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**Chief Operating Officer**

October 20, 2017

Timothy S. Keen  
Director - OBM  
Office of Budget and Management  
30 E. Broad Street, 34th Floor  
Columbus, Ohio 43215

Re: Thank You

Dear Tim:

This letter follows up on my email to you of October 9th wherein I set out information about the Delay Cost issue and the funding challenge of our Segment 8 school construction. First, I understand that you have indicated to Tim Cosgrove that the delay cost will be split along our standard funding distribution with the OFCC paying 68% and CMSD paying 32%. Thank you!

As for Segment 8, I greatly appreciate your willingness to become involved in helping us find a solution that ends this funding impasse. The problem can be simply expressed: the current OFCC funding proposal is not enough to pay for the eight Segment 8 schools. The solution also is straightforward: the OFCC needs to fund the CMSD construction program to reflect market conditions in the City of Cleveland. Arriving at that solution is the complicated challenge.

Here is a brief context for our shared dilemma. OFCC mandates that schools be built according to their Ohio Design Manual (ODM). OFCC dictates the square footage of each building based on the number of students CMSD assigns to the school and the student's grade levels. OFCC drafts all of the contracts and enters into all of the agreements (with CMSD's approval). OFCC controls the commissioning/maintenance plan advisors, architectural and Construction Manager selection process and fees. In short, the OFCC has almost complete control of the items that impact costs other than location. For sixteen years OFCC has consistently stated that the designs of CMSD schools are reasonable and also have approved every expense and every building budget.

As I write this letter our current situation is as follows. The OFCC believes that design manual compliant schools in Segment 8 can be built in Cleveland for about \$255 a square foot in 2018. Schools bid in Segment 7 were co-funded at the rate of about \$285 per square foot; that is just OFCC funding. It does not include our added LFI (Locally Funded Initiatives) cost of about \$20 a square foot. To put the current OFCC proposal in context, ten years ago, *the OFCC provided about \$255 a square foot to build schools in Cleveland in Segment 5 in 2008*. This begs the question: Based upon their own numbers, how can the OFCC reasonably believe that \$255 a square foot is an accurate reflection of the Cleveland marketplace in 2018? The current OFCC offer is no doubt rooted in a mathematical formula but it fails both the common sense test and our joint sixteen years of experience in constructing schools in the City of Cleveland.

To test our cost experience, we asked Blundell & Associates, an estimator who has been involved in hundreds of OFCC schools, to estimate the same school built in Cleveland versus the Cuyahoga County Suburbs in 2016. It concluded that if an identical school was bid, the cost of the school built in Cleveland is 12.15% higher than one built in the County.

In his letter to me dated April 19, 2017, Director Williamson stated: *"Regarding Segments 8, 9 and 10, we will apply the appropriate Cost Set and Regional Cost Factor at the time of execution of the project agreement. In addition, we would also include similar factors as were included in the initial \$6.1 million adjustment for Segment 7, which would include the adjusted regional factor and other Cleveland specific costs such as permitting and site logistics. All cost overruns beyond the adjusted budget would be the responsibility of the district."*



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While no other school district is required to assume all of the risk of cost overruns, we are willing to live with that if we in fact start with an "appropriate Cost Set and Regional Cost Factor" that realistically and accurately reflect building in the City of Cleveland. For Segment 8, the OFCC has not drafted language or offered a financial proposal that meets that commitment. We offered language to move the Segment 8 Agreement forward and minimize costs by starting sooner. The following was to be added after the budget section in the Segment Agreement:

*"The total budget of the Project does not reflect the impact of 1) the "Cleveland Plan" signed into law through House Bill 525, 2) project requirements imposed by local governmental entities with jurisdiction over the Project, 3) project requirements unique to the School District Board or 4) Cleveland Market Conditions. In the event the School District Board can demonstrate that costs related to the above items are causing the total budget of the Project to be exceeded, then those costs shall be considered proper Project Costs and the procedures contained in Section VI Paragraph J will be invoked."*

This proposed language was rejected by the OFCC.

We could consider a \$255 per square foot budget with this language, however, the OFCC rejected this language so we must get an "appropriate cost set." We suggest as the appropriate cost set \$295 per square foot (\$285 plus 4% inflation) if CMSD is to accept the full risk of cost overruns as we do not control many factors that can lead to delay and cost increases.

Revisiting some of our earlier correspondence, as a reminder, for the Segment 7A schools, the OFCC used a Cuyahoga County adjustment factor of 3.25% (over the Northeast Ohio regional factor) and an additional 3% for Cleveland specific factors. For Segment 8 the OFCC has deemed that the adjustment would be .007%. This is how they arrived at the \$255 per square foot costs when the Segment 7A schools were co-funded at about \$285 a square foot; again this is just the OFCC costs. The projected actual cost of those Segment 7A schools is \$303 a square foot meaning the district is self-funding over a \$1,000,000 per school of costs that the OFCC funds in almost every other Ohio district. In Segment 8 that cost would increase to at least \$2.5 million per school of solely CMSD funding if the current offer by OFCC of \$255 a square foot prevails. If that happens it means that CMSD will pay \$20 million more (8 schools in Segment 8 x \$2.5 million) from its bond proceeds without any state match; losing about \$40 million in OFCC co-funding; the equivalent of losing the ability to build four K-8 schools. The OFCC still has not shared with us the information or "observations" they used to arrive at their offer.

I also need to restate that when our project with the State started in 2002, Cleveland was in the 32nd percentile for wealth among Ohio school districts (hence the 68% - 32% funding split between the OFCC and CMSD). We are currently ranked 79th out of 609 districts in wealth per student (based on the OFCC 2017 equity list). Which means that if we entered the project today, CMSD's local share would be 13% and the OFCC share would be 87% (not 68%).

Again Tim, my deepest thanks to you for taking the time to address this matter and I appreciate any assistance you can provide in coming to an equitable resolution soon.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Patrick M. Zohn', is written over a light blue horizontal line.

Patrick M. Zohn, Esq.  
Chief Operating Officer