



**DIRECTIVE 2020-014**

April 17, 2020

RE: JOINT USE AGREEMENT BETWEEN CLEVELAND STATE UNIVERSITY AND  
CLEVELAND INSTITUTE OF ART

Cleveland State University has been granted appropriations contained in House Bill 529 of 132<sup>nd</sup> General Assembly in the amount of five hundred fifty thousand dollars. Cleveland State University will use the funds to improve the facility owned by Cleveland Institute of Art. As required by Ohio Administrative Code section 3333-1-03, Cleveland State University submitted a Joint Use Agreement for consideration and approval by the Chancellor.

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 Department's website for the purpose 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 Cleveland State University and Cleveland Institute of Art.

This directive will take effect immediately.

Randy Gardner  
Chancellor

mlc

**JOINT USE AGREEMENT  
BETWEEN  
CLEVELAND INSTITUTE OF ART  
AND  
CLEVELAND STATE UNIVERSITY**

THIS JOINT USE AGREEMENT (this “Agreement”) is between CLEVELAND INSTITUTE OF ART, 11610 Euclid Avenue, Cleveland, Ohio 44106, an Ohio non-profit corporation (“CIA”) and CLEVELAND STATE UNIVERSITY, 2121 Euclid Avenue, Cleveland, Ohio 44115, an instrumentality of the State of Ohio created and existing under Chapter 3344 of the Ohio Revised Code (“UNIVERSITY”).

**RECITALS**

WHEREAS, UNIVERSITY’s mission is to provide an education of high quality to students with diverse backgrounds, experiences, and educational needs, as well as serve as a catalyst, leader, and partner in the ongoing enhancement of the quality of life and economic viability of the region and the State of Ohio; and

WHEREAS, CIA is an independent professional college of art and design committed to leadership and vision in all forms of visual arts education. CIA’s mission is to nurture the intellectual, artistic and professional development of students and community members through rigorous visual arts and design education; and

WHEREAS, it is the intention of this Agreement that UNIVERSITY and CIA will develop and maintain an educational relationship that will be mutually beneficial to both parties through this Joint Use Agreement; and

WHEREAS, the 131<sup>st</sup> Ohio General Assembly passed Amended Senate Bill 310, which appropriates, in Section 207.80 line C26069, the sum of Two Hundred Thousand and No/100ths Dollars (\$ 200,000.00) (“Funds”) to CIA to be used for the Project (as defined in Section 7 below),

subsequently re-appropriated in House Bill 529; and, whereas the 132<sup>nd</sup> General Assembly passed House Bill 529, which appropriates in Section 207.80 line C26069 the sum of Three-Hundred Fifty Thousand Dollars (\$350,000.00) to the CIA, for a combined total of \$550,000.00 to the CIA; and

WHEREAS, the State of Ohio capital appropriations released by the Chancellor of the Ohio Department of Higher Education (the “Chancellor”) require compliance with Ohio Administrative Rule 3333-1-03(E), which specifically calls for the execution of a joint use agreement; and

WHEREAS, UNIVERSITY has concluded that the value of the use of CIA’s facilities and resources by UNIVERSITY as provided in this Agreement is reasonably related to the amount of the appropriation, and that the terms of this Agreement are more favorable to UNIVERSITY than to others.

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

1. Use of CIA’s Facilities and Resources by UNIVERSITY.

(a) Advanced Animation Course. CIA shall grant University use of the renovated Facility by providing and maintaining a credit bearing advanced animation course specific to the University’s Film School majors. The Advanced Animation Course will be offered one semester per year, with no tuition or fees charged for up to ten (10) University enrollees. The value of the course, and Facility and equipment access is outlined in Exhibit A, attached hereto and incorporated by reference, to be provided on an annual basis for 20 years.

(b) CIA and UNIVERSITY will collaborate to develop schedules for UNIVERSITY’s use of the renovated Facility and related equipment upon completion of the Project.

2. Promotion. Each annual report issued by CIA during the term of this Agreement shall include a description of the UNIVERSITY-CIA relationship created by this Agreement and mention the Funds that were provided to UNIVERSITY to be used by CIA for the Project.
3. Joint Committee. A Joint Committee comprised of CIA's representatives and representatives of UNIVERSITY's School of Film and Media Arts will develop the details and guidelines for implementation of program referenced in Section 1 above. The Joint Committee shall meet at least annually to review and monitor implementation of the parties' commitments under this Agreement. Upon request, a written report shall be prepared following each meeting, and submitted to each party's board of directors or trustees, and the Chancellor.
4. Term; Termination Prior to Expiration of Term. The term of this Agreement shall commence as of the date the UNIVERSITY has access to the CIA's facilities and shall end twenty (20) years thereafter.
5. Reimbursement of State upon Termination. In the event that this Agreement is terminated for any reason prior to twenty (20) years from the commencement date, CIA shall remit to the State of Ohio a prorated portion of the Funds received by CIA, which shall be 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 during which CIA's obligations under this Agreement have been fulfilled.
6. Compliance with Laws. CIA shall comply with all pertinent federal, state and local laws as well as state administrative regulations, applicable to the use of the Funds hereunder and to the operation of the Project. UNIVERSITY shall comply with all

pertinent federal, state and local laws as well as state administrative regulations, applicable to the disbursement of the Funds hereunder and to the use of the Project as provided hereunder.

7. Funds Used Only for Project. The Funds provided under this Agreement shall be used by CIA only for capital improvements related to (the "Project") located at 11610 Euclid Avenue, Cleveland, Ohio 44106: (a) academic capital improvements, including but not limited to, the expenditures within the Facility for the expansion of instructional and studio areas, computer labs, and the acquisition and installation of equipment, furnishings and fixtures, computer hardware and related software, audio visual equipment and leasehold and other improvements in and serving the Facility. The Funds shall not be used for operational expenses.
8. Ownership of Insurance. CIA will obtain and maintain insurance for the Project and the subject leased premises. UNIVERSITY will be added as an additional insured. CIA holds a leasehold interest in and to the subject leased premises pursuant to a certain lease agreement between CIA (as tenant) and McCullough Center, LLC (as landlord), which lease agreement has a term expiring not less than twenty (20) years from the date of this Agreement.
9. Competitive Bidding. CIA, in connection with the expenditure of the Funds hereunder, shall, to the extent required by law, follow the competitive bidding procedures for educational facilities construction identified in Ohio Revised Code Chapter 153, including, but not limited to, publishing advertisements to seek bids, and awarding contracts to the lowest responsive and responsible bidder.

10. Hold Harmless. CIA shall hold the State of Ohio and UNIVERSITY, its officers, trustees and employees harmless from any and all obligations, expenses, liabilities or claims of any kind arising out of the construction, renovation, operation, or maintenance of the Project, and/or UNIVERSITY, its officers, trustees or employees being named as a defendant or party to any lawsuit or adjudicatory proceedings, if such lawsuit or adjudicatory proceeding arises out of an action or omission or an alleged action or omission of CIA, its officers, directors or employees, including, but not limited to CIA's failure or alleged failure to comply with applicable public bidding requirements or any other federal, state or local law, ordinance, rule, order, directive or regulation. Notwithstanding the foregoing, CIA shall have no obligation to indemnify or hold harmless any party hereunder in the event such party acted in a negligent or willful manner.
11. Amendments. Any amendments to this Agreement shall be in writing, signed by CIA and UNIVERSITY, and shall require approval by the Chancellor before any amendment takes effect.
12. Records of UNIVERSITY Use. Upon request by the Chancellor and/or UNIVERSITY or CIA, as the case may be, CIA and/or UNIVERSITY, as the case may be, shall supply the Chancellor and/or UNIVERSITY or CIA, as the case may be, with all pertinent records, including financial records, which measure the nature and extent of use of CIA, facilities and resources by UNIVERSITY, the terms and conditions governing such use and the specific benefits derived by UNIVERSITY under this Agreement.

13. Distribution of Funds; Administrative Costs. Upon execution of this Agreement, UNIVERSITY shall submit a formal request for the release of the Funds to the Controlling Board. See Exhibit B, attached hereto and incorporated herein by reference. After the release of the Funds, CIA shall submit to UNIVERSITY requests for payment of amounts along with documentation of contractor invoices or purchase orders related to obligations incurred by CIA for permitted uses of the Funds. Upon UNIVERSITY's receipt of any such approved request for payment and documentation of invoices or purchase orders, UNIVERSITY shall disburse to CIA the Funds so requested. From the Funds, UNIVERSITY shall receive administrative costs in the amount of eight thousand two hundred fifty and No/100ths Dollars (\$8250.00), which is equal to one and one-half percent (1½%) of the total amount of the Funds.
14. Notices. All notices to the parties shall be sent by registered or certified mail, postage prepaid and addressed to the parties at the addresses set forth below, or to such other address as either party shall have designated by prior notice.

If to UNIVERSITY: Cleveland State University  
2121 Euclid Avenue AC 333  
Cleveland, Ohio 44115  
Attn: Provost

With a copy to: Office of General Counsel  
Cleveland State University  
2121 Euclid Avenue AC327  
Cleveland, Ohio 44115

If to CIA: Cleveland Institute of Art  
11610 Euclid Avenue  
Cleveland, Ohio 44106  
Attn: Vice President of Faculty Affairs and  
Chief Academic Officer

With a copy to: McDonald Hopkins LLC  
600 Superior Avenue, E.  
Suite 2100  
Cleveland, Ohio 44114  
Attn: Chad Arfons, Esq.

15. **Binding Nature.** This Agreement shall be binding upon and inure to the benefit of CIA and UNIVERSITY and their respective successors.
16. **Entire Agreement.** This Agreement sets forth the entire agreement of the parties hereto relating to the subject matter of this Agreement.
17. **Heading.** 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.
18. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

[No further text on this page. Signature page follows.]

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

UNIVERSITY:

**CLEVELAND STATE UNIVERSITY**

By: 

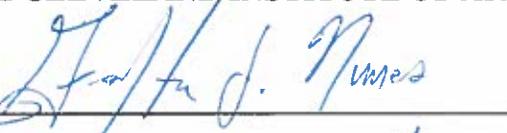
Print Name: HARLAN SANDS

Title: PRESIDENT

Date: MARCH 3, 2020

CIA

**THE CLEVELAND INSTITUTE OF ART**

By: 

Print Name: Grafton J. Nunes

Title: President and CEO

Date: February 27, 2020

"Exhibit A"

**Joint Use Agreement Worksheet  
The Ohio Department of Higher Education**

**Project:** Facility Renovation

**Date:** December 2019

*Section I: State appropriation information.*

1. Amount of state appropriation provided: \$ 550,000.00
2. Estimated annual debt service on the appropriation: \$ 42,281.88
3. Term of the state bond, in years: 20 years

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

Use(s) of the facility*	Annual value of use	# of years
3 credit hour course in renovated facility For up to 10 eligible University students	\$ 52,950.00	20
	\$	
	\$	
	\$	
	\$	
	\$	
	\$	

(\* 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* 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 Department of Higher Education. 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 \$384,381 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 \$384,381 per year for 20 years.

Section III – Basis for values shown in Section II

\$1,690	2019-2020 CIA per credit hour tuition charge
<u>  X 3</u>	number of credits of course offering
\$5,070	Tuition for credit course for less than full-time students
<u>  225</u>	Standard Lab/Technology Fee for 3 credit course
\$5,295	Total Per course tuition and fees
<u>  X 10</u>	Multiply by number of students
\$52,950	Annual value of tuition and fees for 10 students for 20 years

CIA shall grant University use of the renovated Facility by providing and maintaining a credit bearing advanced animation course specific to the University's Film School majors. The Advanced Animation Course will be offered one semester per year, with no tuition or fees charged for up to ten (10) University enrollees per year. The value of the course is calculated as follows:

- a. CIA's per current credit hour tuition charge multiplied by 3 credits, plus
- b. CIA's Standard Lab/Technology fee for a 3 credit hour course
- c. The sum of a and b is multiplied by 10 students, equating to \$52,950 per year

Course content and scheduling of class will be determined via joint collaboration between University Film School faculty and CIA Digital Arts program faculty. University Film School majors will benefit by having instruction and access to state of the art digital hardware and software, and new perspectives from CIA faculty leading its digital arts programming.

**Exhibit B**  
**Tentative Disbursement Schedule**

**One lump sum upon Controlling Board Approval.**

## JOINT USE AGREEMENT ANALYSIS

Institutions: Cleveland State University and Cleveland Institute of Art

Project Title: Cleveland Institute of Art Renovation

Senate Bill/House Bill: Senate Bill 310, reappropriated to House Bill 529

Line Item: Section 207.80, line C26069

1	¶ 7	Is the facility to be built/improved identified specifically by address or location?
2	¶ 8	Does the non-profit organization now own the property or have a long-term lease? If not, when will it control the property?
3	¶ 4	Does the agreement provide for use of the facility for at least 20 years from the time that it is ready for occupancy?
4	¶ 5	If the agreement is terminated, is there a pro rata reimbursement clause? Is the reimbursement formula correct?
5	¶ 7	Will funds be used only for capital improvements and not operating costs?
6	¶ 10	Will the non-profit hold the institution harmless for all construction, operation, and maintenance costs?
7	¶ 6	Will the non-profit comply with federal, state, and local laws and rules?
8	¶ 9	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.)?
9	¶ 13	Does the contract provide for a 1.5% administrative fee for the institution?
10	¶ 11	Does the agreement require that amendments be approved by the Board of Regents?
11	¶ 13	Is the drawdown schedule or payment procedure included?
12	¶ 1,2	Are the extent and nature of spaces and uses adequately described?
13	¶ 1,2	Are the terms and conditions of use of the facility described?

14	Yes	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, Exhibit B)
15	¶ 8	Is the facility insured?