

INDEPENDENT CONTRACTOR AGREEMENT

This Agreement is entered into on July 1, 2020 by and between Pacheco's Cleaning Service ("Contractor") and **Making Waves Academy** (hereinafter "MWA") (collectively, the "Parties").

1. Contractor's Services

- a. Contractor agrees to perform the services ("Services") as described in Exhibit A attached to this Agreement, as it may be amended in writing from time to time by the Parties, provided that any amendment is signed by Contractor and a duly authorized representative of MWA.
- b. Contractor may, at Contractor's own expense, use employees or other subcontractors to perform the Services under this agreement.
- c. Consistent with this requirement, Contractor may represent, perform services for, or be employed by such additional persons or companies as Contractor sees fit, except to the extent doing so causes Contractor to breach Contractor's obligations under this Agreement or creates a conflict of interest"

2. Compensation

Contractor shall be paid the amount set forth in Exhibit A and invoice MWA on a monthly basis for all hours worked under this Agreement during the preceding month. MWA shall pay all invoices within 15 days after their receipt.

3. Expenses

MWA agrees to reimburse Contractor for all expenses reasonably incurred in the performance of the Services upon production of supporting receipts and documentation.

4. Term of Agreement

- a. This Agreement will become effective on July 1, 2020.
- b. Either party may terminate this Agreement at any time by giving 30 days' written notice to the other party in accordance with the notice provisions set forth below.
- c. Upon termination of this Agreement, Contractor shall be entitled to payment for Services completed prior to the termination date and reimbursement for expenses incurred prior to the termination date. Thereafter, MWA shall owe Contractor no further amounts or obligations.

5. Default

If either party defaults in the performance of this Agreement or materially breaches any of its provisions, the non breaching party may terminate this Agreement by giving written notification to the breaching party. Termination shall be effective immediately on receipt of the written notification by the breaching party, or five days after mailing of the notice to the address set forth in the notice provisions below, whichever occurs first. For purposes of this section, material breach of this Agreement shall include, but not be limited to, the following: MWA's failure to pay for Contractor's Services as agreed within twenty (20) days after receipt of

5. Default (continued)

Contractor's written demand for payment in accordance with the notice provisions set forth below.

6. Relationship of the Parties

Contractor enters into this agreement as, and shall continue to be, an independent contractor. In no circumstances shall Contractor look to MWA as Contractor's employer, partner, agent, or principal. Neither Contractor nor any employee of Contractor (which for purposes of this Paragraph shall be included in the term "Contractor") shall be entitled to any benefits accorded to MWA's employee's, including workers' compensation, disability insurance, retirement plans, or vacation or sick pay. Contractor's exclusion from benefit programs maintained by MWA is a material component of the terms of compensation negotiated by the Parties, and is not premised on Contractor's status as a non employee with respect to MWA. To the extent that the Contractor may become eligible for any benefit programs maintained by MWA (regardless of the timing of or reason for eligibility), Contractor hereby waives Contractor's right to participate in the programs. Contractor's waiver is not conditioned on any representation or assumption concerning Contractor's status under the common law test. Contractor also agrees that, consistent with Contractor's independent contractor status, Contractor will not apply for any government-sponsored benefits that are intended to apply to employees, including, but not limited to, unemployment benefits.

6a. Relationship of the Parties (continued)

Contractor shall be responsible for providing, at Contractor's expense and in Contractor's name, disability insurance and workers' compensation as required by the State of California, as well as licenses and permits usual or necessary for performing the Services.

- a. Contractor shall pay, when and as due, any and all taxes incurred as a result of Contractor's compensation, including estimated taxes and payroll taxes, and shall provide MWA with proof of payment on demand. Contractor indemnifies MWA for any claims, losses, costs, fees liabilities, damages, or injuries suffered by MWA arising from Contractor's breach of the provisions of this Paragraph.
- b. Contractor and MWA shall provide to each other upon request any information reasonably necessary to determine their obligations under this Agreement, to fulfill the purposes of the Services, or to maintain accurate records.

7. Place of Work

Contractor understands that the Services must coordinate with MWA's established protocols and security requirements and may from time to time need to be performed at MWA's premises.

8. Insurance

- a. Without in anyway limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor shall procure and maintain during the full term of this Agreement the following insurance amounts and coverage:

- i. Coverage and Limits
- ii. Limits - The Contractor shall maintain limits no less than the following:
 - A. General Liability - One million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage and not less than \$2,000,000 annual aggregate.
 - B. Automobile Liability - \$100,000 for bodily injury and property damage each accident limit.
 - C. Workers' Compensation as required by law. Employer's liability insurance in the amount of at least \$1,000,000 per accident for bodily injury and disease.
- b. Commercial General Liability and Business Automobile Liability policies must provide the following:
 - i. Name as Additional Insured the Charter School and its Board, officers, authorizer(s), authorized volunteers, agents, and employees.
 - ii. That such policies are primary insurance to any other insurance available to the Additional Insured, with respect to any claims arising out of this Agreement and that such policies apply separately to each insured against who claim is made or suit is brought.
- c. Insurance is to be placed with insurers having a current A.M. Best rating of no less than A-:VII or equivalent or as otherwise approved by the Charter School.
- d. All policies shall provide thirty (30) days advance written notice to the
- e. Before commencing any operations under this Agreement, Contractor must provide the Charter School with the certificates of insurance (Accord Form 25-S

or equivalent) signed by the insurer's representative, and additional insured

policy endorsements in form (CG 20 10 11 85 or its equivalent) and shall furnish complete copies of policies promptly upon the Charter School's request.

Contractor also understands and agrees that the Charter School may withhold payment for services performed for any violations of the insurance provisions of this Agreement.

- f. Approval of the insurance by the Charter School shall not relieve or decrease the liability of Contractor hereunder.

9. Workers Compensation Insurance

By his/her signature on this Agreement, Contractor certifies that he/she is aware of the provisions of section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing the performance of the work of this Agreement.

10. Contractor's Representations and Indemnities

- a. Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control, or supervision of MWA. Failure to do so shall constitute a material breach of this Agreement. Contractor shall be solely responsible for the professional performance of the Services and shall receive no assistance, direction, or control from MWA. Contractor shall have sole discretion and control of Contractor's services and the manner in which they are to be performed.

- b. Contractor shall and does hereby indemnify, defend, and hold harmless MWA, and MWA's officers, directors, authorizer, employees and shareholders, from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties, and reasonable attorney fees and costs, that MWA may incur or suffer and the result from, or are related to, any breach or failure of Contractor to perform any of the representations, warranties, and agreements in this Agreement.

11. MWA Indemnities

- a. MWA shall indemnify, defend and hold harmless Contractor from and against all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties, and reasonable attorney fees and costs that Contractor may incur or suffer as the result of the active or sole negligence of MWA.

12. Proprietary Information

- a. "Proprietary Information" means all information pertaining in any manner to the business of MWA, unless (i) the information is or becomes publicly known through lawful means; (ii) the information was part of Contractor's general knowledge prior to Contractor's relationship with MWA; or (iii) the information is disclosed to Contractor without restriction by a third party who rightfully possesses the information and did not learn of it from the MWA. This definition includes, but is not limited to, information on MWA's employees, agents, or divisions. The written, printed, graphic, or electronically recorded materials

furnished by MWA for use by Contractor are Proprietary Information and property of MWA.

- b. Contractor shall maintain in confidence and shall not, directly or indirectly, disclose or use, either during or after the term of this Agreement, any Proprietary Information, confidential information, or know-how belonging to MWA, whether or not it is in written or permanent form, except to the extent necessary to perform the Services. On termination of Contractor's services to MWA, or at the request of MWA before termination, Contractor shall deliver to MWA all material in Contractor's possession, custody or control relation to MWA's business including Proprietary Information. The obligations on Proprietary Information extend to information belonging to customers and suppliers of MWA about whom Contractor may have gained knowledge as a result of performing the Services.
- c. Nothing in this Paragraph 9 is intended to limit any remedy of the MWA under the California Uniform Trade Secrets Act (California Civil Code Section 3426), or otherwise available under the law.

13. Dispute Resolution

The parties shall negotiate in good faith in an attempt to resolve all disputes between Contractor, including any employees of Contractor, and MWA relating in any way to this Agreement or the Services to be performed under this Agreement (including, but not limited to, claims for breach of contract, tort, discrimination, harassment, and any violation of federal or state law) ("Arbitrable Claims"). Disputes that cannot be resolved by negotiation shall be submitted to mediation using a mutually agreed upon mediator. If

the mediation is unsuccessful, the dispute shall be resolved by arbitration before a neutral arbitrator. The arbitrator shall be selected and the arbitration hearing conducted pursuant to the Commercial Arbitration Rules of the American Arbitration Association and shall take place in Richmond, California, unless otherwise agreed by the Parties. Arbitration shall be final and binding upon the Parties and shall be the exclusive remedy for all claims covered by this arbitration provision. Either party may bring an action in court to compel arbitration under this Agreement, to enforce an arbitration award or to obtain temporary injunctive relief pending a judgment based on the arbitration award. Otherwise, neither party shall initiate or prosecute any lawsuit, or administrative action, in any way related to any Arbitrable Claim. The Federal Arbitration Act shall govern the interpretation and enforcement of this Section on Arbitration, except if any court finds that the Federal Arbitration Act does not apply, the California Arbitration Act shall govern the interpretation and enforcement of this Section. If any court or arbitrator finds that any term makes this Arbitration Section unenforceable for any reason, the court of arbitrator shall have the power to modify such term (or if necessary delete such term) to the minimum extent necessary to make this Arbitration Section enforceable to the fullest extent permitted by law.

THE PARTIES HEREBY WAIVE ANY RIGHTS THEY MAY HAVE TO TRIAL BY JURY IN REGARD TO ARBITRABLE CLAIMS, INCLUDING WITHOUT LIMITATION TO ANY RIGHT TO TRIAL BY JURY AS TO THE MAKING, EXISTENCE, VALIDITY OR ENFORCEABILITY OF THE AGREEMENT TO ARBITRATE.

14. Miscellaneous Provisions

- a. Entire Agreement. The terms of this Agreement are intended by the Parties to be the final expression of their agreement with respect to subject matter of this Agreement and may not be contradicted by evidence of any prior or contemporaneous agreement, except as expressly set forth in this Agreement. The Parties further intend that this Agreement shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever may be introduced in any judicial, administrative, or other legal proceeding involving this Agreement.
- a. Amendments: Waivers. This Agreement shall not be varied, altered, modified, changed or in any way amended except by an instrument in writing executed by Contractor and a duly authorized representative of MWA.
- b. Severability: Enforcement. If any provision of this Agreement, or the application thereof to any person, place, or circumstance, shall be held by an arbitrator of a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of this Agreement and such provisions as applied to other persons, places, and circumstances shall remain in full force and effect, and such provision shall be enforced to fullest extent consistent with applicable law.
- c. Governing Law. Except as otherwise provided, the validity, interpretation, enforceability, and performance of this Agreement shall be governed by and construed in accordance with the law of the State of California, without giving effect to its law regarding the conflict of laws.

14d. Interpretation (continued)

d. Interpretation. This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party. By way of example and not in limitation, this Agreement shall not be construed in favor of the party receiving a benefit not against the party responsible for any particular language in this Agreement. Captions are used for reference purposes only and should be ignored in the interpretation of this Agreement.

15. Acknowledgement

The Parties acknowledge that (i) they have each had the opportunity to consult with independent counsel of their own choice concerning this Agreement and have done so to the extent they deem necessary, and (ii) they each have read and understand the Agreement, are fully aware of its legal effect, and have entered into it voluntarily and freely based on their own judgment and not on any promises of representations other than those contained in the Agreement.

MAKING WAVES ACADEMY

By _____
Alton B. Nelson, Chief Executive Officer
510.262.1511
510.262.1518 fax

CONTRACTOR

By _____
Pacheco's Cleaning Service
2025 Dover Ave.
San Pablo, CA 9480

Exhibit A: Scope of Work
2020- 2021

I. Project for which the Services are being performed:

- Custodial Services – to be performed according to an established schedule
- Custodial Services – to be performed as requests
 - Hourly rate for:
 - Non-contracted cleaning projects
 - Special events

II. Services to be performed by frequency

Services to be performed by Vendor five times per week

- **Office Areas**
 - Empty waste/recycle bins in office areas
 - Vacuum all office areas including the hallways
 - Reception Area - Clean entrance Doors
 - Dust and wipe all furniture and tables
- **Servery Area and Student Commons**
 - Empty waste/recycle bins
 - Mop and sanitize all servery, including kitchen areas
 - Windows
- **Staff Lounge**
 - Empty waste/recycle bins in area
 - Wipe and disinfect all furniture, appliances and tables
 - Not responsible for dirty dishes in the sink due to breakage
- **Blackbox, Theater and Gym**
 - Mop and sanitize all areas
 - Dust mop gym floor
 - Wet mop gym floor
 - Clean bleachers
- **Classrooms (Including Open Learning Spaces and Makerspace)**
 - Dust and disinfect the furniture and desks
 - Empty waste/recycle bins
 - Mop and sanitize all classroom areas
- **Restrooms**
 - Mop and sanitize all restrooms
 - Responsible for stocking the paper towels, toilet paper and hand soap
 - Responsible for replenishing the paper towel dispenser
- **Libraries**
 - Dust and disinfect the furniture, bookshelves, and tables
 - Empty waste/recycle bins
 - Vacuum all areas

Covered Outdoor Eating Areas

- Pick up trash on ground and tables

Services to be performed by Vendor once per month

- Empty and clean refrigerators in all staff lounges
- Clean building windows

Services to be performed by Vendor two times a year

- Summer break: Powerwashing hard surfaces
- Winter break: Powerwashing hard surfaces

Services to be performed by Vendor twice a year

- Summer: Auto scrub floors, clean windows, power wash the restrooms, clean carpets, deep clean servery floors, dust all light fixtures and cabinets, clean roofs of debris,
- Winter: Power wash the restrooms, perform required cleaning touch ups, clean servery floors, clean roofs of debris

Janitorial Supplies

- CONTRACTOR will keep inventories of all janitorial supplies and will inform MWA for replenishments. MWA is responsible for purchasing the required and necessary janitorial supplies.

Equipment Supplies and Maintenance

- MWA will be responsible for providing and maintaining the necessary and required cleaning equipment.

II. Delivery Schedule for Performing Services ("Delivery Schedule")

- Contractor agrees to provide cleaning services five (5) days per week unless otherwise specified
- Cleaning Services to be provided between the hours of 5:00 p.m. to 10:00 p.m.

III. Cleaning Fees

- a. Rate per month: \$45,050
- b. Rate per hour for MWA approved, non-contracted work and powerwashing: \$26.00
- b. Additional duties as requested, not included in Exhibit A, will be performed only after both the Contractor and MWA agree with the timing of the duties.

EXHIBIT A
Continued

MAKING WAVES ACADEMY SERVICES/ACTIVITIES TO BE
PERFORMED AND FREQUENCY

OFFICE

SERVERY

STUDENT COMMONS

CLASSROOM (MAKER SPACE AND OPEN LEARNING SPACE)

RESTROOM

LAB

HALLWAYS

ELEVATOR

CONFERENCE

GYM

LIBRARY

STAFF LOUNGE

BLACKBOX AND THEATER

DEEP CLEANING- SUMMER & WINTER

Exhibit A

OFFICE Item	Task	Frequency			
		Daily	Weekly	Monthly	As Needed
Bookcase	Dust		X		
Carpet	Vacuum		X		
Chair	Dust		X		
Desk surface	Damp Clean		X		
Door Handle/knob	Disinfect	X			
Door, Both Sides File	Damp Clean		X		
Cabinets Recycle Bin	Dust		X		
Tables	Empty		X		
Waste Bin	Damp Clean		X		
	Empty	X			

INITIALS:

MWA_____

Contractor_____

Exhibit A

SERVERY

Frequency

Item	Task	Daily	Weekly	Monthly	As Needed
Dispenser, Paper Towel	Refill				X
Dispenser, Soap	Refill				X
Floor	Damp Mop	X			
Recycle Bin	Empty	X			
Sink	Disinfect	X			
Waste Bin	Empty	X			

NOTE: Dispensers are refilled as needed

INITIALS:

MWA _____

Contractor _____

Exhibit A

CLASSROOM (MAKER SPACE & OPEN LEARNING SPACE) Frequency

Item	Task	Daily	Weekly	Monthly	As Needed
White Board and Eraser	Clean		X		
Sink	Unclutter	X			
Student Desk	Align	X			
Trash on Floor	Pick Up	X			
Bookcase	Dust	X			
Counter Top	Disinfect	X			
Desks	Damp Clean	X			
Desk, Student	Damp Clean	X			
Door Handle/Knob	Disinfect	X			
Door, Both Sides	Damp Clean		X		
Floor	Dust Mop	X			
Waste Bin	Empty	X			

INITIALS:

MWA_____

Contractor_____

Exhibit A

RESTROOM		Frequency			
Item	Task	Daily	Weekly	Monthly	As Needed
Dispenser, Paper Towel	Refill				X
Dispenser, San. Napkins	Empty	X			
Dispenser, Soap	Refill				X
Dispenser, Toilet Paper	Refill				X
Door Handle/Knob	Disinfect	X			
Door lock	Secure				X
Door, Both Sides	Damp Clean		X		
Drain, Floor	Clean	X			
Floor	Damp Mop	X			
Mirrors	Damp Clean	X			
Sinks	Clean/Disinfect	X			
Toilets	Clean/Disinfect	X			
Waste Bin - large	Empty	X			

INITIALS:

MWA _____

Contractor _____

Exhibit A

LAB Item	Task	Frequency			
		Daily	Weekly	Monthly	As Needed
Sink	Unclutter	X			
Student Desk	Align	X			
Trash on Floor	Pick Up	X			
Window	Secure	X			
Bookcase	Dust		X		
Counter Top	Disinfect	X			
Desks	Damp Clean	X			
Desk,Student	Damp Clean	X			
Door Handle/Knob	Disinfect	X			
Door,Both Sides	Damp Clean		X		
Floor	Dust Mop	X			
Horizontal Surface	Dust	X			
Waste Bin	Empty	X			

INITIALS:

MWA_____

Contractor_____

Exhibit A

HALLWAY

Frequency

	Item	Task	Daily	Weekly	Monthly	As Needed
Floor		Damp Mop	X			
Floor		Dust Mop	X			

INITIALS:

MWA _____

Contractor _____

Exhibit A

Elevator		Frequency				
Floor	Item	Task	Daily	Weekly	Monthly	As Needed
		Clean Elevator Walls	X			

INITIALS:

MWA _____

Contractor _____

Exhibit A

CONFERENCE

Item	Task	Daily	Weekly	Monthly	As Needed
Frequency Carpet	Vacuum	X			
Chair	Dust	X			
Door Handle / knob	Disinfect	X			
Door, Both Sides	Damp Clean		X		
White Board & Eraser	Wash		X		

INITIALS:

MWA _____

Contractor _____

Exhibit A

GYM Item	Task	Frequency			
		Daily	Weekly	Monthly	As Needed
Sink	Unclutter	X			
Trash on Floor	Pick Up	X			
Counter Top	Disinfect	X			
Door Handle/Knob	Disinfect	X			
Door, Both Sides	Damp Clean		X		
Floor	Dust Mop	X			
Floor	Wet Mop		X		
Waste Bin	Empty	X			
Bleachers	Dust Mop		X		X
Bleacher	Clean Seats		X		X

INITIALS:

MWA_____

Contractor_____

Exhibit A

Library Item	Task	Frequency			
		Daily	Weekly	Monthly	As Needed
Trash on Floor	Pick Up	X			
Bookcase	Dust		X		
Counter Top	Disinfect	X			
Desks	Damp Clean	X			
Desk, Student	Damp Clean	X			
Door Handle/Knob	Disinfect	X			
Door, Both Sides	Damp Clean		X		
Floor	Vacuum	X			
Waste Bin	Empty	X			

INITIALS:

MWA_____

Contractor_____

Exhibit A

STAFF LOUNGE

Frequency

Item	Task	Daily	Weekly	Monthly	As Needed
Sink	Clean	X			
Chair	Dust	X			
Door Handle/knob	Disinfect	X			
Door, Both Sides	Damp Clean		X		
Recycle Bin	Empty	X			
Tables	Damp Clean	X			
Waste Bin	Empty	X			

INITIALS:

MWA_____

Contractor_____

Exhibit A

Blackbox and Theater

Item	Task	Frequency			
		Daily	Weekly	Monthly	As Needed
Trash on Floor	Pick Up	X			
Door Handle/Knob	Disinfect	X			
Door, Both Sides	Damp Clean		X		
Floor	Dust Mop	X			
Waste Bin	Empty	X			
Bleachers/Seats	Dust Mop		X		X
Bleachers/Seats	Spot Clean Seats		X		X

INITIALS:

MWA _____

Contractor _____

Exhibit A

DEEP CLEANING

Item	Task
	Deep Cleaning activities take place during two academic breaks unless otherwise noted: December (Winter Break) and August (Summer Break)
Lights:	Dust
Cabinets:	Dust and damp clean inside and top of cabinets
Floors:	Auto scrub
Windows:	Wash interior and exterior of buildings
Vents:	Dust/vacuum air ducts
lockers:	Dust and damp clean locker tops
Blinds:	Dust/vacuum blinds
Walls:	Damp clean walls
Doors:	Damp Clean doors during breaks
Borders (floor trim):	Damp clean borders
Restrooms:	Power wash restroom stalls once a month. Wash walls quarterly.
Roof:	Remove leaves, debris and balls during breaks
Roof:	Blow the leaves from the front entrances every other week
Trash baskets and hallway	Wash
Classroom recycle wastepaper	Wash
Trash baskets and hallway	Wash
Classroom Trash wastepaper	Wash
baskets and hallway	Wash
Exterior large garbage cans-	
compose wastepaper	Wash
Exterior large garbage cans-recycle wastepaper	Wash
Exterior large garbage cans-trash wastepaper	Wash
Storage & Electrical Closets:	Dust, sweep, remove cobwebs
Hard exterior surfaces (concrete)	Powerwash at Thanksgiving break, February break and Spring break
Carpets:	
library, offices, classrooms	Wash once a year or during breaks as needed
Soft furniture:	Spot clean

INITIALS:

MWA_____

Contractor_____

**EXHIBIT A WILL BE AMENDED IN JULY 2021 IN ORDER TO REFLECT MWA'S NEWLY
CONSTRUCTED FACILITIES AND ANY RESULTING CHANGES IN CONTRACTOR
RESPONSIBILITIES AND CLEANING FEES.**

THIS EXHIBIT A IS AGREED TO EFFECTIVE JULY 1, 2020

MAKING WAVES ACADEMY

By _____
Alton B. Nelson, Chief Executive Officer
510.262.1511
510.262.1518 fax

CONTRACTOR

By _____
Pacheco's Cleaning Service
2025 Dover Ave.
San Pablo, CA 94806