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## Board Policies

**BYLAWS**  
**OF**  
**Making Waves Academy**  
(A California Nonprofit Public Benefit Corporation)

**ARTICLE 1**  
**NAME**

Section 1. NAME. The name of the Corporation is Making Waves Academy.

**ARTICLE 2**  
**PRINCIPAL OFFICE OF THE CORPORATION**

Section 2.1. PRINCIPAL OFFICE OF THE CORPORATION. The principal office for the transaction of the activities and affairs of the Corporation is 4123 Lakeside Drive, Richmond, State of California. The Board of Directors may change the location of the principal office. Any such change of location must be noted by the Secretary on these bylaws opposite this Section; alternatively, this Section may be amended to state the new location.

Section 2.2 OTHER OFFICES OF THE CORPORATION. The Board of Directors may at any time establish branch or subordinate offices at any place or places where the Corporation is qualified to conduct its activities.

**ARTICLE 3**  
**GENERAL AND SPECIFIC PURPOSES; LIMITATIONS**

Section 3.1. GENERAL AND SPECIFIC PURPOSES. The specific purposes for which this Corporation is organized are to manage, operate, guide, direct and promote one or more California public charter schools, including Making Waves Academy Richmond and any other locations authorized or created or operated. Also in the context of these purposes, the Corporation shall not, except to an insubstantial degree, engage in any other activities or exercise of power that do not further the purposes of the Corporation.

The Corporation shall not carry on any other activities not permitted to be carried on by: (a) a corporation exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code; or (b) a corporation, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code. No substantial part of the activities of the Corporation shall consist of the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of or in opposition to any candidate for public office.

**ARTICLE 4**  
**CONSTRUCTION AND DEFINITIONS**

Section 4.1. CONSTRUCTION AND DEFINITIONS. Unless the context indicates

otherwise, the general provisions, rules of construction, and definitions in the California Nonprofit Corporation Law shall govern the construction of these bylaws. Without limiting the generality of the preceding sentence, the masculine gender includes the feminine and neuter, the singular includes the plural, and the plural includes the singular, and the term “person” includes both a legal entity and a natural person.

## **ARTICLE 5 DEDICATION OF ASSETS**

Section 5.1. DEDICATION OF ASSETS. The Corporation’s assets are irrevocably dedicated to public benefit purposes as set forth in the charter governing the charter Schools operated as or by the Corporation. No part of the net earnings, properties, or assets of the Corporation, on dissolution or otherwise, shall inure to the benefit of any private person or individual, or to any director or officer of the Corporation. On liquidation or dissolution, all properties and assets remaining after payment, or provision for payment, of all debts and liabilities of the Corporation shall be distributed to Making Waves Foundation or another nonprofit fund, foundation, or corporation that is organized and operated exclusively for charitable purposes and that has established its exempt status under Internal Revenue Code section 501(c)(3).

## **ARTICLE 6 CORPORATION WITHOUT MEMBERS**

Section 6.1. CORPORATION WITHOUT MEMBERS. The Corporation shall have no voting members within the meaning of the Nonprofit Corporation Law.

## **ARTICLE 7 BOARD OF DIRECTORS**

Section 7.1. GENERAL POWERS. Subject to the provisions and limitations of the California Nonprofit Public Benefit Corporation Law and any other applicable laws, and subject to any limitations of the articles of incorporation or bylaws, the Corporation’s activities and affairs shall be managed, and all corporate powers shall be exercised, by or under the direction of the Board of Directors (“Board”).

Section 7.2. SPECIFIC POWERS. Without prejudice to the general powers set forth in Section 7.1 of this article, but subject to the same limitations, the Board of Directors shall have the power to:

- a. Appoint and remove, at the pleasure of the Board of Directors, all corporate officers, agents, and employees; prescribe powers and duties for them as are consistent with the law, the articles of incorporation, and these bylaws; fix their compensation; and require from them security for faithful service.
- b. Change the principal office or the principal business office in California from one location to another; cause the Corporation to be qualified to conduct its activities in any other state, territory, dependency, or country; conduct its activities in or outside

California.

- c. Borrow money and incur indebtedness on the Corporation's behalf and cause to be executed and delivered for the Corporation's purposes, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, and other evidences of debt and securities.
- d. Adopt and use a corporate seal.

[Section 7.2.]<sup>1</sup> DESIGNATED DIRECTORS AND TERMS. The number of directors shall be no less than five (5) and no more than fifteen (15), unless changed by amendments to these bylaws. A Board seat shall be reserved at all times for a Parent/Guardian Representative. All directors shall have full voting rights, including any representative appointed by the charter authorizer as consistent with Education Code Section 47604(b). If the charter authorizer appoints a representative to serve on the Board of Directors, the Board may appoint an additional director to ensure an odd number of directors. All directors, except for the representative of the charter authorizer, shall be designated by the existing Board of Directors.

Section 7.3. RESTRICTION ON INTERESTED PERSONS AS DIRECTORS.

No interested persons may serve on the Board of Directors. An interested person is (a) any person compensated by the Corporation for services rendered to it within the previous 12 months, whether as a full-time or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director as director; and (b) any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of such person. However, any violation of this paragraph shall not affect the validity or enforceability of transactions entered into by the Corporation. The Board may adopt other policies circumscribing potential conflicts of interest.

Section 7.4. DIRECTORS' TERM. All directors, except for the Parent/Guardian Representative, shall hold office for three (3) years and until a successor director has been designated and qualified. The Parent/Guardian Representative shall hold office for two (2) years and until a successor director has been designated and qualified.

Section 7.5. NOMINATIONS BY COMMITTEE. The President of the Board of Directors or, if none, the CEO in conjunction with at least two other sitting Board Members will designate qualified candidates for election to the Board of Directors at least thirty (30) days before the date of any designation of directors. The nominating committee shall make its report at least seven (7) days before the date of such designation or at such other time as the Board of Directors may set and the Secretary shall forward to each Board member, with the notice of meeting required by these bylaws, a list of all candidates nominated by committee.

Section 7.6. EVENTS CAUSING VACANCIES ON BOARD. A vacancy or vacancies on the Board of Directors shall occur in the event of (a) the death, resignation, or removal of any director; (b) the increase of the authorized number of directors; (c) the failure of a director to attend two (2) meetings during one calendar year without good cause; and (d) the declaration by resolution

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<sup>1</sup> NTD: Note this is the second section "7.2"; numbering is off throughout section.  
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of the Board of Directors of a vacancy in the office of a director who has been convicted of a felony, declared of unsound mind by a court order, or found by final order or judgment of any court to have breached a duty under California Nonprofit Public Benefit Corporation Law, Chapter 2, Article 3.

Section 7.7. RESIGNATION OF DIRECTORS. Except as provided below, any director may resign by giving written notice to the President, or the Secretary, or to the Board. The resignation shall be effective when the notice is given unless the notice specifies a later time for the resignation to become effective. If a director's resignation is effective at a later time, the Board of Directors may designate a successor to take office as of the date when the resignation becomes effective.

Section 7.8. DIRECTOR MAY NOT RESIGN IF NO DIRECTOR REMAINS. Except on notice to the California Attorney General, no director may resign if the Corporation would be left without a duly elected director or directors.

Section 7.9. REMOVAL OF DIRECTORS. Any director, except for the representative appointed by the charter authorizer, may be removed, with or without cause, by the vote of the majority of the members of the entire Board of Directors at a special meeting called for that purpose, or at a regular meeting, provided that notice of that meeting and such removal are given in compliance with the provisions of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code) as said chapter may be modified by subsequent legislation ("Brown Act"). The representative designated by the charter authorizer may be removed without cause by the charter authorizer or with the written consent of the charter authorizer. Any vacancy caused by the removal of a director shall be filled as provided in Section 7.10.

Section 7.10. FILLING OF BOARD VACANCIES. Vacancies on the Board of Directors may be filled by approval of the Board of Directors or, if the number of directors then in office is less than a quorum, by (a) the affirmative vote of a majority of the directors then in office at a regular or special meeting of the Board, or (b) a sole remaining director. A vacancy in the seat of the representative of the charter authorizer shall be filled by the charter authorizer.

Section 7.11. NO VACANCY ON REDUCTION OF NUMBER OF DIRECTORS. Any reduction of the authorized number of directors shall not result in any directors being removed before his or her term of office expires.

Section 7.12. PLACE OF BOARD OF DIRECTORS MEETINGS. Meetings shall be held at the principal office of the Corporation. The Board of Directors may also designate that a meeting be held at any place within the granting agency's boundaries designated in the notice of the meeting. If the Corporation operates more than one charter school, the boundaries for the meeting shall be coterminous with the Contra Costa County Board of Education's jurisdiction. All meetings of the Board of Directors shall be called, held and conducted in accordance with the terms and provisions of the Brown Act.

Section 7.13. MEETINGS; ANNUAL MEETINGS. All meetings of the Board of Directors and its committees shall be called, noticed, and held in compliance with the provisions of the

Brown Act.

Section 7.14. REGULAR MEETINGS. Regular meetings of the Board of Directors, including annual meetings, shall be held at least four (4) times a year at such times and places as may from time to time be fixed by the Board of Directors. At least 72 hours before a regular meeting, the Board of Directors, or its designee shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting.

Section 7.15. SPECIAL MEETINGS. Special meetings of the Board of Directors for any purpose may be called at any time by the President of the Board of Directors, if there is such an officer, or a majority of the Board of Directors. If a President of the Board has not been elected then the Chief Executive Officer is authorized to call a special meeting in place of the President of the Board. The party calling a special meeting shall determine the place, date, and time thereof.

Section 7.16. NOTICE OF SPECIAL MEETINGS. In accordance with the Brown Act, special meetings of the Board of Directors may be held only after twenty-four (24) hours' notice is given to the public through the posting of an agenda. Directors shall also receive at least twenty-four (24) hours' notice of the special meeting, in the following manner:

- a. Any such notice shall be addressed or delivered to each director at the director's address as it is shown on the records of the Corporation, or as may have been given to the Corporation by the director for purposes of notice, or, if an address is not shown on the Corporation's records or is not readily ascertainable, at the place at which the meetings of the Board of Directors are regularly held.
- b. Notice by mail shall be deemed received at the time a properly addressed written notice is deposited in the United States mail, postage prepaid. Any other written notice shall be deemed received at the time it is personally delivered to the recipient or is delivered to a common carrier for transmission, or is actually transmitted by the person giving the notice by electronic means to the recipient. Oral notice shall be deemed received at the time it is communicated, in person or by telephone or wireless, to the recipient or to a person at the office of the recipient whom the person giving the notice has reason to believe will promptly communicate it to the receiver.
- c. The notice of special meeting shall state the time of the meeting, the place, and the general nature of the business proposed to be transacted at the meeting. No business, other than the business the general nature of which was set forth in the notice of the meeting, may be transacted at a special meeting.

Section 7.17. QUORUM. A majority of the directors then in office shall constitute a quorum. All acts or decisions of the Board of Directors will be by majority vote of the directors in attendance, based upon the presence of a quorum. Should there be less than a majority of the directors present at any meeting, the meeting shall be adjourned. Directors may not vote by proxy. The vote or abstention of each Board member present for each action taken shall be publicly reported.

Section 7.18. TELECONFERENCE MEETINGS. Members of the Board of Directors may participate in teleconference meetings so long as all of the following requirements in the Brown Act are complied with:

- a. At a minimum, a quorum of the members of the Board of Directors shall participate in the teleconference meeting from locations within the boundaries of the County in which the Corporation operates;
- b. All votes taken during a teleconference meeting shall be by roll call;
- c. If the Board of Directors elects to use teleconferencing, it shall post agendas at all teleconference locations with each teleconference location being identified in the notice and agenda of the meeting;
- d. All locations where a director of the Board of Directors participates in a meeting via teleconference must be fully accessible to members of the public and shall be listed on the agenda;<sup>1</sup>
- e. Members of the public must be able to hear what is said during the meeting and shall be provided with an opportunity to address the Board of Directors directly at each teleconference location; and
- f. The agenda shall indicate that members of the public attending a meeting conducted via teleconference need not give their name when entering the conference call.<sup>2</sup>

Section 7.19. ADJOURNMENT. A majority of the directors present, whether or not a quorum is present, may adjourn any Board of Directors meeting to another time or place. Notice of such adjournment to another time or place shall be given, prior to the time schedule for the continuation of the meeting, to the directors who were not present at the time of the adjournment, and to the public in the manner prescribed by the Brown Act.

Section 7.20. COMPENSATION AND REIMBURSEMENT. Directors may not receive compensation for their services as directors or officers, and may only receive such reimbursement of expenses as the Board of Directors may establish by resolution to be just and reasonable as to the Corporation at the time that the resolution is adopted.

Section 7.21. CREATION AND POWERS OF COMMITTEES. The Board, by resolution adopted by a majority of the directors then in office, may create one or more committees of the Board, each consisting of two or more directors and no one who is not a director, to serve at the pleasure of the Board. Appointments to committees of the Board of Directors shall be by majority vote of the directors then in office. The Board of Directors may appoint one or more directors as alternate members of any such committee, who may replace any absent member at any meeting. Any such committee shall have all the authority of the Board, to the extent provided in the Board of Directors' resolution, except that no committee may:

- a. Fill vacancies on the Board of Directors or any committee of the Board;
- b. Amend or repeal any resolution of the Board of Directors that by its express terms is not so amendable or subject to repeal;

- c. Create any other committees of the Board of Directors or appoint the members of committees of the Board;
- d. Amend or repeal bylaws or adopt new bylaws;

The Board may also create one or more advisory committees composed of directors and non-directors. It is the intent of the Board to encourage the participation and involvement of faculty, staff, parents, students and administrators through attending and participating in open committee meetings. The Board may establish, by resolution adopted by a majority of the directors then in office, advisory committees to serve at the pleasure of the Board.

Section 7.22. MEETINGS AND ACTION OF COMMITTEES. Meetings and actions of committees of the Board of Directors shall be governed by, held, and taken under the provisions of these bylaws concerning meetings, other Board of Directors' actions, and the Brown Act, if applicable, except that the time for general meetings of such committees and the calling of special meetings of such committees may be set either by Board of Directors' resolution or, if none, by resolution of the committee. Minutes of each meeting shall be kept and shall be filed with the corporate records. The Board of Directors may adopt rules for the governance of any committee as long as the rules are consistent with these bylaws. If the Board of Directors has not adopted rules, the committee may do so.

Section 7.23. NON-LIABILITY OF DIRECTORS. No director shall be personally liable for the debts, liabilities, or other obligations of this Corporation.

Section 7.24. COMPLIANCE WITH LAWS GOVERNING STUDENT RECORDS. The Corporation and the Board of Directors shall comply with all applicable provisions of the Family Education Rights Privacy Act ("FERPA") as set forth in Title 20 of the United States Code Section 1232g and attendant regulations as they may be amended from time to time.

## **ARTICLE 8 OFFICERS OF THE CORPORATION**

Section 8.1. OFFICES HELD. The officers of this Corporation shall be a Chief Executive Officer, President, a Secretary, and a Chief Financial Officer. The officers, in addition to the corporate duties set forth in this Article 8, shall also have administrative duties as set forth in any applicable contract for employment or job specification.

Section 8.2. DUPLICATION OF OFFICE HOLDERS. Any number of offices may be held by the same person, except that neither the Secretary nor the Chief Financial Officer may serve concurrently as either the Chief Executive Officer or the President.

Section 8.3. ELECTION OF OFFICERS. The officers of the Corporation shall be chosen annually by the Board of Directors and shall serve at the pleasure of the Board, subject to the rights of any officer under any employment contract.

Section 8.4. REMOVAL OF OFFICERS. Without prejudice to the rights of any officer



under an employment contract, the Board of Directors may remove any officer with or without cause.

Section 8.5. RESIGNATION OF OFFICERS. Any officer may resign at any time by giving written notice to the Board. The resignation shall take effect on the date the notice is received or at any later time specified in the notice. Unless otherwise specified in the notice, the resignation need not be accepted to be effective. Any resignation shall be without prejudice to any rights of the Corporation under any contract to which the officer is a party.

Section 8.6. VACANCIES IN OFFICE. A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed in these bylaws for normal appointment to that office, provided, however, that vacancies need not be filled on an annual basis.

Section 8.7. CHIEF EXECUTIVE OFFICER. The Chief Executive Officer shall be selected by the Board of Directors and shall be the general manager of the Corporation and shall supervise, direct, and control the Corporation's activities, affairs, and officers as fully described in any applicable employment contract, agreement, or job specification. The Chief Executive Officer shall have such other powers and duties as the Board of Directors or the bylaws may require.

Section 8.8. PRESIDENT. The President of the Board shall be selected by the Board of Directors. The President shall preside at the Board of Directors' meetings and shall exercise and perform such other powers and duties as the Board of Directors may assign from time to time

Section 8.9. SECRETARY. The Secretary shall keep or cause to be kept, at the Corporation's principal office or such other place as the Board of Directors may direct, a book of minutes of all meetings, proceedings, and actions of the Board and of committees of the Board. The minutes of meetings shall include the time and place that the meeting was held; whether the meeting was annual, regular, special, or emergency and, if special or emergency, how authorized; the notice given; and the names of the directors present at Board of Directors and committee meetings.

The Secretary shall keep or cause to be kept, at the principal California office, a copy of the articles of incorporation and bylaws, as amended to date.

The Secretary shall give, or cause to be given, notice of all meetings of the Board and of committees of the Board of Directors that these bylaws require to be given. The Secretary shall keep the corporate seal, if any, in safe custody and shall have such other powers and perform such other duties as the Board of Directors or the bylaws may require.

Section 8.10. CHIEF FINANCIAL OFFICER. The Chief Financial Officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and accounts of the Corporation's properties and transactions. The Chief Financial Officer shall send or cause to be given to directors such financial statements and reports as are required to be given by law, by these bylaws, or by the Board. The books of account shall be open to inspection by any director at all reasonable times.

The Chief Financial Officer shall (a) deposit, or cause to be deposited, all money and other valuables in the name and to the credit of the corporation with such depositories as the Board of

Directors may designate; (b) disburse the corporation's funds as the Board of Directors may order; (c) render to the Chief Executive Officer, President, if any, and the Board, when requested, an account of all transactions as Chief Financial Officer and of the financial condition of the Corporation; and (d) have such other powers and perform such other duties as the Board, contract, job specification, or the bylaws may require.

If required by the Board, the Chief Financial Officer shall give the Corporation a bond in the amount and with the surety or sureties specified by the Board of Directors for faithful performance of the duties of the office and for restoration to the Corporation of all of its books, papers, vouchers, money, and other property of every kind in the possession or under the control of the Chief Financial Officer on his or her death, resignation, retirement, or removal from office.

## **ARTICLE 9 CONTRACTS WITH DIRECTORS**

Section 9.1. **CONTRACTS WITH DIRECTORS.** The Corporation shall not enter into a contract or transaction in which a director directly or indirectly has a material financial interest (nor shall the Corporation enter into any contract or transaction with any other corporation, firm, association, or other entity in which one or more of the Corporation's directors are directors and have a material financial interest).

## **ARTICLE 10 CONTRACTS WITH NON-DIRECTOR DESIGNATED EMPLOYEES**

Section 10.1. **CONTRACTS WITH NON-DIRECTOR DESIGNATED EMPLOYEES.** The Corporation shall not enter into a contract or transaction in which a non-director designated employee (e.g., officers and other key decision-making employees) directly or indirectly has a material financial interest.

## **ARTICLE 11 INDEMNIFICATION**

Section 11.1. **INDEMNIFICATION.** To the fullest extent permitted by law, the Corporation shall indemnify its directors, officers, employees, and other persons described in Corporations Code Section 5238(a), including persons formerly occupying any such positions, against all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred by them in connection with any "proceeding," as that term is used in that section, and including an action by or in the right of the Corporation by reason of the fact that the person is or was a person described in that section. "Expenses," as used in this bylaw, shall have the same meaning as in that section of the Corporations Code.

On written request to the Board of Directors by any person seeking indemnification under Corporations Code Section 5238 (b) or Section 5238 (c) the Board of Directors shall promptly decide under Corporations Code Section 5238 (e) whether the applicable standard of conduct set forth in Corporations Code Section 5238 (b) or Section 5238 (c) has been met and, if so, the Board of Directors shall authorize indemnification.

## **ARTICLE 12**

## **INSURANCE**

Section 12.1. **INSURANCE.** The Corporation shall purchase and maintain insurance on behalf of its directors, officers, employees, and other agents, to cover any liability asserted against or incurred by any director, officer, employee, or agent in such capacity or arising from the director's, officer's, employee's, or agent's status as such.

## **ARTICLE 13 MAINTENANCE OF CORPORATE RECORDS**

Section 13.1 **MAINTENANCE OF CORPORATE RECORDS.** The Corporation shall keep:

- a. Adequate and correct books and records of account;
- b. Written minutes of the proceedings of the Board and committees of the Board; and
- c. Such reports and records as required by law.

## **ARTICLE 14 INSPECTION RIGHTS**

Section 14.1 **DIRECTORS' RIGHT TO INSPECT.** Every director shall have the right at any reasonable time to inspect the Corporation's books, records, documents of every kind, physical properties, and the records of each subsidiary as permitted by California and federal law. The inspection may be made in person or by the director's agent or attorney. The right of inspection includes the right to copy and make extracts of documents as permitted by California and federal law. This right to inspect may be circumscribed in instances where the right to inspect conflicts with California or federal law (e.g. restrictions on the release of educational records under FERPA) pertaining to access to books, records, and documents.

Section 14.2. ACCOUNTING RECORDS AND MINUTES. On written demand on the Corporation, any director may inspect, copy, and make extracts of the accounting books and records and the minutes of the proceedings of the Board of Directors and committees of the Board of Directors at any reasonable time for a purpose reasonably related to the director's interest as a director. Any such inspection and copying may be made in person or by the director's agent or attorney. This right of inspection extends to the records of any subsidiary of the Corporation.

Section 14.3. MAINTENANCE AND INSPECTION OF ARTICLES AND BYLAWS. The Corporation shall keep at its principal California office the original or a copy of the articles of incorporation and bylaws, as amended to the current date, which shall be open to inspection by the directors at all reasonable times during office hours.

## **ARTICLE 15 REQUIRED REPORTS**

Section 15.1. ANNUAL REPORTS. The Board of Directors shall cause an annual report to be sent to itself (the members of the Board of Directors) within 120 days after the end of the Corporation's fiscal year. That report shall contain the following information, in appropriate detail:

- a. The assets and liabilities, including the trust funds, of the Corporation as of the end of the fiscal year;
- b. The principal changes in assets and liabilities, including trust funds;
- c. The Corporation's revenue or receipts, both unrestricted and restricted to particular purposes;
- d. The Corporation's expenses or disbursement for both general and restricted purposes;
- e. Any information required under these bylaws; and
- f. An independent accountant's report or, if none, the certificate of an authorized officer of the Corporation that such statements were prepared without audit from the Corporation's books and records.

Section 15.2. ANNUAL STATEMENT OF CERTAIN TRANSACTIONS AND INDEMNIFICATIONS As part of the annual report to all directors, or as a separate document if no annual report is issued, the Corporation shall, within 120 days after the end of the Corporation's calendar year, annually prepare and mail or deliver to each director and furnish to each director a statement of any transaction or indemnification of the following kind:

- (a) Any transaction (i) in which the Corporation, or its parent or subsidiary, was a party, (ii) in which an "interested person" had a direct or indirect material financial interest, and (iii) which involved more than \$50,000 or was one of several transactions with the same interested person involving, in the aggregate, more than

\$50,000. For this purpose, an “interested person” is either:

- (1) Any director or officer of the Corporation, its parent, or subsidiary (but mere common directorship shall not be considered such an interest); or
  - (2) Any holder of more than 10 percent of the voting power of the Corporation, its parent, or its subsidiary. The statement shall include a brief description of the transaction, the names of interested persons involved, their relationship to the Corporation, the nature of their interest, provided that if the transaction was with a partnership in which the interested person is a partner, only the interest of the partnership need be stated.
- (b) The amount and circumstances of any indemnifications aggregating more than \$10,000 paid during the fiscal year to any director or officer of the Corporation pursuant to Article 11 of these Bylaws.

## **ARTICLE 16 BYLAW AMENDMENTS**

Section 16.1. BYLAW AMENDMENTS. The Board of Directors may adopt, amend or repeal any of these bylaws by a majority vote of the directors present at a meeting duly held at which a quorum is present, except that no amendment shall change any provisions of any charter governing any charter school operated as or by the Corporation or make any provisions of these bylaws inconsistent with such charter, the Corporation’s articles of incorporation, or any laws.

## **ARTICLE 17 FISCAL YEAR**

Section 17.1. FISCAL YEAR OF THE CORPORATION. The fiscal year of the Corporation shall begin on July 1<sup>st</sup> and end on June 30<sup>th</sup> of each year.

## CERTIFICATE OF SECRETARY

I certify that I am the duly elected and acting Secretary of Making Waves Academy, a California nonprofit public benefit corporation; that these bylaws, consisting of **12** pages, are the bylaws of the Corporation, **Making Waves Academy**, as adopted by the Board of Directors on; and that these bylaws have not been amended or modified since that date.

Executed on **June 13, 2019** at, **Richmond**, California.

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Secretary

## **BOARD ROLES AND RESPONSIBILITIES; DELEGATION OF POWER**

The Making Waves Academy (“Academy”) is governed by its Board of Directors (“Board”). The Board, together with the Academy’s Chief Executive Officer (“CEO”) and his/her management team comprised of an executive or manager in the Making Waves Business Services entity, the Middle School Director, the Upper School Director, the Director of Operations, and the Director of Technology (collectively, the “Management Team”) work together in operating the Academy. The Management Team assumes collective responsibility for building unity and creating a positive organizational culture in order to govern effectively. In consideration of these guiding principles, this policy identifies the Board’s roles and responsibilities and the delegation of the Board’s powers to the CEO.

### **I. ROLES AND RESPONSIBILITIES OF THE BOARD**

The Board has the following roles and responsibilities:

#### **I.A. Vision and Strategic Plan**

- The Board provides input on and evaluates adherence to the Academy Mission.
- The Board reviews and provides input on strategic plans submitted by the Management Team.
- The Board adopts policies to successfully implement the Academy Mission and strategic plans.
- The Board oversees the CEO to ensure that the Academy Mission and strategic plans are reflected in the day-to-day operations of the Academy, including ensuring that the curriculum aligns with the Academy Mission.

#### **I.B. Academic Performance Monitoring**

- The Board, or a committee thereof, annually reviews student performance based on state- and federally-mandated assessments.
- The Board, or a committee thereof, quarterly reviews student performance based on Academy-level assessments.
- The Board approves all academic performance reports to all federal, state and local agencies as required by law.

#### **I.C. Staffing and Personnel:**

- The Board reviews and approves personnel policies and any amendments thereto.
- The Board provides input on the employment of the Management Team, including the CEO. The board has the power to hire, evaluate and terminate the CEO. The CEO has the power to hire, evaluate and terminate other members of the Management Team.
- The Board provides input on performance goals for the CEO and communicates the goals to the CEO.
- The Board annually provides input on the CEO’s performance.

- The Board, or a committee thereof, annually reviews the school's overall performance against strategic plans, WASC plan, and annual goals. The Board then provides any input or feedback on the implementation of these plans.
- A representative of the Board annually reviews MWA compliance procedures and personnel files as they relate to confirming proper personnel and teacher certifications for the annual audit.
- The Board, or a committee thereof, annually reviews faculty and staff data, such as surveys, performance evaluation data, discipline data, and retention data.

#### **I.D. Parent, Student and Community Relations**

- MS and US Directors make recommendations for expulsion. The CEO makes a determination on the recommendation for expulsion and brings it to the Board, or a committee thereof, for final approval. The Board, or a committee thereof, hears expulsion appeals.
- The CEO hears and decides upon student suspension appeals, based on recommendations from the MS and US Directors.
- The Management Team reviews and approves student and parent policies and any proposed amendments thereto.

#### **I.E. Finance and Budget**

- The Board reviews and approves the fiscal management and internal controls policies and any proposed amendments thereto;
- The Board, based on the recommendation of the Audit Advisory Committee, solicits and selects the Academy's independent financial auditor, oversees the auditor's work, and receives the auditor's report.
- The Board, or a committee thereof, (i) reviews and, subject to prior review by the Finance Advisory Committee, adopts and amends the annual budget, and (ii) reviews interim budgets, and annual financial statements.
- The Board, or a committee thereof, reviews and approves the audit report.
- The Board monitors the responses to the audit report and implementation thereof.
- The Board CEO reviews the P-1, P-2, and P-3 Annual Attendance Reports filed with the charter authorizer, the Contra Costa County Office of Education (one in the same for the Academy), and the California Department of Education.

#### **I.F. Facilities**

The Board, or a committee thereof, makes recommendations on facilities needs and policies. The Board, or a committee thereof, approves facilities construction projects when applying for state, county, or local funds available to charter schools, after review by MWF, Inc.

- The Board ensures the management team complies with the landlord's (MWF, Inc.) reporting requirements and performance related to student achievement.

#### **I.G. Board Internal Business**



- The Board, or a committee thereof, and the CEO draft, review and approve Board policies and amendments thereto.
- The Board will recruit prospective Board members and follow determined protocols to appoint them.
- The Board orients new Board members.
- The Board, as needed, provides training to its members in areas of state compliance, the Brown Act, LCFF/LCAP and any new state legislation affecting the governance and financing of public schools and specifically charter schools.
- The Board participates in regularly scheduled retreats with MWF (about every two years) to reflect on and assess performance against strategic plans as well as provide input in developing new plans.

#### **I.H. Charter Performance and Renewal**

- The Board annually reviews the Academy's performance reports.
- The Board, as needed, reviews the Academy's renewal proposals and reports. The Board, or a committee thereof, engages with the charter authorizer (CCCOE) and staff members to foster a productive working relationship.

## **II. BOARD'S DELEGATION OF POWERS TO CEO**

The Board delegates the following powers to the CEO:

### **II.A. Strategic Plan**

- The CEO oversees implementation of Board-adopted policies regarding the Academy's Mission and Strategic Plans, among other things, adopting appropriate procedures and training staff on the policies and procedures.

### **II.B. Staffing and Personnel**

- The CEO oversees drafting all Academy personnel policies and presents them to the Board for review and approval. The CEO also recommends any proposed amendments to the personnel policies and presents them to the Board for review and approval.
- The CEO is responsible for final approval and/or rejection of all Academy personnel actions.
- The CEO approves the salaries for all Academy personnel, in compliance with any applicable state laws. The compensation of the CEO is determined by the Board.

### **II.C. Finance and Budget**

- The CEO and Board President, with legal support, draft Board-adopted fiscal- and internal control policies. The CEO implements the Board-adopted policies by, among other things, adopting appropriate procedures and training staff on the policies and procedures. The CEO, together with the Board President, Chief Financial Officer (CFO) and Finance Advisory Committee as needed, drafts amendments to the fiscal policies, and presents them to the Board for approval.

- The CEO in conjunction with the CFO oversees the semi-annual and annual budget development process with the Management Team and submits budget drafts and other require financial statements to the Board, or a committee thereof, for approval.
- The CEO, working with the Management Team, implements the responses to the audit report as instructed by the Board.

#### **II.D. Facilities**

- The CEO oversees annual school site needs-assessments, at the direction of the Board.
- The Management Team implements any facilities policies.

#### **II.E. Academic Performance Monitoring**

- The Board reviews an annual report submitted by the CEO reflecting student performance based on state- and federally-mandated assessments, provides a copy to the Board, reviews the performance with the Board, or a committee thereof, and provides input to the Board when setting goals for student achievement on national assessments. The CEO implements the goals for student achievement on such assessments.
- The Board reviews formative reports during the school year, submitted by the CEO reflecting student performance based on Academy-level assessments, provides a copy to the Board, reviews the performance with the Board, or a committee thereof, and provides input to the Board when setting goals for student assessment on Academy level assessments. The CEO implements the goals for student achievement on Academy-level assessments.
- The Board oversees and supports the implementation of Board-adopted policies through the leadership of the CEO in order to achieve the student achievement goals, by among other things, adopting appropriate procedures and training staff on policies and procedures.
- The Board reviews all academic performance reports required by all federal, state and local agencies as required by law and provides them to the Board for approval.

#### **II.F. Staffing and Personnel**

- The Board regularly reviews personnel policies, including the Academy's internal complaint procedures.

#### **II.G. Parent, Student and Community Relations**

- The Board reviews, and in some cases, approves the training of staff in the appropriate policies and procedures. The Board reviews and approves amendments proposed by the CEO to student- and parent policies.

#### **II.H. Charter Performance and Renewal**

- The Board annually reviews any required Academy performance reports.
- The Board, as needed, reviews and approves drafts of charter school renewal and amendment proposals and reports.

## **ANNUAL ORGANIZATIONAL MEETING**

### **Time and Place for Meeting**

The Board shall designate a meeting each fall to review any changes to the Board.

### **Order of Business**

At this meeting, the Board will;

- A. Review any board membership or officer.
- B. Elect any representatives to serve on any applicable committees or advisory committees.
- C. Recognize departing Board members.
- D. Readopt the Conflict of Interest Policy and complete conflict of interest and commitment forms.

## **PROCEDURE FOR POLICY ADOPTION**

The successful operation of the School requires that the actions of the Board and CEO be known and understood by students, employees, and members of the community. These groups as well as individuals should also have an opportunity to affect School action.

The process for adoption and publication of policies in the School includes the following elements:

### **I. Raising a Policy Issue**

Any person within the School community, including teachers, administrative staff, other staff members, students, parents and interested community members, may raise a potential policy issue. At the School level, the individual that raises the policy issue shall communicate that policy issue to the CEO. Any member of the Board of Directors may raise a potential policy issue by communicating that policy to the CEO. If a policy issue is raised during a regular or special meeting of the Board of Directors the CEO will follow-up and report back to the Board.

### **II. Investigating a Policy Issue**

Once the CEO receives notification of a policy issue, the CEO shall determine the appropriate means to investigate the policy issues. The CEO may, in his/her discretion, investigate the matter itself or delegate the investigation to an appropriate person or group of persons.

### **III. Communication and Public Involvement in Policy Adoption**

An opportunity for interested parties to be heard before adoption, revision or repeal of policy shall be made.

Retention and organization of adopted policies, rules, regulations and procedures shall be made in a policy binder maintained by the Secretary of the Board with the assistance of school staff.

Publication and availability of all policies currently in effect within the School shall be made to any interested person during the regular business hours of the School. To ensure a basic level awareness and institutional understanding, a copy of the policy binder shall be reviewed with all new members of the Board, who shall be personally briefed on key aspects of the policies by a member of the school's staff or a sitting board member.

### **IV. Review and/or Revision of Existing Policies**

Each year the **CEO and Board President** shall complete a review of all of the existing policies of the school. Upon completion of the review, the CEO shall notify the Board of Directors at its next

regular meeting of the policies that require revision. The CEO shall follow the procedures required for policy creation in the revision of existing policies. The CEO may receive assistance of individuals or groups of individuals, as he/she deems necessary, in reviewing the existing policies of the school to determine whether a policy requires revision.

## **CODE OF ETHICS FOR BOARD MEMBERS**

The Making Waves Academy Board of Directors (“Board”) recognizes its role as overseers of public education and commits to promote the best interests of the Academy as a whole. To that end, the Board has adopted a Code of Ethics and Conduct. Each member of the Board shall sign an annual statement, the Board Commitment Form, committing to adhere to the Board’s Code of Ethics and Conduct as set forth in the statement (Appendix A, Board Commitment Form).

Amended: June 18, 2020

## **SCHOOL BOARD MEETINGS – BROWN ACT COMPLIANCE**

### **I. TYPES OF MEETINGS - COMPLIANCE WITH BROWN ACT**

All meetings of the Board of Directors of Making Waves Academy (“Board”) and its committees shall be called, noticed, and held in compliance with the provisions of the Ralph M. Brown Act (“Brown Act”), Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code.

#### **A. Regular Meetings**

Regular meetings of the Board, including annual meetings, shall be held at least four times a year at such times and places as may, from time to time, be fixed by the Board. At least 72 hours before a regular meeting, the Board or its designee shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting.

Meetings of advisory committees or standing committees, for which an agenda is posted at least 72 hours in advance of the meeting in accordance with law, shall be considered regular Board meetings. Subcommittees created by formal action or resolution of the Board are subject to the Brown Act.

Meetings shall normally be held at the principal location of Making Waves Academy. The Board may also designate that a meeting be held at any place within the granting agency’s boundaries designated in the notice of the meeting. All meetings of the Board shall be called, held and conducted in accordance with the terms and provisions of the Brown Act, as said chapter may be modified by subsequent legislation.

#### **B. Special Meetings**

Special meetings of the Board for any purpose may be called at any time by the President of the Board, or by a majority of the Board. The party calling a special meeting shall determine the place, date, and time thereof. The Board may periodically (normally once every two years) meet at a location outside the granting agency’s boundaries for informal discussion of matters of mutual interest regarding the Making Waves organization (“Joint Board Retreat”). No formal Board actions will be taken or decisions made at any Joint Board Retreat.

### **C. Emergency Meetings**

Emergency meetings may be called by a Board majority when an emergency situation arises involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities in accordance with law.

### **D. Teleconference Meetings**

Members of the Board may participate in teleconference meetings so long as all of the following requirements in the Brown Act are complied with:

- At a minimum, a quorum of the members of the Board shall participate in the teleconference meeting from locations within the boundaries of the school district in which Making Waves Academy operates;
- All votes taken during a teleconference meeting shall be by roll call;
- If the Board elects to use teleconferencing, it shall post agendas at all teleconference locations with each teleconference location being identified in the notice and agenda of the meeting;
- All locations where a member of the Board participates in a meeting via teleconference must be fully accessible to members of the public and shall be listed on the agenda;
- Members of the public must be able to hear what is said during the meeting and shall be provided with an opportunity to address the Board directly at each teleconference location;
- The agenda shall indicate that members of the public attending a meeting conducted via teleconference need not give their name when entering the conference call.

## **II. Notification of Meetings**

### **A. Regular and Special Meetings**

Notice of the time and place of meetings, along with the agenda containing a brief general description of each item of business to be transacted or discussed at the meeting and supporting documentation, will be publicly posted on the website via An integrated board management platform not later than 72 hours prior to a regular meeting, and not later than 24 hours prior to a special meeting. The notice and agenda will also be posted in a location that is freely accessible to members of the public not later than 72 hours prior to a regular meeting, and not later than 24 hours prior to a special meeting. It is the responsibility of the Chief of Staff to provide notice and copies of the agenda and supporting documentation for both regular and special meetings.



## **B. Emergency Meetings**

In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, notice to the Board will be provided as soon as is reasonably practicable under the circumstances. All media outlets that have requested notice of special meetings shall be notified one hour prior to the emergency meeting, or in the case of a dire emergency, at or near the time that the Board members are notified of the emergency meeting. The notice shall be given by telephone and all telephone numbers provided by the media outlet in the request for notice shall be exhausted. If telephones are not working, the notice requirement is waived and the media shall be notified of the fact of the holding of the emergency meeting, the purpose of the meeting and any action taken at the meeting as soon after the meeting as possible.

## **III. Conduct of Board Meetings**

### **A. Open Session**

All regular, special and emergency meetings of the Board shall be open to the public and the media, except Closed Sessions as authorized by law.

### **B. Public Participation at Meetings**

**Requests to address the Board:** Individuals seeking to address the Board on an item on the agenda or during time allocated for public comment shall complete the card, "Public Comment Card" (located in the board meeting room), and give it to the Board Secretary, or his/her designee, prior to the beginning of public comment for general public comment and before Board discussion commences following staff presentations. .

**Public comment generally:** At a regular meeting, any person may address the Board concerning any item on the agenda and any other matters under the Board's jurisdiction. At a special meeting, any person may address the Board only concerning the items on the agenda. The total time for presentations to the Board on all public comments (including agenda items and non-agenda items at regular meetings) shall not exceed 20 minutes, unless the Board grants additional time. Individual presentations will normally be limited to three minutes each, though the President of the Board may grant up to five minutes. All public comment concerning all matters shall be heard immediately after the meeting is called to order and before the Board's formal discussion of the agenda topics and consideration of action.

**Limits on public comment:** The President may curtail individual presentations if repetitive of points raised by others. Any person who, while addressing the Board, makes impertinent, slanderous or profane remarks to any Board member, staff or general public, who utters loud, threatening, personal or abusive language, or engages in any other disorderly conduct that disrupts, disturbs or otherwise impedes the orderly conduct of any Board meeting shall,

at the discretion of the President, be barred from further audience before the Board during that meeting.

In the event that any meeting is interrupted by a group(s) of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the Board may order the meeting room cleared and continue the session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other media, if not participating in the disturbance, shall be allowed to attend any such session.

**Recording and/or broadcasting of meeting:** Persons attending an open meeting have the right to record or broadcast the proceedings with audio or video equipment unless the Board reasonably finds that the recording or broadcast cannot continue without noise, illumination or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

### **C. Board Members at Meetings**

**Limits on Board discussion and action:** For regular meetings, no action or discussion shall be taken on any item not appearing on the posted agenda, except as provided below, and further except that Board members may briefly respond to statements made or questions posed by persons during public comment regarding off-agenda topics. For special meetings, no action or discussion shall be taken on any item not appearing on the posted agenda.

**Exceptions in regular meetings:** In regular meetings, the Board may take action on items of business not appearing on the posted agenda if any of the following conditions apply: 1) A majority of the Board determines that an emergency situation exists (as defined in the Government Code); 2) A determination by a two-thirds vote of the Board members present at the meeting, or if less than two-thirds are present, a unanimous vote of those Board members present, that there is a need to take immediate action and that the need for action came to the attention of the Board after the agenda was posted; or 3) The item was properly posted for a prior meeting occurring not more than five calendar days prior to the date action is taken on the item and, at the prior meeting, the item was continued to the meeting at which action is being taken.

**Closed session:** Prior to holding any closed session, the Board shall disclose, in an open meeting, the item(s) to be discussed in the closed session. The disclosure may take the form of a reference to the item(s) as they are listed by number or letter on the agenda. In the closed session, the Board may consider only those matters covered in its statement.

After any closed session, the Board shall reconvene into open session prior to adjournment and make a report of any action taken in closed session and the vote or abstention of every Board member present thereon in accordance with Government Code section 54957.1.

#### **D. Minutes of Board Meetings**

**Open session meetings:** The minutes of open session meetings of the Board shall record all motions, show the names of Board members making and seconding motions and state the vote upon the motion. In the event that Board members are participating via teleconferencing, all votes during the meeting shall be by roll call and will be reflected in the minutes. The open session minutes shall also record all resolutions, the recommendations of the management team, and the substance of the Board's discussion or the substance of statements pertinent to Board's business made by members of the staff or public.

The original copy of the open session minutes shall be posted on the website via An integrated board management platform, signed electronically by the Secretary of the Board or their designee, together with copies of resolutions and any other documents determined by the Board to be attached to the official minutes.. The folder of minutes for open session meetings is a public record. In addition to the official minutes, a binder of all minutes and and attached documents shall be maintained by the Secretary of the Board, or their designee.

**Closed session meetings:** The Board Secretary or his/her designee shall keep a record of topics discussed and decisions made at the meeting. The minutes for closed session is not a public record subject to inspection and shall be kept confidential.

**Minutes for Emergency Meetings:** Any time an emergency meeting is held, the minutes must provide a list of persons who were notified or attempted to be notified, a copy of the roll call vote, and any actions taken at the meeting. The minutes will be posted on the website via An integrated board management platform as soon after the meeting as possible.

#### **IV. Quorum Requirements**

A majority of the directors then in office shall constitute a quorum. All acts or decisions of the Board will be by majority vote of the directors in attendance, based upon the presence of a quorum. Should there be less than a majority of the directors present at any meeting, the meeting shall be adjourned. Directors may not vote by proxy.

#### **V. Continuances and Adjournment**

##### **A. Continuances**

Items appearing on agendas for regular meetings may be continued to another meeting, to be held within five calendar days from the date of the originally posted meeting, without triggering the requirement that the agenda item be re- posted with the requisite notice.

##### **B. Adjournment**

The Board may adjourn any regular or special meeting to a time and place specified in an order of adjournment.

## **BOARD OPERATIONS**

### **I. Roberts Rules of Order**

The business of the Board of Directors (the “Board”) of Making Waves Academy (the “School”) at its meetings will be conducted in accordance with the specifications of Roberts Rules of Order. Any member may rise to a point of order under these rules, which action shall take precedence over all other business before the Board.

### **II. Polling of Board of Directors**

Voting on resolutions shall be by the polling of voting Board members or consensus on voice vote. The minutes shall record the person making the motion, the person seconding it, and the names of the trustees voting for and against the motion or abstaining, as well as Board members who are absent or that the motion was passed by consensus. Secret ballots and proxies are prohibited.

### **III. Board Member Compensation and Reimbursement of Actual and Necessary Expenses**

Board members shall serve without compensation.

### **IV. Officers, Directors and School Liability Insurance**

The School will maintain adequate insurance to protect the School against loss because of fire, damage to school property, loss to other property, or general liability resulting as a responsibility of the School and its Board members or officers while acting on behalf of the School.

### **V. Appointment of Board Committees**

Consistent with the charter, by-laws, and any other applicable provisions of contract or law, the Board may appoint committees for any purpose deemed appropriate by the Board. The resolution establishing the committee shall clearly define the range of the committee’s responsibility and authority, and shall specify whether the committee shall be a standing or limited-term committee. In meeting and carrying out designated purposes, any such committee shall comply with any applicable legal or contractual requirements. Specifically, unless otherwise specified in Board by-laws, parent/teacher associations and/or parent committees shall be advisory only.

### **VI. Board Nomination/Election Process**

Per the MWA Bylaws adopted June 13, 2019, the President of the Board of Directors or, if none, the CEO in conjunction with at least two other sitting Board Members will designate qualified candidates for election to the Board of Directors at least thirty (30) days before the date of any designation of directors. The nominating committee shall make its report at least seven (7) days before the date of such designation or at such other time as the Board of Directors may set and the Secretary shall forward to each Board member, with the notice of meeting required by these bylaws, a list of all candidates nominated by committee.

## **VII. Board Member Resignations**

Except as provided below, any director may resign by giving written notice to the President, or the Secretary, or to the Board. The resignation shall be effective when the notice is given unless the notice specifies a later time for the resignation to become effective. If a director's resignation is effective at a later time, the Board of Directors may designate a successor to take office as of the date when the resignation becomes effective.

## **VIII. Board Member Removal**

Any director, except for the representative appointed by the charter authorizer, may be removed, with or without cause, by the vote of the majority of the members of the entire Board of Directors at a special meeting called for that purpose, or at a regular meeting, provided that notice of that meeting and such removal are given in compliance with the provisions of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code) as said chapter may be modified by subsequent legislation ("Brown Act"). The representative designated by the charter authorizer may be removed without cause by the charter authorizer or with the written consent of the charter authorizer. Any vacancy caused by the removal of a director shall be filled as provided in Section 7.10.

## **IX. Dispute Resolution with Granting Agency**

Any dispute that may arise with the granting agency must be handled in strict accordance with the dispute resolution process outlined in the charter. Should the Board wish to amend the dispute resolution process it must amend the charter to do so.

## **DISSOLUTION OF THE SCHOOL**

In the event of dissolution of Making Waves Academy the MWA Board of Directors (“Board”), or its designee, shall ensure compliance with the law, the charter, bylaws or any other legal or contractual requirements, as well as follow the course action set forth in the bylaws.

### **I. Dissolution**

If the School’s charter is revoked or not renewed and the school(s) closes, the Board may elect voluntarily to wind up and dissolve Making Waves Academy by passing a resolution. The Board shall continue to act as a board and shall have full powers to wind up and settle its affairs, both before and after filing the Certificate of Dissolution. The Making Waves Academy shall cease to conduct its activities except to the extent necessary to wind up, and except during such period as the Board deems necessary to preserve the Making Waves Academy’s goodwill or going concern value pending a sale or disposition of its assets, or both, in whole or part.

### **II. Certificate of Dissolution**

After the Board approves the resolution to wind up and dissolve Making Waves Academy, the Board shall file with the Secretary of State a certificate evidencing that election and a copy shall be filed with the Attorney General.

### **III. Notice of Dissolution**

Once the Board has passed the resolution to wind up and dissolve, it shall provide written notice of the winding up to all known creditors and claimants whose addresses appear on the records of Making Waves Academy and to the Attorney General.

### **IV. Audit**

Within six (6) months of the dissolution of Making Waves Academy, but before disposition of the assets and liabilities of the School, the Board and Audit Advisory Committee shall oversee a final audit of the School’s assets and liabilities by a neutral third party auditor.

### **V. Disposition of Assets and Liabilities**

Based upon the audit findings, the Making Waves Academy shall pay, or adequately provide for, all known debts and liabilities as far as its assets permit. On liquidation or dissolution, all properties and assets remaining after payment, or provision for payment, of all debts and liabilities of the Corporation shall be distributed to Making Waves Foundation or another nonprofit fund, foundation, or corporation that is organized and operated exclusively for charitable purposes and that has established its exempt status under Internal Revenue Code section 501(c)(3).

## **VI. Records**

**Student Records.** Upon dissolution, the Board will provide for the transfer of all student records to the charter granting agency, or other qualified entity. In addition, parents/guardians will be provided with a certified packet of student information that may include the closure notice, grade reports, discipline records, immunization records, etc.

***Other Records.*** Upon dissolution, the Board will sort through all of the records of the Making Waves Academy to determine which records must be retained in accordance with law, and which may be destroyed. The Board will destroy those records that may be destroyed, and will do so in a manner that provides for the confidentiality of the records. The Board will provide for storage of the records required to be retained by law in a manner that ensures their survival.

## **PUBLIC RECORDS REQUEST – PUBLIC RECORDS ACT COMPLIANT**

### **I. Public Records**

#### **A. Public Records Defined**

The Making Waves Academy (the “School”) provides the public with access to its public records in accordance with legal requirements. Public records are those writings containing information relating to the conduct of the School’s business that are prepared, owned, used or retained by the School regardless of physical form or characteristics. Certain public records, however, are exempt from disclosure by express provision of law. These records will not be provided to the public. The School may not deny disclosure of records based on the purpose for which the record is being requested.

#### **B. Records Exempt from Disclosure**

Some of the records that are exempt from disclosure include the following categories. This is not an exhaustive list.

- Preliminary drafts, notes or inter/intra-School memoranda that are not retained by the School in the ordinary course of business;
- Records pertaining to pending litigation to which the School is a party or to claims made pursuant to the Tort Claims Act.
- Personnel, medical, student records, or similar files.
- Test questions, scoring keys and other examination data used to administer an examination for employment or academic examination, unless specifically authorized by law.
- The content of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the School relative to the acquisition of property, until all of the property has been acquired.
- Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.
- A document prepared by or for the School that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the Schools operations and that is for distribution or consideration in a closed session.
- Trade secrets.



- Computer software developed by the School.
- Records where, on the facts of the particular case, the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.
- The School may, in its discretion and as permitted by law, waive the applicable exemption to the records. In this case, the disclosure constitutes a waiver for all requesters of that public record and will be open to inspection by all requesters.

## II. Process for Requesting Public Records

### A. Requests for Public Records

Any person wishing to inspect the School's public records shall make the request, preferably in writing, to the CEO. The request must reasonably describe an identifiable public record(s) and must be specific and focused.

Alton Nelson, CEO  
4123 Lakeside Drive, Richmond, CA 94806  
510-262-1511  
Fax: 510-262-1518  
anelson@mwacademy.org

To the extent reasonable under the circumstances, the School will assist the requester to make a focused and effective request by:

- Assisting the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.
- Describing the information technology and physical location in which the records exist.
- Providing suggestions for overcoming any practical basis for denying access to the records or information sought.

If the School is unable to identify the requested information after making a reasonable effort to elicit additional clarifying information from the requester that will help identify the record(s), the School will not provide further assistance to the requester.

### B. Response to Public Records Request

The CEO will, within 10 days<sup>1</sup> of receipt of the request, provide a written response to the

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<sup>1</sup> In usual circumstances, the 10 day time limit may be extended by written notice by the **Business Manager** to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. In no event will the extension exceed 14 days. As used in this policy, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request: 1) The need to search for and collect the records from field facilities or other establishments

requester of public records. The written response shall contain the following information:

- Notice informing the requester whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the School and the reasons for the determination.
- If the School denies any request for records, in whole or in part, and the request was in writing, the notification of denial will set forth the names and titles or positions of each person responsible for the denial.
- The date and time when the records will be made available.
- If the request identifies information which is contained in both electronic format and hard copy, the notice may inform the requester that the information is available in either format.
- If the requester seeks copies of the records, the School may identify a fee covering the direct costs of duplication.
- If the requester seeks copies in electronic format, the School may charge the requester the direct cost of producing a copy of the record in that format. If, in order to comply with these requirements relating to electronic formatted records described below, the School is required to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals or the request would require data compilation, extraction or programming to produce the record, the School may charge the requester the cost to construct a record, the cost of programming and computer services necessary to produce the record.

### III. Records Inspections or Copies

***Time and Place of Inspection:*** A person who has made a public records request may inspect the records after the date and time identified in the response to the request. Generally, records inspections may take place at Making Waves Academy during office hours of the School, which are 9 AM – 5 PM.

***Electronic Formatted Records:*** If the School has information that constitutes an identifiable public record not exempt from disclosure that is in an electronic format, and it has been requested in an electronic format, the School will make that information available in an electronic format. The School will make the information available for inspection in any electronic format in which it holds the information. If the requested format is one that the School uses to create copies for its own use or for provision to other agencies, the School will provide a copy of the electronic record. The School will not, however, provide electronic records in the electronic form, in which it is held by the School, if its release jeopardizes or compromises the security or integrity of the original record or of any proprietary software in which it is maintained.

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that are separate from the office processing the request; 2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request; 3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the School having substantial subject matter interest therein; or 4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

If the School no longer has the record in electronic format, the School will not reconstruct the record in electronic format.

***Partial Disclosure:*** If the requested records may only partially be disclosed because some are exempt from disclosure, the reasonable portion not exempt from disclosure of the record(s) will be made available for inspection.

Board Policy 10: Fiscal Policy  
Adopted: April 23, 2008  
Amended: December 8, 2010  
Amended: March 4, 2013  
Amended: April 3, 2014  
Amended: September 5, 2019

## **FISCAL**

### **A. Budget Development and Oversight Calendar and Responsibilities**

The Making Waves Academy Charter School (“Academy”) will develop and monitor its budget in accordance with the annual budget development and monitoring calendar as specified below.

The Academy’s Chief Financial Officer (“CFO”) and/or a Business Services designee, under the supervision, direction and control of the Academy’s Chief Executive Officer (“CEO”), will in:

#### ***July – August***

- Close books for prior fiscal year; post all transactions; assemble records.
- Prepare for annual independent audit and be prepared to answer questions as part of the audit process.
- Prepare schedule under consultation the Audit And Finance Advisory Committee for bank reconciliation review.

#### ***September – December***

- At the end of the first 10 days of school (consistent with the timeline for reporting attendance/enrollment to its charter authorizer), the CEO reviews the Academy’s Average Daily Attendance (“ADA”) figures and notifies the CFO if ADA and enrollment is below budget projections. If needed, the Academy’s budget is again revised at P-1 to reflect those changes as well as inform revised cash flow projections through December 31<sup>st</sup>.
- The CEO reviews current year actual versus budgeted revenues and expenditures and formally reports to the Finance Advisory Committee in October and January. The MWA Board approves any needed changes to annual budget.
- Present Alternative Form Interim Report (Budget Report) to the MWA charter authorizer, Contra Costa County Board of Education, by no later than November 15 of each year.
- Share elements of the Local Control Funding Formula (LCAP) with MWA community stakeholders. Highlight key initiatives of the LCAP, how progress will be monitored, and how progress will be reported to the community. Provide LCAP updates to the MWA Board and School Site Council (SSC) at an agreed upon scheduled time in the fall/winter.

- Monitor current year budget monthly and share any material concerns at MWA Board Meetings and Finance Advisory Committee Meetings.
- Prepare formal budget development plan and schedule for upcoming fiscal year.
- Review/prepare set of proposed budget principles and key assumptions, approved by the CEO.
- CFO and/or Business Services designee works with the CEO to develop a budget timeline for budget managers to follow for the budget development and approval process.
- CFO, Business Services designee, and CEO attend trainings or presentations that address new state adopted fiscal policies for reporting and implementation.

***January – February***

- Review Governor’s proposed state budget for upcoming fiscal year, and identify likely range of revenues for Academy’s upcoming fiscal year (July 1-June 30).
- Develop an initial financial budget for upcoming fiscal year, including projected enrollment and any proposed staffing changes.
- Submit the first draft of the budget to the Finance Advisory Committee for initial review.
- Continually monitor and, as needed, revise current year budget and submit revisions to the Finance Advisory Committee as part of the Second Interim Budget Report cycle.
- Begin inviting and community stakeholder feedback on elements of the LCAP. Develop and announce School Site Council meeting dates when progress on the LCAP will be shared and discussed. Implement LCAP communication plan to share progress updates on implementation of the LCAP.

***March – April***

- Prepare the second draft of the budget.
- Present Alternative Form Interim Report (Budget Report) to the Contra Costa County Board of Education by no later than March 15 of each year after approval by the MWA Board of Directors.
- Continually monitor current year finances and alert the MWA and Finance Audit Committee of any material concerns.

- Receive constituent feedback on any proposed revisions to the LCAP through the SSC. Continue to follow the LCAP communication and implementation plan with respect to the budget and programmatic priorities.

### ***May – June***

- Present Second Draft of the Budget to the Finance Committee for final review.
- Review revenue projections subsequent to Governor’s annual “May Revise” budget figures, and modify, if necessary, upcoming fiscal year budget, including monthly cash flow projections, to accommodate any changes. Budget Approval Process: CEO will review and as needed, in coordination with CFO, revise proposed budget for the upcoming fiscal year and then forward the same to the Finance Advisory Committee for review and subsequent submission to / recommended approval by the MWA Board. The MWA Board will then review and, before June 30, formally adopt the budget for the upcoming fiscal year. The Finance Advisory Committee reviews the LCAP. The MWA Board approves the LCAP before submitting it to MWA’s charter authorizer, CCCOE for review.
- Provide copy of final budget to the charter authorizer, Contra Costa County Office of Education Board (“CCCOE”).
- Develop three (3)-year budget projection in accord with Academy’s established strategic and growth plans.
- Monitor and revise current year budget as needed.
- Prepare for Interim audit focused on attendance compliance and other procedures.
- Share final and approved LCAP with the SSC.

### **B. Controls, Budget, and Fiscal Management**

The Academy will maintain in effect the following principles in its ongoing fiscal management practices to ensure that, (1) expenditures are authorized by and in accordance with amounts specified in the MWA Board-adopted budget, (2) the Academy’s funds are managed and held in a manner that provides a high degree of protection of the school’s assets, and (3) all transactions are recorded and documented in an appropriate manner.

#### **Separation of Duties:**

The Business Services unit will establish a written schedule and protocol to allow for adequate separation of duties and controls for receiving mail, bills, and checks concerning compliance

and financial activities; receiving and acknowledging accounts payable, accounts receivable; and checks, and arranging for approval and payment of bills as well as reconciliation of received checks and deposited checks and their corresponding chart of accounts revenue code.

**Expenditure Approval Requirements:**

All proposed expenditures must be approved by the CEO or designee and CFO or designee who will review each proposed expenditure to determine whether it is consistent with the MWA Board-adopted budget and, if so, sign the check request or purchase order form. The Academy will develop and maintain check request and purchase order forms to document the authorization of all non-payroll expenditures. Any purchase or transaction involving an expenditure of funds either (i) not included in the Academy's approved budget or (ii) included in the Academy's approved budget but exceeding the sum of \$ 50,000, shall additionally require prior approval by the MWA/MWF Finance Committee. All transactions must be posted in an electronic general ledger.

**Disbursement Authority:**

All disbursements require approved invoices or expense vouchers. The MWA Board shall appoint and approve all individuals authorized to sign checks or warrants in accordance with this fiscal policy. No authorized check signer shall sign any check made payable to self nor authorize any other non-approved disbursement to self. Checks for amounts in excess of \$5,000 require two signatures, one of which shall be that of the CEO unless the CEO is the payee. The person who approves the invoice or expense voucher may not sign a single signature check without first obtaining a second approval.

**Budget Transfers:**

The CEO or designee may transfer from one unrestricted budget item to another.

**Banking Arrangements:**

The Academy will maintain its accounts at a bank in good standing with federal and state regulatory agencies. The CFO will review at least annually the status of the current bank. Funds will be deposited in non-speculative accounts including federally-insured savings or checking accounts or invested in non-speculative federally-backed instruments. The Board must appoint and approve all individuals authorized to sign checks or warrants in accordance with these policies.

All funds received shall be deposited or transferred into the Academy's accounts at the earliest possible convenience and in no event later than five (5) business days after receipt.

**Purchasing Procedures:**

All purchases over \$5,000 must include documentation of a good faith effort to secure the lowest possible cost for comparable goods or services by soliciting two, and preferably three, competitive bids from qualified providers where practical. The CEO or designee shall not approve purchase orders or check requests lacking such documentation. Documentation shall be attached to all check and purchase order requests showing that at least three vendors were contacted and such documentation shall be maintained for three years. In addition, any

purchase either (i) not included in an approved budget or (ii) included in an approved budget but greater than \$50,000 must be authorized in advance by the Finance Advisory Committee.

**Record Keeping:**

Transaction ledgers, canceled/duplicate checks, attendance and entitlement records, payroll records, and any other necessary fiscal documents must be maintained in a secure location for at least three years, or as long as required by applicable law, whichever is longer.

**Property Inventory:**

The CFO and/or Business Services designee shall develop a process for establishing, reviewing, updating, and maintaining an inventory of all non-consumable goods and equipment worth over \$5,000. This inventory shall include the original purchase price and date, a brief description, serial numbers, and other information appropriate for documenting the school's assets. This process shall be reviewed annually by the CEO and, if possible, a committee of the MWA Board. The CFO and/or Business Services designee shall provide annual training and support to the Director of Operations and Director of Technology, specifically, to insure compliance with these property inventory procedures. This property will be inventoried on an annual basis and lists of any missing property must be provided to the CEO.

Food equipment over \$500 with a useful life of more than one year shall also be inventoried.

In addition, in order to maintain property control, the following are recorded and tracked the same as capital even though they may be less than \$5,000 or have a useful life of less than a year: (1) equipment purchased with grant funds or required by the terms of the grant to be tracked as capital; (2) furnishings for new spaces; (3) cameras; (4) musical instruments; and (5) television sets, DVD units, AV projectors, computer systems (PC, keyboard, monitor, printer and hard drives) will be maintained by the Information Technology Department.

All non-consumable school property lent to students shall be returned to the Academy no later than five working days after the end of the school year.

All non-consumable school property lent to faculty, staff, or administrators ("MWA employee") for use while employed at MWA shall be returned to the Academy upon separation. The former MWA employee can offer to purchase the equipment of the CEO and CFO (or Business Services designee) engages in due diligence to identify a fair market value. The former MWA employee can then decide whether or not to purchase the equipment at the identified fair market value.

Any excess or surplus property owned by the Academy may be sold or auctioned by the CFO and/or Business Services designee provided the CFO and/or Business Services designee engages in due diligence to maximize the value of the sale or auction to the Academy. The Academy Board shall approve in advance the sale or auction of property owned by the Academy with a fair market value in excess of \$5,000.



**Payroll Services:**

The Academy will contract with a service provider to prepare payroll checks, tax and retirement withholdings, tax statements, and to perform other payroll support functions. The CFO or designee will establish and oversee a system to prepare time and attendance reports and submit payroll check requests. The CFO or designee will review payroll statements quarterly or as applicable biweekly, to ensure that (1) the salaries are consistent with approved personnel action forms and that (2) the proper tax, retirement, disability, and other withholdings have been deducted and forwarded to the appropriate authority. All staff expense reimbursements will be on checks separate from payroll checks.

Upon hiring of staff, a personnel file will be established with all appropriate payroll- related documentation including a federal I-9 form, and tax withholding forms.

**Attendance Accounting:**

The CEO will establish and maintain an appropriate attendance accounting system to record the number of days students are actually in attendance at the Academy and engaged in the activities required of them by the Academy. The annual audit will review actual attendance accounting records and practices to ensure compliance. The attendance accounting practices shall be in conformance with the Charter Schools Act and the applicable California Administrative Code sections defining Charter School Average Daily Attendance (ADA). Specifically:

- ADA will be computed by dividing the actual number of days of student attendance by the number of calendar days of instruction by the Academy.
- The Academy’s instructional calendar will include at least 175 days of instruction to avoid the fiscal penalty for providing fewer than 175 days of instruction as provided by the Administrative Code regulation. The calendar will also document that the Academy offers an amount of annual minutes of instruction as required pursuant to applicable law.
- Independent study must be pre-arranged by the student’s adult guardian and the Academy. The adult guardian will be required to complete and submit documentation to the Academy on Academy-prepared forms of engagement in instructional activity. As applicable, such study shall be in full compliance with law governing independent study.

**Annual Financial Audit:**

The MWA Board will annually appoint an Audit Advisory Committee (“Audit Committee”). Any persons with expenditure authorization or recording responsibilities within the Academy may not serve on the Committee.

An annual financial audit shall be performed by an independent certified public accountant which audit shall include, but not be limited to (1) an audit of the accuracy of school’s financial

statements, (2) an audit of the Academy's attendance accounting and revenue claims practices, and (3) an audit of the Academy's internal controls practices. If the Academy receives over \$500,000 from federal sources, the audit shall be prepared in accordance with any relevant Office of Management and Budget audit circulars.

The Academy's CFO will in:

***March – April***

- Begin coordination with Academy's independent auditor in preparation for annual audit.

***July – August***

- Independent auditor performs audit of the closed fiscal year and prepares audit report for submission to the Audit Committee.

***September-December***

- Independent auditor submits to the Audit Committee the annual audit, Federal Form 990-Return of Organization Exempt from Income Tax and Form 199-California Exempt Organization Annual Information Tax Return for review.
- The Audit Committee reviews copy of audit and tax forms. The auditor, in conjunction with the CEO and CFO address any audit exceptions or adverse findings. The Audit Committee then recommends approval to the MWA Board, which votes on the matter.
- The Audit shall be completed, reviewed initially by the Audit Committee and then by the Board. Copies of each annual audit shall be submitted prior to December 15 each year to the CCCBOE (charter-granting agency), the Contra Costa County Office of Education, the Office of the State Controller, and the California Department of Education.

Not less than 120 days after expiration of an existing independent auditor engagement agreement, and in coordination with the Audit Committee, the CFO shall solicit proposals for an annual audit and develop a recommendation to the MWA Board for selection of an independent auditor. The MWA Board shall approve the engagement of the independent auditor.

**C. Negotiating Funding Entitlements**

The CEO or designee shall prepare a set of negotiating principles prior to engaging in negotiations over funding entitlements with the CCCBOE and State. The CEO or designee will take lead responsibility for negotiating all revenue arrangements with the CCBOE and appropriate State education agency staff.

**D. Required Budget and Other Fiscal Reports**

The CFO will produce and submit to the CCCBOE any and all required fiscal reports as may be required by State or federal law, or mandated by the terms of the Academy's charter. These include, but may not be limited to, attendance reports, enrollment and other data reports required by the California Basic Education Data System, and other related data.

**E. Insurance**

The CFO shall ensure that at all times the Academy maintains the following insurance coverage:

o Appropriate property (equipment only) insurance, with such insurance to include business interruption and casualty coverage and fire and other hazards, with replacement cost coverage for all equipment listed in the Academy's Equipment Inventory and consumables.<sup>1</sup>

o Liability insurance, with such insurance to include premises and MWA Board errors and omissions liability on a "claims made" form with a self-insured retention of no more than \$50,000 per occurrence and a limit of no less than \$25,000,000 per occurrence except that a limit of no less than \$1 million annual aggregate coverage shall be obtained for MWA Board miscellaneous liability insurance.

o Crimes insurance, with such insurance to cover all Academy staff members for money and securities (\$500,000 per occurrence), forgery or alteration (\$500,000 per occurrence) and employee dishonestly (\$1,000,000 per occurrence).

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<sup>1</sup> Making Waves Foundation, Inc. is the owner of 4123/4133 Lakeside Drive, Richmond, CA buildings and provides the property insurance on the buildings at this location.

**F. MWA Board Compensation**

MWA Board members shall serve without compensation but may be reimbursed for actual and necessary expenses. Expenses for travel necessary to attending Board meetings and meetings of Board committees need not be approved in advance by the Board. All other expenses shall be approved in advance. Travel expenses reimbursed shall not exceed levels that would be subject to federal or state income tax. All expenses reimbursed shall be documented by receipts and in no event may reimbursements exceed actual expenses.

**G. Fundraising, Grant Solicitation, and Donation Recognition**

The CEO will be advised by the Chief Advancement Officer of MWF of fundraising or grant solicitation activities on behalf of the Academy. The CEO or designee shall be informed of any conditions, restrictions, or compliance requirements associated with the receipt of such funds, including grants or categorical programs sponsored by the State or federal government.

## CAPITAL EXPENDITURES

### Definition

1. Capital

The term capital shall mean equipment with a useful life of more than one year and valued at five thousand dollars (\$5,000) or more, including actual or estimated tax, shipping and handling, and land, buildings, and improvements, other than buildings valued at five thousand dollars (\$5,000) or more **except food equipment of five hundred dollars (\$500) or more.** All items over five thousand dollars (\$5,000) or **food equipment over five hundred dollars (\$500)** with a useful life of more than one year shall be capitalized and inventoried.

2. Equipment Classified as Capital

In addition, in order to maintain property control, the following are recorded and tracked the same as capital even though they may be less than five thousand dollars (\$5,000) or have a useful life of less than a year: (1) equipment purchased with grant funds or required by the terms of the grant to be tracked as capital; (2) furnishings for new spaces; (3) cameras; (4) musical instruments; and (5) television sets, DVD units. AV projectors, computer systems (PC, keyboard, monitor, printer and hard drives) will be maintained by the Information Technology Department.

3. Capital Improvements and Expenses

A guiding principle for distinguishing between a capital improvement and a repair and maintenance expenditure is that a capital improvement results in an improved asset. If an expenditure increases the utility or significantly extends the useful life of an asset, the expenditure should be capitalized. If an expenditure only maintains the original condition of the asset, the expenditure should be classified as an expense.

### Budget: Capital Expenditures

Except in emergencies or for reasons of economy, the purchase of major pieces of equipment classified as capital shall be scheduled so that annual budgetary appropriations for capital purposes either will be of similar size or will show a continuous trend without severe fluctuations.

The Chief Financial Officer and/or Business Services designee, with the approval of the Chief Executive Officer, shall draft a capital improvements program that will project the Academy's needs for a six-year period. Individual capital projects shall be assigned priorities. The schedule shall be reviewed and updated annually. Copies shall be provided to the Academy's Board for review and approval.

Certain projects classified as capital improvements are under the purview of the landlord, Making Waves Foundation, which owns the Academy buildings. The cost of these projects may fall outside the 6-year budget projections.

## CAPITALIZATION POLICY

### I. Purpose

This accounting policy establishes the minimum cost (capitalization amount) that shall be used to determine the capital assets that are to be recorded in **Making Waves Academy's** annual financial statements (or books).

### II. Capital Asset Definition

A "Capital Asset" is defined as a unit of property that: (1) has an economic useful life that extends beyond 12 months; **and** (2) was acquired or produced for a cost of \$25,000 or more. Capital Assets must be capitalized and depreciated for financial statement (or bookkeeping) purposes.

### III. Capitalization Thresholds

**Making Waves Academy** establishes \$25,000 as the threshold amount for minimum capitalization. Any items costing below this amount should be expensed in **Making Waves Academy's** financial statements (or books).

### IV. Capitalization method and procedure

All Capital Assets are recorded at historical cost as of the date acquired.

Tangible assets costing below the aforementioned threshold amount are recorded as an expense for **Making Waves Academy's** annual financial statements. Alternatively, assets with an economic useful life of 12 months or less are required to be expensed for financial statement purposes, regardless of the acquisition or production cost.

### V. Recordkeeping

Invoice substantiating an acquisition cost of each unit of property shall be retained in accordance with the Record Retention Policy.

# **GIFT ACCEPTANCE POLICY**

**of**

## **MAKING WAVES ACADEMY**

### **1. Policy and Purposes**

This Policy represents the policy of Making Waves Academy (“MWA”) governing the solicitation and acceptance of gifts by MWA. The MWA Board of Directors (the “Board”) and MWA staff and in-kind MWF staff solicit current and deferred gifts from individuals, corporations, foundations and others for purposes that will further and fulfill MWA’s mission. Purposes of this Policy include: (a) guidance for the Board, officers, staff and other constituencies with respect to their responsibilities concerning gifts to MWA; and (b) guidance to prospective donors and their professional advisors when making gifts to MWA. The provisions of this Policy shall apply to all gifts received by MWA.

Notwithstanding the foregoing, MWA reserves the right to revise or revoke this Policy at any time, and to make exceptions to the Policy.

The mission of MWA is to rigorously and holistically prepare students to gain acceptance to and graduate from college to ultimately become valuable contributors to the workforce and their communities.

### **2. General Policy**

MWA shall not accept gifts that:

- Violate the terms of MWA’s organizational documents;
- Would jeopardize MWA’s status as an exempt organization under federal or state law;
- Are too difficult or expensive to administer;
- Are for purposes that do not further MWA’s objectives; or
- Could damage the reputation of MWA.
- Originate from an entity whose primary business is the manufacture or sale of firearms as defined in 18 U.S. Code §921 or tobacco products or alcoholic beverages or marijuana.”.



Subject to Section 3. below, all final decisions on the acceptance or refusal of a gift, shall be made by the Making Waves Academy Board.

### **3. Policy Regarding Specific Types of Gifts**

#### **A. Gifts Generally Accepted Without Review (Unrestricted Gifts of Cash).**

MWA will accept unrestricted gifts of cash without prior review by the Board, provided that, for donations of \$500,000 or more from other than current or former Board members or prior donors, the identity of the donor has been vetted with respect to any reputational or policy issues. Unrestricted gifts of cash are acceptable in any form. Checks shall be made payable to MWA.

#### **B. Gifts Subject to Governing Body Review Prior to Acceptance.**

All gifts, other than unrestricted gifts of cash or publicly traded securities, or gift opportunities previously published (restricted gifts) must be reviewed by the CEO and Board President, prior to acceptance, unless the Board authorizes certain de minimis gifts or categories of gifts to be accepted without its review. The following guidelines also apply:

##### **(1) Tangible Personal Property:**

The Board shall review and decide whether to accept gifts of tangible personal property valued in excess of \$20,000 by considering the following factors:

- i. Whether the property furthers the mission of MWA;
- ii. The marketability of the property;
- iii. The restrictions on the use, display, or sale of the property; and
- iv. Carrying costs and possible liability for the property.

##### **(2) Marketable Securities:**

- i. Unrestricted marketable securities may be transferred to an account maintained by MWA at one or more brokerage firms or delivered physically with the transferor's signature or stock power attached. All marketable securities shall normally be sold as soon as practical following receipt.
- ii. If the marketable securities are restricted by applicable securities laws, the Board shall make the final determination on the acceptance of the restricted securities.

##### **(3) Closely-Held Securities:**

Closely-held securities, including debt and equity positions in non-publicly traded companies, interests in LLPs and LLCs, or other ownership forms, can be accepted subject to the approval of the Board. The Board shall review and decide whether to accept closely held securities based on the following factors:

- i. Restrictions on the security that would prevent MWA from ultimately converting the securities to cash;
- ii. The marketability of the securities; and

iii. Any undesirable consequences for MWA from accepting the securities.

If potential problems arise on initial review of the security, further review and recommendation by an outside professional may be sought before making a final decision on acceptance of the gift. The final determination on the acceptance of closely held securities shall be made by the Board with advice of legal counsel when deemed necessary. Non-marketable securities shall be sold as quickly as possible.

**(4) Bequests:**

Donors may make bequests to MWA under their wills and trusts. A bequest will not be recorded as a gift until the gift is irrevocable. When the gift is irrevocable, but is not due until a future date, the gift will be recorded in accordance with GAAP.

**(5) Charitable Remainder Trusts:**

MWA may accept designations as remainder beneficiary of a charitable remainder trust. MWA shall not accept appointment as trustee of a charitable remainder trust.

**(6) Charitable Lead Trusts:**

MWA may accept designations as income beneficiary of a charitable lead trust. MWA shall not accept an appointment as trustee of a charitable lead trust.

**(7) Retirement Plan Beneficiary Designations:**

MWA may accept designations as beneficiary of donors' retirement plans. Designations will not be recorded as gifts until the gift is irrevocable. When the gift is irrevocable, the gift will be recorded in accordance with GAAP.

**(8) Life Insurance:**

MWA may accept designations as beneficiary and owner of a life insurance policy. The life insurance policy will be recorded as a gift once MWA is named as both beneficiary and irrevocable owner of a life insurance policy. The gift shall be valued in accordance with GAAP rules. If the donor contributes future premium payments, MWA will include the entire amount of the additional premium payment as a gift in the year that it is made. If the donor does not elect to continue to make gifts to cover premium payments on the life insurance policy, MWA may:

- i. Continue to pay the premiums;
- ii. Convert the policy to paid up insurance, or
- iii. Surrender the policy for its current cash value.

Donors may name MWA as beneficiary or contingent beneficiary of their life insurance policies. Designations will not be recorded as gifts until the gift is irrevocable. Where the gift is irrevocable, the gift shall be recorded in accordance with GAAP.

**(9) Real Estate:**

Gifts of real estate may include developed property, undeveloped property, or gifts subject to a prior life interest.

**Environmental Review.** Prior to acceptance of real estate, MWA shall require an initial environmental review of the property to ensure that the property has no environmental problem. If the initial inspection reveals a potential problem, MWA shall retain a qualified inspection firm to conduct an environmental audit. The cost of the environmental audit shall be an expense of the potential donor.

**Title Binder.** A title binder shall be obtained by MWA prior to the acceptance of the real property gift when appropriate. The cost of this title binder shall be an expense of the potential donor.

**Factors for Acceptance.** The Board shall review and decide whether to accept real property based on the following factors:

- i. Whether the property is useful for the purposes of MWA;
- ii. The marketability of the property;
- iii. Any encumbrances, leases, restrictions, reservations, easements, or other limitations associated with the property;
- iv. Any carrying costs associated with the property, including insurance, property taxes, mortgages, notes or other costs;
- v. Any concerns which the environmental audit revealed.

**(10) Remainder Interests in Property:**

The Board of MWA will accept a remainder interest in a personal residence, farm, or vacation property subject to the provisions of this Section 3. The donor or other occupants may continue to occupy the real property for the duration of the stated life. At the death of the life tenant(s), MWA may use the property or reduce it to cash. Expenses for maintenance, real estate taxes, and any property indebtedness shall be paid by the donor or primary beneficiary.

**(11) Restricted Gifts:**

A gift with restrictions will be accepted only if and when the restrictions are approved by the Board of MWA or the acceptance of a series of named restricted gift opportunities has been previously submitted and accepted by the Board.

**(12) Named Funds – Reserved**

**4. Additional Provisions**

**A. Gift Agreements.**

Where appropriate, MWA shall enter into a written and signed gift agreement with the donor, specifying the terms of any restricted gift, which may include provisions regarding donor recognition for any gifts in the amount of \$100,000 or more. If the restricted gift is less than \$100,000, an email exchange between the donor and a representative staff person or Board member confirming the gift intention and its use will suffice.

**B. Pledge Agreements.**

Acceptance by MWA of pledges by donors of future support of MWA (including by way of matching gift commitments) shall be contingent upon the execution and fulfillment of a written and signed charitable pledge agreement specifying the terms of the pledge, which may include provisions regarding donor recognition.

**C. Fees.**

MWA will not accept a gift unless the donor is responsible for (1) the fees of independent legal counsel retained by donor for completing the gift; (2) appraisal fees; (3) environmental audits and title binders (in the case of real property); and (4) all other third-party fees associated with the transfer of the gift to MWA.

**D. Valuation of Gifts.**

MWA shall record gifts received at their valuation on the date of gift, except that, when a gift is irrevocable, but is not due until a future date, the gift may be recorded at the time the gift becomes irrevocable in accordance with GAAP.

**E. IRS Filings upon Sale of Gifts.**

To the extent applicable, the Board shall file IRS Form 8282 upon the sale or disposition of any charitable deduction property sold within three (3) years of receipt by MWA. "Charitable deduction property" means any donated property (other than money and publicly traded securities) if the value claimed by the donor exceeds \$5,000 per item or group of similar items donated by the donor to one or more donee organizations (e.g., the property listed in Section B on Form 8283). MWA shall file this form within 125 days of the date of sale or disposition of the asset.

**F. Written Acknowledgement.**

MWA shall provide written acknowledgement of all gifts made to MWA and comply with the current IRS requirements in acknowledgement of the gifts.

**G. Changes to or Deviations from the Policy.**

This Policy has been reviewed and accepted by MWA's Board, which has the sole power to change this Policy. In addition, the Board must approve in writing any deviations from this Policy.

**H. Donor Recognition.**

MWA does not grant naming rights on any physical structure that is leased by or owned by Making Waves Foundation. The criteria for naming rights recognition of donors for gifts for MWA programmatic support must be reviewed and approved by the MWA board prior to acceptance of the gift and will be accepted only if the donor acknowledges in writing that should the program ceases to exist, no refund or permanent recognition will be provided.



## MWA Board of Directors' Code of Ethics and Commitment Form

### **MWA Mission**

*Making Waves commits to rigorously and holistically preparing students to gain acceptance to and graduate from college to ultimately become valuable contributors to the workforce and their communities.*

### **Role of Governance**

Governance plays an important role in contributing to the overall success of the school and insuring that the goals and mission of Making Waves Academy are met. To this end, it is important that Board Members adhere to the expectations presented below. Board Members are expected to review and sign the Commitment Form annually for the duration of their membership on the Board.

- Board Members will be team players and consider what is best for the school through the lens and framework of achieving the mission and its intended impact.
- Board Members will model appropriate and professional communication and behavior for MWA administration, faculty, and staff.
- Board Members make Making Waves Academy one of their top philanthropic priorities for their length of service on the Board.
- Board Members make an annual financial contribution to MWA based on their individual capacity to give.
- Board members are willing to serve on a Board Committee based on their expertise and availability to participate.
- Board Members attend at least one MWA event over the course of a school year.
- Board Members attend all Board Meetings and communicate directly to the Board Chair if they cannot attend.

Board Member: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

## Conflict of Interest Disclosure Statement

This Conflict of Interest Disclosure Statement is intended to help the charter school's officers and members of the Board of Directors ensure that they are not compromising their ability to act in the charter school's best interest by placing themselves in a position of an actual or potential conflict of interest. Please initial following Item A or Item B, whichever is appropriate, and provide a detailed explanation if you answered Item B (attach additional sheets if necessary). Please review the Conflicts of Interest Policy when completing these items.

Item A: I am not aware of any relationship or interest or situation involving myself or my immediate family or any entity with which I am affiliated that might result in a conflict of interest between me and the charter school.

Initial Here: \_\_\_\_\_

Item B: There may be relationships or interests or situations involving myself or my immediate family or any entity with which I am affiliated that either currently or is likely to result in a conflict of interest between me and the charter school.

Initial Here: \_\_\_\_\_

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Immediate family is an individual's brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law.

Item C: I am a board member, a committee member, an officer or an employee of the following organization(s) which may present a real or potential conflict:

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I have read and understand the charter school's conflicts of interest policy and agree to be bound by it. I will promptly inform the Board of Directors of any material change that develops in the information contained in the foregoing statement.

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Typed/Printed Name

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Signature

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Date