

**Ohio School Facilities Commission**  
**March 24, 2011**  
**William McKinley Room**  
**1:30 PM**

**MINUTES**

Chairman Keen called the meeting to order at 1:32 PM

**Roll Call**

Members present: Chairman Keen, Vice Chair Blair, Mr. Pompey, and Representative Gentile. Senator Lehner arrived at 1:50 PM.

**Adoption of the February 24, 2011 Meeting Minutes**

Vice Chair Blair moved to adopt the February 24, 2011 meeting minutes. Mr. Pompey seconded the motion.

Approval: Vote 3-0.

**School Energy Conservation Financing Program Approval**

Mark Wantage, Maintenance Administrator, provided a brief overview of the Energy Conservation Financing Program (HB264). He presented for Commission consideration four school districts requesting participation in the Energy Conservation Financing Program. The first district was Holgate Local in Henry County with a small project of \$179,000 with a 14.3 payback. Olentangy Local in Delaware County had a \$4.6 million project for 25 buildings and an eight year payback. The third district was Wilmington City School District in Greene County, with a revision of a resolution that was approved by the Commission in May 2008. The new project total is a \$2.1 million project. They are adding controls upgrades, CO<sup>2</sup> demand ventilation, a new boiler replacing the 17 year old boiler that is failing, dishwasher booster and converting from propane to gas. They are blending that project into the original payback period and the new payback is increased by half of year to 13.5. Xenia Community City School District in Greene County had a \$2.5 million project. This is a current OSFC project. The items that they are replacing are in buildings that are not part of the current activity of that project. They are adding some controls in the high school and those items are going to be LFI with the possibility of being included in the project co-funding if the project has remaining dollars at the end of the day.

The staff of OSFC reviewed their proposals and recommended approval of Resolution 11-32.

Mr. Pompey moved the Commission to approve Resolution 11-32.

Vice Chair Blair seconded the motion

Approval: Vote 3-0.

**ELPP Agreement Amendment Approval**

Steve Lutz presented Master Facilities Plan Amendments and Project Agreement Amendments for Keystone Local School District, Lorain County, for its 2002

participation in the Expedited Local Partnership Program (ELPP). The Master Facilities plan is being amended in order to bring it up to date in preparation for the district undertaking a second project under the expedited program. The master plan cost set is updated from 2002 to 2010. Enrollment projections have been updated, reducing the student population by 443 students. The plan is revised to combine the anticipated New Elementary School (ES) and the separate new Middle School (MS) into one K-8 facility. Deleted from the plan is the allowance for the abatement and demolition of two of the old schools, which the district no longer owns. The credit amount for the completion of the new High School (HS) and site infrastructure for the ES/MS is included in the total master facilities plan. The Master Facilities Plan (MFP) budget is reduced by \$770,000. The district's ELPP agreement is being amended for the second time to add in the new phase of expedited work. This amendment adds the construction of the 6<sup>th</sup> to 8<sup>th</sup> grade portion of the planned K-8 facility, and it adds an allowance for the abatement and demolition of the former high school and the current middle school.

Staff has worked closely with the district to revise the plan and develop the scope for the district's second phase of work under the Expedited Program. Staff recommended approval of Resolution 11-33.

School District (County)	Change in Scope	Decrease to the Project Budget	
Keystone Local SD (Lorain)	Update OSDM cost set from 2002 to 2010. Decrease in enrollment and update projected enrollment year. Executed ELPP Credit amount of \$15,324,928 (new High School facility and site infrastructure at new elementary and new middle school sites) for Phase I ELPP project. Build one new combined elementary/middle school instead of two new buildings for the same grade levels. Delete abatement and demolition allowance for Penfield ES and West Carlisle ES.	- \$354,050	State Share
		- \$416,068	Local Share
		<b>- \$770,118</b>	<b>TOTAL</b>

School District	Amendment Type	Project Scope Change	Total Amendment Cost Change	Total Revised Project Budget
Keystone Local SD (Lorain)	Second	Build 6-8 portion, 56,775 sf (44.84 percent) of the new K-8 elementary/middle school, 126,594 sf, to house 1,007 students; Abate and demolish former Keystone High School, 85,390 sf.; Abate and demolish former Keystone Middle School, 57,096 sf.	\$12,224,620	\$27,549,548

Chairman Keen asked Mr. Lutz if he was aware of whom the district sold the buildings to. Mr. Lutz did not have the answer, but stated that he would obtain that information and forward it to the members of the Commission.

Vice Chair Blair moved to approve Resolution 11-33.

Chairman Keen seconded the motion.

Approval: Vote 3-0.

## Master Facility Plan Amendments Approval

Mr. Lutz presented Washington-Nile Local School District and Wellston City School District Master Facilities Plan Amendments. The first amendment was to the facilities plan for the Washington-Nile Local School District of Scioto County for their 2008 participation in the Exceptional Needs Program. This is the first amendment to this project and it adds just over \$1 million, a 6.6 percent increase. This is needed due to market conditions in order to support the projects design and scope to be compliant with the design manual.

Mr. Lutz also presented the Fifth Amendment to the facilities plan for Wellston City School District of Jackson County for their 1998 participation in CFAP. As suggested by the 1998 start, this project has suffered from what could be characterized as the perfect storm of problems. The staff believes that this amendment will be the last in a series of corrective actions that have been required in order to deliver quality facilities to this district. To date, all of the required corrective work has been funded through project dollars and with funds obtained from responsible parties. The amendment was brought forward anticipating the local share would be provided from the corrective action grant; which was also on the agenda. This amendment provides an additional \$3.4 million, a 10.6 percent increase, for:

- Correction of widespread pavement failures in the access road and the parking lots of the HS and the MS.
- Repair of a settled catch basin
- Repair the leaking water lateral serving the site
- Correct erosion damage to the site
- And to stabilize the slope surrounding the retention pond.

Staff recommended approval of the amendments to the master facilities plans of the Washington Nile Local School District and the Wellston City School District by adoption of Resolution 11-34.

School District (County)	Recommended Modifications to the Master Facilities Plan	Modifications to the Project Budget	
Washington-Nile Local SD (Scioto)	<u>Amendment 1</u> Due primarily to market conditions, the project budget must be increased for the design and construction work required to build one new elementary/middle school facility to meet minimum Design Manual standards.	\$1,032,428	State Share
		\$21,070	Local Share
		<b>\$1,053,498</b>	<b>TOTAL</b>
Wellston City SD (Jackson)	<u>Amendment 5</u> Widespread pavement failure and drainage issues exist throughout the middle school and high school sites as well as the main entry road leading into the campus. Subsurface exploration and geotechnical engineering services were performed by a consultant that found relatively weak sub grade soils below the existing pavement sections at the site. Test borings indicated the thickness of the asphalt	\$3,046,662	State Share
		\$391,658	Local Share
		<b>\$3,438,320</b>	<b>TOTAL</b>

	<p>varied from about 1 to 7 inches across the sites with an aggregate base thickness of about 3 to 7 inches. The remedial scope of work includes completely excavating the areas of existing failed pavement sections of asphalt and aggregate base to expose the underlying sub grade materials, undercutting the unsuitable sub grade materials and replacing them with suitable structural fill. New pavement of the proper thickness shall then be installed. Additional areas of remediation include repairing catch basin settlement, stabilizing a retention pond slope, repairing water line leakage issues along the main entry drive and addressing an erosion issue on a steep slope behind the middle school. Litigation is ongoing with the original Architect and original Construction Manager and additional cost recovery may be pursued against those parties. A settlement agreement for site issues already occurred with the site contractor, however that agreement shall be reviewed by legal staff for potential opportunities to further pursue cost recovery from that party and their surety. An allowance in the amount of \$200,000 for replacement Construction Management Services is included in this amendment. The local share will be covered by the corrective action grant.</p>	
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Mr. Pompey asked about the status of the Wellston project. Mr. Lutz responded that the project has completed the remediation work associated with the exterior walls and interior walls structural deficiencies and water entry problems. That work is done and now we are seeking funding in order to correct the site work problems.

Vice Chair Blair then asked about pictures he had seen of the pavement. The pavement appeared to have no base under it whatsoever and it only appeared to be about an inch half thick. He wanted to know if it was an inspection problem and how it happened. Mr. Lutz responded that the investigative work that followed the discovery of pavement failure determined that there was, indeed, a lot of variation in the depth of the base and the paving itself. He concurred that the inspection work was lacking. The level of inspection that is to occur, such as retaining inspection and testing services through an independent testing agency, is chosen by the project designer and the requirements are placed in the bidding documents for the contractors to provide certain testing services. Or the project team may elect to issue a separate contract to a testing agency. Assistant Attorney General Jon Walden added that this is the project that was discussed about a month ago and there is some on-going litigation with the former Construction Manager and the former Architect related to their failure to protect the owner from defective work. We think that we got very below average services from the professionals engaged to protect our interest on that project.

Vice Chair Blair asked someone to refresh his memory on that conversation and what we were going to do to ensure that this issue wouldn't happen again. Steve Berezansky, Chief of Projects, responded that about two years ago he and Steve Lutz worked to increase the architect's construction administration on a project. We increased the on-site supervision from four to eight hours to a minimum of 16 hours, and it goes from 16 to 24 to 32 hours. So basically, on any project, we would have between two days and four days of on-site observation from the architects as well as a full-time construction manager/superintendent on-site.

Mr. Pompey moved that the Commission approve Resolution 11-34.

Vice Chair Blair seconded the motion

Approval: Vote 3-0.

**Corrective Action Grant Approval**

Tom. Brannon, Senior Post Construction Administrator, provided background on the Corrective Action Grant program. He noted that with the adoption of Resolution 11-34, the Commission just amended the existing Project Agreement with Wellston City Schools. In conjunction with that action, Corrective Action Grant funding would cover the local share requirement of that amendment. Since the Commission is currently involved in litigation with the project architect and construction manager, our consultant has been asked to review the adequacy of the original design and contract documents relating to the site. Depending upon the outcome of this litigation, any proceeds from a settlement agreement or court judgment will be returned to the Commission to offset the amount of this disbursement. Commission staff reviewed the district's application and determined it met the eligibility requirements of the Program.

Staff recommended approval of Resolution 11-35 for a Corrective Action Grant to the Wellston City Schools to satisfy the local share requirement of the project amendment.

School District (County)	Recommended Scope	Grant Award
Wellston City SD (Jackson)	Corrective Action Grant funding to satisfy the local share requirement of the Project Amendment to fund: <ul style="list-style-type: none"> <li>• Repair of pavement and drainage issues on site</li> <li>• Repair catch basin settlement</li> <li>• Stabilize a retention pond slope</li> <li>• Repair water line leakage issues along the main entry drive</li> <li>• Address an erosion issue on a steep slope behind the middle school</li> </ul>	\$391,659

Vice Chair Blair moved to approve Resolution 11-35.

Mr. Pompey seconded the motion.

Approval: Vote 3-0.

**A/E Agreements and Amendments Approval**

Steve Berezansky presented the Design Services Agreement, Amendments and Locally Funded Initiatives.

There was one design professional agreement for approval and it was right on budget with a 6.5 percent fee. The scope for the Madison Local School District, project includes a new 5-8 Middle School which encompasses 126, 000 square feet with a total construction cost of approximately \$21.4 million for 943 students:

School District (County)	Project	Architect	Agreement Amount
Madison Local SD (Richland)	Build one new 5 thru 8 facility	Garmann/Miller & Associates, Inc.	\$1,443,095.81

Mr. Berezansky then presented five design professional amendments for approval. The overall scope for these amendments includes additional site access requirements, LEED project certification, hazardous material abatement as well as Master Plan changes:

School District (County)	Project	Architect	Fees to Date	Amendment Amount	Total
Cincinnati City SD (Hamilton) Segment 2b	Incorporation of LEED and site access requirements	GBBN Architects	\$2,168,906.00	\$178,440.00	\$2,347,346.00
Cincinnati City SD (Hamilton) Segment 2b	Incorporation of LEED, additional site work and energy power requirements	SHP Leading Design	\$860,427.00	\$167,665.00	\$1,028,092.00
Columbus City SD (Hamilton) Segment 3	Additional environmental abatement monitoring	Braun & Steidl Architects, Inc.	\$824,659.00	\$7,550.00	\$832,209.00
Orrville City SD (Wayne)	Master Plan change from renovation/addition to new high school	Balog Steines Hendricks Manchester Architects	\$1,070,911.21	\$12,465.70	\$1,083,376.91
South Point Local SD (Lawrence)	Additional services due to enrollment and scope changes	McDonald, Cassell & Basset, Inc.	\$2,251,744.00	\$256,679.00	\$2,508,423.00

The locally funded agreements and amendments include Cincinnati City, Columbus City, Madison Local and Orrville City School Districts. These are 100 percent locally funded and the overall scope includes design enhancements, re-design, material upgrades and sitework, athletic facilities and additional square footage not co-funded within the Master Plan:

School District (County)	Project	Architect	LFI Amount
Cincinnati City SD (Hamilton) Segment 2b	Parking plan and design, AMIS Green roof and ELA enclosures	GBBN Architects	\$230,468.00
Cincinnati City SD (Hamilton) Segment 2b	Lobby graphics and additional sidewalks	SHP Leading Design	\$10,025.00
Columbus City SD (Hamilton) Segment 3	Sunk cost associated with District request to build new versus renovation/addition	Braun & Steidl Architects, Inc.	\$19,350.00
Madison Local SD (Richland)	Additional gym, academic square footage and material upgrades	Garmann/Miller & Associates, Inc.	\$583,983.00
Orrville City SD (Wayne)	Sunk cost of redesign	Balog Steines Hendricks Manchester Architects	\$218,945.36

The Commission staff reviewed and recommended approval of Resolution 11-36.

Chairman Keen had a question about Orrville City School District and the sunk cost of redesign. Mr. Berezansky responded that the project was originally a \$15.7 million renovation/addition. It changed to a new build, so we went from \$15.7 million to \$16.2 million for the new facility. We had started some design and realized that there was a lot of hidden cost associated with the renovation, and determined it would be cheaper to build a new facility rather than continue with the renovation/addition. Those costs that we incurred at those early months were no one's fault. We had sunk costs in the early design, but then we actually saved money because we avoided the hidden costs associated with the renovation and only increased the budget by \$12,000.

Mr. Pompey had a question about Madison Local School District (Richland) \$584,000 Locally Funded Initiative and how it relates to the earlier architect agreement. Mr. Berezansky responded that the Madison Local (Richland) is a new agreement and their LFI is an agreement for their local scope. Within their project they have things that would not normally be co-funded under our program. They wanted additional gym space, so they made their gym larger. They added some academic classrooms, and they had some material upgrades. This is why they have the LFI component. It is within the original agreement and those are things the district itself is funding.

Chairman Keen asked if that was within the 6.5 percent or is there a different percentage because it's their money to make that choice. Mr. Berezansky said that it is almost always the same percentage. The district counsel actually negotiates the original agreements for both the co-funded and the locally funded services.

Mr. Pompey moved the Commission to approve Resolution 11-36.  
Vice Chair Blair seconded the motion  
Approval: Vote 3-0.

### **Construction Manager Agreements and Amendments Approval**

Mr. Berezansky next presented Construction Manager and Design Professional agreements and amendments for the Commission's Approval. He noted that the Mid East Career Technology Center is an interim agreement because of the multiple renovation phases for this project. The district still needs some time to finalize the phasing of the construction with their academic calendar for next year. We anticipate bringing the final agreements for Commission approval no later than July of this year.

The Commission staff reviewed and recommended approval of Resolution 11-37.

<b>School District</b>	<b>County</b>	<b>CM Firm</b>	<b>Total CM Compensation</b>
Shelby City SD	Richland	Barton Malow Company	\$1,146,170
Vantage Career & Technology Center	Van Wert	Gilbane Building Company	\$1,258,959

Mid East Career & Technology Centers Interim 1 <sup>st</sup> Agreement	Muskingum	Smoot/Elford/McDaniels	\$735,000
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Chairman Keen asked if the interim amount would be the final amount or will the amount change when we get a final agreement. Mr. Berezansky responded that this is the initial amount and the final amount will be about \$2 million or around that 6 percent. Even though we do have that 6 percent model with the career technical schools, we normally see them coming in at 6 percent to 6.5 percent because of the length of those projects.

Representative Gentile asked what services are included with these contracts with the construction manager. Mr. Berezansky noted that there were quite a lot with the construction management services. We base our fee on 6 percent on the total construction cost of a project. Within the 6 percent is a Direct Personal Expense (DPE) staffing, and reimbursables, which is about half percent. We see about a 2 percent fee for overhead. We normally get a project executive, senior project manager, a project manager who would be on-site part-time, a full-time construction manager superintendent who would be on-site the full-time during construction, a full-time project engineer who would be on-site during construction. The project engineer would be doing a lot of the bulletins, change orders, administrative work. The superintendent does more coordinating the other trades between the multiple trades who would be on the job, for example the coordination between the electrician and the plumber. Then there would also be an administrative assistant in the trailer as well to do a lot of the administrative work. We also procure any services from the construction management home office that would also tie into other projects that we have. About 3.5-4 percent is staff cost.

Vice Chair Blair moved the Commission to approve Resolution 11-37.  
Mr. Pompey seconded the motion  
Approval: Vote 3-0.

Mr. Berezansky also presented the Amendments to the Construction Manager Agreements. The overall scope for these amendments includes additional services for LEED requirements, unforeseen site conditions and master plan changes. Of these, he noted the two zero dollar amendments for Butler Technical Career Development Center and Whitehall City School District. Additional on-site supervision was required so available funds within the overall contract were shifted from reimbursements to direct personnel expenses to cover these costs; therefore there is no increase to the overall contract amount.

The Commission staff reviewed and recommended approval of Resolution 11-38.

School District	County	Construction Manager	Amount
Ohio Valley Local SD	Adams	Lend Lease	\$126,200
Butler Technology & Career Development Center	Butler	Megen Construction	\$0
Whitehall City SD	Franklin	Ruscilli Construction Company, Inc.	\$0

Mt. Gilead Exempted Village SD	Morrow	Regency Construction Services, Inc.	\$168,775
Akron City SD – Segment 1	Summit	Ruhlin Panzica Jenkins	\$106,651

Mr. Pompey moved the Commission to approve Resolution 11-38.  
 Vice Chair Blair seconded the motion  
 Approval: Vote 3-0.

Mr. Berezansky presented the Amendments to a Construction Manager Agreement for a Locally Funded Initiative. These agreements are 100 percent locally funded and the overall scope includes auditorium space, district offices and additional square footage above the master plan.

The Commission staff reviewed and recommended approval of Resolution 11-39.

School District	County	Construction Manager	Amount
Shelby City SD	Richland	Barton Marlow Company	\$288,735
Vantage Career Technical Center	Van Wert	Gilbane Building Company	\$584,335

Vice Chair Blair moved the Commission to approve Resolution 11-39.  
 Mr. Pompey seconded the motion  
 Approval: Vote 3-0.

### Trade Construction Contracts Approval

Mike Mendenhall, Chief of Quality Construction, presented the construction trade contracts for Commission approval. On the agenda for the Commission’s approval were a total of 51 contracts with a total value of \$57,131,135.54. Mr. Mendenhall also noted that all 51 contracts were awarded to the apparent low-bidders: Mr. Mendenhall also pointed out that all of the contracts were advertised or had bid opening dates prior to the adoption of Resolution 11-16 on February 24, 2011. There was no project labor agreements associated with any of the contracts. Nine of these contracts, numbers 1-9, contain prevailing wage requirements. Also eight of the contracts contain model bidder criteria, numbers 10, 11, 42, 43, 47, 48, 49 and 50. Four of these contracts contain the quality school construction bonds (QSCBs) involving federal prevailing wage and Davis Bacon, numbers 44, 45, 46 and 51. We will continue to closely monitor all the contracts for compliance.

The Commission staff recommended approval of Resolution 11-40.

	School District	Contracting Entity	Building Type	Scope Of Work	\$ Amount
1	Ashtabula Area CSD	Tom Sexton & Associates	Elementary Campus FFE	Furnishings, Fixtures & Equipment	\$1,302,361.00
2	Cincinnati Public SD	Environmental Demolition Group	Old Pleasant Hill Demo	Asbestos Abatement	\$94,000.00
3	Cincinnati Public SD	Endeavor Construction	Winton Montessori School	General Trades	\$7,453,000.00
4	Cincinnati Public SD	Delta Electrical Contractors, LTD.	Winton Montessori School	Electrical/Technology	\$1,579,000.00

5	Cincinnati Public SD	Dalmatian Fire, Inc.	Winton Montessori School	Fire Protection	\$148,800.00
6	Cincinnati Public SD	Emerald Fire Protection, LLC	Westwood School	Fire Protection	\$196,450.00
7	Cincinnati Public SD	Feldkamp Enterprises Inc.	Winton Montessori School	Plumbing	\$911,000.00
8	Cincinnati Public SD	LVI Environmental Services, Inc.	Old Woodward Demo	Asbestos Abatement	\$239,100.00
9	Cincinnati Public SD	Beacon Technologies	Segment 3	Security & Technology	\$786,300.00
10	Columbus CSD	Claypool Electric, Inc.	Security Upgrades Group No. 3	Electric	\$439,000.00
11	Findlay CSD	Jackson & Sons Drilling & Pump, Inc.	Donnell & Glenwood MS/Milstream Career Tech	Geothermal Well Fields	\$1,231,600.00
12	Geneva Area CSD	Medico Systems, Inc.	Spencer ES, Geneva ES & Geneva MS	Abatement	\$59,580.00
13	Genoa Area LSD	Playworld Midstates	Genoa New ES	Playground Equipment	\$194,956.00
14	Genoa Area LSD	D & R Enterprises of Genoa, LLC	Genoa New ES	Sitework 2 (Playground Area)	\$28,500.00
15	Hamilton CSD	Quality Asbestos & Demolition Services	McKinley ES	Abatement	\$8,501.00
16	Hamilton CSD	Dore & Associates Contracting, Inc.	Pierce ES	Demolition	\$198,600.00
17	Huber Heights CSD	Logos Communications, Inc.	District Wide Technology	Network Electronics	\$1,143,000.00
18	Huber Heights CSD	Ohio Valley Integration Services, Inc.	District Wide Technology	Security Systems	\$706,553.00
19	Huber Heights CSD	Chapel-Romanoff Technologies, LLC	District Wide Technology	Clock Systems	\$149,800.00
20	Huber Heights CSD	Valley Electrical Consolidated, Inc.	District Wide Technology	Video Distribution Systems	\$2,183,153.00
21	Huber Heights CSD	School Specialty, Inc.	Five (5) Elementaries	Athletic Furnishings	\$18,409.00
22	Huber Heights CSD	Microman, Inc.	District Wide Technology	Telephone Systems	\$319,478.00
23	Huber Heights CSD	Tom Sexton and Associates	Five (5) Elementaries	Loose Furnishings	\$1,798,000.00
24	Jonathan Alder LSD	Tom Sexton & Associates	Canaan MS & New Plain City ES	Loose Furnishings: Tables	\$46,533.32
25	Lakota LSD	Microman, Inc.	Lakota Local School New PK-12	Technology Equipment	\$317,751.00
26	Lakota LSD	McNerney & Son, Inc.	Lakota Local School New PK-12	Loose Furnishings	\$236,768.49
27	Lakota LSD	NuWave Technology, Inc.	Lakota Local School New PK-12	Technology Equipment	\$107,562.00
28	Lakota LSD	Tom Sexton and Associates	Lakota Local School New PK-12	Loose Furnishings	\$623,595.52
29	Louisville CSD	Continental Office Environments	Louisville HS	Loose Furnishings & Equipment Work	\$155,137.21
30	Midview LSD	Fire Protection, Inc.	New MS	Fire Protection	\$157,400.00
31	Midview LSD	Enertech Electrical, Inc.	New MS	Electrical	\$1,311,000.00
32	Midview LSD	Stonecreek Interior Systems, LLC.	New MS	Casework	\$224,850.00
33	Midview LSD	Guenther Mechanical, Inc.	New MS	Plumbing/HVAC	\$2,329,000.00
34	Midview LSD	CT Taylor Company, Inc.	New MS	General Trades	\$8,115,000.00
35	Midview LSD	Mark Haynes Construction, Inc.	New MS	Wetland Mitigation	\$125,796.00
36	Newark CSD	Claggett & Sons	McGuffey ES	General Trades	\$4,024,000.00
37	Northwest LSD	Guenther Mechanical, Inc.	MS	Plumbing and Mechanical (HVAC)	\$3,043,870.00

38	Northwest LSD	INTEC Building Systems	MS	General Trades	\$5,319,500.00
39	Northwest LSD	Enertech Electrical, Inc.	MS	Electric, Technology, Security	\$2,563,700.00
40	Rittman EVSD	Zenith Systems, LLC	Rittman Jr/Sr HS	Technology	\$417,435.00
41	Rittman EVSD	Martin Public Seating, Inc.	Rittman Jr/Sr HS	Academic Furnishings	\$283,622.00
42	Toledo CSD	Midwest Contracting, Inc.	Longfellow ES	Concrete Paving & Curbs	\$111,879.00
43	Van Wert CSD	Jamison Well Drilling, Inc.	Jefferson PK-K & New 1-5 ES	Geothermal Well Fields	\$743,492.00
44	Vanguard-Sentinel JVS	Brint Electric Inc.	Sentinel	Electric	\$1,630,820.00
45	Vanguard-Sentinel JVS	Marlin White & Sons, Inc.	Sentinel	Plumbing	\$494,300.00
46	Vanguard-Sentinel JVS	VM Systems	Sentinel	HVAC	\$1,840,000.00
47	Vantage Career Center	Miller Contracting Group, Inc.	Temporary Swing Space	General Trades	\$514,700.00
48	Vantage Career Center	R.D. Jones Excavating, Inc.	Temporary Swing Space	Early Site	\$599,000.00
49	Vantage Career Center	Slagle Mechanical Contractors, Inc.	Temporary Swing Space	Plumbing/HVAC	\$97,000.00
50	Vantage Career Center	Sollmann Electric Company	Temporary Swing Space	Electrical	\$233,811.00
51	Wadsworth CSD	Bob Bennett Construction Company, Inc.	Valley View ES	Early Site Work	\$274,472.00
				<b>Total</b>	<b>\$57,131,135.54</b>

Representative Gentile asked if Davis Bacon applied to the four QSCB projects. Mr. Mendenhall replied that was correct.

Vice Chair Blair moved the Commission to approve Resolution 11-40. Mr. Pompey seconded the motion  
Approval: Vote 3-0.

### **Takeover Agreement Approval**

Jon Walden, AAG, presented the Takeover Agreement for VIP Electric Company on the Geneva Area City School District project. Shortly after the electrical contractor was awarded the contract and given the notice to proceed, it informed the project team that it was not going to perform on the project. The surety called with the information that there were financial difficulties with the company and they were not going to be able to proceed. We were happy to get the call early enough to try and work through the issues. This gave us the opportunity to move to the second low bidder with the surety paying the difference in the price. Under the code the surety has the right to take over the work, but it chose not to do so. The surety and the original contractor remain liable for any potential delayed damages that could exist, although we are not aware of any, at the beginning of the project. From that point forward the replacement contractor will assume all the liabilities and do all the work. It happened at the right time with the least amount of impact to the project.

The Commission staff recommended approval signing the takeover agreement and also awarding the contract to the takeover contractor in Resolution 11-41.

Vice Chair Blair wanted to make sure the contractors capture the job, he doesn't know what we can do, but wants to make sure that we don't get them in a future job. He stated that he was a little uncomfortable that we are not figuring out a way to do that. Mr. Walden stated we're working in two ways. The Quality Team is making sure that the construction managers are aware of the contractors that we are having difficulties with or we likely will find non responsible, and we take it through that process. We are also seeing if we can take advantage of the statutory debarment process through DAS. Director Hickman also informed the Commission that we have had a long standing policy with regard to responsibility reviews for contractors performing on state jobs. The current code is pretty clear under the responsibility analysis and it gives the state owner and the public owner quite a bit of latitude in this regard. We have always had the view that, in cases such as this, we have the ability to go through a process to make sure we avoid awarding a contract to contractors who perform poorly on our construction projects or create liabilities to the state, based on situations you just heard. These are precious dollars not only from the state standpoint, but also from the standpoint of the tax payers who pass bond issues to support these projects in the school districts. We are going to make sure that we are good stewards of those projects and those dollars that are provided from those sources.

Mr. Pompey moved the Commission to approve Resolution 11-41.

Vice Chair Blair seconded the motion

Approval: Vote 3-0

#### **Settlement Agreement Approval**

Jon Walden, AAG, presented the Settlement Agreement with Firestone Electric DBA Salem Electric and Selective Insurance Company of America on the Leetonia Exempted Village School District Project. This resolution is for the release of a project that was completed long ago. The project team found out that four or so years after the project was completed they were having some unusually high electrical rates and bills. They had a contractor come out and evaluate the system and it was learned that not all the installation of the original contract was done properly. Unfortunately the contractor was no longer in business, but we did have the performance lien still in place. The project team bid out the replacement work and worked with the Surety to submit a bill. There were some items in the corrective work that were not easily identifiable as owing to the electrical contractor which explains a slight variation between the bid for the new work and the cost recovery. To be clear this is the amount of money we have recovered for some defective work that was done many years ago.

The Commission staff recommended approval of Resolution 11-42.

Chairman Keen wanted to know how long the performance stays in effect. Mr. Walden replied that our belief is that the state has no statute of limitations. There are others that would suggest that it's a contract so it may be a 15 year obligation under the current law. We take the view that there is no statute of limitations against the state.

Vice Chair Blair moved the Commission to approve Resolution 11-42.

Mr. Pompey seconded the motion

Approval: Vote 3-0

## **Executive Director's Report**

Richard Hickman presented his report to the Commission.

Director Hickman distributed a list of groundbreaking and dedications. These are very important events for the district and he extended the invitation for the Commission members to attend.

Director Hickman also mentioned a follow-up discussion that occurred during the last Commission meeting regarding the rebuilding of the School for the Deaf and School for the Blind. The Commission met with staff from the School for the Deaf and School for the Blind on March 10<sup>th</sup>. They closed out the meeting in good order and mapped out a schedule for OSFC staff and both schools to help bring the cost estimates for completing that project in line with the capital budget appropriation for the project. This is about a 4-5 week process. He stated his appreciation for the support of the Commission members in helping us along with this project and we're really encouraged that we're going to get the project built.

Director Hickman followed up on the discussion at the last Commission meeting about furniture. He pointed out that we spent about \$30-40 million per year buying furniture for our schools. We met with State Purchasing to develop competitive bids for our classroom furniture and our administrative furniture purchases, in lieu of using the state term schedules for furniture acquisition. We're working closely with State Purchasing to develop specifications that will create the opportunity for multiple bidders on the furniture bids and in addition to give school districts the options that they desire so they can pick and chose the quality of the furniture and the type of furniture that they want within the furniture budget allocation. It will take us some time to get this contract bid through Purchasing. In the interim, we intend to rebid any bid that results in a single response. This is an issue that OSFC dealt with about four or five years ago when Mr. Hickman was first at the Commission, so he understands the importance of the point that was identified by Senator Patton and Mr. Hickman thinks we're on the right track.

Director Hickman also talked about Resolution 11-16, which was passed at the last Commission meeting. He stated his belief that we are in very good shape going forward in regard the issues in Resolution 11-16 relating to prevailing wage and the other Model Bidder Criteria. It is a little bit more difficult to deal with the PLAs that were in place. It appears that there were 17 PLAs with 11 of those projects currently under construction or will bid prior to the date of the last Commission meeting. There are some parts and pieces of contracts that remain with those 11 districts such as furnishings and demolition contracts. We're in consultation with the Attorney General's office in reviewing the actual contract language of those PLAs to try to determine what the legal requirement might be. As soon as we do our homework we're scheduled to sit down with Chairman Keen and go through a case by case review of these projects and make sure we're making the appropriate decisions with regards to each district and each PLA. Mr. Hickman also added that we have had three requests for waivers, so we're evaluating those and doing the research so that we can discuss those as well. Circleville City Schools has withdrawn their PLA, so that will be one of the 17 districts that we won't have to deal with as they have worked very diligently with their council to resolve that issue.

Mr. Hickman then discussed the School for the Blind/School for the Deaf project, which started under a PLA. Under an agreement under the prior administration, the PLA was withdrawn and construction of their residential facilities is proceeding without a PLA. That project is for two state agencies and it is a state construction job, so the Revised Code does require the payment of prevailing wage. Out of the 17, there are three projects where we have a little bit of time to figure out how we deal with those issues, because they are not scheduled to go to bid until later in the year.

Chairman Keen asked Mr. Hickman to provide an update on the Toledo Libby High School situation. During the last Commission meeting there was a public testimony regarding the demolition schedule for the former Libby High School.

Mr. Hickman responded after to listening to the public speaker and the concern that was expressed, we identified three options that we thought were satisfactory from our standpoint and that would give the district some latitude on how they dealt with the demolition of the Libby High School. We outlined those options in a letter to the Toledo School District. One option was to continue the current plan of abate and demolition of the building, which is scheduled to begin on June 1<sup>st</sup> of this year. The second option we gave them was to delay the decision on abatement and demolition until October, which would give them additional time to work with the local group on trying to find an owner or someone that could buy the facility and refurbish it. That in effect would delay the demolition until early 2012. The final option we asked them to consider was to delay the decision to proceed with abatement and demolition until next spring when OSFC would be closing out the final project for the Toledo School District. We would make available what we would ordinarily contribute in terms of hard costs for that demolition. If the district made the decision to delay further then we would contribute that money, but no more than that amount of money if the costs of demolition increased because of costs escalation issues or if they found unforeseen conditions during the demolition process, we'd cap the amount of money at the level that we had committed to the district. In the event that incurred additional costs beyond that cap then that would have to be owned by the district. We tried to accommodate the requests of the speaker, but yet stay within our guidelines and within our support of the district. Mr. Hickman informed the Commission that we were advised early this morning that the Toledo Board of Education met and made a decision to proceed with Option 1, the earlier option. They had concerns about on-going operating costs just to keep the building standing in excess of \$12-17K per month. They are proceeding with an attempt to auction the building sometime between the 25<sup>th</sup> of April and the 5<sup>th</sup> of May. In the event the auction is unsuccessful they will proceed with bids for abatement on the 1<sup>st</sup> of June with bids for demolition and abating on August 3<sup>rd</sup>.

Chairman Keen responded that the decision to proceed is the school district's decision. There was a suggestion that the School Facilities Commission was driving the schedule, which he thought the letter to the district illustrates is not necessarily the case. The local board of education has made their choice that they will proceed in that direction.

Representative Gentile asked Mr. Hickman to clarify the status of Model Bidder Criteria and the projects that were discussed earlier. It was Representative Gentile's understanding that the projects under construction that have adopted the PLA prior to the revision of Resolution 07-98 would go forward under that project labor agreement and for those projects that aren't under construction; OSFC would be looking at those on a case by case basis. Mr. Hickman replied that was correct.

Representative Gentile asked if they are under construction, would the Commission allow those to proceed? Mr. Hickman replied that was correct.

Representative Gentile asked if there was a process by which we'll evaluate, on a case by case basis, which of those projects going forward that have agreed to a PLA, but haven't gone out to bid yet under construction. Mr. Hickman responded that we have already begun the process by working closely with the Attorney General's office and we've secured copies of the actual project labor agreements that were signed between the school district and the particular trade association. Mr. Hickman added that, in many respects it's a legal review and of course there are legal consequences with regard to what we might be able to do. It is an approach that we'll address for those projects that are about to go out to bid. That is why it has to be a case by case. Mr. Hickman hasn't looked at all the project labor agreements, but he has noted that they are not all the same. We need to be thoughtful, but we also need to be respectful in the intent of the resolution.

Representative Gentile also wanted to know about the number of projects that may come under review. Mr. Hickman said that the OSFC was able to find a total of 17 projects that were initiated with PLAs. Out of the 17, 11 have proceeded. Some of those projects that had proceeded have multiple buildings where construction has begun and there are buildings in the project where the actual construction has not begun. We're dealing with multiple circumstances with each school district.

Representative Gentile also wanted to know if there is a school district in some of these cases that had input on whether or not they want to proceed with what they adopted originally or are we as a Commission going to be reviewing those based on the new resolution that was adopted, basically because there was a shift in policy. Mr. Hickman noted that there is a waiver process and so far we have three school districts that have requested waivers from complying with the resolution.

Mr. Pompey welcomed the director and noted it was great to have someone on the Commission with his depth and breadth of experience. He also thanked Mr. Hickman for the partnering session for the School for the Deaf/School for the Blind project. Mr. Pompey believed that that was a step forward right direction and encouraged everyone to move expeditiously to remove any remaining obstacles that we may have. The clock is ticking on the dollars on that specific issue. Also he noted that as we go forward, he is interested as we start to think about the future, and some of the wind down of the tobacco dollars and the fiscal condition of the state, what impact we believe that might have with the Commission.

Chairman Keen agreed that Mr. Pompey's remarks were a point well taken and one of the things also happening through the Office of Budget Management is an assessment of the capital needs of the state for various programs. It is something that they will get back to after the operating budget and begin to plan for a capital bill to be released at some point in the future.

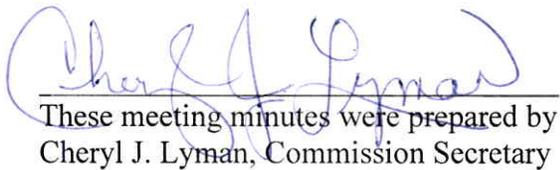
**Public Testimony**

None.

The meeting was adjourned at 2:39 PM.



Timothy S. Keen, Commission Chair



These meeting minutes were prepared by  
Cheryl J. Lyman, Commission Secretary