

04135-022

PROFESSIONAL SERVICES AGREEMENT

BETWEEN

THE PAULDING COUNTY SCHOOL DISTRICT

AND

FACILITY PROGRAM MANAGEMENT INC.

Dated JUNE 30, 2004

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE PAULDING COUNTY SCHOOL DISTRICT AND
FACILITY PROGRAM MANAGEMENT INC.**

This Agreement is effective as of June 30, 2004, and is made by and between The Paulding County School District, a political subdivision of the State of Georgia with offices at 522 Hardee Street, Dallas, Georgia 30132 ("Owner"), and Facility Program Management Inc., a Georgia corporation, 2233 Lake Park Drive, Suite 100, Smyrna, Georgia 30080 ("Program Manager") (individually a "Party" and collectively the "Parties") for the following project:

"Project" Construction of a new high school (individually the "HS Project") and new elementary school (individually the "ES Project").

"Project Site" Winn Road, Douglasville, Paulding County, Georgia

For and in consideration of the mutual promises and covenants set forth below and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties hereby agree as follows:

**ARTICLE 1
PROGRAM MANAGER'S SERVICES AND RESPONSIBILITIES**

1.1 The Program Manager covenants with the Owner to further the interests of the Owner by furnishing the Program Manager's skill and judgment in providing and/or causing others to provide construction, procurement and construction management services required to be performed hereunder by the Program Manager in connection with the Project. The Program Manager agrees to furnish business administration and management services and to perform in an expeditious and economical manner consistent with the interests of the Owner.

1.2 The term "Professional Services" as used herein shall mean the construction, procurement and construction management services performed hereunder by the Program Manager and all parties, including without limitation the Construction Manager, retained hereunder as a consultant by, through and/or under the Program Manager in order to cause the Work to be constructed in accordance with the Contract Documents and shall include the services described in Exhibit B to this Agreement. The Program Manager agrees that all services performed hereunder by or for the Program Manager shall be diligently and properly performed in accordance with generally accepted program management and construction management standards and practices. The Owner approves the retention by the Program Manager or its consultants of the following entities as consultants to perform architectural, engineering and construction management services required to be rendered hereunder by the Program Manager in respect to the Project:

<u>Entity</u>	<u>Nature of Services to be Rendered</u>
Facility Design Group Inc. ("Architect")	"Architect" for HS Project
Buckley & Associates, Architects	"Architect" for ES Project (subconsultant to Facility Design Group Inc.)
R. K. Redding Construction Co.	"Construction Manager" for the Project

1.3 The Program Manager, before retaining any entity (not listed in Paragraph 1.2) as a consultant to perform any Professional Services, shall obtain the approval of the Owner as to the retention of such entity, it being specifically understood and agreed that no such approval shall be unreasonably withheld or delayed by the Owner. Owner's approval shall be by the School Superintendent or her designee.

1.4 The Program Manager shall be responsible for the acts, errors and/or omissions of the Program Manager and all parties, including without limitation the Architect and Construction Manager, retained hereunder as a consultant by, through and/or under the Program Manager.

1.5 The term "Work" as used herein shall mean the construction of the new high school and new elementary school as shown on the drawings and described in the specifications set forth in Exhibit A-1 and Exhibit A-2 to this Agreement and shall include all labor necessary to produce the construction required by the Contract Documents and all materials and/or equipment incorporated or to be incorporated in such construction.

1.6 The term "Contract Documents" as used herein shall mean this Agreement, including the Exhibits to this Agreement and the drawings and specifications set forth in Exhibit A-1 and Exhibit A-2 hereto.

1.7 The terms "Subcontractor" and "Subcontractors" as used herein shall mean those parties who have a direct contract with the Program Manager to perform the construction of any of the Work at the site of the Project and the terms "Material Supplier" and "Material Suppliers" as used herein shall mean those parties who have a direct contract with the Program Manager to furnish materials and/or equipment for incorporation into the Work."

ARTICLE 2
TIME

2.1 The Program Manager shall perform Professional Services as expeditiously as is consistent with reasonable skill and care and the orderly progress of the Project. The Program Manager shall render the Professional Services, and shall cause the

construction of the Work to be performed, with due diligence, due regard being given to interruptions resulting from any cause beyond the reasonable control of the Program Manager and the Program Manager agrees to cause the construction of all of the Work to be substantially completed within the dates set forth in Exhibit C, as said dates may be extended for such periods of time as the Program Manager is prevented from proceeding with or completing the construction of the Work for any cause beyond the reasonable control of the Program Manager (said dates for substantial completion of construction of the Work, as said dates may be extended hereunder, hereinafter referred to as the "Date for Substantial Completion" for each of the ES Project and HS Project).

2.2 A schedule for the ES Project setting forth the expected dates for commencement and completion of each of the various stages of the design and construction of the Work required to build the Project is set forth in Exhibit C-1 and made a part hereof. A schedule for the HS Project setting forth the expected dates for commencement and completion of each of the various stages of the design and construction of the Work required to build the Project is set forth in Exhibit C-2 and made a part hereof. Said schedules shall be updated by Program Manager as necessary, and revisions in said schedules shall be furnished to Owner, it being specifically understood and agreed that Owner shall be entitled to rely upon and shall utilize said schedules as said schedules are revised from time to time to determine final dates upon which to make decisions Owner must make with respect to the Work.

2.3 The terms "substantial completion", "substantially complete" and "substantially completed" as used herein in respect to the construction of the Work shall mean that the construction of the Work is sufficiently complete so as to permit the Owner to take possession of the Work and to commence operations therein with minimal interference from any of the Contractors and/or any of the Material Suppliers retained in connection with the Work. Substantial completion shall be determined for the ES Project and for the HS Project separately.

2.4 The terms "full completion" and "fully completed" as used herein shall mean that the construction of the Work, including all punch list items, has been completed in accordance with the Contract Documents. Full completion shall be determined for the ES Project and for the HS Project separately.

2.5 In the event that the performance and/or completion of the construction of the Work for the ES Project or for the HS Project, or both of them, is delayed at any time by any act or omission of the Owner or of any employee, agent not a Party to this Agreement or tenant of the Owner, by any separate contractor employed by the Owner, by changes or alterations in the Work not caused by any fault or omission of the Program Manager, by strikes, by lockouts, by fire, by embargoes, by windstorm, by flood, by earthquake, by acts of war, by changes in public laws, regulations or ordinances enacted after the date of this Agreement, by acts of public officials not caused by any fault or omission of the Program Manager, by an inability to obtain materials and/or equipment not caused by any fault or omission of the Program

Manager, by concealed, unknown and/or unforeseeable conditions as described in Article 16 or by any other cause beyond the reasonable control of the Program Manager, the Date for Substantial Completion for the ES Project or the HS Project, or both of them, shall be extended for a reasonable period as a consequence of such delay.

ARTICLE 3
THE OWNER'S RESPONSIBILITIES

3.1 The Owner shall, at the request of the Program Manager, provide a statement of funds available for the Project and their source.

3.2 The Owner shall designate a representative authorized to act in the Owner's behalf with respect to the Project. The Owner, or such authorized representative, shall examine documents submitted by the Program Manager and shall render decisions pertaining thereto promptly to avoid unreasonable delay in the progress of the Program Manager's services. The Owner shall render any decisions required to be made by the Owner in respect to any documents submitted hereunder by the Program Manager to the Owner in or within three business days after the submission by the Program Manager to the Owner of such documents or in or within such longer period as shall be expressly permitted by the Project Schedule or the Project Construction Schedule, as they may be revised from time to time, it being specifically understood and agreed that the Owner shall render any other decisions required to be made by the Owner in respect to the construction of the Project in or within three business days after being requested by the Program Manager to make such decisions.

3.3 The Owner shall furnish such surveying, legal, accounting and insurance counseling services as may be necessary for the Project, including such auditing services as the Owner may require to verify the Project Applications for Payment or to ascertain how or for what purposes the Contractors have used the monies paid by or on behalf of the Owner.

3.4 The Owner shall provide all necessary site information to Program Manager, including information with respect to soil conditions, existing buildings and structures, easements, restrictions and utility locations, and Program Manager will rely upon such information as well as the aforementioned representations in designing the Project and determining the Guaranteed Maximum Sum. If Program Manager sustains any losses, expenses or damages in connection with the design or construction of the Project because of differences between existing conditions and those conditions represented to Program Manager, the Guaranteed Maximum Sum and Scheduled Substantial Completion Date shall be equitably adjusted.

3.5 The services, information and reports required by Paragraphs 3.1, 3.2, 3.3 and 3.4 shall be furnished at the Owner's expense, and the Program Manager shall be entitled to rely upon their accuracy and completeness.

3.6 If the Owner observes or otherwise becomes aware of any fault or defect in the Project, or nonconformance with the Contract Documents, prompt written notice thereof shall be given by the Owner to the Program Manager and the Architect.

3.7 The Owner reserves the right to perform work related to the Project with the Owner's own forces, and to award contracts in connection with the Project which are not part of the Program Manager's responsibilities under this Agreement. The Program Manager shall notify the Owner if any such independent action will in any way compromise the Program Manager's ability to meet the Program Manager's responsibilities under this Agreement.

3.8 The Owner shall furnish the required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Program Manager's services and the Work of the Contractors.

3.9 The Owner represents to the Program Manager that the parcel of land upon which the Project is to be constructed shall, upon the commencement of the performance hereunder by the Program Manager of Professional Services, be properly subdivided and zoned so as to permit the construction and use of the Project and shall be owned by the Owner free and clear of any encumbrances and/or restrictions which would preclude or interfere with the construction or use of the Project.

ARTICLE 4 COMPENSATION

Owner shall pay Program Manager an amount equal to the Cost of the Work, Design Fee and Fee as set forth in the following paragraphs, subject to the Guaranteed Maximum Sum provisions of Article 5 below, it being specifically understood and agreed that the compensation set forth herein shall apply to each of the HS Project and the ES Project and that such compensation shall be budgeted, reported, invoiced and paid separately for each of the HS Project and the ES Projects.

4.1 CONSTRUCTION OF THE WORK

4.1.1 Owner shall pay the Program Manager the Cost of the Work, as defined below, for construction of the Work.

4.1.2 The term "Cost of the Work" as used herein shall mean costs reasonably and necessarily incurred in the proper performance of the Work and paid or to be paid by Program Manager. Such costs shall be at rates not higher than the standard paid in the locality of the Work, except with the consent of Owner, and shall include the items set forth hereinbelow in items a through p:

- a. compensation paid, subject to item u hereinbelow, for labor in the direct employ of Program Manager in the performance of the Work, including such welfare or other benefits, if any, as may be payable with respect

thereto;

- b. compensation of employees of Program Manager when stationed at the field office in whatever capacity employed, it being specifically understood and agreed that employees of Program Manager, including the general managers, the program managers and the project manager of Program Manager, engaged in planning, estimating, programming, scheduling, purchasing, managing, administering or accounting for the Work or in expediting the production or transportation of materials or equipment incorporated into the Work shall be considered as stationed at the field office and their compensation paid, subject to item u hereinbelow, for that portion of their time spent on the Work;
- c. cost, subject to item u hereinbelow, of contributions, assessments or taxes for such items as unemployment compensation and social security insofar as such cost is based on compensation or other remuneration paid to employees of Program Manager included in the Cost of the Work;
- d. reasonable transportation, traveling, meal and hotel expenses of Program Manager or of the employees of Program Manager incurred in discharging duties connected with the Work;
- e. cost of all materials, supplies and equipment incorporated into the Work, including reasonable costs of transportation thereof;
- f. expenses incurred pursuant to this Contract by Program Manager in respect to subcontractors, materialmen and/or other parties retained by, through or under Program Manager for Work required to be performed to design or construct the facility described in Exhibit A-1 and Exhibit A-2;
- g. an amount equal to one percent of the Cost of the Work for the cost of all bonds which Program Manager is required hereunder to purchase and/or maintain in order to carry out the Work;
- h. an amount equal to one percent of the Cost of the Work for the cost of insurance which Program Manager is required hereunder to purchase and/or maintain in order to carry out the Work;
- i. cost of all guarantees and/or warranties which Program Manager is required hereunder to make in respect to the correction of the Work;
- j. sales, use or similar taxes related to the Work and for which Program Manager is liable imposed by any governmental authority;
- k. royalties, damages for infringement of patents and costs of defending suits therefor and deposits lost for causes other than the negligence of Program Manager;
- l. expenses of reconstruction and/or costs to replace and/or repair damaged soils, materials and/or supplies provided that Program Manager is not compensated for such expenses and/or costs by insurance or otherwise and that such expenses and/or costs have resulted from causes other than the fault or omission of Program Manager, it being specifically understood and agreed that such expenses and/or costs shall include costs incurred as a result of any act or neglect of Owner or of any employee, agent or tenant of Owner, any act or neglect of any separate contractor employed by Owner and/or any casualty or so-called "war-risk";

- m. expenses for such items as telegrams, long distance communications, telephone service at the site of the Work, postage, expressage, copying, computer usage and petty cash items purchased in connection with the Work and expense of taking photographs or making video tapes if and to the extent that such photographs or video tapes are reasonably required in connection with the administration of the construction of the Work;
- n. cost of removal of all debris;
- o. cost incurred due to an emergency affecting the safety of persons and property; and
- p. other costs incurred in the performance of the Work if and to the extent such costs are approved in writing by Owner.

Except as otherwise provided herein, the term "Cost of the Work" shall not include any of the items set forth hereinbelow in items q through u:

- q. salaries or other compensation of the marketing executives, general managers or auditors of Program Manager at the principle office or any branch office of Program Manager;
- r. Expenses of the principal or branch offices of Program Manager;
- s. Any part of the capital expenses of Program Manager, including interest on capital of Program Manager employed for the Work; and
- t. General administrative or other indirect overhead expenses of any kind, except as may be expressly included hereinabove in items a through p;
- u. Compensation, payroll taxes and employee benefits attributable to any employee of Program Manager determined using a base hourly rate in excess of twice the applicable actual base salary per hour paid and payable by Program Manager in respect to any such employee, it being specifically understood and agreed that, notwithstanding anything to the contrary set forth herein, a base hourly rate equal to twice the applicable actual base salary per hour paid and payable by Program Manager in respect to any such employee shall be considered for purposes of this Contract to be the applicable actual cost per hour paid and payable by Program Manager for and in respect to the base salary, the bonus compensation, the payroll taxes and the employee benefits attributable to any such employee.

4.2 The term "Design Fee" as used herein shall mean an amount equal to the sum of the ES Design Fee and the HS Design Fee. The ES Design Fee as used herein shall mean a fixed amount of two hundred eighty-five thousand dollars (\$285,000) subject to adjustment for changes in the Work in an amount equal to three and one-half percent of the Cost of the Work attributable to such change. The HS Design Fee as used herein shall mean a fixed amount of one million four hundred seventy thousand dollars (\$1,470,000) subject to adjustment for changes in the Work in an amount equal to five percent of the Cost of the Work attributable to such change. The Design Fee shall be Program Manager's compensation for performance of all design services under this Agreement.

4.3. The term "Fee" as used herein shall mean an amount equal to the sum of the ES Fee and the HS Fee. The ES Fee as used herein shall mean a fixed amount of four hundred twenty-seven thousand six hundred forty-five hundred dollars (\$427,645) subject to adjustment for changes in the Work in an amount equal to three percent of the Cost of the Work attributable to such change. The HS Fee as used herein shall mean a fixed amount of seven hundred eighty-five thousand six hundred thirty-three dollars (\$785,633) subject to adjustment for changes in the Work in an amount equal to three percent of the Cost of the Work attributable to such change. The Fee shall be Program Manger's profit for construction of the Work.

4.4 For purposes of Change Orders, the base hourly rates for Professional Services shall not exceed the following base hourly rates:

architects or engineers who are executive officers	\$170
architects or engineers, other than executive officers, who are officers	\$150
architects or engineers who are department managers	\$135
architects or engineers who are senior architects or engineers	\$120
architects or engineers who are project architects or engineers	\$100
other architects or engineers	\$ 85
program managers	\$140
construction managers	\$120
project managers	\$100
superintendents	\$ 75
purchasing managers	\$ 80
estimators	\$100
schedulers	\$ 90
project accountants	\$ 45
computer operators	\$ 70
administrative personnel	\$ 50

**ARTICLE 5
GUARANTEED MAXIMUM SUM**

5.1 The budget for the ES Project is fourteen million six hundred eighty-two thousand five hundred sixteen dollars (\$14,682,516) ("ES Budget") and the budget for the HS Project is twenty-six million nine hundred seventy-three thousand three hundred seventy-three dollars (\$26,973,373) ("HS Budget"). Program Manager agrees that the maximum sum that the Owner shall be obligated to pay to Program Manager hereunder is forty-one million six hundred fifty-five thousand eight hundred eighty nine dollars (\$41,655,889) as such sum shall be increased or decreased as set forth herein. The "Guaranteed Maximum Sum" is an amount equal to the sum of the ES Budget and the HS Budget, subject to adjustment as set forth herein. The Owner shall pay Program

Manager the Guaranteed Maximum Sum less any Savings as defined herein. If the sum of the final Cost of the Work for the ES Project, the final Cost of the Work for the HS Project, the Design Fee, and the Fee is less than the Guaranteed Maximum Sum, the difference shall be the amount of "Savings" that shall belong to Owner, it being specifically understood and agreed that no savings shall be calculated based on the separate ES Project or the HS Project or any component part of them. Program Manger shall be entitled to use budgeted funds from the ES Budget to pay for costs on the HS Project and to use budgeted funds from the HS Budget to pay for costs of the ES Project so long as Program Manager does not exceed the Guaranteed Maximum Sum as finally adjusted as set forth herein.

5.2 The Construction Cost does not include the cost of the land, rights-of-way or other costs, which are the responsibility of the Owner as provided in Article 3.

5.3 The Guaranteed Maximum Sum shall be adjusted by an amount (increase or decrease) equal to the sum of any change in the cost of providing Professional Services, Additional Services, Reimbursable Expenses, Cost of the Work, Design Fee and Fee pursuant to a change order or other entitlement to an equitable adjustment agreed upon by both Parties.

ARTICLE 6 PAYMENTS

Program Manger shall submit separate applications for payment for the ES Project and the HS Project.

6.1. APPLICATIONS FOR PAYMENT

6.1.1 The Program Manager shall submit to the Owner on or about the tenth day of each month an application for progress payment covering (a) all Cost of the Work incurred in performing the construction of the Work during the preceding month and (b) a portion of the Fee in proportion to the Work completed during the preceding month. Each application for payment shall be supported by a schedule of values for the ES Project and a schedule of values for the HS Project.

6.1.2 The Owner shall have the right to require, as a condition precedent to the obligation of the Owner to make any payment for and in respect to the Cost of the Work, satisfactory evidence, including without limitation copies of bills, invoices, receipts, releases or waivers of lien, reflecting the proper payment of all indebtedness incurred for labor, services, materials, equipment the cost of which has been included in any application for payment and paid by the Owner.

6.1.3 All applications for payment submitted under Subparagraph 6.1 shall be subject to the approval of the Owner. The Owner shall cause all such applications for payment which are reasonably in accordance with the Contract Documents to be approved by the Owner forthwith upon receipt thereof by the Owner, it being specifically understood

and agreed that the Owner shall not be entitled to withhold any approval of any application for payment submitted under Subparagraph 6.1 if such application for payment is reasonably in accordance with the Contract Documents and payment of the amount shown in such application for payment is due and owing pursuant to the terms and provisions of this Agreement.

6.2. PAYMENTS

6.2.1 Within thirty (30) days after the receipt of a properly completed and supported application for payment, the Owner shall pay the Program Manager ninety percent of all of Cost of the Work included in such application for payment and attributable to construction performed by each of the Contractors and one hundred percent of the amounts included in an application for payment attributable to (a) Professional Services, (b) Reimbursable Expenses, (c) Fee and (d) Cost of the Work attributable to materials and/or equipment furnished by each of the Material Suppliers; provided that after 50% of the Work is completed no further retainage shall be withheld.

6.2.2 If the Owner should in good faith dispute any amount included in any application for payment submitted under Paragraph 6.1, the Owner shall within ten days after receipt of such application for payment notify the Program Manager in writing of the general nature of such dispute and pay in accordance with the Contract Documents any amount included in such application for payment and not so disputed, it being specifically understood and agreed that no amounts included in any such application for payment shall be considered hereunder to be disputed in good faith by the Owner unless the Owner has so notified the Program Manager of such dispute as set forth hereinabove and has paid in accordance with the Contract Documents all amounts included in any such application for payment and not so disputed.

6.2.3 The Owner may withhold any payment to be made under Paragraph 6.1 to the Program Manager in whole or in part and/or may, because of subsequently discovered evidence or subsequent inspections, nullify the whole or any part of any payment previously made under Paragraph 6.1 to the Program Manager to the extent reasonably necessary to protect the Owner from loss because of:

- a. reasonable doubt that those portions of the Professional Services and the construction of the Work remaining to be performed can be performed and completed for the unpaid balance of the Guaranteed Maximum Sum; and/or
- b. reasonable doubt that the construction of the Work can be performed and completed on or before the Date for Substantial Completion.

The Owner specifically acknowledges and agrees that all actions which the Owner is entitled to take with respect to the withholding and/or nullifying of the whole or any part of any payment under Paragraph 6.1 shall be reasonable and that the Program Manager shall be notified promptly in writing of any and all grounds for the withholding and/or

nullifying of any such payment, it being specifically understood and agreed that when all or any part of any payment under Paragraphs 6.1 and/or shall be withheld as set forth hereinabove and the grounds for such withholding are removed, the Owner shall promptly pay all or such part of such payment so withheld because of such grounds.

6.2.4 Unless otherwise provided in the Contract Documents, progress payments shall be made on account of materials and/or equipment delivered and suitably stored at the site of the Project but not incorporated in the Work if and to the extent that such materials and equipment are reasonably expected to be incorporated in the construction of the Work within sixty days after payment by the Owner for such materials and/or equipment, and progress payments may, with the written approval in advance of the Owner, similarly be made for materials and/or equipment suitably stored at some other location than the site of the Project. Any obligation of the Owner to make any progress payment for materials and/or equipment not incorporated in the construction of the Work but suitably stored on the site of the Project shall be conditioned upon submission by the Program Manager to the Owner of bills of sale for such materials and/or equipment and such other information satisfactory to the Owner to establish that title to such materials and/or equipment will vest in the Owner upon payment by the Owner for such materials and/or equipment. Any obligation of the Owner to make any progress payment for materials and/or equipment not incorporated in the construction of the Work but stored off the site of the Project shall be conditioned upon submission by the Program Manager to the Owner of bills of sale for such materials and/or equipment and such other information satisfactory in the judgement of the Owner to establish that title to such materials and/or equipment shall vest in the Owner upon payment by Owner for such materials and/or equipment and that the interests of the Owner in such materials and/or equipment shall be protected, including without limitation information as to applicable insurance upon such materials and/or equipment and information as to arrangements for the transportation of such materials and/or equipment to the site of the Project.

6.3 FINAL PAYMENT

6.3.1 The Program Manager shall submit to the Owner an application for final payment for the ES Project for and with respect to all amounts unpaid for (a) all Cost of the Work (b) Design Fee and (c) Fee immediately after substantial completion of construction of the Work on the ES Project. Final payment for the outstanding balance unpaid by the Owner is due and payable by the Owner within forty-five days after substantial completion of construction of the Work on the ES Project in accordance with the Contract Documents unless the construction of the Work on the ES Project had not been fully completed within such forty-five day period in which case final payment for and in respect to the Work on the ES Project shall be due and payable by the Owner in two installments, the first installment being equal to such final payment less an amount equivalent to the value of any uncompleted Work on the ES Project and being due and payable by the Owner upon the expiration of such forty-five day period and the second installment being equal to the balance of such final payment and being due and payable

by the Owner promptly upon full completion of construction of the Work on the ES Project.

6.3.2 The Program Manager shall submit to the Owner an application for final payment for the HS Project for and with respect to all amounts unpaid for (a) all Cost of the Work (b) Design Fee and (c) Fee immediately after substantial completion of construction of the Work on the HS Project. Final payment for the outstanding balance unpaid by the Owner is due and payable by the Owner within forty-five days after substantial completion of construction of the Work on the HS Project in accordance with the Contract Documents unless the construction of the Work on the HS Project had not been fully completed within such forty-five day period in which case final payment for and in respect to the Work on the HS Project shall be due and payable by the Owner in two installments, the first installment being equal to such final payment less an amount equivalent to the value of any uncompleted Work on the HS Project and being due and payable by the Owner upon the expiration of such forty-five day period and the second installment being equal to the balance of such final payment and being due and payable by the Owner promptly upon full completion of construction of the Work on the HS Project.

6.4 PROJECT SUSPENSION OR ABANDONMENT

6.4.1 If the Project is suspended or abandoned in whole or in part prior to the Owner's acceptance of the Proposal for more than three months, the Program Manager shall be compensated for all services and Work performed on such suspended or abandoned part prior to receipt of written notice from the Owner of such suspension or abandonment, plus all Termination Expenses as defined in Paragraph 10.4. If the Project or part thereof is resumed after being suspended for more than three months, the Program Manager's compensation shall be equitably adjusted.

6.5 Payments due the Program Manager and unpaid under this Agreement shall bear interest from the date payment is due at the rate of one percent per month until paid.

ARTICLE 7 PROGRAM MANAGER'S ACCOUNTING RECORDS

7.1 Records of costs pertaining to services performed hereunder by the Program Manager and all parties, including without limitation the Construction Manager, retained hereunder as a consultant by, through and/or under the Program Manager and all Costs of the Work shall be kept on the basis of generally accepted accounting principles and shall be available to the Owner or the Owner's authorized representative at mutually convenient times.

ARTICLE 8
PERMITS AND REGULATIONS

Any building permits necessary for the construction of the Work and required to be obtained from any governmental authorities shall be secured by Program Manager. The cost of said permits are included in the Guaranteed Maximum Sum. It shall be the responsibility of Owner, to make certain that the Project is permitted to be used for the purpose intended in the zoning district in which said facility is situated.

Program Manager shall give all notices required by any governmental authorities in connection with the performance of the Work and shall comply with all laws, ordinances, rules, regulations and orders of any governmental authorities bearing on the performance of the Work. If Program Manager observes that any of the Contract Documents are at variance in any respect with any such laws, ordinances, rules, regulations or orders, Program Manager shall promptly notify Owner in writing and any necessary changes in the Work caused thereby shall be adjusted by appropriate modification. If Program Manager performs any Work knowing it to be contrary to such laws, ordinances, rules, regulations or orders and without notice to Owner, Program Manager shall assume full responsibility therefor and shall bear all costs attributable thereto.

ARTICLE 9
DISPUTES

9.1 It is the intent of the Parties that to the maximum extent possible, all claims, disputes and other matters in question ("Dispute") between the Parties arising out of or relating to this Agreement or the breach thereof, shall be settled by negotiation and mutual agreement between the Parties' representatives. If the Parties' representatives are not able to resolve a Dispute, the Dispute shall be referred to each Party's senior executive with responsibility over the Project for resolution. If the Parties' senior executives are unable to resolve the Dispute, each Party may exercise its rights and remedies under the law.

ARTICLE 10
TERMINATION OF AGREEMENT

10.1 This Agreement may be terminated by either Party upon seven days' written notice should the other Party fail substantially and in a material respect to perform in accordance with its terms through no fault of the Party initiating the termination.

10.2 This Agreement may be terminated by the Owner upon at least fourteen days' written notice to the Program Manager in the event that the Project is permanently abandoned. If the Project is abandoned by the Owner for more than sixty consecutive days, this Agreement may be terminated by the Program Manager upon at least seven

days written notice to the Owner. Owner's financing for the HS Project is conditioned on passage of a Special Purpose Local Option Sales Tax ("SPLOST") referendum. If the referendum fails, Owner may terminate the HS Project portion of this Agreement for convenience upon giving fourteen days written notice of termination to Program Manager. Program Manager shall not enter into any contracts with Subcontractors or Material Suppliers on the HS Project prior to passage of the SPLOST referendum without the prior written consent of Owner.

10.3 In the event of termination not the fault of the Program Manager and/or any parties, including without limitation the Construction Manager, retained hereunder by, through and/or under the Program Manager, the Program Manager shall be compensated for all Work and Services performed to the termination date together with Reimbursable Costs then due and all Termination Expenses.

10.4 Termination Expenses mean additional costs or expenses which are reasonably incurred by the Program Manager and which are directly attributable to the suspension, abandonment and/or termination of the Project by the Owner and for which the Program Manager is not otherwise compensated.

ARTICLE 11
MISCELLANEOUS PROVISIONS

11.1 This Agreement shall be governed by the internal laws, and not the laws relating to conflicts of law, of the State of Georgia.

11.2 As between the Parties to this Agreement, as to all acts or failures to act by either Party to this Agreement, any applicable statute of limitations shall commence to run, and any alleged cause of action shall be deemed to have accrued, in any and all events not later than the relevant Date of Substantial Completion of the Work, and as to any acts or failures to act occurring after the relevant Date of Substantial Completion of the Work, not later than the date of issuance of the final Project Certificate for Payment.

11.3 Any and all notices, instructions, requests, demands or other communications required or permitted to be given or made hereunder shall be sufficiently given if in writing and sent by certified mail, return receipt requested, postage prepaid as follows:

All communications in writing between Owner and Program Manager, including without limitation, applications for payment, shall be deemed to have been received by the addressee if delivered to the person for whom such communications are intended or if sent by certified mail, return receipt requested, or by telegram or by an express mail service addressed as follows:

If to Owner: The Paulding County School District
522 Hardee Street
Dallas, Georgia 30132
Attention: Ms. Trudy Sowar or designee

If to Program Manager: Facility Program Management, Inc.
2233 Lake Park Drive
Smyrna, Georgia 30080
Attention: Mr. Robert L. Moultrie

For the purpose of directions, the representative of Program Manager shall be Danny Jardine and the representative of Owner shall be Trudy Sowar or designee unless otherwise specified in writing.

11.4 No waiver, alteration or modification of any of the provisions of this Agreement shall be binding upon either the Owner or the Program Manager unless such waiver, alteration or modification shall be in writing and signed by both the Owner and the Program Manager.

11.5 The Program Manager agrees that all services performed hereunder shall be considered as being rendered to the Owner on a confidential basis, and the Program Manager agrees not to publish or otherwise divulge to any third party any information arising out of relating to such services without first having obtained the prior written approval of the Owner, provided however that no information relating to such services shall be considered to be confidential and the Program Manager shall not be required hereunder to refrain from publishing or divulging any information relating to such services if and only to the extent that (i) such information is or becomes in the public domain through no act of the Program Manager and/or any parties, including without limitation the Construction Manager, retained hereunder as a consultant by, through and/or under the Program Manager, (ii) such information is disclosed to the Program Manager by a party rightfully entitled to possess such information and not bound, directly or indirectly, by any agreement with the Owner not to use or disclose such information, (iii) the Program Manager is required to disclose such information by any governmental agency or court having competent jurisdiction to compel the disclosure of such information or (iv) the Program Manager, after seeking and obtaining, if possible, an appropriate protective order pertaining to such information, is reasonably required to disclose such information in order to defend itself against claims asserted in a court or arbitration proceeding.

ARTICLE 12
SUCCESSORS AND ASSIGNS

12.1 The Owner and the Program Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement, and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the Owner nor the Program Manager shall assign, sublet or transfer any interest in this Agreement without the written consent of the other.

ARTICLE 13
EXTENT OF AGREEMENT

13.1 This Agreement represents the entire and integrated agreement between the Owner and the Program Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and the Program Manager.

13.2 Nothing contained herein shall be deemed to give any third party any claim or right of action against the Owner or the Program Manager which does not otherwise exist without regard to this Agreement.

ARTICLE 14
INSURANCE AND INDEMNITY

14.1 The Program Manager shall maintain such insurance as will protect the Program Manager from claims set forth hereinbelow which may arise out of or result from the operations of the Program Manager under this Agreement, whether such operations be by the Program Manager, by anyone directly or indirectly employed by the Program Manager or by anyone for whose acts the Program Manager may be liable:

- a. claims under workers' compensation, disability benefit and other similar employee benefit acts;
- b. claims for damages because of bodily injury, occupational sickness, disease or death of any employee of the Program Manager;
- c. claims for damages because of bodily injury, sickness, disease or death of any person other than an employee of the Program Manager;
- d. claims for damages insured by usual personal injury liability coverage which are sustained (i) by any person as a result of an offense directly or indirectly related to the employment of such person by the Program Manager or (ii) by any other person;
- e. claims for damages because of injury to or destruction of tangible property; and

14.2 The insurance required to be maintained by the Program Manager under Paragraph 14.1 may be written under an umbrella policy or policies but shall not be written for less than the limits of liability specified hereinbelow or less than any limits required by law, whichever is greater. The Program Manager shall, during such time as the Program Manager is performing hereunder Professional Services, maintain workers' compensation insurance in an amount not less than required by statute for injuries, including accidental death to any one person, employer's liability insurance in an amount not less than required by statute for injuries, including accidental death to any one person in an amount not less than \$2,000,000, comprehensive general liability insurance and automobile liability insurance in an amount not less than \$2,000,000 for injuries, including accidental death, to any one person and in an amount not less than \$2,000,000 on account of any one occurrence and property damage liability insurance in an amount not less than \$2,000,000 on account of any one occurrence.

14.3 Certificates of insurance indicating that the Program Manager has obtained such coverages shall be filed with the Owner prior to the commencement by the Program Manager of the Professional Services. Such certificates shall be in form and substance reasonably satisfactory to the Owner, shall indicate that the Owner has been named an additional insured with respect to all such coverages, other than coverage relating to employer's liability, worker's compensation and professional errors and omissions insurance, and shall contain a provision that, such coverages shall not be materially changed or canceled until at least thirty days prior written notice has been given to the Owner.

14.4 Program Manager shall maintain fire and casualty insurance upon the Project in an amount equal to the full replacement value of the Project and subject to a deductible of not more than \$5,000, it being specifically understood and agreed that such insurance shall be and remain in effect during the period beginning upon the commencement of construction of the Work and ending upon the substantial completion of the construction of the Work, shall designate as co-insureds the Owner, the Program Manager, the Architect, the Construction Manager, the Contractors, the Material Suppliers and all parties of any tier retained by, through or under the Owner, the Program Manager, the Architect, the Construction Manager, the Contractors and/or the Material Suppliers in connection with the design or construction of the Project, shall insure against all perils and liabilities normally covered in the State of Georgia by an all risk form and shall contain an endorsement which bars all rights of subrogation against the parties insured by such insurance.

14.5 Notwithstanding anything to the contrary set forth herein, the Owner and the Program Manager waive all rights against each other and the Architect and the Construction Manager, and against the Contractors, consultants, Subcontractors, agents and employees of each of them, for damages to the extent covered by builder's risk insurance required hereunder to be maintained by the Owner, it being specifically understood and agreed that such builder's risk insurance shall be primary to, and not contributory with, any insurance maintained by the Program Manager as set forth in Paragraph 14.1 and 14.2. The Owner and the Program Manager shall each require

appropriate similar waivers from their Contractors, consultants, Subcontractors and agents.

14.6 A certificate of insurance evidencing that Program Manager has obtained the all risk insurance required hereunder to be maintained Program Manager shall be filed with Owner promptly after the execution of this Agreement, it being specifically understood and agreed that such certificate shall be in form and substance reasonably satisfactory to Owner, shall indicate that the Owner, the Program Manager, the Architect, the Contractors, the Material Suppliers and all parties of any tier retained by, through or under the Program Manager, the Architect, the Contractors and/or the Material Suppliers have been designated as co-insureds in respect to such insurance and shall contain a stipulation that coverages afforded under such insurance shall not be materially changed or cancelled until at least thirty days' prior written notice has been given to Owner. Program Manager shall, promptly upon the request of the Owner, submit to Owner a copy of the original policies, including any endorsements thereto, issued to Program Manager in respect to such insurance.

14.7 The Program Manager shall, subject to the waiver set forth in Paragraph 14.5, indemnify and hold harmless the Owner and the agents and employees of the Owner from and against all claims, damages, losses and expenses, including reasonable attorneys' fees, arising out of or resulting from any acts, errors and/or omissions negligently committed in the performance of this Agreement by the Program Manager, by anyone directly or indirectly employed by the Program Manager or by anyone for whose acts the Program Manager may be liable, provided however that, notwithstanding anything to the contrary set forth herein, the Program Manager shall not be required hereunder to indemnify and/or hold harmless the Owner or any agents or employees of the Owner from and against any claims, damages, losses and expenses, including reasonable attorneys' fees, arising out of or resulting from the sole negligence of the Owner and/or any agents not a Party to this Agreement or employees of the Owner. The indemnification obligations of the Program Manager under this Paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Program Manager under workers' compensation acts, disability benefit acts or other employee benefit acts. The Program Manager shall be responsible for the negligent acts, errors and/or omissions of all parties retained hereunder as a consultant by, through and/or under the Program Manager in connection with the performance of this Agreement.

ARTICLE 15 CLAIMS

15.1 If the Program Manager claims that any instructions provided by the Owner and/or any act, error or omission of the Owner or of any employee, agent or representative of the Owner involve extra cost and/or that the Guaranteed Maximum Sum should be increased as a result of the Program Manager having incurred expenses of reconstruction and/or costs to replace and/or repair damaged soils, materials and/or supplies, and/or that concealed, unknown and/or unforeseeable conditions as described in Subparagraph 16.1 have been encountered, the Program Manager shall give written

notice and explanation thereof within a reasonable time after the receipt of such instructions, the occurrence of such act, error or omission and/or the incurring of such expenses and/or costs and, provided that such claim is reasonable and supported by clear evidence, such claim shall be treated as a change in the Work for which the Guaranteed Maximum Sum and the Date for Substantial Completion shall be equitably adjusted. No such claim shall be valid unless so made.

ARTICLE 16
SITE CONDITIONS

16.1 Should concealed, unknown and/or unforeseeable conditions be encountered in the performance of the Work below the surface of the ground, in an existing structure be at variance with the conditions indicated by the Contract Documents, below the surface of the ground or in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement, be encountered, the Guaranteed Maximum Sum and the Date for Substantial Completion shall be equitably adjusted upon claim within a reasonable time after the first observance of such conditions

16.2 The Guaranteed Maximum Sum and the Date for Substantial Completion shall be equitably adjusted should the Program Manager incur costs of reconstruction and/or costs to replace and/or repair damaged soils, materials and/or supplies provided that the Program Manager is not compensated for such expenses and/or costs by insurance or otherwise and that such costs have resulted from causes other than the fault or neglect of the Program Manager or the Contractors. Such expenses and costs shall include costs incurred as a result of any act or neglect of the Owner or of any employee, agent not a Party to this Agreement or tenant of the Owner, any act or neglect of any separate contractor employed by the Owner and/or any casualty or so-called "war risk".

ARTICLE 17
CHANGES AND ALLOWANCES

The Owner, without invalidating this Agreement, may make changes by altering, adding to, or deducting from the Project, the Guaranteed Maximum Sum and the Date for Substantial Completion being adjusted accordingly. Unless otherwise specified, all changes in the Project shall be executed under the conditions of this Agreement and any claim for extensions of time caused thereby shall be equitably adjusted at the time of ordering such changes. Any change in the Guaranteed Maximum Sum resulting from a change in the Project shall be determined in one or more of the following ways:

- a. by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- b. by unit prices stated in the Contract Documents or subsequently agreed upon;
- a. by cost to be determined in a manner agreed upon by the Owner and the Program Manager and by an increase or decrease in the Guaranteed

- Maximum Sum based upon such cost; or
- b. by the method provided hereinbelow in Subparagraph 17.2.

17.2 If none of the first three methods set forth in Subparagraph 17.1 is agreed upon, the Program Manager, provided the Program Manager receives a written order signed by the Owner, shall promptly proceed to cause the change in the Work requested to be performed. The change in the Guaranteed Maximum Sum shall then be determined on the basis of the sum of any increase and/or decrease in the Professional Services Compensation, Reimbursable Expenses, Cost of the Work and Fee attributable to the change. In such case, the Program Manager shall keep and present to the Owner an itemized accounting, together with appropriate supporting data, of its costs attributable to the change. Pending final determination of the change in the Guaranteed Maximum Sum, payments on account of the change shall be made based upon an application for payment covering actual expenditures of the Program Manager attributable to the change. The amount of credit to be allowed by the Program Manager to Owner for any deletion or change which results in a net decrease in the Guaranteed Maximum Sum shall be determined on the basis of a reasonable estimate of the cost of the Work deleted or changed.

17.3 The Program Manager has included within the Guaranteed Maximum Sum all allowances stated in the Contract Documents. Items covered by said allowances shall be supplied for such amounts and by such parties as the Owner may direct, but the Program Manager shall not be required to retain any parties against whom the Program Manager makes a reasonable objection. Unless otherwise expressly provided, whenever the Cost of the Work attributable to items covered by an allowance differs from the specific allowance, the difference shall be treated as a change in the Work and the Guaranteed Maximum Sum shall be adjusted in respect to such difference, it being specifically understood and agreed that, if and to the extent that the supplying of any items covered by an allowance would cause the Guaranteed Maximum Sum to be increased, the Program Manager shall before supplying the items covered by such an allowance notify the Owner thereof in writing and the Owner shall promptly thereafter (a) approve such increase in the Guaranteed Maximum Sum or (b) cooperate with the Program Manager in order to vary the items covered by such an allowance so that such increase in the Guaranteed Maximum Sum can be eliminated or so that such increase in the Guaranteed Maximum Sum can be reduced and, as reduced, approved by the Owner.

ARTICLE 18 **SUBCONTRACTORS AND BIDDING**

18. All labor, services, materials and/or equipment furnished in connection with the construction of the Work shall be pursuant to an appropriate written agreement between the Program Manager and a Subcontractor and/or a Material Supplier retained hereunder by the Program Manager (a) which such agreement shall require such Subcontractor or such Material Supplier to execute the portion of the Work awarded to such Subcontractor or such Material Supplier on the basis of a fixed price, (b) which

such agreement shall contain provisions that require such Subcontractor or such Material Supplier specifically to comply with all of the terms and provisions of this Agreement insofar as such terms and provisions are applicable to the portion of the Work being executed by such Subcontractor or such Material Supplier, (c) which such agreement shall require such Subcontractor or such Material Supplier (i) to procure and maintain adequate worker's compensation, employer's liability, commercial general liability and automobile liability insurance coverage in respect to the execution of the portion of the Work awarded to such Subcontractor or such Material Supplier and (ii) to name the Owner, the Program Manager, the Architect and the Construction Manager as additional insureds with respect to such coverages, other than coverages relating to worker's compensation and employer's liability insurance, and (d) which such agreement shall require such Subcontractor or such Material Supplier to repair and make good any faults or defects that may appear in the portion of the Work awarded to such Subcontractor or such Material Supplier within one year after substantial completion of construction of the Work.

18.2 The Program Manager shall require each of the Subcontractors performing any portion of the construction of the Work having a value, in the aggregate, in excess of \$50,000 to provide to the Program Manager performance and labor and material payment bonds covering the Work to be performed by such Subcontractor and naming the Program Manager and the Owner as co-obligees.

18.3 The Program Manager assigns to the Owner the rights and interest of the Program Manager in and to all agreements entered into between the Program Manager and any of the Subcontractors and/or any of the Material Suppliers in connection with the Work, provided however that such assignment of any such agreement shall be deemed to be effective only if, as and when (a) the Owner shall have terminated the employment of the Program Manager in accordance with Paragraph 10.1 and (b) the Owner shall have notified the Program Manager and the Subcontractor or the Material Supplier retained under such agreement in writing that the Owner has accepted such assignment and has assumed the obligations under such agreement of the Program Manager, it being specifically understood and agreed that any such agreement entered into by the Program Manager in connection with the Work shall contain a provision pursuant to which such Subcontractor or such Material Supplier acknowledges and consents to such assignment.

18.4 If Owner refuses to accept any party proposed by the Program Manager as a Subcontractor and/or as a Material Supplier, the Program Manager shall submit an acceptable substitute, and the Guaranteed Maximum Sum shall be promptly increased by any additional costs occasioned by such substitution, provided however that no such increase in the Guaranteed Maximum Sum shall be allowed hereunder for any such substitution unless the Program Manager has acted properly and responsively in submitting to Owner for acceptance the name of such party. If Owner requires a change of any proposed party who has been previously accepted by Owner, the Guaranteed Maximum Sum shall be increased by any additional costs occasioned by such change.

This Agreement entered into as of the day and year first written above.

THE PAULDING COUNTY SCHOOL DISTRICT

By: Trudy Sowar

Printed Name: Trudy Sowar

Title: Superintendent

FACILITY PROGRAM MANAGEMENT INC.

By: Nixon E. Cawood

Printed Name: NIXON E. CAWOOD

Title: President & COO

**EXHIBIT A-1
DESCRIPTION OF THE ES PROJECT**

The specifications and drawings listed below are by reference annexed to and made a part of the Professional Services Agreement dated as of June 30, 2004 between The Paulding County School District and Facility Program Management, Inc.

Specifications:

Project Manual, Dugan Elementary School (New Elementary School #4), Dallas, Paulding County, Georgia, prepared by James W. Buckley & Associates, Inc.

Drawings:

DRAWING NO.	<u>DESCRIPTION</u>	ORIGINAL DATE OF DRAWINGS	REVISION DATE OF DRAWING
<u>ARCHITECTURAL</u>			
A1.0	Cover Sheet	5-7-04	
A3.0	Composite Floor Plan	5-7-04	
A3.1	Fire Protection Plan	5-7-04	
A3.2	Floor Plan - Admin. and Media Center	5-7-04	
A3.3	Floor Plan - Music Art, Commons, Cafetorium and Kitchen	5-7-04	
A3.4	Floor Plan - Multi Purpose & Covered Walk	5-7-04	
A3.5	Floor Plan - Classroom Wings 'D' and 'E'	5-7-04	
A3.6	Floor Plan - Classroom Wing 'F'	5-7-04	
A3.7	Reflective Ceiling Plan	5-7-04	
A4.0	Room Finishing, Schedule	5-7-04	
A4.1	Door Schedule	5-7-04	
A4.2	Door Details	5-7-04	
A4.3	Window Details	5-7-04	
A4.4	Window Details	5-7-04	
A5.0	Composite Elevations	5-7-04	
A5.1	Classroom Elevations	5-7-04	
A5.2	Classroom Wing and Courtyard	5-7-04	
A5.3	Connection Corridor Elevations	5-7-04	
A5.4	Entrance Canopy Elevations & Details	5-7-04	
A6.0	Building Cross Sections	5-7-04	
A6.1	Building Cross Sections	5-7-04	
A7.0	Wall Sections	5-7-04	
A7.1	Wall Sections	5-7-04	
A7.2	Wall Sections	5-7-04	
A7.3	Wall Sections	5-7-04	
A7.4	Wall Sections	5-7-04	

DRAWING NO.	DESCRIPTION	ORIGINAL DATE OF DRAWINGS	REVISED DATE OF DRAWING
A7.5	Wall Sections	5-7-04	
A7.8	Sections	5-7-04	
A7.9	Canopy Sections	5-7-04	
A7.10	Canopy Sections & Details	5-7-04	
A8.0	Roof Plan	5-7-04	
A8.1	Roof Details	5-7-04	
A8.2	Details	5-7-04	
A9.0	Enlarge Kitchen Floor Plan	5-7-04	
A9.1	Enlarge Media Center	5-7-04	
A9.3	Enlarge Music Art and Toilets Floor Plan	5-7-04	
A9.5	Enlarge Floor Plan - Cafetorium and Stage	5-7-04	
A10.0	Millwork Sections	5-7-04	
A10.1	Millwork Sections	5-7-04	
A10.2	Millwork Sections	5-7-04	
A11.0	Details	5-7-04	
A11.1	Details	5-7-04	
A11.2	Details	5-7-04	
A11.3	Details	5-7-04	
A11.4	Details	5-7-04	
A11.5	Details	5-7-04	
A11.6	Details	5-7-04	
A11.7	Column Details	5-7-04	
<u>STRUCTIURAL</u>			
S1.0		5-7-04	
S1.1	Foundation Plan Areas "A" & "B"	5-7-04	
S1.2	Foundation Plan Area "c"	5-7-04	
S1.3	Foundation Plan Areas "D" & "E"	5-7-04	
S1.4	Foundation Plan Area "F"	5-7-04	
S2.1	Roof Framing Plan Areas "A" & "B"	5-7-04	
S2.2	Connector Framing Plan and Sections	5-7-04	
S3.1	Column & Foundation Schedule	5-7-04	
S4.1	Typical Details & General Notes	5-7-04	
S4.2		5-7-04	
<u>PLUMBING</u>			
P1.1	Plumbing Plan Area "B"	4-1-04	
P1.2	Plumbing Plan Area "F" And "C"	4-1-04	
P1.3	Plumbing Plan Area "E" And "D"	4-1-04	
P2.1	Plumbing and Waste Plan	4-1-04	
P2.2	Plumbing Water Plan	4-1-04	
P3.1	Plumbing Notes, Legend, Detail and Fixture Schedule	4-1-04	
P3.2	Plumbing Details	4-1-04	
<u>MECHANICAL</u>			
M1.1	HVAC Plan Areas "A" & "B"	4-1-04	
M1.2	HVAC Plan Area "C"	4-1-04	
M1.3	HVAC Plan - Kitchen, Cafetorium and Commons - "B" Area	4-1-04	
M1.4	HVAC Plan Area Multi Purpose/Art/Music - "C" Area	4-1-04	

DRAWING NO.	<u>DESCRIPTION</u>	<u>ORIGINAL DATE OF DRAWINGS</u>	<u>REVISED DATE OF DRAWINGS</u>
M1.5	HVAC Plan - Area "E"	4-1-04	
M2.1	HVAC Details	4-1-04	
M2.2	HVAC Notes, Legend and Details	4-1-04	
M3.1	HVAC Schedules	4-1-04	
<u>ELECTRICAL</u>			
E1	Legend, Fixture Schedule, Notes and Details	5-7-04	
E2	Electrical Site Plan	5-7-04	
E3	Lighting and Power Plan - Administration	5-7-04	
E4	Power Plan - Media Center	5-7-04	
E5	Lighting Plan - Area "B"	5-7-04	
E6	Power Plan - Area "B"	5-7-04	
E7	Lighting Plan - Classroom Area "F" and Area "C"	5-7-04	
E8	Power Plan - Classroom Area "F" and Area "C"	5-7-04	
E9	Lighting Plan - Classroom Wings, "D" & "E"	5-7-04	
E10	Power Plan - Classroom Wings "D" & "E"	5-7-04	
E11	Power Plan - Kitchen	5-7-04	
E12	Fire Alarm/Intrusion Alarm Systems Plan	5-7-04	
E13	Television Distribution System Plan	5-7-04	
E14	Intercom System Plan	5-7-04	
E15	Data/Voice Networking	5-7-04	
E16	Power Riser Diagram	5-7-04	
E17	Panelboard Schedule	5-7-04	
E18	Panelboard Schedule	5-7-04	
E19	Details	5-7-04	

**EXHIBIT A-2
DESCRIPTION OF THE HS PROJECT**

The specifications and drawings listed below are by reference annexed to and made a part of the Professional Services Agreement dated as of June 30, 2004 between The Paulding County School District and Facility Program Management, Inc.

Specifications:

Project Outline Specifications, South Paulding High School,
New School #4, Paulding County, Georgia, State Project No. 03G-710-037.

Drawings:

<u>DRAWING No.</u>	<u>ORIGINAL DATE OF DRAWINGS</u>	<u>REVISED DATE OF DRAWINGS</u>
G-000	5-13-04	
G-001	5-13-04	
C-0	5-13-04	
C-10	5-13-04	
C-10-1	5-13-04	
C-10-2	5-13-04	
C-10-3	5-13-04	
C-10-4	5-13-04	
C-11	4-28-04	
C-12	4-28-04	
C-14	4-28-04	
C-14-1	4-28-04	
C-14-2	4-28-04	
C-14-3	4-28-04	
C-14-4	4-28-04	
C-15	4-28-04	
C-15-1	4-28-04	
C-15-2	4-28-04	
C-15-3	4-28-04	
C-15-4	4-28-04	
C-16	5-13-04	
C-16-1	5-13-04	
C-16-2	5-13-04	
C-16-3	5-13-04	
C-16-4	5-13-04	
C-33-1	4-28-04	
C-33-2	4-28-04	
C-33-3	4-28-04	
C-33-4	4-28-04	
C-5-1	5-13-04	

<u>DRAWING No.</u>	<u>ORIGINAL DATE OF DRAWINGS</u>	<u>REVISED DATE OF DRAWINGS</u>
C-5-2	5-13-04	
C-5-3	4-28-04	
C-5-4	4-28-04	
C-5-5	4-28-04	
U-001	5-13-04	
U-101	5-13-04	
U-102	5-13-04	
U-103	5-13-04	
U-104	5-13-04	
U-501	5-13-04	
S-001	5-13-04	
S-002	5-13-04	
S-003	5-13-04	
S-004	5-13-04	
S-005	5-13-04	
A-101	5-13-04	
A-102	5-13-04	
A-111	5-13-04	
A-112	5-13-04	
A-113	5-13-04	
A-114	5-13-04	
A-115	5-13-04	
A-116	5-13-04	
A-117	5-13-04	
A-118	5-13-04	
A-119	5-13-04	
A-120	5-13-04	
A-121	5-13-04	
A-122	5-13-04	
A-141	5-13-04	
A-151	5-13-04	
A-152	5-13-04	
A-161	5-13-04	
A-162	5-13-04	
A-163	5-13-04	
A-164	5-13-04	
A-165	5-13-04	
A-166	5-13-04	
A-167	5-13-04	
A-168	5-13-04	
A-169	5-13-04	
A-170	5-13-04	
A-171	5-13-04	
A-172	5-13-04	
A-201	5-13-04	
A-301	5-13-04	
A-302	5-13-04	
A-310	5-13-04	
A-601	5-13-04	
A-602	5-13-04	
A-603	5-13-04	
A-604	5-13-04	
M0.1	5-13-04	
M1.0	5-13-04	

<u>DRAWING No.</u>	<u>ORIGINAL DATE OF DRAWINGS</u>	<u>REVISED DATE OF DRAWINGS</u>
M1.1	5-13-04	
M1.2	5-13-04	
M4.0	5-13-04	
M4.1	5-13-04	
M4.2	5-13-04	
M7.0	5-13-04	
M7.1	5-13-04	
P-001	5-13-04	
P-101	5-13-04	
P-102	5-13-04	
P-103	5-13-04	
P-201	5-13-04	
P-202	5-13-04	
P-203	5-13-04	
P-501	5-13-04	
P-502	5-13-04	
F-001	5-13-04	
F-101	5-13-04	
F-102	5-13-04	
F-103	5-13-04	
F-501	5-13-04	
E-001	5-13-04	
E-600	5-13-04	
E-601	5-13-04	
E-602	5-13-04	
EE-101	5-13-04	
EE-102	5-13-04	
EL-111	5-13-04	
EL-112	5-13-04	
EL-113	5-13-04	
EL-114	5-13-04	
EL-115	5-13-04	
EL-116	5-13-04	
EL-117	5-13-04	
EL-118	5-13-04	
EL-119	5-13-04	
EL-120	5-13-04	
EL-121	5-13-04	
EL-122	5-13-04	

**EXHIBIT B
PROFESSIONAL SERVICES
DETAILED DESCRIPTION OF SERVICES**

Professional Services required to be performed by Program Manager are described in detail in the following paragraphs. It is understood and agreed that the ES Project involves site adaptation of an existing design and therefore the Planning and Design Phases of the Professional Services described in this Exhibit B will be performed only to the extent applicable for the ES Project. It is further understood and agreed that the Professional Services described in this Exhibit B will be performed in their entirety for the HS Project.

A. PHASE I PLANNING

1.2 PREDESIGN PHASE

1.2.1 Provide preliminary evaluation of the program and Project budget requirements, each in terms of the other. With the Architect's assistance, prepare preliminary estimates of Construction Cost for early schematic designs based on area, volume or other standards. Assist the Owner in achieving mutually agreed upon program and Project budget requirements and other design parameters. Provide cost evaluations of alternative materials and systems.

1.2.2 Review the Architect's designs during their development. Advise on site use and improvements, selection of materials, building systems and equipment and methods of Project delivery. Provide recommendations on relative feasibility of construction methods, availability of materials and labor, time requirements for procurement, installation and construction, and factors related to cost including, but not limited to, costs of alternative designs or materials, preliminary budgets and possible economies.

1.2.3 Provide for the Owner's review and acceptance, and periodically update, a Project Schedule that coordinates and integrates the Program Manager's services, the Architect's services, the Construction Manager's services and the Owner's responsibilities with anticipated construction schedules.

1.2.4 Provide an analysis of the types and quantities of labor required for the Project and review the availability of appropriate categories of labor required for critical Phases. Make recommendations for actions designed to minimize adverse effects of labor shortages. Identify or verify applicable requirements for equal employment opportunity programs for inclusion in the proposed Contract Documents.

1.2.5 Assist the Owner in selecting and retaining the professional services of surveyors, special consultants, geotechnical consultants, environmental consultants and testing laboratories. Coordinate their services.

1.2.6 Program Manager has examined the site of the Work and except as set forth in Articles 3 and 16 of the Agreement warrants and represents that it (1) has satisfied itself as to the conditions affecting the Professional Services and the Work and (2) will not be entitled to additional compensation due to failure to ascertain site conditions.

1.2.7 Program Manager's pre-design services are described in more detail in Attachment 1 hereto.

1.3 SCHEMATIC DESIGN AND DESIGN DEVELOPMENT PHASE

1.3.1 Cause the Architect, acting as the architect of record for the Project, to render any services that are reasonably required to be performed by the Architect pursuant to Article 1.

1.3.2 Cause the Architect to determine of the availability to the Project of sewer, water, telephone, gas and electricity.

1.3.3 Cause the Architect to review, analyze and prepare recommendations with respect to the use of materials and/or equipment to be incorporated into the Work and with respect to the obtaining of cost savings through the use of alternate materials and/or equipment for the Work and with respect to the evaluation of performance standards relating to the systems to be incorporated into the Work.

1.3.4 Cause the Architect to prepare all Preliminary Design Documents and Schematic Design Documents, Design Development Documents and all construction schedules and other documents reasonably necessary in connection with the phasing of the construction of the Work.

1.3.5 Arrange for the Architect's participation in meetings with the Owner relating to the performance by the Architect of Professional Services.

PHASE II IMPLEMENTATION

1.4 CONSTRUCTION DOCUMENTS DESIGN PHASE

1.4.1 Cause the Architect to prepare all final drawings, specifications and other Contract Documents reasonably required in order to enable the Work to be executed by the Contractors performing the construction of the Work and the Material Suppliers supplying materials and/or equipment for incorporation into the Work. The Architect shall prepare and submit, subject to approval by the Owner, a schedule with respect to the submission of each of the Contract Documents. Such schedule shall identify the Contract Documents necessary to elicit competitive bids with respect to the construction of each such aspect of the Work and to construct each such aspect of the Work, shall identify the various classifications of work to be contained within each aspect of the construction of the Work, shall identify all trades required in connection with the construction of each such aspect of the Work and shall note the date upon which the

Architect shall commence and complete the Contract Documents for each such aspect of the Work and the date upon which the Contract Documents for each such aspect of the Work shall be delivered. Following approval of such schedule by the Owner and consistent with the requirements of such schedule, the Architect shall prepare and deliver the Contract Documents required to construct the Work, it being specifically understood and agreed by the Architect that the Contract Documents shall be in sufficient detail so as to enable the Program Manager to obtain competitive bids for the construction of each aspect of the Work and to enable the Contractors to provide all labor, services, materials and equipment required in connection with the construction of each such aspect of the Work.

1.4.2 Cause the Architect to submit any drawings, specifications or other documents prepared hereunder by the Architect and/or any parties retained hereunder as a consultant by the Architect to any governmental authorities and/or agencies which have jurisdiction over the construction of the Work and which have the right to require such submission for approval of any feature of the Project and assist in obtaining any required approvals for the construction of the Work.

1.4.3 Prepare, subject to the Owner's approval, more detailed estimates of Project cost, developed by using estimating techniques which anticipate the various elements of the Project, and based on Schematic Design Documents prepared by the Architect. Update and refine this estimate periodically as the Architect prepares Design Development and Contract Documents.

1.4.4 Coordinate Contract Documents by consulting with the Owner and the Architect regarding Drawings and Specifications as they are being prepared, and recommending alternative solutions whenever design details affect construction feasibility, cost or schedules.

1.4.5 Provide recommendations and information to the Owner regarding the assignment of responsibilities for safety precautions and programs; temporary Project facilities; and equipment, materials and services for common use of Contractors. Verify that the requirements and assignment of responsibilities are included in the proposed Contract Documents.

1.4.6 With the assistance of the Construction Manager, develop a Project Construction Schedule providing for all major elements such as phasing of construction and times of commencement and completion required of each separate Contractor. Provide the Project Construction Schedule for each set of Bidding Documents.

1.5 PROCUREMENT PHASE

Program Manager shall perform the following Professional Services with respect to the procurement of the construction of the Work.

1.5.1 Manage the procurement of all aspects of the construction of the Work, it being specifically understood and agreed that the Program Manager shall, based upon the Contract Documents, take any and all actions required to be taken in order to permit the Program Manager to enter into agreements for and in respect to the performance by the Contractors of such construction and/or the supplying by the Material Suppliers of any materials and/or equipment for incorporation into such construction and it being further specifically understood and agreed that the Program Manager shall elicit bids for the furnishing of such construction, negotiate for the furnishing of such construction, prepare agreements to be entered into by the Program Manager for and in respect to the furnishing of such construction, inspect and otherwise monitor the furnishing of such construction and receive, review, verify, approve, accept and otherwise advise the Owner regarding invoices for and in respect to the furnishing of such construction.

1.5.2 Cause the Construction Manager to separate the Project into Contracts for various categories of Work and determine the method to be used for selecting Contractors and awarding Contracts such that the construction of the Work can be procured and executed in an efficient and cost effective manner. The Owner shall in a timely manner take all actions required to be taken by the Owner in respect to the procurement of such construction. If separate Contracts are to be awarded, cause the Construction Manager to review the drawings and specifications to provide that (1) the Work of the separate Contractors is coordinated, (2) all requirements for the Project have been assigned to the appropriate separate Contract, (3) the likelihood of jurisdictional disputes has been minimized, and (4) proper coordination has been provided for phased construction.

1.5.3 Cause the Construction Manager to establish pre-qualification criteria for bidders and develop bidders' interest in the Project, establish bidding schedules, conduct pre-bid conferences to familiarize bidders with the Contract Documents and management techniques and with any special systems, materials or methods, assist the Architect with the receipt of questions from Bidders, and with the issuance of Addenda.

1.5.4 Cause bidding documents with respect to each portion of the Work to be submitted to qualified parties for the purpose of obtaining competitive bids in connection with the execution of each such portion of the Work. As soon as practicable thereafter the Program Manager shall furnish to the Owner in writing the names of those parties from whom bids with respect to each such portion of the Work were elicited, the amounts of any bids received and the names of those parties proposed for each such portion of the Work. The Owner, within three business days after receiving the name of any party proposed for any portion of the Work, shall notify the Program Manager in writing if the Owner, after due investigation, has reasonable objection to and does not accept such party. Failure of the Owner to make objection to any party as set forth hereinabove shall constitute acceptance by the Owner of such party. The Program Manager shall not let any Contract in connection with the construction of any portion of the Work if the party proposed for such portion of the Work has been rejected by the Owner as set forth hereinabove, and the Program Manager shall not make any substitution for any party who has been accepted by the Owner unless the substitution

is reasonably acceptable to the Owner. The Program Manager shall not be required hereunder to Contract with any party against whom the Program Manager has a reasonable objection.

1.5.5 Cause the Construction Manager to conduct pre-award conferences with successful bidders, advise the Owner on the acceptability of Subcontractors and material suppliers proposed by Contractors.

1.6 CONSTRUCTION PHASE

Program Manager will perform the following Professional Services during construction of the Work.

1.6.1 Provide administrative, management and related services as required to coordinate Work of the Contractors with each other and with the activities and responsibilities of the Program Manager, the Owner, the Architect and the Construction Manager to complete the Project in accordance with the Owner's objectives for cost, time and quality. Provide sufficient organization, personnel and management to carry out the requirements of this Agreement.

1.6.2 Provide regular monitoring of costs and report actual costs for activities in progress and estimates for uncompleted tasks. Identify variances between actual and budgeted or estimated costs, and advise the Owner whenever projected costs exceed budgets or estimates.

1.6.3 Maintain cost accounting records on authorized Work performed under unit costs, additional Work performed on the basis of actual costs of labor and materials, or other Work requiring accounting records.

1.6.4 Recommend necessary or desirable changes to the Owner, review requests for changes, negotiate Contractors' proposals, process Change Orders for the Architect's, Construction Manager's and Program Manager's signatures and the Owner's approval.

1.6.5 Develop and implement procedures for the review and processing of Contractors' applications for progress and final payments. Based upon applications for payment, waivers, releases and other documents obtained from the Contractors and/or the Material Suppliers, advise the Owner if and to the extent that any of the Contractors and/or any of the Material Suppliers have reserved or retained any title interest in or to the Work and/or have reserved any claims against the Owner in respect to the construction of the Work.

1.6.6 Coordinate consultation among the Architect, Construction Manager and the Owner if any Contractor requests interpretations of the meaning and intent of the Contract Documents, and assist in the resolution of questions which may arise.

1.6.7 Upon observing or otherwise becoming aware of any fault or defect in the Work and/or any or nonconformance of the Work with the Contract Documents, prompt written notice thereof shall be given to the Owner.

1.6.8 Cause the Construction Manager to perform the following services relating to the construction of the Work:

- a. Administer the construction of the Work, it being specifically understood and agreed that the Construction Manager shall be obligated hereunder to take any actions required in respect to the approval, inspection and/or review of any labor, services, materials and/or equipment incorporated or to be incorporated into the construction of the Work and to give any directions and/or instructions relating to such construction to any of the Contractors performing the construction of the Work and/or any of the Material Suppliers supplying any materials and/or equipment for incorporation into the Work.
- b. Obtain building permits and other permits for required for construction of permanent improvements, excluding permits required to be obtained directly by the various Contractors, verify that the Owner has paid applicable fees and assessments and assist in obtaining approvals from authorities having jurisdiction over the Project.
- c. Schedule and conduct pre-construction, construction and progress meetings to discuss such matters as procedures, progress, problems and scheduling. Prepare and promptly distribute minutes.
- d. Consistent with the Project Construction Schedule issued with the Bidding Documents, and utilizing the Contractors' construction schedules provided by the separate Contractors, update the Project Construction Schedule incorporating the activities of Contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, Product Data and Samples, and delivery of products requiring long lead time procurement. Include the Owner's occupancy requirements showing portions of the Project having occupancy priority. Update and reissue the Project Construction Schedule as required to show current conditions and revisions required by actual experience.
- e. Review the safety programs developed by each of the Contractors as required by their Contract Documents and coordinate the safety programs for the Project.
- f. Obtain from the Contractors and review all Shop Drawings, Product Data, Samples and other submittals, coordinate them with information contained in related documents, transmit to the Architect those recommended for approval and establish and implement procedures for expediting the processing and approval of Shop Drawings, Product Data, Samples and other submittals.
- g. Maintain at the Project site, on a current basis: a record copy of all Contracts, Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked to record all changes made

during construction; Shop Drawings; Product Data; Samples; submittals; purchases; materials; equipment; applicable handbooks; maintenance and operating manuals and instructions; other related documents and revisions which arise out of the Contracts or Work. Maintain records, in duplicate, of principal building layout lines, elevations of the bottom of footings, floor levels and key site elevations certified by a qualified surveyor or professional engineer. Make all records available to the Owner and the Architect. At the completion of the Project, deliver all such records to the Owner.

- h. Arrange for delivery and storage, protection and security for Owner-purchased materials, systems and equipment which are a part of the Project, until such items are incorporated into the Project.
- i. Record the progress of the Project, including submitting written progress reports to the Owner including information on each Contractor and each Contractor's Work, as well as the entire Project, showing percentages of completion and the number and amounts of Change Orders. Cause the Construction Manager to keep a daily log containing a record of weather, Contractors' Work on the site, number of workers, Work accomplished, problems encountered, and other similar relevant data as the Owner may require and make the log available to the Owner.
- j. Each month during the progress of the performance of the construction of the Work, prepare an updated version of the Project Construction Schedule showing the progress of the performance of the construction of the Work in relation to the critical path for commencing and completing each significant aspect of the Work. The Owner shall be entitled to rely upon and shall utilize the Project Construction Schedule, as the Project Construction Schedule is revised from time to time, to determine the dates upon which to take actions the Owner must take in respect to the Work.
- k. Determine in general that the Work of each Contractor is being performed in accordance with the requirements of the Contract Documents and endeavor to guard the Owner against defects and deficiencies in the Work. Take necessary action when requirements of a Contract are not being fulfilled, and the nonperforming party will not take satisfactory corrective action. As appropriate, require special inspection or testing, of Work not in accordance with the provisions of the Contract Documents whether or not such Work be then fabricated, installed or completed. Reject Work which does not conform to the Requirements of the Contract Documents.
- l. Be responsible for the procurement and coordination of all testing, inspection and laboratory services for the Work required by any governmental authorities and/or agencies having jurisdiction over the Work and/or required to insure that the Work is being constructed without faults and/or defects and in accordance with the Contract Documents and arrange for such testing to be conducted as necessary to avoid any interference with the progress of the construction of Work. Program Manager shall retain all services or agencies required to perform such

testing and inspection, it being specifically understood and agreed that such testing and inspection shall be performed by services or agencies reasonably acceptable to the Owner. Any required certificates and/or reports pertaining to such testing or inspection shall be secured and promptly delivered to the Owner. Cause the Construction Manager to advise the Owner in advance of the dates, times and locations of all such testing or inspection so that the Owner may, if the Owner desires, observe such testing or inspection.

- m. Cause the Construction Manager to obtain Certificates of Insurance from the Contractors and forward them to the Owner.
- n. With the Owner's maintenance personnel observe the Contractors' checkout of utilities, operational systems and equipment for readiness and assist in their initial start-up and testing.
- o. When the Construction Manager considers each Contractor's Work or a designated portion thereof substantially complete, the Construction Manager shall prepare a list of incomplete or unsatisfactory items and a schedule for their completion. The Construction Manager shall coordinate the correction and completion of the Work.
- p. Evaluate the completion of the Work of the Contractors and make recommendations when Work is ready for final inspection. Assist in conducting final inspections. Secure and transmit to the Owner required guarantees, affidavits, releases, bonds and waivers. Deliver all keys, manuals, record drawings and maintenance stocks to the Owner.
- q. Promptly after the construction of the Work has been substantially completed, collect and deliver to the Owner and assign to the Owner all rights which the Program Manager has or may have in and to any specific written guarantees or warranties issued to the Program Manager in connection with the construction of the Work. No payment hereunder by the Owner and no provision in the Contract Documents shall relieve any of the Contractors and/or any of the Material Suppliers of responsibility for faulty or defective materials or workmanship incorporated into the Work. The Program Manager agrees that should any aspect of the Work be observed to be faulty or defective within one year after the date of substantial completion of construction of the Work, the Program Manager shall, without additional cost to the Owner, cause the Contractor and/or the Material Supplier that furnished such aspect of the Work to remedy such fault or defect.

1.6.9 Cause the Architect to perform the following services relating to the administration of the construction of the Work:

- a. Visit the site of the Project at intervals appropriate to the stage of construction or as otherwise agreed by the Owner and the Program Manager in writing in order to become generally familiar with the progress and quality of the construction of the Work and to determine in general if such construction is being performed in a manner indicating that such

the professional judgment of the Architect to permit such action, (ii) shall not be deemed to be conducted for the purpose of determining the accuracy and/or completeness of any dimensions or quantities reflected in such submittals or for substantiating any instructions relating to the installation or performance of any materials and/or equipment designed by any party other than the Architect, (iii) shall not, unless otherwise specifically stated by the Architect, constitute approval by the Architect of any construction means, methods, techniques, sequences or procedures, (iv) shall not constitute approval by the Architect of any safety precautions or procedures and (v) shall not indicate approval by the Architect of any assembly of which any item reflected in such submittal is a component and it being further specifically understood and agreed that, when professional certification as to the performance characteristics of any materials and/or equipment incorporated or to be incorporated into the Work is required to be furnished to the Program Manager and/or the Architect by the Contract Documents, the Program Manager and the Architect shall be entitled to rely upon such certification to establish that such materials and/or equipment will meet the design concept and performance criteria required by the Contract Documents.

- e. The Architect shall review and approve Change Orders relating to construction incorporated or to be incorporated into the Work.
- f. The Architect shall conduct inspections to determine the date or dates upon which construction incorporated into the Work is substantially complete and shall receive, review, comment upon and forward to the Owner and the Program Manager any written warranties and related documents in respect to such construction required by the Contract Documents to be furnished by any of the Contractors performing the construction of the Work and/or any of the Material Suppliers supplying materials and/or equipment for incorporation into the Work.
- g. The Architect shall review and make recommendations to the Program Manager in respect to any claims, disputes or other matters in question between the Owner and any of the Contractors performing the construction of the Work and/or any of the Material Suppliers supplying materials and/or equipment for incorporation into the Work.
- h. The Architect shall, promptly upon substantial completion of construction of the Work, prepare a set of reproducible record drawings showing significant changes in such construction based upon marked-up prints, drawings and other data furnished by all of the Contractors performing the construction of the Work and all of the Material Suppliers supplying materials and/or equipment for incorporation into the Work.
- i. The Architect shall, in addition to the services described hereinabove in items a through h, provide all other normal structural, mechanical, civil and electrical engineering services reasonably required to be performed during and as part of the Construction Phase of the Project.

construction when completed will be in accordance with the Contract Documents, it being specifically understood that the Architect shall at all times have access to such construction wherever such construction is being performed.

- b. Based upon observations of the Architect at the site of the Project and evaluations of applications for payment submitted by each of the Contractors and each of the Material Suppliers, the Architect shall review and certify the amounts due each of the Contractors and each of the Material Suppliers for and in respect to the construction of the Work, it being specifically understood that the certification by the Architect of any application for payment submitted by any of the Contractors or any of the Material Suppliers shall constitute a representation by the Architect to the Owner, based upon the observations of the Architect at the site of the Project as provided hereinabove and upon the data comprising any such application for payment, subject to the conformance of the construction included in any such application for payment to any subsequent testing or inspection required by law or the Contract Documents and subject to any specific qualifications expressed by the Architect, (i) that the construction included in such application for payment has progressed to the point indicated in such application for payment, (ii) that, to the best of the knowledge, information and belief of the Architect, the quantity and quality of the construction included in such application for payment is in accordance with the Contract Documents and (iii) that the Contractor and/or the Material Supplier submitting such application for payment is entitled to payment in the amount certified.
- c. The Architect shall have authority to reject any construction which has been incorporated into the Work and which does not conform to the Contract Documents, it being specifically understood and agreed that whenever the Architect considers it necessary or advisable for implementation of the intent of the Contract Documents, the Architect shall have authority to require additional inspection or testing of such construction in accordance with the Contract Documents, whether or not such construction is fabricated, installed or completed.
- d. The Architect shall review and approve or take other appropriate action upon submittals, including without limitation shop drawings, product data, samples and other documents, relating to materials and/or equipment incorporated or to be incorporated into the Work and made to the Program Manager and/or the Architect by any of the Contractors performing the construction of the Work and/or any of the Material Suppliers supplying materials and/or equipment for incorporation into the Work, provided however that such action by the Architect shall be for the exclusive and limited purpose of checking such submittals for conformance with the design concept and performance criteria expressed in the Contract Documents, it being specifically understood and agreed that such action by the Architect (i) shall be taken with reasonable promptness so as not to delay the progress of such construction, while allowing sufficient time in

the professional judgment of the Architect to permit such action, (ii) shall not be deemed to be conducted for the purpose of determining the accuracy and/or completeness of any dimensions or quantities reflected in such submittals or for substantiating any instructions relating to the installation or performance of any materials and/or equipment designed by any party other than the Architect, (iii) shall not, unless otherwise specifically stated by the Architect, constitute approval by the Architect of any construction means, methods, techniques, sequences or procedures, (iv) shall not constitute approval by the Architect of any safety precautions or procedures and (v) shall not indicate approval by the Architect of any assembly of which any item reflected in such submittal is a component and it being further specifically understood and agreed that, when professional certification as to the performance characteristics of any materials and/or equipment incorporated or to be incorporated into the Work is required to be furnished to the Program Manager and/or the Architect by the Contract Documents, the Program Manager and the Architect shall be entitled to rely upon such certification to establish that such materials and/or equipment will meet the design concept and performance criteria required by the Contract Documents.

- e. The Architect shall review and approve Change Orders relating to construction incorporated or to be incorporated into the Work.
- f. The Architect shall conduct inspections to determine the date or dates upon which construction incorporated into the Work is substantially complete and shall receive, review, comment upon and forward to the Owner and the Program Manager any written warranties and related documents in respect to such construction required by the Contract Documents to be furnished by any of the Contractors performing the construction of the Work and/or any of the Material Suppliers supplying materials and/or equipment for incorporation into the Work.
- g. The Architect shall review and make recommendations to the Program Manager in respect to any claims, disputes or other matters in question between the Owner and any of the Contractors performing the construction of the Work and/or any of the Material Suppliers supplying materials and/or equipment for incorporation into the Work.
- h. The Architect shall, promptly upon substantial completion of construction of the Work, prepare a set of reproducible record drawings showing significant changes in such construction based upon marked-up prints, drawings and other data furnished by all of the Contractors performing the construction of the Work and all of the Material Suppliers supplying materials and/or equipment for incorporation into the Work.
- i. The Architect shall, in addition to the services described hereinabove in items a through h, provide all other normal structural, mechanical, civil and electrical engineering services reasonably required to be performed during and as part of the Construction Phase of the Project.

1.6.10 The extent of the duties, responsibilities and limitations of authority of the Program Manager as a representative of the Owner during construction shall not be modified or extended without the written consent of the Owner and the Program Manager, which consent shall not be unreasonably withheld.

EXHIBIT C-1
ES PROJECT SCHEDULE

Expected dates for commencement and completion of each of the various stages of the design and construction of the Work:

See Dugan Elementary School Schedule, consisting of one page, with a data date of 6/1/04, annexed hereto and made a part hereof.

DUGAN ELEMENTARY SCHOOL

ID	Task Name	Duration	Start	Finish	2004	2005
		J F M A M J J A S O N D J F M A M J J A S O N D				
1	<u>SITE DESIGN</u>	74 days	2/2/04	5/13/04		
2	Preliminary Site Design	10 days	2/2/04	2/13/04	■	
3	Clearing & Grubbing/Design	10 days	2/16/04	2/27/04	■	
4	Clearing & Grubbing/Permit	31 days	4/1/04	5/13/04	□	
5	Land Disturbance Permit	31 days	4/1/04	5/13/04	□	
6	Acquire LDP Permit	1 day	5/13/04	5/13/04	◇	
7	<u>AVE DESIGN</u>	99 days	2/2/04	6/15/04	■	
8	Building Design	75 days	2/2/04	5/14/04	□	
9	Permit/Reviews (FM, DOE, Health)	19 days	5/6/04	6/1/04	□	
10	Building Permit	1 day	6/15/04	6/15/04	◇	
11	<u>GMP</u>	87 days	2/2/04	6/1/04	■	
12	Concept Estimate	15 days	2/2/04	2/20/04	■	
13	GMP Estimate	41 days	4/1/04	5/27/04	□	
14	GMP Submittal	29 days	4/22/04	6/1/04	□	
15	<u>CONSTRUCTION</u>	308 days	5/3/04	7/1/05	■	
16	Begin Clearing & Grubbing	26 days	5/3/04	6/5/04	□	
17	Begin Site Construction	1 day	6/6/04	6/6/04	◇	
18	Begin Building Construction	1 day	8/1/04	8/1/04	◇	
19	Construction Duration	241 days	8/1/04	7/1/05	□	
20	Substantial Completion	1 day	7/1/05	7/1/05	○	
21	Owner Occupy	1 day	7/1/05	7/1/05	◆	

Start Date Mon 2/2/04
 Finish Date Fri 7/1/05
 Data Date 6/1/04

Page 1

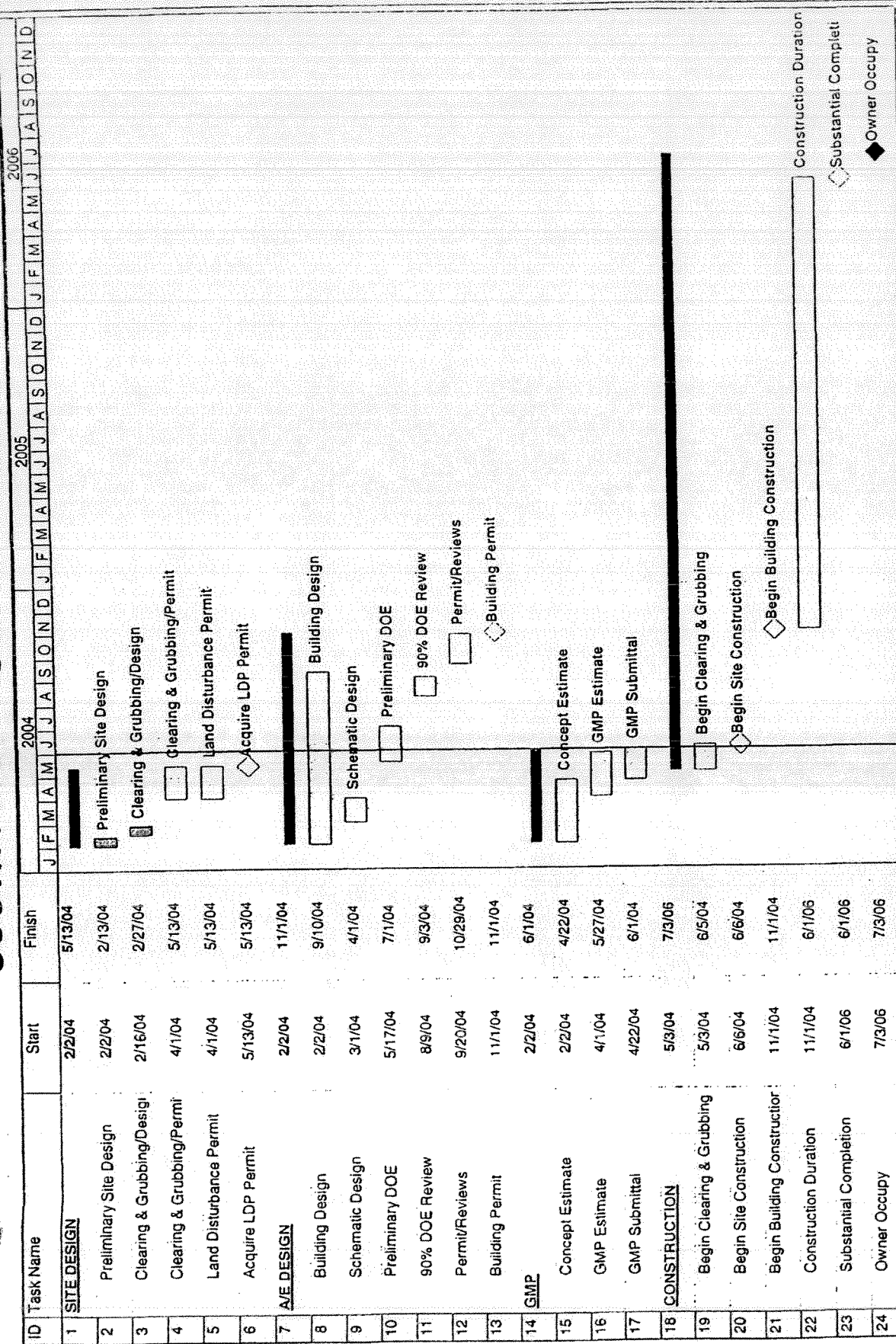
FACILITY PROGRAM MANAGEMENT, INC / RK REDDING CONSTRUCTION

**EXHIBIT C-2
HS PROJECT SCHEDULE**

Expected dates for commencement and completion of each of the various stages of the design and construction of the Work:

See South Paulding High School Schedule, consisting of one page, with a data date of 6/1/04, annexed hereto and made a part hereof.

SOUTH PAULDING HIGH SCHOOL



Start Date Mon 2/2/04
 Finish Date Fri 7/3/06
 Data Date 6/1/04

FACILITY PROGRAM MANAGEMENT, INC / RK REDDING CONSTRUCTION



Memo

*Co 16
Project
04135016*

To: Jim Ashworth Jack Godfrey
 Danny Jardine CK Morehead
 Ennis Parker

From: Patti Puckett

Date: June 4, 2004

Re: Paulding County
 Agreement Between Owner and Architect

Attached please find an executed copy of the above-referenced agreement.