

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY  
BOARD TELECONFERENCE MEETING  
WEDNESDAY, JUNE 22, 2016 AT 1:30 P.M.  
32 EAST FRONT STREET, TRENTON, N.J.  
FRONT STREET BOARD ROOM**

**AGENDA**

- 1. NOTICE OF PUBLIC MEETING**
- 2. ROLL CALL**
- 3. REPORT AND RECOMMENDATIONS OF THE SCHOOL REVIEW COMMITTEE (CHAIRMAN'S REPORT)**
  - a. Award of Contract, Approval of Reestablished Final Charter and Release of Funds from Program Reserve – Trenton Public Schools District – Hedgepeth Williams School - Emergent Project – EP-0073-C03
- 4. PUBLIC COMMENTS**
- 5. ADJOURNMENT**

**REPORT AND RECOMMENDATIONS OF THE SCHOOL REVIEW COMMITTEE (CHAIRMAN'S REPORT)**

**AWARD OF CONTRACT, APPROVAL OF REESTABLISHED FINAL CHARTER AND RELEASE OF FUNDS  
FROM PROGRAM RESERVE - TRENTON PUBLIC SCHOOLS DISTRICT - TRENTON HEDGEPEETH  
WILLIAMS -EMERGENT PROJECT**




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**MEMORANDUM**

TO: Members of the Authority

FROM: Sean Murphy  
Procurement Director

C. Aidita Milsted  
Program Director, Program Operations

RE: District: Trenton Public Schools  
School: Hedgepeth Williams School  
Description: Emergent Project – Domestic Water Line Replacement  
Package No.: EP-0073-C03  
CCE: \$1,006,192  
Advertised CCE Range: \$900,000 to \$1,300,000  
Award: \$1,287,000  
CM: NJSDA Self-Managed

DATE: June 22, 2016

SUBJECT: Award of Contract, Approval of Reestablished Final Charter and Release of Funds from Program Reserve  
Trenton Public Schools – Hedgepeth Williams School  
Emergent Project – Domestic Water Line Replacement

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**INTRODUCTION**

We are writing to recommend approval by the Members of the Authority of three (3) related actions to address the emergent condition related to replacement of the domestic water line at the Hedgepeth Williams School in the Trenton Public School District:

1. The award of a construction contract in the amount of \$1,287,000 to D&K Construction Company, Inc. (D&K)<sup>1</sup>;
2. The reestablished final charter (copy attached) for this project consistent with the award for construction. A final charter for this project had been approved on April 6, 2016. As discussed in the background section below, prior to commencement of construction, the contract for the general contractor was terminated. As a result we are now seeking to reestablish the final charter for the project inclusive of updated information as to project costs and schedule; and

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<sup>1</sup> D&K listed the following subcontractors for the required trades in its Price Proposal: Sunnyfield Corporation (Plumbing), Iaione Electric, Inc. (Electrical), and All Pro Management, LLC (Asbestos Removal/Treatment).

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3. The release of funds from the NJSDA Program Reserve, maintained for emergent projects.

Pursuant to the NJSDA Operating Authority adopted by the Board on December 1, 2010, as amended on March 7, 2012, Board approval is required for the release of monies from the Program Reserve for emergent projects or emergency situations exceeding \$500,000. Further, Board approval is required for the award of construction contracts greater than \$500,000. The actions recommended for Board approval include both a construction award amount and a release of funds from the reserve exceeding \$500,000. Funding for the project is available within the emergent project funding allocation approved by the Board in March 2011.

NJSDA staff shall provide Construction Management for the entirety of the project.

### BACKGROUND

The Hedgepeth Williams School in the Trenton Public School District was built in 1939 with a one story addition constructed in 1964, totaling 170,000 square feet. The school currently serves as two (2) separate educational facilities: the Robeson Elementary School, educating approximately 584 students in grades Pre-K through five and the Hedgepeth Williams Middle School, educating approximately 500 students in grades six through eight.

The NJSDA is addressing two distinct emergent conditions being addressed through two separate contracts, although they remain consolidated with one DOE project number at the Hedgepeth Williams School: one involving replacement of the facility's domestic water supply to remedy extensive leaking; and the other involving roof repairs to eliminate water infiltration. Construction activities related to the roof system repairs were completed February 2016.

A Limited Notice to Proceed (NTP) was issued April 8, 2014 to The Design Collaborative (TDC) for Pre-Design activities, authorizing TDC to address the replacement of the facility's domestic water supply to remedy extensive leaking. Upon completion of Pre-Design activities, TDC was Authorized to Proceed with Design Services and shall perform Construction Administration services for the project.

The domestic water line replacement NTP for construction was issued to D&K Construction Co., Inc. (D&K) on May 3, 2016 with the project scheduled to be substantially completed September 1, 2016. On May 12, 2016 D&K advised the NJSDA that Cooper Plumbing & Mechanical, LLC, the plumbing subcontractor named in D&K's Price Proposal, declined to enter into a subcontract with D&K for the Project, and refused to participate in the performance of the Project.

D&K requested permission from NJSDA to name a substitute plumbing subcontractor for the Project, to allow D&K to continue to fulfill the terms of the contract. NJSDA, after reviewing the circumstances and applicable case law, determined that in this situation, NJSDA lacks the ability to permit substitution of a named subcontractor after award of a contract to a General Contractor.

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Because NJSDA lacked the ability to permit a substitution of a named subcontractor in this instance, and because D&K asserted that it could not complete the contract using the subcontractor named in the Price Proposal, NJSDA had no option but to terminate the existing contract and re-procure the work of the Project. Therefore a Notice and Order of Termination was issued May 13, 2016 to D&K. Within the Notice and Order of Termination, D&K was informed that the firm would not be precluded from participating in the subsequent re-procurement of the contract for the Project, provided that its Price Proposal identifies a plumbing subcontractor that is willing and able to perform the Project work.

The NJSDA is advancing with the construction related activities to replace the domestic water line at the Hedgepeth Williams School in the Trenton Public School District.

#### SCOPE OF WORK

The scope of work remains unchanged from the prior procurement, and the emergent project shall address improvements to the domestic water supply system and components inclusive of the following scope of work:

- a. Replacement of existing cold water piping and valves with new insulated copper piping and valves;
- b. Replacement of existing plumbing fixtures with new fixtures as indicated on drawings;
- c. Connection of fire protection main to new cold water supply;
- d. Electrical and heating/ventilation work as required to relocate existing fixtures/devices and equipment in conflict with new construction; and
- e. Abatement and related activities.

The project includes an allowance for unforeseen asbestos containing material abatement if necessary.

#### PROCUREMENT PROCESS

This package was advertised beginning on May 13, 2016 on the NJSDA website, NJ State website, and in selected newspapers for interested firms registered as Small Business Enterprises (SBE) and classified in General Construction (C008 or C009) to participate in the bidding process.

Project Rating Proposals were received by June 1, 2016. Bidders were evaluated based on the largest of four projects completed in the past seven years, safety records as well as reference checks. Based on evaluation of the information submitted, four (4) bidders received a Project Rating Limit.

Price Proposals were received on June 17, 2016. The Price Proposals were publicly opened and the lump sum base bids were read aloud as required by law.

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Following the public bid opening, the NJSDA performed a review of the Price Proposals to determine the responsiveness of each bidder to the solicitation. The review determined that two (2) bidders were responsive. The results of the review are listed below:

| Contractor                     | Bid Amount      | Comments                         |
|--------------------------------|-----------------|----------------------------------|
| D&K Construction Company, Inc. | \$ 1,287,000.00 | Qualified and responsive bidder. |
| Sunnyfield Corporation         | \$ 2,292,000.00 | Qualified and responsive bidder. |

The responsive low bidder was D&K Construction Company, Inc.

The bid submitted by D&K was 28% above the CCE of \$1,006,192 and within the advertised range of \$900,000 to \$1,300,000. In order to understand the differential between the CCE and the bid price and to ensure the contractor's Price Proposal was inclusive of all scope elements, a conference was conducted on June 20, 2016 with Procurement, Program Operations, Contract Management Division, Division of Chief Counsel, the Design Consultant and D&K to review the bid. The discussion verified that D&K had included all scope elements of the project in its bid and identified variances between the NJSDA's CCE and D&K's Price Proposal in several areas, with the majority of the overall variance representing costs related to overtime associated with the reduced contract duration, a factor represented in the NJSDA's advertised range but not the NJSDA's CCE. At the time of review, D&K confirmed that its Price Proposal is inclusive of all scope elements contained in the Contract Documents.

The Program Operations Director and the Contract Management Division recommend award of the project to D&K Construction Company, Inc.

### FINAL BUDGET

Based on the proposal price, the construction cost to address the emergent project is \$1,287,000. The total funding, including design services, construction costs, contingencies, allowances, and NJSDA staff costs is estimated at a value in the amount of \$2,153,476 with prior allocation of funds for design services and construction activities for the roof system repair. The funding for the total project costs are reserved within the NJSDA Program Reserve maintained for emergent projects.

### BUDGET SUMMARY

|   |              |
|---|--------------|
| ▪ Construction Costs                      | \$ 1,445,235 |
| ▪ Construction Contingency (20%)          | \$ 257,400   |
| ▪ Design Costs including (5%) Contingency | \$ 190,491   |
| ▪ Project Management (NJSDA staff)        | \$ 196,000   |
| ▪ Other Costs (5%)                        | \$ 64,350    |
| Total                                     | \$ 2,153,476 |
| ▪ Prior Allocation                        | \$ 290,172   |

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### SCHEDULE

Construction is anticipated to begin July, 2016. The schedule includes an overall construction duration of 119 calendar days. NJSDA staff revised the project schedule in order to maintain the forecasted substantial completion date of September 1, 2016 per the Hedgepeth Williams School Domestic Water Line Replacement Project.

### RECOMMENDATION

The Members of the Authority are requested to approve the following:

1. The award of the construction contract in the amount of \$1,287,000 to D&K Construction Company, Inc.;
2. The Reestablished Final Charter for the Hedgepeth Williams School in the Trenton Public School District; and
3. The release of \$1,863,304 from the NJSDA Program Reserve to address the emergent project at Hedgepeth Williams School in the Trenton Public School District. Prior funding in the amount of \$290,172 was approved for design services and roof repair construction activities.

/s/ Sean Murphy

Sean Murphy, Procurement Director

/s/ C. Aidita Milsted

C. Aidita Milsted, Program Director, Program Operations

Reviewed and Recommended by: Andrew Yosha, EVP, Program Operations and Strategic Planning

Reviewed and Recommended by: Donald Guarriello, Vice President and Chief Financial Officer

Reviewed and Recommended by: Raymond A. Arcario, Vice President, Construction Operations

Reviewed and Recommended by: Gregory Voronov, Managing Director, Program Operations

Reviewed and Recommended by: Vincent Lechmanick, Deputy Director, Program Operations

Reviewed and Recommended by: Richard Ferrara, Program Officer, Program Operations

Prepared and Recommended by: Katherine Gallo, Sr. Program Officer, Program Operations



## New Jersey Schools Development Authority Emergent Project Charter - Summary

**Region:** Southern  
**District:** Trenton Public Schools  
**School Name:** Hedgepeth-Williams  
**Project Type:** Emergent  
**DOE # / Project #:** 5210-080-12-1400 / 5210-080-12-0ABZ  
**Project Location:** 301 Gladstone Avenue, Trenton NJ 08629

|                                     |
|-------------------------------------|
| <b>Charter Date</b>                 |
| 06/22/16                            |
| <b>Supersedes<br/>Charter Dated</b> |
| 04/06/16                            |

**Project Budget:** \$ 2,153,476  
**Anticipated Construction NTP Date** 07/01/16  
**Anticipated Final Completion Date** 10/28/16  
**Project Initiation Date:** 05/22/13

|                       |
|-----------------------|
| <b>Funding Source</b> |
| 2011 Emergent Reserve |

| Charter Version and Date   | Project Summary   |
|--|---|
| <input type="checkbox"/> Final   | (2) distinct emergent conditions were identified to be addressed at Hedgepeth-Williams. A) The Installation of new cold water pipes in hallways to all fixtures. Abandon in place the existing cold water supply system and re-route through hallways, and perform Hazardous materials abatement necessary for implementation of the above described construction related scope of work. Perform any necessary code improvements which may be required as a result of the implementation of the above described scope of work. B) Roof repairs, the installation of flashing and the installation of nine (9) ladders to provide access at various roof elevations. The roof system repairs emergent condition has achieved substantial completion. |
| <b>Revision # and Date</b>   |   |
| <input checked="" type="checkbox"/> One  |   |
| <input type="checkbox"/> Two   |   |
| <input type="checkbox"/> Three   |   |
| <b>Purpose for Advancement of Emergent Charter</b>   |   |
| To establish the budget for the project inclusive of dollar values for the award for design, construction, appropriate contingency, and estimated other costs. |   |

### Recommendation

|                            |  |
|----------------------------|--|
| Program Director - Project | Managing Director - Program Operations |
| C. Aidita Milsted          | Gregory Voronov                        |

|                              |   |
|------------------------------|---|
| VP - Construction Operations | EVP - Prog. Ops. And Strategic Planning |
| Raymond A. Arcario           | Andrew Yosha                            |

**Approval**  
 (If Project Budget is greater than \$500,000 Attach Board Memo and Minutes indicating authorization of funding)

|                         |      |
|-------------------------|------|
| Chief Executive Officer | Date |
| Charles McKenna         |      |

## New Jersey Schools Development Authority Emergent Project Charter Project Budget

|                                 |   |
|---------------------------------|---|
| <b>District / Project Name:</b> | Trenton Public Schools/Hedgepeth-Williams |
| <b>DOE # / Project #:</b>       | 5210-080-12-1400 / 5210-080-12-0ABZ       |
| <b>Charter Date:</b>            | 06/22/16                                  |

**Special Considerations:**

(2) distinct emergent conditions were identified . A) Water line replacement. B) Roof system repairs cost identified is reflective of the not-to-exceed value for GCTO award. Roof system repairs is substantially complete, therefore the construction contingency is based upon water line replacement costs only. Other Costs for projects range from 2% to 5% of Building Costs, with such costs for Emergent Projects budgeted at 5%. These costs are inclusive of projected DCA fees for permits and anticipated inspections. A construction allowance of \$50,000 has been included for unforeseen conditions related to Asbestos containing materials. The total estimated design consultant fee is inclusive of the sum of the allowances and design contingency. Prior funding approved for previously forecasted design costs and emergent roof repair.

**Project Budget:**

|   |                    |
|---|--------------------|
| <b>Construction Costs:</b>                            |                    |
| Building Costs-water line                             | \$1,287,000        |
| Roof system repairs                                   | \$158,235.00       |
| Construction Contingency-water line                   | \$257,400          |
| <b>Total Construction Costs</b>                       | <b>\$1,702,635</b> |
| <b>Other Costs:</b>                                   |                    |
| Design  | \$190,491          |
| Construction Admin                                    | N/A                |
| Project Management (SDA Staff)                        | \$196,000.00       |
| Other Costs   | \$64,350           |
| <b>Total Other Costs</b>                              | <b>\$450,841</b>   |
| <b>PreDevelopment &amp; Environmental Costs:</b>      |                    |
| PreDevelopment  | \$0                |
| Environmental/Remediation                             |                    |
| <b>Total PreDevelopment &amp; Environmental Costs</b> | <b>\$0</b>         |
| <b>Total Project Budget</b>                           | <b>\$2,153,476</b> |
| <b>2011 Emergent Reserve Impact</b>                   |                    |
| Prior Funding Approved                                | \$290,172          |
| Current Funding Requested                             | \$1,863,304        |

***Resolution—3a.***

Award of Contract, Approval of Reestablished Final Charter and Release of Funds from Program Reserve - Trenton Public Schools – Hedgepeth Williams School, Emergent Project — Domestic Water Line Replacement

|                       |  |
|-----------------------|--|
| District:             | Trenton Public Schools                             |
| School:               | Hedgepeth Williams School                          |
| Description:          | Emergent Project – Domestic Water Line Replacement |
| Package No.:          | EP-0073-C03  |
| CCE:                  | \$1,006,192  |
| Advertised CCE Range: | \$900,000 to \$1,300,000                           |
| Award:                | \$1,287,000  |
| CM:                   | SDA Self-Managed                                   |

### Resolution

**WHEREAS**, the Operating Authority of the New Jersey Schools Development Authority (SDA) requires that the Members of the Authority approve the release of funds from the Program Reserve for emergent projects or emergency situations exceeding \$500,000; and

**WHEREAS**, the Operating Authority further requires that the Members of the Authority approve the award of construction contracts greater than \$500,000 and final charters; and

**WHEREAS**, the construction award amount and the release of funds from the program reserve in this matter before the Board each individually exceed \$500,000; and

**WHEREAS**, the Hedgepeth Williams School, built in 1939 with a one story addition built in 1964 and totaling 170,000 square feet, currently serves as two (2) separate educational facilities: the Robeson Elementary School, educating approximately 584 students in grades Pre-K through 5 and the Hedgepeth Williams Middle School, educating approximately 500 students in grades 6 through 8; and

**WHEREAS**, the SDA has been charged with addressing two distinct emergent conditions at the Hedgepeth Williams School: one involving replacement of the facility's domestic water supply to remedy extensive leaking and the other involving roof repairs to eliminate water infiltration (the emergent project) ; and

**WHEREAS**, the separate condition related to the need for roof repair work was identified during a SDA site visit in June 2014 when the SDA identified a potential emergent condition concerning water infiltration throughout various roof areas; and

**WHEREAS**, the two distinct conditions are being addressed through two separate contracts, while remaining consolidated with one DOE project number; and

**WHEREAS**, construction activities related to the roof system repairs achieved substantial completion on February 19, 2016; and

**WHEREAS**, on April 8, 2014, The Design Collaborative (TDC) was issued a Notice to Proceed (NTP) with pre-design services to address the domestic water supply replacement problem (project or emergent project); and

**WHEREAS**, upon completion of pre-design services, TDC was authorized to proceed with design services and to perform construction administration services for the emergent project; and

**WHEREAS**, on May 3, 2016, D&K Construction Co, Inc. (D&K) was issued a NTP with construction of this emergent project which was scheduled for substantial completion by September 1, 2016; and

**WHEREAS**, on May 12, 2016, D&K advised SDA that its plumbing subcontractor identified in its price proposal had declined to enter into a subcontract with D&K and requested the ability to name a substitute plumbing contractor for the project; and

**WHEREAS**, following review of the situation and applicable case law, SDA determined that, in this circumstance, SDA lacks the ability to permit substitution of a named subcontractor after award of a contract to a general contractor and a notice of termination was issued to D&K on May 13, 2016; and

**WHEREAS**, on May 13, 2016, a new competitive procurement for construction services was advertised to address the emergent project; and

**WHEREAS**, upon conclusion of the competitive procurement process, management recommends award of the contract to D&K in the amount of \$1,287,000; and

**WHEREAS**, the background of the water supply replacement emergent project, a scope of work, and identified funding sources along with details as to the procurement process followed, the final project budget and project schedule are set forth in detail in the memorandum presented to the Board on this date and incorporated herein; and

**WHEREAS**, funding for the project is available within the emergent project funding allocation approved by the Board in March 2011; and

**WHEREAS**, following review, D&K has confirmed that its price proposal is inclusive of all scope elements contained in the contract documents; and

**WHEREAS**, the project construction schedule has been revised with construction anticipated to begin July 2016 and substantial completion to be achieved by September 1, 2016.

**NOW, THEREFORE, BE IT RESOLVED**, that the Members of the Authority hereby authorize and approve advancement of three (3) related actions to address the emergent condition related to replacement of the domestic water line at the Hedgepeth Williams School in the Trenton Public School District: the award of a construction contract in the amount of \$1,287,000 to D&K Construction Company, Inc.; the reestablished final charter for this emergent project which is consistent with the award for construction and inclusive of updated information as to project costs and schedule; and the release of \$1,863,304 from the SDA Program Reserve.

**BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor for his approval, unless during such 10 day period, the Governor shall approve same, in which case such action shall become effective upon such approval.

Attached: Memorandum, Award of Contract, Approval of Reestablished Final Charter and Release of Funds from Program Reserve, Trenton Public Schools – Hedgepeth Williams School, Emergent Project – Domestic Water Line Replacement, dated June 22, 2016

Dated: June 22, 2016

**PUBLIC COMMENT STATEMENT**

**We will now begin the Public Comment Portion of the Meeting consistent with the New Jersey Open Public Meetings Act.**

**4**

**We would ask that any member of the public who wishes to address the Board limit their comments to 3 minutes. If there are multiple individuals from the same organization or district who wish to address the Board on the same matter, we would ask that you come up together to offer your remarks.**

**Please keep in mind that public comment is to afford citizens the opportunity to comment on matters pertinent to the Authority's business. Should you seek answers to questions on any topic, please contact the Authority at 609-943-4585 at your convenience.**