

**WESTLAKE CITY SCHOOLS
BOARD OF EDUCATION MINUTES**

**Thursday, February 2, 2012 – Special Session – 7:15 a.m.
Westlake Board of Education – 27200 Hilliard Blvd.**

Call to Order: Time: 7:15 a.m.

Roll Call Vote:

Mr. Mays	<u>Present</u>
Ms. Winter	<u>Present</u>
Mr. Cross	<u>Absent</u>
Mr. Falcone	<u>Present</u>
Ms. Rocco	<u>Present</u>

Motion to Dispense with Pledge of Allegiance

Motion by Ms. Winter

Seconded by Mr. Falcone

Roll Call Vote:

Mr. Mays	<u>AYE</u>
Ms. Winter	<u>AYE</u>
Mr. Falcone	<u>AYE</u>
Ms. Rocco	<u>AYE</u>

Acknowledgment of Visitors – None.

Approval of Agenda

Motion by Mr. Falcone

Seconded by Ms. Winter

Roll Call Vote:

Mr. Mays	<u>AYE</u>
Ms. Winter	<u>AYE</u>
Mr. Falcone	<u>AYE</u>
Ms. Rocco	<u>AYE</u>

*Hearing of Public (Agenda Items - 15 Minutes) – None.

- A. Withholding Approval of Zenith Systems LLC's Bid for Electrical Package Exhibit A
MS-08 for the new Lee Burneson Middle School, Pursuant to the Provisions Of
O.R.C. 9.31, and Awarding the Electrical Contract to Lake Erie Electric, Inc. as
the Lowest Responsible Bidder

*Hearing of Public (15 Minutes) – None.

B. Adjournment

Motion by _____ Ms. Rocco

Seconded by _____ Ms. Winter

Roll Call Vote:

Mr. Mays _____ AYE

Ms. Winter _____ AYE

Mr. Falcone _____ AYE

Ms. Rocco _____ AYE

President Mays adjourned the meeting at 7:17 a.m.

President

Treasurer

The public may address the Board during the periods of the meeting designated for public participation. Each person addressing the Board shall give his/her name and address. If several people wish to speak, each person is allotted three minutes until the total time allotted is used. During that period, no person may speak twice until all who desire to speak have had the opportunity to do so. The period of public participation may be extended by a vote of the majority of the Board present and voting.

EXHIBIT A
RES. #12-59

WITHHOLDING APPROVAL OF ZENITH SYSTEMS LLC'S BID FOR ELECTRICAL PACKAGE MS 08 FOR THE NEW LEE BURNESON MIDDLE SCHOOL, PURSUANT TO THE PROVISIONS OF O.R.C. 9.31, AND AWARDING THE ELECTRICAL CONTRACT TO LAKE ERIE ELECTRIC, INC. AS THE LOWEST RESPONSIBLE BIDDER

WHEREAS, bids were received on September 29, 2011, for the electrical work at the New Lee Burneson Middle School (Bid Package MS 08); and

WHEREAS, Zenith Systems LLC ("Zenith") had submitted the apparent low bid for Bid Package MS 08, but withdrew its bid following the bid opening; and

WHEREAS, following the withdrawal of Zenith's bid, the decision was made to reject all bids, and the Construction Manager, Architect, and Board engaged in an effort to modify Bid Package MS 08 in order to control the costs associated with the electrical work ("value engineering") and then issued the modified bid package for the re-bid of the work; and

WHEREAS, bids for the re-bid of Bid Package MS 08 were received on January 19, 2012; and

WHEREAS, Zenith submitted the apparent low bid for the re-bid of Bid Package MS 08, as shown on the attached bid tabulation; and

WHEREAS, Lake Erie Electric, Inc. ("Lake Erie") submitted the second lowest bid for the re-bid of Bid Package MS 08, as shown on the attached bid tabulation; and

WHEREAS, Lake Erie informed the Board by letter dated January 23, 2012, attached hereto, that Lake Erie planned to challenge an award to Zenith based upon Ohio Revised Code Section 9.31, which states, in part, that "[n]o bid may be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder"; and

WHEREAS, Ohio Revised Code Section 9.31 further provides that a bidder who withdraws its bid may not "*benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted, without the approval of the contracting authority*"; and

WHEREAS, Lake Erie has agreed to honor its bid and meet the current project schedule as required by its bid, and the Construction Manager has reviewed the bid submitted and recommends that Lake Erie is responsible to perform the work and has included all of the specified work in the bid amount; and

WHEREAS, based upon the provisions of Ohio Revised Code Section 9.31, the Board deems it in the best interest of the District to withhold its approval of and reject the bid submitted by Zenith for the re-bid of the electrical work, which the Board is entitled by law to do under these circumstances, in order to proceed as expeditiously as possible with the work on the Project;

EXHIBIT A
(Continued)

NOW, THEREFORE, BE IT RESOLVED by the Board of Education of the Westlake City School District as follows:

1. Based upon the provisions of Ohio Revised Code Section 9.31, and the facts set forth above, the Board withholds its approval of the bid submitted by Zenith for the re-bid of the electrical work in light of the withdrawal of Zenith's September 29, 2011, bid and the Board's desire to move ahead expeditiously with the work; and the Board awards the contract for Bid Package MS 08 to Lake Erie Electric, Inc. as the lowest responsible bidder in accordance with Ohio Revised Code Sections 3314.46 and 9.31 in the base bid amount of \$2,594,795.00.
2. The Board ratifies all actions taken with respect to the rejection of the electrical bids received on September 29, 2011, and the re-bid of the electrical package and authorizes the Superintendent and Treasurer, as the Board's authorized representatives, to execute the contract and any other related documents with Lake Erie Electric, Inc.

MS-08 - Electrical Bid Package

<u>Contractor</u>	<u>Base Bid</u>
Zenith Systems, LLC	\$2,422,000
Lake Erie Electric	\$2,594,795
Gateway Electric	\$2,639,000

Motion by Ms. Winter

Seconded by Mr. Falcone

Roll Call Vote:

Mr. Mays	<u> AYE </u>
Ms. Winter	<u> AYE </u>
Mr. Falcone	<u> AYE </u>
Ms. Rocco	<u> AYE </u>