

## **ORDINANCE NO. 226.13**

AN ORDINANCE APPROVING A SUBLEASE BETWEEN THE NORTHERN KENTUCKY PORT AUTHORITY, AS SUBLESSOR, AND THE COUNTY OF KENTON, KENTUCKY, AS SUBLESSEE; CREATING A SINKING FUND; AND AUTHORIZING THE EXECUTION OF VARIOUS DOCUMENTS RELATED TO SUCH SUBLEASE.

WHEREAS, the Northern Kentucky Port Authority (the “Authority”) and the County of Kenton, Kentucky (the “County”) have the power, pursuant to Section 65.940 *et seq.* of the Kentucky Revised Statutes to enter into lease agreements with or without the option to purchase in order to provide for the use of property for public purposes;

WHEREAS, the Authority and the County have determined that financing the acquisition, construction, installation and equipping of an approximately 45,000 square foot multitenant 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 (the “Tenants”), for the benefit of the Authority and the County (the “Project”) furthers a necessary public purpose;

WHEREAS, the Authority and the County have determined that it is in the best interests of the Authority and the County that the Authority and the Kentucky Association of Counties Finance Corporation (the “Lessor”) enter into a Lease Agreement (the “Lease”) in an aggregate principal amount of approximately \$10,000,000 for the financing a portion of the costs of the Project;

WHEREAS, lease rental payments under the Lease are payable solely from amounts received by the Authority pursuant to certain subleases with the Tenants and, under certain circumstances, the Sublease hereinafter referred to; and

WHEREAS, the County has determined and does hereby confirm that in order to provide for the financing of the Project as aforesaid, it is further necessary that the Authority and the County enter into a Sublease Agreement (the “Sublease”), with lease rental payments payable by the County in an amount sufficient to enable the Authority to make lease payments when due under the Lease.

NOW, THEREFORE, BE IT ORDAINED by the Fiscal Court, County of Kenton, Commonwealth of Kentucky, as follows:

Section 1. Recitals and Authorization. The County hereby acknowledges the Lease and approves the Sublease, each in substantially the forms presented to this Fiscal Court. The recitals to this Ordinance are incorporated herein as if set forth in this Section in their entirety and are hereby found and determined to be true and correct. It is further found and determined that the Project identified in the Lease and the Sublease is public property to be used for public purposes, and that it is necessary and desirable and in the best interests of the County to enter into the Sublease for the purposes therein specified, and the execution and delivery of the Sublease and all representations, certifications and other matters contained in the closing memorandum with respect to the Sublease, or as may be required of the County by the Lessor or

the Authority prior to delivery of the Lease and the Sublease, are hereby approved, ratified and confirmed. The Judge/Executive and Fiscal Court Clerk of the County are each hereby authorized to execute the Sublease, together with such other agreements or certifications which may be necessary to accomplish the transactions contemplated by the Lease and the Sublease.

Section 2. General Obligation Pledge. Pursuant to the Constitution of the Commonwealth and Chapter 66 of the Kentucky Revised Statutes, as amended (the “General Obligation Statutes”), the obligation of the County created by the Sublease shall be a full general obligation of the County and, for the prompt payment of the Sublease Payments, the full faith, credit and revenue of the County are hereby pledged. During the period the Sublease is outstanding, there shall be and there hereby is levied on 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 Sublease Payments on the Sublease when and as due, it being hereby found and determined that current tax rates are within all applicable limitations. Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof; provided, however, that in each year to the extent that the other taxes of the County are available for the payment of the Sublease Payments and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the County shall be reduced by the amount of such other taxes so available and appropriated.

There is hereby established, or it is acknowledged that there has heretofore been established, with the County a sinking fund (the “Sinking Fund”). 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 obligations issued under the General Obligation Statutes and all Tax Supported Leases, as defined in the General Obligation Statutes, including the Sublease herein authorized, when and as the same fall due. Amounts shall be transferred from the Sinking Fund to the Lessor at the times and in the amounts required by the Sublease.

Section 3. Severability. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

Section 4. Open Meetings Laws. The County hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this County, and that all deliberations of this County and of its committees, if any, which resulted in formal action, were in meetings open to the public, in full compliance with applicable legal requirements.

Section 5. Conflicts. All Ordinances, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed and the provisions of this Ordinance shall prevail and be given effect.

Section 6. Effective Date. This Ordinance shall take effect immediately upon adoption and publication of a summary thereof, as provided by law.

FIRST READING HELD on May 9, 2023.

DULY ADOPTED AFTER SECOND READING on May 23, 2023.

COUNTY OF KENTON, KENTUCKY

By: \_\_\_\_\_  
Judge/Executive

Attest:

\_\_\_\_\_  
Fiscal Court Clerk

**NOTICE OF ADOPTION OF ORDINANCE**

The County of Kenton, Kentucky Fiscal Court, at a meeting held on May 23, 2023, 2023, adopted the following ordinance:

AN ORDINANCE APPROVING A SUBLEASE BETWEEN THE NORTHERN KENTUCKY PORT AUTHORITY, AS SUBLESSOR, AND THE COUNTY OF KENTON, KENTUCKY, AS SUBLESSEE; CREATING A SINKING FUND; AND AUTHORIZING THE EXECUTION OF VARIOUS DOCUMENTS RELATED TO SUCH SUBLEASE.

It is hereby certified that the foregoing ordinance provides for approval of a sublease with Northern Kentucky Port Authority, as sublessor, for financing certain public improvements and provides a general obligation pledge to assess and levy sufficient taxes to comply with the obligations to make lease payments, establishes and maintains a sinking fund for the deposit and application of tax revenues, and makes certain designations regarding the Sublease.

A complete copy of the ordinance may be reviewed at the office of the County of Kenton, Kentucky at 1840 Simon Kenton Way, Covington, Kentucky 41011.

COUNTY OF KENTON, KENTUCKY

By /s/

\_\_\_\_\_  
Fiscal Court Clerk

**CERTIFICATION**

The undersigned, an attorney licensed to practice law in the Commonwealth of Kentucky, hereby certifies that the foregoing is a true and accurate summary of an Ordinance that has been prepared by an attorney licensed to practice law in the Commonwealth of Kentucky.

\_\_\_\_\_  
LICENSED KENTUCKY ATTORNEY