

**AGREEMENT BETWEEN OWNER AND ALLEN & HOSHALL
FOR PROFESSIONAL SERVICES BAZINSKI PARK ROAD**

THIS IS AN AGREEMENT made as of _____, 2020 between THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF VICKSBURG, MISSISSIPPI ("Owner") and ALLEN & HOSHALL, ENGINEERS ARCHITECTS PLANNERS ("Allen & Hoshall").

Owner intends to construct road improvements and road extension to the south of the existing Chick-fil-A on Halls Ferry Road to Bazinski Park. This road will provide a 1" asphalt surface over on the existing pavement, and new pavement section to Bazinski Park Road. This project will meet requirements for Fire Truck access and all emergency vehicles. We will also enlarge the radii to the entrance of Fire Station 8 to allow for fire truck access to the new road.

Owner and Allen & Hoshall, in consideration of their mutual covenants herein, agree as follows:

SECTION 1 - BASIC SERVICES OF ALLEN & HOSHALL

1.1 General. Allen & Hoshall will provide survey, design, bidding phase, and construction administration for the project.

1.2 Bidding Phase. After authorization to proceed with the Bidding Phase, Allen & Hoshall will:

(a) Assist Owner in advertising for and obtaining quotes for contract for construction, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-bid conferences and receive deposits for Bidding Documents.

(b) Issue addenda as appropriate to interpret, clarify or expand the Bidding Documents.

(c) Attend the bid opening, prepare bid tabulation sheets and assist Owner in evaluating bids or proposals and in assembling and awarding contract for construction.

1.3 Construction Phase. During the Construction Phase:

(a) General Administration: Allen & Hoshall will consult with and advise Owner during the course of the construction phase, estimated to be 120 days. The extent and limitations of the duties, responsibilities and authority of Allen & Hoshall as assigned in the General Conditions of the Construction Contract (the "General Conditions") will not be modified, except to the extent Allen & Hoshall may otherwise agree in writing. All of Owner's instructions to Contractor will be issued through Allen & Hoshall. Allen & Hoshall will not supervise, direct or have control over Contractor's work nor shall Allen & Hoshall have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor, for safety precautions and programs incident to the work of Contractor or for any failure of Contractor to comply with laws, rules, regulations, ordinances, codes or orders.

(b) Visits to Site and Observation of Construction. Allen & Hoshall will make visits to the site as appropriate to the various stages of construction as Allen & Hoshall deems necessary in order to observe as an experienced and qualified design professional the progress and quality of Contractor's work. The purpose of these visits to the site will be to enable Allen & Hoshall to better carry out its duties and responsibilities during the Construction Phase, and, in addition, provide for Owner a greater degree of confidence that the completed work of Contractor will conform generally to the Contract Documents.

(c) Defective Work. During such visits and on the basis of such observations, Allen & Hoshall may disapprove of or reject Contractor's work while it is in progress if Allen & Hoshall believes that such work will

not produce a completed Project that conforms generally to the Contract Documents. Allen & Hoshall can neither guarantee the performance of the construction contract by Contractor nor assume responsibility for Contractor's failure to furnish and perform the work in accordance with the Contract Documents.

(d) Interpretations, Clarifications. Allen & Hoshall will issue necessary interpretations and clarifications of the Contract Documents and prepare work directive changes and change orders as required.

(e) Shop Drawings. Allen & Hoshall will review and approve (or take other appropriate action in respect of) Shop Drawings, samples and other data which Contractor is required to submit, but only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto.

(f) Substitutes. Allen & Hoshall will evaluate and determine the acceptability of substitute materials and equipment proposed by Contractor.

(g) Inspections and Tests. Allen & Hoshall will have authority, as Owner's representative, to require special inspection or testing of the work, and will receive and review all certificate of inspections, testings and approvals required by laws, rules, regulations, ordinances, codes, orders or the Contract Documents.

(h) Disputes Between Owner and Contractor. Allen & Hoshall will act as initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work thereunder and will make decisions on all claims of Owner and Contractor relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work. Allen & Hoshall will have no liability by reason of any such interpretation or decision.

(i) Applications for Payment. Based on on-site observations, and on review of applications for payment and the accompanying data and schedules, Allen & Hoshall will determine the amounts owing to Contractor and recommend in writing payments to Contractor in such amounts. Recommendations of payment will constitute a representation to Owner, based on observations and review, that the work has progressed to the point indicated, and to the best of Allen & Hoshall's knowledge and belief, the quality of the work is generally in accordance with the Contract Documents.

(j) Inspections. Allen & Hoshall will conduct an inspection to determine if the work is substantially complete and a final inspection to determine if the completed work is acceptable so that Allen & Hoshall may recommend, in writing, final payment to Contractor and may give written notice to Owner and the Contractor that the work is acceptable.

(k) Limitation of Responsibilities. Allen & Hoshall will not be responsible for the acts or omissions of any Contractor, or of any subcontractor or supplier, or any of their agents or employees or any other persons (except Allen & Hoshall's own employees and agents) at the site.

SECTION 2 - ADDITIONAL SERVICES OF ALLEN & HOSHALL

2.1 Services Requiring Authorization in Advance. If authorized in writing by Owner, Allen & Hoshall will furnish or obtain from others Additional Services of the following types which are not included as part of the Basic Services and will be paid for by Owner as indicated in Section 5:

• Preparation of applications and supporting documents for grants, loans or advances in connection with the Project

• Preparation or review of environmental assessments and impact statements

- . Services resulting from significant changes in the general scope, extent or character of the Project or its design including, but not limited to, changes in size, complexity, Owner's schedule, character of construction or method of financing

- . Providing renderings or models for Owner's use

- . Preparing documents for alternate bids requested by Owner for Contractor's work which is not executed or documents for out-of-sequence work

- . Services during out-of-town travel required of Engineer other than visits to the site or Owner's office as required by Section 1

- . Assistance in connection with bid protests and rebidding contracts

- . Property surveys, hydrographic surveys, or related engineering services needed for design purposes or to enable Contractor to proceed with his work

- . Preparation of operating, maintenance and staffing manuals

- . Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration or other legal or administrative proceeding involving the Project

- . Services in connection with work directive changes and change orders to reflect changes requested by Owner if the resulting change in compensation for Basic Services is not commensurate with the additional services rendered

- . Additional services during construction made necessary by work damaged by fire or other cause, a significant amount of defective or neglected work of Contractor, and default by Contractor

- . Services in connection with any partial utilization of the Project by Owner prior to Substantial Completion

- . Evaluating an unreasonable or extensive number of claims submitted by Contractor in connection with the work

- . Time spent by Allen & Hoshall in performing his contractual responsibilities after the stated completion date of the construction contract. Compensation for this time shall be paid by the Owner to the Allen & Hoshall. The Owner may recover his cost from the Contractor through liquidated damages.

- . Notwithstanding the above, the Owner will not be required to pay for any additional service that is occasioned by some fault, negligent act or omission of Allen & Hoshall.

SECTION 3 - OWNER'S RESPONSIBILITIES

3.1 Owner will do the following, at Owner's expense and in a timely manner, so as to permit Allen & Hoshall's services to proceed expeditiously:

- . Provide criteria and information as to Owner's requirements, including design objectives, space, capacity and performance requirements, expandability, and any budgetary limitations

- . Furnish copies of design and construction standards which Owner will require to be included in the Contract Documents.

SECTION 4 - PERIODS OF SERVICE

4.1 The provisions of this Section 4 and the various rates of compensation for Allen & Hoshall's services provided for elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion of the Construction Phase.

4.2 Allen & Hoshall's Services will be performed on an ongoing basis and the services will be performed concurrently with the ongoing work of the Contractor.

4.3 After authorization from Owner, Allen & Hoshall shall proceed with the survey and design and shall deliver Contract Documents within 60 days.

4.2 After authorization from Owner, Allen & Hoshall shall proceed with the Final Design Phase and shall deliver Contract Documents in a period mutually acceptable to both the owner and the engineer. The actual time period will be determined once the scope of the Final Design Phase is determined.

4.4 The Construction Phase will commence with the execution of the construction contract for the work of the Project and will terminate upon written recommendation by Allen & Hoshall of final payment to the Contractor.

SECTION 5 - PAYMENTS TO ALLEN & HOSHALL

5.1 For Basic Design Services. (a) Owner shall pay Allen & Hoshall a lump sum fee of \$14,000.00 for basic design services performed during the project as specified in Section 1.

Owner shall pay Allen & Hoshall a fee mutually acceptable to both the owner and the engineer for all Services related to design of items identified during the project as specified in Section 1.

(b) The Owner shall pay Allen & Hoshall a lump sum fee of \$4,000.00 for bidding services performed during the project as specified under Section 1.

(c) The Owner shall pay Allen & Hoshall a lump sum fee of \$4,000.00 for construction administration services performed during the project as specified under Section 1.

5.2 For Additional Services. Owner will pay Allen & Hoshall for Additional Services rendered by Allen & Hoshall's principals and employees engaged directly on the Project, on the basis of Allen & Hoshall's hourly rates reflected in Exhibit 1.

5.3 For Reimbursable Expenses. Owner will pay Allen & Hoshall the actual costs of all Reimbursable Expenses incurred in connection with all Basic and Additional Services as indicated.

5.4 Times of Payments. Allen & Hoshall will submit monthly statements for Basic and Additional Services rendered and for Reimbursable Expenses incurred. The statements will be based upon Allen & Hoshall's estimate of the proportion of the Allen & Hoshall's total services actually completed at the time of billing and will be payable by Owner as specified in Paragraph 5.5, upon receipt.

5.5 Other Provisions Concerning Payments. (a) If Owner fails to make any payment due Allen & Hoshall for services and expenses within forty five days after receipt of Allen & Hoshall's statement therefor, Allen & Hoshall may, after giving seven days' written notice to Owner, suspend services under this Agreement until all amounts due for services, expenses and charges have been paid; and (b) if payment is not received by the Engineer within the said 45-day period, the Owner shall pay to the Engineer a late charge of one percent (1%) per month calculated on the unpaid amount from the date of the invoice until paid.

5.6 Definitions. "Reimbursable Expenses" means the actual expenses incurred by Allen & Hoshall or Allen & Hoshall's independent professional associates, such as expenses for transportation and subsistence incidental thereto; toll telephone calls and telegrams; reproduction of reports, drawings, specifications, bidding documents, and similar Project-related items.

5.7 Contract Provisions. Design and construction administration fees will not exceed 12 percent of the construction cost.

SECTION 6 - GENERAL

6.1 Schedule of Work. Allen & Hoshall shall establish a schedule of work and a time to complete the work required by this contract. Allen & Hoshall shall submit that schedule to the Owner within seven (7) days after the execution of this contract. Allen & Hoshall will make monthly status reports regarding the progress of the work, the statements to reflect how the progress compares with the schedule of work established as provided above and to give the estimate of the completion of the work each month with the status report. If in the reasonable opinion of the Owner the work is not progressing to completion in accordance with the schedule in such a way that the Owner determines that the work cannot be reasonably completed when required by the Owner, the Owner can terminate the contract. In the event of such termination because of cause, Allen & Hoshall will be entitled only to the fees until the date of said termination to which Allen & Hoshall would normally be entitled under the contract, which fees will be reduced by any loss, damage, claim, demand against the Owner resulting from Allen & Hoshall's failure to complete and in addition thereto Allen & Hoshall will be responsible for any reasonable expenses the Owner incurs in having said work completed to the extent that the expense of completing the work exceeds the fees to which the Owner would have been required to pay Allen & Hoshall if Allen & Hoshall had completely performed the work and been paid in accordance with the fee schedule hereunder.

6.2 Equal Opportunity. During the performance of this contract, Allen & Hoshall agrees as follows:

(a) Allen & Hoshall will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. Allen & Hoshall will continue to take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. Allen & Hoshall agrees to post in conspicuous place, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(b) Allen & Hoshall will, in all solicitations or advertisements for employees placed by or on behalf of Allen & Hoshall, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(c) Allen & Hoshall will comply the rules and regulations and relevant orders of the Secretary of Labor.

6.3 Access to Records. Allen & Hoshall will maintain books, records, documents and other evidence directly pertinent to the performance of the work under this agreement in accordance with generally accepted accounting principles and practices consistently applied. Duly authorized representatives of the Owner shall have access to such books, records, documents and other evidence for the purpose of inspection, audit and copying. Allen & Hoshall will provide proper facilities for such access and inspection.

6.4 Grants. In the event Allen & Hoshall's work hereunder will in any way be involved in the grant award through the U.S. Government or the State of Mississippi, or any agency thereof, Allen & Hoshall agrees to comply with all rules and regulations applicable to said grant without further amendment required in this contract.

6.5 The name and license number of the professional engineer who will bear the primary responsibility for the professional engineering work on this project is Chawanpon Bunniran, MS License No. 21164

SECTION 7 - MISCELLANEOUS

7.1 Termination. The obligation to provide further services under this Agreement may be terminated by either party upon sixty (60) days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of any termination because of Allen & Hoshall's default in the performance of its obligations hereunder including, but not limited to, its failure to timely and properly perform its obligations, and Owner incurs costs in excess of the remaining funds to which Allen & Hoshall would have been entitled had it completed its services without any default, Allen & Hoshall agrees to indemnify and hold the Owner harmless from such loss and to pay the Owner the amount of that excess cost and for any other reasonable costs incurred by the Owner for Allen & Hoshall's failure to perform or default. Allen & Hoshall shall maintain errors and omissions insurance in an amount not less than one million dollars.

7.2 Reuse of Documents. Allen & Hoshall will retain an ownership and property interest in all documents including Drawings and Specifications prepared or furnished by it pursuant to this Agreement, whether or not the Project is completed. Such documents are not intended or represented to be suitable for reuse by Owner or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by Allen & Hoshall for the specific purpose intended will be at Owner's sole risk and without liability or legal exposure on the part of Allen & Hoshall. Any such verification or adaptation by Allen & Hoshall will entitle him to further compensation at rates to be agreed upon with Owner.

7.3 Severability. If any provision of this Agreement or any part thereof will be determined to be invalid or unenforceable for any reason, the remaining provisions of this Agreement will be enforceable and enforced as if such invalid or unenforceable provision or part had not been included.

7.4 Controlling Law. This agreement is to be governed by the law of the State of Mississippi.

7.5 Successors. This Agreement shall be binding upon and inure to the benefit of Owner and Allen & Hoshall and their respective successors and permitted assigns. Neither party will have the right to assign any right, duty or interest hereunder without the written consent of the other party. Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than Owner and Allen & Hoshall, and their respective successors and permitted assigns.

7.6 Entire Agreement; Amendment. This Agreement constitutes the entire agreement between Owner and Allen & Hoshall and supersedes all prior written or oral understandings. This Agreement may be amended, supplemented, or modified only by a written instrument signed by both parties.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.

THE BOARD OF MAYOR AND ALDERMEN OF
THE CITY OF VICKSBURG, MISSISSIPPI

ALLEN & HOSHALL

By: _____

By: Chauapan Burman

Title: _____

Title: Principal

License: 21164

Address for giving Notices:

Address for giving Notices:

City of Vicksburg
PO Box 150
Vicksburg MS 39181-0150

Allen & Hoshall
1675 Lakeland Drive Ste 207
Jackson, MS 39216

EXHIBIT 1
ALLEN & HOSHALL
HOURLY RATES

<u>DESCRIPTION</u>	<u>HOURLY RATES</u>
Principal	\$185.00
Project Manager	\$155.00
GIS Specialist	\$110.00
GIS Technician	\$70.00
Civil Engineer	\$135.00
Civil Engineer Level 2	\$90.00
Civil Engineer Level 1	\$80.00
Engineer Trainee	\$50.00
Data Processor	\$60.00
Survey Crew	\$200.00
Resident Inspector	\$78.00