

CONTRACT, LEASE AND OPTION  
(To be recorded as a Mortgage)

THIS CONTRACT, LEASE AND OPTION (the "Lease"), made and entered into as of February 27, 2013, by and between the BOARD OF EDUCATION OF ELIZABETHTOWN INDEPENDENT SCHOOL DISTRICT, KENTUCKY, 219 Helm Street, Elizabethtown, Kentucky 42701, party of the first part (hereinafter called the "Board of Education"), and the ELIZABETHTOWN INDEPENDENT SCHOOL DISTRICT FINANCE CORPORATION, 219 Helm Street, Elizabethtown, Kentucky 42701, party of the second part (hereinafter called the "Corporation"),

W I T N E S S E T H :

WHEREAS, the Board of Education, in order to carry out the duty and authority vested in it, desires to provide and maintain adequate school facilities for the Elizabethtown Independent School District; and

WHEREAS, the Corporation has been formed as a nonstock, nonprofit, corporation duly organized under the provisions of Sections 273.161 through 273.390 and Section 58.180 and Section 162.385 of the Kentucky Revised Statutes, having for its corporate purpose cooperation with the Board of Education in financing the costs of school building facilities for and on behalf of the Board of Education, with the power to borrow money, encumber property and do any and all things necessary or incidental to the purposes of its incorporation; and

WHEREAS, the Board has requested the Corporation, by resolution of its Board of Directors (the "Bond Resolution") to authorize, issue and sell its School Building Revenue Bonds, Series 2013 (the "Bonds"), for the purpose of providing funds to finance the costs of the construction of additions and renovations to the existing, detached pool building, including an addition of a bus canopy between the gymnasium and the pool building (the "Project") upon properties described in Exhibit A attached hereto (the "Project Site") which have heretofore been conveyed or will be conveyed to the Corporation by the Board of Education, said Project and Project Site being hereinafter collectively referred to as the "Project Property," as authorized by Sections 162.120 through 162.300 and 162.385 and 58.010 through 58.140 and 58.180 of the Kentucky Revised Statutes; and

WHEREAS, it is contemplated that said Project will be financed through the proceeds of the Bonds in the principal amount of \$\_\_\_\_\_, plus an amount sufficient to complete the Project to be provided by the Board of Education; and

WHEREAS, the Board of Education has adopted a Resolution agreeing to rent the Project from the Corporation pursuant to the authority vested in the Board of Education by Sections 162.120 and 58.030(3) of the Kentucky Revised Statutes.

NOW, THEREFORE, IT IS AGREED BETWEEN THE PARTIES HERETO AS FOLLOWS:

The Corporation agrees to cause said Project to be constructed and completed on the Project Site, as expeditiously as possible, in accordance with the plans and specifications of the Architects, which were prepared and approved in accordance with Section 162.160 of the Kentucky Revised Statutes, and to lease the same to the Board of Education, and the Board of Education agrees to lease the Project Property from year to year from and after the date of the Bonds, for rental payments, payable from year to year, amounting to a sum sufficient to pay the annual debt service requirements of the Bonds as may from time to time be outstanding, together with the cost of maintaining and insuring the Project Property, all subject to the following terms and conditions.

1. Basic Rental Agreement. The Board of Education agrees to lease and rent the Project Property from the Corporation to be used only for educational purposes, on a fiscal year basis beginning on July 1 of each year and ending on June 30 of each respective ensuing year, except that the initial rental period shall be for a period ending June 30, 2013, for a rental for such initial period and for each subsequent period hereinafter specified, in an amount equal to the principal and interest requirements falling due on the Bonds during such rental period, it being hereby certified by the Board of Education that the rental provided herein for the initial period does not exceed the anticipated revenue of the Board of Education for the year available for that purpose, with an exclusive option to the Board of Education to renew said Lease from year to year for periods of one year at a time, at the rentals equal to the principal and interest requirements falling due on the Bonds during each such renewal year, the exact amounts of such rentals being determined by the rate of interest to be fixed at the time of public sale of the Bonds, all of which rentals shall be payable directly to the bank acting as paying agent for the Bonds at least ten (10) days prior to each principal and interest payment date on the Bonds in ample amounts to meet the payments of principal and interest falling due on said Bonds.

In the event of failure of the Board of Education to make such rental payments within three (3) days prior to each due date, the Board of Education agrees that, upon notification of the Kentucky Department of Education by the paying agent for the Bonds, the Kentucky Department of Education shall withhold and/or intercept any state funds then due to the Board of Education, and transmit such funds directly to the paying agent for the Bonds, in accordance with Section 160.160 of the Kentucky Revised Statutes.

The amount of rental to be paid by the Board of Education for the first rental period ending June 30, 2013, will be reduced by the portion of the bond amortization requirements for that period which is collected as accrued interest on the Bonds at the time of delivery of the Bonds to the successful bidder.

Notwithstanding any other provision contained herein, the Board of Education is obligated to pay the required rental for the initial rental period regardless of whether the construction of the Project is completed by September 1, 2013, the first interest payment date of the Bonds.

In any event, the rental amount in each year shall be whatever amount is necessary from year to year to meet the principal and interest requirements of said outstanding Bonds, and such amount shall be paid in such installments and at such times as will enable the Corporation to meet such requirements.

The Board of Education further agrees to pay, as additional rentals in each rental year, the appropriate fees and charges of the Registrar, Paying Agent and Depository Bank designated in the Bond Resolution, in connection with the issuance, transfers and exchanges of the Bonds, the payment of the principal of and interest on the Bonds and the deposit and investment of amounts in the various funds created in the Bond Resolution.

As a part of the consideration of the payment of the rental for the first rental period, the Board of Education is hereby given the right to occupy and use said Project, or any portion thereof, whenever such Project or portion has been completed and is suitable for use and occupancy.

In addition to the foregoing rental payments, the Board of Education covenants to pay, in each year that this Lease is renewed, such taxes or assessments, if any, which may be levied against the Project Property, and agrees to pay, either directly or to the Corporation, as additional rentals, the cost of maintenance of the Project and of insuring the same against loss or damage by fire, lightning, windstorm or other calamity, in an amount in each year substantially equal to either at least the total amount of the Bonds which are at any time outstanding, or equal to the maximum insurable value of the improvements, whichever is lesser. Such insurance is to be in a company or companies satisfactory to the Corporation, and made payable in the event of loss, to the Corporation for the use and benefit of the owners of said Bonds, to the extent of the amount of the Bonds then outstanding.

From and after the beginning of the use or occupancy of the Project Property by the Board of Education, and so long as such use or occupancy continues under the terms of this Lease, the Board of Education shall, on or about July 1 of each year, furnish to the Corporation and to the Kentucky Department of Education, a report showing the types and amounts of insurance coverage procured and intended with respect to the Project, together with evidence that premiums for such insurance have been paid in full for the ensuing year, or, if such premiums are not then due and payable, that the amounts which will become payable during the ensuing year have been properly budgeted. The Board of Education shall likewise furnish an annual report to the Corporation describing the condition of the Project, reporting any maintenance and repair work undertaken during the previous year to date and furnishing evidence that the cost thereof has been paid or properly budgeted by the Board of Education.

2. Board of Education To Pay Any Excess Costs of Project. The Board of Education covenants and agrees that it will provide, from moneys lawfully available therefor, all sums, if any are required, in excess of the proceeds from the sale of the Bonds, necessary to pay the entire cost of constructing the Project in order to complete the same.

3. Board of Education's Obligation Is Limited To One Year At a Time, Subject To Renewal. Nothing contained herein shall be construed as binding the Board of Education to renew this Lease or to pay the rentals due hereunder for any period other than the initial rental period expiring June 30, 2013, except upon the exercise by the Board of Education in each year of its exclusive option to renew said Lease, provided that this Lease shall automatically renew itself each year for a period of one year, unless the Board of Education shall, at least ninety (90) days prior to the beginning of any rental year, send written notice of its intention not to exercise its option to renew, to the Corporation and to the Kentucky Department of Education, and to the initial purchaser of the Bonds.

However, it is acknowledged that the Board of Education shall not have a right to renew this Lease for any year unless its anticipated revenue is such that the Board of Education can become legally obligated in the amount herein provided as being the obligation of the Board of Education if this Lease is renewed.

4. Conveyance To Board of Education After Retirement Of Bonds. If the Board of Education shall pay the rental above specified from year to year and to and through the rental period ending March 1, 2028, and if, by reason of the application of such rentals to the payment of the principal of and interest on said Bonds, such Bonds shall have been fully paid, redeemed, canceled and retired on or before March 1, 2028 (the final maturity of the Bonds), or at any other time through any other method, the Corporation will convey the Project Property back to the Board of Education free of all liens and encumbrances, pursuant to Sections 162.120-300 of the Kentucky Revised Statutes, and any balance then remaining in any funds held by the Corporation pursuant to the Bond Resolution for the payment of the Bonds will be returned to the Board of Education.

5. Board of Education's Options. The Board of Education shall have the right, at any time, to purchase from the Corporation and to secure the release from the statutory mortgage lien and revenue pledge securing the Bonds by the payment to the Corporation of a sum sufficient to accomplish the redemption and/or retirement (or defeasement as provided in Section 15 hereof) of the Bonds outstanding (including all other Bonds, if any, secured by a lien against the Project Property).

If the Board of Education shall desire to exercise this option, it may do so only by giving written notice of such election to the Corporation at least sixty (60) days prior to the next applicable redemption date. Thereupon, the Corporation shall call and redeem the outstanding Bonds on the next applicable redemption date, which call and redemption shall be strictly in accordance with the provisions of the Bonds and of the Bond Resolution.

6. Notice Of Intention Not To Renew. If the Board of Education duly and timely sends written notice of its intention not to exercise its option to renew, thereby electing to terminate this Lease, as herein provided, then this Lease shall become null and void and no longer binding and all rentals and obligations due and unpaid for the then current year shall forthwith become due and collectible; and the Board of Education shall, in that event, give immediate possession of the Project

Property to the Corporation for the benefit of the bondowners, as aforesaid, after which all covenants and obligations hereunder shall thereupon be canceled.

7. Destruction of or Damage to Project Buildings. If the Project is totally destroyed by fire, lightning, windstorm or other hazard covered by insurance, the Corporation shall have the right to expend the proceeds of such insurance to rebuild or replace such Project; provided that if such proceeds are not expended by the Corporation for such replacement at the earliest practicable date, then all of such insurance proceeds shall be used for the purpose of redeeming outstanding Bonds, and the Project Property shall be released from any lien and shall then become the property of the Board of Education, in which case the Corporation will convey the Project Property to the Board of Education free and clear of all encumbrances.

In the event of damage or partial destruction by fire, windstorm or other hazard covered by insurance, the proceeds of such insurance shall be used solely and only for the purpose of making the necessary replacements and repairs to the damaged Project; provided further that if, following such damage or destruction, any principal or interest payment is due and there are no other funds available for said payment, such insurance proceeds must first be applied to the defaulted payment.

8. Project Property Description. The Project Property referred to in this Lease is located in the County of Hardin, Kentucky, and is more specifically described in Exhibit A to this Lease.

9. Provisions To Be Included In Bond Resolution. The parties hereby agree that the Bond Resolution authorizing said Bonds shall include the following provisions:

For the further protection of the owners of the Bonds authorized herein, a statutory mortgage lien (in addition to the pledge of the revenues) upon the Project Property is granted and created pursuant to and by Sections 162.120 through 162.300 and 162.385 of the Kentucky Revised Statutes, which statutory mortgage lien is hereby recognized and declared to be valid and binding upon the Corporation and upon the Project Property described herein and shall take effect immediately; provided, however, that such statutory mortgage lien is and shall be restricted in its application to the Project buildings and appurtenances financed by said Bonds (supplemented by other funds), and to such easements and rights-of-way for ingress, egress and the rendering of service thereto as may be necessary for the proper use and maintenance of the same; the right being hereby expressly reserved to erect or construct upon any unimproved portions of the Project Site other independently financed school buildings, free and clear of said statutory mortgage lien, which other independently financed school buildings may or may not have a party wall (or walls) with and adjoin the Project buildings and appurtenances which are subject to said statutory mortgage lien, provided no part of the cost of such other independently financed school buildings is paid from the proceeds of the sale of said Bonds.

The right is also reserved by the Corporation, at the request of the Board of Education, to withdraw any unimproved portions of the Project Site from the property encumbered by the Bonds, and to convey such portions to the Board of Education, for any purpose whatever, if the Board of

Education shall certify that such withdrawal and conveyance does not adversely affect the security of the bondowners. Provided, further, the necessary easements for ingress, egress, sewage lines, septic tank lines, and other utility lines, shall be deemed to exist and continue to exist for all school buildings, improvements and additions financed by the Bonds. The revenue pledge securing the Bonds is also subject to the foregoing limitation and reservation.

The Corporation further reserves the right, with the request or approval of the Board of Education, to release or convey, with or without consideration, from the statutory mortgage lien and revenue pledge securing the Bonds, such easements, rights-of-way, licenses or other rights, over, upon or beneath the surface of the Project Site as may reasonably be required for roads, utilities, drainage or other public purposes, provided (a) no such release shall be made which would interfere with the ownership and efficient operation of the Project, or of any other school buildings and appurtenances securing any other outstanding bonds, or with the use of the surrounding premises for school purposes; (b) no such release may be made which would impair ingress to and egress from any school building; and (c) any such release shall not effect any reduction in the rental otherwise required by the Lease.

The parties hereby agree that this Lease is subject to the provisions of the Bond Resolution.

10. Prior Bonds. The Project, together with such easements and rights-of-way for ingress, egress and the rendering of services thereto as may be necessary for the proper use and maintenance of the Project being financed through the application of a part of the proceeds of the Bonds herein authorized, is not subject to a statutory mortgage lien and revenue pledge securing any outstanding bond issues other than (i) \_\_\_\_\_, and (ii) \_\_\_\_\_ (said lien and pledge being restricted by Section 162.200 of the Kentucky Revised Statutes only to the actual building financed), therefore, the Project may be encumbered by a revenue pledge and by a statutory mortgage lien securing the Bonds referred to herein, subject to the provisions of the Bond Resolution, all pursuant to Sections 162.120 to 162.300 and 162.385 and Sections 58.010 through 58.140 and 58.180 of the Kentucky Revised Statutes.

11. All Provisions Hereof Subordinate To Rights Of Bondowners. It is agreed that the provisions of this Lease are hereby subordinate to the rights of the owners of the Bonds, and, in fact, are pledged as further security for such Bonds.

12. Annual Assignment Of Board of Education's Right To State Funds. The Board of Education agrees that during the term of this Lease, and any renewal hereof, and so long as the Bonds remain outstanding, and in conformance with the intent and purpose of Section 157.627(5) of the Act, in the event of a failure by the Board of Education to pay the rentals due hereunder, and unless the Kentucky Department of Education has received from the Board of Education satisfactory evidence that sufficient funds have been transmitted to the bank acting as paying agent for the Bonds, or will be so transmitted, for paying said rentals when due, the Board of Education hereby grants to the Kentucky Department of Education the right to withhold from the Board of Education a sufficient portion of any undisbursed funds then held, set aside or allocated to the Board of

Education and to transfer the required amount thereof to such paying agent for the payment of such rentals.

13. Corporation Covenants to Maintain Corporate Existence. The Corporation hereby covenants, in accordance with the Bond Resolution, that so long as any of the Bonds remain outstanding and unpaid, it will not amend its Articles of Incorporation in any manner adversely affecting the security and rights of the owners of the Bonds. The Corporation further covenants that so long as any of the Bonds remain outstanding and unpaid, it will maintain its corporate existence and continue in good standing as a nonstock, nonprofit Kentucky corporation, and file all reports, including the required annual "Certificate of Existence," and comply with all requirements of Kentucky and federal law so as to continue its corporate existence as a constituted authority and agency and instrumentality of the Board of Education.

IN TESTIMONY WHEREOF, the Board of Education has caused this instrument to be executed for and on its behalf by its Chairperson and Secretary, and the Corporation has caused this instrument to be executed for and on its behalf by its President and Secretary, as of the date first above written.

BOARD OF EDUCATION OF  
ELIZABETHTOWN INDEPENDENT  
SCHOOL DISTRICT, KENTUCKY

Attest:

By \_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Secretary

ELIZABETHTOWN INDEPENDENT  
SCHOOL DISTRICT FINANCE  
CORPORATION

Attest:

By \_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

[illegible]

The foregoing instrument was acknowledged before me this January 22, 2013, by Guy Wallace and Gary French, Chairperson and Secretary, respectively, of the Board of Education of Elizabethtown Independent School District, Kentucky.

My Commission expires: \_\_\_\_\_.

Notary Public

(Seal of Notary)

[illegible]

The foregoing instrument was acknowledged before me this January 22, 2013, by Guy Wallace and Gary French, who are the President and the Secretary, respectively, of the Elizabethtown Independent School District Finance Corporation, a Kentucky corporation, on behalf of the Corporation.

My Commission expires: \_\_\_\_\_.

**Notary Public**

(Seal of Notary)

THIS INSTRUMENT WAS PREPARED BY:

Charles S. Musson  
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## **EXHIBIT A**