

JOINT USE AGREEMENT

This Joint Use Agreement (this "Agreement") is entered into by and between the Board of County Commissioners, Clermont County, Ohio,¹ ("Owner"), a public body² whose address is 101 East Main Street, Batavia, Ohio 45103³ 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 modifications and additions to the Clermont County Emergency Operations Center⁴ which are more fully described in the attached Exhibit A⁵ (the "Project"), to be constructed by Owner in a facility either owned or leased by Owner pursuant to terms described in the attached Exhibit B⁶ which include the right of occupancy for the entire term of this Agreement, which facility is located at 2279 Clermont Center Drive, Batavia, Ohio 45013⁷ (the "Facility".)

WHEREAS, the Ohio General Assembly has passed Amended Substitute House Bill Number 562⁸, which provides capital appropriations to the University from the State of Ohio in the amount of \$475,000.00⁹ 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 twenty (20)¹⁰ 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 \$7,125.00¹¹ 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.

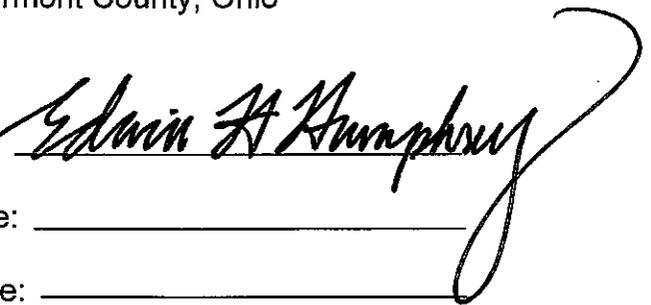
IN WITNESS WHEREOF, the parties have hereunto executed this Agreement as of the month, day and year signed.

UNIVERSITY OF CINCINNATI

Board of County Commissioners

Clermont County, Ohio¹²

By: 
 Title: Assistant General Counsel
Assistant Contracting Officer
 Date: 10-19-2009

By: 
 Title: _____
 Date: _____

APPROVED AS TO FORM:
 DONALD W. WHITE, PROSECUTOR
 CLERMONT COUNTY, OHIO

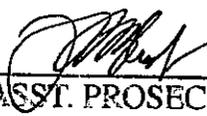
BY:  August 26, 2009
 ASST. PROSECUTOR DATE

EXHIBIT A

(Detailed Description of the Project)

Title of Project: Communications Center/Emergency Operations Center Expansion

Total estimated cost: \$1,800,000

Other funding support, local government(s):

\$900,000 Clermont County Capital Funds

\$300,000 HB699 CAP 359

\$475,000 HB562

\$125,000

Project Overview

This project proposes to design and construct a physical expansion and upgrades to the existing facilities. This newly expanded structure will support the technology needs and physical space needs for the next 20 years.

State and Federal directives have mandated collaboration, compatibility and interoperability. Including by not limited to Federal Training Standards at the local and regional levels. These issues are being addressed by existing staff and the empowerment local community responders and other public agencies. Clermont County and all the local government agencies are committed to meeting these goals and have implemented various programs to support them.

The current facility does not meet these needs, often displacing staff members on a routine basis to hold meetings, training and daily operations. This situation is not conducive to coordinated and efficient operations and the addition / upgrade to the current facility would provide efficient and effective use of technical and human resources.

An architect is under contract, design is complete. Construction is underway.

EXHIBIT B

(Basic Terms of Lease, if Applicable)

N/A

EXHIBIT D

JOINT USE AGREEMENT ANALYSIS

Institution(s) Involved University of Cincinnati/Board of County Commissioners, Clermont County, Ohio

Project Title Clermont County Consolidated Communications Project

Capital Bill HB 562 Item C26607

- 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 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?

EXHIBIT E

Joint Use Agreement Worksheet

The Ohio Board of Regents

August 25, 2009

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:	\$475,000.00
2. Estimated annual debt service on the appropriation:	\$ 36,516.00
3. Term of the state bond, in years:	20

Section II: Estimated value of use of the facility.

Use(s) of the facility*	Annual value of use	# of years
a. Cooperative Training Exercises	\$13,000.00	20
b. Internships	\$16,000.00	20
c. Emergency Operations Planning	\$ 7,516.00	20
d.	\$	
e.	\$	
f. TOTAL	\$36,516.00	

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

Section III:

On a separate page, explain how each use listed in Section II was valued for this analysis.

Exhibit E

Section III

a. Cooperative Training Exercises: \$260,000.00

Clermont County Emergency Management Agency (EMA) will offer Tabletop exercise(s) opportunities each year for Police Academy students for a value of \$4,000.00 per exercise, twice a year, assuming for twenty (20) years.

This value is based on funding five Instructors/facilitators to develop, implement, facilitate and evaluate each tabletop exercise in a professional multi-media setting.

Five Instructors @ fifteen (15) hours at a rate of \$40.00 per hour \$3,000.00

Planning room for instructional/Table top exercise with multi-media \$1,000.00

Clermont County Emergency Management Agency will offer Incident Command training with participation in tabletop mock disasters for the Criminal Justice and Emergency Medical Services students for a value of \$5,000.00 assuming for twenty (20) years.

This value is based on funding five Instructors/facilitators to develop, implement, facilitate and evaluate each tabletop exercise in a professional multi-media setting.

Five Instructors @ fifteen (15) hours at a rate of \$40.00 per hour \$3,000.00

Planning room for instructional/Table top exercise with multi-media \$1,000.00

Disaster City Tabletop-custom setup for exercise training objectives \$1,000.00

b. UC approved Field Placement and Internships for Criminal Justice Students in Emergency Management Agency \$320,000

Provide internship opportunity for Field Placements for 40 hours for eight (8) students per term (two terms per year) for a value of \$1,000.00 per student assuming for twenty (20) years.

Value of a college level intern student per hour is \$25.00 for forty (40) hours \$1,000.00

c. Emergency Operation Planning for All Hazards \$ 150,320.00

Clermont County EMA will provide training/implementing opportunities in developing All Hazards plans for a value of \$7,516.00 per year assuming for twenty (20) years.

This value is based on funding one Instructor/facilitator

One Instructor @ two hundred (200) hours at a rate of \$32.58/hour \$6,516.00

EOC room for instruction, facilitation with multi-media \$1,000.00