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DIRECTIVE

December 14, 2007

Re: A JOINT USE AGREEMENT BETWEEN KENT STATE UNIVERSITY AND
HILLEL JEWISH STUDENT CENTER.

The 126th Ohio General Assembly enacted H.B. 699 which includes a specific capital appropriation of \$400,000 to Kent State University for the Hillel Jewish Student Center. State capital funds will support the construction of a student center on land owned by Kent State University on Summit Street in Kent, 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. Kent State University and Hillel Jewish Student Center 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 Kent State University and Hillel Jewish Student Center.

Sincerely,

Eric D. Fingerhut
Chancellor, Ohio Board of Regents

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Joint Use Agreement between Kent State University and Hillel Jewish Student Center

BACKGROUND

H.B. 699 includes a specific capital appropriation of \$400,000 to Kent State University for the Hillel Jewish Student Center (Hillel). Hillel will own and operate the facility to receive state capital funds. As required by Ohio Administrative Code section 3333-1-03, Kent State University submitted a Joint Use Agreement for consideration and approval by the Chancellor.

State funds will support the construction of a student center on land owned by Kent State University on Summit Street in Kent, Ohio.

REVIEW

Hillel has had a long and successful association with Kent State University. The Hillel Student Center (Center) will offer University students organizational meeting space, study areas, refreshments, periodic meals, as well as social, recreational, and educational opportunities.

Throughout the term of the agreement, the Center will offer University students unique opportunities to interact with various guest speakers and lecturers. The Center shall provide additional meeting space for faculty, staff, and the general public, including catered events and activities. Finally, the Center will serve University students by offering compatible commercial retail activities, such as food service, coffee shop, bakery, banquet facilities, event catering, and merchandise sales.

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 Kent State University and Hillel Jewish Student Center.

JOINT USE AGREEMENT ANALYSIS

Institutions Involved Kent State University/Hillel Jewish Student Center

Project Title Hillel Facility Capital Improvements

Capital Bill HB 699 Item CAP-289 Kent State University – Hillel

- 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
August 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' education 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: | <u>\$400,000</u> |
| 2. Estimated annual debt service on the appropriation: | <u>\$ 30,750</u> |
| 3. Term of the state bond, in years: | <u>20 years</u> |

Section II: Estimated value of use of the facility:

Uses of the facility*	Annual value of use	# of years
a. <u>Facility Rental</u>	<u>\$ 10,000</u>	<u>15</u>
b. <u>Guest Lecture</u>	<u>\$ 10,000</u>	<u>15</u>
c. <u>Building Staff</u>	<u>\$ 15,000</u>	<u>15</u>
d. <u>Campus-Wide Programming</u>	<u>\$ 6,500</u>	<u>15</u>

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

Section III
Hillel at Kent State -
Funding Justifications

- a) *Facility Rental Fees:* \$10,000. There are three large multipurpose rooms in the building that the university will have access to use. This does not include additional fees that may be incurred for set-up, clean-up, audio visual needs, etc.
- b) *Guest Lecture Series each year:* \$10,000. In conjunction with the Jewish Studies Department, Hillel will provide guest lecture and class instruction. This amount includes preparation, production of materials, and honorarium for instructors.
- c) *Building Personnel:* \$15,000. Building personnel will need to be hired in order to be open for the entire student community as a gathering space. They will be responsible for staffing the reception desk, set up and clean up and minor maintenance.
- d) *Campus-Wide Programming:* \$6,500. Hillel will provide programming open to the entire campus throughout the year to “lighten the load” the university will need to provide. Such key times may include – Week of Welcome (orientation week); Residence Life Training week, etc.

JOINT USE AGREEMENT

THIS JOINT USE AGREEMENT (AGREEMENT) made and entered into by KENT STATE UNIVERSITY (UNIVERSITY), *having an office in the Kent State University Library on the Campus of Kent State University in Kent, Ohio, 44242 in Portage County and HILLEL JEWISH STUDENT CENTER (HILLEL), having an office at 202 North Lincoln Street, Kent, Ohio, 44240 in Portage County.*

WITNESSETH:

WHEREAS, the UNIVERSITY and HILLEL mutually intend to enhance their educational/professional relationship to share services and educational opportunities as well as mutual benefits that the UNIVERSITY and HILLEL can derive by joint collaboration through this Agreement.

WHEREAS, the General Assembly has enacted *House Bill 699*, which includes specific appropriations of capital improvement resources directed to the UNIVERSITY for the use and further enhancement of HILLEL'S educational and student services programs in cooperation with the UNIVERSITY, in the sum of *Four Hundred Thousand Dollars (\$400,000.00)*.

WHEREAS, the UNIVERSITY will submit to the Ohio Board of Regents a request for the release of the *\$400,000.00* appropriation herein identified which will be used by HILLEL for *capital improvements of Hillel facilities to be built on Kent State University property via "Ground Lease" to KSU HILLEL Lease Corporation.*

WHEREAS, in consideration of the UNIVERSITY'S assistance in the release of the above-mentioned appropriations and in accordance with the requirements of *House Bill 699*, HILLEL desires to enter into a joint use arrangement with the UNIVERSITY under the terms set forth herein.

WHEREAS, the UNIVERSITY has concluded that the value of the use and services of HILLEL by the UNIVERSITY as provided in the Agreement is reasonably related to the amount of the appropriation and the terms of use are more favorable to the UNIVERSITY than to others.

Now therefore, it is mutually agreed by and between the UNIVERSITY and HILLEL as follows:

1. *HILLEL has had a long and successful association with Kent State University. The Hillel Student Center will offer University students organizational meeting space, study areas, refreshments, periodic meals, social, recreational, and educational opportunities.*

2. *HILLEL Student Center shall offer University students unique opportunities to interact with various guest speakers and lecturers.*
3. *The HILLEL Student Center, located on the Kent State University Kent Campus, shall provide additional meeting space for faculty, staff, and the general public, including catered events and activities.*
4. *The Hillel Student Center will serve the students of the University with compatible commercial retail activities, such as food service, coffee shop, bakery, banquet facilities, event catering, and merchandise sales.*
5. *The potential value of such access over the term of the Agreement as expressed in support of the pass-through of the \$400,000.00 capital appropriation shall not serve as definition or precedent of actual value of specific uses or services should a fee be requested for any of those benefits after expiration of the agreement.*
6. *The UNIVERSITY shall apply to the Board of Regents for release of the funds provided in House Bill 699 via the Controlling Board and provide for the full disbursement thereof to HILLEL.*
7. *Commencement of this Agreement is subject to approval by the Ohio Board of Regents and shall continue for a period of fifteen (15) years after which time these mutual obligations will terminate unless extended or as otherwise provided herein.*
8. *In the event this Agreement is breached or terminated for any reason prior to fifteen (15) years from the commencement date, HILLEL shall remit to the State of Ohio a prorated portion of the House Bill 699 funds which shall be calculated by dividing the funds contributed by the State of Ohio by fifteen (15) and multiplying that sum by fifteen (15) less the number of full years that HILLEL'S obligations under this Agreement were fulfilled. Should Kent State University buy out HILLEL'S leasehold and improvements before the completion of the fifteen (15) year term of this Agreement due to the need for the premises, the prorata portion of the funds shall be subtracted from the price for such purchase and remitted to the State. After the expiration of that fifteen years, should Kent State University purchase HILLEL'S leasehold and improvements, or should the Ground Lease not be renewed beyond the original forty year term because Kent State University elects not to do so, then Kent State University will pay to the Lessee the fair market value minus the total of the funds contributed by the State of Ohio hereunder. Market value shall be determined by State approved appraisal and shall be based on the total property value minus the market value of the land. This provision shall survive the expiration of the other terms of this Agreement until the end of the first renewal term.*

9. The funds provided under this Agreement shall be used by **HILLEL** only for capital improvements as defined in *House Bill 699*.
10. The **HILLEL** student center is owned/leased by **HILLEL**, is fully insured, and is located on land leased by Kent State University.
11. **HILLEL** shall hold the UNIVERSITY, its officers, trustees and employees and the State of Ohio harmless from any obligations, expenses, liabilities or claims of any kind arising out of (i) the construction, general operation or maintenance costs of **HILLEL'S** student center and/or (ii) the UNIVERSITY, its officers, trustees or employees or the State of Ohio being named as a defendant in or party to any lawsuit or adjudicatory proceeding, if such lawsuit or adjudicatory proceeding arises out of an action or omission, or an alleged action or omission, of **HILLEL**, its officers, trustees or employees, including, but not limited to, **HILLEL'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.
12. **HILLEL** shall comply with all pertinent federal, state and local laws as well as state administrative regulations.
13. A tentative disbursement schedule is attached hereto as Exhibit A.
14. As permitted by the Ohio State's Board of Regents, The UNIVERSITY shall be paid a fee of 1-1/2% or *Six Thousand Dollars (\$6,000.00)* for the administrative costs incurred by the UNIVERSITY as a result of the project; such payment shall be made at the time the funds are released by the State Controlling Board.
14. Any amendments to this Agreement shall be in writing signed by **HILLEL** and the UNIVERSITY and shall require approval by the Ohio Board of Regents.
15. **HILLEL** shall, upon request, supply the Ohio Board of Regents with all pertinent records which measure the nature and extent of use of **HILLEL** student center by the UNIVERSITY, the terms and conditions governing such use and the specific benefits derived by the UNIVERSITY under this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the latest date set forth below.

HILLEL STUDENT CENTER

By: _____

Date: 8/29/07

KENT STATE UNIVERSITY

By: David B. Reame

Date: August 29, 2007

REVIEWED BY

AUG 28 2007

 UNIVERSITY
 COUNSEL

EXHIBIT A

PROPOSED DISBURSEMENT SCHEDULE

The Hillel Student Center requests an immediate disbursement of the entire \$400,000.00 appropriation, less \$6,000.00 in administrative costs to which Kent State University is entitled.

**KENT STATE UNIVERSITY
BOARD OF TRUSTEES
May 30, 2007**

Resolution

**APPROVAL OF JOINT USE AGREEMENT WITH THE
KENT STATE UNIVERSITY HILLEL**

WHEREAS, the Kent State University Hillel requested State capital improvement funds under House Bill 699 (H.B. 699) in the amount of \$400,000 in support of the construction of the Hillel Jewish Student Center Project; and

WHEREAS, the Ohio General Assembly of the State of Ohio passed H.B. 699 and appropriated \$400,000 through Kent State University for construction of the Hillel Jewish Student Center as overseen by the Kent State University Hillel Lease Corporation; and

WHEREAS, Kent State University and the Kent State University Hillel are required to enter into a Joint Use Agreement regarding the benefits of the funding from H.B. 699; and

WHEREAS, Kent State University must conclude that the value of the benefits to be provided for in this agreement will be reasonably related to the amount of the appropriation; and

WHEREAS, inasmuch as all State of Ohio capital appropriations for community projects released through the Ohio Board of Regents require a Joint Use Agreement and the parties desire to enter into a Joint Use Agreement in order to set forth the parameters of the shared benefits; now, therefore,

BE IT RESOLVED, by the Board of Trustees of Kent State University that the Senior Vice President for Administration be hereby authorized to enter into a Joint Use Agreement between Kent State University and the Kent State University Hillel in accordance with the parameters for such agreements.

**KENT STATE UNIVERSITY
BOARD OF TRUSTEES
May 30, 2007**

Background

**APPROVAL OF JOINT USE AGREEMENT WITH THE
KENT STATE UNIVERSITY HILLEL**

General Information

In support of capital project priorities in local communities, the Ohio General Assembly routinely appropriates funds for such projects through its public colleges and universities.

As a result of the efforts of the Kent State University Hillel to construct the Hillel Jewish Student Center on Kent State University property, a lease between Kent State University and Kent State University Hillel Lease Corporation, as authorized by the Board of Trustees of Kent State University, was negotiated for a site along Summit Street. In support of the project, State capital improvement funds (H.B. 699) were appropriated through Kent State University to Kent State University Hillel to partially fund the project.

State of Ohio capital improvement appropriations released through the Ohio Board of Regents require the establishment of a Joint Use Agreement between Kent State University and the entity(ies) to whom the appropriations are directed. Kent State University is to derive a value from the expenditure of these funds which is reasonably related to the amount of the appropriation.

The proposed resolution authorizes the Senior Vice President for Administration to execute a Joint Use Agreement on behalf of Kent State University with the Kent State University Hillel within the parameters required for such agreements.

Alternatives and Consequences

If approval is not granted, the opportunity for Kent State University and Kent State University Hillel to realize the benefit from this project will be lost.

Specific Recommendation and Justification

It is recommended that the Senior Vice President for Administration be authorized to execute the Kent State University Hillel Joint Use Agreement on behalf of Kent State University.

Timetable and Action Requested

Approval by the Board of Trustees is requested at its meeting on May 30, 2007.