# SPECIAL BOARD MEETING

## ORLEANS SCHOOLS FACILITIES FOUNDATION, INC.

**McDonogh #35 High School Auditorium**
**4000 Cadillac Street**
**New Orleans, Louisiana 70122**
**March 15, 2016**
**4:45PM**

**Call to Order- Roll Call**

**Pledge of Allegiance**

**ACTION ITEMS**

**Action Item #1:** OSFF- Approval of the Sophie B Wright Written Consent of the Board of Directors of the Orleans Schools Facilities Foundations, Inc.

**Recommendation:** That the Orleans School Facilities Foundation, Inc. approves resolution 01-16 Sophie B Wright written consent of the Board of Directors of Orleans Schools Facilities Foundation, Inc.

**Action Item#2:** OSFF – Approval of the Drew School Written Consent of the Board of Directors of the Orleans Schools Facilities Foundation, Inc. to sell historic credits and providing for the execution of the following documents: Act of Donation and Acceptance and Credit Utilization Form.

**Recommendation:** That the Orleans School Facilities Foundation, Inc. approves Drew School the written consent of the Board of Directors of Orleans Schools Facilities Foundation, Inc.

**Adjournment**

**ORLEANS SCHOOLS FACILITIES FOUNDATION, INC.**
**RESOLUTION NO. 01-16**

**[Sophie B. Wright High School]**

The following resolution was offered by _____and seconded by _____

**WRITTEN CONSENT OF THE BOARD OF DIRECTORS OF ORLEANS SCHOOLS FACILITIES FOUNDATION, INC.**

The undersigned directors of Orleans Schools Facilities Foundation, Inc., a Louisiana nonprofit corporation (the **"Corporation")** constituting a public benefit corporation of the Orleans Parish School Board (the **"OPSB"),** hereby certify that the following resolutions set forth herein were adopted by the Board of Directors (the **"Board")** of the Corporation at the meeting of the Corporation held on March 15, 2016.

**RECITALS**

**WHEREAS,** the Corporation was formed as a nonprofit public benefit corporation of the OPSB under the laws of the State of Louisiana pursuant to the Articles of Incorporation dated September 8, 2011 and filed with the Louisiana Secretary of State on September 28, 2011 and pursuant to the Bylaws of the Corporation adopted on November 16, 2011; and

**WHEREAS,** the OPSB and the Board approved on April 1, 2013 Amended and Restated Articles of Incorporation (the **"Corporate Articles")** attached hereto as **Exhibit** A; and

**WHEREAS,** Article IV, Section 2 of the Corporate Articles provides that the Board shall consist of five (5) members as follows:

(I) President of the Orleans Parish School Board as Ex-Officio Member;

(ii) Chairperson of the Orleans Parish School Board Budget and Finance Committee as Ex-Officio Member;

(iii) Secretary of the Orleans Parish School Board as Ex-Officio Member;

(iv) Chief Financial Officer of the Orleans Parish School Board as Ex-Officio Member; and

(v) Financial Expert, initially, Damon Bums, until his successor is appointed by the Orleans Parish School Board.

**WHEREAS,** the Board further approved on April 1, 2013 the Amended and Restated Bylaws (the **"Bylaws")** of the Corporation attached hereto as **Exhibit B;** and

**WHEREAS,** Article III, Section 2 of the Bylaws provides that any director who is removed at any time from a position with the OPSB shall likewise be deemed removed from the Board; and

**WHEREAS,** the OPSB approved the election of Seth Bloom as President of the OPSB on January 19, 2016, Henderson Lewis., Ph.D. as Secretary on March 18, 2015 and approved Woody Koppel as Chairperson of the OPSB Budget and Finance Committee on March 5, 2015; and

**WHEREAS,** by virtue of Article IV, Section 2 of the Corporate Articles, the following individuals constitute the Board of the Corporation:

| **Name** | **Ex-Officio Position** |
|---|---|
| Seth Bloom Woody | President of OPSB |
| Koppel Henderson | Chairperson of OPSB Budget and Finance Committee |
| Lewis., Ph.D. Stanley C. | Secretary of OPSB |
| Smith | OPSB Chief Financial Officer |
| Damon Bums | Financial Expert |

**WHEREAS,** the Board of Director now desires to elect and confirm officers of the Board and to approve certain financing arrangements (the **"Leveraged Financing")** and documents related to the historic rehabilitation and renovation of the Sophie B. Wright High School.

**NOW, THEREFORE, BE IT RESOLVED AND CONSENTED TO BY THE DIRECTORS OF THE CORPORATION THAT:**

**SECTION 1.** The following members of the Board are hereby elected and/or confirmed as designated officers:

| **Name** | |
|---|---|
| Seth Bloom Woody | Chairman |
| Koppel Henderson | Vice-Chairman |
| Lewis., Ph.D. Stanley C. | Secretary |
| Smith | Treasurer |

**SECTION 2.** The following items of organization are also authorized and/or confirmed:

- The appointment of the OPSB General Counsel, Edward Morris, as registered agent of the Corporation for service of process in the State of Louisiana is hereby ratified and confirmed.

- The registered office of the Corporation in the State of Louisiana maintained at 3520 General DeGaulle Drive, Suite 5088, New Orleans, Louisiana 70114 is hereby ratified and confirmed.

- The Secretary and Treasurer are hereby authorized and directed to obtain such books and/or accounts as are necessary and proper for the transaction of the business of the Corporation in connection with the Leveraged Financing of Sophie B. Wright High School.

- All contracts and agreements of this Corporation, including (but not by way of limitation) bills payable, notes, checks, drafts, and other negotiable instruments, leases, bonds and mortgages, shall be executed or signed on behalf of this Corporation by the Chairman and Secretary subject to the limitations of the Bylaws of the Corporation, unless otherwise specifically authorized by the Board.

- The Treasurer is authorized to appoint and adopt JPMorgan Chase Bank and such other banks or other financial institutions as and for the depository of funds for the Corporation and that the printed form of resolution supplied by said bank or other financial institution be adopted and be properly executed by the Secretary and furnished to said bank or other financial institution.

- The Treasurer shall establish and maintain books of account of the Corporation and enter therein all financial transactions of the Corporation, that said books be kept and maintained at the principal office of the Corporation at 3520 General DeGaulle Drive, Suite 5088, New Orleans, Louisiana 70114, or at such other place as the Treasurer may determine to be advisable.

SECTION 3. The forms of the following documents and/or agreements are hereby authorized and approved with such revisions and/or modifications as approved by the Chairman as may be necessary to implement the Leveraged Financing for the historic rehabilitation and renovation of the Sophie B. Wright High School:

- The Cooperative Endeavor Agreement by and among the OPSB, the Recovery School District ("RSD") and the Corporation attached hereto as Exhibit C is hereby accepted and approved.

- The Master Lease by and among the OPSB, RSD and the Corporation of the Sophie B. Wright High School attached hereto as Exhibit D-1 (the "Master Lease") is hereby accepted and approved.

- The Act of Sale and Declaration of Separate Immovable by and among the OPSB, RSD to the Corporation attached hereto as Exhibit D-2 (the "Act of Sale to the Corporation") is hereby accepted and approved.

- The Ground Lease by and between the Corporation and Sophie B. Wright High School Facility, LLC (the "Sub-Lessee" and "Sophie B. Wright School Facility

Owner") attached hereto as Exhibit E-1 (the "Ground Lease") is hereby accepted and approved.

- The Act of Sale of Separate Immovable Property by and between the Corporation and Sophie B. Wright School Facility Owner attached hereto as Exhibit E-2 (the "Act of Sale to Sophie B. Wright") is hereby accepted and approved.

- The Loan Agreement by and between the Corporation, as Lender, and the Sophie B. Wright School Facility Owner, as Borrower; the Promissory Note in the principal amount not to exceed $29,000,000; the Leasehold Mortgage, Security and Pledge Agreement entered into by the Sophie B. Wright School Facility Owner to and for the benefit of the Corporation (collectively, the "Loan Documents") attached hereto as Exhibit Fare hereby accepted and approved.

- The Corporation hereby agrees to accept not to exceed $29,000,000 from the OPSB and agrees to loan such amount to the Sophie B. Wright School Facility Owner.

- The Unconditional Guaranty and Environmental Indemnification by the Corporation, for the benefit of U.S. Bancorp Community Development Corporation, attached hereto as Exhibit G.

- The Subordination, Non-Disturbance and Attornment Agreement by and among the Sophie B. Wright School Facility Owner, the OPSB, the RSD and the Corporation, attached hereto as Exhibit H.

- The Closing Transfers and Authorizations Agreement by and among US Bancorp Community Development Corporation, the Corporation, the OPSB and Baronne Title Co., Inc., attached hereto as Exhibit I.

- Such other documents as shall be necessary and appropriate to implement the Leveraged Financing of the Sophie B. Wright High School as approved by the Chairman.

SECTION 4. Wayne J. Neveu, Esq. and the firm of Foley & Judell, L.L.P. are hereby retained as counsel and attorney-in-fact (the "Corporation Counsel") to represent the Corporation in connection with the Leveraged Financing of the Sophie B. Wright High School and are authorized to render such opinions as may be necessary to implement such Leveraged Financing.

SECTION 5. The Chairman, Secretary and Treasurer are authorized to take any and all actions necessary to maintain the nonprofit status of the Corporation without advance authorization from the Board.

SECTION 6. The Chairman is hereby authorized and directed to execute such documents and agreements requiring the execution thereof by the Corporation as referenced in

Section 3 of this resolution or such other documents and agreements as may be further required to implement the Leveraged Financing of the Sophie B. Wright High School following review and approval of the Corporation Counsel.

IN WITNESS WHEREOF, the undersigned has executed this unanimous written consent as ofthe 15th day ofMarch, 2016.

Seth Bloom
Chairperson

Woody Koppel
Vice-Chairperson

Henderson Lewis., Ph.D.
Secretary

Stanley C. Smith
Acting CFO

Damon Bums
Financial Expert

**Constituting the entire Board of Directors of Orleans Schools Facilities Foundation, Inc.**

**ORLEANS SCHOOLS FACILITIES FOUNDATION, INC.**
**RESOLUTION NO. 02-16**

**[Drew School]**

The following resolution was offered by _____ and seconded by _____:

**WRITTEN CONSENT OF THE BOARD OF DIRECTORS OF ORLEANS SCHOOLS FACILITIES FOUNDATION, INC.**

The undersigned directors of Orleans Schools Facilities Foundation, Inc., a Louisiana nonprofit corporation (the "**Corporation**" or "**OSFF**") constituting a public benefit corporation of the Orleans Parish School Board (the "**OPSB**"), hereby certify that the following resolutions set forth herein were adopted by the Board of Directors (the "**Board**") of the Corporation at the meeting of the Corporation held on March 15, 2016.

## RECITALS

**WHEREAS**, the OPSB approved on October 20, 2014 the following Resolution No. 33-14:

> A resolution authorizing and directing the Orleans Parish School Board's General Counsel and Bond Counsel to draft such ground leases and/or such other agreements as may be necessary to implement a leveraged financing transaction to complete the historic rehabilitation and renovation of Drew Elementary School in accordance with the School Facilities Master Plan dated August 2008, amended October 2011; approving the proceedings adopted by the Board of Directors of the Orleans Schools Facilities Foundation, Inc. and providing for other matters in connection therewith.

**WHEREAS**, pursuant to Resolution No. 33-14 of the OPSB and the Resolution No. 01-14 of the OSFF which constituted the Written Consent of the Directors of the Corporation to certain financing arrangements (the "**Leveraged Financing**") and documents related to the historic rehabilitation and restoration of the Drew Elementary School (the "**Drew School Facility**"), the OPSB and OSFF agreed in the Cooperative Endeavor Agreement dated February 27, 2015 (the "**Drew CEA**") that OFF was authorized to accept the donation of any credits (the "**State Tax Credits**") earned pursuant to La. R.S. 47:6019 in connection with the historic restoration of the Drew School Facility, to sell such State Tax Credits to a party unrelated to OSFF, on such terms and conditions as the OSFF shall determine in its sole and absolute discretion, and to use the proceeds from the sale of such State Tax Credits as the OSFF shall deem fit, provided, the proceeds from the sale of such State Tax Credits shall be used solely to benefit schools governed by the Master Plan and under the dominion and control of the Recovery

School District ("**RSD**"), which use explicitly includes the retention of such proceeds to guaranty and to assist in paying the debt service offset to the charter school operator; and

**WHEREAS,** OSFF must execute certain documents pursuant to the Drew CEA in connection with the donation of State Tax Credits related to the Drew School Facility; and

**WHEREAS**, OSFF must authorize and approve the execution of documents related to the sale of the State Tax Credits in accordance with the Drew CEA.

**NOW, THEREFORE, BE IT RESOLVED AND CONSENTED TO BY THE DIRECTORS OF THE CORPORATION THAT**:

**SECTION 1.** The forms of the following documents and/or agreements are hereby authorized and approved with such revisions and/or modifications as approved by the Chairman as may be necessary:

- Act of Donation and Acceptance by Drew Elementary School Facility, L.L.C., as Donor to OSFF, as Donee, attached hereto as **Exhibit** "**A**".

- Credit Utilization Form pursuant to the provisions of Louisiana Revised Statutes 47:1524, attached hereto as **Exhibit** "**B**".

- Historic Tax Credit Purchase and Sale Agreement attached here to as **Exhibit** "**C**".

**SECTION 2.** Wayne J. Neveu, Esq. and the firm of Foley & Judell, L.L.P. are hereby retained as counsel and attorney-in-fact (the "**Corporation Counsel**") to represent the Corporation in connection with the donation and sale of the State Tax Credits and are authorized to render such opinions as may be necessary to accept the donation and the approve the sale of the State Tax Credits.

**SECTION 3.** The Chairman is hereby authorized and directed to execute such documents and agreements requiring the execution thereof by the Corporation as referenced in Section 1 of this resolution or such other documents and agreements as may be further required to accept the donation and to sell the State Tax Credits following review and approval of the Corporation Counsel.

IN WITNESS WHEREOF, the undersigned has executed this unanimous written consent as of the 15th day of March, 2016.

_____
Nolan A. Marshall, Jr.
Chairperson

_____
Leslie Ellison
Vice-Chairperson

_____
Stanley C. Smith
Secretary

_____
Wayne DeLarge
Acting CFO

_____
Damon Burns
Financial Expert

**Constituting the entire Board of Directors of Orleans Schools Facilities Foundation, Inc.**

**EXHIBIT A**

**ACT OF DONATION AND ACCEPTANCE**

Attached

**EXHIBIT B**

**CREDIT UTILIZATION FORM**

Attached

**EXHIBIT C**

**HISTORIC TAX CREDIT PURCHASE AND SALE AGREEMENT**

Attached

| | | |
|---|---|---|
| ACT OF DONATION<br>AND ACCEPTANCE | * | UNITED STATES OF AMERICA |
| | * | STATE OF LOUISIANA |
| BY | * | |
| | * | PARISH OF ORLEANS |
| DREW ELEMENTARY SCHOOL<br>FACILITY, L.L.C., Donor | *<br>* | |
| | * | |
| TO | * | |
| | * | |
| ORLEANS SCHOOLS FACILITIES<br>FOUNDATION, INC., Donee | *<br>* | |
| | * | |
| * * * * * * * * * * * * * * * | * | |

BE IT KNOWN that on the dates hereinafter set forth, effective as of the ____day of _____, 2015, before the undersigned Notaries Public, duly commissioned and qualified, and in the presence of the witnesses hereinafter named and undersigned came and appeared:

DREW ELEMENTARY SCHOOL FACILITY, L.L.C. ("Donor"), a Louisiana limited liability company and appearing herein by and through the undersigned and who declared that the Donor's mailing address is 909 Poydras Street, Suite 1200, New Orleans, Louisiana 70112;

and

ORLEANS SCHOOL FACILITIES FOUNDATION, INC. ("Donee"), a Louisiana nonprofit and public benefit corporation and appearing herein by and through the undersigned and who declared that the corporation's mailing address is 3520 General DeGaulle Drive, Suite 5088, New Orleans, Louisiana 70114;

(collectively, the "Parties") who, after being duly sworn, did hereby declare as follows:

In consideration for the respect Donor has for the Donee, Donor does hereby give, donate, grant, convey, transfer, assign, set over, abandon and deliver unto the Donee, all of its right, title and interest in and to those certain tax credits earned by Donor pursuant to La. R.S. 47:6019 (the "State HTCs") in the amount of$ (the "Credits"), as evidenced by that certain Louisiana Department of Revenue ("LOR") Form R-6135 (Credit Registration Form) naming Donor as the "credit owner" (or any successor or replacement form or documentation).

To affect the aforementioned donation of Credits, Donor agrees to provide any information to the LOR and to execute any documentation required by the LOR to transfer the Credits from Donor to Donee, including, without limitation, execution of LOR Form R-6140 (Credit Utilization Form) certifying the transfer of the State HTCs to Donee and the provision of any information required by the LOR or the Louisiana Division of Historic Preservation (the "DHP") under the Louisiana Tax Credit Registry Act (Act 418 of the 2013 Regular Legislative Session), under La. R.S. 47:6019 or pursuant to any other rule, regulation or guidance.

As a material and integral part of the consideration for this Act of Donation and Acceptance (the "Act of Donation") and the donation of the Credits, Donee hereby accepts the Property in its "as is", "**where** is" condition, with all faults, and without representations and warranties of any kind, express or implied, or arising by operation of law.

Without in any way limiting the generality of the foregoing, the donation of the Credits is without any warranty, and Donor has made no, and expressly and specifically disclaims, and Donee accepts that Donor has specifically disclaimed, any and all representations, guaranties or warranties, express or implied, or arising by operation of law, of or relating to the use, value income potential, expenses, operation, characteristics or condition of the Credits or any portion thereof, including without limitation, warranties of suitability, merchantability, whether or not obvious, visible or apparent.

Donee hereby waives and releases any and all warranties whatsoever, either oral or written, express or implied, made by any person or entity, or implied by law, with respect to the Credits including, without limitation, any warranties based on vices or defects in the Credits, whether obvious or latent, known or unknown, easily discoverable or hidden, and including without limitation any claim or cause of action for redhibition pursuant to Louisiana Civil Code Articles 2520 et seq., or for fitness for Donee's ordinary use pursuant to Civil Code Articles 2524 et seq. or for any warranties or claims under Civil Code Article 2475 (ownership, peaceful possession, absence of defects and fitness for intended use), or Civil Code Article 2489 (condition). Donee declares that it is accepting the Credits at its own peril and risk. Donee further assumes the risk of all vices and defects in the Credits whether those vices or defects are latent or not discoverable upon simple inspection, and including those vices or defects, knowledge of which would deter Donee from accepting this Act of Donation. Donee further acknowledges that Donee (a) had ample opportunity to fully inspect and conduct diligence regarding the Credits, (b) has fully examined, inspected and conducted diligence regarding the Credits, (c) knows and is satisfied with the condition of the Credits in all respects, (d) is not relying upon any representations, statements or warranties that have at any time been made by Donor or Donor's respective agents as to the condition or state of repair of the Credits in any respect, (e) accepts the Credits "AS IS", "**WHERE** IS", (f) does hereby accept the Credits in its present condition, and (g) to the fullest extent permitted by law waives and relinquishes any and all rights to void the donation on account of some latent or apparent vice or defect in the Credits. Donee acknowledges that the foregoing waivers have been called to Donee's attention and read and explained to Donee and that they are material and integral consideration for this Act of Donation.

Donee agrees to indemnify, defend and hold harmless Donor and its direct or indirect members for any loss, liability, charge, damage, injury, expense and costs related, directly or indirectly, to the recapture, disallowance, recovery, forfeiture, adjustment, loss, compromise or reclamation of any of the Credits, whether caused by Donor, Donee or a third party, including

penalties, interest, claims, losses, liabilities, fines and any other amounts paid or payable (including, without limitation, reasonable attorney and accountant fees and costs) related thereto.

Donee does hereby accept the Credits donated pursuant to this Act of Donation and agrees to be bound by the terms and conditions set forth herein.

This Act of Donation is not assignable by Donee without the prior consent of Donor, which may be withheld in its sole discretion.

This Act of Donation may be executed in counterparts, each of which will be deemed an original document, but all of which will constitute a single document.

[Remainder of page intentionally left blank]

**THUS DONE AND PASSED** before me, Notary, in the Parish of Orleans, State of Louisiana on this _____ day of , 2015, in the presence of the undersigned competent witnesses who hereunto sign their names with the Donor, the Donee and me, Notary, after due reading ofthe whole.

**WITNESSES:**

_____

**Print Name:** _____

_____

**Print Name:** _____

**DONOR:**

**DREW ELEMENTARY SCHOOL FACILITY, L.L.C.**

By: Historic School Facility Manager, L.L.C., its Manager

By: New Orleans School Facility Finance Foundation, its Manager

By: _____

Name: _____

Title: _____

_____

NOTARY PUBLIC Name: _

_____

Bar Roll/Notarial **J.D.** No. _____

My Commission Expires: _____

**THUS DONE AND PASSED** before me, Notary, in the Parish of Orleans, State of Louisiana on this _____ day of _____, 2015, in the presence of the undersigned competent witnesses who hereunto sign their names with the Donor, the Donee and me, Notary, after due reading of the whole.

**WITNESSES:**

_____

**Print Name:** _____

_____

**Print Name:** _____

**DONEE:**

**ORLEANS SCHOOL FACILITY FOUNDATION, INC.**

By: _____

Name: _____

Title: _____

_____

NOTARY PUBLIC Name: _____

Bar Roll/Notariali.D. No. _____

My Commission Expires: _____

**LOUISIANA**
DEPARTMENT *of* REVENUE

# Credit Utilization Form

Pursuant to the provisions of
Louisiana Revised Statutes 47:1524

For transfers, mail to:
Louisiana Department of Revenue
Attn: Tax Credit Registry
P.O. Box 1071
Baton Rouge, LA 70821

PLEASE PRINT OR TYPE.

Section 1: To transfer your credit to the State, complete the section below, sign and submit this form, a copy of your Credit Registration Form (R-6135), and the applicable transfer fee to LDR.

| | |
|---|---|
| Amount of Credit to be Sold to Louisiana | $ |

Section 2: To utilize your credit on your tax return, complete the section below, sign and attach this form and a copy of your Credit Registration Form (R-6135) to your tax return.

| | | |
|---|---|---|
| Tax Period | Amount of Credit Claimed on Return | $ |
| Remaining Credit Balance | | $ |

Section 3: To transfer your credit to another party, including a flow-through, complete the section below. Both the transferor and transferee must sign the form. Submit this form, a copy of your Credit Registration Form (R-6135), a copy of the contract of sale (except for flow-through), and any applicable transfer fees to LDR within 10 days of the transfer.

| | | |
|---|---|---|
| Transferor's Credit Balance Prior to Transfer | | $ 3,757,465.00 |
| Amount of Credit Being Transferred | | $ 3,757,465.00 |
| Transferor's Credit Balance after Transfer | | $ 0.00 |
| Date of Transfer | Transferee LOR Account ID | Transferee Name<br>Orleans Schools Facilities Foundation, Inc. |
| Transferee Address<br>3520 General DeGaulle Drive, Suite 5088, New Orleans, LA 70114 | | |
| Price Paid by the Transferee to the Transferor | | $ 0.00 |

## Instructions

- A transfer is not effective until it is recorded in the Tax Credit Registry.
- Only one Credit Registration Form (R-6135) can be attached to this form. A separate Credit Utilization Form (R-6140) will need to be completed for each Credit Registration Form (R-6135).
- Only one transferee can be listed on this form. A separate Credit Utilization Form (R-6140) will need to be completed for each transferee.
- The sale or transfer of tax credits may have income tax consequences for the transferor and transferee. Consult your tax advisor.
- To utilize a purchased credit to pay an outstanding liability, attach a copy of your Credit Registration Form (R-6135) to a completed Transferable Credit Payment Voucher, Form R-6170, and submit both to LDR.

By signing below, I certify that I am an authorized representative of the transferor or transferee and as such am authorized to make the statement o affirmation contained herein. I certify under penalties of perjury that the above statements, information contained in this document and attachments are complete, true, and correct to the best of my knowledge and belief. By signing below as the transferor, I further certify that I have not previously transferred o claimed above referenced credits and agree to be subject to recapture and collection procedures authorized under Title 47 of the Louisiana Revised Statutes in the event that I have transferred credits that I do not own.

| | | |
|---|---|---|
| Signature of Transferor | Print Name | Date *(mmlddlyyyy)* |
| Signature of Transferee | Print Name | Date *(mmlddlyyyy)* |