



Office of the Secretary of State

CERTIFICATE OF FILING OF

Texas Permanent School Fund Corporation
File Number: 804333863

The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Nonprofit Corporation has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 12/01/2021

Effective: 12/01/2021



A handwritten signature in black ink, appearing to read "John B. Scott".

John B. Scott
Secretary of State

DEC 01 2021

**CERTIFICATE OF FORMATION
OF
TEXAS PERMANENT SCHOOL FUND CORPORATION**

Corporations Section

I, the undersigned natural person, being of the age of eighteen (18) years or more, acting as organizer on behalf of the State Board of Education (the "**SBOE**") pursuant to the authority granted to the SBOE under §43.052, Texas Education Code ("**TEC**"), do hereby adopt the following Certificate of Formation for the Texas Permanent School Fund Corporation (the "**Corporation**"). This Certificate of Formation shall serve as the Corporation's articles of incorporation as referenced in §43.052(b), TEC.

**ARTICLE I
General Entity Information**

The name of the Corporation is the Texas Permanent School Fund Corporation. The Corporation is being created as a special-purpose governmental corporation within the meaning of §43.052, TEC, and Subchapter A of Chapter 23, Texas Business Organizations Code ("**TBOC**"), and is an instrumentality of the state of Texas with all necessary and implied powers to accomplish its purpose. The Corporation is intended to have perpetual existence.

The initial mailing address of the Corporation is: Attn: TEA/PSF, 1701 North Congress Avenue, Austin, Texas 78701. The principal place of business of the Corporation is 400 West 15th Street, Suite 1100, Austin, Texas 78701.

**ARTICLE II
Governing Law**

The Corporation is a special-purpose governmental corporation within the meaning of §43.052, TEC, and Subchapter A of Chapter 23, TBOC, created pursuant to the authority granted to the SBOE under Chapter 43, TEC ("**Chapter 43**"). The Corporation is subject to regulation and limitation only as provided by Subchapter B of Chapter 43 and as permitted by the Texas Constitution.

As a special-purpose governmental entity, except as otherwise provided by and to the extent consistent with Subchapter B of Chapter 43, the provisions of Title 1, TBOC ("**Title I**"), and Chapter 22, TBOC ("**Chapter 22**"), apply to the Corporation. In the event of a conflict between either Title 1 or Chapter 22 and Chapter 43, in all cases Chapter 43 will control.

**ARTICLE III
Board of Directors**

The management of the affairs of the Corporation is vested in the Board of Directors of the Corporation ("**Board**") created under §43.053, TEC.

Initially, there shall be six (6) members of the Board (each, a “*Director*” and collectively, the “*Directors*”). The names and mailing addresses of the persons who are to serve as initial Directors are:

- Director #1: Member of the SBOE
Tom Maynard
1701 North Congress Avenue, Austin, Texas 78701
- Director #2: Member of the SBOE
Lawrence A. Allen, Jr.
1701 North Congress Avenue, Austin, Texas 78701
- Director #3: Member of the SBOE
Keven Ellis
1701 North Congress Avenue, Austin, Texas 78701
- Director #4: Member of the SBOE
Patricia Hardy
1701 North Congress Avenue, Austin, Texas 78701
- Director #5: Member of the SBOE
Marisa B. Perez-Diaz
1701 North Congress Avenue, Austin, Texas 78701
- Director #6: Commissioner of the General Land Office
George P. Bush
1700 North Congress Avenue, Austin, Texas 78701

The Board will be composed of a total of nine (9) Directors as provided in §43.053(a), TEC. As soon as practicable after the effective date of this Certificate of Formation and in accordance with §43.053(a), TEC, the Commissioner of the General Land Office shall appoint one (1) Director to the Board, and the Governor of the State of Texas shall appoint two (2) Directors to the Board. Once the Commissioner and the Governor have appointed such Directors, the Certificate of Formation will be amended and restated to reflect the names and addresses of such persons.

The number of Directors on the Board, the method of their appointment, their required qualifications, and their terms of office shall be determined in accordance with §§43.053(a)-(e), TEC, and such statutory provisions may not be overridden by an amendment to this Certificate of Formation, the bylaws of the Corporation, or otherwise. A Director may only be removed from office by the source of the Director’s appointment (i.e., the SBOE, Commissioner of the General Land Office or the Governor of Texas, as applicable). Any procedures regarding the resignation of a Director and the process for filling any vacancy on the Board will be set forth in the bylaws.

Directors shall not receive any salary or compensation for their service as Directors. A Director shall be entitled to reimbursement for reasonable expenses incurred by the

Director in carrying out his or her duties as a Director. Each Director will be subject to the Ethics Policy adopted by the Corporation pursuant to §43.058, TEC.

ARTICLE IV
Members

The SBOE shall be the sole member of the Corporation within the meaning of Chapter 22.

ARTICLE V
Purpose

The Corporation is organized for the purpose of managing and investing, on behalf of the SBOE, (1) the permanent school fund (as defined in Article VII of the Texas Constitution and more specifically in §43.001(a), TEC (“*PSF*”)) in accordance with the guidelines set forth in §5(f), Article VII, Texas Constitution, and (2) the charter district bond guarantee reserve fund in accordance with §45.0571, TEC.

In addition, the Corporation may perform such other activities or functions that are necessary or appropriate to manage the investments in the foregoing paragraph or to otherwise accomplish the purposes of the Corporation to the extent such activities or functions comply with applicable fiduciary duties and are not inconsistent with the Texas Constitution, Subchapter B of Chapter 43, or other applicable law.

ARTICLE VI
Corporate Powers

The Corporation shall have all necessary and implied powers to accomplish its purpose, including, without limitation:

- (1) The general powers of the Corporation listed in §43.063, TEC, or other powers provided in Chapter 43, including, without limitation, the authority to:
 - (a) Adopt and amend resolutions and policies of the Corporation and any other document necessary to carry out the Corporation’s purpose;
 - (b) Engage in any activity necessary to manage the investments of the PSF, including entering into any contract in connection with the investment of the PSF, to the extent the activity complies with applicable fiduciary duties;
 - (c) Make all purchases of goods and services in accordance with applicable fiduciary duties and using purchasing methods that ensure the best value to the Corporation;
 - (d) Delegate investment authority for the investment of the PSF to one or more private professional investment managers or contract with one or more private professional investment managers to assist the Corporation in making investments of the PSF;
 - (e) Receive, transfer, and disburse money and securities of the PSF as provided by statute or the Texas Constitution, except that the

Corporation may not distribute money from the PSF to the Available School Fund except as authorized under §43.066, TEC; or

- (f) Enter into a contract with a state agency, a governmental body, or another entity to manage or invest funds on behalf of the agency, body, or entity;
- (2) all existing powers of the SBOE, the Texas Education Agency, and the School Land Board relating to the management and investment of the PSF that are consistent with the Texas Constitution, Subchapter B of Chapter 43, or other applicable law; and
- (3) all of the powers enumerated in §2.101, TBOC, and any other customary corporate powers that are not contemplated above, but in each case, only to the extent such powers are not inconsistent with other provisions of this Certificate of Formation, the Texas Constitution, Subchapter B of Chapter 43, or other applicable law.

ARTICLE VII
Registered Agent and Registered Office

The initial registered agent of the Corporation is an organization by the name of CT Corporation. The business address of the registered agent and the registered office address is 1999 Bryan Street, Suite 900, Dallas Texas 75201.

ARTICLE VIII
Organizer

The name and address of the organizer is Keven Ellis, Attn: TEA/PSF, 1701 North Congress Avenue, Austin, Texas 78701.

ARTICLE IX
Meetings, Voting, and Board Action

The Corporation is a governmental body for purposes of Chapter 551, Texas Government Code ("*Texas Open Meetings Act*" or "*TOMA*"). Notwithstanding any provision of Title 1 or Chapter 22 to the contrary, the Board shall provide notice of and hold all meetings of the Board in accordance with the requirements of TOMA, subject to the exception provided in §43.060, TEC.

The Board may hold meetings and keep the Corporation's books and records at such place or places within the State of Texas as the Board may from time to time determine. The Board may hold a meeting by remote communications technology to the maximum extent permitted by applicable law. The Board shall meet at least three (3) times per year.

A majority of the Directors shall constitute a quorum of the Board. Each Director is entitled to one (1) vote on each matter submitted to a vote of the Directors. A Director must be present at a meeting to vote and may not vote by proxy. The Board may not take action through written consent or otherwise outside of an open meeting held in accordance with TOMA.

The affirmative vote of a majority of Directors present at a meeting at which a quorum is present is required for Board action, unless the act of a greater number is required by law, the Certificate of Formation, or the bylaws of the Corporation.

ARTICLE X Tax-Exempt Status

As a special-purpose governmental corporation and an instrumentality of the state of Texas, the Corporation is tax-exempt and its income is not taxable in accordance with the Intergovernmental Tax Immunity Doctrine and §115, Internal Revenue Code of 1986, as amended (“*IRC*”), including without limitation, any unrelated business income tax (UBIT) pursuant to §512, IRC. The Corporation is exempt from Texas state taxes in accordance with §43.059(c)(3), TEC, and Title 34 TAC, Part 1, §3.322(c)(4).

ARTICLE XI Exemption from Filing Costs

Pursuant to §43.059(c)(4), TEC, the Corporation is exempt from any filing costs or other fees imposed by the state of Texas on a corporation.

ARTICLE XII Sovereign Immunity, Limited Liability, and Indemnification

The Corporation, the Board, and all Directors, officers and employees of the Corporation are entitled to sovereign immunity to the same extent as any other state agency or officer or employee of a state agency. No action taken by the Corporation, including the acceptance of benefits under a contract, may be construed to waive the Corporation’s sovereign immunity, including immunity from suit or from liability.

No Director shall be liable to the Corporation, other Directors, or third parties for monetary damages for an act or omission taken by the Director in his or her capacity as a Director, except to the extent the Director is found liable for an act or omission which is:

- (1) a breach of the Director’s duty of loyalty to the Corporation;
- (2) an act or omission not in good faith that constitutes a breach of duty of the Director to the Corporation or an act or omission that involves intentional misconduct or a knowing violation of the law, including, without limitation, a violation or breach of the Director’s duties under the Ethics Policy adopted by the Corporation pursuant to §43.058, TEC;
- (3) a transaction from which the Director received an improper benefit, whether or not the benefit resulted from an action taken within the scope of the Director’s duties; or
- (4) an act or omission for which the liability of a Director is expressly provided by an applicable statute.

If applicable law is amended to authorize action further eliminating or limiting the personal liability of directors, then this Article shall be deemed to incorporate by reference such amendments and the liability of a Director shall be eliminated or limited to the maximum extent permitted by such statutes or other law. Any repeal or amendment of such

statutes or of the foregoing paragraph shall be prospective only and shall not adversely affect any right of protection of a Director existing at the time of such repeal or amendment.

The Corporation shall indemnify (which indemnification shall include, without limitation, advancing reasonable expenses) any person who is or was a member of the Board or an officer, employee, or agent of the Corporation (or any person who is or was serving at the request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise) to the fullest extent required or permitted by applicable law. In addition, the Corporation shall have the power to indemnify (which indemnification shall include, without limitation, advancing reasonable expenses) such other persons as the Board may determine from time to time, but only to the extent permitted by applicable law and not otherwise prohibited or contradictory to the Corporation's status as a special-purpose governmental corporation and an instrumentality of the state of Texas.

In addition, the Corporation may purchase or otherwise acquire insurance (1) to protect Directors and employees of the Corporation against any type of liability to third persons that might be incurred while conducting Corporation business and (2) to provide for all costs of defending a cause of action for such liability, including court costs and attorney's fees.

ARTICLE XIII

Amendment to Certificate of Formation and Bylaws

Notwithstanding any provision of this Certificate of Formation to the contrary, all or any part of this Certificate of Formation may be amended by the Board from time to time only upon the affirmative vote of a majority of the entire Board and subject to final approval by the SBOE.

The initial bylaws of the Corporation shall be adopted by the Board, subject to final approval by the SBOE. The bylaws of the Corporation may only be amended or repealed upon the affirmative vote of a majority of the entire Board and subject to final approval by the SBOE.

ARTICLE XIV

Winding Up / Dissolution

Upon the winding up and termination or dissolution of the Corporation, after payment or provision for payment of the Corporation's liabilities has been made, the Corporation's remaining assets shall be distributed exclusively to the SBOE, to the extent permitted and otherwise feasible under existing law, for the continued investment and management of the PSF for the benefit of public schools in the state of Texas.

A voluntary decision to wind up the Corporation, within the meaning of Chapter 11, TBOC, shall only occur upon an affirmative vote of two-thirds (2/3) of the entire Board, subject to final approval by the SBOE.

ARTICLE XV
Effectiveness of Filing

This Certificate of Formation becomes effective when it is filed by the Secretary of State.

ARTICLE XVI
Execution

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized to execute the filing instrument.

11/30/2021 | 5:49 PM PST

Date: _____

DocuSigned by:
Keven Ellis
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Keven Ellis, Organizer