

HOME OFFICE PAYMENTS AGREEMENT

THIS HOME OFFICE PAYMENTS AGREEMENT (the “Agreement”), made and entered into as of the [1st day of June, 2022], among U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as trustee (the “Trustee”), the LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (the “Issuer”), BOYD COMPANY (the “Purchaser”) and BOYD REAL PROPERTY, LLC (the “Lessee”);

WITNESSETH:

WHEREAS, the Issuer is a consolidated local government and political subdivision of the Commonwealth of Kentucky; and

WHEREAS, pursuant to Chapter 103 of the Kentucky Revised Statutes (the “Act”) the Issuer has, among others, the power to issue industrial building revenue bonds for the purpose of paying, in whole or in part, the costs of any project; and

WHEREAS, the Issuer proposes to issue Industrial Building Revenue Bonds in an aggregate principal amount not to exceed \$119,000,000 (the “Bonds”) pursuant to An ordinance adopted on [June 9, 2022] and a Trust Indenture dated as of [June 1, 2022] (the “Indenture”), between the Issuer and the Trustee, in order to finance the acquisition, construction, equipping and installation of four or more new buildings at 1400 Cecil Avenue in the City of Louisville, Kentucky; all for lease to the Lessee for light manufacturing or warehousing and distribution (collectively, the “Project”) for lease by the Issuer to the Lessee pursuant to a Lease Agreement, dated as of [June 1, 2022] (the “Lease Agreement”), as it may be amended, between the Issuer and the Lessee; and

WHEREAS, under the Lease Agreement, the Lessee is obligated, subject to the terms of the Lease Agreement, to make payments to the Issuer sufficient to enable the Issuer to make the payments due on the Bonds when the same are due and payable; and

WHEREAS, the Purchaser proposes to purchase the Bonds; and

WHEREAS, the Project is projected to result in the creation of at least one thousand (1,000) jobs; and

WHEREAS, the Trustee, the Issuer, the Purchaser, and the Lessee propose to enter into this Agreement, pursuant to which the Lessee will agree, among other things, to pay directly to the Purchaser moneys sufficient to provide for the payment, or to otherwise satisfy payment, of the debt service on the Bonds; and

NOW, THEREFORE, for and in consideration of the premises and undertakings as hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Trustee, the Issuer, the Purchaser and the Lessee DO HEREBY AGREE, as follows:

Section 1. This Agreement shall become effective upon the date of issuance and delivery of the Bonds and shall continue in effect until the earlier of (i) the principal and the interest on the Bonds shall have been fully paid or otherwise satisfied pursuant to the provisions of the Indenture or (ii) the Purchaser (or any successor thereto) and the Lessee (or any successor thereto) agree to terminate this Agreement.

Section 2. The Lessee hereby agrees to provide for the payment of rents to the Issuer to enable the Issuer to pay the debt service on the Bonds on the due date by the Lessee paying directly to the Purchaser or otherwise satisfying amounts sufficient to pay or otherwise satisfy debt service on the Bonds at the address of the Purchaser set forth in the Purchase Agreement (as defined in the Indenture).

Section 3. The parties hereto agree that all amounts payable to the Purchaser with respect to the Bonds held by the Purchaser shall be made to the Purchaser without any presentment thereof by notation thereof on the books of the Purchaser and the Lessee or in such other manner or at such address in the United States as may be designated by the Purchaser in writing. Upon payment in full or other satisfaction of the Bonds, including but not limited to upon the exercise by the Lessee of its option to purchase the Project in accordance with the Lease Agreement, the Purchaser shall mark the Bonds as paid in full and shall return the Bonds to the Trustee for cancellation in accordance with the Indenture. It is the intent of the parties to this Agreement that so long as this Agreement is outstanding, the rental payments due from the Lessee under the Lease Agreement relating to the payment of debt service on the Bonds shall offset the payments due to the Purchaser (or any successor thereto), as and when such payments are due and owing. The Purchaser agrees to notify the Trustee and the Issuer of any failure of the Lessee to make any payment of principal of or interest on the Bonds when due and that the Purchaser desires to have paid to it, and the Trustee shall not be deemed to have any notice of such failure unless it has received such notice in writing. The Purchaser agrees that if the Bonds are sold or registered as transferred, it will notify the Issuer, the Trustee and the Lessee of the name and address of the transferee, and it will, prior to delivery of such Bonds, make a notation on such Bonds of the date to which interest has been paid thereon or otherwise satisfied and of the amount of any advances made and prepayments made on account of the advanced principal thereof. So long as this Agreement is in effect, the Trustee shall have no obligations as paying agent in respect to such Bonds, nor shall it be obligated to collect rental payments pursuant to the Lease Agreement, to calculate interest or track interest payments, to act as Bond Registrar or to take any other action in respect thereof, including obligations as Trustee pursuant to the Indenture and Lease Agreement (other than authentication of Bonds, if requested in writing to do so by the Purchaser or any successor thereto), e.g. provision of notice of events of default and exercising remedies under the Indenture. The Purchaser will notify or cause the Lessee to notify the Trustee no later than the fifteenth calendar day, or the next business day if such day falls on a weekend or holiday, of each January and July of the outstanding principal amount of the Bonds as of the close of business on the immediately preceding December 31 and June 30, respectively, in the form of Exhibit A. The Trustee shall not be responsible for (i) sending any notices of redemption for principal payments, (ii) the application of the principal payments by the Purchaser or (iii) any notices of draws under the Bonds. The Trustee has no obligation to monitor or file any UCC Continuation Statements.

Section 4. The Lessee pursuant to the indemnity provided for in Section 5.4 of the Lease Agreement reaffirms such indemnification and incorporates by reference into this Agreement such indemnification provided in favor of the Trustee and further shall indemnify and hold the Trustee harmless from any and all actions omitted or taken by the Trustee pursuant to the terms of this Agreement and performed or omitted without gross negligence or willful misconduct of the Trustee.

Section 5. The Lessee agrees to have paid to the Trustee, the reasonable and necessary fees and expenses of the Trustee, as and when the same become due, upon submission of a statement therefor. Such fees shall include a [**\$1,500**] annual fee payable to the Trustee for so long as this Agreement is in effect.¹

Section 6. Should any phrase, clause, sentence or paragraph herein contained be held invalid or unenforceable, it shall in no way affect the remaining provisions of this Agreement, which provisions shall remain in full force and effect.

Section 7. This Agreement may be executed in several counterparts, each of which shall be an original but all of which shall constitute but one and the same instrument.

Section 8. This Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Kentucky without regard to conflict of law principles.

Section 9. This Agreement may be modified, amended or supplemented from time to time by the parties hereto only by an instrument in writing executed by the parties hereto.

Section 10. This Agreement shall inure to the benefit of and be binding on the respective successors and assigns of the parties hereto and any transferees of the Bonds.

Section 11. All communications, notices or demands provided for hereunder shall be sent by first class mail, by courier, by hand or by certified mail as follows or to such other address with respect to any party as such party shall notify the others in writing:

To the Purchaser: Boyd Company
1400 Cecil Avenue
Louisville, Kentucky 40211
Attention: Monty Boyd, President

To the Lessee: Boyd Real Property, LLC
10001 Linn Station Road
Louisville, Kentucky 40223
Attention: Monty Boyd, Manager

To the Trustee: U.S. Bank Trust Company, National Association
435 N. Whittington Parkway

¹ NTD: To be confirmed by Trustee.

Louisville, Kentucky 40222
[Attention: Amy Anders]

To the Issuer:

Louisville/Jefferson County Metro Government
601 W. Jefferson Street
Louisville, Kentucky 40202
Attention: Office of the Mayor

Except as otherwise specifically set forth herein, each such communication, notice or demand shall be deemed given: (i) when deposited in the mail with proper postage affixed if sent by mail; or (ii) when actually delivered to the appropriate address if sent by courier or by hand.

[THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK. SIGNATURES
ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto, acting by and through their duly authorized officers, have caused this Agreement to be executed as of the day and year first above written.

U.S. BANK TRUST COMPANY,
NATIONAL ASSOCIATION,
as Trustee

By: _____
Title: Authorized Officer

LOUISVILLE/JEFFERSON
COUNTY METRO GOVERNMENT,
as Issuer

By: _____
Title: Mayor

Approved as to form and legality:

Michael J. O'Connell
Jefferson County Attorney

By: _____
Assistant Jefferson County Attorney

BOYD COMPANY,
as Purchaser

By: _____
Title: President

BOYD REAL PROPERTY, LLC,
as Lessee

By: _____
Title: Manager

EXHIBIT A

**NOTICE OF OUTSTANDING PRINCIPAL OF LOUISVILLE/JEFFERSON COUNTY
METRO GOVERNMENT INDUSTRIAL BUILDING REVENUE BONDS,
(BOYD REAL PROPERTY, LLC PROJECT), SERIES 2022**

The undersigned being a duly Authorized Lessee Representative (as defined in the Trust Indenture, dated as of [June 1, 2022], by and between the Louisville/Jefferson County Metro Government and U.S. Bank Trust Company, National Association) hereby certifies as of this [30th] [31st] day of [June] [December], 20___, that set forth in the attached **Schedule A** is the outstanding principal of the Louisville/Jefferson County Metro Government Industrial Building Revenue Bonds (Boyd Real Property, LLC Project), Series 2022, among other items.

BOYD REAL PROPERTY, LLC

By: _____

Title: Authorized Lessee Representative

SCHEDULE A

<u>Date</u>	<u>Amount Drawn</u>	<u>Aggregate Amount Drawn</u>	<u>Amount Redeemed</u>	<u>Amount Outstanding</u>	<u>Purchaser Initials</u>
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