



***Application No.: ModRes-2018-043***

**Attachment "B"**

**Applicant Submittal**

Mater Academy

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

# Holland & Knight

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

RECEIVED  
SEP 18 2018

BY: \_\_\_\_\_  
Alejandro J. Arias  
305-789-7446  
Alejandro.arias@hklaw.com

VIA HAND DELIVERY

September 17, 2018

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 – Cutler Bay / 22025 SW 87 Avenue / Status of Off-Site Improvements / Condition No. 18 of Ordinance No. 16-37 and 17-36**

Dear Ms. Lyon:

As discussed, and in connection with the status of the Mater Academy – Cutler Bay off-site improvements outlined in Condition No. 18 of Ordinance No. 16-37 and 17-36, below please find an update on the ongoing work and pertinent status of these requirements.

*(1) An exclusive southbound left turn lane on SW 87 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.*

In connection with the southbound left turn lane on SW 87 Avenue onto the Property's southern driveway, this work will require the removal and relocation of the existing gazebo shelter structure near the intersection of SW 224 Street and SW 87 Avenue, along the shared-use path situated on the west side of SW 87 Avenue. As such, we have discussed and negotiated this issue with the Miami-Dade County Parks, Recreation, and Open Spaces Department (PROS), and have agreed to enter into a Memorandum of Understanding (MOU) for the removal of the gazebo, and the construction of a new structure at another location along the shared-use path along SW 87 Avenue. Please see attached. We have provided the County with our executed MOU for review, and as soon as they execute the document, we can begin to process the permit application for both the gazebo removal and the southbound improvements.

Once the permit is approved, we would begin the proposed gazebo removal within the week, and as soon as the southbound improvement permits are approved, we will move forward within 7 to 10 days. The duration from start of construction to finish should be between 3-6 weeks, depending on traffic and conditions.

- (2) *The extension of the northbound left turn lane on SW 87 Avenue at SW 216 Street, to be completed prior to the start of the 2017-2018 school year.*

In connection with the northbound left turn lane on SW 87 Avenue and SW 216, this work has been permitted and is ongoing. Pursuant to a conversation with the General Contractor, Howard Turin of Turin Construction, this improvement should be completed by the end of September 2018.

- (3) *A pedestrian connection from the school site to the shared path on the west side of SW 87 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.*

As SW 87 Avenue is a County-managed section line road, we have undertaken all of the necessary steps, and had numerous discussions with County Staff, in order to move forward with the construction of the pedestrian connection from the school site to the shared path on the west side of SW 87 Avenue. Unfortunately, however, we have been met with significant opposition to this proposal, as the County has expressed a number of concerns and reservations concerning this proposed shared path. See Exhibit "A". The County has stated that the shared path will create "unsafe conditions" with respect to children frequently crossing SW 87 Avenue. County Staff has stated that such a condition will likely lead parents to drop-off or pick-up on the west side of SW 87 Avenue, and that students will be traversing this road during peak traffic hours. They would prefer drop-off and pick-up, and student pedestrian traffic, to take place wholly within the campus site. As this is a County-managed road, and they are responsible for improvements and permitting, they will not allow us to undertake construction of this shared path improvement, based on their significant reservations.

Thank you for your help, and should you have any questions or concerns regarding this matter, please do not hesitate to phone my direct line at (305) 789-7446.

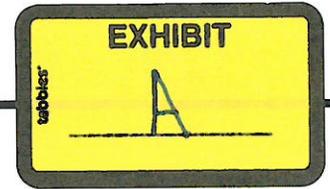
Respectfully submitted,

HOLLAND & KNIGHT LLP



Alejandro J. Arias, Esq.

Cc: Alex A. David, AICP, Town Consultant  
Chad Friedman, Town Attorney



**Arias, Alejandro J (MIA - X27446)**

**From:** Arza, Hugo P (MIA - X27783)  
**Sent:** Friday, September 14, 2018 8:38 AM  
**To:** Arias, Alejandro J (MIA - X27446)  
**Subject:** Fwd: Mater Cutler Bay / 22025 SW 87 Avenue (Folio No. 36-6015-000-0040)

Sent from my iPhone

Begin forwarded message:

**From:** "Diaz, Claudia (DTPW)" <[Claudia.Diaz@miamidade.gov](mailto:Claudia.Diaz@miamidade.gov)>  
**Date:** September 14, 2018 at 8:08:27 AM EDT  
**To:** "[Hugo.Arza@hkllaw.com](mailto:Hugo.Arza@hkllaw.com)" <[Hugo.Arza@hkllaw.com](mailto:Hugo.Arza@hkllaw.com)>  
**Subject:** RE: Mater Cutler Bay / 22025 SW 87 Avenue (Folio No. 36-6015-000-0040)

Good morning Hugo,

Yes you are correct with the statements below. Just one more thing that was left out of your summary below, the installation of the school zone improvement (which include adding one school flasher to the northbound approach on SW 87th Avenue) which are part of the same permit number.

Sincerely,

***Claudia P. Diaz, P.E.***  
*Chief Engineer, Traffic Engineering*  
*Miami-Dade Department of Transportation and Public Works (DTPW)*  
*111 NW 1<sup>st</sup> Street, Suite 1510, Miami, Florida 33128*  
*Phone: 305-375-2030*  
*e-mail address: [cdiaz@miamidade.gov](mailto:cdiaz@miamidade.gov)*

---

**From:** [Hugo.Arza@hkllaw.com](mailto:Hugo.Arza@hkllaw.com) [<mailto:Hugo.Arza@hkllaw.com>]  
**Sent:** Tuesday, September 11, 2018 12:40 PM  
**To:** Diaz, Claudia (DTPW) <[Claudia.Diaz@miamidade.gov](mailto:Claudia.Diaz@miamidade.gov)>  
**Subject:** Mater Cutler Bay / 22025 SW 87 Avenue (Folio No. 36-6015-000-0040)

Claudia,

I hope this email finds you well. As you may remember, and in connection with the Mater Academy - Cutler Bay campus located at 22025 SW 87 Avenue (Folio No. 36-6015-000-0040), the school sought certain permits from Miami-Dade County in connection with the following off-site improvements (which were conditions of approval pursuant to the Town's site plan approval).

1. An exclusive southbound left turn lane on SW 87 Avenue onto the Property's southern driveway entrance.
2. The extension of the northbound left turn lane on SW 87 Avenue at SW 216 Street.

3. A pedestrian connection from the school site to the shared path on the west side of SW 87 Avenue.

As SW 87<sup>th</sup> Avenue is a County-road, the County evaluated the three requests to determine if it could safely allow such improvements to be constructed on the County road. Miami-Dade County agreed with the first two conditions, and has either issued permits (in the case of item #2, which is under construction and scheduled to be finished in the next 2-3 weeks), or will issue permits (in the case of #1, which has required the additional step of an agreement with the Parks Department to allow for the removal and relocation of an existing pedestrian gazebo located on the shared path west of SW 87<sup>th</sup> Avenue).

In connection with item #3, the pedestrian connection from the school site to the shared path on the west side of SW 87 Avenue, your Department evaluated the request but identified a number of concerns and reservations concerning this proposed off-site improvement. As we were informed at that time, and you have reiterated now in connection with this email request for clarification, the County will not approve a 'mid-block' pedestrian crossing ('mid-block' as opposed to at an intersection) as your Department indicated to us that it believes that such a crosswalk will create unsafe conditions. For instance, that cross-walk may lead to parents stopping and dropping-off or picking-up on the west side of SW 87 Avenue, causing students to traverse this road during peak traffic hours. In this way the parents would not actually enter the campus and follow the approved Traffic operations plan for pick-up and drop-off, thus ultimately affecting all traffic flow on 87<sup>th</sup> Avenue.

The Town has requested that we summarize the status of the offsite improvements. I would appreciate you kindly confirming that this email accurately summarizes the situation. I will forward such confirmation to the Town, who may, of course, have questions for you that I trust you can answer.

Thanks, as always, and best regards,

Hugo

**Hugo Arza | Holland & Knight**

Partner

Holland & Knight LLP

701 Brickell Avenue, Suite 3300 | Miami, FL 33131

Phone 305.789.7783 | Cell 305.968.2387 | Fax 305.789.7799

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# Holland & Knight

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

**VIA HAND DELIVERY**

August 28, 2018

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 / Revised Letter of Intent for a Modification of Resolution No. 16-37, as Amended by Resolution No. 17-36 / Condition No. 4 / Condition No. 18(c) / 8.14.18 Submittal**

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 revised letter of intent, in connection with the August 14, 2018 submittal, for a request to modify Condition No. 4 of Resolution No. 16-37, approving a charter school use on the Property; and the addition of a request to modify Condition No. 18(c) of Resolution No. 16-37, as amended by Resolution No. 17-36, for the construction of a pedestrian connection across SW 87 Avenue, 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 the home of Mater Academy Cutler Bay, a tuition-free public charter school serving students in grades Pre-K – 8. 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.

Mater Academy is a not-for-profit educational organization operating 28 schools, across 16 campuses, which serve 14,065 students in South Florida. The organization’s first charter school,

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 Planning and Zoning, Director  
 August 28, 2018  
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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 (the "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.

**Approval History.** 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 (the "Approval"). See **Exhibit "A"**. The Approval was further modified on May 17, 2017, pursuant to Resolution No. 17-36, which altered Condition No. 18(a) of Resolution No. 16-37, with regards to an off-site improvement. See **Exhibit "B"**. The school is currently entering its third school year (2018 – 2019). As was approved by a separate administrative site plan review ("ASPR") approval, the Applicant may utilize the existing structures of the Property in order to operate a 1,200 student (Pre-K – 8) charter school (the "Project"). As such, throughout its three years of operation, Mater Academy Cutler Bay has provided a world-class teaching atmosphere and enhanced learning environment for its faculty and student body.

**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, and has since complied with. However, due to the current need for high school level educational options, the outstanding academic performance of the Pre-K – 8 program, the tremendous benefits that the school is providing to the Cutler Bay community, and the outpouring and acclaim from students and Cutler Bay residents; the Applicant requests the modification of Condition No. 4 of Resolution No. 16-37 as set forth below, in order to provide additional grade levels and an advanced curriculum to its students, for a truly comprehensive learning environment spanning from Pre-K through 12<sup>th</sup> grade:

FROM:

4. This approval shall only apply to grades Pre-K through 8<sup>th</sup>.

TO:

4. This approval shall only apply to grades Pre-K through 8<sup>th</sup> 12<sup>th</sup>.

Additionally, as part of the modification to Resolution No. 16-37 approved pursuant to Resolution No. 17-36, Condition No. 18(c) of Resolution No. 17-36 delineates that an off-site

Ms. Kathryn Lyon  
 Planning and Zoning, Director  
 August 28, 2018  
 Page 3

pedestrian improvement and connection from the Property to the shared path on the west side of SW 87 Avenue be constructed prior to the start of the 2017 – 2017 school year. As SW 87 Avenue is a County managed section line road, the Applicant has undertaken all of the necessary steps, and had numerous discussions with County Staff, in order to move forward with the construction of the pedestrian connection from the Property to the shared path on the west side of SW 87 Avenue.

Unfortunately, however, the Applicant has been met with significant opposition, and a denial of this proposal, as the County has expressed a number of concerns and reservations concerning the proposed shared path. The County has stated that the shared path will create “unsafe conditions” as it pertains to children frequently crossing SW 87 Avenue, and believe that such a condition will likely lead parents to drop-off or pick-up in the middle of the street, or on the west side of SW 87 Avenue, and that students will be traversing this road during peak traffic hours. The County has stated that drop-off and pick-up, and student pedestrian traffic, should take place entirely within the Property. As this is a County-managed road, and they are responsible for improvements and permitting, they will not allow the Applicant to undertake construction of this shared path improvement, based on these significant reservations and objections. As such, the Applicant requests the modification of Condition No. 18(c) of Resolution No. 16-37, as amended by Resolution No. 17-36, and as set forth below, in order to remove the pedestrian connection requirement across SW 87 Avenue:

FROM:

18. Subject to the receipt of all necessary governmental approvals, 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.

TO:

18. Subject to the receipt of all necessary governmental approvals, the Owner shall design and construct the following off-site improvements:

Ms. Kathryn Lyon  
Planning and Zoning, Director  
August 28, 2018  
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- 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
- e. ~~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.~~

In summary, we believe that the proposed application and modification represents a compatible and effective use that will serve the operational needs of the Town of Cutler Bay and Mater Academy, and will meet the imperative demand for additional high school level educational options. 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  
PEGGY R. BELL  
Mayor

Attest:

Jacqueline N. Wilson  
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  
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



**RESOLUTION NO. 17-36**

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING MODIFICATIONS TO CERTAIN CONDITIONS IN RESOLUTION 16-37 FOR MATER ACADEMY CUTLER BAY LOCATED 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 an Application (the "Application") to modify certain conditions approved under the Conditional Use Approval by Resolution 16-37 on July 20, 2016 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", pursuant to Section 3-39 of the Town Code; and

WHEREAS, Town staff has reviewed the Application and is recommending approval; 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 for modification of conditions set forth in Section 3-39 of the Town Code.

**Section 3. Resolution 16-37 Modified.** The Town Council, after review of competent substantial evidence in the record and a duly noticed public hearing, hereby modifies Section 3 of Resolution 16-37 as follows:

**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:

\*\*\*

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.

\*\*\*

**Section 4. Conditions.** Except as modified by this Resolution, the approval and all other conditions provided in Resolution 16-37 shall remain in full force and effect.

**Section 5. 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 6. Effective Date.** This Resolution shall take effect immediately upon enactment.

PASSED and ADOPTED on this 17<sup>th</sup> day of May, 2017.

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

Attest:

  
 DEBRA E. EASTMAN, MMC  
 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: Vice Mayor Loyzelle  
Seconded By: Council Member Coriat

FINAL VOTE AT ADOPTION:

|                                    |     |
|------------------------------------|-----|
| Mayor Peggy R. Bell                | YES |
| Vice Mayor Sue Ellen Loyzelle      | YES |
| Council Member Mary Ann Mixon      | YES |
| Council Member Michael P. Callahan | YES |
| Council Member Roger Coriat        | 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



DEPARTMENT OF COMMUNITY DEVELOPMENT  
PLANNING AND ZONING



**MODIFICATION TO DEVELOPMENT ORDER  
APPLICATION**

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





**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





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 AND FLU CLASSIFICATION: INT (Institutional District) & WU (Water Use District)

13. PROPOSED USE OF PROPERTY (describe nature of the request in space provided)

Charter School. Requesting a Modification to Condition No. 4 of Resolution 16-37. Please see Letter of Intent for more information.

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:

Approval of a Conditional Use Permit (Mater Academy Foundation, Inc.); Resolution No. 16-37; July 20, 2016.

Modification of Development Order (Mater Academy Foundation, Inc.); Resolution No. 17-36; May 17, 2017

15. Is this hearing a result of a violation notice?

No  yes. If yes, give name to whom the Violation notice was served and describe the violation:

16. Does property owner own contiguous property to the subject property? If so, give complete legal description of entire contiguous property:

N/A

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 (if applicable)
- Current survey (2 original sealed and signed and 10 reduced 11x17 copies)
- Complete set of plans 24'x36", scale 1"=50' (2 original sealed and signed and 10 reduced 11x17 copies)
- Colored rendering of all 4 sides of each proposed building (if applicable)
- 20% Property owner signatures (if required)
- Mailing Labels (set amount depends on number of hearings) and map (if required)
- Required Fee(s)
- Plans must be approved by Miami-Dade County Fire and Rescue Department with an original stamp and signature from the Fire Dept.
- Necessary documentation from DERM and WASD





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

**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  owner  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), Roberto C. Blanch, 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: Michelle M. Corrales

[Signature]

MICHELLE M CORRALES  
MY COMMISSION # GG 070485  
EXPIRES: February 6, 2021  
Budget Notary Services

Authorized Signature

Office Held  
Mater Academy Foundation, Inc.

Sworn to and subscribed to before me  
This 3<sup>rd</sup> day of August, 2018

Notary Public: Michelle M. Corrales  
Commission Expires: February 6, 2021

\*\*\*\*\*



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

**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 \_\_\_\_\_ %

\_\_\_\_\_  
(Name of Partnership)  
By \_\_\_\_\_  
By \_\_\_\_\_

Sworn to and subscribed to before me  
This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Notary Public: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_



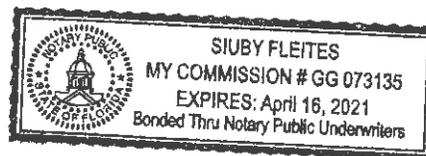
**ATTORNEY AFFIDAVIT**

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]  
\_\_\_\_\_  
Signature

Sworn to and subscribed to before me  
This 13th day of August, 2018

Notary Public: [Signature]  
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 3<sup>rd</sup> 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. 3<sup>rd</sup> DCA 2002), the 3<sup>rd</sup> 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.



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

- 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 3<sup>rd</sup> day of August, 2018.  
 Affiant is personally known to me or has produced a Florida drivers license as identification.

  
 \_\_\_\_\_  
 (Notary Public)

My Commission Expires: February 6, 2021



MICHELLE M CORRALES  
 MY COMMISSION # GG 070485  
 EXPIRES: February 6, 2021  
 Bonded Thru Budget Notary Services



**DISCLOSURE OF INTEREST**

If the property, which is the subject of the Application, is owned or leased by a **CORPORATION**, list the Principal Stockholders and the percentage of stock owned by each. NOTE: Where the Principal Officers or Stockholders consist of another Corporation(s), Trustee(s), Partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.

Mater Academy Foundation, Inc.

Corporation Name

Name, Address and Office  
7901 NW 103 Street

Percentage of stock

N/A (Not-for-Profit Corporation)

Hialeah Gardens, FL 33016

SEE EXHIBIT "B"

If the property, which is the subject of the Application, is owned or leased by a **TRUSTEE**, list the Principal Stockholders and the percentage of stock owned by each. NOTE: Where the Principal Officers or Stockholders consist of another Corporation(s), Trustee(s), Partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.

Trust Name

Name, Address and Office

Percentage of stock

If the property, which is the subject of the Application, is owned or leased by a **PARTNERSHIP or LIMITED PARTNERSHIP**, list the Principal Stockholders and the percentage of stock owned by each. NOTE: Where the Principal Officers or Stockholders consist of another Corporation(s), Trustee(s), Partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.

Partnership or Limited Partnership Name

Name, Address and Office

Percentage of stock





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

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: 8/3/18 Public Hearing No. \_\_\_\_\_

Full Name:

Mr. Mrs. Ms. Roberto C. Blanch, President  
Mater Academy Foundation, Inc.

Current Address: 7901 NW 103 Street City: Hialeah Gardens, FL

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

Date of Birth: \_\_\_\_\_

  
Signature

SWORN AND SUBSCRIBED BEFORE ME THIS 3<sup>rd</sup> DAY OF August 2018

  
Notary Public, State of Florida at Large

My Commission expires February 6 2021



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

**EXHIBIT "A"**

**PARCEL A**

A Tract or Parcel of land located in the NW 1/4 of Section 15, Township 56 South, Range 40 East, Miami-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 0 degrees 58 minutes 00 seconds East along the West line of said Section 15, a distance of 1255.43 feet to a point; thence North 89 degrees 05 minutes 55 seconds East, a distance of 125 feet to the **POINT OF BEGINNING**.

From the **POINT OF BEGINNING**, continue North 89 degrees 05 minutes 55 seconds East, a distance of 1380 feet to a point; thence South 0 degrees 58 minutes 00 seconds East, a distance of 1415 feet to the South line of the NW 1/4 of said Section 15; thence South 89 degrees 05 minutes 55 seconds West, a distance of 1380 feet to a point; thence North 0 degrees 58 minutes 00 seconds West, a distance of 1415 feet to **POINT OF BEGINNING**.

**PARCEL B**

Access easement created in instrument dated January 12, 1965, filed January 21, 1965 and recorded in Official Records Book 4446, Page 108, of the Public Records of Miami-Dade County, Florida running over and across the following described lands:

A Tract or Parcel of Land located in the NW 1/4 of Section 15, Township 56 South, Range 40 East, Miami-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 degrees 58 minutes 00 seconds East along the West line of said Section 15, a distance of 1255.43 feet to a point; thence North 89 degrees 05 minutes 55 seconds East a distance of 125 feet; thence South 00 degrees 58 minutes 00 seconds East for a distance of 765.49 feet to the point of beginning.

From the **POINT OF BEGINNING**, run thence South 89 degrees 05 minutes 55 second West a distance of 125 feet to the **POINT OF TERMINATION**.

**LESS** and except from the above described property the property conveyed by Right of Way Deed recorded in Official Records Book 17936, Page 1125.

**EXHIBIT "B"**

**Mater Academy Foundation**  
**Board Members & Officers**

- 1. Roberto C. Blanch, President**
- 2. Cesar C. Crousillat, Chairman / Director**
- 3. Shannie Sadesky, Vice Chairman / Director**
- 4. Javier Jerez, Director**
- 5. Maurene Sotero, Director**
- 6. Idalia Suarez, Director/Secretary**



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Mater Academy, Inc.

ROBERTO C. BLANCH  
PRESIDENT

**BOARD OF DIRECTORS**

CESAR CHRISTIAN CROUSILLAT  
BOARD CHAIR

SHANNINE SADESKY  
VICE-CHAIR

IDALIA SUAREZ  
SECRETARY

MAURENE SOTERO  
DIRECTOR

JAVIER JEREZ  
DIRECTOR

August 2, 2018

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: Letter of Authorization for Mater Academy, Inc.

Dear Ms. Lyon:

Please allow this letter to serve as the letter of consent to allow Juan J. Mayol, Jr., Esq., Hugo P. Arza, Esq., Alejandro J. Arias, Esq., James R. Williams, Esq., Pedro Gassant, Esq., Alberto J. Torres, and Michael A. Freire of Holland & Knight LLP to represent Mater Academy, Inc., a Florida not-for-profit corporation, in connection with the property located at 22025 SW 87 Avenue, in the Town of Cutler Bay (Miami Dade County Folio No. 36-6015-000-0040)(the "Property"); in the special exception (conditional use), and development entitlement process for the Property, and in all public hearings and meetings related thereto.

Please do not hesitate to contact the undersigned if you need further information.

Sincerely,

Mater Academy, Inc.

Roberto C. Blanch, President

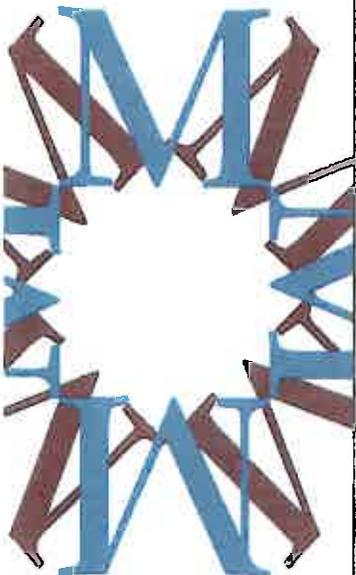
The foregoing instrument was acknowledged before me this 2<sup>nd</sup> day of August, 2018, by Roberto C. Blanch, as President, of Mater Academy, Inc. He is personally known to me.

*Michelle M. Corrales*  
Notary Public, State of Florida  
Name: *Michelle M. Corrales*

Commission Number: *GG 070485*

My Commission Expires: *February 6, 2021*

 MICHELLE M CORRALES  
MY COMMISSION # GG 070485  
EXPIRES: February 6, 2021  
Bonded Thru Budget Notary Services



# 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**

August 12, 2018

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 / Condition No. 4**

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 No. 4 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 the home of Mater Academy Cutler Bay, a tuition-free public charter school serving students in grades Pre-K – 8. 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.

Mater Academy is a not-for-profit educational organization operating 28 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

Ms. Kathryn Lyon  
 Planning and Zoning, Director  
 August 13, 2018  
 Page 2

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.

**Approval History.** 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 (the "Approval"). See Exhibit "A". The Approval was further modified on May 17, 2017, pursuant to Resolution No. 17-36, which altered Condition No. 18(a) of Resolution No. 16-37, with regards to an off-site improvement. See Exhibit "B". The school is currently entering its third school year (2018 – 2019). As was approved by a separate administrative site plan review ("ASPR") approval, the Applicant may utilize the existing structures of the Property in order to operate a 1,200 student (Pre-K – 8) charter school (the "Project"). As such, throughout its three years of operation, Mater Academy Cutler Bay has provided a world-class teaching atmosphere and enhanced learning environment for its faculty and student body.

**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, and has since complied with. However, due to the current need for high school level educational options, the outstanding academic performance of the Pre-K – 8 program, the tremendous benefits that the school is providing to the Cutler Bay community, and the outpouring and acclaim from students and Cutler Bay residents; the Applicant requests the modification of Condition No. 4 of Resolution No. 16-37 as set forth below, in order to provide additional grade levels and an advanced curriculum to its students, for a truly comprehensive learning environment spanning from Pre-K through 12<sup>th</sup> grade:

FROM:

4. This approval shall only apply to grades Pre-K through 8<sup>th</sup>.

TO:

4. This approval shall only apply to grades Pre-K through 8<sup>th</sup> 12<sup>th</sup>.

In summary, we believe that the proposed application and modification represents a compatible and effective use that will serve the operational needs of the Town of Cutler Bay and Mater Academy, and will meet the imperative demand for additional high school level educational options. 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.

Ms. Kathryn Lyon  
Planning and Zoning, Director  
August 13, 2018  
Page 3

Respectfully submitted,

HOLLAND & KNIGHT LLP

A handwritten signature in blue ink, appearing to read "Hugo P. Arza, Esq.", is written over a blue oval-shaped stamp.

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.

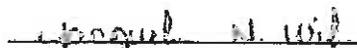
**Section 4.** **Violation.** Failure to adhere to the terms of any approval shall be considered a violation of the Town Code. Penalties for such violation shall be as prescribed by the Town Code, which include, but are not limited to, the revocation of the approval granted by this Resolution.

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

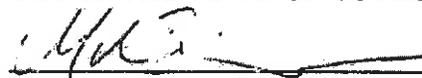
PASSED and ADOPTED on this 20<sup>th</sup> day of July, 2016.

  
\_\_\_\_\_  
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.

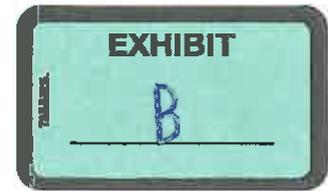
**LEGAL DESCRIPTION OF ACCESS EASEMENT**

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



**RESOLUTION NO. 17-36**

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING MODIFICATIONS TO CERTAIN CONDITIONS IN RESOLUTION 16-37 FOR MATER ACADEMY CUTLER BAY LOCATED 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 an Application (the "Application") to modify certain conditions approved under the Conditional Use Approval by Resolution 16-37 on July 20, 2016 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", pursuant to Section 3-39 of the Town Code; and

**WHEREAS**, Town staff has reviewed the Application and is recommending approval; 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 for modification of conditions set forth in Section 3-39 of the Town Code.

**Section 3. Resolution 16-37 Modified.** The Town Council, after review of competent substantial evidence in the record and a duly noticed public hearing, hereby modifies Section 3 of Resolution 16-37 as follows:

**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:

\*\*\*

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.

\*\*\*

**Section 4. Conditions.** Except as modified by this Resolution, the approval and all other conditions provided in Resolution 16-37 shall remain in full force and effect.

**Section 5. 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.

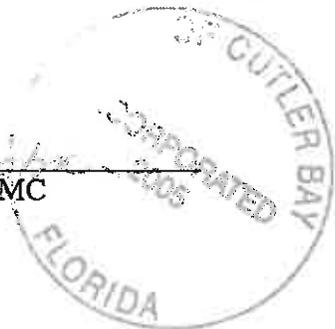
**Section 6. Effective Date.** This Resolution shall take effect immediately upon enactment.

PASSED and ADOPTED on this 17<sup>th</sup> day of May, 2017.

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

Attest:

  
 \_\_\_\_\_  
 DEBRA E. EASTMAN, MMC  
 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: Vice Mayor Loyzelle  
Seconded By: Council Member Coriat

FINAL VOTE AT ADOPTION:

|                                    |     |
|------------------------------------|-----|
| Mayor Peggy R. Bell                | YES |
| Vice Mayor Sue Ellen Loyzelle      | YES |
| Council Member Mary Ann Mixon      | YES |
| Council Member Michael P. Callahan | YES |
| Council Member Roger Coriat        | YES |

EXHIBIT "A"

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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