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**DIRECTIVE**

December 14, 2007

Re: A JOINT USE AGREEMENT BETWEEN THE UNIVERSITY OF CINCINNATI  
AND THE CITY OF SHARONVILLE.

The 126<sup>th</sup> Ohio General Assembly enacted H.B. 699 which includes a specific capital appropriation of \$550,000 to the University of Cincinnati for the Sharonville Convention Center. State capital funds will support improvements to the Sharonville Convention Center located at 11355 Chester Road, Sharonville, 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 University of Cincinnati and the City of Sharonville 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 City of Sharonville.

Sincerely,

Eric D. Fingerhut  
Chancellor, Ohio Board of Regents

Joint Use Agreement between the University of Cincinnati and the City of  
Sharonville

**BACKGROUND**

H.B. 699 includes a specific capital appropriation of \$550,000 to the University of Cincinnati for the Sharonville Convention Center (Center). The City owns and operates the facility to receive 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 improvements to the Sharonville Convention Center located at 11355 Chester Road, Sharonville, Ohio.

**REVIEW**

The City of Sharonville and the University have enjoyed mutual educational, programmatic, cultural, and professional linkages. This association has provided numerous research opportunities for the University, as well as educational and programming opportunities for the citizens of the City.

Throughout the term of the agreement, the Center will be available to the University for the following –

- Student Exhibitions
- Educational Conferences
- Educational Seminars
- Any function officially sponsored by the University

The City agrees not to charge rental fees for these events throughout the term of the agreement.

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 City of Sharonville.**

## JOINT USE AGREEMENT ANALYSIS

Institutions Involved University of Cincinnati/City of Sharonville

Project Title Sharonville Convention Center Improvements

Capital Bill HB 699 Item CAP-357 Sharonville Convention Center

- 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

**University of Cincinnati and the Sharonville Convention Center**

September 12, 2007

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 completed by OBR.*

- |  |            |
|--|------------|
| 1. Amount of state appropriation provided:             | \$ 550,000 |
| 2. Estimated annual debt service on the appropriation: | \$ 42,282  |
| 3. Term of the state bond, in years:                   | 20         |

*Section II: Estimated value of use of the facility completed by partner campus.*

Use(s) of the facility*	Annual value of use	# of years
a. Student Exhibitions_____	\$ 2,641.00__	20
b. Educational Conferences_____	\$ 18,681.00__	20
c. Educational Seminars_____	\$ 15,855.00__	20
e. Various Univ. Sponsored Events	\$ 5,105.00__	20
f. Total_____	\$ 42,282_____	20

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

*Section III:*

***Analysis of Value***

The annual value of \$42,282 (\$550,000 million borrowed for 20 years at 4.5 % interest) for the University's use of the Sharonville Convention Center is based on the 20 year Joint Use Agreement. The estimated average cost per event over the 20 year period is \$3,523.50.

Listed below are the event description and the estimated annual number of events to be held:

- Student Exhibitions                      1 Events
- Educational Conferences                5 Events
- Educational Seminars                    4 Events
- Various Univ. Sponsored Events      2 Events

## JOINT USE AGREEMENT

This Joint Use Agreement ("Agreement") is made and entered into this 28 day of August, 2007 by and between the UNIVERSITY OF CINCINNATI (hereinafter referred to as the "University") and the CITY OF SHARONVILLE (hereinafter referred to as the "City").

### WITNESSETH:

WHEREAS, the University desires to participate in the implementation of construction and joint use of modifications and additions to the Sharonville Convention Center located at 11355 Chester Road, Sharonville, Ohio, which is referred to herein as the ("Convention Center Improvements").

WHEREAS, the 127<sup>th</sup> Ohio General Assembly enacted H.B. 699, which includes appropriating Five Hundred, Fifty Thousand Dollars (\$550,000.00) in capital improvement monies to the University for a Project involving the implementing of the construction of the Convention Center improvements described more particularly in the attached Exhibit A (the "Project"); and

WHEREAS, the University has concluded that the value of the use of the Project by the University as provided in this Agreement is reasonably related to the amount of the appropriations; and

WHEREAS, both the University and the citizens of the City have long enjoyed mutual educational, programmatic, cultural and professional linkages which have provided numerous research opportunities for the University, as well as educational and programming opportunities for the citizens of the City;

WHEREAS, both the University and the City seek to further their partnership and to continue to forge new educational, cultural, and economic opportunities;

NOW, THEREFORE, IT IS AGREED by and between the parties hereto as follows:

1. Upon execution of this Agreement and approval thereof by the Ohio Board of Regents, the University will submit to the Ohio Board of Regents a request for release of the appropriation to the University for the purpose of implementing the Project, and if such funds are received, will pay them over to the City.
2. The City shall prepare and deliver to the University a Drawdown Schedule containing the estimated amount, purposes and dates of requested draws against the appropriation.
3. After release and encumbrance of the funds, the University may seek disbursement of the funds. The City will make periodic payments to contractors and for other allowable expenses of the Project upon submission by the payees of a requisition for payment in a manner approved by the Director of Finance of the City. The City will request reimbursement from the University for expenses of the Project that are eligible for reimbursement pursuant to Paragraph 8 hereof. Each reimbursement request shall specify that the work has been performed on the Project in conformance with this Agreement, and that the City is entitled to be reimbursed for the amount requested pursuant to the

terms hereof. Copies of paid vouchers will accompany requests for reimbursement, which are submitted by the City to the University. The University shall forthwith initiate steps to obtain disbursement of the amount requested (subject to the provisions for reimbursement of the costs of the University's administrative services provided below) and upon receipt of such monies shall immediately transmit such funds to the City. The City will provide wire instructions to complete the transmission. The City agrees that the University shall deduct and retain from the appropriated funds for reimbursement of the administrative costs incurred as a result of the Project the amount of \$8,128.00 equal to one and one-half (1.5%) percent of the total amount of the appropriation.

4. That the Project will be planned with both research and educational criteria in mind.
5. That the City will make space in and use of the Convention Center Improvements available to the University with a fair market equal to \$550,000, plus interest at the rate of 4.5% per annum, for a period of twenty (20) years, not to exceed a fair market value of \$42,282 inclusive of interest per year, for the following categories of events:
  - a) Student Exhibitions;
  - b) Educational Conferences;
  - c) Educational Seminars; and
  - d) Any function officially sponsored by the University

Specifically excluded would be use by associations or groups that the University may represent or assist in bringing to Sharonville.

6. Scheduling of available dates shall not take place more than 12 months prior to event. Scheduling and contracting can be accomplished only by the proper University authority.

All event scheduling will be subject to the current Booking Policy, specifically as it relates to booking priorities:

- a) First Priority:
  - Conventions and Trade Shows of regional, state, National or International origin
- b) Second Priority:
  - Large Corporate Events that require a block of hotel rooms
- c) Third Priority:
  - Large Public Expositions
- d) Fourth Priority:
  - Annual Events
- e) Fifth Priority :
  - Events using multiple dates, such as the usage anticipated by the University
- f) Sixth Priority:
  - Single day rentals, such as the usage anticipated by the University
- g) Seventh Priority:
  - Single Function Private Events
- h) Eighth Priority:
  - Conduct of City Business

7. No rental fees will be charged by the City to the University for the use of the Convention Center Improvements. The University will be responsible for all other services including but not limited to the payment of food and beverage services, audio/visual equipment, decorating and any other product or service provide by the Convention Center or event service companies. The City will be reimbursed by the University for any out-of-pocket costs related to the use of the facility. Out-of-pocket costs include all costs that would have been avoided if the facility had not been used. Such costs may include but are not limited to:
  - a) Cleaning
  - b) Security
  - c) Room re-sets and labor
  - d) Telecommunications, utilities and other equipment and services provided by the Convention Center
8. The funds appropriated by the State of Ohio shall be used only for capital improvements as defined in the bill appropriating such funds, including the construction and completion of the Project and costs reasonably related thereto.
9. The parties acknowledge that the Sharonville Convention Center Facility (the Project Site) is owned solely by the City and that the use, operation, maintenance and management of the Project site are the responsibility of the City through its Convention Center Director.
10. The City agrees to follow competitive bidding procedures for all contracts let for the Project which include as a minimum, publishing advertisements to seek bids, receiving sealed bids, and awarding contracts to the lowest responsive and responsible bidders.
11. The City agrees that it has an obligation to keep the University informed as to the progress of the construction of the Project and to inform the University of any concerns or problems pertaining to the project, which could affect the University. The City shall also comply with any State of Ohio requirements applicable to this Project, including, but not limited to, the requirements of the Ohio Board of Regents set forth at 3333-1-03 of the Ohio Administrative Code, particularly as it or any other rule or directive may be adopted or amended to apply specifically to this and similar projects, and shall comply with all pertinent federal, state and local laws as well as state administrative regulations.
12. No provision of this Agreement shall be deemed to impose upon the University any responsibility for design, construction, improvement or renovation costs, operating costs, maintenance costs, debt costs, or any other costs, of the City or of the Project, or for the creation and approval of the necessary plans, specifications or other construction activities, including but not limited to, any required permits or approvals for the Project. The City acknowledges and assumes responsibility for costs or expenses associated with the planning, design, construction, operation and maintenance costs of the Project and for costs and expenses resulting from liens issued against the Project by any contractors, subcontractors, material men or laborers, except where the laws of Ohio may provide otherwise.

13. The term of this Agreement shall be twenty years (20) years, commencing as of the date of this Agreement stated above. However, the twenty-year term shall not commence for the provisions contained in Sections 5, 6, and 7 above until all funds allowed to expended under Section 1 have been expended or, the City begins providing the University use of the Convention Center Improvements, whichever occurs earlier. Should the City fail to provide the University the right to use the Project in the manner described herein, prior to the expiration of the 20-year term, the City shall reimburse the University an amount calculated by dividing the funds contributed by the State of Ohio by twenty (20) and multiplying that sum by twenty (20), less the number of full years that the facilities are used by the University.
14. The City shall cause the Project to be continuously insured during the term of this Agreement with a good and responsible insurance company licensed to do business in the State of Ohio with both liability coverage and coverage against loss or damage by fire, lightning, vandalism and malicious mischief, and all other perils covered by standard "extended coverage" or "all risk" policies of insurance. After completion of the Project, any physical assets constituting the Project shall be insured for not less than 100% of the replacement value thereof or the highest percentage of coverage available but not in any event less than the amount appropriated by the State of Ohio as limited by the proration set forth in paragraph 16 hereof. City shall not be required to obtain general liability insurance after completion of the Project. Any policy of insurance shall include the University as an additional insured party and shall be written so as to not be subject to cancellation without prior written notice to the University.
15. 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, the remaining terms, covenants and conditions of this Agreement or the application of such term, covenant or condition to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
16. Both parties agree to meet and discuss possible modifications to this Agreement no later than the start of the fifth and tenth years of the Agreement. Any amendments of this Agreement shall require approval by the Ohio Board of Regents.
17. In the event of any conflict regarding any scheduled use of the Project, the decision of the City shall be final. It is further agreed between the parties hereto that in scheduling activities, uses and events for the Project, it shall not be used for or by any person or party in any way or for any purpose which directly or indirectly competes with, or duplicates any educational program of the University.
18. Both parties agree that this Agreement shall not be binding or become effective unless or until it is approved by the Ohio Board of Regents, which approval shall be evidenced by an appropriate signature hereon.

19. This Agreement shall be to the benefit of the University and the City alone, and its provisions shall be enforceable only by them; it is not intended to benefit any other person or entity, public or private, whatsoever.

THEREFORE, the parties have hereunto executed this Agreement as of the day and year first above written.

UNIVERSITY OF CINCINNATI

CITY OF SHARONVILLE

By: Carla A. Opatkiewicz

By: [Signature]

Its: 

CARLA A. OPATKIEWICZ
ASSISTANT CONTRACTING OFFICER

Its: Safety Services Director

APPROVED AS TO FORM:

[Signature]

## EXHIBIT A

The Sharonville Convention Center has been open since March of 1994. Since that time, it has grown its business to a level where its target market volume exceeds its current capacity. As a result, the Convention Center is turning away more business than it is able to accommodate. Many of its clients have also outgrown the current facility, while many other organizations have expressed an interest in bringing events to the Convention Center if the facility was made larger.

With the support of the State of Ohio and Hamilton County, Ohio, the project will add a 65,000 sq. ft. total building expansion to include a 20,000 sq. ft. Exhibition Hall, an 8,000 sq. ft. Ballroom and 37,000 sq. ft. of other public and building support space at a cost of approximately \$20 million.

This project is part of an overall plan to redevelop a portion of Chester Road to create a corporate/convention complex to be named the "Northern Lights of Cincinnati."

The monies received through this Agreement will be used to fund a portion of the costs of the design work of the Convention Center expansion. The remainder of the design work and construction costs will be funded through the use of Hamilton County Hotel Occupancy Taxes.

## EMERGENCY ORDINANCE 2007 - 44 - E

AUTHORIZING THE SAFETY SERVICE DIRECTOR TO ENTER INTO A JOINT USE AGREEMENT WITH THE UNIVERSITY OF CINCINNATI IN CONJUNCTION WITH A \$550,000.00 GRANT AND DECLARING AN EMERGENCY

BE IT HEREBY ORDAINED BY THE COUNCIL OF THE CITY OF SHARONVILLE THAT:

**SECTION I:** The Safety Service Director is hereby authorized to enter into a Joint Use Agreement whereby the State of Ohio, through the University of Cincinnati, provides a \$550,000.00 capital improvement grant in order to assist with the construction of the improvements to the Sharonville Convention Center. The Joint Use Agreement will provide that the City of Sharonville must make the Convention Center space available to the University of Cincinnati for student exhibitions, educational conferences, educational seminars and official sponsored University activities for a twenty year period at a fair market value of the amount of the grant, \$550,000.00, plus interest at the rate of 4.5% per year. The procedures and details of the Joint Use Agreement have been negotiated between the City of Sharonville and the Ohio Board of Regents, acting through the University of Cincinnati. The suggested Joint Use Agreement is attached to this ordinance and made a part hereof.

**SECTION II:** This ordinance is declared to be an emergency measure necessary for the preservation of the health, safety and well being of the citizens of the City of Sharonville for the reason that the Convention Center expansion must be pursued immediately.

  
\_\_\_\_\_  
President of Council, Kevin Hardman

Passed: August 28, 2007

Attest: Martha Cross Funk  
Clerk of Council

Approved: August 28, 2007

  
\_\_\_\_\_  
Mayor Virgil G. Lovitt, II