

CONTRACT OF LEASE AND RENT

This **CONTRACT OF LEASE AND RENT** (this “**Contract**”), is dated as of _____, 2022, by and between the **FAYETTE COUNTY SCHOOL DISTRICT FINANCE CORPORATION** (the “**Corporation**”), a Kentucky nonprofit corporation created pursuant to Sections 162.385, 58.180, and 273.161 through (and including) 273.390 of the Kentucky Revised Statutes and acting as the agency, instrumentality, and constituted authority of the Board of Education of Fayette County, Kentucky, as lessor, and the **BOARD OF EDUCATION OF FAYETTE COUNTY, KENTUCKY** (the “**Board of Education**”), as lessee, both of which have a mailing address of 450 Park Place, Lexington, Fayette County, Kentucky 40511.

WITNESSETH:

WHEREAS, that in order to carry out the duty and authority vested in it by the Constitution and Statutes of the Commonwealth of Kentucky, the Board of Education finds it necessary, desirable, and in the public interest to cause (a) the construction, installation, and equipping of a new middle school located at 2185 Polo Club Boulevard in Lexington, Kentucky, including buildings, additions, structures, fixtures, equipment, furnishings, appurtenances, improvements, and the sites thereof and (b) the acquisition of certain real estate located at 2160 Versailles Road in Lexington, Fayette County, Kentucky for a Rise Girls STEM Academy and Carter G. Woodson Boys Academy (collectively the “**Projects**”); and

WHEREAS, the Board of Education has caused the respective title to the Projects, including the sites, to be conveyed to the Corporation; and pursuant to authority vested in it by the laws of the Commonwealth of Kentucky, including Sections 162.120 through (and including) 162.300 and Section 162.385 of the Kentucky Revised Statutes, the Corporation, by Resolution of its Board of Directors, adopted on October 27, 2022 (the “**Bond Resolution**”), authorized, offered, and competitively sold its School Building Revenue Bonds, Series 2022 in the aggregate principal amount of \$_____,000 (the “**Series 2022 Bonds**”) for the purposes of financing the major portion of the costs of the acquisition, construction, installation, and equipping of the Projects and paying related costs;

NOW, THEREFORE, the Corporation hereby agrees to cause the Projects to be acquired, constructed, renovated, installed, and equipped in accordance with the plans and specifications prepared for the Board of Education and to lease the Projects, including the sites thereof as described in **APPENDIX A** hereto, to the Board of Education, and the Board of Education hereby agrees to lease the Projects from year to year, for one year at a time, for a rental payable from year to year amounting to a sum sufficient to pay the principal and interest requirements of the Series 2022 Bonds as may from time to time be outstanding, together with the cost of maintaining and insuring the Projects, all subject to the following terms and conditions, to which the parties agree:

Section 1. The Board of Education agrees that the Projects, the sites of which are described in APPENDIX A hereto, shall be used and occupied for educational purposes and that the rental for each rental year beginning June 1st (except for the initial rental period which shall begin on the date hereof) and ending on the next succeeding May 31st (the last such rental year ending on May 31, 2047) shall be a sum equal to the sum required to pay the principal and interest coming due on the Series 2022 Bonds on June 1st of such rental year, together the interest coming due on December 1st of such rental year, based upon the interest rate or rates applicable to the Series 2022 Bonds.

All such rentals shall be payable in semiannual installments in accordance with the preceding paragraph on or before June 1 and December 1 of the respective rental years, beginning June 1, 2023, and shall be paid by the Board of Education in immediately available funds.

The Board of Education further agrees to pay as additional rental the appropriate fees and charges of the Paying Agent and Bond Registrar named in the Bond Resolution and any other administrative costs of the Series 2022 Bonds.

As a part of the consideration for the initial rental payments, the Board of Education is hereby given the right to use and to occupy any portions of the Projects as the same are acquired, constructed, installed, and equipped and are available for such use.

Section 2. The Board of Education may terminate this Contract at the expiration of any rental year by giving written notice to the Corporation of its determination to so do ninety days before the June 1st immediately following the end of such rental year, and it is specifically understood and agreed that the obligation of the Board of Education hereunder is an obligation to pay rentals on a year-to-year basis for services rendered as a result of the use and occupancy of the Projects, and that such obligation ceases upon its election to terminate this Contract as herein provided. If, in any year, this Contract is not terminated as herein provided, the obligation to pay rentals shall automatically extend for an additional rental year.

Section 3. If the Board of Education shall pay rentals from year to year as herein provided for said period of years ending May 31, 2047, then upon the completion of such payments the leased premises shall be and become the property of the Board of Education and shall be reconveyed to it or its nominee, subject, however, to the provisions of similar agreements or contracts which may hereafter be entered into between the Board of Education and the Corporation. The consideration of such deed of conveyance shall be the recital of the fulfillment of this Contract.

Section 4. In case the Board of Education exercises its option to terminate this Contract, as hereinabove provided, then this Contract shall become null and void and shall be no longer binding, and all rentals and obligations due and unpaid for the then current rental year

shall forthwith become due and collectible, and the Board of Education shall give immediate possession of the Projects to the Corporation.

Should the Board of Education fail to pay the stipulated rentals due hereunder for the original rental period or during any rental year for which this Contract is renewed, at the times herein stipulated, then this Contract may be immediately terminated by the Corporation, all rentals for which the Board of Education has become committed hereunder shall become due and payable, and all rights for the option to renew this Contract on the part of the Board of Education may be terminated and forfeited to the Corporation.

Notwithstanding the foregoing provisions of this Section 4, the Board of Education shall have a continuing beneficial interest in the Projects and the Projects' site, which continuing beneficial interest is hereby acknowledged and granted and shall survive any such termination of this Contract, consisting of the unqualified right for a ninety-day period following any such termination or default to elect in writing to acquire and receive title to the Projects and the Projects' site when all Series 2022 Bonds and interest obligations thereon have been discharged pursuant to the Bond Resolution, if the Board of Education provides for such discharge before any disposition of the Corporation's interests in the Projects' site; provided that no such disposition may occur within ninety days from any such election.

Section 5. The Board of Education may purchase the Projects and the site thereof and thereby terminate this Contract at any time by giving to the Corporation at least sixty days' advance written notice of its intention so to do and by depositing with the Corporation, on or before the designated purchase date, a sum sufficient to provide for the redemption, defeasance, or retirement of all of the then outstanding Series 2022 Bonds in accordance with the terms of the Bond Resolution, together with a further sum equal to the expenses, if any, which the Corporation and the Paying Agent and Bond Registrar designated in accordance with the Bond Resolution may incur in calling outstanding Series 2022 Bonds for prior redemption and other related expenses. If the Board of Education shall elect to exercise such right to purchase and acquire the Projects and the Projects' site, then in depositing the required funds with the Corporation as aforesaid the Board of Education may take credit for the balance, if any, then held by the Corporation to the credit of the Bondholders; provided, however, that provision shall be made for paying all proper costs, expenses, and charges of the Corporation and the Paying Agent and Bond Registrar designated in accordance with the Bond Resolution. Upon the happening of such event of purchase of the Projects and the Projects' site by the Board of Education, and the issuance by the Corporation of an appropriate certificate evidencing defeasance of all outstanding Series 2022 Bonds, the Corporation shall immediately convey all its right, title, and interest in the Projects and their respective sites to the Board of Education.

The foregoing provisions of this Section 5 are subject to any applicable liens that may hereafter be provided in the issuance of school building revenue bonds for properties constituting the Projects.

Section 6. In case the Projects or any portion thereof are damaged or destroyed by fire, lightning, windstorm, or other hazard covered by insurance, such property shall be restored by the Corporation through application of the proceeds of such insurance, unless such proceeds are applied as permitted in the foregoing Section 5 hereof.

Section 7. It is agreed and understood that so long as the Board of Education continues to lease the Projects it will, at its own expense, maintain, and keep the Projects in good state of repair and will procure and pay the cost of insurance on the Projects against loss by fire, lightning, and windstorm, and the amount of such insurance shall be at all times the full insurable value of the Projects. From and after occupancy of the Projects by the Board of Education and so long as such occupancy continues under the terms of this Contract, the Board of Education shall, on or about June 1st of each year, furnish to the Corporation a report showing the types and amount of insurance coverage procured and maintained with respect to the Projects, 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 Projects, reporting any maintenance and repair work undertaken during the previous year and furnishing evidence that the cost thereof has been paid or properly budgeted by the Board of Education.

Section 8. The rentals herein stipulated and agreed to be paid by the Board of Education to the Corporation represent compensation for the use and occupancy of the Projects, and such rentals are separate from and in addition to any rentals which the Board of Education may hereafter agree to pay to the Corporation for the use and occupancy of any portion of the Projects' sites covered by any subsequent similar contract as provided in Section 9 hereafter.

Section 9. It is contemplated by the parties that the Board of Education may at some time in the future, or from time to time and before the full retirement of the Series 2022 Bonds, find it necessary or desirable that other school buildings and appurtenances be constructed upon one or more of the sites herein described, financed through the issuance of one or more additional series of similar bonds. It is acknowledged that in the Bond Resolution, and in the form of the Series 2022 Bonds, the statutory mortgage lien provided by Section 162.200 of the Kentucky Revised Statutes for the security and protection of the holders of the Series 2022 Bonds shall be restricted in its application to the buildings and appurtenances herein referred to and constituting the Projects, together with so much of the respective sites herein described as may be necessary to provide adequate ingress and egress and the rendering of necessary services to the Projects, with the right expressly reserved to the Corporation, at the request of the Board of Education, to construct and finance in a similar manner upon any unoccupied portions of the sites herein

described other buildings and appurtenances for school purposes notwithstanding said buildings are connected by use of party walls with structures which are subject to the lien securing the Series 2022 Bonds; and provided said additional buildings are (a) capable of use as separate entities; (b) have their own outside entrances; and (c) no part of the costs of said additional structures and appurtenances are paid from the proceeds of the Series 2022 Bonds. The Board of Education agrees that in such event the construction at its request of such additional school buildings and appurtenances upon unoccupied portions of the sites shall not operate to reduce the rentals herein stipulated and the agreement of the Corporation to re-convey the Projects' sites as set forth in this Contract shall be ineffective with regard to any such unoccupied portions of the sites herein described on which additional buildings and appurtenances may hereafter be constructed (together with such portions of the sites as will provide for adequate ingress and egress and the rendering of necessary services to such additional buildings and appurtenances) until payment in full of all bonds at any time issued and outstanding for such additional buildings and appurtenances.

Section 10. The Board of Education and the Corporation each certifies and covenants with the holders of the Series 2022 Bonds that so long as any of the Series 2022 Bonds remain outstanding, each of them adopts and will comply or cause compliance with the tax covenants and representations contained in Section 21 of the Bond Resolution, which provisions are adopted by reference as a part of this Contract.

(Signature Page To Follow)

[SIGNATURE PAGE TO CONTRACT OF LEASE AND RENT]

IN TESTIMONY WHEREOF, the Fayette County School District Finance Corporation, acting by and through its Board of Directors, has caused this Contract of Lease and Rent to be executed for and on its behalf by its President, and the Board of Education of Fayette County, Kentucky, has caused this Contract of Lease and Rent to be executed for and on its behalf by its Chairperson.

**FAYETTE COUNTY SCHOOL DISTRICT
FINANCE CORPORATION**

By: _____
Tyler Murphy
President

**BOARD OF EDUCATION OF FAYETTE
COUNTY, KENTUCKY**

By: _____
Tyler Murphy
Chairperson

COMMONWEALTH OF KENTUCKY)
) SS
COUNTY OF FAYETTE)

The undersigned, a Notary Public in and for the Commonwealth and County identified above, hereby acknowledges that on this day Tyler Murphy, the President of Fayette County School District Finance Corporation, personally known to me, appeared before me and he thereupon acknowledged the execution of the foregoing instrument by him to be his voluntary act and deed as such officer of said Corporation, and the official act and deed of said Corporation by and through him as its duly authorized officer.

My Commission expires: _____

WITNESS my hand this ___ day of _____, 2022.

Notary Public, State at Large

COMMONWEALTH OF KENTUCKY)
) SS
COUNTY OF FAYETTE)

The undersigned, a Notary Public in and for the Commonwealth and County identified above, hereby acknowledges that on this day Tyler Murphy, the Chairperson of the Board of Education of Fayette County, Kentucky, personally known to me, appeared before me and he thereupon acknowledged the execution of the foregoing instrument by him to be his voluntary act and deed as such officer of said Board of Education, and the official act and deed of said Board of Education by and through him as its duly authorized officer.

My Commission expires: _____

WITNESS my hand this ___ day of _____, 2022.

Notary Public, State at Large

This Instrument Prepared by the
Undersigned Attorney at Law of
Stoll Keenon Ogden PLLC
Suite 2100
300 West Vine Street
Lexington, Kentucky 40507-1801
(859) 231-3000

J. David Smith, Jr.

APPENDIX A

Legal Descriptions of the Projects Sites