



John R. Kasich, Governor  
Jim Petro, Chancellor

University System of Ohio  
Board of Regents

DIRECTIVE 2012-018  
May 16, 2012

RE: AMENDMENT TO THE JOINT USE AGREEMENT BETWEEN THE OHIO STATE UNIVERSITY AND THE FLYING HORSE FARMS

H.B. 562, includes a specific capital reappropriation of \$250,000 for the Flying Horse Pediatric Facility. This amendment modifies paragraphs three and four.

The agreement conforms to Ohio Administrative Code as follows –

- The format of the agreement is appropriate
- The commitment extends no less than twenty 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 Amendment of the Joint Use Agreement between The Ohio State University and Flying Horse Farms

This directive will take effect immediately.

Jim Petro  
Chancellor, Ohio Board of Regents

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AMENDMENT TO THE JOINT USE AGREEMENT  
BETWEEN THE OHIO STATE UNIVERSITY AND FLYING HORSE FARMS

The Joint Use Agreement dated January 26, 2010 between The Ohio State University and Flying Horse Farms is hereby amended as follows:

A. Strike Paragraph 3 and replace it with the following Paragraph:


3. Compliance with Laws. On the project Flying Horse shall comply with all pertinent federal, state and local laws as well as state administrative regulations including those related to prevailing wage.

B. Strike the last sentence of Paragraph 4 and replace it with the following sentence:

Flying Horse shall use, where applicable, bidding procedures equivalent to those enumerated in Ohio Revised Code Chapter 153.

IN WITNESS WHEREOF, the parties have executed this amendment on the date last written below.

The Ohio State University  
Jay Kasey, Senior Vice President  
Administration and Planning

BY:   
Mary Lynn Ready  
Associate Vice President  
Facilities Operations and Development

Date: 4/10/12

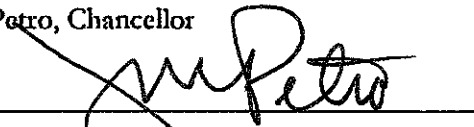
Flying Horse Pediatric Farm

BY: 

Date: 3/21/2012

Print Name: Philomena Danc

Ohio Board of Regents  
Jim Petro, Chancellor

BY: 

Date: 5-16-12

Print Name: J.M. PETRO

mlc

## JOINT USE AGREEMENT

This joint use agreement (this "Agreement") is made and entered into as of the 26 day of January, 2010 by and between The Ohio State University (the "University"), acting under the provisions of Chapter 3335 of the Revised Code of Ohio, and the Flying Horse Pediatric Farm ("Flying Horse"), a non-profit corporation 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: Flying Horse Pediatric Facility  
Legislation: House Bill 562  
Capital Appropriation: C315U9  
OSU Project Number: # OSU-090501

In the total amount of Two hundred and fifty thousand dollars (\$250,000), (the "Appropriation").

WHEREAS, in 2008 the Ohio General Assembly appropriated state capital funds in the amount of \$ 250,000 to The Ohio State University for the Flying Horse Pediatric Facility with The Ohio State University College of Medicine to provide for improvements to the Flying Horse Pediatric Farm for the benefit of children with life threatening and chronic illnesses while providing practicum experiences for graduate level students.

WHEREAS, capital appropriations released by the Chancellor of the Ohio Board of Regents (the "Chancellor") require compliance with Ohio Administrative Code 3333-1-03(E), which specifically calls for the execution of a joint use agreement.

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 Flying Horse hereby agree as follows:

### AGREEMENT

1. Commitment. Flying Horse commits to the University that the monies for the project will be used to provide a year-round facility focused on serving children with life threatening and chronic illnesses, partnering with the College of Medicine to provide internship and volunteer opportunities to medical students.

The estimated value of use of the facility was based on the current projected rate of expense estimated at Flying Horse Farm ("Camp") for services that will be provided by students as interns rather than employees. This estimate is approximately \$1,500 per cycle per student.

The Camp has committed to provide for the equivalent of seven (7) internship cycles per year, each consisting of two full weeks of service. Each internship cycle will involve at least two medical students with the opportunity to expand involvement to include nursing students as well. Due to the extended nature of the weekly camp program, students will amass these hours over two seven day sessions and one pre-experience training and orientation day.

Student service will include one week as an in-cabin counselor and one week assisting medical professionals in the facility's medical center. Therefore, the value is based on costs that would be accrued if the camp had to pay for the services provided by the student interns. Week one service as an in-cabin counselor is conservatively valued at \$200 per week. Week two medical center service is based on calculating the cost of one medical assistant at \$12 per hour for 16 hours each day for seven days totaling \$1,344 per week ( $\$12 \times 16 \times 7 = \$1,344$ ). Therefore, when combined, each student would provide over \$1,500 worth of service to Flying Horse during their two weeks at the camp. Fourteen students, each working two weeks, would be valued at \$21,000 per year.

The number of students assigned at any given time shall be mutually agreed upon by the College of Medicine and the Flying Horse.

2. Term. The term of this Agreement shall commence as of the date of its approval by the Chancellor and shall expire twenty (20) years from the date thereafter. In the event that this Agreement is terminated prior to its expiration, Flying Horse shall reimburse the State of Ohio with an amount calculated by (a) dividing the amount of the appropriation actually paid to Flying Horse 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 project Flying Horse shall comply with all pertinent federal, state and local laws as well as state administrative regulations including those relating to competitive bidding and prevailing wage.
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 Flying Horse to provide a facility focused on serving children with life threatening and chronic illnesses, partnering with the College of Medicine to provide internship and volunteer opportunities to medical students. All funds will be utilized by Flying Horse Pediatric Farm to make capital improvements to their facility located at 5260 State Route 95, Mount Gilead, Ohio and shall not be used for operating expenses. Flying Horse, in connection with the Agreement, shall

use, where applicable, 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.

5. Flying Horse Pediatric Farm and Insurance. Flying Horse is a non-profit corporation organized and existing under the laws of the State of Ohio, and is fully insured. Flying Horse (formerly known as Cypress Ridge Farm) is the lessee of the facility to be improved, located at 5260 State Route 95, Mount Gilead, Ohio. The lease (Exhibit A) of said property having commenced on August 4, 2005 extends beyond the term of this agreement, terminating fifty years from date of execution.
6. Hold Harmless. The University shall have no liability for, and Flying Horse 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 Chancellor 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 \$ 3,750 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 Flying Horse. Flying Horse shall submit a draw request of permitted use of funds to the University in the amount of \$246,250 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 State of Ohio Office of Budget and Management Controlling Board approval for release of funds, 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 Chancellor shall, upon request, be provided with pertinent records by Flying Horse and the University that measure the nature and extent of the collaboration between Flying Horse 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 Flying Horse: Flying Horse Farms  
225 Greenmeadows Drive South, Suite A  
Lewis Center, Ohio 43035

With a copy to: Dr. Linda Stone, M.D.  
Associate Dean, Student Life  
College of Medicine  
B013B Graves Hall  
333 West 10th Avenue,  
Columbus, Ohio 43215

Eileen Mehl, M.A.  
Program Manager, Office of Student Affairs  
College of Medicine  
B013B Graves Hall  
333 West 10th Avenue,  
Columbus, Ohio 43215

**11. 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.

**12. Amendments.** Any amendment to this Agreement will not be effective unless and until approved in writing by the parties hereto and by the Chancellor.

13. 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  
JEFF KAPLAN, Senior Vice President  
Office of Administration and Planning

By: Mary Lynn Readey Date: 1/26/10  
Mary Lynn Readey  
Associate Vice President  
Facilities Operations and Development

FLYING HORSE PEDIATRIC FARM

By: Rhonda Fraas  
Rhonda Fraas  
President, Board of Directors