

PROJECT AGREEMENT

for the project
Auntie Mary Nicoli Elementary School Replacement, Aniak

between

The State of Alaska, Department of Education & Early Development

and

Kuspuk School District

THIS CONTRACTUAL AGREEMENT, effective **October 27, 2017**, is made between the State of Alaska, Department of Education and Early Development (hereinafter called State) and the **Kuspuk School District** (hereinafter called Recipient). The State and the Recipient are entering into this agreement pursuant to AS 14.11.020 and 4 AAC 31.023 et seq. as applicable to grant funding.

Whereas funds have been appropriated by the Legislature to the Department of Education and Early Development for the project described in Appendix "A" (hereinafter also referred to as "the Project") of this agreement, and whereas the Recipient has made a request to the State that the Recipient be allowed to assume all responsibility for the planning, design and construction of the project, and whereas the scope of this agreement consists of all contract clauses as set forth below and incorporates the provisions and requirements of Appendices A through E as listed below:

Appendix A	Project Scope and Budget
Appendix B	Payment Schedule
Appendix C	Laws, Codes, Regulations, Standards and Guidelines
Appendix D	Submittal Requirements
Appendix E	Budget Category Definitions & Account Codes

The parties enter into the following agreement:

Contract Clauses

1. Assumption of Responsibility: The Recipient agrees to assume all responsibility heretofore held by the Department of Education and Early Development and the Department of Transportation and Public Facilities relating to planning, design, and construction of the project.
2. Project Coordinator: The Recipient's coordinator for this agreement is **Bernard Grieve, Superintendent**. The Recipient agrees to notify the State of any change in coordinator.
3. Governing Provisions: This agreement shall be governed by the laws of the State of Alaska. The Recipient agrees during the planning, design, and construction to comply with the applicable provisions of law (AS 14.11, AS 35.10, AS 36.05) and regulation (4 AAC 31, 4 AAC 50) for public works.

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The following table lists the subject areas most frequently applied to school capital projects and their citation:

Accessibility	4 AAC 31.014(a)(1)
Bidding and Award	4 AAC 31.080 and AS 36.05
Budget Reductions	4 AAC 31.022(e) & 31.062
Construction Management Costs	AS 14.11.020(c)
Facility Disposal	4 AAC 31.085
Project Agreement	4 AAC 31.023(c)
Project Document Approval	4 AAC 31.040 & 31.062
Project Document Reviews	4 AAC 31.030 & 31.062
Purchase of Temporary Facilities	4 AAC 31.050
Reporting Procedures	4 AAC 31.060
School Space	4 AAC 31.020 & 31.061
Site Acquisition and Selection	4 AAC 31.025
Use of Consultants	4 AAC 31.065

- Grant Funds: The State agrees to transfer the funds appropriated by the Legislature for the Project to a special account in the state treasury. The Recipient, with the approval of the State, may draw on the special account for the costs of planning, design, and construction of the project. The procedures to be followed by the Recipient drawing on the special account are set out in Appendix "B".
- Project Document Reviews: The Recipient shall submit the elements of the plan as outlined in 4 AAC 31.030 for department review as they are developed. Drawings must be submitted in Portable Document Format (PDF), and must be clearly indexed on the title sheet or in a cover letter to the department. Other project documentation must be provided in electronic format wherever practicable. Final construction document submittals shall be signed and stamped by the Registered Design Professional (4 AAC 31.040). Each applicable document shall be provided at no cost to the State. Cost estimates are required at each design phase and shall be provided in the State's standard building system estimate format (DEED Cost Format). The Recipient shall also provide an Energy Consumption and Cost report, as necessary, in accordance with AS 14.07.020(a)(11). The Energy Consumption and Cost report will provide estimated annual energy consumption and cost information for electricity and heating following construction of the project in this Agreement.
- Approvals and Permits: The Recipient shall coordinate all regulatory agency reviews and obtain all necessary written approvals from all agencies having jurisdiction over the Project.
- Safety Precautions and Programs: The Recipient has the duty of providing for and overseeing all safety orders, precautions and programs necessary to the reasonable safety for the planning, design, and construction of the Project. In this connection, the Recipient shall take reasonable precautions for the safety of all project employees and all other persons whom the Project might affect, all work and materials incorporated in the Project, all property and improvements on the construction site and adjacent thereto, and shall comply with all applicable laws, ordinances, rules, regulations and orders.

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8. Project Scope Review: The Recipient is responsible to ensure the Project conforms to the scope of work as described in Appendix A and as further defined following department review and approval of the elements of the plan. Modifications to the scope of work for Additional Work will be permitted as outlined in the department's *Capital Project Administration Handbook* and will be submitted to the State in a written amendment for review and approval as required. New Work, as defined in the handbook, is not permitted. The Recipient shall forward copies of all final bid or proposal documents to the State prior to advertising as set out in 4 AAC 31.040. If any such documents conflict with the scope of work, the Recipient will be notified that further grant funds will not be paid by the State until those conflicting aspects are corrected.
9. Value Engineering: During the design of the Project, the Recipient, and the Recipient's consultants, shall incorporate value based design efforts with the goal of reducing the cost of the Project without sacrificing value. A formal Value Analysis may be required as specified in Appendix B.
10. Project Audit: In accordance with 4 AAC 31.023(c)(3), the Recipient's performance is subject to financial audit at any time. Project records shall be maintained for three (3) years after the project completion and acceptance. Within three hundred and sixty-five (365) days after certification of beneficial occupancy and/or substantial completion, the Recipient agrees to provide an auditable accounting of expenditures of the Project.
11. Project Accounting: Project accounting shall include all sources of revenues and Project expenditures by budgeted expense category. The expense categories shall conform to the categories indicated in Appendix A and defined in Appendix E. If the amount of the funding is more than \$300,000, the Recipient may be required to provide an independent project audit. The cost of an audit required by the department is an allowable project expense. Accounting for the Project shall comply with the *Codification of Governmental Accounting and Financial Reporting Standards* as published by the Governmental Accounting Standards Board (GASB).
12. Final Inspection and Acceptance: The State may, in its discretion, participate in the final inspection of the Project. The Recipient shall furnish to the State, project documents certifying beneficial occupancy and/or substantial completion. The State shall have fifteen (15) days after final inspection or after receipt of the Recipient's project deliverables to make objections, after which time the Project shall be deemed accepted by the State. Objections will be presented in writing by the State and must be responded to in a satisfactory manner by the Recipient.
13. Facility Disposal: If, as a result of the Project, a State facility is determined no longer needed for educational purposes, the entity operating this facility shall provide the following for a period not to exceed one year: (1) maintenance of the facility in the condition it was when vacated; (2) sufficient security to discourage vandalism and ensure that the facility is not accessible to unauthorized persons; (3) property loss and liability insurance through the School District's risk management program with the State named as an additional insured. In addition, the School District shall, if requested, act as the agent for the state in disposing of the facility in accordance with 4 AAC 31.085(b)-(h).
14. Project Close-out: Within sixty (60) days of the issuance of final project accounting by the Recipient, the Recipient will return the full amount of the unexpended grant funding to the State of Alaska Department of Education and Early Development. The Recipient may, within sixty

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(60) days of the issuance of final project accounting, request that the State expand the project scope of work, as defined in Appendix A. The approval of an expanded scope of work is not to be considered approval of an extension of the five-year term date of this agreement. Interest earned on any money paid to the Recipient under this agreement shall be held by it to pay for project cost overruns, change orders or other legitimate project costs as provided for in 4 AAC 31.063. If at completion of the Project, any money earned as interest remains, the Recipient agrees to transfer that amount to a capital reserve account for school capital projects.

15. Maintenance, Operation, Ownership of the Completed Project: Responsibilities for maintenance, operations, and ownership of the facility shall be borne by the Recipient or their legal designee. The Recipient shall acquire from the project's designers and contractor, project documentation required to establish an effective facility management and preventive maintenance program that satisfies the requirements of AS 14.11.011(b)(4). The Recipient shall provide evidence to the State that the completed project has been incorporated in the district's facility management program and the Recipient, if required, has established legal ownership of the facility.
16. Termination of Contract for Cause: If, through any cause, the Recipient shall fail to fulfill in timely and proper manner its obligations under this contract, or if the Recipient shall violate any of the covenants, agreements or stipulations of this contract, the State shall thereupon have the right to terminate this contract by giving written notice to the Recipient of such termination stating cause and specifying the effective date thereof, at least ten (10) days before the effective date of such termination. The termination shall take effect unless the Recipient presents to the State evidence it has cured the specified failure prior to the effective date or presents a plan for cure including a specific timeline and completion date acceptable to the State in its sole discretion. In the event of termination, all finished or unfinished documents, data, studies, drawings, maps, models, photographs, and reports or other materials prepared by the Recipient under this contract shall, at the option of the State, become the State's property and the Recipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and materials. Notwithstanding the above, the Recipient shall not be relieved of any liability to the State for damages sustained by the State by virtue of any breach of the contract by the Recipient, and the State may withhold any payments to the Recipient for the purpose of offset until such time as the exact amount of damages due to the State from the Recipient is determined.
17. Termination for Convenience of the State: The State may terminate this contract at any time by giving written notice to the Recipient of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. In that event, all finished or unfinished documents and other materials as described in paragraph 16 above shall, at the option of the State, become the State's property. If the contract is terminated by the State as provided herein, the Recipient shall be reimbursed for that portion of the actual out-of-pocket expenses not otherwise reimbursed under this contract which were incurred by the Recipient during the contract period and which are directly attributable to the Recipient's performance of this contract. If this contract is terminated due to the fault of the Recipient or its subcontractors, paragraph 16 shall apply.
18. Subcontracting: In the event the Recipient subcontracts any work covered by this contract, the Recipient shall require compliance by its subcontractors with wage rates as required by

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AS 36.05.010 - AS 36.05.110. In addition, the Recipient shall require compliance with all federal, state, and local laws, regulations and ordinances relating to civil rights.

19. Participating Share: The Recipient agrees to provide the participating share of the total costs of the Project required under AS 14.11.008. If the Recipient is eligible to provide its participating share through a contribution of labor, material or equipment, it must provide notice to the State within thirty (30) days after signing this agreement. A description of the specific in-kind services must be included. The State may not unreasonably withhold its consent, but may impose record keeping requirements that allow it to monitor the incorporation of the local contribution into the Project. [4 AAC 31.023(d)]
20. Percent for Art: For school construction or renovation projects, the Recipient shall expend on art an amount equal to the percentage (as specified in AS 35.27.020) of the cost of construction. Renovations of building shell, structural or mechanical systems are excluded from this provision. Art will be selected by an Artwork Selection Committee consisting of: The superintendent (and or designated client representative), project manager, architect, and a designated individual from the Alaska State Council on the Arts (ASCA). The Project Manager will serve as chair of the Artwork Selection Committee.
21. State Held Harmless: The Recipient shall indemnify, defend, and hold harmless the State of Alaska and the Department of Education & Early Development, its officers, agents, and employees from and against any and all suits, claims, damages, losses and expenses arising out of any act or omission of the Recipient under this agreement or the Project specified hereunder.
22. Reporting Requirements: Annual reports shall be filed by July 31 of each year for grant projects using form 05-08-016 available on the department's website, or upon request.
23. In-House Requests: Recipient may request, in writing, that all or portions of the Project be completed utilizing Recipient employees. A request to utilize in-house forces to complete work on the Project must be approved by the Commissioner prior to initiation of the work. [4 AAC 31.080(a)]
24. Alternative Procurement: Recipient may request, in writing, that an alternative method of procurement be utilized for construction of the Project. A request to utilize alternative procurement methods for construction of the Project must be approved by the Department in advance of advertising for construction. [4 AAC 31.080(f)]
25. Funding Expiration: State funding for this project expires five years from the effective date of the project agreement unless an extension, requested by the Recipient, is granted by the State.

Recipient (Name and Title)

Date

State of Alaska, Department of Education and Early Development

Date

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APPENDIX A

1. Project Scope of Work: *(Use additional pages if necessary)*

Eligible [Additional] Gross Square Footage: 16,702; 4 AAC 31.020(e)

Planning, design, construction, and equipping of a new school facility to provide adequate instructional, administrative, and education support spaces with appropriate mechanical/electrical systems to house the Aniak attendance area K-6 school population.

- Covered exterior areas not to exceed 3,000gsf. Allowance for combined water, sewer, and fire water support space support space up to 835gsf is provided beyond the total 16,702gsf.
- A standard crawlspace foundation is anticipated.
- Site improvements may consist of: gravel surface parking and drives, playground, site fencing, and traffic control devices; the scope and extent of site improvements will be further established in the design review and approval process.
- Site utilities may include: bulk fuel storage (~20,000 gallons total), site lighting, and fire protection water storage, all with associated piping and conduit; water, wastewater, electrical power, and data/communications connection to nearest point of public service; the scope and extent of site utilities will be further established in the design review and approval process.
- Abatement and demolition of the existing school facilities and cleanup of site.
- Recipient will establish site control through a deed (if land is purchased) or long-term lease and shall hold title to the facility and improvements.

2. The Recipient further agrees to comply with the following additional conditions:

- The following buildings shall cease to be used for educational purposes in Aniak and will be demolished or removed from the site and transferred to an eligible entity:
Elementary School (290010-01) and Generator Shed (290010-04).
- The Recipient shall request title interest of the new facility and existing facilities and sites the in Aniak community under AS 14.08.151.

3. Project Funds - Auntie Mary Nicoli Elementary School Replacement, Aniak			
Chapter 1/SSSLA 17, Section 39, page 113, lines 27-29			
	Grant Amount		\$18,641,380
	Recipient's Participating Share:		\$380,436
	Other Funds		\$0
	Project Total		\$19,021,816
4. Project Budget			
	Cost Category	% of Construction	Total Project Budget
	1. Construction Management (by consultant)	2.00%	\$304,616
	2. Land	N/A	\$0
	3. Site Investigation	N/A	\$50,000
	4. Design Services	10.00%	\$1,524,000
	5. Construction	100.00%	\$15,240,000
	6. Equipment	1.99%	\$303,000
	7. District Administrative Overhead	5.00%	\$762,000
	8. Percent for Art	0.50%	\$76,200
	9. Project Contingency	5.00%	\$762,000
	Totals	124.49%	\$19,021,816

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APPENDIX B

PAYMENT SCHEDULE

Upon submission of the following documents, the Recipient shall submit a separate request to the State for payment. Upon receipt of the payment request and verification and/or approval of submittals, the State shall issue a warrant to the grant recipient.

1. Payment #1; [5%] Project Agreement complete and DEED approval of financial structure and district construction manager agreement. (Required before any payments will be issued).
2. Payment #2; [5%] DEED receipt/approval of the Recipient's participating share.
3. Payment #3; [10%] DEED receipt/approval of planning documents to include a concept design comparison of the new elementary school project versus an addition to the high school, creating a single K-12 facility; site selection report; soils investigation report; condition surveys; educational specifications; archeological clearance; and A/E services agreement. (Appendix D; Items 2, 3, 4, 5, 6, and 7)
4. Payment #4; [10%] DEED receipt/approval of schematic design documents, cost estimate, and value analysis. DEED receipt/approval of an Energy Consumption and Cost report as necessary. (Appendix D, Items 8 and 10)
5. Payment #5; [10%] DEED receipt/approval of design development documents, cost estimate, and sufficient interest in site. DEED receipt/approval of an Energy Consumption and Cost report as necessary, and if not provided with Schematic Design. (Appendix D; Items 9 and 10)
6. Payment #6; [15%] DEED receipt/approval of design, construction and bid documents, and final cost estimate. (Appendix D; Items 11 and 12)
7. Payment #7; [10%] DEED receipt/approval of bid tabulations, construction contract, construction schedule, payment/performance bonds and building permit or fire marshal review. (Appendix D; Items 13, 14, 15, 16, and 17)
8. Payment #8; [20%] A/E certification that project is 50% complete, current RFI log, current RFP log, and current change order log.
9. Payment #9; [10%] DEED receipt of occupancy permit or A/E certification of substantial completion. (Appendix D; Item 18)
10. Payment #10; [5%] DEED receipt of Recipient's certification that funds were expended in a manner consistent with the project agreement and submission of closeout documents including a final change order log, a project closeout worksheet, contractor's release of liens, contract termination, and Department of Labor and Department of Revenue clearances. DEED receipt/approval of preventive maintenance & facility management documents including PM components list by building system, PM schedule, custodial care plan, certification of training on building systems, renewal & replacement schedule for DEED standard building systems (Appendix D; Items 19, 20,

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21, 22, 23, 24, 25, 26, and 27)

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APPENDIX C

LAWS, CODES, REGULATIONS, STANDARDS, AND GUIDELINES (as applicable)

LAWS

P.L. 101-336 Americans with Disabilities Act of 1990; Title II, Part 35, Section 35.151; and Title III, Part 36, Section 36.401 - 36.402 incorporating the Americans with Disabilities Act Accessibility Guidelines (ADAAG);

AS 36.05.010 - .110 Wages and Hours of Labor and regulations covering procurement requirements and wage rates.

CODES AND REGULATIONS

The building code adopted by the Department of Public Safety under 13 AAC 50.020;

Title 14 CFR, Part 77, Federal Aviation Administration Airspace Restrictions as adopted and modified by the Federal Aviation Administration;

The electrical code adopted by the Department of Labor under 8 AAC 70.025;

The plumbing code adopted by AS 18.60.705;

The mechanical code adopted by the Department of Public Safety under 13 AAC 50.023;

National Boiler Inspection Code, as published by the American Society of Mechanical Engineers (ASME) and as adopted by AS 18.60.180;

The fire code adopted by the Department of Public Safety under 13 AAC 50.025.

NOTE:

If a subject is not covered in the building code, mechanical code, or the fire code adopted above, a recognized national standard such as NFPA Vols. 1-6, 1996 Edition will be utilized.

Codes adopted by the Department of Environmental Conservation for Wastewater and Sewer under AS 46.03.720, 18 AAC 72 and 18 AAC 80;

Fuel handling requirements as specified in 40 C.F.R 112.3(a) (revised as of January 1, 1992) and, if applicable, as described in 40 C.F.R 112.20(f)(6), shall comply with 40 C.F.R. 117.7.1.

STANDARDS

Energy Conservation Requirements A.S.H.R.A.E. 90.1;

State of Alaska, Department of Education and Early Development, Accounting Manual and Chart of Accounts;

ASTM F1487-98 Standard Consumer Safety Performance Specifications for Playground Equipment for Public Use.

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LAWS, CODES, REGULATIONS, STANDARDS, AND GUIDELINES (as applicable)

GUIDELINES

The Council of Educational Facility Planning International, Creating Connections: The CEFPI Guide for Educational Facility Planning

State of Alaska, Department of Education and Early Development, A Handbook to Writing Educational Specifications

State of Alaska, Department of Education and Early Development, Guidelines for School Equipment Purchases

State of Alaska, Department of Education and Early Development, Project Delivery Method Handbook

State of Alaska, Department of Education and Early Development, Swimming Pool Guidelines

State of Alaska, Department of Education and Early Development, Site Selection Criteria and Evaluation Guideline

State of Alaska, Council on the Arts, Guidelines for Art Requirements for Public Buildings

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APPENDIX D

SUBMITTAL REQUIREMENTS AND REQUIRED APPROVALS (as applicable)

Item	Agency	Review Only	Review & Approval
1. Annual Report (due July 31)	Department of Education & Early Development	X	
2. Site Selection Report	Department of Education & Early Development		X
3. Soils Investigation Report	Department of Education & Early Development		X
4. Condition Surveys	Department of Education & Early Development		X
5. Educational Specifications	Department of Education & Early Development		X
6. Archeological Clearance	Department of Natural Resources		X
7. A/E Services Agreement	Department of Education & Early Development	X	
8. Schematic Design Documents	Department of Education & Early Development		X
9. Design Development Documents	Department of Education & Early Development		X
10. Energy Consumption and Cost Report	Department of Education & Early Development		X
11. Construction Documents	Department of Education & Early Development Department of Public Safety (unless local review authority granted) Department of Environmental Conservation		X X X
12. Bid Documents	Department of Education & Early Development		X
13. Building Permit	Department of Education & Early Development	X	
14. Bid Tabulation	Department of Education & Early Development	X	
15. Construction Contract	Department of Education & Early Development Department of Labor (<i>AS 36.05.035 Notification</i>)	X X	
16. Construction Schedule	Department of Education & Early Development	X	
17. Contractor's Payment/ Performance Bonds	Department of Education & Early Development	X	
18. Substantial Completion Certificate/ Occupancy Permit	Department of Education & Early Development	X	
19. Change Order Log	Department of Education & Early Development	X	
20. Release of Liens	Department of Education & Early Development	X	
21. Release from Contract	Department of Education & Early Development	X	
22. Preventive Maintenance and Facility Management Documents	Department of Education & Early Development		X
23. Recorded Building Title	Department of Education & Early Development	X	
24. Final Project Accounting	Department of Education & Early Development	X	
<hr/> Evidence of the construction contractor's provision of the following items to the appropriate entity.			
25. Corporate Income Tax Clearance	Department of Revenue		X
26. Unemployment Security Tax Clearance	Department of Labor & Workforce Development		X
27. Notice of Completion of Public Works	Department of Labor & Workforce Development		X

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APPENDIX E

BUDGET CATEGORY DEFINITIONS

Construction Management: By Consultant (CM) includes management of the project's scope, schedule, quality, and budget during any phase of the planning, design and construction of the facility and full time onsite representation. Consultant CM should include all costs incurred by private consultant to perform the CM work. Refer to AS 14.11.020(c) for the limitations on consultant CM. (DEED Chart of Accounts FC 884, OC 413)

Land includes actual purchase price plus title insurance, fees and closing costs. Land cost is limited to the current fair market value, by appraisal, not to exceed the amount budgeted for land in the project agreement. Land costs are excluded from project percent calculations. (DEED Chart of Accounts FC 882, OC 520)

Site Investigation includes land survey, geotechnical investigation, environmental and cultural survey, and site selection study costs, but not site preparation costs. Site investigation costs are excluded from project percent calculations. (DEED Chart of Accounts FC 882, OC various)

Design Services includes all full standard architectural and engineering services as described in AIA Documents B102-2007, and B201-2007. Additional A/E services such as educational specifications, condition surveys, and post occupancy evaluations should also be categorized as Design Services, however, onsite owner representation and inspections beyond the scope of work described in AIA Documents B102-2007, and B201-2007 should be categorized as CM. (DEED Chart of Accounts FC 883, OC 416)

Construction includes the cost of all material, labor, equipment, and associated expenses required to perform the project's facility construction and site development. Construction costs can be incurred via a competitively awarded contract or, with prior department approval, via the use of in-house labor and procurement of materials per local ordinances. (DEED Chart of Accounts FC 885, OC 500)

Equipment includes all moveable furnishings and instructional devices or aids such as classroom furniture, musical instruments, science lab and physical education equipment and stage/sound equipment. It does not include installed equipment, or consumable supplies, with the exception of the initial purchase of library books. For more information see the DEED publication *Guidelines for School Equipment Purchases*. This item also includes Technology such as electronic and digital equipment with associated software and peripherals such as computers, printers, video projectors, digital cameras, TV/VCRs, telephones, and video cameras. Consultant services necessary to make technology items operational may also be included. (DEED Chart of Accounts FC 886, OC 510)

District Administrative Overhead includes an allocable share of district overhead costs, such as payroll, accounts payable, procurement services, and preparation of the six-year capital improvement plan and specific project applications. It also includes In-House Construction Management (CM) which is similar to CM by Consultant, with the exception that in-house CM includes actual district/borough staff time allocated to the project, staff travel expenses, and other direct costs of the in-house activity. (DEED Chart of Accounts FC 881, OC 528)

Art includes the selection, design/fabrication and installation of works of art. (DEED Chart of Accounts FC 888, OC various)

Project Contingency is a safety factor to allow for unforeseen changes. The use of contingency funds to address budget overruns should be coordinated with the department. No costs shall be accounted for as Contingency expenditures. (DEED Chart of Accounts FC 889, OC [budget account only])