

SUBLEASE AGREEMENT

BY AND BETWEEN

NORTHERN KENTUCKY PORT AUTHORITY

AND

COUNTY OF KENTON, KENTUCKY

Dated as of [CLOSING DATE]

TABLE OF CONTENTS

(The Table of Contents is not part of the Sublease Agreement,
but for convenience of reference only)

| | |
|--|-----|
| Section 1. Certain Defined Terms and References..... | 1 |
| Section 2. Title; Relationship to Lease..... | 2 |
| Section 3. Sublease of Project..... | 3 |
| Section 4. Rent; Reimbursement..... | 3 |
| Section 5. Term..... | 4 |
| Section 6. Disbursements for Project..... | 4 |
| Section 7. Acceptance of Project..... | 4 |
| Section 8. Actions Relating to Tax Exemption of Interest Components..... | 4 |
| Section 9. Authority and Authorization..... | 5 |
| Section 10. Use; Control; Maintenance; Modification and Insurance..... | 5 |
| Section 11. Inspection; Reports..... | 5 |
| Section 12. Liens and Encumbrances..... | 5 |
| Section 13. Purchase Option; Sale or Transfer of Project..... | 5 |
| Section 14. Assignments..... | 6 |
| Section 15. Events of Default..... | 6 |
| Section 16. Remedies..... | 6 |
| Section 17. Notices..... | 7 |
| Section 18. Headings..... | 7 |
| Section 19. Governing Law..... | 7 |
| Section 20. Delivery of Related Documents..... | 7 |
| Section 21. Entire Agreement; Amendment; Severability..... | 7 |
| Signatures..... | S-1 |
| Exhibit A - Project..... | 8 |
| Exhibit B - Sublease Payments..... | 9 |

SUBLEASE AGREEMENT

This SUBLEASE AGREEMENT (“Sublease”), made and entered into as of [CLOSING DATE] by and between NORTHERN KENTUCKY PORT AUTHORITY, a body politic and corporate, duly organized and existing under and by virtue of the laws and Constitution of the Commonwealth, including particularly Section 65.510, et seq, of the Kentucky Revised Statutes (the “Authority”), and the COUNTY OF KENTON, KENTUCKY (the “County”), a Kentucky county and political subdivision under the laws of the Commonwealth of Kentucky.

WITNESSETH:

WHEREAS, the Authority has authorized the execution and delivery of a Revenue Lease Agreement with the Kentucky Association of Counties Finance Corporation dated as of [CLOSING DATE] (the “Lease”) to provide for the financing of the Project, all as further described in the Lease, all in accordance with the provisions of Sections 65.940 through 65.956, inclusive of the of the Kentucky Revised Statutes (the “Governmental Leasing Act”); and

WHEREAS, the Lease permits the sublease of the Project to the County;

WHEREAS, the fiscal court of the County has determined that the economic and community development that will result from the Project benefits the citizens of the County and serves a public purpose; and

WHEREAS, as provided in Section 65.510, et seq, of the Kentucky Revised Statutes (the “Port Authority Act”), the legislative body of any governmental unit creating a riverport authority thereunder may annually appropriate funds to a port authority or make an annual levy to collect a tax on taxable property situated in the governmental unit for such the purposes set forth in the Port Authority Act; and

WHEREAS, to provide security for the repayment of the Lease, the Authority intends to sublease the Project to the County for rental payments sufficient to make payments under the Lease, when due, in the event Revenues, as defined in the Lease, are not adequate for such purpose; and

WHEREAS, Authority wishes to sublease to the County, and the County wishes to sublease from Authority, such Project, subject to the terms and conditions set forth in this Sublease, the Lease and the Governmental Leasing Act.

NOW THEREFORE, in consideration of the rent to be paid hereunder and the covenants and agreements contained herein, it is agreed by and between the parties as follows:

Section 1. Certain Defined Terms and References . (a) In addition to the terms defined elsewhere in this Sublease, the following terms have the meanings given below unless the context clearly requires otherwise and capitalized words not so defined shall have the meanings given them in the Lease:

“Additional Rentals” means Additional Rentals, as defined in the Lease.

“Base Rentals” means Base Rentals, as defined in the Lease.

“Commonwealth” means the Commonwealth of Kentucky.

“Construction Contract” means the contract or contracts between the Authority and the contractors named therein providing for the construction of all or a portion of the Project

“County Ordinance” means the Ordinance adopted by the County on May 23, 2023.

“Event of Default” means any Event of Default described in Section 14.

“Governmental Leasing Act” means Sections 65.940 through 65.956, inclusive, of the Kentucky Revised Statutes, as the same may be amended from time to time

“Lease” means the Lease Agreement dated as of [CLOSING DATE] by and between the Authority and the Kentucky Association of Counties Finance Corporation.

“Reimbursement Payment” means a payment by the Authority to the County to reimburse the County for a Sublease Payment, which shall be an amount equal to the aggregate of all Sublease Payments made by the County, plus interest accrued thereon at the interest rate used to determine the Lease Rental Payments under the Lease.

“Revenues” means Revenues, as defined in the Lease.

“Sublease” means this Sublease Agreement as the same may be amended or supplemented from time to time.

“Sublease Payments” means the actual payment by the County of Base Rent or Additional Rent hereunder, which payments will be applied by the Authority to Lease Rental Payments under the Lease

“Sublease Term” means the Lease Term, as defined in the Lease, subject to the provisions of Section 4.

“Participant Disbursement Account” means the Participant Disbursement Account established by the Lease.

“Project” means the Project as described in Exhibit A, and any replacements or additions thereto.

“Sinking Fund” means the fund so designated and established in the County Ordinance from which Sublease Payments shall be made.

(b) References to sections or exhibits, unless otherwise indicated, are to sections of or exhibits to this Sublease.

Section 2. Title; Relationship to Lease . Legal title to the Project and all fixtures, appurtenances and other permanent accessories thereto and all interests therein are held by the Authority, subject to County’s rights under this Sublease. The Authority and the County agree that this Sublease or any other appropriate documents may be filed or recorded to evidence the parties’ respective interests in the Project, the Lease and the Sublease.

In order to secure its rights under this Sublease, the County shall be a third party beneficiary to the Lease and the Lease is incorporated into this Sublease in the event County assumes or otherwise undertakes any of the obligations of Authority under the Lease. As third

party beneficiary, the County shall have the rights under the Lease as if it were a party thereto, including, but not limited to, declaring defaults and pursuing all remedies available to Lessor to enforce the terms of the Lease in the event of a default by the Authority as Lessee thereunder, all as provided in Sections 26 and 27 of the Lease.

The Authority's interest in the Project shall terminate upon the County's exercise of the purchase option granted in Section 12 hereof. The County's interest in the Project shall terminate upon the complete payment and performance by the Authority of all of its obligations under the Lease and the payment of all amounts required to be paid by Authority to the County hereunder. The County agrees to execute such instruments and do such things as the Authority reasonably requests and as may be required by law in order to effectuate the termination of the County's right, title and interest in this Sublease. It is hereby acknowledged by the County that the Authority intends to purchase the Project on the terms set forth in the Lease, provided that the County may purchase the Project on the terms set forth in this Sublease.

Section 3. Sublease of Project . The County hereby agrees to lease and rent the Project from the Authority and the Authority hereby lets to the County, the Project, to be used for public purposes, for the Sublease Term, in exchange for the County's obligation to make the Sublease Payments (which constitute the Lease Rental Payment under the Lease), which constitute the (i) Base Rentals hereunder as set forth in Exhibit B and which are Base Rentals under the Lease, and (ii) any Additional Rentals which may become payable hereunder and which are Additional Rentals under the Lease.

The Base Rentals will constitute a full general obligation of the County and, the full faith, credit and revenue of the County are pledged for the repayment of the Base Rentals. During the period the Sublease is in force and effect, there shall be levied on all the taxable property of the County, in addition to all other taxes, without limitation as to rate, a direct tax annually in an amount sufficient to pay the Base Rentals when and as due. As provided in the County Ordinance, the funds derived from said tax levy hereby required or other available taxes shall be placed in the Sinking Fund and, together with interest collected on the same, are irrevocably pledged for the payment of all bonds issued under KRS Chapter 66 and Tax Supported Leases, as defined in KRS Chapter 66, including the Base Rentals, when and as the same fall due for so long as the Lease and Sublease shall remain in effect.

Section 4. Rent; Reimbursement . The payment of Lease Rental Payments under the Lease is intended by the parties hereto to be paid with Revenues. If the Revenues are not sufficient to pay any Lease Rental Payment under the Lease, the County shall pay a Sublease Payment, on the same date and in an amount required for the payment of such Lease Rental Payment. The Sublease Payments during the Sublease Term will be absolute and unconditional in all events and will not be subject to any set-off, defense, counterclaim or recoupment for any reason whatsoever (other than the payment of Reimbursement Payments under the terms of this Sublease).

(a) The Base Rentals specified in Exhibit B shall be used to determine the payment of Base Rent required by this Section and the payment of Base Rentals due on any date shall not exceed the Base Rentals set forth in Exhibit B.

(b) County agrees to pay to the Authority any Additional Rentals, when due, that may become payable under the Lease.

(c) Sublease Payments shall be payable at the principal office of the Trustee in the same manner as provided in the Lease for payment by the Authority.

Authority shall pay Reimbursement Payments to the County when Revenues are available for such payment, it being understood that Reimbursement Payments will only be payable from amounts that are available after the Authority applies Revenues in accordance with the requirements of the Lease; provided that, all amounts permitted to be deposited in the Surplus Account shall be applied by the Authority to Reimbursement Payments.

Section 5. Term . The term of this Sublease will be the Lease Term under the Lease, unless the County exercises the purchase option set forth herein, and this Sublease will terminate at the earlier of the payment of all Sublease Payments and Reimbursement Payments or on a sooner payment of the purchase price for the Project.

Section 6. Disbursements for Project . The County will approve disbursement of amounts deposited in the Participant Disbursement Account in accordance with the requirements of the Lease.

Section 7. Acceptance of Project . Upon any disbursement from the Participant Disbursement Account as provided in Section 5, the County shall be deemed to have certified to the Authority its acceptance of that portion of the Project which is the subject of such disbursement.

Section 8. Actions Relating to Tax Exemption of Interest Components . (a) Authority and County each covenant that it will restrict the use of monies realized under this Sublease or otherwise in connection with the acquisition and financing of the Project in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time of entering into this Sublease, so that there will not exist at any time any obligation in connection with this Sublease or the Project that constitutes an obligation the interest on which is includable in gross income for federal income tax purposes or constitutes an “arbitrage bond” under Section 148 of the Internal Revenue Code of 1986, as amended (the “Code”), and the regulations prescribed under that Section and any subsequent amendments or modifications thereto. Any officer of the Authority or County having responsibility with respect to the execution and delivery of this Sublease shall, alone or in conjunction with any other officer, employee or agent of or consultant to the Authority or County, give an appropriate certificate of the Authority or County pursuant to Sections 103 and 148 of the Code and those regulations, setting forth the reasonable expectations of the Authority or County on the date of entering into this Sublease regarding this Sublease and the use of those monies. County agrees to complete and file or cause to be filed in a timely manner an information reporting return on IRS Form 8038-G with respect to this Sublease as required by the Code.

(b) County represents and covenants that it will not use the Project, or permit the Project to be used, in such a manner as would result in the loss of the exclusion from gross income for federal income tax purposes of the component of the Sublease Payments designated as interest on Exhibit B afforded under Section 103(a) of the Code.

(c) The Authority and County each covenant to take all action required to maintain exclusion from gross income for federal income tax purposes afforded under Section 103(a) of the Code, of the Sublease Payments designated as the Interest Component on Exhibit B hereto.

Section 9. Authority and Authorization. In accordance with the Governmental Leasing Act, the Authority has authorized the execution and delivery of the Lease to finance the costs of the Project. The obligation of the Authority created by the Lease is a legal, valid and binding special and limited obligation of the Authority, secured by a pledge of the Revenues. The Authority covenants to apply the Revenues in accordance with the provisions of the Lease.

County represents, covenants and warrants, and will deliver to Authority an opinion of its counsel to the effect that: (i) the County is a county and political subdivision under the laws of the Commonwealth of Kentucky; (ii) the execution, delivery and performance by the County of this Sublease have been duly authorized by all necessary action on the part of the County; and (iii) this Sublease constitutes a legal, valid and binding obligation of the County enforceable in accordance with its terms. County agrees and warrants that: (i) it will do or cause to be done all things necessary to preserve and keep the Sublease in full force and effect; (ii) it has complied with all requirements applicable to it, and has taken all steps for approval and adoption of this Sublease as a valid obligation on its part; and (iii) sufficient funds will be appropriated to pay all amounts due under this Sublease in accordance with the terms hereof.

Section 10. Use; Control; Maintenance; Modification and Insurance. As set forth above, County is a third party beneficiary to the Lease and, as provided herein, may become obligated to pay Sublease Payments. Upon making any Sublease Payment, County will have the right, but not the obligation, to control the Project and provide for the maintenance and insurance of the Project and to make such modifications to the Project as if were Lessee under the Lease, all subject to the terms of existing Subleases. The rights of the County granted in this Section shall terminate on the date all Sublease Payments are reimbursed to the County, it being understood that terminated rights will be reinstated upon the making of and subsequent Sublease Payment. So long as no Sublease Payments have been made and at any time no Reimbursement Payments are payable, County will not impair the Authority's abilities to operate, maintain or modify the Project or otherwise comply with the provisions of the Lease or any Sublease.

Section 11. Inspection; Reports. County will be entitled to enter upon the Project or elsewhere during reasonable business hours to inspect, or observe the use of the Project. The Authority shall provide account statements to the County on a quarterly basis (July, October, January and March), when available from the related depository, for all funds and accounts maintained in accordance with Exhibit G to the Lease.

Section 12. Liens and Encumbrances. Except for liens and encumbrances to which the County and the Authority consent in writing, the County and the Authority shall keep the Project free and clear of all liens and encumbrances, except those created or permitted under this Sublease.

Section 13. Purchase Option; Sale or Transfer of Project. When any Reimbursement Payments remain outstanding, the County, upon 60 days prior written notice to Authority, shall have the right to purchase the Project by paying to Authority an amount equal to the Optional Prepayment Price plus any accrued and unpaid Asset Management Fees outstanding under the Lease.

Upon any sale or similar transfer of the Project by the Authority to a person other than the County, the Authority shall pay the net sale proceeds to the County, less an amount equal to the Optional Prepayment Price and unpaid Asset Management Fees outstanding under the Lease, as set forth in Section 4E to Exhibit G to the Lease.

Section 14. Assignments . As security for the payment and performance by the Authority of all of its obligations under the Indenture, including particularly the payment of the principal of, premium, if any, and interest on the Bonds, the Lessor (under the Lease) has assigned to the Trustee, under and pursuant to the Indenture, all of the Lessor's right, title and interest in, to and under the Lease, including but not limited to the right to receive the Lease Rental Payments and other amounts due thereunder and, correspondingly, the Authority has assigned and hereby assigns all of the Authority's right, title and interest in, to and under this Sublease, including but not limited to the right to receive the Sublease Payments. The County acknowledges and agrees that this assignment will entitle the Trustee to enforce any obligation of the Authority hereunder and to exercise any remedy or right of the Authority hereunder. The County further acknowledges and agrees that, as provided in the Indenture, the function of the "Lessor" under the Lease and this Sublease may be performed by the Program Administrator (which may be a person or entity other than the Lessor under the Lease) and its agents and representatives.

This Sublease may not be assigned by the County for any reason. The Project may be subleased by the County, as a whole or in part, but only with the prior written consent of the Authority and the Lessor under the Lease.

Section 15. Events of Default . The occurrence of any one or more of the following events constitutes an "Event of Default" under this Sublease:

(a) County's failure to make any Sublease Payment as it becomes due in accordance with the terms of this Sublease;

(b) County's failure to perform or observe any other covenant, condition or agreement to be performed or observed by it under this Sublease or any document delivered by County pursuant to or in connection with this document, and the failure is not cured or steps satisfactory to Authority taken to cure the failure, within 30 days after written notice of the failure to County by Authority; or

(c) The discovery by Authority that any material statement, representation or warranty made by County in this Sublease or in any writing delivered by County pursuant to or in connection with this Sublease is false, misleading or erroneous in any material respect.

Section 16. Remedies . Upon the occurrence of an Event of Default, and as long as the Event of Default is continuing, Authority may, at its option, exercise any one or more of the following remedies as to the Project, to whichever the Event of Default pertains:

(a) By appropriate court action, enforce Section 2 of this Sublease so that during the remaining Sublease Term there is collected with respect to all the taxable property in the County, in addition to all other taxes, without limitation as to rate, a direct tax annually in an amount sufficient to pay the Base Rentals when and as due;

(b) Exercise any other right, remedy or privilege which may be available to it under the applicable laws of the Commonwealth or any other applicable law or proceed by appropriate court action to enforce the terms of this Sublease or to recover damages for the breach of this Sublease or to rescind this Sublease as to any or all of the Project.

To the extent permitted by law, County will remain liable for all covenants and obligations under this Sublease, and for all legal fees and other costs and expenses, including court costs awarded by a court of competent jurisdiction, incurred by Authority with respect to the enforcement of any of the remedies under this Sublease, when a court of competent jurisdiction has finally adjudicated that an Event of Default has occurred and enforced the remedies set forth in this Section; provided that the remedy set forth in clause (a) of this Section shall only be available for an Event of Default described in clause (a) of this Section and any satisfaction of the payment of Base Rentals as a result of actions taken under clause (b) of this Section that is not applied to Additional Rentals shall reduce the amount of the direct annual tax required to be collected under clause (a) of this Section.

Section 17. Notices . All notices to be given under this Sublease shall be made in writing and mailed by certified or registered mail, return receipt requested, to the party at its address stated below or at such other address as the party may provide in writing from time to time. All parties listed below shall be sent a copy of any notice sent to any party pursuant to this Sublease.

If to County: County of Kenton, Kentucky
1840 Simon Kenton Way
Covington, Kentucky 41011
Attention: Judge/Executive

and a copy to the then Attorney for the County

If to Authority: Northern Kentucky Port Authority
300 Buttermilk Pike
Suite 332
Fort Mitchell KY 41017
Attention: Executive Director

Section 18. Headings . All section headings contained in this Sublease are for convenience of reference only and are not intended to define or limit the scope of any provision of this Sublease.

Section 19. Governing Law . This Sublease shall be construed in accordance with and governed by the laws of the Commonwealth.

Section 20. Delivery of Related Documents . County will execute or provide, as requested by Authority, such other documents and information as are reasonably necessary with respect to the transaction contemplated by this Sublease.

Authority and County agree that this Sublease or any other appropriate documents may be filed or recorded to evidence the parties' respective interests in the Project and this Sublease.

Section 21. Entire Agreement; Amendment; Severability . (a) This Sublease, together with attachments and exhibits, and other documents or instruments executed by County and Authority in connection with this Sublease, including but not limited to the Lease, constitute the entire agreement between the parties with respect to the sublease of the Project.

(b) This Sublease may not be modified, amended, altered or changed except with the written consent of County and the Authority.

(c) If any provision of, or any covenant, obligation or agreement contained in this Sublease is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained in this Sublease. The invalidity or unenforceability shall not affect any valid or enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

IN WITNESS WHEREOF, the parties have executed this Sublease Agreement by their authorized officers as of [CLOSING DATE].

COUNTY OF KENTON, KENTUCKY

By: _____
Judge/Executive

ATTEST:

Fiscal Court Clerk

NORTHERN KENTUCKY PORT AUTHORITY

By: _____

Title: _____

EXHIBIT A

PROJECT

An approximately 45,000 square foot multitenant Class A office building, including parking and related improvements, that will serve as a one-stop headquarters for multiple tenants conducting economic development and community and business support activities, to be constructed on the land described as follows:

Group No. 1608A PIDN: 054-14-09-002.00 Consolidated with 054-14-09-003.00 Beginning at an iron pin in the west line of Greenup Street, in the City of Covington, Kentucky, said pin being the northeast corner of Lot No. 88 of the Old Plat of the City of Covington as shown on Plat No. 44 of the Kenton County Clerk's Records at Covington, Kentucky; thence S $11^{\circ}-10'-21''$ E along the west line of Greenup Street 255.96 feet to the northeast right-of-way line of Roebing Way; thence in a northwesterly direction along the northeast line of Roebing Way, as it curves to the left with a radius of 400.00 feet, an arc distance of 71.38 feet to an iron pin, said arc being subtended by a chord bearing N $61^{\circ}-22'-46''$ W 71.29 feet; thence in a northwesterly direction along the northeast line of Roebing Way, as it curves to the right with a radius of 310.00 feet, an arc distance of 91.34 feet to an iron pin, said arc being subtended by a chord bearing N $58^{\circ}-13'-25''$ W 91.01 feet; thence in a northwesterly direction along the northeast line of Roebing Way, as it curves to the right with a radius of 140.00 feet, an arc distance of 45.93 feet to an iron pin, said arc being subtended by a chord bearing N $35^{\circ}-11'-01''$ W 45.73 feet; thence N $11^{\circ}-10'-21''$ W along the east line of Roebing Way 107.00 feet to an iron pin in the north line of said Lot No. 88; thence N $79^{\circ}-00'-39''$ E along the north line of Lot No. 88 of the Old Plat of Covington a distance of 140.00 feet to an iron pin and the place of beginning.

EXHIBIT B

SUBLEASE PAYMENTS