Traffic Studies Chapter 13. The Applicant's traffic consultant should coordinate with the Town's traffic consultant to determine the methodology of the travel time and delay study.
18. Subject to the receipt of all necessary governmental approvals, prior to the start of the 2017-2018 school year, the Owner shall design and construct the following off-site improvements:
  - a. an exclusive southbound left turn lane on SW 87<sup>th</sup> Avenue onto the Property's southern driveway entrance;
  - b. the extension of the northbound left turn lane on SW 87<sup>th</sup> Avenue at SW 216<sup>th</sup> Street; and
  - c. a pedestrian connection from the school site to the shared path on the west side of SW 87<sup>th</sup> Avenue. This improvement shall be provided in the traffic operational plan within the traffic impact study.
19. That the school be named Mater Academy Cutler Bay.

**Section 4. Violation.** Failure to adhere to the terms of any approval shall be considered a violation of the Town Code. Penalties for such violation shall be as prescribed by the Town Code, which include, but are not limited to, the revocation of the approval granted by this Resolution.

**Section 5. Effective Date.** This Resolution shall take effect immediately upon enactment.

PASSED and ADOPTED on this 20<sup>th</sup> day of July, 2016.




  
\_\_\_\_\_  
PEGGY R. BELL

Mayor

Attest:

  
\_\_\_\_\_  
JACQUELINE N. WILSON  
Town Clerk

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

  
\_\_\_\_\_  
WEISS SEROTA HELFMAN  
COLE & BIERMAN, P.L.  
Town Attorney

Moved By: Council Member Loyzelle  
Seconded By: Council Member Mixon

FINAL VOTE AT ADOPTION:

Mayor Peggy R. Bell	YES
Vice Mayor Ernest N. Sochin	YES
Council Member Roger Coriat	YES
Council Member Sue Ellen Loyzelle	YES
Council Member Mary Ann Mixon	YES

## **EXHIBIT "A"**

### **LEGAL DESCRIPTION**

Legal Description:

#### **LEGAL DESCRIPTION of PARCEL HM-12**

A Tract or Parcel of Land lying in the N.W. ¼ 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° 58' 00" East along the West line of said Section 15, a distance of 1255.43 feet to a point; thence North 89° 05' 55" East, a distance of 125 feet to the POINT OF BEGINNING.

From the POINT OF BEGINNING, continue North 89° 05' 55" East , a distance of 1380 feet to a point: thence South 00° 58' 00" East a distance of 1415 feet to the South Line of the N.W. ¼ of said Section 15; thence South 89° 05' 55" West, a distance of 1380 feet to a point; thence North 00° 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 by 125 feet, located in the N.W. ¼ of Section 15, township 58 South, Range 40 East, Dade County, Florida, more particularly described as follows:

A Tract of 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° 58' 00" East along the West line of said Section 15, a distance of 1255.43 feet to a point; thence North 89° 05' 55" East, a distance of 125 feet; thence South 00° 58' 00" East, for a distance of 765.49 feet to the POINT OF BEGINNING.

From the POINT of BEGINNING, run thence South 89° 05' 55" West' a distance of 125 feet to the POINT of TERMINATION, containing 0.32 acres, more or less