

FIXED-TERM EMPLOYMENT AGREEMENT
Between
MAKING WAVES ACADEMY & ALTON B. NELSON

THIS EMPLOYMENT AGREEMENT (“Agreement”) is entered into by and between the above-named employee (“Employee”) and the Governing Board (“Board”) of Making Waves Academy (“MWA”), a California nonprofit public benefit corporation charter school approved by the Contra Costa County of Education (hereinafter referred to as the “granting authority”). The Board desires to hire employees who will assist MWA in achieving the goals and meeting the requirements of MWA’s charter, and implementing MWA’s purposes, policies, and procedures. The parties recognize that MWA is not governed by the provisions of the California Education Code, except as expressly set forth in the Charter Schools Act of 1992.

WHEREAS, MWA 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. MWA has been established and operates pursuant to the Charter Schools Act of 1992, Education Code section 47600, *et seq.* MWA has been duly approved by the granting authority, according to the laws of the State of California.
2. Pursuant to Education Code section 47604, MWA has elected to be formed and to operate as a non-profit 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, MWA is considered a separate legal entity from the granting authority, which granted the charter. The granting authority shall not be liable for any debts and obligations of MWA, and the employee signing below expressly recognizes that he is being employed by MWA and not the granting authority.
3. Pursuant to Education Code section 47610, MWA must comply with all of the provisions set forth in its charter, but is otherwise exempt from the laws governing school districts except as specified in Education Code section 47610.
4. MWA shall be deemed the exclusive public school employer of the employees at MWA for purposes of Government Code section 3540.1.

B. EMPLOYMENT TERMS AND CONDITIONS

1. **Duties**

The Employee shall work in the position of CEO. The Employee will perform such duties as MWA may reasonably assign and the Employee will abide by all of MWA’s policies and procedures as adopted and amended from time to time. The Employee further agrees to abide by MWA’s charter.

The Employee is exempt from overtime law and shall not be entitled to additional compensation for performing duties outside of the scheduled work year/day.

2. **Term and Work Schedule**

Subject to Section C, “Termination of this Agreement” herein, MWA hereby employs the Employee for a term of four (4) years commencing on July 1, 2021 and ending June 30, 2025.

The minimum daily work schedule for this full-time position shall be Monday through Friday, 8:00 a.m. to 5:00 p.m. While the Employee shall generally be available during this time period, the duties of this position may require work on weekends, and before and after the regular work year or hours of the work day. Workdays for the Employee shall be consistent with the applicable calendar of workdays for this position.

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 MWA.

3. **Compensation**

The annual compensation for this position shall be as follows, which allows for a 2.5% annual cost of living increase in Years 2, 3 and 4:

- FY22:** \$321,640
- FY23:** \$329,681
- FY24:** \$337,923
- FY25:** \$346,371

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 Benefits/Retirement.** The Employee shall be entitled to participate in designated employee benefit programs and plans established by MWA (subject to program and eligibility requirements) for its employees, which from time to time may be amended and modified by MWA in its sole discretion.

MWA’s benefits are on a calendar-year cost cycle, and the state has not yet determined the FY22 STRS contribution level. The value of the benefits component of this contract can be estimated by reviewing the FY21 benefits and retirement package for the Employee shown below and anticipating inflationary cost increases:

State Teacher Retirement System (STRS) (No 403b match)	\$55,292
Medical	\$21,143
Dental	\$2,540
Vision	\$228
Basic Life Insurance	\$292
Long Term Disability	\$491
Total:	\$79,986

- b. **COLA Stipend.** The Employee shall be entitled to an annual temporary COLA stipend in the amount of \$12,000.
- c. **Retention Bonus.** The Employee shall be entitled to the retention bonus as set forth in MWA’s retention policies. This means that in FY23, the Employee shall receive a retention bonus of \$10,000.

5. **Performance Evaluation**

The Board shall evaluate the performance of the Employee at least once annually. This evaluation shall be based on the job description and agreed upon KPIs. 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. The Board president will conduct the annual performance evaluation each fall and the Employee shall have the right to make an oral or written response to the evaluation.

6. **Employee Rights**

Employment rights and benefits for employment at MWA shall only be as specified in this Employment Agreement, MWA’s charter, the Charter Schools Act and MWA’s Employee Handbook, which from time to time may be amended and modified by MWA. 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 MWA.

7. **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 professional capacity or within the scope of his employment whom he 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.

8. **Conflicts of Interest**

The Employee understands that, while employed at MWA, 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 MWA.

9. **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. MWA shall in no way be responsible for any expenses attendant to the performance of such outside activities.

10. **Expense Reimbursement**

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

11. **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 the Employee multiplied by twelve (12).
- b. **Required Reimbursements.** The Employee shall be required to reimburse MWA for any salary or fees he receives from MWA 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 MWA 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. **TERMINATION OF CONTRACT**

This Agreement may be terminated by any of the following:

1. **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.

2. **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 for a maximum of six (6) months.

3. **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.

4. **Revocation/Non-renewal**

In the event that the MWA Charter is either revoked or not renewed, this Agreement shall terminate immediately upon the effective date of the revocation/non-renewal of the charters, and without the need for the process outlined in Sections a or b above.

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

This Agreement does not automatically renew upon expiration of the 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.

D. GENERAL PROVISIONS

1. **Waiver of Breach**

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. **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.

3. **Governing Law**

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

4. **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.

5. **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.

6. **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.

7. **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.

8. **Signatures**

In witness therein, we affix our signatures to this Agreement with the full and complete understanding of the relationship between the parties hereto.

E. **ACCEPTANCE OF EMPLOYMENT**

By signing below, the Employee declares as follows:

- 1. I have read this Agreement and accept employment with MWA on the terms specified herein.
- 2. All information I have provided to MWA related to my employment is true and accurate.
- 3. A copy of the job description and KPIs are attached hereto.
- 4. This is the entire agreement between MWA 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: _____

MWA Approval:

Dated: _____
Alicia M. Klein, Board Chair

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

MWA CEO Job Description

The role of the Making Waves Academy (MWA) Chief Executive Officer (CEO) is to provide executive level leadership for the growth, management, and sustainability of MWA. Additional areas of leadership include but are not limited to building a strong culture of accountability, stability, impact, and compliance. The position resides within the “central office” for MWA. An additional important role for the MWA CEO moving forward is to continue to build alignment between MWA’s current model and MWA’s vision for the future, which includes technology-assisted learning, focusing on innovation and continuous improvement and further enhancing holistic support. The MWA CEO monitors implementation of the MWA strategic plan and provides oversight of MWA school performance, school leader performance and support, and central office staff performance and support. With an increased focus strategic initiatives related to college access and success, it is also important to develop, refine, and maintain a solid foundation of formalized operational processes, progress monitoring feedback loops, and metrics to insure MWA continues to be successful, impactful, and results-oriented. Focus on the following areas:

1. **Organizational Leadership** – Provide direction, oversight, and leadership to MWA leaders, admin, and staff; maintain alignment of vision and mission with actions;
2. **Governance & Stakeholder Relations** – Receive input from, manage relations with, and report out to MWA, MWF, and charter authorizer boards, the MWF Executive Committee, and MWA stakeholder groups;
3. **Growth/Expansion (Strategic Plan Implementation)** – Continued refinement, development, implementation, and progress monitoring of the strategic plan and ongoing due diligence and dialogue regarding growth strategy and tactics;
4. **Compliance** – Provide oversight and direction in the areas of 1) Federal, state, local, and charter compliance activities; 2) Budget activities through the *Local Control Accountability Plan* (LCAP); 3) *WASC* accreditation activities and six-year plan implementation; and 4) the Single Plan for Student Achievement (SPSA) activities and implementation.

Position Detailed Duties & Responsibilities:

Under the current MWA organization structure and approved strategic plan, the work of the CEO is executive leadership, supervision, oversight, execution, and progress monitoring of the MWA portion of the Making Waves strategic plan. Responsibilities and duties include:

- I. **Organizational Leadership**
 - a. Set up systems to identify and track progress on organizational goals using key performance indicators and metrics; analyze and act on the data provided; gather and utilize information from MWA internal and external stakeholders to assess overall health of the organization and mission and vision alignment.
 - b. Supervise, evaluate, and hire/terminate the MWA senior school director and all central office executive leadership.
 - c. Provide oversight and set the vision for student and adult learning content and practices (e.g. Common Core State Standards and cultural competency training).
- II. **Governance and Stakeholder Relations**
 - a. Work closely with, seek input from, and provide updates to various governance and stakeholder entities – e.g. MWA Board, School Site Council (SSC), charter authorizer board(s), MWF Board, MWF Executive Committee, and Founder.
 - b. Work closely with other Making Waves executive leaders in the Making Waves Foundation to collaborate with and align on organizational practices; provide updates on programmatic and strategic initiatives.

- c. Develop and maintain strong and supportive relationships and good communication with our charter authorizers (the Contra Costa County Office of Education) and our SELPA provider for Special Education.

III. Growth/Expansion (Strategic Plan Implementation)

- a. Provide leadership for and implement the Making Waves Strategic Plan initiatives, meet the annual milestones, and report out on progress against the plan.
- b. Work with the MWA CFO and MWF CFO to understand and forecast financial allocations of revenues and expenses that align with the strategic plan and sustainability of the organization.
- c. Establish and maintain a local, statewide, and national profile to increase awareness of MWA in seeking support and strategic partnership opportunities for the school.

IV. Compliance

- a. Oversee financial record keeping and reporting practices to meet all local, state, federal, and charter authorizer regulations including audits, LCAP, attendance reporting, and WASC accreditation activities.
- b. Work with the MWA CFO, Director of Finance, division directors, finance committee, and audit committee to insure adherence to audit-compliant federal, state, and county financial reporting deadlines; systems controls are being adhered to.
- c. Work with MWA Senior School Director and MD of Human Resources to oversee and implement compliance protocols and procedures (for California public schools and federally funded programs) for but not limited to: personnel, mandated reporting, sexual harassment training, and teacher credentialing screening and reporting.

Educational Requirement:

- Bachelors & Masters Required
- Graduate studies and/or a degree in Educational Leadership, an MBA, or non-profit management

Desired:

- 15-20 or more years of experience K-12 education
- 10 or more years of school leadership experience; 8 or more years of that experience specifically in charter schools
- Budget development and financial reporting experience in public schools
- 8-10 years or more of reporting to and working with a Board of Directors.
- Professional orientation – appearance, communication, organization, detail orientation, follow through, and attitude.
- Experience working with students and families from historically underserved communities.

Key Performance Indicators for MWA CEO

Finance and Mission Impact:	Evidence of STRONG	Progress or SOME	Accomplishment NONE
Create accurate budget and stay within it, barring unforeseen circumstances			
Assess/adjust programs for maximum mission impact per dollar of expenditure			
Management and Leadership Effectiveness:	Evidence of STRONG	Progress or SOME	Accomplishment NONE
Achieve target level of undesired staff attrition			
Attract/recruit needed talent in a timely manner			
Exert appropriate influence on staff satisfaction levels			
Effectively implement and/or create strategic plan			
Achievement of SMART/WASC goals			
Demonstrate innovation/best-practice modeling in development of academic programs			
Community/Relationship/Image Building:	Evidence of STRONG	Progress or SOME	Accomplishment NONE
Build/maintain strong relationships with students and families			
Build/maintain strong relationships with board members			
Strengthen ties to charter community			
Increase profile of MWA in education reform space			
Student Performance:	Improved	Flat	Declined
(vs. previous year)			
Attendance data			
Percent of EL students reclassified by 8th grade			
Graduation rate (measured from 9th grade pool)			
Average GPAs, PSAT and SAT scores			
School performance on state tests			
4-year/2-year ratio of college acceptances			
Quality of 4-year institutions			
Number of discipline issues (declined better than improved)			
Effective pivot to distance learning during COVID SIP			