



Kenton County School District | It's about ALL kids.

Issue Paper

DATE:

4/21/2022

AGENDA ITEM (ACTION ITEM):

Consider / Approve the Lease Extension Agreement between Sanitation District No. 1 and the Kenton County Board of Education for Lease of 1055 Eaton Drive, Fort Wright, Kentucky 41017.

APPLICABLE BOARD POLICY:

01.1 Legal Status of the Board; 04.31 Authority to Encumber and Expend Funds

HISTORY/BACKGROUND:

The District has been leasing office space from Sanitation District No. 1 since March 25, 2004, for use as the Kenton County Board of Education's Central Office. The most recent Lease Extension Agreement was executed on July 1, 2017 and is set to expire on July 1, 2022. It is necessary to enter into another Lease Extension Agreement. This Lease Agreement will expire on July 1, 2027, however it allows for a 6 month prior notice of cancellation clause available to be executed at any time during the duration of the contract.

FISCAL/BUDGETARY IMPACT:

\$183,688.32 during the 2022-2023 Fiscal Year

RECOMMENDATION:

Approve the Lease Extension Agreement between Sanitation District No. 1 and the Kenton County Board of Education for Lease of 1055 Eaton Drive, Fort Wright, Kentucky 41017.

CONTACT PERSON:

Rob Haney, Chief Operations Officer

Principal/Administrator

Rob Haney

District Administrator



Superintendent

Use this form to submit your request to the Superintendent for items to be added to the Board Meeting Agenda

Principal – Complete, print, sign and send to your Director. Director – if approved, sign and put in the Superintendent's mailbox

LEASE

THIS LEASE is made of the 2nd day of May, 2022, by and between **SANITATION DISTRICT NO.1**, whose address is 1045 Eaton Drive, Ft. Wright, Kentucky, 41017 ("LANDLORD") and **KENTON COUNTY BOARD OF EDUCATION**, whose address is 1055 Eaton Drive, Ft. Wright, Kentucky 41017, ("TENANT").

1. **GRANT OF LEASE.** Landlord leases to Tenant, and Tenant leases from Landlord, on the terms and conditions set forth in this Lease, that portion of the building, located at Kenton County, Kentucky ("the Building"), consisting of approximately 15,000 square feet and being shown outlined on Exhibit "A" attached to this Lease and made a part hereof (the "Premises"). In addition, Tenant shall have use of the main board of directors conference room within the Building for Tenant's monthly and any special board of education meetings. Tenant shall also have use of the said main board of directors' conference room on an as needed bases subject to Landlord's priority needs and availability.

It is the intent of the parties that the Computer Training Center within the Building will be available to Tenant for its joint use with Landlord subject to Landlord's priority needs and availability.

The Building is part of the real property owned by Landlord (the "Property"). Landlord additionally grants to Tenant, during the term of this Lease, the right to use, in common with the Landlord, (a) all easements and rights appurtenant to the Property, (b) all portions of the Building (if any) designed for the common use of Landlord and Tenant of the Building, (c) all utility lines, pipes, conduits and other similar facilities on the Property necessary for the use of the Premises, and (d) the parking areas and drives located on the Property designated for Tenant's use. Tenant's use of these common facilities shall be subject to such reasonable rules and regulations as Landlord may adopt from time to time.

2. **TERM.** The term of this Lease (the "Term") shall continue in force from July 1, 2022 (the "Commencement Date") until July 1, 2027. Notwithstanding the aforementioned provision, Landlord and Tenant shall each have the discretion and right to terminate the Lease prior to the end of the term by giving the other party written notice of its election to terminate at least six (6) months prior to the desired date of termination.

"Lease Year" means the one-year period beginning on the Commencement Date and each anniversary of the Commencement Date. Rent and any other sums provided in this Lease for which the Lease Year is a factor shall be adjusted and paid on a pro rata basis for any partial month and full months prior to the first Lease Year.

3. **RENT.** Rent shall commence on July 1, 2022 and be paid in monthly installments on the first day of each month as set forth below:

\$15,307.36 from July 1, 2022 through June 1, 2023
\$15,766.58 from July 1, 2023 through June 1, 2024
\$16,239.58 from July 1, 2024 through June 1, 2025
\$16,726.76 from July 1, 2025 through June 1, 2026
\$17,228.57 from July 1, 2026 through June 1, 2027

All Rent shall be due and payable in equal monthly installments in advance on the first day of each month during the term of this Lease to Landlord at its notice address, or at such other place as Landlord may designate by written notice to Tenant. All Rent shall be paid to Landlord by Tenant without demand, the same being hereby waived by Tenant, and without any set-off, counterclaim, deduction, or recoupment whatsoever.

4. **COMMON AREA MAINTENANCE.** Landlord shall pay all Common Area Expenses. Common Area Expenses shall include, without limitation, all costs and expenses of operating, insuring, replacing, managing and maintaining the Common Areas of the Property.

Landlord shall, at all times, have the exclusive control and management of the Common Areas and shall have the right to establish, modify, and enforce reasonable rules and regulations with respect to the Property including, but not limited to, the Common Areas. Landlord shall have the right to police the same; to change the area, level and location of parking areas and other facilities; to restrict Tenant, its officers, agents and employees to Tenant parking areas, to prohibit non-customer parking; and to do and perform such other acts in and to said areas and improvements as, in the use of good business judgment, Landlord shall determine to be advisable with a view to the improvement of the convenience and use thereof by Tenant, its officers, agents, employees and customers.

5. **USE OF PREMISES.** Tenant will use and occupy the Premises for the operating of offices and for no other use or purpose whatsoever. In connection with its use and occupancy of the Premises, Tenant shall not:

- (a) Install, use, operate or maintain any machinery or equipment or permit any other activity or conduct within the Premises which produces any discernible vibration or a noise level outside the Premises or overloads the floors or any other structural portions of the Premises or the Building: and/or
- (b) Use any part of the roof of the Building for any purpose: and/or
- (c) Treat, manufacture, use, store or dispose of hazardous substances, hazardous wastes, petroleum products or other substances regulated under applicable environmental laws, except that Tenant may use and store any of the foregoing materials to the extent that (i) the materials and quantities to be used, stored and disposed of on the Premises and Tenant's procedures for using, storing and disposing of the same are first approved by Landlord, (ii) Tenant's use of these materials is merely incidental to Tenant's primary business and (iii) the use and storage of the materials on the Premises is not prohibited by applicable laws or regulations: and/or
- (d) Permit the Premises to be used for any purpose that would render void or cause cancellation of any insurance maintained on the

Building by Landlord, or cause and increase in the premiums for such insurance.

6. **COMPLIANCE WITH LAWS.** Tenant shall, at Tenant's sole cost and expense, comply with all present and future laws and regulations applicable to Tenant's use and occupancy of the Premises, and shall make any repairs, modifications or additions to the Premises that may be required by any of those laws or regulations. Tenant agrees to hold Landlord harmless from any claims, damages, losses or liabilities, and any incidental expenses, that may be assessed against or incurred by Landlord in connection with Tenant's noncompliance with any such laws or regulations. Notwithstanding anything to the contrary contained in this Section 7, Tenant shall not be obligated to make, and Landlord shall be solely responsible for, any structural repairs, modifications or additions to the Premises that (a) are not necessitated by negligent or wrongful actions of Tenant or others for whom Tenant is responsible and (b) Landlord would be required to make as owner of the Building regardless of the specific nature of Tenant's use or any hazards associated with Tenant's use.

7. **UTILITIES.** Landlord shall pay all charges against the Premises for water, sanitary sewer, gas, light, heat and electricity. Provided, however, if during the term of this Lease the cost of gas and electricity combined increases by thirty percent (30%) or more over the cost of gas and electricity for the Premises at commencement of this Lease, which for the purpose of this clause is at present \$1,993.00 per month, then there shall be an equitable adjustment to Rent to reflect the higher utilities cost for the Premises.

Tenant shall be responsible for the expenses of its own garbage collection, cleaning and pest control.

8. **PUBLIC LIABILITY AND CASUALTY INSURANCE.**

- 8.1 Public Utility Insurance. Tenant shall procure and maintain public insurance for the Premises with policy limits of not less than Two Million and 00/100 Dollars (\$2,000,000.00) for personal injury or death to one or more persons arising out of any one accident or occurrence, and One Million and 00/100 Dollars (\$1,000,000.00) for property damage. Landlord and any mortgagee shall be named as additional insureds under this policy. The policy shall contain an agreement by the insurer that it will not cancel the policy except after fifteen (15) days prior written notice to the Landlord and Tenant and that any loss otherwise payable shall be payable notwithstanding any act or negligence of Landlord or Tenant that might, absent such agreement, result in a forfeiture of all or part of the insurance payment.
- 8.2 Fire and Casualty Insurance. Landlord shall keep the Building and all other improvements located on the Property insured against loss by fire and shall maintain an extended insurance policy with vandalism and malicious mischief endorsements. Landlord may also obtain such additional coverage as it deems appropriate for the Building, including, but not limited to, boiler and machinery, rent loss, and "all risk of physical loss" insurance and endorsements (collectively "Insurance").
- 8.3 Certificates. At the commencement of the term of this Lease, Tenant shall deliver to Landlord a certificate of insurance required to be maintained under Section 8.1. Tenant shall also deliver to Landlord at least fifteen (15) days prior to the expiration date of such policy (or of any renewal policy), certificates for the renewal of this insurance. Notwithstanding anything to the contrary contained in this Lease, Tenant shall keep all furniture, fixtures, equipment and all other personal property at Tenant's own risk.
- 8.4 Waiver of Subrogation. Landlord and Tenant and all parties claiming under them mutually release and discharge each other from all claims and liabilities arising from or caused by any casualty or hazard insured or required hereunder to be covered

in whole or in part by insurance without regard to whether such loss or damage was occasioned by the negligence of the other, its agents or employees; provide, however, that such release shall apply and be effective if and only so long as any policy or policies of insurance covering, the loss or damage in question shall contain a clause or endorsement substantially to the effect that the above release by the insured therein shall not adversely affect, impair or prejudice the right of the insured to recover from the insurer for such loss or damage. Landlord and Tenant each hereby agree to use their best efforts to cause their respective policies to contain such clause or endorsement.

9. **CONDITION OF PREMISES.** The demised premises are taken by Tenant "AS IS". Except as otherwise agreed to in writing, the taking of possession of the Premises by Tenant shall be conclusive evidence as against Tenant that the Premises were in good order and satisfactory condition when Tenant took possession, except as to latent defects. No promise of Landlord to alter, remodel, repair or improve the Premises or the Building and no representation respecting the condition of the Premises or the Building have been made by Landlord to Tenant, other than as may be contained herein or in a separate agreement signed by Landlord and Tenant.
10. **INDEMNIFICATION.** Tenant shall indemnify and hold Landlord harmless from and against any and all claims, liabilities, damages or losses, and any attorneys' fees and other incidental expenses, resulting from injury or death of any person or damage to property occurring on or about the Premises or arising in conjunction with the use and occupancy of the Premises by Tenant or others claiming under Tenant, unless the death, injury or damage was sustained as a result of the gross negligence or willful misconduct of Landlord or its employees, agents, or contractors. In addition, Tenant shall indemnify and hold Landlord harmless against any claims, liabilities, damages, losses or expenses resulting from the

release of hazardous substances, hazardous wastes or petroleum products on or from the Premises or other violations of applicable environmental laws occurring during the term of this Lease.

11. REPAIRS AND REPLACEMENTS

11.1 Landlord's Repairs. Landlord shall, at Landlord's expense, perform all repairs and make all replacements as are necessary to keep in good order, condition and repair the roof, structural walls, floors, foundations and mechanics, i.e., HVAC, plumbing and electrical.

11.2 Tenant's Repairs. Tenant shall, at Tenant's expense, perform all repairs and maintenance and make all replacements as are necessary to keep in good order, condition and repair, all portions of the interior of the Premises including, but not limited to, interior walls, floor coverings, carpeting, finished ceilings, light fixtures, doors and equipment serving only Tenant's space subject, however, to ordinary wear and tear. Tenant further agrees that it will not cause or permit any waste or damage to the Premises, nor allow the accumulation of boxes, barrels, packages, wastepaper or other trash. In addition, Tenant shall, at Tenant's expense, repair, replace or restore all damage to the Premises or the Building cause by the negligent acts or omissions of Tenant or its agents, contractors, employees or invitees, or by a breach by Tenant of its obligations under this Lease.

12. **IMPROVEMENTS BY TENANT.** Tenant shall have the right to make such nonstructural alterations, additions or improvements within the Premises as it considers necessary or desirable for the conduct of its business, provided that (a) all work shall be done in a good and workmanlike manner and in accordance with all applicable laws and regulations and the other provisions of this Lease; (b) the structural integrity of the Building shall not be impaired; (c) Tenant shall submit to

Landlord for Landlord's review and approval, complete plans and specifications for any alterations, additions or improvements to the Premises; (d) Tenant shall first obtain landlord's advance written consent to make the alterations, additions, or improvements including, but not limited to, Landlord's approval of the plans and specifications; (e) Tenant shall not permit any liens to attach to the Premises; and (f) Tenant shall not unreasonably interfere with the use of the Building by Landlord or other tenants. Upon the termination of this Lease, any alterations, additions or improvements made by Tenant shall become the property of Landlord, or if landlord requests, the same shall be removed by Tenant at Tenant's sole cost and expense, without damage to the Premise, and Tenant shall restore the Premises to as near its original condition as possible, except for normal wear and tear since the last repair or replacement required by this Lease.

13. **DAMAGE AND DESTRUCTION.** If, during the term of this Lease the Premises are so damaged by fire or other casualty as to be rendered uninhabitable in whole or in substantial part, the either Landlord or Tenant may terminate this Lease effective the date of such casualty. In addition, if the Building is destroyed in whole or in substantial part by casualty (regardless of the extent of the damage to the Premises), or if the insurance proceeds are insufficient to repair the damage to the Building or Landlord's mortgagee elects to apply any of the proceeds to the mortgage debt, Landlord may terminate this Lease effective the date of such casualty. These elections by Landlord or Tenant shall be made within thirty (30) days after the occurrence of the casualty or shall be deemed waived. If this Lease is not so terminated, either because the damage does not render the Premises uninhabitable, either in whole or in substantial part, or because neither Landlord nor Tenant elects to terminate this Lease pursuant to the preceding provisions, then Landlord shall with all due diligence, repair and restore the Premises to substantially their original condition (notwithstanding any alterations or improvements made by Tenant) by not later than one hundred eighty (180) days after the occurrence of the casualty, or within such longer

period as may be permitted due to any Excusable Delay (as defined below). The Rent shall be abated in proportion to the uninhabitable space until the Premises are restored, but if the Premises are not so restored within one hundred eighty (180) after the occurrence of such casualty, (or within any extended period due to Excusable Delays), Tenant may terminate this Lease by giving Landlord written notice. If this Lease is terminated by Tenant or Landlord pursuant to Section 15, Landlord shall refund any Rent prepaid beyond the effective date of termination. The term "Excusable Delay" shall mean any causes beyond Landlord's reasonable control including, but not limited to, labor disputes, fire or other casualty, unusual delay in transportation, adverse weather conditions or unavailability of labor, materials and equipment.

14. **CONDEMNATION.** If, during the term of this Lease, the Premises or any part of the Premises is taken by eminent domain or sold under threat of taking, by eminent domain, and the loss of that part of the Premises so taken or sold substantially interferes with Tenant's use of the Premises, then Tenant may terminate this Lease by giving Landlord written notice. This termination shall be effective as of the date of the occurrence of the taking or sale. Landlord shall also have the right to terminate this Lease if all or any substantial part of the Premises, Building or Property is taken or condemned or sold under threat of taking. The rights of termination of Landlord and Tenant under the preceding sentences shall be exercised within a reasonable time after notice of the taking, but in no event later than the effective date of the taking or sale. If the Premises are taken in whole or in part but this Lease is not terminated by a party exercising its rights under the preceding provisions, Landlord shall promptly restore any damage to the Premises to the extent reasonably possible and the Rent for the Premises shall be proportionately adjusted commencing on the date when possession of the part so taken or sold is surrendered by Tenant. If this Lease is terminated pursuant to this Section, Landlord shall refund to Tenant any Rent prepaid beyond the effective date of termination.

In the event of any taking or sale of the kind described in the preceding paragraph, Tenant irrevocably assigns to Landlord any award, compensation or payment to which Tenant may become entitled by reason of Tenant's interest in this Lease, the Premises or any leasehold improvements. Nothing in this Lease shall impair Tenant's right to any award or payment on account of Tenant's trade fixtures, or moving expenses, if available, to the extent Tenant has a right to initiate a claim against the entity having the power of eminent domain, but in no event shall any such claim be based on the value of Tenant's leasehold interest or reduce the award otherwise payable to Landlord.

15. DEFAULT.

15.1 Tenant's Default. Tenant shall be in default of this lease if (a) Tenant fails to pay the Rent and any other amount required to be paid by Tenant within ten (10) days after the same becomes due and payable under the terms of this Lease; (b) Tenant fails to perform any other duty or obligation imposed by this Lease and the default continues for a period of thirty (30) days after written notice is given to Tenant by Landlord, or for an unreasonable period of time if thirty (30) days is not sufficient time to repair, remedy or correct such default; (c) Tenant is declared insolvent or adjudicated bankrupt, or makes a general assignment for the benefit of its creditors; (d) a receiver of any property of Tenant in or upon the Premises is appointed in any action, suit or proceeding by or against Tenant; (e) any action or proceeding under the National Bankruptcy Act is filed by or against Tenant, and such appointment, suit, action or proceeding is not dismissed within sixty (60) days; or (f) the interest of Tenant in the Premises is sold under execution or other legal process.

15.2 Remedies. In the event of Tenant's default, Landlord shall have the right to enter upon the Premises and repossess and enjoy

the same as if this lease had not been made. This Lease shall then terminate at Landlord's option. Whether or not Landlord elects to terminate this Lease, Landlord may immediately recover from Tenant, and Tenant shall be liable to Landlord for all Rent due and unpaid up to the time of such reentry, and the then present worth of all Rents reserved for the balance by the term, together with all additional sums to which Landlord may be entitled under applicable law. Tenant's obligation to pay Rent shall survive any termination of this lease due to Tenant's default. Upon demand by Landlord, Tenant shall surrender complete and peaceable possession of the Premises and/or Landlord may, without waiving or postponing any other rights given it by law, in equity, by statute, or otherwise provided for in this Lease, relet the Premises on such terms as it deems best, and apply the proceeds, less all expenses of reletting, to payment of past due Rent and the Rent due for the balance of the term and hold Tenant liable for the difference. The expenses of reletting shall include, but are not limited to, reasonable attorneys' fees actually paid in recovering and reletting the Premises; the cost of all repairs, additions and improvements necessary to prepare the Premises for reletting; and all brokerage commissions and fees paid with respect to any reletting. These remedies shall not be deemed exclusive, and Landlord shall have all other rights and remedies provided by law, in equity and/or by statute.

- 15.3 Right to Cure. Without limiting any other remedy available to Landlord by reason of Tenant's default, in the event Tenant defaults in the performance of any of its obligations, landlord may, at its option (but without any obligation to do so), do all things as it deems necessary and appropriate to cure the default, perform for Tenant any obligation which Tenant is obligated to perform but has not performed, and expend such sums as may be reasonably required. All costs and expenses so incurred by Landlord, whether taken from Tenant's security deposit or otherwise, shall be due and payable to Landlord immediately

upon demand, together with interest thereon at a rate equal to the lessor of twelve percent (12%) per annum or the then highest lawful rate, from the date that the costs and expenses were incurred until the same are paid to the Landlord.

16. **ASSIGNMENT AND SUBLETTING.** Tenant shall not (a) assign, convey, mortgage, pledge, encumber or otherwise transfer (whether voluntarily or otherwise) this lease or any interest under it; (b) allow any transfer thereof by operation of law; (c) sublet the Premises or any part thereof, or (d) permit the use or occupancy of the Premises or any part thereof by anyone other than Tenant without the written prior consent of Landlord, which consent shall not be unreasonably withheld or delayed. Tenant may request Landlord to consent to a proposed assignment or sublease of the Premises but shall provide written notice to Landlord not less than forty-five (45) days prior to the date of commencement of the proposed assignment or subletting and such assignment or subletting shall not be effective without the prior written consent and approval of landlord. Landlord shall have the option, however, upon receipt of Tenant's written request for Landlord's consent to any assignment or subletting, in addition to denying such request, to cancel this Lease as to the portion of the Premises proposed to be assigned or sublet. This option shall be exercised if at all, within thirty (30) days following Landlord's receipt of Tenant's written request, by delivery to Tenant of Landlord's intention to exercise the option.

If any assignment or sublease occurs, Tenant shall remain fully liable and, in the case of an assignment, the assignee shall assume the obligations of the Tenant under this lease in writing without releasing Tenant for the balance of the Term. Landlord shall not be deemed to have unreasonably withheld its consent if, in the judgment of Landlord, the transferee, sublessee or assignee is of a character or engaged in a business which is not in keeping with the standards or criteria used by Landlord in leasing the Property and/or the financial condition of the transferee, sublessee or assignee is such that it may not be able to perform its obligations in

connection with this Lease and/or the transferee, sublessee or assignee is a tenant of or negotiating for space in the Property and/or the transferee, sublessee or assignee is a governmental unit and/or Tenant is in default under this Lease and/or in the judgment of Landlord, such sale, transfer, assignment or sublease would violate any term, condition, covenant, or agreement of Landlord involving the Property or any other tenant's lease within it and/or any other basis which Landlord reasonably deems appropriate.

No assignment of this Lease or subletting of the Premises shall be deemed to release Tenant from any of its obligations under this Lease, or shall any assignment or subletting be construed as permitting any further assignment or subletting except in accordance with this Section 18.

17. **ESTOPPEL CERTIFICATE.** Within ten (10) days after any request by Landlord, Tenant shall execute an estoppel certificate to evidence the existence or nonexistence of any default under this Lease by Landlord or Tenant, any amendments to this Lease or prepayments of rentals, and such other facts with respect to this Lease as Landlord or any mortgagee may reasonably require.
18. **SUBORDINATION AND ATTORNMENT.** This Lease and all of Tenant's rights under this Lease are subject and subordinate to all mortgages placed on or affecting the Premises and/or the Property and all renewals, modifications, consolidations, replacements, substitutions, additions and extensions of any of those mortgage and any other mortgages now or in the future affecting the Premises and/or the Property (collectively "Mortgages"). In confirmation of this subordination, Tenant promptly shall execute and deliver any subordination agreement that Landlord may request. In the event any proceedings are brought for the foreclosure of any Mortgage, Tenant shall, upon request, attorn to the purchaser or transferee upon foreclosure, and recognize the purchaser or transferee as the Landlord under this Lease to the same extent and effect as the original Landlord. Tenant agrees to execute and deliver upon the request

of Landlord, or any purchase or transferee, any instrument necessary or desirable to evidence this attornment. Tenant waives any right that it may have by law to terminate this Lease or to surrender possession of the Premises by reason of any foreclosure proceeding.

19. **LIABILITY OF THE LANDLORD.** The recourse of Tenant and/or its successors, assigns and/or subleasees against Landlord shall extend only to Landlord's interest in the real estate of which the Premises demised hereunder are a part. If Landlord fails to perform any of its obligations under this Lease beyond any applicable cure period, and, as a consequence of such default, Tenant recovers a money judgment against Landlord, that judgment may be satisfied only out of the proceeds of sale received upon execution of the judgment against the right, title and interest of Landlord in the Property, and neither Landlord nor any of the directors, officers, agents, representatives, or employees of Landlord shall be liable for any deficiency. Tenant shall have no right to levy its execution against any real or personal property of Landlord other than Landlord's interest in the Property. In the event of the sale or other transfer of Landlord's interest in the Property, Landlord shall be released from all liability and obligations arising under this Lease.

20. **LIABILITY FOR DAMAGE.** Landlord shall not be liable for any damage to any property of Tenant or others, or injury to persons within the Premises for any reason whatsoever including, but not limited to, resulting from (a) the electrical, heating, plumbing, sewer, or other mechanical systems of the Premises or Building, (b) water, snow or ice being upon or coming through the roof, walls, floors, windows or doors of the Premises or the Building, (c) the acts or negligence of co-tenants or other occupants of the Building, or (d) any or willful misconduct of Landlord.

21. **ENVIRONMENTAL MATTERS.** To the actual knowledge of Landlord and without further inquiry by Landlord, as of the date of execution of this Lease, there exists no hazardous substances or hazardous waste on the

Property. In the event during this Lease term, hazardous substances or hazardous wastes are discovered on the Property and remediation of such hazardous substances or hazardous waste is required by a government or regulatory authority having jurisdiction over the Property and, as a result of such remediation, Tenant is forced to close its business in the Premises for any period of time, during such period of closure Tenant shall be entitled to an abatement of rent as its sole and exclusive remedy. Notwithstanding anything to the contrary contained herein, Tenant covenants and warrants that neither Tenant, nor any of Tenant's agents, employees, visitors, licensees or invitees shall use, store, dispose or otherwise handle any hazardous substances, hazardous wastes or other dangerous, toxic or flammable materials, as those terms are or may be defined in applicable environmental laws in, at, or on the Premises or the Property.

22. **LIENS.** If (a) because of an act or omission of Tenant or anyone claiming through or under Tenant, and/or (b) by reason or arising out of the use or occupancy of the Premises by Tenant, and/or (c) by reason of any construction, alteration, repair or restoration of any part of the Premises by Tenant, any mechanic's or other lien, encumbrance, judgment lien or order for the payment of money or the performance of any act or thing, shall be filed against the Premises (including, for this purpose, any such filing against the land or building or Property of which the Premises forms a part), or against Landlord (whether or not such lien or order is valid or enforceable as such), Tenant shall, at Tenant's cost and expense, cause the same to be cancelled and discharged of record within thirty (30) days after the date of filing thereof, and Tenant shall also indemnify and save harmless Landlord from and against any and all costs, expenses, claims, losses or damages including, but not limited to, reasonable attorney's fees charged by counsel of Landlord's choice, resulting therefrom or by reason thereof. In the event that Tenant decides to contest a mechanic's lien, Tenant may discharge the lien by bonding or posting other security pursuant to applicable Kentucky statutory authority.

23. **SIGNS.** Tenant shall have the right to install and operate, at Tenant's own cost and expense, any sign or signs on the Premises as Tenant deems necessary for the operation of its business facility, provided such signs shall be approved in writing by Landlord as to location and design prior to installation. No permanent or temporary signs shall be used by Tenant without the Landlord's prior written consent, which consent shall not be unreasonably withheld. If Landlord elects to consent to any signage, such consent may be conditioned on, among other things, the appearance of the Property as determined by the Landlord. Tenant further agrees that any sign or signs allowed by Landlord hereunder shall be in compliance with any and all applicable zoning codes, rules and regulations. All such signs shall be removed by Tenant at the termination of this Lease if so requested by Landlord, and Tenant shall restore the Premises to its previous condition. One monument style sign will be furnished

24. **CERTAIN RIGHTS RESERVED TO THE LANDLORD.** In addition to all of Landlord's rights available at law or otherwise, Landlord specifically reserves the following:

- (a) The right to rename the Building or Property and to change the name or street address of the Building.
- (b) The right to install and maintain a sign or signs on the exterior or interior of the Building.
- (c) The right to constantly have pass keys to the Premises.
- (d) The right to, at any time in the event of an emergency and otherwise at reasonable times, enter the Premises and to take any and all measures including, but not limited to, inspections, repairs, alterations, additions and improvements to the Premises or to the Building, as may be necessary or desirable for the safety, protection or preservation of the Premises or the Building or Landlord's interests, or as may be necessary or desirable in the operation or improvement of the Building or in order to comply with all laws, orders and requirement of

the Building or in order to comply with all laws, orders and requirements of any governmental or other authority and/or show the Premises to persons interested in purchasing or leasing the same. There shall be no allowance to Tenant or diminution of Rent and no liability on the part of Landlord by reason of inconvenience, annoyance or injury to or loss of business arising from the reasonable making of any repairs, alterations, improvements or installations in or to any portion of the Building, the Premises or the Property, or in and to the fixtures, appurtenances and equipment thereof.

25. **QUIET ENJOYMENT.** Landlord covenants that it has the full right and authority to make this Lease and that if Tenant pays the rent and performs all of the terms of this Lease, Tenant shall peaceably and quietly enjoy and possess the Premises throughout the term, subject only to the conditions set forth in the Lease.
26. **SUCCESSORS AND ASSIGNS.** The conditions, covenants and agreements in this Lease to be kept and performed by Landlord and Tenant shall bind and inure to the benefit of their respective heirs, personal representatives, successors and assigns.
27. **NO WAIVER.** No waiver of any condition or covenant of this Lease by either party shall be deemed to imply or constitute a further waiver of the same or any other condition or covenant, and nothing contained in this Lease shall be construed to be a waiver on the part of Landlord of any right or remedy in law or otherwise.
28. **HOLDING OVER.** Any holding over beyond the expiration of the term of this Lease shall be construed to be a tenancy from month to month at one hundred fifty percent (150%) of the Rent that was paid during the last month of the Lease term, and shall otherwise be on the same terms and conditions as provided in this Lease. Tenant shall pay Landlord for all damages, consequential as well as direct, sustained by reason of Tenant's retention of possession. The provisions of this Section do not exclude Landlord's right of re-entry or any other right hereunder. No such holding

over shall be deemed to constitute a renewal or extension of the term thereof.

29. **BROKERS.** Landlord and Tenant agree that no brokerage commission or similar compensation is due in connection with this transaction. Each party agrees to indemnify the other against all claims for brokerage commissions or other compensation for services rendered at its instance in connection with this transaction.

30. **SURRENDER.** Upon the expiration or earlier termination of this Lease, Tenant shall surrender to Landlord the Premises in good condition and repair, ordinary wear and tear since the last repair required by this Lease, fire and other casualty or governmental takings excepted.

31. **SEVERABILITY.** If any provision of this Lease or its applications to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of the Lease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected, and each provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

32. **NOTICES.** All notices to be given to either party shall be deemed given if made in writing and deposited in the United States certified mail, postage prepaid, return receipt requested, and addressed to the parties at the following addresses or hand delivery with written receipt given by addressee.

If to Landlord: Sanitation District No. 1

1045 Eaton Drive

Ft. Wright, Kentucky 41017

If to Tenant: Kenton County Board of Education

1055 Eaton Drive

Ft. Wright, Kentucky 41017

Either party may change its notice address by giving notice to the other in the foregoing manner.

33. **FORCE MAJEURE.** In the event either party shall be delayed or hindered in or prevented from the performance of any obligation required under this Lease for any reason whatsoever including, but not limited to, by reason of strikes, lockouts, inability to procure labor or materials, failure of power, fire or other casualty, acts of God, restrictive governmental laws or regulations, riots, insurrection, terrorism, or war, the then the performance of such obligation shall be extended by the length of the delay caused by the *force majeure*, provided that within fifteen (15) days of the commencement of the cause of delay the party unable to perform notified the other party of the delay.
34. **DELAY OF POSSESSION.** In the event Landlord is unable to tender possession of the Premises for any reason whatsoever including, but not limited to, because of the unauthorized holding over of any tenant or tenants or due to delays in construction, as long as such inability continues, a per diem abatement of the Rent shall be allowed to Tenant but nothing shall operate to extend the term of this Lease, beyond the original expiration date and said abatement of Rent shall be the total limit of liability of Landlord to Tenant for any losses or damages incurred by Tenant due or related to such delay in obtaining possession of the Premises.
35. **ACCORD AND SATISFACTION.** No payment by Tenant or receipt by Tenant of a lesser amount than any installment of payment of Rent or other amounts due shall be deemed to be other than on account of the amount due, and no endorsement or statement on any check or any letter accompanying any check or payment shall be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's rights to recover the balance of such installment or payment or pursue any other remedies available to Landlord under this Lease and/or at law, in equity, or by statute.
36. **SURVIVAL.** Each and every covenant, agreement and obligation of Tenant hereunder shall survive the expiration or termination of this Lease

until such covenant, agreement or obligation has been fully performed by Tenant.

37. **ENTIRE AGREEMENT.** This Lease contains the entire agreement between the parties and supersedes all prior understandings. No amendment to this Lease shall be valid unless in writing and executed by the party against whom enforcement of the amendment is sought.

38. **GOVERNING LAW.** This Lease shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky.

39. **CAPTIONS.** The captions of this Lease are for convenience of reference only and shall not be considered in the construction of any provisions of his Lease.

40. **EXHIBIT.** Exhibit A is attached hereto and made a part thereof.

SIGNED as of the date first written above.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease on the day and year indicated by their respective signature thereto.

SANITATION DISTRICT NO. 1 (LANDLORD)

BY: _____

WITNESS:

PRINT NAME: _____

TITLE: _____

DATE SIGNED: _____

KENTON COUNTY BOARD OF EDUCATION (TENANT)

BY: _____

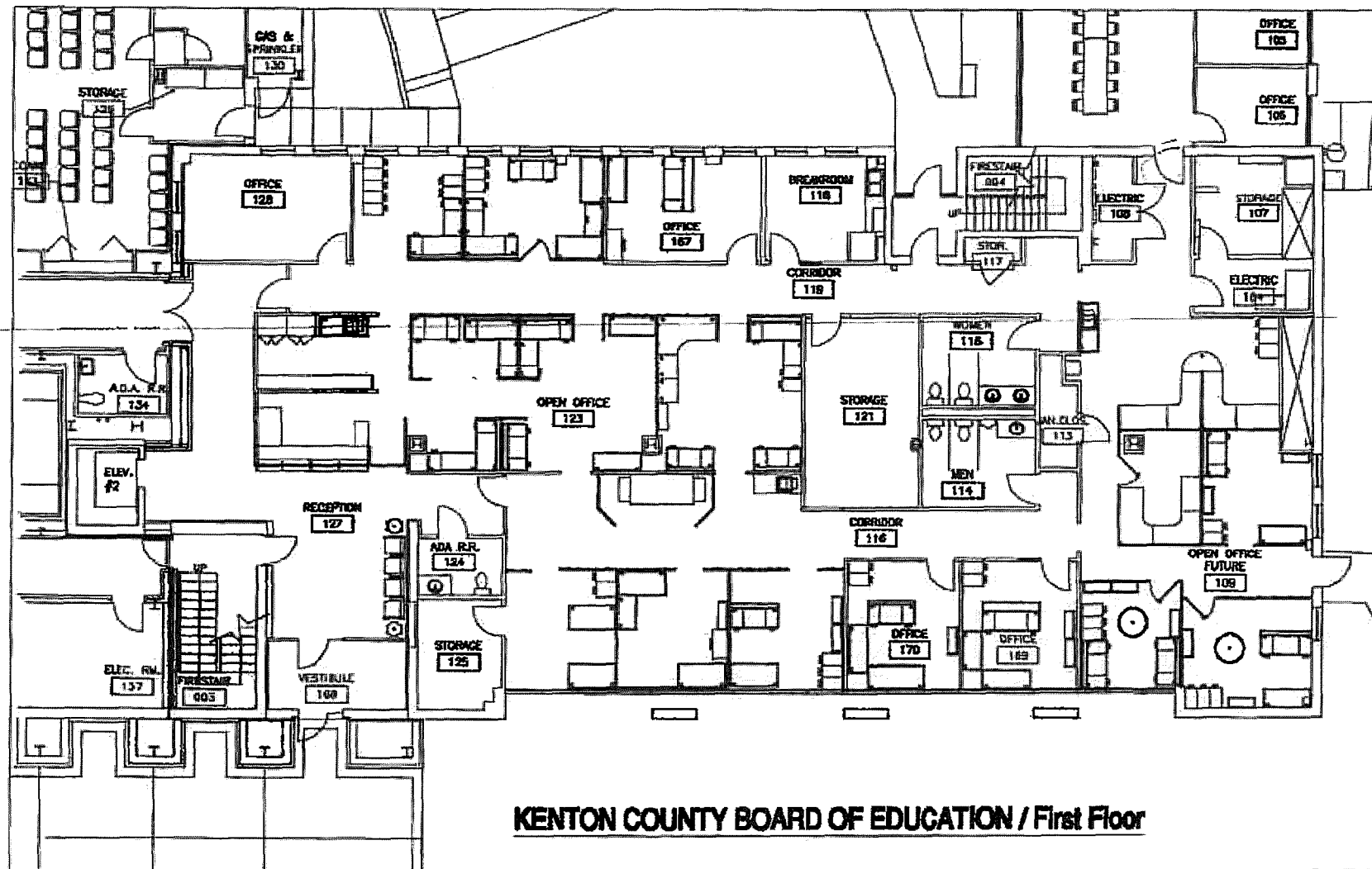
WITNESS:

PRINT NAME: Carl Wicklund

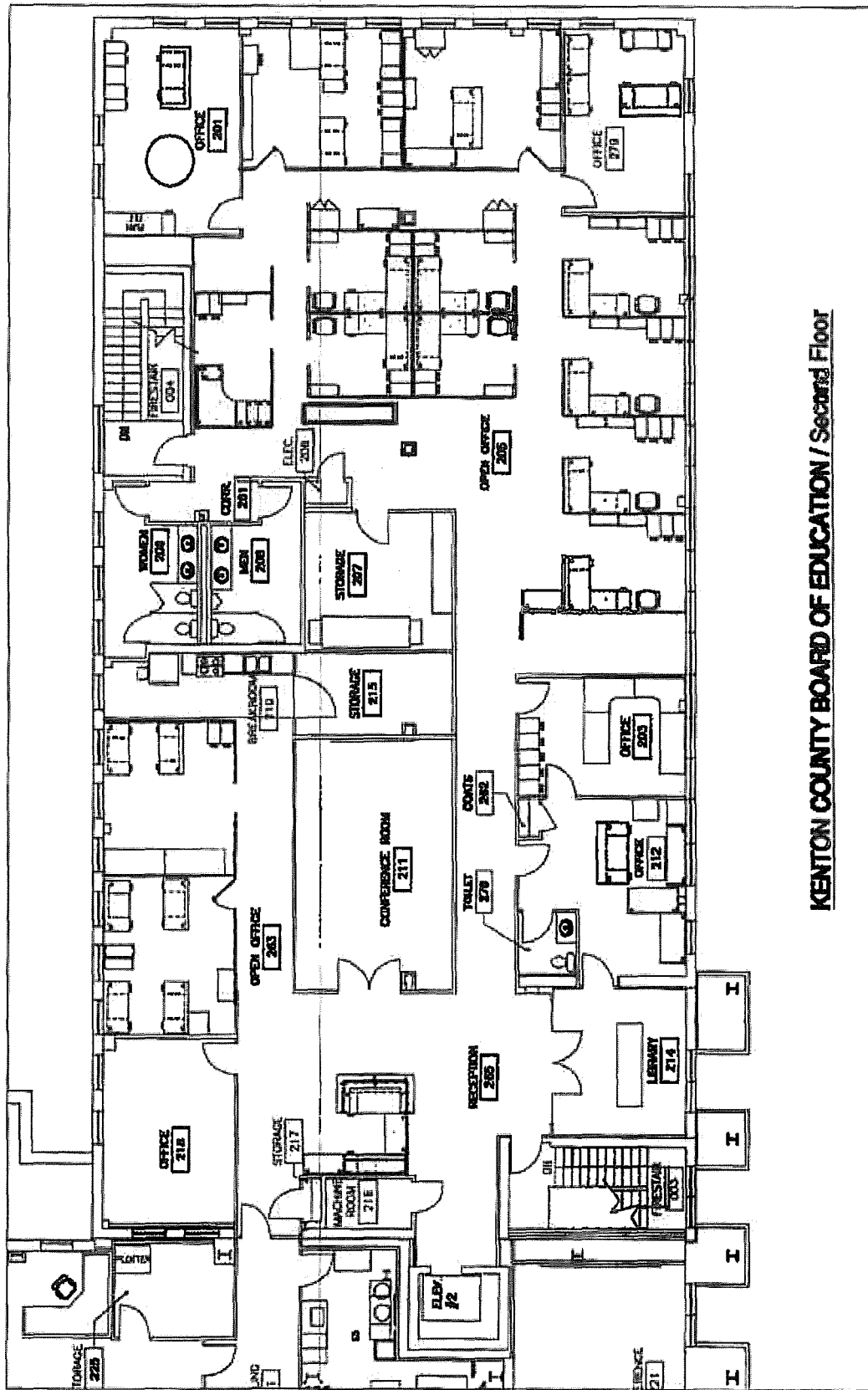
TITLE: Chairman

DATE SIGNED: _____

EXHIBIT "A"



KENTON COUNTY BOARD OF EDUCATION / First Floor



KENTON COUNTY BOARD OF EDUCATION / Second Floor