

Ohio School Facilities Commission
July 26, 2007
William McKinley Room 1:30 PM

MINUTES

Meeting was called to order at 1:35 PM.

1. Roll Call

Members present: Chair Pari Sabety, Vice Chair Hugh Quill, Dr. Steve Puckett, Jack Irvin for Senator Larry Mumper, Senator Tom Roberts, and Representative Matt Szollosi.

Representative Szollosi read a press release regarding a fatality at Westfield Elementary School in Toledo on July 25th and requested a moment of silence in memory of Walter Minarik of Perrysburg, a subcontractor for Willson Builders, Inc.

2. Executive Director's Report

Regulatory Reform Committee: Has concluded their work and a report will be issued within the next month.

Antioch Report Draft: OSFC has received a draft report from Antioch on how our buildings relate to functionality in terms of teaching in the classroom. Plan to share the report at the Architect/Engineer Summit on July 31st and present a full report at the next Commission Meeting.

OGRIP: Eric Bode and Melanie Drerup met with OGRIP to discuss their global information services. This will be helpful to OSFC in locating buildings and making decisions in some of our higher populated areas.

Knowledge Transfer: Cost benefit analysis to benefit OSFC in the future.

Meeting with Lake Local School District: Scheduled a meeting to discuss their community engagement program and collaboration with their community hospital, YMCA, community college, community library and the Chamber of Commerce.

Abatement: There was much discussion regarding abatement issues in Ashtabula. OSFC received many letters regarding saving the building as opposed to demolishing it. OSFC is actively investigating this matter.

A/E Summit: The annual A/E Summit will be held on July 31st. Emphasis will be on quality control, upcoming energy conservation proposals and incentives.

Groundbreaking and Dedications: Updated groundbreakings and dedications are in the book.

eTech: Working on dissemination of information.

CM Proposals: Last Friday we received a total of 105 proposals. We are in the process of preliminary screening. We will then short list the proposals and then interview the short list. Dayton City School District CM proposals deadline has been extended two weeks.

2007 Financial Report: Included in the book, expenditures just fell short of \$900 million.

Scioto County JVS: Handout was provided regarding answers to Dr. Puckett's questions from the last meeting regarding the complications with the process.

Site Visits: Visited Ohio Avenue; Mifflin Elementary; Mechanicsburg and Cincinnati.

FOP Meeting: Met with the FOP and will be meeting with the Buckeye Sheriffs Association to discuss theft on project sites.

Dayton CM Transition: We will be transitioning to another CM at the end of the year. Still have services on site.

ODOT Meeting: Met with ODOT and received information on new program concerning turn lanes and learned of some things that are available to the schools at no cost.

LEED Report: We have received the initial input from Innovative Design, Inc., Steed/Hammond/Paul and Elm Engineering, Inc. OSFC will be reviewing and providing a report to the Commission and General Assembly.

Project Status Maps: Maps were shown with active and completed school districts, as well as new districts' receiving funding offers.

Press Release: Shared a press release for the new school districts.

Change Orders: Shared a report on change orders in excess of \$100,000 since 1998 depicting the union and non-union contractors.

Chair Sabety commented on the Regulatory Reform Committee and the LEED's work. Scott North, on behalf of the Advantage Ohio out of the Governor's office, has put the Regulatory Reform Committee report together. When we have the presentation on the LEED's proposal and the implications of that for the design manual, as well as the findings of the Regulatory Reform Committee at our next month's meeting we could discuss that and take action on it to assure we are moving forward quickly enough to adopt many of these changes, if not all of them, in time for the receipt of the Tobacco Securitization money and our move forward on those projects.

3. Adoption of the June 28, 2007 Meeting Minutes

Vice Chair Quill moved to approve the June 28, 2007 meeting minutes.

Dr. Puckett seconded the motion.

Approval: Vote 3-0.

4. Master Plan and Outreach Process Presentation – Introductions by Steve Lutz and Presentation by Bill Prenosil

Steve Lutz introduced the Planning staff:

Melanie Drerup, Deputy Chief of Planning, has been with the Commission since the beginning. Melanie joined us from the world of construction management and has served as President of the Council of Educational Facility Planners.

Wayne Colman, Planning Manager, is in Cincinnati today working with them to keep them on track with their rapidly progressing project.

Eugene Chipiga, Planning Manager, has been with the Commission for three and a half years. He is a registered architect with 25 years in private practice and much of it in school design.

Janice Parker, Sr. Planning Coordinator, has been with the Commission for nine years.

Bill Prenosil, Planning Director, has been with the Commission for six years. He is a registered architect and previously a principal in a local architectural firm and has over twenty years in private practice and much of it in school design.

Steve Roka, Planning Manager, has been with the Commission for seven years. He is a registered architect with ten years experience in private practice.

Joy Endrulas, Sr. Planning Coordinator, has been with the Commission for seven years.

Glenn Rowell, Planning Director, has been with the Commission for ten years and is a registered architect.

Lisa Laney, Planning Manager, has been with the Commission for eight years and thirteen years with DAS much of it with the State Architects Office.

Nina Dearing, Planning Coordinator, has been with the Commission for two years.

Franklin Brown, Planning Director, has been with the Commission since the beginning. He has twenty-eight years in private practice and is a registered architect. He supports the Planning activities in a variety of ways and most recently in the development of the LEED's study.

Bill Prenosil presented how planning is organized with the challenge ahead of us, the outreach program and a typical planning process. Planners are spread across three different regions: Northwest, Northeast and Southern.

Team One – Northwest:

Melanie Drerup
Deputy Chief of Planning

Wayne Colman
Planning Manager

Eugene Chipiga
Senior Planning Manager

Janice Parker
Senior Planning Coordinator

Team Three – South:

Glenn Rowell
Planning Director

Lisa Laney
Planning Manager

Nina Dearing
Planning Coordinator

Team Two – Northeast:

Bill Prenosil
Planning Director

Steve Roka
Planning Manager

Joy Endrulas
Senior Planning Coordinator

Team Support:

Franklin Brown
Planning Director

The outreach process was developed two to three years ago in an attempt to allow districts to have more time to make their decisions – which buildings will make up the final plan and how to deal with enrollment growth or decline. This process allows us to meet with the districts as early as possible. OSFC Representatives have dialogue with the districts and answer some of their questions especially when it comes to expectations – things like timelines and responsibilities and to help them better able to respond as we move through the process. It makes it extra challenging with the Tobacco Securitization process. We have a lot more districts to deal with in a shorter period of time, so what we are doing is meeting

twice a year. We had the first meeting on May 16th of this year and met with 33 districts. On June 13th, we met with 24 districts. There are 58 districts eligible, of those 22 chose the fast track, 27 chose the one-year option and 9 deferred.

The Assessment and Master Planning process is the foundation of all OSFC co-funded projects. The information created forms the basis by which the scope of the work is determined for the entire project, both for new buildings and renovated buildings. It develops a comprehensive infrastructure assessment for the entire district, resulting in a building-by-building, itemized scope of work & budget to construct the required improvements. One of the things we have recognized over the years is that this process is not a perfect process due to the limited amount of time that we have and the resources. One of the things we have been stressing is trying to get the districts A/E involved early in the process. School districts need to develop a level of confidence that the assessment is as thorough as practical and at the same time realize that it is not all inclusive and some other scope may be later discovered. It is expected that all of the schools will be new, or if renovated, like new condition, with similar amenities and life expectancy as a new building.

The actual process consists of pre-qualified A/E teams that are hired on a two-year contract and use OSFC standards (Assessment Cost Guidelines) that are developed and updated annually. The Assessment Cost Guideline instructs the A/E teams what to be looking for, as well as, what the unit costs are that we use. The information is processed via a sophisticated web-based data entry system. Some of the things that we look at when we access buildings are: age of system/material (i.e. roof, electrical system), condition of system/material (i.e. plumb. fixtures, kitchen equip.), code considerations (i.e. HVAC, stair railings), do certain functions exist? (i.e. bus drop-off, air-conditioning) and quantity of system/material (i.e. casework, chalkboards). In terms of the actual master plan process, it is a full district wide fix. It addresses all of the students and takes into consideration all of the buildings whether new or renovated. The essential ingredients in a master plan consist of: disposition of each building (new or reno only or reno/addition), number of students in each building, grade level for each building, itemized scope of work for each reno building (from assessment) and itemized budget for each building. OSFC does not dictate where the building goes or what grade levels are put in the school. The basic disposition of a building is determined: will it be added onto and renovated, or just renovated or replaced. If it is a renovated project, the assessment would determine what scope of work would be done in each of those buildings. Ultimately a budget is determined. An important ingredient in all that we do is the enrollment projections. OSFC formulas are driven by how many students there are. The total size of a building is determined by the number of students that are placed in the building times the formulas that come from the design manual.

Enrollment projections are absolutely vital to our whole master planning process. It has evolved over the years. At one time it was a cumbersome 24-page report that the school districts filled out. Now it has become another web-based tool where a lot of the information is already pre-populated from the Ohio Department of Education eliminating some of the potential errors in filling it out. The district provides the current school breakdown in terms of students in each grade level, special ed students and career tech information. We use a consultant to help us with the enrollment projections. The enrollment projections are a ten-year projection. Districts that are declining in enrollment use a five-year projection date.

One of the things that we have as part of the master planning, that has evolved over time, is reprogramming budget that helps architects as they look at buildings and if the building is

going to be reprogrammed in certain areas and puts money in there as a budget to allow them to move walls around and essentially convert space. There are also demolition budgets, as well as enhanced environmental budgets which really is another thing that has evolved over the years where we have consultants go in and take another look at the abatement issues and all of that is incorporated into the master plan.

After the assessment information is collected we assure completion and accuracy of the web-based assessment, assure completion and accuracy of enrollment projections, develop Master Plan options using the web tool, meet with the School District to present the assessment and the Master Plan, work with the district to generate a mutually acceptable plan and the district formally accepts the plan with a board resolution.

Chair Sabety asked in districts where there is a lack of consensus on how to proceed, what is the process to gain consensus. Bill Prenosil responded that since he has been with the Commission, he personally has not had a school district that he has not been able to work through the process. Sometimes in working with ELPP districts, they decide not to move forward, but as far as CFAP and ENP funded projects Bill could not recall one that we have not been able to ultimately work through. Sometimes it just takes a lot of time, but school districts are encouraged to get their community involved and get everyone on board.

Senator Roberts asked if there was an average number that a school is built for. If the schools are smaller than the children in that neighborhood, what happens five years out when there are more kids in that neighborhood than the school is equipped to handle. Bill Prenosil responded that we use GIS Technology to avoid that by looking at what those neighborhoods are doing as far into the future and try to match up those schools. With the urban districts, we are segmenting the construction recognizing these projects take such a long period of time that we cannot have just one target because it is a moving target. As each year passes by we look at the demographics and see how the kids are moving around and then are able to shift. So each new segment, we adjust to avoid what Senator Roberts was asking. Until we build a building in the urbans, we have the ability to make adjustments. Dr. Puckett commented that we are going into a period where we are building hundreds of buildings and projections of five years have been pretty close, but have we ever gone back to see how close they actually are? Bill Prenosil responded that about two years ago we did a significant internal study, we constantly look at how our processes are holding up as we do not want to overbuild or under build.

Director Shoemaker said that typically we have found in the last three or four years our target numbers have been almost right on. Early in the process that was not the case.

5. FY 08 Projects - Presented by Eric Bode

This is the largest group ever brought to the Commission for approval totaling \$1.26 billion. This number is 15% higher than it was last year. The average state share is 63%. Nine of the school districts have ELPP credit totaling \$90 million. Of the 44 new offers that were made this year, 29 are going forward and 15 are deferring. At the same time, 5 districts that in previous years deferred or lapsed are coming back into the program. Overall we have 34 projects to present to you today. In terms of number of buildings, there are 39 new, 31 renovation/addition and 3 ELPP credits for approximately 60,000 school children.

a. CFAP

Resolution 07-82 requests approval of 25 school districts for funding in the Classroom Facilities Assistance Program. This will take us up to 243 on the Equity List.

<u>School District</u>	<u>County</u>	<u>State Share</u>	<u>Local Share</u>	<u>Total Budget</u>
Arcanum Butler LSD	Darke	\$16,380,342	\$9,213,942	\$25,594,284
Arlington LSD	Hancock	\$14,618,259	\$7,530,618	\$22,148,877
Barberton CSD	Summit	\$45,668,462	\$30,445,641	\$76,114,103
Brookfield LSD	Trumbull	\$20,107,969	\$11,310,732	\$31,418,701
Clyde-Green Springs EVSD	Sandusky	\$35,669,652	\$18,375,276	\$54,044,928
Gallipolis CSD	Gallia	\$17,010,726	\$8,763,101	\$25,773,827
Hamilton CSD	Butler	\$123,791,526	\$86,024,619	\$209,816,145
Hardin Northern LSD	Hardin	\$9,134,224	\$3,378,411	\$12,512,635
Hardin-Houston LSD	Shelby	\$13,814,515	\$9,209,676	\$23,024,191
Jefferson Area LSD	Ashtabula	\$19,501,275	\$9,605,106	\$29,106,381
Kalida LSD	Putnam	\$13,182,927	\$4,394,309	\$17,577,236
Kenton CSD	Hardin	\$37,264,278	\$21,885,370	\$59,149,648
Liberty Center LSD	Henry	\$18,318,383	\$8,620,415	\$26,938,798
Madison LSD	Butler	\$17,224,566	\$12,993,970	\$30,218,536
Madison LSD	Lake	\$46,455,448	\$30,970,298	\$77,425,746
Newton LSD	Miami	\$10,969,011	\$6,442,118	\$17,411,129
North College Hill CSD	Hamilton	\$24,013,717	\$14,103,294	\$38,117,011
Northmor LSD	Morrow	\$20,411,909	\$11,987,947	\$32,399,856
Pike-Delta-York LSD	Fulton	\$15,437,425	\$6,305,427	\$21,742,852
Ridgemont LSD	Hardin	\$9,548,407	\$5,370,979	\$14,919,386
Rittman EVSD	Wayne	\$13,468,545	\$8,254,915	\$21,723,460
Springfield LSD	Mahoning	\$19,792,579	\$10,657,543	\$30,450,122
St Marys CSD	Auglaize	\$29,481,972	\$18,849,130	\$48,331,102
Strasburg-Franklin LSD	Tuscarawas	\$12,123,229	\$7,430,366	\$19,553,595
Wapakoneta CSD	Auglaize	\$31,648,926	\$18,587,464	\$50,236,390

The Commission staff recommends approval of Resolution 07-82.

Vice Chair Quill moved to approve Resolution 07-82.

Dr. Puckett seconded the motion.

Approval: Vote 3-0.

b. 1990 Look Back

This is actually CFAP, but with a slightly different category. With the CFAP Program one of the points in law is if you are a district and accept CFAP funding generally you cannot have another offer of state funding for 20 years. The exception to that is a group of districts called the 1990 Look Back Program. Back in the early 1990's, there were 44 school districts that received some funding to do some project, but not all. Provision was made in law that we could look back at these programs and finish doing them for all the needs that were not met the first time. We have now offered that funding to most of the school districts on the 44-district list. We have for your approval three school districts listed below.

<u>School District</u>	<u>County</u>	<u>State Share</u>	<u>Local Share</u>	<u>Total Budget</u>
Crestview LSD Van Wert		\$8,219,041	\$3,616,141	\$11,835,182
Highland LSD Morrow		\$34,824,031	\$11,608,011	\$46,432,042
National Trail LSD	Preble	\$7,584,153	\$4,083,774	\$11,667,927

The Commission staff recommends approval of Resolution 07-83.

Vice Chair Quill moved to approve Resolution 07-83.

Dr. Puckett seconded the motion.

Approval: Vote 3-0.

c. Lapsed Districts

When the Commission offers funding to a school district, they have one year to come up with their local share. If a year passes and the school district is not able to secure their funds they become a lapsed district. The promise of the State is that when the school district does come up with their funds, they then become first priority.

<u>School District</u>	<u>County</u>	<u>State Share</u>	<u>Local Share</u>	<u>Total Budget</u>
Girard CSD	Trumbull	\$20,918,632	\$5,229,658	\$26,148,290
Morgan LSD	Morgan	\$21,135,485	\$2,882,112	\$24,017,597

The Commission staff recommends approval of Resolution 07-84.

Chair Sabety asked what rank on the list are these schools. Eric Bode responded that Morgan Local School District is in the 12th percentile, so they are a low wealth district. Girard City School district is in the 20th percentile.

Vice Chair Quill moved to approve Resolution 07-84.

Dr. Puckett seconded the motion.

Approval: Vote 3-0.

d. ENP

The Exception Needs Program serves the worst conditioned buildings in the state that have life safety concerns.

<u>School District</u>	<u>County</u>	<u>State Share</u>	<u>Local Share</u>	<u>Total Budget</u>
Elyria CSD	Lorain	\$21,623,101	\$33,820,749	\$55,443,850
Lakota LSD	Sandusky	\$16,778,295	\$12,149,799	\$28,928,094
Miami Trace LSD	Fayette	\$7,798,528	\$9,154,794	\$16,953,322

The Commission staff recommends approval of Resolution 07-85.

Senator Roberts asked with the school districts struggling, how do you communicate passage of this money to the community. Director Shoemaker replied that we are trying to do more outreach efforts by going to public meetings and board meetings to tell them how the program operates, what is available and what percent of money they can access.

Dr. Puckett moved to approve Resolution 07-85.

Vice Chair Quill seconded the motion.

Approval: Vote 3-0.

e. VFAP

The Vocational Facilities Assessment Program has one school district for approval. This gets OSFC through number 13 on the VFAP list out of 49.

<u>School District</u>	<u>County</u>	<u>State Share</u>	<u>Local Share</u>	<u>Total Budget</u>
Pioneer Career and Technology Center	Richland	\$18,692,409	\$6,230,803	\$24,923,212

The Commission staff recommends approval of Resolution 07-86.

Vice Chair Quill moved to approve Resolution 07-86.
 Dr. Puckett seconded the motion.
 Approval: Vote 3-0.

f. Next Ten List

This list is required by law. Every year when the Commission approves projects, it is required to present a next ten list for CFAP.

Priority	<i>District</i>	<i>County</i>	FY07 Rank
1	West Holmes LSD	Holmes	244
2	Fairless LSD	Stark	247
3	Crestline Ex Village SD	Crawford	248
4	Carlisle LSD	Warren	249
5	Black River LSD	Medina	250
6	Pettisville LSD	Fulton	251
7	Valley View LSD	Montgomery	252
8	Botkins LSD	Shelby	253
9	Bellefontaine CSD	Logan	254
10	Carey Ex Village SD	Wyandot	256

The Commission staff recommends approval of Resolution 07-87.

Dr. Puckett moved to approve Resolution 07-87.
 Vice Chair Quill seconded the motion.
 Approval: Vote 3-0.

g. ELPP Eligibility

Law also requires an eligibility cutoff. If a district is within two years of funding from the CFAP program, we would not be able to start a project with them in the ELPP program. The thought is if they are that close they should just wait and do it altogether in the CFAP program. Because of that we ask the Commission to adopt a resolution every year saying what that cutoff is. The cutoff for this year is 325 on the equity list.

The Commission staff recommends approval of Resolution 07-88.

Vice Chair Quill asked what was the threshold for last year. Eric Bode replied that it was around 250. Dr. Puckett asked if this moves every year. Eric Bode replied that we do approve this every year.

Dr. Puckett moved to approve Resolution 07-88.
 Chair Sabety seconded the motion.
 Approval: Vote 3-0.

h. ENP Eligibility

Law provides for the ENP program a general prohibition that if a district is within three years of funding from the CFAP program, it would not be eligible for the ENP program. The cutoff for the three-year lookout is 345 on the equity list.

The Commission staff recommends approval of Resolution 07-89.

Vice Chair Quill moved to approve Resolution 07-89.

Dr. Puckett seconded the motion.

Approval: Vote 3-0.

i. VFAP Eligibility

The VFAP ELPP program provides that any joint vocational school district may participate in the program as long as it is not expected to receive assistance under VFAP within two fiscal years of the date the school district's Board of Educations resolves to apply for VFAP ELPP. The cutoff is recommended for districts ranked 20th or below on the VFAP three-year average equity list.

The Commission staff recommends approval of Resolution 07-90.

Dr. Puckett moved to approve Resolution 07-90.

Vice Chair Quill seconded the motion.

Approval: Vote 3-0.

6. School Energy Conservation Financing Program Approval - Presented by Mark Wantage

Five School Districts have requested participation in the Energy Conservation Financing Program.

Little Miami Local School District of Warren County:

- Four Seasons Environmental, Inc.
- Two Building
- Total Cost \$4,837,761 (Including Interest @4.00%)
- Annual Savings \$324,073
- Payback Period 14.93 Years
- New Heating/ Air-conditioning System (2) (Variable Refrigerant Volume Ductless System)
- Asbestos Abatement (2)
- Lighting Retrofit
- New Roof Insulation

Medina City School District of Medina County:

- Energy Instruction Group, LLC
- Nine Buildings
- Total Cost \$4,277,625 (Including Interest @4.25%)
- Annual Savings \$315,769•Payback Period 13.5 Years
- New Chiller (1)
- Variable Speed Drive (3)
- Lighting Upgrade (9)
- New Demand Ventilation Controls (4)
- Building Automation Upgrades (9)
- Vending Machine Controls (9)

Middletown City School District of Butler County:

- Johnson Controls, Inc.
- Two Buildings
- Total Cost \$808,980 (Including Interest @4.25%)
- Annual Savings \$82,880
- Payback Period 9.8 Years
- Steam Trap/ Condensate line Retrofit (1)
- Roof System Upgrades (1)
- Lighting Retrofit (1)

Olmsted Falls City School District of Cuyahoga County:

- Trane Corporation
- Five Buildings
- Total Cost \$1,926,590 (Including Interest @3.75%)
- Annual Savings \$144,127
- Payback Period 13.4 Years
- Building Automation System (5)
- Boiler Replacement (2)
- Gym Lighting (1) (metal halide to fluorescent)
- Variable Frequency Drive for Hot Water Pump (1)
- Kitchen Steam Generator (1)

West Holmes Local School District of Holmes County:

- Comfort Control Group, Inc.
- One Building
- Total Cost \$280,845 (Self Funded)
- Annual Savings \$46,453
- Payback Period 6.1 Years
- New Boiler (1)
- Relocate/ Insulate Piping for New Boiler

Staff has reviewed the five School District applications and the engineering review of each provided by the Ohio Department of Development/Office of Energy Efficiency and recommends the Commission's approval of Resolution 07-91.

Vice Chair Quill moved to approve Resolution 07-91.

Dr. Puckett seconded the motion.

Approval: Vote 3-0.

7. Maintenance Plans Approval - Presented by Mark Wantage

The School District listed below have submitted their plan including a business plan for preventive maintenance and facility operations for Commission approval. The staff of OSFC have reviewed these plans and recommends approval of Resolution 07-92.

School District	Buildings Included in the Maintenance Plan
New Lebanon Local School District	Renovations/additions to the elementary school to house grades K thru 4; renovations/additions to the high school to house grades 5 thru 8; build one new high school to house grades 9 thru 12.

Dr. Puckett moved to approve Resolution 07-92.

Vice Chair Quill seconded the motion.
Approval: Vote 3-0.

8. Master Facilities Plan Amendments Approval - Presented by Steve Lutz

There are two Master Facility Plan amendments for approval. The first is for the Fairless Local School District (Stark). The project budget is being decreased by \$1,071,592. This results from a reduction of \$1.5 million budgeted for abatement at the Justus Middle School. The scope of the abatement had been over estimated due to lack of access to the building at the time of assessment. There is also an increase of approximately \$500,000 for additional site development work for the new elementary and middle school. The amendment reduces the state share of the project by \$600,098 and reduces the local share by \$471,494. The staff recommends the Commission's approval of Resolution 07-93.

Vice Chair Quill moved to approve Resolution 07-93.
Dr. Puckett seconded the motion.
Approval: Vote 3-0.

The second Master Facility Plan amendment is for Nelsonville York Local School District (Athens). This request is to increase the project budget by \$5,709,076. The project design called for demolition of the center section of the elementary/high school complex and replacement with a new middle school addition and renovation of the elementary/high school. The portion demolished included common utilities and common spaces, which required additional work and swing space to maintain the elementary/high school operations during construction and to protect the facility and occupants.

The renovation portion of the projects is increased due to work not included in the original assessment of the renovations. Significant additional items include:

HVAC work in the elementary school	\$368,000
Window replacement in the elementary school	\$275,000
General finish work	\$705,000
Relocation of site utilities	\$700,000
Fire protection pump and storage tank	\$388,000
Electrical service work	\$834,000

The project experienced extended design schedule as the district considered the option to build new in lieu of proceeding with the complicated and increasingly expensive renovation project. During design, the district elected to change architects. The project was originally scheduled to be completed December 2008 and is now scheduled to complete in August 2010. The project opened bids in June of this year with the hard cost of construction contracts exceeding the budget by \$5.1 million. Inflation, market conditions and the work required to demolish and rebuild in the center of the building have contributed to the \$2 million overrun. The budget increase includes an allowance for an increase in the Construction Manager's fees. This budget adjustment is being requested to provide sufficient funds to award the construction contracts. The staff recommends the Commission's approval of Resolution 07-94.

Dr. Puckett asked about the 25% increase of \$5 million in the budget and with extended schedules and school districts making decisions that cost the state additional dollars would like a better understanding of why it took so long. Director Shoemaker responded that internally at the school district there was a great deal of difficulty with communication.

Director Shoemaker responded that the original assessment was off, but the school district also could not make a decision. Steve Lutz responded that the cost impact is to both parties as we are funding partners in the project and we have to move the project at the district's pace, as well as the Commission's pace.

Vice Chair Quill moved to approve Resolution 07-94.

Dr. Puckett seconded the motion.

Approval: Vote 3-0.

**9. Expedited Local Partnership Program Amendments Approval
Presented by Steve Lutz**

There are three amendments to the Expedited Local Partnership Program Agreements. The first is for the Rittman Exempted Village School District (Wayne). This amendment reconciles the scope of the work performed and the value of the credit amount. Under ELPP the amendment increases the credit amount by \$198,306 to reflect actual expenditures for the addition and renovation of the West Hill Elementary and adds \$185,230 for the abatement and demolition of Hauenstein Hall Elementary and credits partial renovation at the middle school. The ELPP credit is increased by \$387,470 bringing the amended project cost to \$8,473,584. The staff recommends the Commission's approval of Resolution 07-95.

Dr. Puckett moved to approve Resolution 07-95

Vice Chair Quill seconded the motion.

Approval: Vote 3-0.

The second amendment is for Tuslaw Local School District (Stark). This amendment adds work performed by the district to demolish two elementary schools that they no longer needed for education purposes. The added expenditure for the demolition work is \$253,023 bringing the amended project cost to \$16,185,715. The staff recommends the Commission's approval of Resolution 07-96.

Vice Chair Quill moved to approve Resolution 07-96.

Dr. Puckett seconded the motion.

Approval: Vote 3-0.

The third amendment is for West Muskingum Local School District (Muskingum). This amendment will increase the discrete portion to include additional work needed for full renovation and addition to the West Muskingum Middle School. Approximately \$2 million was added to provide interior walls to reprogram the original open floor plan. Approximately \$896,000 was added to increase the size of the addition to the middle school to correct for an error in the assessment report. The ELPP credit is increased by \$2,896,946 bringing the amended project cost to \$24,734,634. The staff recommends the Commission's approval of Resolution 07-97.

Dr. Puckett moved to approve Resolution 07-97.

Vice Chair Quill seconded the motion.

Approval: Vote 3-0.

10. Responsible Bidder Requirements Approval - Presented by Jerry Kasai

In February the Commission passed a resolution concerning a model responsible bidder requirements. The resolution presented today approves additional bidder criteria and clarifies the prior resolution. There are three main changes from the original bidder requirements:

1. The OSHA Safety Program requirement. As in our drug free workplace, we are adopting a safety requirement for all the contractors that are bidding on our contracts. Effective in October, contractors bidding on our projects will be required to have all employees OSHA safety courses of at least 10 hours. The project supervisors and the project foremen on the project will be required to have at least 30 hours.
2. The responsible bidder criteria makes it clear that prevailing wage will be permitted to be paid on OSFC projects if the school district so chooses to have prevailing wage and adopts the model criteria that is appended to the resolution.
3. If the school district so chooses may enter into a labor project agreement on the project concerning terms and conditions of the various contractors on their school construction project. Both the prevailing wage and the project labor agreement would be subject to legal review, but the decision to implement those is contained within the school district board itself.

The staff recommends the Commission's approval of Resolution 07-98.

Director Shoemaker shared that out of fairness, Senator Mumper and Representative Evans were not present at the meeting, but the Director had talked with Representative Evans personally and Senator Mumper's office to explain to them that we were not trying to do this while they were out of town, both expressed they may reserve the right to questions next month.

Representative Szollosi agrees that this resolution modifies and clarifies certain aspects of the February resolution and is specifically geared to incorporate industry standards that are geared to promote and enhance project safety timeliness and increase the overall project quality. It also clearly brings an end to the policy of the previous administration, which were widely held to be significantly heavy handed and extreme. Previously if a school district wanted to incorporate any of the criteria that are being approved, let alone all of them, official written response, in some cases from this agency, indicated a district could go ahead, but state funding will be pulled, so that really did not leave much of an option. Given the nature of construction finance, this approach resulted in too many incidents of shoddy workmanship and poor examples of overall project completion and construction. It was particularly insulting given the notion that the school district was responsible for raising the local share component and also responsible for long-term maintenance and operating costs. I appreciate this administration taking a significantly different approach and am well aware of the pressure placed upon the administration to swing the pendulum all the way around in the other direction. For example to require project labor agreements on every OSFC project as a mandate. I know that there was a strong movement to effectuate that policy. The Governor has opted to take a much more moderate approach rather than forcing a host of mandates or strong-arming as the previous administration took the liberty to do. This administration has opted instead to give the districts some increased flexibility to tailor their construction documents with the criteria that they feel are best suited to meet their community standards. That is very notable and commendable. Obviously community

standards in suburban Cincinnati may differ completely than urban Cleveland or Toledo, etc. Representative Szollosi wanted to stress something that Jerry Kasai pointed out - these school districts will have the option of adopting some or all of these criteria. The only mandate that results from the current resolution is the OSHA safety-training component, which I believe, should not be optional, but mandatory and certainly these OSHA safety training requirements and courses are readily available to every contractor in the state. There are different philosophies on prevailing wage and project labor agreements, but I am a strong proponent because I believe on their impact on the local economy. I understand the administration's approach on this by simply allowing it as an option for school districts. Given the fact that there is for FY08 \$1.26 billion in school construction coming up and the number is \$4.7 billion over the next 4 years, the timing of the modifications is particularly important. The modifications are rooted in sound public policy and I fully support their adoption.

Chair Sabety clarified that there is no difference in what we passed in February. The mandatory sole exception is in regards to the OSHA workplace safety standards. It is a clarification of a policy put into place that is permissive for a local school district to choose and is reflective of our complete anonymity for local control to choose what they believe is in their best interests. The reality all of us know is working within limited resources. The tobacco securitization is a one-time amount of money that we ought to be investing conservatively assuring that we are reaching as many children as possible and moving the school district list as much as possible. We are trying to allow the school districts the flexibility to hire those firms that they believe will provide them the lowest and most responsible service on contracts to assure that we are getting the scale and performance we need on the massive amount of contracts that were approved today for \$1.26 billion. In defense of the Commission, even under the previous administration, many agreements were renegotiated for a number of conditions among which may have been issues around wages that the Commission disagreed, and there were other considerations behind many of the refusals.

Director Shoemaker stated that OSFC policy has been one of neutrality in terms of the school districts. We wanted to present this as option to them. It has to be their decision. That is something that I have felt very strongly about since the Commission originated when we went away from mandatory wage and all of a sudden sort of arbitrarily picked another standard that was not really in the statute. This is something the school district has to fully examine and accept that we are partners with them. Our philosophy in terms of our project administrators is that we are there and trying to make sure we control the budget, controlling the calendar and control the quality. That still will be our emphasis regardless of whether they adopt the model bidder criteria or not. We want to be partners who are informing them of all the options they have and that will be our official position.

Chair Sabety moved to approve Resolution 07-98.

Vice Chair Quill seconded the motion.

Approval: Vote 3-0.

11. Consultant Contract Agreements Approval - Presented by Eric Bode

There are contracts with four vendors for approval for services this fiscal year. These are for our exceptional needs program and are for the security and safety aspects of a building and judging to see what level of severity there is. This is a yearly process. We will accept applications in early October and these consultants will go out and view both the paper

scores and do site visits to assess applicant buildings in the fall. A selection will be made in December. The staff recommends the Commission's approval of Resolution 07-99.

Contractor	Scope of Work	Amount
Dynamix Engineer Ltd	ENP Assessment Services	\$25,000
Shelley Metz Baumann Hawk Inc.	ENP Assessment Services	\$12,500
TGW Consulting, LLC.	ENP Assessment Services	\$25,000
Gandee & Associates, Inc.	ENP Assessment Services	\$12,500

Vice Chair Quill moved to approve Resolution 07-99.

Dr. Puckett seconded the motion.

Approval: Vote 3-0.

12. Architectural Agreements and Amendments Approval - Presented by Craig Weise

The following architect agreements and amendments were presented for approval.

Agreements:

School District	Project	Architect	Amount
Cincinnati CMD – Seg.3	Rothenberg Elementary School	WA, Inc.	\$612,502.00
Cleveland CSD – Seg. 4	Audubon K-8	Irie Kynyk Goss	\$583,168.00
Cleveland CSD – Seg. 4	Charles Lake K-9 and Mound K-8	Hayes Large Architects LLP	\$1,148,270.00
Cleveland CSD – Seg. 4	Technology Design Services for 8 Schools	Total Systems Integration, inc.	\$590,718.00

WHEREAS, the Agreement for Professional Design Services provides for adjustment in the compensation of the Architect in certain circumstances involving design work in excess of that which was originally negotiated for the school districts listed below.

Amendments:

School District	Project	Architect	Fees to Date	Amount	Total
Cleveland CSD – Seg. 4	Removed Westside Relief High School from scope of work	Richard L. Bowen & Associates Inc.	\$2,958,887.00	(\$962,140.58)	\$1,996,746.42
Cleveland CSD – Seg. 4	Wilson School	Robert P. Madison International, Inc.	\$505,422.04	\$119,815.00	\$625,237.04
Cleveland CSD – Seg. 4	Remove Thomas Jefferson K-8 Relief School scope of work	Robert P. Madison International, Inc.	\$585,000.00	(\$443,400.00)	\$141,600.00
Logan Hocking Local School District	New Logan Hocking Elementary School	Voorhis Slone Welch Crossland Architects	\$1,636,464.30	\$55,500.00	\$1,691,964.30

WHEREAS, the school districts boards listed below have elected to add a "Locally Funded Initiative" to the scope of their Project.

Locally Funded Initiatives:

School District	Project	Architect	Amount
Cincinnati CMD – Seg. 3	Rothenberg Elementary School	WA, Inc.	\$166,508.00
Cleveland CSD – Seg. 4	Remove Thomas Jefferson K-8 Relief School scope of work	Robert P. Madison International, Inc.	(\$5,000.00)
Logan Hocking LSD	New Logan Hocking Elementary School	Voorhis Slone Welch Crossland Architects	\$363,415.00

The staff recommends the Commission’s approval of Resolution 07-100.

Dr. Puckett moved to approve Resolution 07-100.

Vice Chair Quill seconded the motion.

Approval: Vote 3-0.

13. Construction Manager Agreements and Amendments Approval – Presented by Craig Weise

The following Construction Manager agreement was submitted for approval.

CM Firm	District	County	Total CM Compensation
Smoot/Elford/Wesson	Gallia-Jackson-Vinton JVSD	Gallia	\$912,004

The Commission staff has reviewed and recommends the approval of Resolution 07-101.

Vice Chair Quill moved to approve Resolution 07-101.

Dr. Puckett seconded the motion.

Approval: Vote 3-0.

The following amendments were submitted for approval:

School District	Construction Management Company	Amount
Dayton CSD – Seg. 1	RDQM	\$584,978
Dayton CSD – Seg. 2	RDQM	(\$2,475,629)
Dayton CSD – Seg. 3	RDQM	(\$8,397,674)
Youngstown CSD	Heery International, Inc.	\$4,901,768

The Commission staff has reviewed and recommends the approval of Resolution 07-102.

Dr. Puckett moved to approve Resolution 07-102.

Vice Chair Quill seconded the motion.

Approval: Vote 3-0.

The following LFI amendments are submitted for approval:

<u>School District</u>	<u>Construction Manager</u>	<u>Amount</u>
Dayton City School District – Seg. 1	RDQM	\$589,523
Dayton City School District – Seg. 2	RDQM	\$1,271,831
Dayton City School District – Seg. 3	RDQM	\$87,585

The Commission staff has reviewed and recommends the approval of Resolution 07-103.

Chair Sabety moved to approve Resolution 07-103.

Dr. Puckett seconded the motion.

Approval: Vote 3-0.

14. Trade Construction Contracts Approval - Presented by Craig Weise

All contracts represent the lowest responsible bidder. The Commission staff has reviewed and recommends the approval of Resolution 07-104.

<u>School District</u>	<u>Contracting Entity</u>	<u>Scope Of Work</u>	<u>\$ Amount</u>
Akron CSD	Continental Educational Environments	Classroom/Office Furniture	\$267,942.73
Akron CSD	S A Comunale	Plumbing, Mech/HVAC, Sprinkler	\$1,699,899.00
Akron CSD	Continental Educational Environments	Classroom Furniture	\$334,301.13
Akron CSD	H L Parker Electric	Electrical/Fire	\$746,764.00
Allen East LSD	R. D. Jones Excavating, Inc.	Demolition	\$419,500.00
Bridgeport EVSD	Raze International, Inc.	Demolition	\$419,000.00
Bucyrus CSD	Lepi Enterprises, Inc.	Asbestos Hazard Abatement & Related Work	\$177,460.00
Cincinnati CSD	Central Insulation Systems, Inc.	Abatement & Demolition	\$497,731.00
Cincinnati CSD	ESI, Inc.	Electrical/Technology	\$1,544,300.00
Cincinnati CSD	Feldkamp Enterprises, Inc	Plumbing	\$678,000.00
Cincinnati CSD	Westside Paving & Excavating, Inc.	Early Sitework	\$93,200.00
Cincinnati CSD	Quality Mechanicals, Inc.	HVAC Boiler Replacement	\$315,500.00
Cincinnati CSD	Stapleton Electric Company	Miscellaneous Electrical	\$78,700.00
Cleveland CSD	Miles Mechanical, Inc.	HVAC Trades	\$1,652,000.00
Cleveland CSD	Giambone Construction, Inc.	General Trades	\$6,015,271.00
Cleveland CSD	Precision Engineering & Contracting, Inc.	Sitework Trades	\$1,145,794.00
Cleveland CSD	Mac Mechanical Corp	Fire Protection	\$135,000.00
Cleveland CSD	United Mechanical Contractors, Inc.	Plumbing	\$586,000.00
Cleveland CSD	Licursi Company, Inc.	Landscaping	\$87,400.00
Cleveland CSD	B & B Wrecking & Excavating, Inc.	Demolition and Associated Abatement Work	\$473,400.00
Cleveland CSD	Licursi Company, Inc.	Site Concrete	\$139,800.00
Clinton-Massie LSD	Total Environmental Services Environmental Demolition Group, LLC	Asbestos Abatement	\$111,265.00
Columbus CSD	S A Comunale	Environmental Abatement	\$412,422.00
Columbus CSD	Radico Mechanical Contractors	Fire Protection	\$103,200.00
Columbus CSD	C & T Design & Equipment Company, Inc.	Plumbing/HVAC	\$3,112,000.00
Columbus CSD	King Business Interiors	Food Service Equipment	\$981,660.00
Columbus CSD	Stonecreek Interior Systems, LLC	Loose Furnishings	\$29,938.00
Columbus CSD	Speer Mechanical	Casework	\$186,200.00
Columbus CSD	Settle Muter Electric	Plumbing & HVAC	\$1,370,000.00
Columbus CSD	Continental Office Furniture	Electrical	\$1,337,000.00
Columbus CSD	Farnham Equipment Company	Loose Furnishings - Academic Core and Administration	\$163,785.48
Columbus CSD	Accurate Electric	Media Center Loose Furnishings	\$39,314.00
Columbus CSD	S A Comunale	Electrical	\$2,970,000.00
Columbus CSD	S A Comunale	Fire Protection	\$309,400.00

Columbus CSD	F H Martin Contractors	General Trades	\$8,495,100.00
Columbus CSD	Gutknecht Construction	General Trades	\$4,285,600.00
Dayton CSD	Continental Office	Fixtures, Furnishings and Equipment	\$23,576.84
Dayton CSD	Continental Office	Fixtures, Furnishings and Equipment	\$22,125.96
Dayton CSD	Continental Office	Fixtures, Furnishings and Equipment	\$16,209.91
Dayton CSD	Continental Office	Fixtures, Furnishings and Equipment	\$657,760.81
Dayton CSD	Continental Office	Fixtures, Furnishings and Equipment	\$22,125.96
Dayton CSD	Continental Office	Fixtures, Furnishings and Equipment	\$174,400.51
Dayton CSD	Continental Office	Fixtures, Furnishings and Equipment	\$215,898.19
Dayton CSD	Continental Office	Fixtures, Furnishings and Equipment	\$15,081.32
East Cleveland CSD	Miles Mechanical Inc.	HVAC	\$1,078,000.00
East Cleveland CSD	R J Martin Company	Technology	\$225,475.00
East Cleveland CSD	R J Martin Company	Electrical	\$975,000.00
East Cleveland CSD	Mac Mechanical Corporation	Fire Protection	\$116,200.00
East Cleveland CSD	Soehnen Piping Company	Plumbing	\$364,800.00
East Cleveland CSD	East -West Construction, Inc.	General Trades Site/Demolition	\$5,775,000.00
Eastern LSD	Sidewinder Electric Company, Inc.	Miscellaneous Site Electric	\$119,000.00
Eastern LSD	Kelchner, Inc.	Early Site Work	\$1,902,974.00
Eastern LSD	C. A. Eckstein, Inc.	Early Renovation Work	\$720,699.00
Fayetteville-Perry LSD	Sunesis Construction	Early Site Work	\$1,608,850.00
Gallia-Jackson-Vinton JVSD	The Bri-Den Company, Inc.	Roofing & Fascia Replacement	\$1,193,000.00
Hamilton LSD	Martin Public Seating, Inc.	Loose Furnishings	\$244,270.37
Hamilton LSD	Tom Sexton & Associates	Loose Furnishings	\$176,238.44
Ironton CSD	Boone Coleman Construction, Inc.	Early Site Package	\$926,200.00
Leetonia Ex Vill SD	Brock Builders, Inc.	Loading Dock Renovation	\$120,984.00
Miami Trace LSD	Nor-Com Incorporated Sound & Video	Technology Cabling & Telephone Systems	\$509,270.00
Miami Trace LSD	ESCO Technologies, LLC	Central Sound, Video, Distribution and AV Equipment	\$256,700.00
Minerva LSD	Sheckler's Excavating, Inc.	Early Site Work - Site Preparation	\$157,428.00
Minerva LSD	Wood Electric, Inc.	Early Site Work - Site Electrical	\$11,278.00
New Knoxville LSD	Area Energy & Electric, Inc.	Electrical	\$1,376,000.00
North Union LSD	Total Environmental Services, Inc.	Asbestos Hazard Abatement & Related Work	\$109,675.00
North Union LSD	BC & G Weithman Construction Company, Inc.	Window Replacement, Sitework, Demolition/ Renovation Work	\$234,900.00
Painesville City LSD	SafeAir Contractors, Inc.	Hazardous Material Abatement	\$214,990.00
Pickaway-Ross County JVSD	L E King and Son Excavating, Inc.	Site Utilities	\$179,400.00
Sandy Valley LSD	Standard Plumbing and Heating Co.	Plumbing	\$359,300.00
Sandy Valley LSD	Wood Electric, Inc.	Electrical	\$2,818,855.00
Sandy Valley LSD	Abbott Electric, Inc.	Data, Telephony and Communications	\$778,717.00
Sandy Valley LSD	M T Business Technologies	Audio, Video and Sound	\$675,000.00
Sandy Valley LSD	Schmid Mechanical, Inc.	HVAC	\$3,769,098.00
Sandy Valley LSD	Southeast Security Corporation	Building Security Systems	\$101,972.00
Sandy Valley LSD	Doerschuk Plumbing and Heating, Inc.	Plumbing	\$623,313.00
Sandy Valley LSD	Moser Construction Company, Inc.	Masonry	\$4,286,200.00
Sandy Valley LSD	S S Kemp and Co.	Kitchen Equipment	\$482,605.00
Sandy Valley LSD	S A Comunale Co., Inc.	Fire Protection	\$409,989.00
Sandy Valley LSD	C T Taylor Company, Inc.	General Trades	\$9,633,300.00
Seneca East LSD	Continental Office Enviroment	Loose Furnishings	\$166,821.40
South Point LSD	DataServ Integrations	Telecom Equipment	\$272,094.99
Trotwood-Madison CSD	Elements IV Interiors	Loose Furnishings	\$771,122.81
Youngstown CSD	Rudzik Excavating, Inc.	Final Site Work	\$337,200.00

Youngstown CSD	The Murphy Contracting Company	Early Site/Foundation/Utilities	\$724,000.00
Youngstown CSD	The Kreidler Construction Co.	Early Site/Foundation	\$554,000.00
TOTAL			\$87,920,946.85

Dr. Puckett moved to approve Resolution 07-104.
 Vice Chair Quill seconded the motion.

Representative Szollosi asked if R.J. Martin listed for approval for a trade contract as low for an electrical and technology package is the same R.J. Martin that is under investigation for theft and tampering with records associated with the OSFC projects. A search warrant was issued for approximately 228 items confiscated from R.J. Martin. Jerry Kasai responded that was correct. R.J. Martin has had a number of its records subpoenaed on a number of construction projects including a couple of R.J. Martin projects for the Cleveland Municipal School District. At this point there have been no indictments and apparently there is evidence that may or may not be presented to the grand jury. All we really know is that records have been subpoenaed from R.J. Martin and the Construction Manager on the project, but there have been no indictments at this time. Up until that time, we cannot reject the bid based on that however, at a later time something happens we retain the right to terminate the contract based on convenience under the contract provisions.

Representative Szollosi asked for clarification whether legally we have the authority to withhold a contract with a company that has had a search warrant issued and executed for purposes of determining whether theft occurred from the State of Ohio. I think that the Commission and the school district maintain wide discretion in terms of determining who represents the lowest responsible bidder. Jerry Kasai responded there is a wide latitude of discretion in determining the responsibility of a bidder however, at this point it is still a criminal investigation with no outcome and we really do not know and can only speculate what the Prosecutor's office is looking at. Jerry has had a number of conversations with the Cuyahoga County Prosecutor and their consultant who is doing a forensic analysis and until they issue an indictment it is not prudent for us to act. The allegations that have been made and what they are investigating are a serious matter. Jerry did add that the school board in their evaluation was aware and the Construction Manager was aware of these allegations and recommended award to R.J. Martin.

Representative Szollosi commented that given the allegation and looking over information that he had, that R.J. Martin was over billing various school districts in Cleveland for electrical work that it was performing based on a confidential informant who at least the officers issuing the search warrant found to be credible. Representative Szollosi's perspective is that we should not be awarding a trade contract to a contractor when we have verification that this type of investigation is ongoing. I think that it further states here that R.J. Martin was over billing various school districts for its labor costs by falsely stating that Martin was paying employees a higher amount of dollars when in fact Martin paying its employees a lower amount and pocketing the difference. So not only are we talking about theft, but also talking about the veracity of a particular contractor and its reporting to a state agency. On that basis alone and given the wide discretion this agency and certainly the school district maintains under law, I find it hard to believe that we do not have the authority to at least take a wait and see approach on this.

Chair Sabety asked if the case relates to OSFC work in the East Cleveland City School District. Jerry Kasai replied not to his knowledge however, the electrical trades contractor on

two of our Cleveland Municipal projects were, but it is not related to the East Cleveland City School District. Chair Sabety asked if it was related to any other city school district in which OSFC has previously contracted with R.J. Martin. Jerry Kasai responded he was not aware of that. He only knows the prosecutors asked us some information from our Construction Manager on our Cleveland project. They did not ask for any other information on any of our other projects.

Representative Szollosi stated that he had an affidavit that was issued in support of the search warrant that very clearly shows that one of the projects is the East Cleveland high school project. Chair Sabety thought it would be a good idea to learn from Jerry Kasai and Dan Belville what they know about this. It may be once understand what investigatory work they have done we will have a better understanding on how to proceed. Jerry Kasai responded the factual knowledge he knows of is from his conversations with the Cuyahoga County Prosecutor and their forensic CPA who is going through numbers of R.J. Martin change orders. R.J. Martin is an open shop contractor who has submitted change orders listing rates that approached the prevailing wage rates and also listing amounts for health care and pension and other amounts like that would inflate change order rates. There are a number of ways to look at change orders however, you could issue a bulletin to a contractor for additional scope of work and a contractor could give you a lump sum proposal and the documents backing up that lump sum proposal would be proposed at 25 hours at \$42 per hour with the \$42 per hour including pension or health. As a Construction Manager, you may be looking at the lump sum as opposed to the hours. So the contention appears to be concern around are those hours actually valid and are the amounts paid to each of those employees valid and whether or not that is a criminal violation. In the last six months on our projects, we have gone through an extensive process of requesting from all contractors at some point in the job a notarized statement asking what the wage rate they are paying their employees. This has been a very difficult process because some contractors do not want to give up their wage rates to individual employees saying that it is proprietary however, we have been able on all of our projects to verify what the wage rate every contractor is using for change order purposes. This is so that when a proposed change order is issued we can verify the number of hours and what those wage rates are and what would be a reasonable lump sum for that additional work. So here R.J. Martin who apparently – there is a contention they in fact did pay the rates that are listed on their change orders to their employees. Chair Sabety asked if they have completed and have we received a notarized statement from R.J. Martin. Jerry Kasai responded he did not know. I know the beginning of this year we have been trying to verify what wage rates are for that particular contractor. We are just trying to do it at some point in the job so we can eyeball what the wage rates are so we know if a change order request is made that the hours and the wages do line up and usually it is on a blended rate, so you can not go back to a certain individual. This is a serious issue, but it is an issue that we have been looking at and an issue we have taken action on a gong forward basis.

Senator Roberts asked a procedural question as to whether it was possible to take this item out of the resolution and put it on hold and what is the impact if we do that. Craig Weise responded that the school district's board of education has awarded these contracts. When these contracts are brought to this Commission, the Commission is approving that award of the contract. Craig Weise was not sure if the Notice to Proceed and if they have mobilized on site to do the work has been issued to R. J. Martin. The impact at a minimum would be a one-month delay of the start of construction. The impact could be larger if the trade contractors have already started mobilizing and starting work. Director Shoemaker commented that this is a serious future issue in terms of policy and timing. We do not know

the guilt or innocence. Traditionally in the construction trades these things are going to come up and we do not have the resources to determine guilt or innocence. We do have resources to go after them after the fact and that is something the Director can guarantee OSFC will do if in fact there is guilt associated with any of our contractors in terms of recovery. Vice Chair Quill was hesitant to get into the business presuming and getting ahead of the formal investigation that is under way. He is hesitant in removing these items from the approval list for fear that it could escalate costs, liability and questions could ensue relative to this Commission if such assumptions are made. Chair Sabety was concerned that the allegation is in East Cleveland City School District and we have so little information about it. Chair Sabety asked for Dan Belville's comments. Dan Belville responded since this is the first he had heard anything about this, he felt it would be hard to make any comments. Everything that Jerry has said is correct. His concern is that he would want to find out immediately if this were going to set this project back substantially and create an enormous impact. Chair Sabety asked if we knew how this would affect the project. Craig Weise responded that we do not know. If it is tabled until next month it could be one month from a time standpoint. From a cost standpoint if contractors have been mobilized there would be a ripple effect to other trade contracts. Director Shoemaker felt you would then see a change order from the Construction Manager for extended services and if there are other contractors waiting in line they will start billing us for a waiting time. Representative Szollosi asked if this is the electrical and technology package would holding this contract in advance why would that necessarily hold up the process in respect to the site work. Craig Weise responded the electrical trade contractor is one of those contractors similar to the general trade contractors that are on the site the longest. They are putting underground utilities under floors and conduits so they are there from the beginning through the end. Representative Szollosi asked if there was a date set for groundbreaking for this project. Craig Weise responded that he did not know that schedule at this time. Senator Roberts asked simply because the local board approved it is there a timeline that becomes an agenda item on the Commission's calendar. Craig Weise responded typically it would be no more than 30 days. Senator Roberts responded that if one of the things we are trying to do is clean up government and if there is a board action and we award this company and we can recoup later on, but the real message if you are going to mess with government then you have some early sanctions as opposed to recouping it later on. Just makes our Attorney General have to go after them as opposed to saying you have to stay in line all the way along the line. It sends to me the wrong message. I think we have to look at it from an ethical prospective. We have to send the right message. Chair Sabety commented that we do not know enough. We have a lot of allegations and feel uncomfortable. I would like to understand what process we go through and whether the Director was made aware of this as it was put on the sheet and do we know enough. How long will this contract is this \$1.2 million for. Craig Weise responded that it spans 14 – 17 month and the expenditures of these funds would be over that duration of time. Chair Sabety is conscious of Vice Chair Quill's issues regarding liability, but not comfortable with the response if there are or are not liability issues if we do not move forward. Director Shoemaker responded that we have been aware of the investigation for about 30 days. Other than that, we have no information or proof of guilt and we have to move forward with the assumption innocent until proven guilty with the idea that we have the option to terminate at any time for convenience. So if we are in the midst of a contract and if in fact the allegations prove true, we can terminate the contract at that point and award the contract to someone else. Otherwise I can guarantee that we would be looking at substantial loss for delay. Vice Chair Quill asked Jerry Kasai if there were any indications about his communications with the Prosecutors office regarding timeline. Jerry Kasai responded that he has not received any timeline on when the grand jury would make its decision and when evidence would be

presented to a grand jury. Jerry does know that they are still in the fact gathering stage and this is not an alleged crime, but a crime where an accountant is looking over documents. Jerry has been in contact with the accountant four or five times and could not get a sense from him. Jerry did ask when he thought he would be done. His reply was he would inform OSFC when he was done with our records. He did not indicate when he would be done, but did say even if he gave his findings to the prosecutor he did not know what they were going to do with it and when. I do not know if Representative Szollosi has had discussions with people that are more so in the know than I could be. Representative Szollosi replied that he had not. Representative Szollosi just received his information the day before the Commission meeting and did not mean to spring it on the Commission, but since we are having discussion and he is sensitive to the timeline issue that the Executive Director outlined. Certainly the Commission maintains the authority to award the contract to the next low bidder. Do not know if that is open shop or union contract or what the difference in price is between the apparent low and the next low bidder. Just have a concern awarding a construction trade contract to a contractor under investigation for theft and falsification of records with respect to projects in the same district that were about to award yet another project. It is worthy of discussion. Chair Sabety shared her concern and this is certainly something we ought to be paying attention to. The reality is we have, as you have indicated, significant cascading impacts. Once a decision becomes all the way to the Commission and my sense is we should be deliberate and fair about how we proceed based upon the processes that have been put in place to move it to this level, but also based upon what we have heard from others about what is going on around this particular contractor.

After further discussion Vice Chair Quill moved to approve Resolution 07-104 approving the award of trade contracts with the caveat that staff and Director report at the next Commission meeting a status of the investigation relative to R.J. Martin who has electrical and technology contracts at the East Cleveland City School District.

Dr. Puckett seconded the revised motion.

Approval: Vote 3-0.

15. Settlement Agreements Approval - Presented by Jerry Kasai

Conneaut City School District occupied the last of the new/renovated facilities in January 2005. Since occupancy, windows in the three new facilities have had heavy condensation in the winter months. The district first tried to work through the issue with the project team with no success. An independent consultant provided a report stating that the condensation problem is a result of a non-insulated window being installed. The report suggested that the design documents were vague and conflicting, the product submittals were incomplete and inadequate and inconsistent with the product installed. The project team has not been responsive to requests to correct the condensation. The School Board has authorized suit be filed. The OSFC Commission authorized the filing of suit in February of 07.

Subsequent to February, the project team began to work together to resolve the issues on the Project. Mediation had been set for July 10, 2007. Prior to the mediation the parties were able to agree on a fix short of total window replacement and negotiated a deal where GPD, the AE, would contribute approx. \$106,000 to the fix, with EFCO the window supplier dropping its replacement cost of materials by an additional \$22,000 to bring total settlement to \$128,000 of the approx. \$172,000 hard cost of the remediation, with a value of \$26,000 as a betterment over the former windows. Instead, of a total window replacement, the fix involves essentially the placement of a supplementary sash containing insulated glass over

the prior installation. The Commission staff has reviewed and recommends the approval of Resolution 07-105.

Dr. Puckett moved to approve Resolution 07-105.

Vice Chair Quill seconded the motion.

Approval: Vote 3-0.

16. Public Testimony

Shane Ostrowski, Director of Government Affairs with the Associated Builders and Contractors of Ohio, addressed the Commission. ABC members have performed well on hundreds of millions of dollars worth of school construction projects since 1997 when the Ohio School Facilities Commission was founded. They have partnered in the success of the endeavor and are a major stakeholder in the continued efforts of the Ohio School Facilities Commission. They have an intimate experience with and knowledge of the system of which schools are built. He requested that recommendations being provided by ABC regarding the original bidder qualifications resolution be considered by the Commission. It is Shane's hope that with the additional information provided, the Commission would consider revising the resolution passed today. ABC supports common sense bidder qualifications that ensure quality contractors while leaving the process open to all interested bidders. ABC has spent weeks reviewing and discussing the original bidder qualifications ultimately arriving at the recommendations provided. ABC has been an advocate for meaningful qualifications that separate poor contractors from those making commitment to excellence. We are very supportive of Governor Strickland and the OSFC in this regard and with some minor enhancements, we would like to see qualifications applied to all public construction.

Commission members were provided a document that was submitted to Dan Belville earlier last month. He spoke to Dan last month and understood this was not on the agenda for the meeting last month. We provided these to him after a meeting held by Dan Belville with several of our members some months ago. Unfortunately Shane did not know what was passed today since he did not have a copy of what was discussed and some of the items as discussed earlier in the meeting were acceptable to ABC. My understanding was that Dan Belville informed Ryan Martin, President of the Northern Chapter, that this was not agreed to at that meeting subsequently. One of the things that concerned us a great deal was Number 16, the bidder certifies it shall only use skilled trade personnel with three years experience who were trained in a state or federally approve apprenticeship program. It was our feeling that especially older members that may not have participated in a training program that have been with the program for twenty years might not be allowed on these bidder requirements and proposed something along the lines for persons who have more than five years experience. In addition often projects require helpers, but they also try to employ people that have worked in a vocational schools or are being educated in vocational schools and they would be qualified if Number 16 were passed as worded today. Shane indicated that Number 11 of the Resolution where a bidder shall certify it has complied with unemployment and workers compensation for at least nine months preceding the date of bid submittal. Our only concern there was the fact of new construction companies could be completely locked out of the process. Just because they are new does not mean they are not responsible. So with that in mind, we provided you with copies of our recommendations and hope that in a future meeting you might come back and consider revising what you passed today.

Chair Sabety thanked Mr. Ostrowski for his comments and appreciated the cooperation he exhibited in the meeting with Dan Belville and others. The reality is the bidder requirements

Mr. Ostrowski talked about are permissive for communities. Our vision is that they will be negotiated at the community level and the communities have the right to negotiate some of the changes that you asked for. This is only model requirements. We anticipate there will be changes and under the third point in the resolution have provided the Executive Director the ability to approve additional responsible bidder criteria as submitted by the board of education to the Commission for approval. Mr. Ostrowski asked if additional requirements also mean that they can remove requirements that are in the model criteria as well. Chair Sabety responded that it says communities are permitted to put criteria in as they see fit. Mr. Ostrowski noted that the only recommendation he would make was consideration of any of the changes ABC put forth only because the local communities will look for a great amount of guidance from the OSFC and what was put forth initially will guide them a great deal. Director Shoemaker added that two of the things Mr. Ostrowski talked about regarding Number 15 in the resolution passed addresses the experience factor that says three years experience in a particular trade in lieu of the apprentice program. It also talks about the approved apprentice program or career tech program. We have met those groups half way in terms of being able to provide adequate labor force and particularly in the terms of career tech. We are willing to sit down anytime and talk. The model bidder criteria is simply a list from which the local districts can choose what they want to implement.

Mr. Victor Goodman, General Counsel, for the Ohio State Building and Construction Trades Council addressed the Commission. Mr. Goodman did not have written testimony as he had not seen the resolution the Commission passed. On behalf as General Counsel for the Ohio State Building and Construction Trades Council, Mr. Goodman offered thanks for the cooperation received from the Commission staff and Mr. Belville. He also joined with Chair Sabety and Representative Szollosi in their comments with respect to the prevailing wage issue, having been with that issue since its origin with the adoption of Senate Bill 102, the Chair of the General Assembly had expressed by the sponsor of legislation. Then Senator Nancy Chiles Dix was quoted as saying "This legislation is permissive. This legislation will return to our local school boards the ability to make tough decisions on how to build and who to build." So what the Commission has done is restored what is in statute in Section 4115.04. That while it is not mandatory it is certainly discretionary. This also was stated by the then Governor Voinovich in a letter written to the Executive Director, Lynn Readey, in July 2004. Mr. Goodman quoted "Included in Senate Bill 102 is the prevailing wage exemption. It became my understanding heretofore prevailing wage had been paid and the decision about using prevailing wage standards could be left to the discretion and judgment of local school boards based upon their differing community standards. School boards with members who are accountable at the local level are knowledgeable and informed about the practice and preferences of their committee." The last page of that letter read "I also believe the local school boards should have the discretion to determine the contractors and workman who build these education facilities in their communities." Finally on that subject, Senate Bill 102 mandated that LBO after a given number of years would make an analysis of the bids that were coming in on school construction. Allen Lundell wrote a memorandum, the first Senate Bill 102 Report dated September 19, 1998. Mr. Goodman quoted from Page 3 of the official LBO report. "The prevailing wage exemption granted by Senate Bill 102 removed the requirement that school districts require the paying of prevailing wages on construction and renovation projects. It did not prohibit school districts from requiring prevailing wages on construction and renovation projects. Districts are now free to choose whether or not to require the payment of prevailing wage."

Since the passage of Senate Bill 102, we are now in July of 2007 and we have finally found a place comprised of people who Mr. Goodman was proud to say have really read and understood the statute. It has brought the statute back to where in Senate Bill 102 the sponsor said it is permissive and we should allow these decisions to be made at the local level by school boards. With respect to the Chair's and Representative Szollosi's comments on project labor agreements, the General Assembly in House Bill 101 in 1999 passed a bill that was not signed by the Governor. In fact, Governor Taft refused to sign the bill saying that he felt that the statute was unconstitutional. Mr. Goodman was proud to say that in 2002, the Ohio Supreme Court unanimously in a case of State Building Trades versus Cuyahoga County Commissioners struck down House Bill 101 as being unconstitutional, as this Commission did, allowing school boards, just as local public officials, whether they are county commissioners, state officials or university officials as having the right to have project labor agreements if and when necessary, which is what this Commission did. The Commission did not mandate the requirement of project labor agreements. It left it again as it did on prevailing wages to the discretion of local school boards. Mr Goodman, on behalf of the Ohio State Building and Construction Trades Council, thanked the Commission. Mr. Goodman added that he could not speak to the totality of the resolution as he had not read it, but having seen the wisdom on the other two issues and having talked with Mr. Belville and the Executive Director felt sure the he would not find anything to which he would be opposed. Chair Sabety thanked Mr. Goodman for his time and appreciated the historical context he presented.

Meeting was adjourned at 4:14 PM.



J. Pam Sabety, Chair

These meeting minutes were prepared by:
Carolyn McClure
Executive Assistant
Ohio School Facilities Commission

Ohio School Facilities Commission Meeting

Witness Form

Name: Shane Ostrowski Title: Director of Government Affairs

School District/Company: Associated Builders and Contractors of Ohio

Address: 2222 Wilson Rd. City/State/Zip: Columbus, OH 43228

Phone: 614-529-4321 Fax: .

Testimony Subject:

Responsible bidder requirements approval.

Will you be providing handouts/materials? yes

*****Please return the Witness Form and ten (10) copies of your testimony and materials to the Committee Secretary prior to testifying.*****

THE OHIO SCHOOL FACILITIES COMMISSION MODEL RESPONSIBLE BIDDER REQUIREMENTS

The following responsible bidder criteria or qualification standards may be added by a resolution of the Board of Education to the construction contracts for school building projects undertaken pursuant to Chapter 3318 of the Ohio Revised Code. These criteria or qualifications standards are reasonably related to performance of the contract work within the statutory framework set forth in Section 9.312 of the Ohio Revised Code.

1. As a condition precedent to contract award after bid, The Board of Education may undertake with the Bidder a Constructability and Scope review on projects of One Hundred Thousand Dollars (\$100,000.00) or more to verify that Bidder included all required work.
2. The Low Bidder whose bid is more than twenty percent (20%) below the next lowest bidder shall list three (3) projects that are each within seventy-five percent (75%) of the bid project estimate for similar projects and that were successfully completed by the bidder not more than five (5) years ago. This information shall be provided if necessary at the post-bid scope review.
3. The Bidder shall certify it will employ supervisory personnel on this project that have three (3) or more years in the specific trade and/or maintain the appropriate state license if any.
4. The Bidder shall certify it has not been ~~penalized or~~ debarred from any public contracts for falsified certified payroll records or any other violation of the Fair Labor Standards Act in the last five (5) years.

Explanation: There was an initial concern as to whether this was necessary at all. However the primary concern is that a bidder not be removed from consideration due to a lesser "penalty." Therefore removing that language would focus on those contractors who have had serious infractions resulting in debarment.

5. The Bidder shall certify it has not been debarred from public contracts or found by the state (after all appeals) to have violated prevailing wage laws more than three times in a two-year period in the last ten years.
6. The Bidder shall certify it has ~~implemented an OSHA compliant~~ a written Safety Program and will provide evidence of such upon request.

Explanation: Presently there is no such thing as a certification process for determining an "OSHA compliant Safety Program." OSHA simply issues and enforces rules, therefore contractors cannot "certify" that they have and OSHA compliant program.

7. The Bidder shall certify it is in compliance with Ohio's Drug-Free Workplace requirements, including but not limited to, maintaining a substance abuse policy that its personnel are subject to on this project. The Bidder shall provide this policy or evidence thereof upon request.
8. The Bidder shall certify for a skilled trade contract or fire safety contract that Bidder is a state licensed heating ventilating and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor or hydronics contractor, or licensed by the State Fire Marshal.
9. The Bidder shall certify it has not had a professional license revoked for fraud or negligence in the past five years in Ohio or any other state.

Explanation: At our first meeting "for fraud or negligence" was consented to as an addition.

10. The Bidder shall certify it has no final judgments against it that have not been satisfied at the ~~time of award~~ time of bid in the total amount of fifty percent (50%) of the bid amount of this project.

Explanation: Striking of "time of award" and addition of "time of bid" was agreed to at our first meeting.

11. The Bidder shall certify it ~~has complied~~ currently complies with unemployment and workers compensation laws, ~~for at least the nine months preceding the date of bid submittal.~~

Explanation: Consent was given to this amended language at our first meeting.

12. ~~The Bidder shall certify for a skilled contract (i.e., plumbing, electrical, HVAC, or fire safety) that it will not subcontract greater than seventy five percent (75%) of its awarded contract.~~

Explanation: This point was accepted at our first meeting. On some skilled contracts (especially mechanical), equipment costs alone can easily exceed 75% of the contract. Additionally, especially in mechanical trades, there are diverse specialties which require subcontracts because it is inconceivable that the prime contractor can be proficient in these areas. In the interest of affording contractors the ability to produce quality construction, we recommend that this qualification be stricken.

13. The Bidder shall certify it does not have an Experience Modification Rating of greater than 1.5 (a penalty rated employer) with respect to the Bureau of Workers Compensation risk assessment rating.
14. The Bidder shall certify that it will ~~provide~~ make available a minimum health care medical plan for those employees working on this project.

Explanation: The word “provide” may be construed to mean that the Bidder bears the entire cost of the plan.

15. The Bidder shall certify it will contribute to an employee pension or retirement program for those employees working on this project.
16. The Bidder certifies it shall only use skilled trade personnel with three years (3) years experience who were trained in a state or federally approved apprenticeship program or have five years experience in the trade for which they are employed, or workers who are currently enrolled in a state or federally approved apprenticeship program, or helpers who are enrolled in vocational programs including, but not limited to, school to work programs. Skilled trade is defined as those individuals in mechanical, electrical, plumbing, carpentry, and fire suppression trades. The labor classification is excluded, as there is no current apprenticeship program for this classification.

Explanation: We have added language that offers grandfathering for those skilled trades personnel who have five years experience. We have accepted the original language that restricts skilled trade to “mechanical, electrical, plumbing, carpentry and fire suppression.” Expanding this list would be restrictive since beyond these core trades there are very few apprenticeship locations throughout the state. Finally, we have added “helper” language which was discussed at our first meeting. This would allow contractors who hire young men and women from Ohio’s vocational schools the opportunity to continue to do so. This will create new opportunities for these individuals who are neither apprentice nor journeyperson.

17. The Bidder shall certify it has not been debarred from any public contract; federal, state or local in the past five years.

Ohio School Facilities Commission Meeting

Witness Form

Name: N. Victor Goodman Title: General Counsel,

School District/Company: Ohio State Bldg. + Constr. Trades Council

Address: 41 S. High St City/State/Zip: Columbus, Ohio 43215

Phone: 614-223-9343 Suite 2600 Fax: 614-223-9330

Testimony Subject:

Responsible Contracting

Will you be providing handouts/materials? No

*****Please return the Witness Form and ten (10) copies of your testimony and materials to the Committee Secretary prior to testifying.*****