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ERIC D. FINGERHUT, CHANCELLOR

**DIRECTIVE**

December 14, 2007

Re: A JOINT USE AGREEMENT BETWEEN THE OHIO STATE UNIVERSITY AND THE WOOD COUNTY COMMISSIONERS.

The 126<sup>th</sup> Ohio General Assembly enacted H.B. 530 which includes a specific capital appropriation of \$1,000,000 to The Ohio State University for the Wood County Center for Agriculture. HB 530, as amended by HB 119, allows Wood County to allocate up to \$300,000 for building renovations to the OSU Extension Office/Ag Business Enhancement Center, located at 639 South Dunbridge Road, Bowling Green, Ohio.

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 Ohio State University and the Wood County Commissioners presented a joint use agreement for approval.

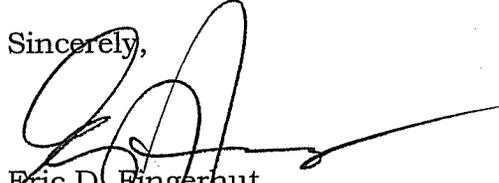
The agreement conforms to Ohio Administrative Code as follows –

- 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 Ohio State University and the Wood County Commissioners.

Sincerely,

  
Eric D. Fingerhut  
Chancellor, Ohio Board of Regents

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Joint Use Agreement between The Ohio State University and the Wood County  
Commissioners

**BACKGROUND**

H.B. 530 includes a specific capital appropriation of \$1,000,000 to The Ohio State University for the Wood County Center for Agriculture. The Wood County Commissioners own and operate the facility to receive state capital funds. As required by Ohio Administrative Code section 3333-1-03, The Ohio State University submitted a Joint Use Agreement for consideration and approval by the Chancellor.

State funds will support the renovation of two floors at 639 South Dunbridge Road, Bowling Green, Ohio.

**REVIEW**

Ohio State University (OSU) Extension brings the knowledge of the university to all citizens of Ohio. We fulfill the land-grant mission of The Ohio State University by interpreting knowledge and research developed by the Ohio Agricultural Research and Development Center, Ohio State, and other land-grant universities. The scientifically based information provided through OSU Extension helps Ohioans better their lives, businesses, and communities.

Throughout the term of the agreement, the Commissioners commit to housing the OSU Extension – Wood County Office for at least 20 years at no cost to Ohio State. The existing lease term between the Commissioners and OSU Extension is 15 years. On November 6<sup>th</sup>, 2007, the Commissioners passed a resolution committing the county to house the OSU Extension – Wood County Office for a minimum of 20 years.

The HB 530 appropriation, as amended by HB 119, details the purposes of the Wood County Center for Agriculture appropriation as follows –

*Of the foregoing appropriation item CAP-628, Wood County Center for Agriculture, up to \$300,000 shall be used for building renovations to the OSU Extension Office/Ag Business Enhancement Center. The remainder of appropriation item CAP-628, Wood County Center for Agriculture, shall be used for an alternative energy generation project at the East Gypsy Lane Complex in Wood County or an agricultural energy facility recommended by the Wood County commissioners.*

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 Ohio State University and Wood County Commissioners.**

## JOINT USE AGREEMENT ANALYSIS

Institutions Involved The Ohio State University/Wood County Commissioners

Project Title OSU Extension – Wood County Office

Capital Bill HB 530, as amended by HB 119 Item CAP-628 Wood County Center for Agriculture

- 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?

**Joint Use Agreement Worksheet**

The Ohio Board of Regents

April, 2005

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: \$300,000.00
- 2. Estimated annual debt service on the appropriation: \$23,063
- 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. Ohio State University Extension Wood County Office | \$67,144            | 20         |
| b. _____  | \$ _____            | _____      |
| c. _____  | \$ _____            | _____      |
| d. _____  | \$ _____            | _____      |
| e. _____  | \$ _____            | _____      |
| f. _____  | \$ _____            | _____      |

(\* 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.

Renovation of 639 S. Dunbridge Road, Bowling Green, Ohio  
(A Wood County owned land and building)  
for Ohio State University Extension Wood County Office

Ohio State University Extension maintains an office in each of Ohio's 88 counties. Many of these offices are located in county owned properties. §3335.36 of the Ohio Revised Code states "Such employees shall have offices provided by the county...and through which employees may be reached." Wood County has provided 6,104 square feet of Class A office space for the Ohio State University Extension Wood County office. Wood County has determined that such office space has a market value of \$11 per square foot annually. This rate includes utilities. As such, the value to Ohio State University Extension for the office space provided free of charge by Wood County is \$67,144 annually.

The impacts of Ohio State University Extension Wood County office are many and may be found in their entirety at <http://wood.osu.edu/ProgramHighlights.htm>.

#### Ohio State University Extension

Ohio State University Extension brings the knowledge of the university to all citizens of Ohio. We fulfill the land-grant mission of Ohio State University by interpreting knowledge and research developed by the Ohio Agricultural Research and Development Center, Ohio State and other land-grant universities, so that Ohioans can use the scientifically based information to better their lives, businesses and communities.

No matter which county you visit, you can find people who are helped by the four major OSU Extension program areas:

- Family and Consumer Sciences
- 4-H Youth Development
- Community Development
- Agriculture and Natural Resources

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#### Our Mission

Engaging people to strengthen their lives and communities through research-based educational programming.

## Our Vision

OSU Extension is a dynamic educational entity that partners with individuals, families, communities, business and industry, and organizations to strengthen the lives of Ohioans. As Extension educators, we:

- Focus on critical economic, environmental, leadership, and youth and family issues.
- Engage people in lifelong learning.
- Apply knowledge and practical research to the diverse needs and interests of Ohioans in rural, suburban, and urban communities.
- Extend resources of The Ohio State University
- Recruit and develop volunteers to multiply Extension's efforts while developing their leadership potential.
- Enhance teamwork through networking and connectedness.
- Link youth, family, and community needs to scholars in Ohio and nationwide.
- Teach with cutting-edge strategies using new technologies and approaches.

JOINT USE AGREEMENT

This joint use agreement (this "Agreement") is made and entered into as of the 28 day of September, 2007 by and between The Ohio State University (the "University"), acting under the provisions of Chapter 3335 of the Revised Code of Ohio, and the Wood County Commissioners ("Commissioners"), a duly elected commission organized and existing under the laws of the State of Ohio.

RECITALS

WHEREAS, the General Assembly has appropriated funds to the University for the following project (the "project"):

- Project Name: Wood County Center for Agriculture
- Legislation: Re-appropriated in House Bill 530
- Capital Appropriation: CAP-628
- OSU Project Number: #315-2003-975

In the total amount of Three Hundred Thousand dollars (\$300,000.00), (the "Appropriation").

WHEREAS, in 2006 the Ohio General Assembly re-appropriated state capital funds in the amount of \$300,000.00 to The Ohio State University for the Wood County Center for Agriculture to use for the renovation of (2) floors of a building owned by the Commissioners, located at 639 South Dunbridge Road, Bowling Green, Ohio and leased by The Ohio State University Extension – Wood County Office.

WHEREAS, the Commissioners commit to housing the OSU Extension – Wood County Office, in this space for at least fifteen (15) years, commencing with the approval of the Ohio Board of Regents;

WHEREAS, the University has concluded that the value of the use of the facilities by the University as provided in this agreement is reasonably related to the amount of the appropriation.

NOW, THEREFORE, in furtherance of the above, and in consideration of the mutual covenants, promises, conditions and terms to be performed by each, the University and the Commissioners hereby agree as follows:

AGREEMENT

1. Commitment. The Commissioners commit to the University that the monies for the project have been used for the purpose of increasing the office and programming space of the OSU Extension – Wood County Office, to provide greater access to educational programming and extension related services to the citizens of Wood County.

2. Term. The term of this Agreement shall commence as of the date of its approval by the Ohio Board of Regents and shall expire twenty (20) years from the date thereafter. In the event that this Agreement is terminated prior to its expiration, the Commissioners shall reimburse the State of Ohio with an amount calculated by (a) dividing the amount of the appropriation actually paid to the Commissioners under the Agreement by twenty (20), and (b) multiplying the resulting amount by (i) twenty (20), less (ii) the number of full years the project has been utilized by the University in accordance with the Agreement (the "Reimbursement Amount"). The Reimbursement Amount shall be paid in cash.
3. Compliance with Laws. On this construction project the Commissioners shall verify that all pertinent federal, state and local laws as well as state administrative regulations including those relating to competitive bidding and prevailing wage have been complied with.
4. Funds used for Capital Improvements. Except for the funds used to cover the University's administrative costs, the funds provided under this Agreement shall be used by the Commissioners only for capital improvements to the Commissioner's facility located at 639 South Dunbridge Road, Bowling Green, Ohio, and shall not be used for operating expenses. The Commissioners, in connection with the Agreement, shall verify, where applicable, that competitive bidding procedures equivalent to those enumerated in relevant provisions of Chapter 153 Ohio Revised Code involving (1) publishing advertisements to seek bids, (2) receiving sealed bids, and (3) awarding contracts to the lowest, responsive and responsible bidders were followed.
5. Ownership of the Wood County Office and Insurance. The Commissioner's facility located at 639 South Dunbridge Road, Bowling Green, Ohio is owned by the Board of County Commissioners of Wood County, Ohio, a unit of government and existing under the laws of the State of Ohio, and is fully insured.
6. Hold Harmless. The University shall have no liability for, and the Commissioners shall indemnify and hold the University harmless from, all construction, operation and maintenance costs of the project.
7. Distribution of Funds and Administrative Costs. Upon execution of this Agreement, the University shall submit to the Ohio Board of Regents a formal request for the release of the Appropriation. The University shall be paid for administrative costs incurred as a result of the construction of the project. Such administrative costs shall be Four Thousand Five Hundred Dollars (\$ 4,500.00) which is equal to 1.5% of the appropriation and shall be paid by the University to itself concurrently with the University's payment to the Commissioners. The Commissioners shall submit a draw request of permitted use of funds to the University in the amount of Two Hundred Ninety-Five Thousand Five Hundred Dollars (\$ 295,500.00), as soon as practicable upon the signing of this Agreement; but not longer than eleven months from the date of the signing of this Agreement. The University shall, within 30 calendar days after receipt of the Commissioners draw request, disburse the Appropriation.

8. The terms and conditions of such use by the University shall be more favorable than the terms and conditions of use by any other entity to a degree that reasonably reflects the magnitude of the University's investment in the facility. The Ohio Board of Regents, shall, upon request, be provided with pertinent records by the Commissioners and the University that measure the nature and extent of the collaboration between the Commissioners and the University, and the terms and conditions governing such collaboration.
9. Validity. If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be illegal, invalid or unenforceable because of judicial construction, then the remaining terms, covenants and conditions of this Agreement or their application to persons or circumstances other than those held invalid or unenforceable shall not be affected thereby; and each term, covenant or condition of this Agreement shall be valid and enforced to the fullest extent permitted by law.
10. Assignment. This Agreement may not be assigned in any form or to any extent by either party without the written consent of the other party.
11. Notices. Any notice required or permitted to be given under this Agreement shall be given either by: (i) first-class certified mail, return receipt requested, addressed to the party at the address shown below, or (ii) personal delivery at the then-current address of such party; in either event, with a copy given by either manner to the person designated below to receive a copy. Such notice shall be effective when delivered to both persons. The current addresses of the parties and the persons to receive copies are, respectively, as follows:

To the University:

Christopher M. Culley  
General Counsel  
Office of Legal Affairs  
The Ohio State University  
1590 North High Street  
Suite 500  
Columbus, Ohio 43210-2178

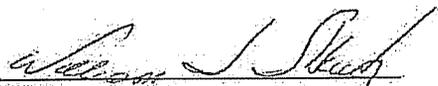
To the Commissioners:

Wood County Commissioners  
Andrew S. Kalmar, Administrator  
One Courthouse Square  
Bowling Green, Ohio 43402

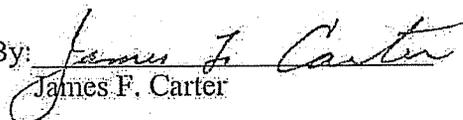
12. Governing Law. This Agreement shall be subject to and interpreted in accordance with the laws of the State of Ohio, and any action brought pursuant to this Agreement shall be brought in a court of competent jurisdiction within the State of Ohio.
13. Amendments. Any amendment to this Agreement will not be effective unless and until approved in writing by the parties hereto and by the Ohio Board of Regents.
14. Headings. The headings used in this Agreement are inserted only as a matter of convenience and for reference and should not be given effect in the interpretation of this Agreement.

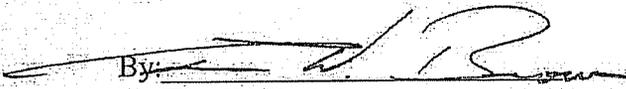
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

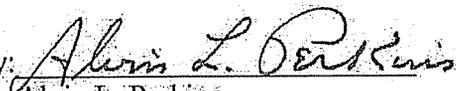
THE OHIO STATE UNIVERSITY

By:   
William J. Shkurti  
Senior Vice President, Business & Finance

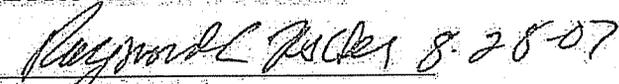
THE WOOD COUNTY COMMISSIONERS

By:   
James F. Carter

By:   
Tim W. Brown

By:   
Alvin L. Perkins

APPROVED AS TO FORM:

  
Raymond C. Fischer  
Wood County Prosecuting Attorney

RESOLUTION NO. 07-1990

In the matter of making a commitment to ) County Commissioners' Office,  
house OSU Extension Office at 639 South ) Wood County, Ohio,  
Dunbridge Road, Bowling Green, Ohio, for ) November 6, 2007.  
at least twenty (20) years. )

*BE IT RESOLVED*, that the Board of County Commissioners of Wood County, Ohio, hereby commit to housing the Ohio State University Extension - Wood County Office at 639 South Dunbridge Road, Bowling Green, Ohio, for a minimum of twenty (20) years, which is the term of Joint Use Agreement with the Ohio State University.

Commissioner Perkins moved and Commissioner Brown seconded the foregoing resolution, and the roll being called on its adoption, the vote resulted as follows:

ALVIN L. PERKINS yes TIM W. BROWN yes JAMES F. CARTER yes

Attest: Marcy M. Collins  
Asst. Clerk of said Board.

daw

cc: Amanda Hoffsis  
Lead Space Planner, Planning & Real Estate  
Facilities Operations and Development  
The Ohio State University  
53 W. 11<sup>th</sup> Ave.  
Columbus, Ohio 43201  
OSU Extension – Wood County Office  
File