

FIXED-TERM EMPLOYMENT AGREEMENT
Between
MAGNOLIA EDUCATIONAL & EDUCATIONAL FOUNDATION
&
ALFREDO RUBALCAVA

THIS EMPLOYMENT AGREEMENT (“Agreement”) is entered into by and between the above-named employee (“Employee”) and the Governing Board (“Board”) of Magnolia Educational & Research Foundation dba Magnolia Public Schools (“MPS”), a California non-profit public benefit corporation operating public charter schools approved by the State Board of Education, Los Angeles County Office of Education, the Los Angeles Unified School District, and the San Diego Unified School District (“Granting Agencies”). The Board desires to hire employees who will assist MPS in achieving the goals and meeting the requirements of MPS’s charters and implementing MPS’s purposes, policies, and procedures. The parties recognize that MPS is not governed by the provisions of the California Education Code, except as expressly set forth in the Charter Schools Act of 1992.

WHEREAS, MPS and the Employee wish to enter into an employment relationship under the conditions set forth herein, the parties hereby agree as follows:

A. STATUTORY PROVISIONS RELATING TO CHARTER SCHOOL EMPLOYMENT

1. MPS has been established and operates pursuant to the Charter Schools Act of 1992, Education Code section 47600, *et seq.* MPS has been duly approved by the Granting Agencies, according to the laws of the State of California.
2. Pursuant to Education Code section 47604, MPS has elected to be formed and to operate as a nonprofit public benefit corporation pursuant to the Non-Profit Public Benefit Corporation Law of California (Part 2, commencing with section 5110 *et seq.* of the Corporations Code). As such, MPS is considered a separate legal entity from the Granting Agencies, which granted the charter. The Granting Agencies shall not be liable for any debts and obligations of MPS, and the employee signing below expressly recognizes that he is being employed by MPS and not the Granting Agencies.
3. Pursuant to Education Code section 47610, MPS must comply with all of the provisions set forth in its charters, but is otherwise exempt from the laws governing school districts except as specified in Education Code section 47610.
4. MPS shall be deemed the exclusive public school employer of the employees at MPS for purposes of Government Code section 3540.1.

B. EMPLOYMENT TERMS AND CONDITIONS

1. **Duties**

The Employee shall work in the position of **Chief Executive Officer/Superintendent**. The Employee will perform the duties of the job position

and such duties as MPS may reasonably assign and the Employee will abide by all of MPS's policies and procedures as adopted and amended from time to time. Employee further agrees to abide by MPS's charter.

A copy of the job description for the above position is attached hereto and incorporated by reference herein. These duties may be amended from time to time in the sole discretion of MPS.

Additionally, the Employee shall meet the performance objectives set by the Board as outlined in the Board Evaluation Metrics, which will be developed and finalized by mutual agreement of the Board and the Employee within ninety (90) days of the execution of this Agreement. The Board Evaluation Metrics and any other objectives assigned will be reviewed in evaluating the Employee's performance.

2. **Term & Work Schedule**

Subject to Section 12, "Termination of Contract" herein, MPS hereby employs the Employee to serve as the Superintendent/CEO for a term of three (3) years commencing on July 1, 2024 and ending June 30, 2027.

The Superintendent/CEO position is a full-time position exempt from overtime law. As a minimum performance requirement, the work schedule for the Employee shall be Monday through Friday, with daily work hours consistent with the regular business hours of MPS. As this position is exempt from overtime, additional duties of the Employee may need to be performed outside of the work schedule on weekends, as well as before and after the regular work year or hours of the work day.

The Employee will not render services in person or by electronic means, paid or otherwise, for any other person or entity during contracted work hours with MPS.

3. **Compensation**

The annual compensation for this position shall be **\$271,500**, subject to all regular withholdings, and paid semi-monthly, in twenty-four (24) pay periods. The Employee's compensation may be prorated depending on whether he remains employed, or in active work status, for the entire year. As an exempt employee, the Employee shall not be eligible to earn overtime.

4. **Benefits:**

- a. **Health/Retirement Benefits.** The Employee shall be afforded such health and other benefits of employment as shall be granted to MPS's other employees, including entitlement to participation in STRS or PERS.
- b. **Vacation/Sick Leave.** The Employee is entitled to accrue vacation and paid sick leave as stated in the Employee Handbook. Vacation days may be used by the Employee subject to the prior approval of the Board.
- c. **Professional Dues.** The Employee is entitled to reimbursement for professional memberships and dues related to education or management up to one thousand (\$1,000) dollars per fiscal year.

- d. **Tuition Reimbursement.** The Employee may be entitled to tuition reimbursement up to \$5,000, per year up to a maximum of three (3) years, pursuant to the Tuition Reimbursement Policy.
- e. **Other Benefits.** The Employee is entitled to basic life insurance and long-term disability benefits offered to all eligible employees.

5. **Performance Evaluation**

The Board shall evaluate the performance of CEO/Superintendent twice per fiscal year. This evaluation shall be based on the job description and performance objectives as defined in the Board Evaluation Metrics. Board Evaluation Metrics may be amended by the Board throughout the year as necessary. If applicable, the evaluation shall include recommendations as to areas of improvement in all instances where the Board deems such to be necessary or appropriate. A copy of the written evaluation shall be delivered to the Employee and he shall have the right to make an oral or written response to the evaluation. Within thirty (30) days of the delivery of the written evaluation to the Employee, the Board shall meet with the Employee to discuss the evaluation. Failure to evaluate the Employee shall not impair the Board's ability to release the Employee as outlined below.

6. **Employee Rights**

Employment rights and benefits for employment at MPS shall only be as specified in this Employment Agreement, MPS's charters, the Charter Schools Act and MPS's Employee Handbook, and the Mandatory Arbitration Agreement, attached as **Attachment B**, each of which from time to time may be amended and modified by MPS. Employment rights and benefits may be affected by other applicable agreements or directives or advisories from the California Department of Education or the State Board of Education. During the term of this Agreement, the Employee shall not acquire or accrue tenure, or any employment rights with MPS.

7. **Licensure**

The Employee understands that employment is contingent upon verification and maintenance of any applicable licensure and/or credentials.

8. **Child Abuse and Neglect Reporting**

California Penal Code section 11166 requires any child care custodian who has knowledge of, or observes, a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse to report the known or suspected instance of child abuse to a child protective agency immediately, or as soon as practically possible, by telephone and to prepare and send a written report thereof within thirty-six (36) hours of receiving the information concerning the incident. By executing this Agreement, the Employee acknowledges he is a child care custodian and is certifying that he has knowledge of California Penal Code section 11166 and will comply with its provisions.

9. **Fingerprinting/TB Clearance**

Fingerprint clearance for the Employee will be acquired through submitting the Employee's fingerprints to the California Department of Justice. The Employee will be required to assume the cost of all fees related to the fingerprinting process. The Employee will be required to submit evidence from a health care provider and/or licensed entity that the Employee was found to be free from tuberculosis risk factors, or active tuberculosis, if risk factors were identified. Both clearances must be in place prior to the first day of service.

10. **Conflicts of Interest**

The Employee understands that, while employed at MPS, he will have access to confidential and proprietary information. The Employee therefore shall not maintain employment or contracts for employment, or engage in any consultant or independent contractor relationship, with any other agency or school that will in any way conflict with his employment with MPS. Failure to disclose facts related to a potential or actual conflict of interest shall constitute grounds for disciplinary action.

11. **Confidentiality**

The Employee will have access to confidential information through the regular course and scope of employment. "Confidential Information" shall mean any MPS proprietary information, including but not limited to student information, employee information, curriculum, plans, research, materials, recruiting records, operating methods, cost, pricing, financial data, business plans and proposals, data and information MPS receives in confidence from any other party, or any other secret or confidential matters of MPS. The Employee will hold in strictest confidence and not disclose Confidential Information to anyone who is not also an employee of MPS or to any employee of the MPS who does not also have access to such Confidential Information, without express written authorization of the Board. Additionally, Employee will not use any Confidential Information for Employee's own benefit or to the detriment of MPS during Employee's employment or thereafter. Employee also certifies that employment with the MPS does not and will not breach any agreement or duty that Employee has to anyone concerning confidential information belonging to others. Upon separation, the Employee will promptly deliver to MPS any and all Confidential Information in his possession or under his control.

12. **Termination of Contract**

This Agreement may be terminated by any of the following:

- a. **Termination For Cause:** The Employee may be terminated by the Board at any time for cause. In addition, Employee may be disciplined (e.g. reprimand, suspension without pay) for cause during the term of this Agreement. "Cause" shall include, but is not limited to, breach of this Agreement; misconduct or dishonest behavior; conviction of a crime involving dishonesty, breach of trust, or

physical or emotional harm to any person; any ground enumerated in the Employee Handbook; or the Employee's failure to satisfactorily perform his duties as set forth in this Agreement, as defined by law, or as specified in the above-mentioned and incorporated by reference job description.

The Board shall not terminate this Agreement pursuant to this paragraph until a written statement of the grounds of termination has first been served upon the Employee. The Employee shall have the right to a representative of his choice at a conference with the Board. The conference with the Board shall be the Employee's exclusive right to any hearing otherwise required by law.

- b. **Early Termination Without Cause:** The Board may unilaterally and without cause or advance notice terminate this Agreement. In consideration of the Board's right to terminate this Agreement without cause, the Board shall pay to the Employee the remainder of his salary (based upon any remaining calendared work days) for the term of this Agreement or for a period of six (6) months following the effective date of termination, whichever is less. The Employee shall also be entitled to receive six (6) months of health benefit continuation through COBRA, paid as a cash payment, which the Employee may apply to COBRA.

- c. **Voluntary Resignation:** The Employee will give the Board thirty (30) days' written notice of his intent to resign before effectuating a voluntary resignation.

Death or Incapacitation of the Employee: The death of the Employee shall terminate this Agreement and all rights entitled under this Agreement. In the event that the Employee becomes incapacitated to the extent that, in the judgment of the Board, the Employee may no longer perform the essential functions of his job with or without reasonable accommodation, as set forth in job specifications, the Board may terminate this Agreement.

- d. **Revocation/Nonrenewal:** In the event that MPS's charters are either revoked or nonrenewed, this Agreement shall terminate immediately upon the effective date of the revocation/nonrenewal of the charters, and without the need for the process outlined in Sections a or b above.

13. **Non-Renewal/Expiration of Term**

The Board may elect not to offer future employment agreements to the Employee at its sole discretion, without cause, and this Agreement will lapse by its own terms.

14. **Outside Professional Activities**

Upon obtaining prior written approval of the Board, the Employee may undertake for consideration outside professional activities, including consulting, speaking, and writing. The outside activities shall not occur during regular work hours. MPS shall in no way be responsible for any expenses attendant to the performance of such outside activities.

15. **Expense Reimbursement**

MPS shall reimburse the Employee for all documented actual and necessary expenses personally incurred within the scope of employment in accordance with applicable MPS policy and authorization.

16. **Telework**

The Employee may be required to perform some or all the duties of this position in a telework/remote capacity, as assigned by the Board, and consistent with the MPS Telework Policy.

17. **Required Contract Provisions**

The following provisions are required to be included in this Agreement by the California Government Code:

a. **Limitations on Cash Settlement**

In no case upon termination of this Agreement shall the maximum cash settlement exceed an amount equal to the monthly salary of Employee multiplied by twelve (12).

b. **Required Reimbursements**

The Employee shall be required to reimburse MPS for any salary or fees he receives from MPS in relation to his placement on paid administrative leave pending criminal charges if he is convicted of a crime involving the abuse of office/position. Regardless of the term of this Agreement, if the Agreement is terminated, the Employee must reimburse MPS for any cash settlement he receives in relation to his termination if he is convicted of a crime involving the abuse of office/position.

C. **GENERAL PROVISIONS**

1. **Waiver of Breach**

Either party to this Agreement may specifically and expressly waive, in writing, compliance by the other party thereto with any term, condition or requirements set forth in this Agreement. Either party to this Agreement may specifically and expressly waive, in writing, any breach of any term, condition or requirement of this Agreement by the other party hereto. However, in the event that either party makes or gives such a waiver, such action shall not constitute a further or continuing waiver of any preceding or succeeding breach, or requirement of compliance with, the same or any other provision or contractual requirement, unless a specific statement to the contrary is contained with such waiver. No waiver or consent shall be implied from the silence or from the failure of any party to act, except as otherwise specified in this Agreement.

The waiver by either party, or the failure of either party to claim a breach of any provision of this Agreement, will not operate or be construed as a waiver of any subsequent breach.

2. **Jurisdiction**

The parties hereby understand and agree that this Agreement, and the attachments hereto, have been negotiated and executed in the State of California and shall be governed by, and construed under, the laws of the State of California.

3. **Amendments**

No addition to, or modification of, any provision contained in this Agreement shall be effective unless fully set forth in writing *and* signed by the authorized representative of both of the parties hereto.

4. **Interpretation and Opportunity to Counsel**

The parties hereto acknowledge and agree that each has been given an opportunity to independently review this Agreement with legal counsel. In the event of a controversy or dispute between the parties concerning the provisions herein, this document shall be interpreted according to the provisions herein and no presumption shall arise concerning the draftsman of such provision.

5. **Severability**

If any term, provision, condition or covenant of the Agreement shall, to any extent, be held invalid or unenforceable, the remainder of the Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent provided by law.

6. **Execution of Counterparts**

This Agreement may be executed in any number of counterparts, each of which shall be deemed a duplicate original when all counterparts are executed, but all of which constitute a single instrument.

7. **Assignment**

The rights and obligations of the respective parties under the Agreement will inure to the benefit of and will be binding upon the heirs, legal representatives, successors and assigns of the parties hereto; provided, however, that this Agreement will not be assignable by either party without prior written consent of the other party.

8. **Governing Law**

This Agreement will be governed by, construed, and enforced in accordance with the laws of the State of California.

9. **Partial Invalidity**

If any provision of this Agreement is found to be invalid or unenforceable by any court, the remaining provisions hereof will remain in effect unless such partial

invalidity or unenforceability would defeat an essential business purpose of the Agreement.

D. ACCEPTANCE OF EMPLOYMENT

By signing below, the Employee declares as follows:

1. I have read this Agreement and accept employment with MPS on the terms specified herein.
2. All information I have provided to MPS related to my employment is true and accurate.
3. A copy of the job description is attached hereto.
4. This is the entire agreement between MPS and me regarding the terms and conditions of my employment. This is a final and complete agreement and there are no other agreements, oral or written, express or implied, concerning the subject matter of this Agreement.

Employee Signature: _____ Date: _____
Alfredo Rubalcava, CEO/Superintendent

MPS Approval:

MPS Board Signature: _____ Date: _____
Mekan Muhammedov, MPS Board Chair

***This Employment Agreement is subject to ratification
and approval by the Governing Board of MPS.***

Attachment A – CEO/Superintendent Job Description