

## LEASE AGREEMENT

**THIS LEASE AGREEMENT** (the "Lease"), made and entered into as of December 21, 2023, by and between the **Board of Education of Hopkins County, Kentucky**, 320 South Seminary Street, Madisonville, Kentucky 42431, party of the first part (hereinafter called the "Board of Education"), and the **Hopkins County School District Finance Corporation**, 320 South Seminary Street, Madisonville, Kentucky 42431, 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 Hopkins County School District;

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;

WHEREAS, the Board of Education 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 2023, dated the date hereof (the "Bonds"), for the purpose of providing funds to finance: (i) the construction and equipping of an addition to Southside Elementary School; (ii) the renovation, improvement and equipping of auxiliary gymnasiums, storm shelters, and support facilities at Madisonville North Hopkins High School and Hopkins County Central High School; and (iii) the acquisition of real property for a new central office (collectively, the "Project") upon properties described in Exhibit A attached hereto (collectively, 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;

WHEREAS, it is contemplated that said Project will be financed through the proceeds of the Bonds in the principal amount of \$\_\_\_\_\_,000 plus an amount sufficient to complete the acquisition of the Project to be provided by the Board of Education;

WHEREAS, the Corporation agrees to cause the Project to be constructed and equipped, as expeditiously as possible, 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, all subject to the following terms and conditions; 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:

**Section 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 rental year basis beginning on November 1 of each year and ending on October 31 of each respective ensuing year (the last such rental year ending on November 1, 2051), except that the initial rental period shall be for a period beginning on the date hereof and ending October 31, 2024, 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 prior to each principal and interest payment date on the Bonds (each an "Interest Payment Date") 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 prior to each Interest Payment 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.

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 acquisition of the Project is completed by 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 debt service 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 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 acquired 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 that are at any time outstanding, or equal to the maximum insurable value of the improvements, whichever is less. Such insurance is to be in a company or companies authorized to do business in the Commonwealth of Kentucky and 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 June 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 that 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.

**Section 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 the Project.

**Section 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 October 31, 2024, 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, the Kentucky Department of Education, and 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.

**Section 4. Conveyance to Board of Education After Retirement of Bonds.** If the Board of Education shall pay the rental above specified, and if, by reason of the application of such rentals to the payment of the principal of and interest on the Bonds, the Bonds shall have been fully paid, redeemed, canceled and retired, 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. The consideration of such deed of conveyance shall be the recital of the fulfillment of this Lease.

**Section 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 the Bond Resolution, of the Bonds outstanding.

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.

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 Project Property.

**Section 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.

**Section 7. Destruction of or Damage to Project.** 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 building or structure; 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 building or structure located on the Project Property; 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.

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

**Section 9. Bond Resolution Provisions.** It is contemplated by the Corporation and the Board of Education, that the Board of Education may at some time in the future, or from time to time and before the full retirement of the Bonds, find it necessary or desirable that other school buildings and appurtenances financed through the issuance of one or more additional series of similar bonds be constructed upon one or more of the sites herein described. It is acknowledged that in the Bond Resolution, the statutory mortgage lien provided by Section 162.200 of the Kentucky Revised Statutes for the security and protection of the owners of the Bonds shall be restricted in its application to the buildings and appurtenances herein referred to and constituting the Project, 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 Project, 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 Bonds.

The Board of Education agrees that in such event that it requests the construction of such additional school buildings and appurtenances upon unoccupied portions of the sites, such requests shall not operate to reduce the rentals herein stipulated and the agreement of the Corporation to re-convey the Project site as set forth in this Lease shall be ineffective with regard to any such unoccupied portions of the site herein described on which additional buildings and appurtenances may hereafter be constructed (together with such portions of the site 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.

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

**Section 10. 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.

**Section 11. 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 Kentucky Revised Statutes, 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.

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IN TESTIMONY WHEREOF, the Board of Education has caused this instrument to be executed for and on its behalf by its Chairperson and Superintendent, 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 HOPKINS  
COUNTY, KENTUCKY

Attest:

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

\_\_\_\_\_  
Superintendent

HOPKINS COUNTY SCHOOL DISTRICT  
FINANCE CORPORATION

Attest:

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

\_\_\_\_\_  
Secretary



**EXHIBIT A**  
**PROJECT PROPERTY SITE**