PARTICIPATION AGREEMENT

BY AND BETWEEN

KENTUCKY SCHOOL FACILITIES CONSTRUCTION COMMISSION

AND

BOARD OF EDUCATION OF ELIZABETHTOWN INDEPENDENT SCHOOL DISTRICT

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Re: Elizabethtown Independent School District Finance Corporation School Building Revenue Bonds, Series 2023.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**PARTICIPATION AGREEMENT**

**THIS PARTICIPATION AGREEMENT** is made and entered into as of December 7, 2023, by the **Kentucky School Facilities Construction Commission**, an independent corporate agency and instrumentality of the Commonwealth of Kentucky (the "Commission"), and the **Board of Education of Elizabethtown Independent School District**, a political subdivision of the Commonwealth of Kentucky (the "Board of Education").

W I T N E S S E T H :

WHEREAS, the Commission has been established pursuant to the provisions of Section 157.611 through 157.640 of the Kentucky Revised Statutes (the "Act"), for the purpose of assisting local school districts in meeting the school construction needs of the State in a manner that will ensure an equitable distribution of funds based upon unmet need;

WHEREAS, pursuant to Section 157.622 of the Act, the Commission, in reliance upon certified statements from the State Department of Education, acting on behalf of the State Board of Education as required under Section 157.622 of the Act, has determined that the Board of Education is entitled to financial assistance from the Commission in meeting the "unmet need" of the Board of Education, as that term is defined in the Act, and has made an Offer of Assistance to the Board of Education to provide financial assistance through the payment of a certain amount of the principal and interest requirements (the "Agreed Participation") of school building revenue bonds issued by the Elizabethtown Independent School District Finance Corporation (the "Corporation"), on behalf of the Board of Education;

WHEREAS, the Commission, based upon the criteria contained in the Act and its Regulations, as hereinafter defined, has determined that the Board of Education has met the requirements of Section 157.620(1) of the Act and that the Board of Education is entitled to an Agreed Participation by the Commission, subject to the terms of this Participation Agreement, to be applied to the payment of principal and interest requirements of school building revenue bonds issued by the Corporation on behalf of the Board of Education pursuant to the provisions of Sections 162.120 through 162.300 and 162.385 of the Kentucky Revised Statutes (the "School Bond Act"), for the purpose of financing the construction and installation of renovations and improvements to the gymnasium seating at Elizabethtown High School (the "Project"), together with the site thereof (the "Project Site");

WHEREAS, pursuant to the provisions of the Act, the Regulations and Resolutions of the Commission promulgated thereunder, and in compliance with the criteria or system for establishing priorities among applicants by the Commission under the Act as certified by the State Department of Education acting on behalf of the State Board of Education relating to the ranking and approval of applications by eligible districts for financial assistance for the construction and/or major renovation of school facilities, the Commission has determined that the Board of Education is entitled to assistance from the Commission for the Project, as identified in the plans and specifications prepared by the Architects for the Board of Education;

WHEREAS, the Board of Education, in order to carry out the duty and authority vested in the Board of Education, desires to maintain adequate school facilities for the district which it serves and has applied under the Act for assistance and has accepted the Commission's Offer of Assistance in financing the Project;

WHEREAS, it is desired that the Corporation, acting on behalf of the Board of Education, authorize, sell, issue and deliver its Elizabethtown Independent School District Finance Corporation School Building Revenue Bonds, Series 2023 (the "Bonds"), pursuant to the provisions of the School Bond Act;

WHEREAS, it is contemplated that the Project will be financed through the proceeds of the Bonds, plus an amount, if any, needed to complete the Project to be provided by the Board of Education; and

WHEREAS, pursuant to the provisions of the Act, the Regulations and Resolutions of the Commission promulgated thereunder, the Commission has duly passed and adopted a resolution approving the Offer of Assistance to the Board of Education and the issuance of the Bonds by the Corporation on behalf of the Board of Education, and the Commission has committed itself to participate in providing part of the costs of the Project through the payment of the Agreed Participation and enters into this Participation Agreement in order to document its participation.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed between the parties hereto as follows:

ARTICLE I

DEFINITIONS

*"Act"* means Sections 157.611 through 157.640 of the Kentucky Revised Statutes.

*"Agreed Participation"* refers to an amount equal to a portion of the annual debt service requirements of the Bonds to be provided by the Commission pursuant to the terms of this Agreement, the actual amount of the Agreed Participation is set forth in the Schedule of Principal and Interest Requirements attached hereto.

*"Agreement"* means this Participation Agreement between the Commission and the Board of Education.

*"Architect"* means the firm of licensed architects employed by the Board of Education for the design and supervision of the construction of the Project.

*"Available Local Revenue"* means the amount required under the Act, as determined by the Department, in order for the Board of Education to qualify as an Eligible District under the Act.

*"Board of Education"* refers to the Board of Education of Elizabethtown Independent School District.

*"Board of Education's Contribution"* means, pursuant to the Act and the Regulations, that part of the "Available Local Revenue" the Board of Education is required to expend for the Project in order to qualify as an "Eligible District", which includes a cash contribution in the amount of $0.

*"Bond Resolution"* means the Bond Resolution passed and adopted by the Board of Directors of the Corporation authorizing the Bonds.

*"Bonds"* means $[Principal amount] aggregate principal amount of Elizabethtown Independent School District Finance Corporation School Building Revenue Bonds, Series 2023, dated the Dated Date, authorized pursuant to the Bond Resolution.

*"Cash Contribution"* means the initial cash contribution provided by the Board of Education deposited in the Construction Account to defray a portion of the costs of the Project.

*"Commission"* means the Kentucky School Facilities Construction Commission, created and established pursuant to Sections 157.611 through 157.640 of the Kentucky Revised Statutes.

*"Commonwealth"* or *"State"* means the Commonwealth of Kentucky.

*"Construction"* means and includes inter alia (a) preliminary planning to determine the feasibility of the Project; the engineering, architectural, legal, physical and economic investigations and studies necessary thereto; and surveys, designs, plans, working drawings, specifications, procedures and other actions necessary for the Project; (b) the erection, building, acquisition, alteration, remodeling, improvement or extension of the Project; (c) the inspection and supervision of the construction of the Project, and all costs incidental to the construction and financing of same; and such terms shall also relate to and mean any other physical devices and appurtenances in connection therewith, or reasonably attendant thereto; and (d) any and all other acts performed in connection with the planning, implementation, acquisition, financing or construction of the Project.

*"Construction Account"* means the "Elizabethtown Independent School District Finance Corporation School Construction Account," established with the Depository Bank under the Bond Resolution.

*"Corporation"* means the Elizabethtown Independent School District Finance Corporation, a nonstock, nonprofit corporation created pursuant to Sections 273.161 through 273.390, Section 58.180 and Section 162.385 of the Kentucky Revised Statutes to act as an agency and instrumentality and constituted authority of the Board of Education.

*"Dated Date"* refers to the date of issuance or such other date as determined by the Corporation to be the dated date of the Bonds.

*"Debt Service Fund"* means the separate and special debt service fund established with the Paying Agent under the Bond Resolution for the purpose of paying the principal of and interest on the Bonds.

*"Department"* means the Kentucky Department of Education, acting on behalf of the Kentucky Board of Education or the Commissioner of Education.

*"Depository Bank"* means Magnolia Bank, Elizabethtown, Kentucky.

*"KRS"* means the Kentucky Revised Statutes, as amended.

*"Lease"* means the Lease Agreement by and between the Corporation and the Board of Education whereunder the Project financed with the proceeds of the Bonds has been leased by the Corporation to the Board of Education and the rental revenues derived thereunder are pledged to the payment of the Bonds.

*"Offer of Assistance"* means the offer submitted to the Board of Education by the Commission pursuant to the Act and the Regulations, indicating the required amount of Available Local Revenue, as certified by the Department; the priority order of facilities to be built, as certified; the Commission's Rate of Participation; and such other terms and conditions as required by the Regulations.

*"Paying Agent"* or *"Registrar"* means U.S. Bank Trust Company, National Association, Louisville, Kentucky, so designated under the Bond Resolution.

*"Percentage Discount"*, as defined under the Act, or "Rate of Participation", as defined under the Regulations, means the total annual amount the Commission has determined the Board of Education is entitled to be applied to the Board of Education's "Unmet Need", as defined in the Act.

*"Project"* refers to the construction and installation of renovations and improvements to the gymnasium seating at Elizabethtown High School.

*"Regulations"* means the Regulations of the Commission has provided in Title 750 of the Kentucky Administrative Regulations.

*"Schedule of Principal and Interest Requirements"* means the schedule attached to this Agreement as Exhibit A, setting forth the total principal and interest requirements for the Bonds and indicating the Commission's Agreed Participation and that part of the Board of Education's Contribution allocated to the Bonds, respectively.

*"School Bond Act"* means Sections 162.120 through 162.300 and 162.385 of the Kentucky Revised Statutes.

ARTICLE II

BOARD OF EDUCATION'S PARTICIPATION IN FINANCING PROJECT

Section 2.01. Acceptance of Commission's Participation by the Board of Education. The Board of Education has, by resolution, accepted the Commission's Offer of Assistance in financing the Project and has, by resolution, authorized the execution of this Agreement and the execution of the Lease. By the execution of this Agreement, the Board of Education certifies to the Commission that the resolution authorizing the Board of Education's participation has been duly adopted in accordance with law.

Section 2.02. Board of Education's Contribution Established. By the acceptance of the Commission's Offer of Assistance and the execution of this Agreement, the Board of Education hereby agrees to pay the Board of Education's Contribution to the Project. In the event the Board is required to make an initial Cash Contribution, the Cash Contribution shall be paid by the Board of Education to the Depository Bank for deposit to the Construction Account and shall be utilized for the Project; provided, however, that if the Board of Education has expended all or part of the Board of Education's Contribution prior to the deposit of the proceeds of the Bonds in the Construction Account, the Board of Education shall receive a credit against the Board of Education's Contribution to the extent the expenditures constituting said advance payments are documented, accepted and approved by the Commission. Notwithstanding anything contained herein or contained in the Regulations to the contrary, for the purposes of this Agreement, the deposit to the Construction Account of the Board of Education's Contribution shall constitute an "expenditure" within the meaning of the Regulations, regardless of whether or not such funds have been actually applied to the Project.

ARTICLE III

BOARD OF EDUCATION'S CONSTRUCTION OF PROJECT

Section 3.01. Commission as Conduit of Board of Education's Funds; Board of Education to Construct Project. The Commission and the Board of Education agree and acknowledge that, pursuant to the Act, the Commission is a conduit to provide financial assistance to the Board of Education. Therefore, in accordance with the Act and the Constitution of the Commonwealth, the Project shall constitute a public project of the Board of Education and of the Corporation acting on the Board of Education's behalf, and shall not be considered a project of the Commission within the meaning of Kentucky law; the legal responsibility for the construction, operation and maintenance of the Project being vested exclusively in the Board of Education. The Commission and the Board of Education acknowledge and agree that the proceeds of the Bonds shall be considered as funds of the Board of Education or of the Corporation acting on the Board of Education's behalf, and the Board of Education, or the Corporation acting on its behalf, shall be solely responsible for the Project.

Section 3.02. Construction Contracts. The Board of Education agrees that prior to the public sale and delivery of the Bonds, it will proceed to award contracts for the Project and will initiate the construction of the Project within a reasonable time following the delivery of the Bonds.

The plans and specifications for the Project shall conform with the requirements of, and shall be subject to, the approval of the Department.

Section 3.03. Board of Education's Obligations Conditioned Upon Delivery of Bonds. All of the obligations of the Board of Education set forth in this Agreement are conditioned upon the successful sale and delivery of the Bonds by the Corporation acting on behalf of the Board of Education.

ARTICLE IV

ISSUANCE OF BONDS

Section 4.01. Board of Education's Covenant to Cause the Corporation to Issue the Bonds. The Board of Education covenants to proceed with the issuance of the Bonds through the Corporation in accordance with the School Bond Act, based upon the Commission's commitment to its Agreed Participation substantially in accordance with the Schedule of Principal and Interest Requirements.

The Bonds for the Project shall be issued in the total principal amount indicated in Article I of this Participation Agreement, shall be scheduled to mature as to principal annually in each of the years set forth in said Schedule of Principal and Interest Requirements, and bear interest from the Dated Date, payable semiannually.

The Bonds shall constitute special obligations of the Corporation in accordance with their terms as set forth in the Bond Resolution and shall be payable from the rental revenues derived by the Corporation from the Board of Education under the Lease. It is understood and agreed to by the parties that the Commission's Agreed Participation shall be assigned and pledged to the Corporation in accordance with the terms hereof, the Bond Resolution, and the Lease; and so long as this Agreement remains in effect, same shall be applied by the Paying Agent in order to meet the principal and interest requirements of the Bonds.

Section 4.02. Establishment of Commission's Agreed Participation. Pursuant to the provisions of the Act, the Regulations and resolution of the Commission, the Commission has determined that the Board of Education is eligible for assistance from the Commission in meeting the costs of Construction of the Project and the Commission has determined that the degree of its participation or the Agreed Participation in financing the Project shall be as set forth in Article I of this Agreement; therefore, the Commission hereby agrees to participate in financing the Project through the semiannual payments of its Agreed Participation.

Notwithstanding anything contained in this Agreement to the contrary, the obligation of the Commission to pay (on behalf of the Board of Education) the Agreed Participation established hereunder shall be limited to the biennial budget period of the Commonwealth and the Commission's obligation to participate to the extent of the contractual amount of said Agreed Participation fixed herein shall be limited to the period terminating on June 30, 2024; provided, however, that in the event the Commission elects not to continue to pay its Agreed Participation herein established, it shall give written notice to the Board of Education and to the original purchaser of the Bonds at least sixty (60) days prior to the expiration of the biennial budget period of the Commonwealth then in effect.

Nothing in this Agreement, nor in the Lease, shall be construed as binding the Commission to participate in the financing of the Project through the payment of the Agreed Participation herein established for any but the first biennial budget period ending June 30, 2024; but the obligation of the Commission to make said payments shall automatically renew itself each two (2) years for a period of two (2) years unless the Commission shall give notice of its intention not to participate and make payments on the Agreed Participation as herein set forth.

The Commission, by execution of this Agreement and adoption of the resolution authorizing execution, hereby expresses its present intention to continue to pay the Agreed Participation in each successive biennial budget period until the retirement of the Bonds, but the execution of this Agreement does not obligate the Commission to do so.

The Commission's participation in financing the costs of the Project through the Agreed Participation shall be effected through semiannual remittances directly to the Paying Agent in immediately available funds in accordance with the attached Schedule of Principal and Interest Requirements on the dates the principal and/or interest requirements are due on the Bonds.

The Commission shall notify the Board of Education in writing at the time each semiannual payment on the Agreed Participation is made.

Section 4.03. Establishment of the Board of Education's Contribution. The Board of Education's Contribution in financing the Project has been determined to be as set forth in Article I of this Agreement; therefore, the Board of Education agrees to participate in financing part of the costs of the Project through the payment of the Board of Education's Contribution in the amount specified. In order to satisfy the Board of Education's share of the debt service on the Bonds, the Board of Education shall make semiannual remittances in immediately available funds directly to the Paying Agent in accordance with the Schedule of Principal and Interest Requirements on or before ten (10) days prior to the dates the principal and/or interest requirements are due on the Bonds.

Section 4.04. Board of Education's Covenant to Complete Project. Notwithstanding anything contained herein to the contrary, the Board of Education covenants with the Commission that, in the event the actual costs of construction exceed estimates and the proceeds of the Bonds deposited in the Construction Account, the Board of Education will complete construction of the Project in accordance with the plans and specifications of its Architects to the satisfaction of the Commission and the Department. The Board of Education agrees and understands that the responsibility for providing additional monies to complete the Project in the event funds in the Construction Account are not sufficient shall be the sole responsibility of the Board of Education.

ARTICLE V

DISBURSEMENT OF BOND PROCEEDS

Section 5.01. Accounts Established. In accordance with the terms of the Bond Resolution, the proceeds received from the sale of the Bonds shall be disbursed in the following order and manner:

A. The amount representing interest accrued on the Bonds from the Dated Date to the date the Bonds are delivered shall be deposited in the Debt Service Fund established under the Bond Resolution and applied to the interest becoming due on the Bonds on the next succeeding interest due date. The Board of Education shall receive a credit against the rentals due under the Lease to the extent of said accrued interest and the Commission shall likewise receive a credit against its Agreed Participation to the extent of said accrued interest.

B. The costs to the Board of Education and the Commission incident to the issuance of the Bonds shall be deducted from the proceeds of the Bonds and paid in accordance with the orders of the Board of Education and Corporation.

C. The proceeds of the Bonds remaining after the required transfer to the Debt Service Fund and the payment of the costs of issuance shall be deposited in the Construction Account and disbursed by the Depository Bank upon the approval of the Board of Education in accordance with the provisions of the Bond Resolution.

Section 5.02. Investment of Construction Account. The Depository Bank, at the direction of the Board of Education, shall invest funds on deposit in the Construction Account in accordance with the provisions of the Bond Resolution.

ARTICLE VI

BOARD OF EDUCATION'S COVENANT TO OPERATE,

MAINTAIN AND INSURE PROJECT

Section 6.01. Covenant to Operate the Project and Pay Rentals. In consideration of the contribution by the Commission of its Agreed Participation to the Project, the Board of Education covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, the Board of Education will (a) operate and maintain the Project in accordance with the requirements of Kentucky law and the Regulations and the Department, (b) continue to pay the rentals due under the Lease for application to the payment of the Bonds, and (c) maintain and insure the Project in accordance with the provisions of the Bond Resolution and as required by this Agreement.

Any other provisions of this Agreement to the contrary notwithstanding, (1) the Board of Education shall be monetarily liable only to the extent of its anticipated revenue during any year in which this Agreement is in effect and during which said obligations of the Board of Education arise, and (2) all obligations of the Board of Education set forth herein are on an annual basis; provided, however, the Board of Education hereby expresses its present intention to fulfill its obligations under this Agreement in accordance with its terms from year to year until the Bonds have been paid in full, plus all interest thereon.

ARTICLE VII

MAINTENANCE AND INSURANCE

Section 7.01. Board of Education's Obligation to Maintain and Insure. It is agreed and understood that so long as the Bonds remain outstanding, the Board of Education will continue at its own expense to maintain and keep the Project in a good state of repair in accordance with the requirements of Kentucky law and the Regulations and the Department and will procure and pay the costs of insurance on all buildings against loss by fire, lightning, windstorm or other hazard covered by a standard fire insurance policy with standard endorsement of "extended coverage"; the amount of such insurance shall be at all times in an amount equal to the full insurable value of the Project buildings, or the amount of Bonds outstanding from time to time, whichever is lesser. From and after the occupancy of the Project (or any part thereof) by the Board of Education and so long as such occupancy continues, the Board of Education shall, on or about July 1 of each year, furnish to the Commission (as well as the Department) a report showing the types and amounts of insurance coverage procured and maintained with respect to such Project.

Section 7.02. Application of Insurance Proceeds. It is further agreed that in case any of the buildings constituting the Project are totally destroyed by any of the hazards covered by insurance, the Board of Education shall have the right to spend such proceeds to restore the Project; that if proceeds of insurance on the Project are not expended by the Board of Education for restoration of such Project at the earliest practical date, then all of such insurance proceeds shall be used for the purpose of redeeming or purchasing outstanding Bonds, all subject to the terms and conditions of the Bond Resolution. In the event of partial destruction by the hazards covered by insurance, it is agreed by the parties hereto that the proceeds of such insurance shall be used solely and only for the purpose of making necessary replacements and repairs to the Project; provided, however, that if following such partial or complete destruction of the Project any principal or interest payment is due on the Bonds and there are not sufficient funds available for such payment, such insurance proceeds shall be applied to prevent a default in payments, all subject to the terms of the Bond Resolution.

ARTICLE VIII

GENERAL COVENANTS OF THE BOARD OF EDUCATION

Section 8.01. Commission May Transfer and Cause Department to Transfer Board of Education's Funds Directly to Paying Agent. The Board of Education agrees that 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 comply with the terms of the Lease, the Bond Resolution or this Agreement, resulting in a failure of payment of the principal of and interest on the Bonds, and unless the Commission has received from the Board of Education satisfactory evidence that sufficient funds have been transmitted to the Paying Agent, or will be so transmitted, for paying debt service requirements and administrative costs on the Bonds when due, the Commission shall have the right to notify and request that the Department 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 request the Department to transfer the required amount thereof to the Paying Agent for the account of the Board of Education.

Under the terms of the Lease, the Corporation has assigned to the Commission its rights to the rentals due thereunder and has delegated to the Commission the authority to collect said rentals on behalf of the Corporation from the Department in the event of a failure by the Board of Education to pay said rentals in a timely manner. The Commission, by the execution of this Agreement, hereby accepts said assignment and delegation and agrees to request said Department to make the required transfers from the Board of Education's undisbursed funds in the event of the Board of Education's delinquency.

Section 8.02. Board of Education to Require Periodic Accounting from Depositories. The Board of Education covenants and agrees that, not less than annually, or more frequently should the Commission request, the Board of Education shall supply the Commission with periodic accountings from all depositories of funds related to the Bonds on such forms as may be prepared or supplied by the Commission or as the Commission otherwise directs.

Section 8.03. Audit of Board of Education. The Board of Education covenants and agrees that so long as any of the Bonds remain outstanding, the Board of Education, not less often than annually, will supply audits, prepared by its Certified Public Accountants, to the Commission, that contain the financial records of the Board of Education relating to the Project and to the Bonds, including but not limited to a summary identification and description of the Bonds. The Board of Education shall file a separate statement or report of the audit with the Commission.

ARTICLE IX

BOARD OF EDUCATION'S OPTION TO PURCHASE PROJECT

Section 9.01. Option to Purchase. It is agreed and understood between the parties that under the Lease, the Board of Education shall have the right, at any time, to purchase from the Corporation and to secure the reconveyance of the Project for a price equal to the principal amount of all Bonds then outstanding, together with a sum equal to the interest due or to become due on said principal amount of Bonds until the retirement thereof, plus all expenses incident to the retirement of said Bonds.

The Board of Education may exercise its option by giving the Commission, as well as the Corporation, at least sixty (60) days written notice prior to the date the purchase price is to be tendered.

In the event the Board of Education exercises its right to purchase the Project, then upon sufficient funds being deposited and earmarked for the retirement of all Bonds then outstanding, the Board of Education's obligation to pay the annual rentals under the Lease shall terminate. In the event the Board of Education exercises its option to purchase under the Lease, the Commission shall have the option to liquidate its Agreed Participation by contributing to the retirement of the Bonds in cash, its pro rata share of (i) the principal amount of Bonds then outstanding, (ii) the interest due or to become due on said principal amount of Bonds until the retirement thereof, and (iii) the redemption premium, if any, on said principal amount. The Commission's pro rata share shall be calculated on an annual basis utilizing the Agreed Participation as the numerator and the total annual debt service as the denominator, as provided in Section 5.02 hereof.

In the event the Commission shall elect not to liquidate its Agreed Participation in conjunction with the Board of Education's exercise of its option to purchase, the Commission shall continue to make all payments due under and in accordance with this Agreement as if provisions had not been made by the Board of Education for the retirement of the Bonds; provided, however, that said payments shall in that event be made directly to the Board of Education.

ARTICLE X

COMMISSION'S RIGHTS REGARDING REFINANCING

Section 10.01. Board of Education's Covenant to Initiate Refinancing. In consideration of the Commission's participation, the Board of Education agrees, in accordance with its rights under the School Bond Act, to initiate and complete a refinancing, refunding or defeasance of the Bonds upon the request of the Commission. Nothing herein contained shall prohibit the Board of Education from initiating a refinancing based upon its own determination, but the terms shall be subject to the approval of the Commission and the Department.

Section 10.02. Savings to Commission Unencumbered. In the event of a refinancing as contemplated by Section 10.01, any reduction in the debt service on the Bonds and corresponding reduction in the Commission's Agreed Participation shall inure to the benefit of the Commission and may be utilized by the Commission in such manner as it shall, in its sole discretion, determine, or as is directed by the General Assembly of the Commonwealth.

ARTICLE XI

BOND RESOLUTION AND LEASE INCORPORATED

Section 11.01. Incorporation of Bond Resolution and Lease. The parties hereto agree that all of the provisions of the Bond Resolution and the Lease are incorporated in this Agreement as if copied in full herein.

ARTICLE XII

CONSENT TO ASSIGNMENT

Section 12.01. Assignment. The Commission understands and agrees that the Board of Education will assign and pledge this Agreement to the Corporation, under the terms of the Lease, as additional security for the Bonds, and by the execution hereof, the Commission hereby consents to such assignment.

ARTICLE XIII

BOARD OF EDUCATION'S RESPONSIBILITY FOR

EXPENSES INCIDENT TO BOND ISSUE

Section 13.01. Responsibility for Expenses. The Board of Education covenants and agrees that all expenses incident to the authorization, issuance and sale of the Bonds shall be solely the responsibility of the Board of Education, including, but not being limited to, the fees and expenses of the Bond Registrar, Paying Agent and Depository Bank, all of which expenses shall be considered as additional rentals under the Lease.

ARTICLE XIV

SEVERABILITY

Section 14.01. Severability. If any section, paragraph or clause of this Agreement shall be held invalid by any court of competent jurisdiction, the invalidity of said section, paragraph or clause shall not affect any of the remaining provisions hereof.

IN TESTIMONY WHEREOF, the Board of Education has, by Resolution duly adopted, caused this instrument to be executed in its name and on its behalf by its Chairperson and Secretary and the Commission has caused this instrument to be executed in its name and on its behalf by its Chairperson and Secretary, all as of the date first above written.

BOARD OF EDUCATION OF ELIZABETHTOWN INDEPENDENT SCHOOL DISTRICT

By\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Chairperson

Attest:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Secretary

KENTUCKY SCHOOL FACILITIES

CONSTRUCTION COMMISSION

By\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Chairperson

Attest:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Secretary

This Instrument was prepared by:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Charles S. Musson

Rubin & Hays

Kentucky Home Trust Building

450 South Third Street

Louisville, Kentucky 40202

(502) 569-7525

EXHIBIT A

SCHEDULE OF PRINCIPAL AND INTEREST REQUIREMENTS