

Ohio School Facilities Commission
October 25, 2007
William McKinley Room 1:30 PM

MINUTES

The meeting was called to order at 1:37 PM.

Roll Call

Members present: Vice Chair Hugh Quill, Dr. Steve Puckett, Senator Larry Mumper, Senator Tom Roberts, Representative Clyde Evans and Representative Matt Szollosi.

1. Adoption of the September 27, 2007 Meeting Minutes

Dr. Puckett moved to approve the September 27, 2007 meeting minutes.

Vice Chair Quill seconded the motion.

Approval: Vote 2-0.

2. Executive Director's Report

Director Shoemaker updated the Commission members on his meetings and activities since the last Commission meeting. Director Shoemaker spoke to the Associated Builders and Contractors in Cincinnati and announced the LEED Program at the Architects Conference in Columbus. Plans to bring the former superintendent from Lake Local School District are in the works for a future Commission meeting to present their community collaboration. Director Shoemaker debriefed Construction Managers from the last round of school district selections on areas of improvement in their presentations and things we look for during their presentations. We met with Jess Good, Director of the Governors Office of Communications, to make him aware of how our operation works and sharing news on things that are happening at OSFC. We are trying to get out to the school districts early so they can make timely decisions on funding three out of the four Outreach meetings scheduled have taken place with good participation and feedback. Meetings were held with the higher wealth school districts to get input in ways we can work with them. An update was given on the model bidder criteria/PLA – the Ironton project has been approved, Akron is pending and Painesville pulled their PLA. The Painesville project was bid and the board is considering whether to award the bid or reinstitute the PLA and rebid. An update was given on mediations from last month's Commission meeting – we have received a memorandum of understanding from J&H. The RJ Martin contract that was pulled last month has been resolved to our satisfaction and the company's satisfaction. We always reserve the right to terminate for convenience at any time. We have received 20 Exceptional Needs Program applications from 10 school districts. We have received Emergency Assistance Program applications from Shelby City School District and Lima City School District as a result of the floods in Northwest Ohio.

Representative Szollosi asked if there was a task force in place and how do we approach the issue of safety with public school districts regarding tragedies with school children in

Cleveland. Director Shoemaker responded our basic effort so far has been within and around the building in terms of the security. Senator Roberts asked Dr. Puckett about the Department of Education's School Safety Task Force report. Dr. Puckett responded there were guidelines and recommendations and he would be glad to get that information to the Commission.

New Business

Vice Chair Quill went off the agenda in consideration of Senator Mumper's request. Senator Mumper introduced his amendment to Resolution 07-98 for the Commission's consideration along with an analysis of Public Owner Construction Project Labor Agreements and an Executive Summary. Senator Mumper pointed out that anything this Commission does that restricts or reduces the number of bidders that can bid on a contract for a school or on some portion of the construction raises the cost of the buildings. Vice Chair Quill thanked Senator Mumper for his input and his resolution would be taken under advisement and thanked Senator Mumper for his input.

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

Two School Districts requested participation in the Energy Conservation Financing Program.
Columbiana Exempted Village of Columbiana County:

- Comfort Controls Group, Inc.
- Total Cost \$149,850 (Self Funded)
- Annual Savings \$14,233
- Payback Period 10.52 Years
- Lighting Retrofit
- Building Automation and Controls Upgrade

Lake Local School District of Wood County:

- H.E.A.T. Total Facilities Solutions, Inc.
- Four Buildings
- Total Cost \$1,478,056 (Including Interest @ 4.75%)
- Annual Savings \$101,056
- Payback Period 14.63 Years
- Building Automation Upgrades (4)
- New Pump Variable Freq. Drives (3)
- Lighting Replacement (4)
- New Occupancy Sensors
- Boiler Replacement and New Boiler (4)

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 07-133.

Dr. Puckett moved to approve Resolution 07-133.

Vice Chair Quill seconded the motion.

Approval: Vote 2-0.

4. Maintenance Plan Approval - Presented by Mark Wantage

There was one maintenance plan for Commission approval. The maintenance plan is in fulfillment of the law and the project agreement. Staff reviewed the maintenance plan for the district and it met all the requirements. Resolution 07-134 was recommended for approval.

School District	Buildings Included in the Maintenance Plan
Cardington-Lincoln LSD of Morrow County	Elementary School, Intermediate School, High/Middle School

Dr. Puckett moved to approve Resolution 07-134.

Vice Chair Quill seconded the motion.

Approval: Vote 2-0.

5. Master Facilities Plan Amendment Approval and Expedited Local Partnership Program Agreement Amendment Approval – Presented by Steve Lutz

Steve Lutz described Resolution 07-135 and Resolution 07-136 together since they pertain to the same school district. Both resolutions support Orrville’s continued participation in the Expedited Local Partnership Program. The district originally applied to participate in the ELPP in 2003. They entered into an ELPP agreement for the construction of a new middle school and that project is now completed and occupied. The district identified the need to serve the elementary school population and has raised its funding to support that. The planning for the elementary school project included a reassessment of their existing elementary school, which shows the cost of renovation to be 71% of the cost of new construction. The assessment rated the educational adequacy of the facility to be borderline, therefore the master plan is being amended to abate and demolish the existing elementary school and to build new instead. The district’s enrollment projections have been updated and the amended master plan reflects the increased enrollment in the elementary school and the decreased enrollment in the middle school/high school. The master facilities plan budget is increased by \$2.7 million with \$1 million as the state share. The ELPP agreement is being amended to add \$14.9 million for the construction of the new elementary school and for the abatement and demolition of the existing elementary school. When completed the expected total credit for the district will be expected to be \$27.8 million. The master facilities plan is being amended by Resolution 07-135 and the ELPP agreement is amended by Resolution 07-136. The staff recommended the approval of Resolution 07-135 and Resolution 07-136. Vice Chair Quill asked that the resolutions be voted separately.

Dr. Puckett asked if the increased \$2.7 million is for increased enrollment and the change is from renovation to building a new school and does the school district agree with that decision. Steve Lutz responded the change was from a renovation of an existing elementary school to building new and the school district agreed with that decision.

Dr. Puckett moved to approve Resolution 07-135.

Vice Chair Quill seconded the motion.

Approval: Vote 2-0.

Dr. Puckett asked for clarification on the \$14 million increase. Steve Lutz responded that the \$14 million increase is the estimated cost of construction of a new elementary school to

serve the districts student population at that grade level. It reflects the ELPP agreement that we had \$12.8 million for the middle school that they have constructed already and now they want to undertake the elementary school project.

Representative Szollosi asked how the process worked for modification of enrollment projections. Senator Mumper suggested that the current commission members be briefed on the enrollment process that was presented to Commission members several years ago. Steve Lutz offered to schedule another presentation and would invite any interested Commission members.

Dr. Puckett moved to approve Resolution 07-136.

Vice Chair Quill seconded the motion.

Approval: Vote 2-0.

6. Architectural Agreements and Amendments Approval - Presented by Steve Berezansky

The following architect agreements and amendments were presented for approval.

Agreements:

School District	Project	Architect	Amount
Girard CSD	Renovations/additions to Prospect Elementary School	ThenDesign Architecture, Ltd.	\$1,464,990.79
Southington LSD	New PK-12 Facility	Glaus, Pyle, Schomer, Burns & Dehaven, Inc.	\$1,151,909.87
Toledo CSD – Seg. 4	Four elementary schools, one new PK - 8 and one new high school	Allied Toledo Architects, LLC.	\$6,707,694.26

Amendments:

School District	Project	Architect	Fees to Date	Amount	Total
Canton CSD – Amend. #3	Modify Harter ES student population from 395 to 479 and McGregor ES from 434 to 350	Motter & Meadows	\$5,214,755.20	\$78,554.84	\$5,293,310.04
Canton CSD- Amend. #4	Increase scope in renovation at Lathrop ES and Youtz ES	Motter & Meadows	\$5,293,310.04	\$128,513.02	\$5,421,823.06
Cincinnati CSD – Seg. 1	New Reese E. Price Elementary contract exceeded by five months	McGill Smith Punshon, Inc.	\$756,617.00	\$52,018.00	\$808,635.00
Columbus CSD- Seg. 1	Ft. Hayes 70's Auto Tech	Design Group, Inc.	\$1,243,249.00	\$3,543.75	\$1,246,792.75
Wauseon EVSD	Remove the Project Agreement LFI construction cost.	Fanning/Howey Associates, Inc.	\$2,594,162.75	(\$88,935.73)	\$2,505,227.02

Locally Funded Initiatives:

School District	Project	Architect	Amount
Canton CSD - Amend. #5	Scope enhancements to administration area of Schreiber ES and Lathrop ES	Motter & Meadows	\$37,710.77
Toledo CSD - Seg. 4	Auditoriums and Athletic Fields	Allied Toledo Architects, LLC.	\$168,110.00
Wauseon EVSD	Add two 900 square foot classrooms	Fanning/Howey Associates, Inc.	\$24,931.82

The Commission staff reviewed and recommended approval of Resolution 07-137.

Dr. Puckett moved to approve Resolution 07-137.

Vice Chair Quill seconded the motion.

Approval: Vote 2-0.

7. Construction Manager Amendments Approval - Presented by Steve Berezansky -

Steve Berezansky noted that the Construction Manager amendment for Licking Valley Local School District for \$56,575 that was initially in the Commission book was pulled due to a timing consideration with the execution of the project agreement and will be presented in a future Commission meeting.

The following Construction Manager amendments for “locally funded initiative” were presented for approval.

<u>School District</u>	<u>Construction Manager</u>	<u>Amount</u>
Fairless Local School District	Regency/Ruhlin	\$128,690
Licking Valley Local School District	Regency/Ruhlin	\$113,682
Miami Trace Local School District	The Quandel Group	\$203,168

The Commission staff reviewed and recommended approval of Resolution 07-138.

Dr. Puckett moved to approve Resolution 07-138.

Vice Chair Quill seconded the motion.

Approval: Vote 2-0.

8. Trade Construction Contracts Approval - Presented by Steve Berezansky

All contracts represent the lowest responsible bidder. Steve Berezansky pointed out two contracts that went to the second low bidder, lowest responsible bidder. Toledo City School District - Brooks Contracting, Inc. made a mathematical error and withdrew their bid and the contract was awarded to Schoen, Inc. Hamilton Local School District – Altman Company. After extensive review by the Construction Manager and the Architect that included reviewing past performances on several other projects recommended awarding the contract to Thomas and Marker Construction, the second low bidder. The school board passed a resolution supporting this recommendation and Commission staff supports this decision. The Commission staff reviewed and recommended approval of Resolution 07-140.

<u>School District</u>	<u>Contracting Entity</u>	<u>Scope Of Work</u>	<u>\$ Amount</u>
Akron CSD	Continental Educational Environments	Classroom Furniture	\$555,974.17
Ashtabula Area CSD	Medico Systems, Inc.	Hazardous Material Abatement	\$29,820.00
Cincinnati CSD	Beacon Electric Company	Electrical/Technology	\$7,552,500.00
Cincinnati CSD	Continental Office Furniture Corp	Office & Academic Furniture	\$474,075.00
Cincinnati CSD	Century Construction, Inc.	HVAC	\$2,157,626.00
Cleveland CSD	Mac Mechanical Corporation	Fire Protection	\$159,306.00
Cleveland CSD	Cold Harbor Building Company	General Trades	\$6,121,500.00
Cleveland CSD	Down to Earth Landscaping, Inc.	Landscaping	\$29,709.07
Cleveland CSD	Atlas Electric Company	Electrical	\$1,060,000.00
Cleveland CSD	Soehnen Piping Company	Plumbing	\$622,000.00
Cleveland CSD	Cold Harbor Building Company	General Trades	\$6,517,600.00
Cleveland CSD	Commerce Plumbing Company	Plumbing	\$641,500.00
Cleveland CSD	Atlas Electric Company	Electrical	\$1,358,000.00
Cleveland CSD	Great Lakes Crushing, Ltd	Demolition	\$1,656,500.00
Cleveland CSD	Down to Earth Landscaping, Inc.	Landscaping	\$52,248.32
Columbus CSD	Speer Mechanical	Plumbing and HVAC	\$5,156,000.00
Columbus CSD	B & C Blacktop Sealing, Inc.	Site Work-Bus Loop	\$184,145.00
Columbus CSD	International Masonry, Inc.	Masonry	\$1,240,846.00
Columbus CSD	Settle Muter Electric	Electrical	\$4,511,000.00
Columbus CSD	Central Fire Protection Co., Inc.	Fire Protection	\$557,019.00
Columbus CSD	R. W. Setterlin Building Company	General Trades	\$14,969,000.00
Dayton CSD	Dayton Demolition, LLC	Demolition	\$324,437.00
Dayton CSD	Fuller & d'Albert, Inc.	Fixtures, Furnishings and Equipment	\$95,900.00
East Cleveland CSD	R J Martin Company	Video System (Technology)	\$478,700.00
Franklin LSD	North American Environmental Services, LLC	Asbestos Hazard Abatement & Related Work	\$78,637.00
Gallipolis CSD	Lang Masonry Contractors, Inc.	Masonry	\$3,768,393.56
Gallipolis CSD	Trimat Construction, Inc.	General Trades	\$7,539,000.00
Hamilton LSD	Thomas and Marker Construction Co. * * *	General Trades	\$7,144,700.00
Hamilton LSD	Accurate Electric, Inc.	Electrical	\$2,426,000.00
Hamilton LSD	Phoenix Masonry	Masonry	\$2,954,500.00
Hamilton LSD	General Temperature Control	Plumbing	\$1,265,000.00
Hamilton LSD	Stonecreek Interior Systems, LLC	Casework	\$507,200.00
Martins Ferry CSD	Service Supply LTD, Inc.	Playground & Equipment Work	\$129,000.00
Miami Trace LSD	Executive Security Systems, Inc.	BP-T3 Security Systems & CCTV	\$100,000.00
Miami Trace LSD	Loveland Excavating of Cols, Inc.	BP-U1 Force Main Extension & Pump Station	\$443,743.00
Painesville City LSD	Mr. Excavator, Inc.	Sitework & Demolition	\$2,300,164.00
Plymouth-Shiloh LSD	Stanley Security Solutions, Inc.	Technology	\$657,000.00
Pymatuning Valley LSD	Waller-Duman, Inc.	Bleacher Replacement	\$79,500.00
Pymatuning Valley LSD	Corporate Floors, Inc	Gymnasium Floor Refinishing	\$21,520.00
Scioto County JVSD	Nor-Com, Inc.	Technology	\$968,000.00
Scioto County JVSD	Roslovic & Partners, Inc.	General Trades	\$5,315,000.00
Springfield CSD	Tony Smith Wrecking	Demolition	\$471,500.00

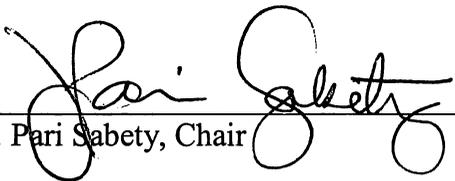
Toledo CSD	Schoen, Inc. * * *	Sitework	\$667,425.00
Toledo CSD	The Spieker Company	General Trades	\$3,247,000.00
Toledo CSD	Absolute Fire Protection, Inc.	Fire Protection	\$92,950.00
Toledo CSD	Hank's Plumbing & Heating Co.	HVAC/Plumbing	\$1,300,000.00
Tri-Valley LSD	Service Supply Ltd., Inc.	Playground Development	\$387,000.00
Tri-Valley LSD	Tom Sexton & Associates	Office Furniture	\$326,049.68
Washington Court House CSD	Claypool Electric	Electrical	\$1,445,000.00
Washington Court House CSD	Robertson Construction Services	General Trades	\$6,500,000.00
Washington Court House CSD	Robertson Construction Services	General Trades	\$8,299,000.00
Youngstown CSD	Mid-West Telephone Service, Inc.	Technology Cabling	\$89,000.00
Youngstown CSD	Mid-West Telephone Service, Inc.	Cabling	\$113,500.00
Youngstown CSD	S A Comunale Company, Inc.	Fire Protection	\$111,900.00
Youngstown CSD	The Conti Corporation	Plumbing/HVAC/Electrical/Technology	\$2,595,300.00
	Lowest Responsible, Second Low Bidder * * *		Total \$117,848,387.80

Vice Chair Quill asked for additional background information on the Hamilton situation. Steve Berezansky responded that approximately five projects were reviewed for past performance and issues that were brought up in general were masonry concerns, foundation, steelwork, scheduling and coordination. Vice Chair Quill asked if these were all quality issues.

Representative Szollosi shared information with Director Shoemaker concerning Trimat Construction on the Gallipolis General Trades package for the high school. Apparently Trimat has been deemed to be non-responsible by the West Virginia Department of Administration. Director Shoemaker gave the information to Chief Legal Counsel Jerry Kasai for review and a report will be made at the next Commission meeting.

Dr. Puckett moved to approve Resolution 07-139.
 Vice Chair Quill seconded the motion.
 Approval: Vote 2-0.

The meeting was adjourned at 2:37 PM.


 J. Pari Sabety, Chair

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

RESOLUTION 07-???

**THE OHIO SCHOOL FACILITIES COMMISSION
October 25, 2007**

**ADOPTING ADDITIONAL CRITERIA FOR SCHOOL DISTRICTS' USE OF
PREVAILING WAGE REQUIREMENTS AND/OR PROJECT LABOR
AGREEMENTS**

WHEREAS, the 122nd Ohio General Assembly established the Ohio School Facilities Commission (Commission) under Chapter 3318 of the Ohio Revised Code (ORC); and

WHEREAS, the Commission is committed to ensuring that schools are built by responsible contractors employing a qualified workforce; and

WHEREAS, Section 3313.46 of the Ohio Revised Code requires School Districts to award contracts to contractors submitting the lowest responsible bid after competitive bidding; and

WHEREAS, Section 3318.10 of the Ohio Revised Code provides discretion for a Board of Education, subject to Commission approval, to determine which contractor is the lowest responsible bidder; and

WHEREAS, on July 26, 2007, the Commission adopted Resolution 07-98 which included Attachment A; Model Responsible Bidder Requirements which would be approved if adopted, in whole or in part, by a School District without further Commission approval; and

WHEREAS, the Commission has determined it necessary to amend the Model Responsible Bidder Requirements adopted on July 26, 2007 as Attachment A to Resolution 07-16; and

WHEREAS, the Commission has determined to allow, subject to Commission approval, a School District participating in a Commission program to determine additional standards related to construction workforce.

NOW, THEREFORE BE IT RESOLVED THAT:

1. A School District participating in a Commission program that adopts a resolution that requires mechanics or laborers engaged for that project or a segment of that project be paid the prevailing rate or that requires bidders on that project or a segment of the project to enter into project labor agreements, the district board shall be solely responsible for any amount by which either requirement increases the basic project cost of the district's project.

2. In order to determine whether and to what extent the district board's requirement increases the basic cost, if the board adopts such a resolution, the Commission shall require the board to advertise separately for bids for labor so that one request for bids contains the board's requirement and the other request for bids does not contain the board's requirement.
3. Upon opening the sealed bids submitted in response to the requests, the district board shall report to the Commission the content of the bids in a manner prescribed by the Commission.
4. The Executive Director is authorized to waive or amend provisions of a School District's Project Agreement to facilitate the implementation of this Resolution.

In witness thereof, the undersigned certifies the foregoing Resolution was duly adopted at an open meeting held October 25, 2007 by the members of the Ohio School Facilities Commission.

J. Pari Sabety, Chair

An Analysis of Public Owner Construction Project Labor Agreements

I. WHAT ARE PUBLIC OWNER PROJECT LABOR AGREEMENTS?

Public Owner Project Labor Agreements (hereinafter called "PLAs") come in a wide variety of shapes and sizes. In order to understand exactly what a Public Owner PLA entails, the terms of the PLA must be carefully reviewed. By definition, Public Owner PLAs require involvement of a public entity. Public entities include federal, state, or local governmental units and many so-called quasi-governmental units such as federal, state and local agencies, boards, commissions, development authorities, public hospitals, tollroad authorities and the like. The line between private sector work and public work can be difficult to draw in some circumstances and may require a careful analysis of the structure of the contracting entity and its relationship with the federal, state or local governmental entity.

The terms of Public Owner PLAs range from a single sheet of paper containing a handful of provisions to complex documents with multiple attachments. Again, careful analysis of each PLA is required to determine its actual impact on the project in question. At a minimum, virtually all Public Owner PLAs require job site contractors and subcontractors to use building and construction trade union hiring halls to obtain craft employees. This is the key *quid pro quo* for the second feature of Public Owner PLAs – no-strike clause by the signatory unions for the duration of the project.

In addition to these two basic features, Public Owner PLA's frequently incorporate some or all of the following:

- (1) Mandatory recognition of the signatory unions as the sole and exclusive bargaining agents for all construction craft employees.
- (2) Mandatory union membership (in non-right-to-work states) and dues payments.
- (3) Mandatory payments into union fringe benefit funds for all employees.
- (4) All contractors and subcontractors are obligated to sign the PLA. Under many PLAs, contractors also must sign the local union collective bargaining agreements applicable to all work in the area outside the public project.
- (5) Restrictive subcontracting provisions requiring all subcontractors at every tier to execute the PLA and to become signatory to the appropriate local union collective bargaining agreements.
- (6) Mandatory grievance and jurisdictional dispute resolution procedures.
- (7) Uniform hours of work, holidays and work rules.
- (8) Union stewards for all crafts.
- (9) Contractor derivative liability for subcontractor wage and fringe benefit payment delinquencies.
- (10) Non-discrimination provisions and affirmative action requirements that may be different from otherwise applicable laws.

Executive Summary

The following are the major points addressed in this analysis of the public policy and legal implications of public owner union-only project labor agreements.

- Public procurement practices providing open competition among all qualified firms, regardless of the labor policies of the employers or the union representation choices of their employees, best serve the taxpayer's (or ratepayer's) interests in cost-effective construction program results.
- Union-only closed procurement policies serve only the interests of the favored unions, diverting badly needed infrastructure investment funds to legal challenges, subsidizing union practices, and delaying badly needed public projects.
- Public agencies are more frequently rejecting exaggerated claims that the Supreme Court's *Boston Harbor* decision countenanced closed public procurement for the benefit of the building trades.
- Many knowledgeable procurement agencies reject union-only project labor agreements early in the political decision making process, thereby saving taxpayers the expense of closed procurement and the attendant legal challenges and project delays.
- Construction industry employers, not public agencies or their agents, are the most knowledgeable and best able to negotiate truly competitive agreements with construction labor organizations.
- Public agencies and their agents that negotiate project labor agreements directly with unions frequently cause many unintended consequences that can affect private-sector industry bargaining and may even overstep narrow legal exceptions for employers in the industry under antitrust and labor laws.
- Public owner project labor agreements may run afoul of a wide variety of federal, state and local laws, including ERISA rules against state laws mandating employee benefits, federal antitrust laws, NLRA union dues restrictions, state constitutions, as well as state competitive bidding laws and administrative procedure requirements.
- Experts in procurement policy have urged state and local officials to resist union-only procurement favoritism and concentrate on proper construction project delivery through open competition and sound fiscal and project management skills.