



# Board of Regents

Ted Strickland, Governor  
Eric D. Fingerhut, Chancellor

University System of Ohio

## DIRECTIVE 2010-029

July 2, 2010

### RE: JOINT USE AGREEMENT BETWEEN THE UNIVERSITY OF CINCINNATI AND THE HAMILTON COUNTY SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

H.B. 562 includes a specific capital appropriation of \$100,000 to the University of Cincinnati for the Hamilton County Society for the Prevention of Cruelty to Animals (SPCA) project. The SPCA owns the facility to be improved with state capital funds.

The Ohio Board of Regents' Rule 3333-1-03 requires that a joint use agreement between the institution for which funds are appropriated and the organization which will own or lease and operate facilities to be constructed or improved with such funds must be approved by the Chancellor. The University of Cincinnati presented a joint use agreement for approval.

The agreement conforms to Ohio Administrative Code as follows –

- The format of the agreement is appropriate
- The commitment extends no less than fifteen years
- The value of use to Ohio higher education institutions is reasonably related to the amount of the appropriation

Agency staff reviewed the agreement and posted its recommendations to the Regents' web site for purposes of providing a period of public comment before final approval by the Chancellor. The materials posted for comment and the joint use agreement are attached to this document.

Based on my review of staff recommendations, I hereby approve the Joint Use Agreement between the University of Cincinnati and the Hamilton County Society for the Prevention of Cruelty to Animals.

This directive will take effect immediately.

Eric D. Fingerhut  
Chancellor, Ohio Board of Regents

*m/c*



Joint Use Agreement between the University of Cincinnati and the Hamilton County  
Society for the Prevention of Cruelty to Animals

**BACKGROUND**

H.B. 562 includes a specific capital appropriation of \$100,000 to the University of Cincinnati for the Hamilton County Society for the Prevention of Cruelty to Animals (SPCA) project. The SPCA owns the facility to be improved with state capital funds. As required by Ohio Administrative Code section 3333-1-03, the University of Cincinnati submitted a Joint Use Agreement for consideration and approval by the Chancellor.

State funds will support the addition of veterinary hospital equipment to the SPCA facility located at 11900 Conrey Road, Cincinnati, Ohio.

**REVIEW**

Throughout the entire term of the agreement, the SPCA will provide the following to the University –

- 1) Clinical instruction to sophomore veterinary technology students;
- 2) Access to preventative and diagnostic care of animals owned by the SPCA.

The agreement conforms to Ohio Administrative Code as follows –

- The format of the agreement is appropriate
- The commitment extends no less than fifteen years
- The value of use to Ohio higher education institutions is reasonably related to the amount of the appropriation

**RECOMMENDATION**

**Staff recommends Chancellor approval of the Joint Use Agreement between the University of Cincinnati and the Hamilton County Society for the Prevention of Cruelty to Animals.**



**EXHIBIT E**

**Joint Use Agreement Worksheet**

The Ohio Board of Regents

April 13, 2010

Direction: The purpose of this worksheet is to enable a campus to demonstrate how the value of the uses that will be derived from a Joint Use Agreement is reasonably related to the value of the state capital appropriation made to the partner entity. Section I is to be filled out by the staff of the Board of Regents. Sections II and III are to be filled out by the partner campus.

Example: A campus wishes to enter into a Joint Use Agreement with a 501(C)(3) entity for a state appropriation of \$5,000,000. The annual debt service paid by the state on this appropriation is about \$390,000 per year, for 20 years. To demonstrate that the value of the uses of the facility is reasonably related to the state appropriation, the sum of the campus' educational uses of the facility should roughly equal \$390,000 per year for 20 years.

*Section I: State appropriation information.*

1. Amount of state appropriation provided:	\$100,000
2. Estimated annual debt service on the appropriation:	\$10,251
3. Term of the state bond, in years:	15

*Section II: Estimated value of use of the facility.*

Use(s) of the facility*	Annual value of use	# of years
a. Provide Clinical Environment for Veterinary Tech Student	\$10,251	15
b.	\$	
c.	\$	
d.	\$	
e.	\$	
f.	\$	

(\* List additional uses on separate page as needed.)

*Section III:*

Exhibit E

Section III

The Society for the Prevention of Cruelty to Animals (SPCA) Cincinnati will provide pre-determined numbers of animals on a schedule adequate to provide educational experiences for the Veterinary Technology students. The number and type of animals required as well as the schedule of availability may vary and will therefore be agreed-upon by the SPCA Director or their designee and the RWC Director of Veterinary Technology or their designee. Based on existing information, the program will offer 8 days per month throughout 9 months of the school year, equaling 72 days per year total.

The SPCA Cincinnati will make space in and use of the Veterinary Hospital to the University of Cincinnati Raymond Walters College with a fair market value equal to \$100,000 plus interest at the rate of 4.5% per annum, for a period of twenty (15) years, not to exceed a fair market value of \$10,251, inclusive of interest per year, for the following use.

Provide a clinical environment in which students can translate and apply classroom theory and skills to a clinical situation.

**$\$100,000 \times 4.5\% \text{ per annum} = \$153,000$**

**$8 \text{ days per month} \times 9 \text{ months} = 72 \text{ days per year}$**

**$72 \text{ days per year} \times 15 \text{ years} = 1,080 \text{ days}$**

**Total per day of \$142.38 per day usage**

## JOINT USE AGREEMENT ANALYSIS

Institutions Involved University of Cincinnati/Society for the Prevention of Cruelty to Animals

Project Title SPCA Equipment

Capital Bill HB 562 Item C26620 Society for the Prevention of Cruelty to Animals - Facility

- Yes 1. Is the facility to be built/improved identified specifically by address or location?
- Yes 2. Does the non-profit organization now own the property or have a long term lease? If not, when will it control the property?
- Yes 3. Does the agreement provide for use of the facility for at least 15 years from the time that it is ready for occupancy?
- Yes 4. If the agreement is terminated, is there a pro rata reimbursement clause? Is the reimbursement formula correct?
- Yes 5. Will funds be used only for capital improvements and not operating costs?
- Yes 6. Will the non-profit hold the institution harmless for all operation/maintenance costs?
- Yes 7. Will the non-profit comply with federal, state and local laws and rules?
- Yes 8. Is the non-profit required to competitively bid as outlined generally in ORC Chapter 153 (published ads, sealed bids, public opening, award to lowest responsive and responsible bidder, etc.)?
- Yes 9. Does the contract provide for a 1.5% administrative fee for the institution?
- Yes 10. Does the agreement require that amendments be approved by the Chancellor of the Board of Regents?
- Yes 11. Is a drawdown schedule or payment procedure included?
- Yes 12. Are the extent and nature of spaces and uses adequately described?
- Yes 13. Are the terms and conditions of use of the facility described?
- Yes 14. ***Has the institution demonstrated that the value of the use of the facility is reasonably related to the amount of the appropriation? (See attached worksheet)***
- Yes 15. Is the facility insured?



## JOINT USE AGREEMENT

This Joint Use Agreement (this "Agreement") is entered into by and between Hamilton County Society for the Prevention of Cruelty to Animals (SPCA)<sup>1</sup> ("Owner"), a 501 (c) (3) Not-for-Profit<sup>2</sup> whose address is 11900 Conrey Rd Cincinnati, Oh 45249<sup>3</sup> and the UNIVERSITY OF CINCINNATI, an instrumentality of the State of Ohio created and existing under Chapter 3361 of the Ohio Revised Code (the "University") whose address is 625 University Pavilion, P.O. Box 210625, Cincinnati, OH 45221-0625.

### RECITALS

WHEREAS, the University desires to assist Owner in financing, in whole or part, the cost of planning, designing and/or constructing certain capital improvements generally to consist of Veterinary Hospital Equipment<sup>4</sup> which are more fully described in the attached Exhibit A<sup>5</sup> (the "Project"), to be constructed by Owner in a facility either owned or leased by Owner pursuant to terms described in the attached Exhibit B<sup>6</sup> which include the right of occupancy for the entire term of this Agreement, which facility is located at 11900 Conrey Rd. Cincinnati, Oh 45249<sup>7</sup> (the "Facility".)

WHEREAS, the Ohio General Assembly has passed 562<sup>8</sup>, which provides capital appropriations to the University from the State of Ohio in the amount of \$100,000<sup>9</sup> for the Project (the "Funds");

WHEREAS, the release of the Funds by the Office of Management and Budget and/or the Controlling Board to the University requires the recommendation of the Chancellor of the Ohio Board of Regents (the "Board of Regents");

WHEREAS, the Board of Regents has established by rule a requirement that before recommending the release of capital funds to an institution for the improvement of facilities that will be owned or leased by a separate nonprofit organization or a public body the institution shall submit a joint use agreement for approval which shall include the provisions described in Ohio Administrative Code §3333-1-03(E)(1) through (11), which the parties have incorporated herein; and

NOW, THEREFORE, in consideration of the mutual benefits hereunder, it is hereby agreed between the parties as follows:

1. **Use of Owner's Facilities and/or Resources by the University.** Owner shall permit the University jointly to use the Facility for a term of Fifteen (15)<sup>10</sup> years commencing on the date the Project is completed. The parties consent and agree that the extent and nature of the University's right to use the Facility is reasonably related to the amount of the Funds. The extent and nature of the space to which the University is by this Agreement granted rights for use, and the terms and conditions governing such use, are specified in the attached Exhibit C.

2. **Reimbursement of Funds.** If the Owner shall materially breach this Agreement and fail to cure within a reasonable time following notice, or if the University's right to use the Facility as provided herein shall be terminated prior to expiration of the term, then Owner shall reimburse to State of Ohio the Funds on a pro rata basis, with the amount of such reimbursement calculated by multiplying the total amount of the Funds by a fraction the denominator of which is the total number of months in the term described in paragraph 1 above and the numerator of which is the total number of months remaining in the term at the time of breach or termination.
3. **Notation of University Funding.** During the period of construction, the Owner shall provide a conspicuous notation upon or in the presence of the Project and in all publicity relating to the Project that funding is being provided through a joint use agreement with the University.
4. **Use of Funds.** The Owner shall use the Funds only for the capital improvements as defined in the bill appropriating the Funds.
5. **Owner's Compliance With Laws and Regulations.** Owner shall comply with all pertinent federal, state and local laws as well as state administrative regulations including but limited to the requirement that it follow competitive bidding procedures, which shall include, as a minimum, publishing advertisements to seek bids, receiving sealed bids, and awarding contracts to the lowest responsive and responsible bidders or, if the Owner is a public body subject to specific competitive bidding requirements, then it shall follow the competitive bidding requirements applicable to such bodies.
6. **Distribution of Funds and Payment of Administrative Costs.** Following the approval of this Agreement by the Board of Regents, the University will request the release of and seek to encumber the Funds to the University for the purpose of programming, planning, designing and/or implementing the capital improvements defined in the bill appropriating the Funds. After release and encumbrance of the Funds, the Owner may obtain payment by submitting to the University an application for payment (not more than once per month) identifying the amounts owing for work and/or materials in connection with the capital improvements, which shall be certified as true and correct by Owner and shall be supported by such other documents reasonably required by the University, and after confirming that the requested amount is due and owing, the University shall cause payment to be made to the Owner. The University shall deduct and retain from the Funds the total amount \$1,500<sup>11</sup> constituting 1 ½% of the Funds to compensate it for costs of administration.

7. **Hold Harmless.** The Owner shall indemnify and hold harmless the University, its officers, trustees, and employees from any and all liability arising from the Owner's design, construction, operation, and maintenance of the Facility.
8. **Liability Insurance.** The Owner has and shall maintain for the entire term of this Agreement a comprehensive program of insurance covering the Facility including liability and casualty coverage in an amount reasonably sufficient to indemnify the Owner from claims and any losses relating to the construction, ownership, and operation of the Facility.
9. **Binding Nature.** This Agreement shall be binding upon and inure to the benefit of the Owner and the University and their respective successors and assigns.
10. **Amendments.** Any amendments to this Agreement shall be in writing, signed by the Owner and the University, and shall require approval by the Board of Regents.

IN WITNESS WHEREOF, the parties have hereunto executed this Agreement as of the month, day and year signed.

UNIVERSITY OF CINCINNATI

Hamilton County SPCA<sup>12</sup>

By:   
 Title: Charles E. Jake IV, Esq.  
Assistant General Counsel  
Assistant Contracting Officer  
 Date: 4/30/2010

By: Harold F. Dates  
 Title: CEO  
 Date: 04/13/10

## INSTRUCTIONS FOR COMPLETION OF JOINT USE AGREEMENT

- 1 Insert the full legal name of the entity seeking state capital funding through the University.
- 2 Insert the nature of the Owner: a public body or a nonprofit, e.g. an "Ohio not-for-profit corporation."
- 3 Insert the Owner's principal business address.
- 4 Insert a brief description of the capital improvements to be made in whole or part with state capital funds.
- 5 Include a complete description of the capital improvements and budget in the attached Exhibit A.
- 6 If the facilities are leased, summarize the basic terms of the lease in the attached Exhibit B. Basic terms include a description of the leased premises, name and address of the landlord, the rent paid, the term including any renewal term, and a description of any rights or limitations on the use of the property that may affect the proposed capital improvement and joint use.
- 7 Insert the address or other description of the place where the capital improvements are to be made.
- 8 Insert the name of the bill containing the appropriation.
- 9 Insert the total amount of state capital funds appropriated for the Project.
- 10 Insert the agreed term of this Agreement, no fewer than fifteen (15) years. See O.A.C. 3333-1-03(E)(2)
- 11 Insert the amount equal to 1 ½% of the Funds pursuant to O.A.C. 3333-1-03(E)(10)
- 12 Insert Owner's name.

## EXHIBIT A

### (Detailed Description of the Project)

The University of Cincinnati, Raymond Walters College Veterinary Technology Program is fully-accredited by the American Veterinary Medical Association (AVMA). In accordance with guidelines and recommendations put forth by the AVMA's Committee on Veterinary Technician Education and Activities (CVTEA), our program must provide appropriate and adequate clinical instruction utilizing live animals. To accomplish this, the program has forged partnerships with various entities which provide animals in need of veterinary care. The Society for the Prevention of Cruelty to Animals (SPCA) Cincinnati, being a humane organization in charge of large numbers of animals requiring various levels of veterinary care, has worked with the RWC Vet Tech program in various capacities throughout our 40 year history. Most recently, with the construction of the SPCA Cincinnati Humane Center in Sharonville, our program has expressed a desire to provide needed veterinary care to the animals housed there. Expansion of this relationship would provide the SPCA Cincinnati with RWC Vet Tech Program faculty, staff, students and materials which would contribute to these preventative health care initiatives. The SPCA Cincinnati would be providing appropriately-equipped space and animals that are necessary for the hands-on education of our students. The University of Cincinnati, Raymond Walters College Veterinary Technology Program intends to utilize the space, equipment and animals at the SPCA Cincinnati Humane Center Veterinary Hospital in the following ways:

- The facility and equipment will be utilized to provide clinical instruction to sophomore veterinary technology students.
- The equipment listed in the Joint Use Agreement (x-ray machine, kennels, autoclave, anesthetic machine and surgical lights) can all be utilized by the sophomore Veterinary Technology students during regularly-scheduled clinical rotations through the SPCA Cincinnati Humane Center. This equipment is vital to performing routine preventative medicine, diagnostic techniques and surgery.
- Students will participate in preventative and diagnostic health care of animals owned by SPCA Cincinnati including, but not limited to, routine vaccinations, routine diagnostic testing (including blood testing and diagnostic radiographs), routine veterinary care and routine neuter or spay surgeries performed by a licensed Veterinarian.
- SPCA Cincinnati will provide consent for all procedures performed on specific SPCA animals with the understanding that all procedures except surgery will be done by Veterinary Technician students under the direct supervision of a Registered Veterinary Technician and/or licensed Veterinarian.

- SPCA Cincinnati will provide pre-determined numbers of animals on a schedule adequate to provide educational experiences for the Veterinary Technology students. The number and type of animals required as well as the schedule of availability may vary and will therefore be agreed-upon by the SPCA Director or their designee and the RWC Director of Veterinary Technology or their designee. Based on existing information, the program will offer 8 days per month throughout 9 months of the school year, equaling 72 days per year total would be an acceptable average time for clinical instruction of the sophomore Veterinary Technology students in the SPCA's Veterinary Hospital. The Hamilton County Society for the Prevention of Cruelty to Animals (SPCA) in Sharonville Ohio has been open since September of 2008. Within the Humane Center is the Veterinary Hospital comprised of a lab, x-ray, exam, surgery prep, surgery and recovery rooms totalling 1455 square feet.

The equipment being purchased for the Veterinary Hospital is essential for bringing the Hospital up to its intended use of caring for sick and injured animals as well as spaying and neutering all dogs and cats prior to them leaving the facility with their new families.

The cost of equipping the Veterinary Hospital with an x-ray machine, surgical lights, surgical tables, enclaves, caging and other needed equipment is budgeted at \$150,000.

The monies used through this agreement will be used to fund the majority of the equipment needed for the Veterinary Clinic. The remainder of the equipment costs will be funded through grants and individual donors.

#### Veterinary Hospital Equipment

X- ray machine	\$65,000
6' Stainless Steel Kennel Assembly 10 @ \$2,190	21,900
Auto Clave	5,000
Anes Matrx VMS Pluse 2 @ \$2,584	5,169
Surgical Ligts 2 @ \$2,152	4,304
<b>Total</b>	<b>\$101,373</b>

Whereas the University finds the value of the use of the Veterinary Hospital Equipment is reasonably related to the amount of the grant and that terms of use of the Veterinary Hospital Equipment are more favorable to the University than to others.

**EXHIBIT B**

**(Basic Terms of Lease, if Applicable)**

**No lease, not applicable**

## EXHIBIT C

(Description of Extent and Nature of Space and Terms and Conditions of Use)

The Hamilton County Society for the Prevention of Cruelty to Animals Cincinnati (SPCA) will make space in and use of the Veterinary Hospital to the University of Cincinnati Raymond Walters College. The facility and equipment will be utilized to provide clinical instruction to sophomore veterinary technology students.

The equipment listed (x-ray machine, kennels, autoclave, anesthetic machine and surgical lights) will be utilized by the sophomore Veterinary Technology students during regularly-scheduled clinical rotations through the SPCA Cincinnati Humane Center. This equipment is vital to performing routine preventative medicine, diagnostic techniques and surgery.

Quarterly program scheduling should take place 3 months prior to the start date of a new quarterly program between SPCA Cincinnati and the proper authority of the University of Cincinnati Raymond Walters College.

EXHIBIT D

**JOINT USE AGREEMENT ANALYSIS**

Institution(s) Involved University of Cincinnati Raymond Walters College/Hamilton County SPCA

Project Title Hamilton County SPCA Veterinary Clinic...

Capital Bill 562      Item C26620

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- Yes 15. Is the facility insured?

**EXHIBIT E**

**Joint Use Agreement Worksheet**

The Ohio Board of Regents

April 13, 2010

Direction: The purpose of this worksheet is to enable a campus to demonstrate how the value of the uses that will be derived from a Joint Use Agreement is reasonably related to the value of the state capital appropriation made to the partner entity. Section I is to be filled out by the staff of the Board of Regents. Sections II and III are to be filled out by the partner campus.

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*Section III:*

Exhibit E

Section III

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