

EATON BOARD OF EDUCATION REGULAR MEETING

Hollingsworth East Elementary School Cafeteria

June 10, 2013 – 6:00 p.m.

CORRECTIONS AND ADDITIONS TO BOARD AGENDA

Corrections to the June 10, 2013 Board Agenda

1. Agenda Item IV 2, Employment – Non-Certificated Staff, should read as follows,
 - A. *Carla Kirsch, Budgetary Clerk assigned to the Treasurer’s Office. Salary per Exempt Salary Schedule.*
2. Agenda Item IV 3, Approval of Salary Schedule– Attachment A should include Budgetary Specialist

	1-2-3-4	5	6	12	17	23
BUDGETARY SPECIALIST	\$ 15.48	\$ 16.30	\$ 17.15	\$ 17.98	\$ 18.84	\$ 19.28
CO SECY AND EMIS COOR						
252 PAID DAYS (13 HOL)						

Additions to the June 10, 2013 Board Agenda

3. Amended Joint Use Agreement and Lease Agreement with Sinclair Community College

The Administration recommends approval of the amended Joint Use Agreement and the amended Lease agreement with Sinclair Community College, as follows,

AMENDMENT TO THE JOINT USE AGREEMENT BETWEEN SINCLAIR COMMUNITY COLLEGE AND EATON COMMUNITY SCHOOLS

The JOINT USE AGREEMENT between Sinclair Community College and Eaton Community Schools, dated on the 14th day of July 2012, and approved by the Chancellor of the Ohio Board of Regents under Directive 2012-030 on October 10, 2012, is hereby amended as follows:

- A. In the section titled “WITNESSETH THAT” strike the first paragraph and replace it with the following paragraph:

WHEREAS, the 128th General Assembly has since enacted House Bill 462 which includes a specific appropriation of capital improvement resources in the total amount of two hundred forty nine thousand, six hundred and ninety three dollars (\$249,693), directed to the Ohio Board of Regents to improve the leased facility that will be used to prepare workers to meet the needs of growing industries; and

B. Strike Paragraph 1 and replace it with the following paragraph:

1. The College will submit to the Ohio Board of Regents, a request for the release of two hundred forty nine thousand, six hundred and ninety three dollars (\$249,693), to fund construction and space renovations.

C. Strike paragraph 8 and replace it with the following paragraph:

8. That the term of this Agreement shall commence upon its execution by the parties and extend through calendar year 2033.

D. Strike the first paragraph in EXHIBIT A and replace it with the following three paragraphs:

A total of \$249,693 will be spent on facility renovations and improvements to approximately 4,162 square feet of space located at the Eaton Middle School, 311 N. Cherry Street, Eaton ON, 45320.

Of the total funds of \$249,693, an amount equaling \$226,950 will be used to fund construction work associated with the renovations and improvements to the space. Construction funds will be paid as invoices are presented.

The remaining funds, in the amount of \$22,743, will be used to fund Architectural & Engineering (A/E) design work associated with the renovations. A/E funds will be paid through seeking reimbursement for previously expended Sinclair local funds per a Declaration of Official Intent submitted on January 14, 2013 and approved on February 11, 2103 for the project.

E. Strike *Section I* the Joint Use Agreement Worksheet and replace it with the following:

Section I: State appropriation information.

- | | |
|--|-----------|
| 1. Amount of state appropriation provided: | \$249,693 |
| 2. Estimated annual debt service on the appropriation: | \$19,196 |
| 3. Term of the state bond, in years | 20 Years |

Section II: Estimated value of use of the facility.

Use(s) of the facility*	Annual value of use	# of years
a. Favorable Lease Rate, Maintenance And upkeep and access to Electric Water and Sewer	\$19,526	20

F. Strike Section III of the Joint Use Agreement Worksheet and replace it with the following:

College Use Area	Hours per month	Hours per Year	Dollars per Hour	Total Value Per Year	Total Value Contract Life
Provide favorable lease rates, maintenance and upkeep to rented space and access to electric, water and sewer services. This figure represents a favorable lease rate reduction of \$3.25/sq. foot, estimated annual maintenance and upkeep costs of \$4000 and amortization of equipment and cash donations of \$40,000.	N/A	N/A	N/A	\$19,526	\$390,520
Totals				\$19,526	\$390,520

LEASE AGREEMENT

THIS LEASE AGREEMENT (“Agreement” or “Lease”), is made and entered into at Eaton, Ohio, as of _____, 2013, (the “Effective Date”), by and between **Eaton Community Schools**, an Ohio non-profit (“Lessor”), and the **TRUSTEES OF THE WARREN COUNTY MONTGOMERY COUNTY COMMUNITY COLLEGE DISTRICT** on behalf of Sinclair Community College, an Ohio community college district organized under R.C. Chapter 3354 (“Lessee”), (jointly referred to as the “Parties”).

WITNESSETH:

WHEREAS, the Parties desire to enter into an arrangement whereby the Lessee will lease designated space in the Eaton Middle School from Lessor to provide educational services.

NOW, THEREFORE, in consideration of the terms and covenants expressed below, the Parties agree as follows:

1. **Leased Premises.** Lessor leases to Lessee and Lessee leases from Lessor the following described property (the “Leased Premises”):
 - a. **Exclusive Space.** 4,162 square feet of exclusive space as delineated on the drawing attached as Exhibit A (the “Exclusive Space”), which is located in the Eaton Middle School Building at 311 N. Cherry Street, Eaton, OH 45320.
 - b. **Common Areas.** The Lessee’s lease and use of the Exclusive Space shall also entitle the Lessee, its students, faculty, employees, and invitees (collectively “Sinclair Users”), to have the right to use and enjoy, in common with Lessor and its members, employees, and invitees, and subject to the terms of this Agreement, the parking areas, approaches, entrances, restroom facilities, exits, roadways, and other common areas of the Eaton Middle School as delineated in the drawing attached as Exhibit A, (collectively the "Common Areas"), which

Lessor agrees to provide for the reasonable operation of the Exclusive Space and the Eaton Middle School in general. Lessor covenants that, at all times during the term of this Agreement, it will maintain the Common Areas in a good condition of repair and adequately lighted and paved, and that there will be at least 30 additional parking spaces.

- c. Schedule of Space Utilization. The Lessee will be permitted to use the Exclusive Space and the Common Areas from 6:00am – 10:00pm on Monday through Thursday, 6:00am – 6:00pm on Friday, Saturday, Sunday beginning on the effective date of occupancy, as noted in Section 2, Term.
2. **Term**. The term of this Agreement will be effective upon the date of occupancy of the space by the Lessee and end after a period of twenty (20) years from the original occupancy date unless extended by renewal or terminated sooner as provided in this Agreement. The actual date of occupancy will be determined by the mutual agreement of the Lessee and the Lessor with the understanding that the Lessee will provide a minimum of 45 days notice to the Lessor of the planned date of occupancy. Furthermore, the parties agree that the earliest date of occupancy shall be November 1, 2013 and the latest date of occupancy shall be April 30, 2014.
3. **Termination**.
 - a. Termination Rights Upon Material Breach. Either of the Parties may terminate this Agreement for a material breach. To terminate for material breach, the non-breaching party must give the breaching party 30 days in which to cure the breach. If after the 30 day period the breach is still not cured, or if the breach is not able to be cured within 30 days and good faith efforts have not been commenced by the breaching party within that time period to remedy such breach, the non-breaching party may terminate the Agreement upon 30 days written notice. If Lessee terminates the Agreement for a material breach of the Lessor, Lessee shall be entitled to pro rata portion of the State appropriation as delineated in the executed Joint Use Agreement, Exhibit B.
 - b. Definition of Material Breach. For purposes of this Agreement, a “material breach” shall be defined as Lessee’s failure to pay Rent or any other Lessee payment due under this Lease within 30 days of the date it is due; Lessor’s failure to provide utilities or services as specified in this Agreement, provided that Lessor shall not be in default as a result of interruption of utilities services or utilities’ failure beyond the Lessor’s control or for a period of less than five days.
 - c. Non-Material Breaches. The Parties shall each be responsible for complying with all terms and conditions of this Lease and shall cure any non-material breach within 30 days after written notice of such breach by the other party. A non-material breach will not be grounds for termination of the Lease; however, the party in breach of this Agreement shall be liable for damages resulting to the other party from any non-material breach not cured within the thirty day cure period. In addition, the non-defaulting party shall have the right, if the party in

breach of the Agreement fails to cure the breach within 30 days after written notice, to expend reasonable funds to cure the breach and shall be entitled to be reimbursed for all such expenditures.

- d. Termination for Convenience. Sinclair may terminate this contract at any time for any reason by giving at least thirty (30) days notice in writing to Eaton Community Schools.
4. **Rent**. Lessee covenants and agrees to pay Rent to the Lessor without demand, setoff or deduction, during the term of this Agreement, to the Lessor, in advance beginning on the Scheduled Completion Date, and on the first day of each and every month thereafter, at the rates set forth herein. Rent shall be a fixed amount as delineated below.
- a. Initial Term. During the Initial Term of this Agreement, Lessee shall pay the Lessor Rent at the monthly rate of One Thousand Five Hundred Sixty Dollars and Seventy-Five Cents (\$1,560.75), for the use of the rented space. This is based on a \$4.50 per square foot rate on 4,162 square feet. The rental rate will be reevaluated in 5-year increments.
 - b. Payment of Rent. Rent payments are payable in advance, and must be received by Lessor from Lessee on or before the first (1st) day of each month. All rent payments shall be sent to Lessor at the following, or at such other address as Lessor may designate in a written notice to Lessee:

Eaton Community Schools
307 North Cherry Street
Eaton, Ohio 45320

Unless Lessor and Lessee agree otherwise in advance and in writing, all Rent due under this Agreement shall be paid by Lessee without notice or demand, and without abatement, deduction or set-off.

5. **Utilities, Housekeeping, and Security**.
- A. Electric, Gas, Water, Sewer, and Other Utilities. The Lessor shall be responsible for securing all utilities necessary in order to service the Leased Premises, ("Utilities"), as well as those necessary to service the remainder of the Eaton Middle School Building provided, however, if the amount of Utilities required to service the Leased Premises are determined to have increased substantially during the first year of the Term, then Lessor shall be entitled to reimbursement by Lessee for a reasonable amount sufficient to cover the increased cost of Utilities ("Additional Rent"). The Additional Rent shall be paid on an annual basis at the end of each calendar year or, if this Agreement is terminated during the calendar year, then the Additional Rent shall be paid at termination, without any right of any abatement, deduction or setoff.
 - B. General Maintenance and Upkeep. The Lessor shall be responsible for general maintenance and upkeep of the facility and warrants that facility will remain in good condition of repair throughout the term of this Agreement.
 - C. Housekeeping and Janitorial. Ordinary housekeeping and janitorial services for the Exclusive Space will be the responsibility of the Lessor.

6. **Taxes.** Lessor shall be responsible for all real estate taxes and assessments charged against the Eaton Middle School Building, including but not limited to the Exclusive Space.
7. **Insurance.** Sinclair and Eaton City Schools shall obtain and maintain insurance policies covering general liability insurance, property damage, and such other coverages in amounts mutually agreed upon between Sinclair and Eaton City Schools from time-to-time. Sinclair and Eaton City Schools shall provide each other Certificates of Insurance showing the coverage's agreed to be maintained by each party. All such insurance coverage's shall have waiver of subrogation clauses to the benefit of the other party, and such policies shall provide the other party thirty (30) days written notice prior to cancellation of any such insurance coverage.
8. **Use and Possession.** It is understood that the Leased Premises are to be used for educational programs and related purposes. Other uses of the Leased Premises will be permitted only upon written consent by the Lessor, which consent will not be unreasonably withheld. In the event Lessee uses the Leased Premises for purposes not expressly permitted in this Agreement or expressly consented to by Lessor, Lessor may initiate a termination for material breach as set forth in this Agreement. Lessee shall not use the Leased Premises for any unlawful purpose or so as to constitute a nuisance. The Lessee at the expiration of the term shall leave the Leased Premises in good repair and condition and the mechanical systems in good working order, reasonable use and ordinary wear and tear accepted.
9. **Independent Contractors.** The Parties acknowledge that they are separate and independent organizations and for the purpose of this Agreement are not the agents, employees, or affiliated organizations, but acting as independent contractors.
10. **Entire Agreement.** This Agreement and all attachments embody the entire agreement of the Parties and no representations, inducements, or agreements, oral or otherwise between the Parties not contained and embodied in this Agreement shall be of any effect, and this Agreement may not be modified, changed, amended, or terminated in whole or in part orally or in any other manner than by an agreement in writing and duly signed by the Parties subsequent to the Effective Date of this Agreement.
11. **Exhibits.** All Exhibits referred to in and/or attached to this Agreement are incorporated as an integral part of this Agreement. All statements made in any Exhibit are deemed to be representations and warranties of the party supplying the information in or responsible for preparation of the Exhibit.
12. **No Third Parties.** This Agreement is intended solely for the benefit of the Parties, and shall not be construed as vesting in any other person or entity any legal or equitable rights or interests, whether under a theory of third party beneficiary or otherwise.
13. **Partial Invalidity.** If any provision of this Agreement, or its application to any person or circumstance, is held to be void, voidable or invalid to any extent, then the remainder of this Agreement, or the application of that provision to persons or circumstances other than those as to which it is held void, voidable or invalid,

shall not be affected, and each remaining provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

14. **Authority.** The Parties represent and warrant that the individuals who have signed this Agreement on their behalf have full power and authority to sign for and bind the entities that they represent.

15. **Notices.** All notices, demands and other communications under this Agreement shall be in writing, and delivered in person, or mailed by certified mail, return receipt requested, postage prepaid, or by express delivery service. In the alternative, notices may be delivered by Telecopier, with confirmation of the original sent by ordinary mail. Notices shall be deemed to have been delivered on the date the party to be notified first receives the notice. All notices shall be addressed to the Parties at the following addresses, which may be changed only by written notice given to the other party:

As to Lessee: Sinclair Community College
Attn: Director of Business Services
444 West Third Street
Dayton, Ohio 45402
Facsimile: (937) 512-5112

As to Lessor: Eaton City Schools
Attention: Superintendent
307 North Cherry Street
Eaton, Ohio 45320
Facsimile: (937) 472-1057

IN WITNESS WHEREOF, the Parties have caused this instrument to be executed by their authorized representatives as of the Effective Date.

Motion by _____, seconded by _____, to
approve agenda Item 3 of the Additions to the June 10, 2013
Agenda.

Discussion

McKinney ___ Mowen ___ Parks ___ Pool ___ Renner ___

President declares motion _____.

4. **Resolution Requesting Certification of Alternative Tax Rates**

The Administration recommends approval of a RESOLUTION REQUESTION CERTIFICATION OF ALTERNATIVE TAX RATES (Ohio Revised Code Section 5748.02)

WHEREAS, Ohio Revised Code Section 5748.02 authorizes school districts to impose voter-approved income taxes upon their residents; and

WHEREAS, at an election held on November 4, 2008, a majority of the electors approved a School district income tax which will expire on December 31, 2015, and this Board has determined it is necessary to submit to the electors, at this time, a renewal of the School District's existing income tax.

WHEREAS, a resolution declaring the necessity to raise additional school District revenue must be passed and certified to the Tax Commissioner for the State of Ohio (the "Tax Commissioner") in order to permit the Board to consider the levy of an income tax and to preserve the right to submit the question of levying such an income tax to the electors of the School District at the election to be held November 5, 2013;

NOW, THEREFORE, BE IT RESOLVED, and hereby determined by the Board of Education of the Eaton Community City School District, Preble County, Ohio, a majority of the members thereof concurring, that:

Section 1. The Board determines that it is necessary to raise annually the additional sum of \$1,954,275.00 for the purpose of renewing the existing income tax of the School District (the "Income Tax") and providing for the current expenses of the School District.

Section 2. The income that shall be subject to the Income Tax is the taxable income of individuals and estates as defined in Ohio Revised Code Sections 5748.01 (E)(1)(a) and 5748.01(E)(2).

Section 3. The Treasurer is directed to immediately certify a copy of this resolution to the Tax Commissioner, not later than July 26, 2013, together with a request that the Tax Commissioner determine and certify to the Board the property tax rate that would have had to be imposed by the School District in the current year to produce the amount of money set forth above and the

income tax rate that would have had to have been in effect for the current year to produce the amount of money set forth above.

Section 4. All formal actions of this Board concerning and relating to the passage of this Resolution were adopted in an open meeting of this Board, and all deliberations of this Board and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Motion by _____, seconded by _____, to approve agenda Item 4 of the Additions to the June 10, 2013 Agenda.

Discussion

McKinney ___ Mowen ___ Parks ___ Pool___ Renner ___

President declares motion _____.

5. **Resolution approving the Urgent Necessity for Bleachers**

The Administration recommends approval of a *A RESOLUTION DECLARING AN URGENT NECESSITY AND AUTHORIZING THE TREASURER OF THE BOARD OF EDUCATION TO ENTER AN AGREEMENT TO REPAIR THE HIGH SCHOOL BLEACHERS UNDER THE URGENT NECESSITY EXCEPTION TO THE COMPETITIVE BIDDING STATUTE.*

WHEREAS, the Eaton Community School District (the "District") requires repair to the Eaton High School bleachers; and

WHEREAS, the repairs are a continuation of a bleacher installation project that has been competitively bid by the District; and

WHEREAS, the repairs to the bleachers are required to ensure the safety of students, staff members, and other community members upon commencement of the 2013-2014 school year; and

WHEREAS, the District has received an estimate that it will take at least four weeks to complete the repairs; and

WHEREAS, execution of the competitive bidding process would take a minimum of three weeks, leaving the District vulnerable to exposing students,

staff members, and other community members to a potentially dangerous condition upon the commencement of the 2013-2014 school year.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Ohio Revised Code § 3313.46, the Board of Education hereby recognizes the urgent necessity to repair the above-referenced bleachers without formal competitive bidding to prevent the exposure of the school community to heightened risk of harm, and authorizes the Treasurer to enter an agreement after receiving estimates and otherwise complying with bidding requirements to the extent reasonable, as determined by the Treasurer.

Motion by _____, seconded by _____, to approve agenda Item 5 of the Additions to the June 10, 2013 Agenda.

Discussion

McKinney ___ Mowen ___ Parks ___ Pool ___ Renner ___

President declares motion _____.