

City of Mansfield

AGENDA

City Council Meeting Agenda
September 14, 2020 – 7:00 p.m.
Mansfield Community House
Page 1 of 1

- I. Call to Order:
- II. Invocation & Pledge of Allegiance:
- III. Agenda Adoption:
- IV. Citizen's Comments on Agenda: *Limited to Agenda Items only for 5 minutes each*
- V. Approval of Minutes:
 - a. August 10, 2020 Public Hearing Minutes 5/0
 - b. August 10, 2020 Council Meeting Minutes 5/0
 - c. August 14, 2020 Special Called Meeting Minutes 5/0
- VI. Old Business:
 - a. Bureau of Veritas Agreement 5/0
- VII. New Business:
 - a. Planning Commission Appointments
 - b. Comprehensive Plan Stakeholders
 - c. Planning Committee
 - d. Award contractor to install concrete pads in the City Center 5/0
 - e. Certificates of Deposits 5/0
 - f. Hwy 213 Pump Station Repair 5/0
 - g. Ricky Bruce update and payment 5/0
- VIII. Citizen's Comments on Non-Agenda Items: *Limited to 5 minutes each*
- IX. Adjournment:

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MINUTES

City Council Meeting Minutes
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PRESENT: GW Davis Jr, Blair Northen, Bryan Hale, Austin Mitchell, Marty Smallwood, Helen Robertson

OTHERS PRESENT: Miranda Hale, Kory Wilson, John Napoli, Walter Tuggle, Elsie Smith, Jeff & Deb Riley

The meeting was called to order at 7:00PM. Mr. Walter Tuggle gave the invocation and the honorable Mayor GW Davis Jr lead in the pledge.

The honorable Mayor Pro Tempore made the motion to adopt the agenda and Councilman Austin Mitchell gave the second. All Council present voted 'aye'. The motion passed 5/0.

There were no citizen's comments on agenda items.

Councilman Austin Mitchell made the motion to approve the August 10, 2020 Public Hearing Minutes, the August 10, 2020 Council Meeting Minutes and the August 14, 2020 Special Called Meeting Minutes. Councilman Blair Northen gave the second. All Council present voted 'aye'. The motion passed 5/0.

Councilman Blair Northen made the motion to approve the Bureau of Veritas agreement that was tabled from the July council meeting and Councilman Bryan Hale gave the second. There was a brief discussion to bring Councilman Marty Smallwood up to date on the agreement, as well as Councilman Bryan Hale verifying that the city was only approving the Tier 1: Basic Service-as needed/as requested agreement. The honorable Mayor GW Davis Jr explained that he felt this agreement is needed to keep employees from having to call residents. All Council present voted 'aye'. The motion passed 5/0.

In considering the needed Planning Commission Appointments, the honorable Mayor GW Davis Jr stated that he had someone in-mind who has served on the commission before, who was a real estate attorney, who has lived in Mansfield their whole life and has also agreed to serve but is his sister, Cathy Craver. He said he wants to be completely transparent and understands if the council does not think it is a good idea. The mayor also shared that he has reached out to Mr. and Mrs. Purvis (3583 Hwy 213) who has not lived in Mansfield long but is also in real estate, however, he has not heard back from them yet. If he does not hear from the Purvis', he will move down the list of suggestions he received from the council during the work session. No council objected to Mrs. Craver serving on the Planning Commission.

The honorable Mayor announced the preparation of a letter that will be mailed to all the churches in Mansfield, the elementary school, to Beaver Manufacturing, all the business' as well as the residents, asking for a Comprehensive Plan Stakeholder representative from each entity. The best plans are the ones that have the most community participation, Mayor Davis said.

The honorable Mayor's recommendations for the Comprehensive Plan Steering Committee, based on the letter received from Mr. John Devine of the Northeast Regional Commission are as follows; Mayor Davis, Ms. Hyde as City Clerk, and Mr. Blair Northen as Mayor Pro Tempore. He is going to reach out to Mr. Wayne Blackwell, who has property interests and has served as a previous mayor and he is planning on reaching out to the new business owners of LeMont Vintage Home, Mr. Brenden Frazier or his sister Miss Breanna Hankins. The Mayor indicated that if any of them tell him, no, he has a couple of other people in mind as well.

The honorable Mayor Pro Tempore Blair Northen made the motion to award the concrete pad for the benches in City Center to East Metro Concrete, who submitted the low bid and has said they would include the pads for the trash receptacles for the same bid. Councilman Austin Mitchell gave the second. All Council present voted 'aye'. The motion passed 5/0.

The honorable Mayor Pro Tempore Blair Northen made the motion to re-invest the Certificate of Deposit that matured from Ameris Bank and to add additional monies from the Electric Fund to make the investment an even \$500,000 into Newton Federal Bank. Councilman Marty Smallwood gave the second. The investment would be two 1-year term CODs i/a/o \$250,000 each at an interest rate of 1%. All council present voted 'aye'. The motion passed 5/0.

The honorable Mayor GW Davis Jr recommended the purchase for the pump station repair from the sole-vendor, Smith & Loveless Georgia Inc. Councilman Bryan Hale made the motion to approve the purchase of a new 15HP ODP Motor and other repair parts i/a/o \$5,042.75 for the Hwy 213 pump station repair from Smith & Loveless Georgia, Inc. Councilman Austin Mitchell gave the second. Councilman Blair Northen also shared that Smith & Loveless is the sole vendor for this proprietary equipment and has asked Tim Thompson with JET Utilities, who maintains the pump stations to request a sole-source letter from them. He also suggested that the city consider having the old motor rebuilt for emergency purposes since each of the city's pump stations have 2 pumps and are all aging. All Council voted 'aye'. The motion passed 5/0.

The update on the City Center project from Ricky Bruce to the City Clerk is that he is only lacking the road crossing stripping across Hwy 11 and the installation of 2 signs that pertain to the crossing. The city has the \$38,000 retainer, the \$2,200 conduit invoice run for the WiFi, the \$1,777.50 and \$3,405 invoices both for unforeseen repairs to Pine St. The honorable Mayor GW Davis Jr recommended to council to pay the retainer and the conduit invoice. Councilman Blair Northen made the motion as recommended by the Mayor and Councilman Austin Mitchell gave the second. All Council present voted 'aye'. The motion passed 5/0.


Additionally, the honorable Mayor Pro Tempore Blair Northen made the motion to approve the payment of the last 2 invoices for unforeseen repairs to Pine St when the stripping and signs have been completed and approved by the mayor. Councilman Austin Mitchell gave the second. All Council present voted 'aye'. The motion passed 5/0.

Mr. Jefferson Riley and previous mayor, 401 Sewell Rd, asked when will the \$8,800 earmarked for a playground begin. The honorable Mayor GW Davis Jr replied that the city is concentrating on getting the City Center project finished before taking on an additional project.

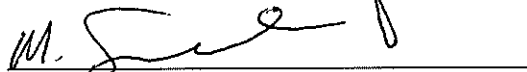
City Clerk, Jeana Hyde, shared the request from a city employee to include a maternity leave policy in the employee handbook and was instructed to reach out to Georgia Municipal Association for guidelines for the council to consider.

Councilman Austin Mitchell made the motion to adjourn the meeting and Councilman Marty Smallwood gave the second. All Council present voted 'aye'. The motion passed 5/0.


The meeting adjourned at 8:12PM.




GW Davis Jr, Mayor



Marty Smallwood, Post 1



Helen Robertson, Post 2



Blair Northen, Post 3, Mayor Pro Tempore

Austin Mitchell, Post 4

Bryan Hale, Post 5



STANDARD PROFESSIONAL SERVICES AGREEMENT

This STANDARD PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this 14 day of SEPTEMBER, 2020, (the "Effective Date") by and between Bureau Veritas North America, Inc., (herein called "BVNA"), and the City of Mansfield (herein called "Client").

RECITALS

WHEREAS, the Client desires that BVNA provide independent professional services for Client under the terms of a Standard Professional Services Agreement;

WHEREAS, BVNA represents that it is a professional independent consulting firm and is willing and able to perform such services upon terms and conditions hereinafter set forth;

WHEREAS, all services will be conducted in accordance with these terms and conditions and the agreed upon Scope of Services and Fee Schedule the forms of which are attached as Attachments "A" and "B" respectively.

NOW, THEREFORE, in consideration of the foregoing and of the benefits to each of the parties accruing, the parties hereto do mutually agree as follows:

AGREEMENT

1. **Scope of Services.** During the term of this Agreement, Client may call upon BVNA to perform specific work from the scope to be defined per project in accordance with the agreed upon fees. Individual projects may be delineated via a specific proposal in accordance with the terms and conditions set forth in this Agreement. BVNA agrees to furnish services in conformity with the terms hereof and the following documents which are incorporated by reference and made a part hereof. No subsequent amendment to this Agreement shall be binding on either BVNA or Client unless reduced to writing and signed by an authorized Representative of BVNA and Client. Any pre-printed forms including, but not limited to: purchase orders, shipping instructions, or sales acknowledgment forms of either party containing terms or conditions at variance with or in addition to those set forth herein shall not in any event be deemed to modify or vary the terms of this Standard Professional Services Agreement.

2. **Term.** This Agreement shall be binding on all parties for a period of one (1) year beginning 9/14, 2020, and ending 9/14, 2021 (the "Term"). Upon the mutual agreement of the parties, this Agreement may be renewed for additional terms of single or multiple years. Any extension period will be included in the definition of "Terms". If renewed for multiple years, this Agreement is subject to the multi-year provisions of O.C.G.A. § 36-60-13 and therefore, will automatically renew each annual period unless either party terminates the Agreement consistent with the provisions of this contract.

3. **Compensation.** Client shall pay, and BVNA shall accept in full consideration for the performance of the Services, the sum of the reimbursable costs submitted per proposal in accordance with the agreed upon fee schedule per project.

4. **Terms of Payment.** BVNA shall invoice Client and Client shall pay to BVNA for its consulting services as follows:

- (a) Fees and all other charges will be billed to Client monthly.
- (b) Fees shall be paid by Client within thirty (30) days of being invoiced by BVNA. If the invoice is not paid within such period, Client shall be liable to BVNA for a late charge accruing from the date of such invoice to the date of payment at the lower of eighteen (18) percent per annum or the maximum rate allowed by law.

- (c) If Client fails to pay any invoice fully within thirty (30) days after invoice date, BVNA may, at any time, and without waiving any other rights or claims against Client and without thereby incurring any liability to Client, elect to terminate performance of services immediately following written notice from BVNA to Client. Notwithstanding any such termination of services, Client shall pay BVNA for all services rendered by BVNA up to the date of termination of services plus all interest, termination costs and expenses incurred by BVNA. Client shall reimburse BVNA for all costs and expenses of collection, including reasonable attorney's fees.

5. **Responsibilities of Client.** Client shall, at such times as may be reasonably required by BVNA for the successful and continuous prosecution of the services set forth in Attachment A (referred to as "Services"), do the following:

- (a) Where the performance of the Services require BVNA's presence on the Client's premises, provide adequate space on or in the immediate vicinity of where the Services are to be performed ("Site") to accommodate BVNA's needs;
- (b) Provide and maintain suitable access to the Site for BVNA's personnel, equipment and materials;
- (c) Supply permits and licenses required to be taken out in Client's name which are necessary to the completion of the Services;
- (d) Appoint an individual hereafter referred to as "Client's Project Manager" who shall be authorized to act on behalf of Client and with whom BVNA may consult at reasonable times.

6. **Ownership of Documents.** Upon payment of applicable compensation, all plans, studies, documents and other writings prepared by BVNA, its officers, Employees, agents and subcontractors in the course of implementing this Agreement shall become the property of Client. The Client acknowledges that all intellectual property rights related to the performance of the Agreement, including but not limited to the names, service marks, trademarks, inventions, logos and copyrights of BVNA and its affiliates, (collectively, the "Rights") are and shall remain the sole property of BVNA or its affiliates and shall not be used by the Client, except solely to the extent that the Client obtains the prior written approval of BVNA and then only in the manner prescribed by BVNA. If BVNA terminates the Agreement in accordance with the provisions of Article 19 below, any such license granted by BVNA to the Client shall automatically terminate.

7. **Use of Data or Services.** BVNA shall not be responsible for any loss, liability, damage, expense or cost arising from any use of BVNA's analyses, reports, certifications, advice or reliance upon BVNA's services, which is contrary to, or inconsistent with, or beyond the provisions and purposes set forth therein or included in these Terms and Conditions. Only the Client is allowed to rely on the work product of BVNA. If the Client re-uses or modifies the services, analyses, reports or certifications without BVNA's written permission, then Client agrees to defend and indemnify BVNA from any claims or actions that are brought and any costs, damages, expenses or liabilities, including reasonable attorneys' fees, arising out of or related to such reliance or such re-use or modification. The Client recognizes that data, documents, or other information recorded on or transmitted as electronic media are subject to undetectable alteration, either intentional or unintentional due to, among other causes, transmission, conversion, media degradation, software error, or human alteration. Accordingly, any electronic documents provided to the Client are for informational purposes only and are not intended as an end-product. BVNA makes no warranties, either expressed or implied, regarding the fitness or suitability of the electronic documents. Accordingly, the Client agrees to waive any and all claims against BVNA and BVNA's Consultants relating in any way to the unauthorized use, reuse or alteration of the electronic documents.

8. **Relationship of Parties.** BVNA is an independent contractor, and nothing contained herein shall be construed as constituting any other relationship with Client, nor shall it be construed as creating any relationship whatsoever between Client and BVNA's employees. BVNA shall not be entitled, under this contract or otherwise, to any of the benefits under any employee benefit plan which Client or its affiliates or subsidiaries presently has in effect or may put into effect; nor will BVNA be considered an employee for purposes of any tax or contribution levied by any federal, state or local government. BVNA has sole authority and responsibility to hire, fire and otherwise control its employees, and neither BVNA nor any of its employees are employees of Client. BVNA agrees to comply with laws, rules, regulations and ordinances applicable to it as an employer.

9. **Standard of Care.** BVNA REPRESENTS THAT THE SERVICES, FINDINGS, RECOMMENDATIONS AND/OR ADVICE PROVIDED TO CLIENT WILL BE PREPARED, PERFORMED, AND RENDERED IN ACCORDANCE WITH PROCEDURES, PROTOCOLS AND PRACTICES ORDINARILY EXERCISED BY PROFESSIONALS IN BVNA'S PROFESSION FOR USE IN SIMILAR ASSIGNMENTS, AND PREPARED UNDER SIMILAR CONDITIONS AT THE SAME TIME AND LOCALITY CLIENT ACKNOWLEDGES AND AGREES THAT BVNA HAS MADE NO OTHER IMPLIED OR EXPRESSED REPRESENTATION, WARRANTY OR CONDITION WITH RESPECT TO THE SERVICES, FINDINGS, RECOMMENDATIONS OR ADVICE TO BE PROVIDED BY BVNA PURSUANT TO THIS AGREEMENT.

10. **Indemnity.** Subject to the Limitation of Liability included in this Agreement, BVNA shall indemnify and hold harmless Client from and against losses, liabilities, and reasonable costs and expenses (for property damage and bodily injury, including reasonable attorney's fees), to the extent directly and proximately arising from BVNA's negligent performance of services or material breach under this Agreement. BVNA shall not be obligated to defend the Client until there is an actual finding of negligence or if the parties agree otherwise. Client shall defend, indemnify and hold harmless BVNA, its employees, directors, officers, and agents, from and against claims, losses, liabilities, and reasonable costs and expenses (including reasonable attorney's fees) that are: i) related to, or caused by the negligence or willful misconduct of Client, its employees, or agents; ii) related to this Agreement or the work to be performed by BVNA for which BVNA is not expressly responsible; or iii) the expressed responsibility of the Client under this Agreement.

11. **Limitation of Liability.** To the fullest extent permitted by law and notwithstanding anything else in this Agreement to the contrary, the total aggregate liability of BVNA and its affiliates and subcontractors and their employees, officers, directors and agents (collectively referred to in this paragraph as "BVNA") for all claims for negligent professional acts, or errors or omissions arising out of this Agreement for services is limited to \$50,000 or, if greater, the compensation received by BVNA under this Agreement. To the fullest extent permitted by law and notwithstanding anything else in this Agreement to the contrary, Client is not waiving and does not waive its sovereign immunity protections.

12. **Consequential and Punitive Damages.** Neither BVNA nor Client shall be liable under any circumstances for loss of profits, loss of product, consequential damages of any kind, indirect damages of any kind or special damages of any kind to the other party, or to any third party. No punitive or exemplary damages of any kind shall be recoverable against either party under any circumstances.

13. **Insurance.** BVNA, at BVNA's own cost and expense, shall procure and maintain, for the duration of the contract, the following insurance Policies with insurers possessing a Best's rating of no less than A: VII:

- a) **Workers' Compensation Coverage:** BVNA shall maintain Workers' Compensation and Employer's Liability Insurance for its employees in accordance with the laws of the state where the services are being performed. Any notice of cancellation or non-renewal of all Workers' Compensation policies will be sent to the Client in accordance with the policy provisions.
- b) **General Liability Coverage:** BVNA shall maintain Commercial General Liability insurance in an amount not less than one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage.
- c) **Automobile Liability Coverage:** BVNA shall maintain Automobile Liability insurance covering bodily injury and property damage for activities of BVNA employee arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired and non-owned vehicles, in an amount not less than one million dollars (\$1,000,000) combined single limit for each occurrence.
- d) **Professional Liability Coverage:** BVNA shall maintain Professional Errors and Omissions Liability for protection against claims alleging negligent acts, errors or omissions which may arise from BVNA's services under this Agreement. The amount of this insurance shall not be less than one million dollars (\$1,000,000) on a claims-made annual aggregate basis.

BVNA shall name Client as additional insured and other parties that it deems appropriate to be additionally insured under BVNA's Commercial General Liability policy and Automobile Liability policy, if requested to do so by Client.

The Client, on its own behalf and on the behalf of any others that are named as additionally insured at Client's request, agrees that providing such insurance or the additional insured endorsement shall in no way be construed as an assumption by BVNA of any liability for the negligence or willful misconduct or any wrongful behavior on the part of Client or others that are named additionally insured. Client shall name BVNA as additional insured on its Builder's Risk policy.

14. **Cause of Action.** If Client makes a claim against BVNA, for any alleged error, omission, or other act arising out of the performance of its professional services and to the extent the Client fails to prove such claim, then the Client shall pay all costs including attorney's fees incurred by BVNA in defending the claim.

15. **Compliance with Laws.** BVNA shall use the standard of care in its profession to comply with all applicable Federal, State and local laws, codes, ordinance and regulations in effect as of the date services provided.

16. **Resolution of Disputes.** All claims, disputes, controversies or matters in question arising out of, or relating to, this Agreement or any breach thereof, including but not limited to disputes arising out of alleged design defects, breaches of contract, errors, omissions, or acts of professional negligence, except those disputes which arise out of or are related to collection matters or fees alone under this Agreement, (collectively "Disputes") shall be submitted to non-binding mediation before and as a condition precedent to the initiation of legal proceedings. In no event shall any Disputes be subject to binding arbitration. Upon written request by either party to this Agreement for mediation of any dispute, Client and BVNA shall select a neutral mediator by mutual agreement. Such selection shall be made within ten (10) calendar days of the date of receipt by the other party of the written request for mediation. In the event of failure to reach such agreement or in any instance when the selected mediator is unable or unwilling to serve and a replacement mediator cannot be agreed upon by Client and BVNA within ten (10) calendar days, a mediator shall be chosen as specified in the Mediation Rules of the American Arbitration Association then in effect, or any other appropriate rules upon which the parties may agree.

17. **Choice of Forum.** This Agreement shall be governed by and construed in accordance with the laws of the state where the BVNA office originating the work or proposal is located.

18. **Releases.** All lien releases will be limited to payment issues; no additional terms and conditions may be added to a release of lien.

19. **Terminations.**

- a) **Termination for Convenience.** Either party may terminate the Services under this Agreement other than by reason of default, at any time, by sending written notice thereof thirty (30) days in advance of the termination date. Upon such termination, Client shall pay BVNA for the Services performed to and including the date of termination. In addition, Client shall pay BVNA for any materials, supplies or equipment which are in transit or under commitment; all other fees and expenses BVNA incurs because of the termination; and a termination charge which, in the absence of agreement to the contrary, shall be ten percent (10%) of the amount which would be required to compensate BVNA for completing the Services.
- b) **Termination for Cause.** BVNA may suspend or terminate the Services under this Agreement for cause upon thirty (30) days written notice to Client in the event Client fails to substantially perform Client's obligations under this Agreement. Such failure by Client shall include, but is not limited to, the failure to make payments to BVNA in accordance with the requirements of this Agreement. Client may suspend or terminate the Services under this Agreement for cause upon thirty (30) days written notice to BVNA in the event BVNA fails to substantially perform BVNA's obligations under this Agreement. Such failure shall include, but is not limited to, BVNA's failure to perform the Services under this Agreement in accordance with the standard of care set forth in this Agreement. Upon receipt of written notice, the receiving party shall have thirty (30) days to cure the failure. In the event either party terminates this Agreement for cause and it is later determined or agreed that the non-terminating party had not failed to substantially perform its obligations under the Agreement, the termination shall be treated as a termination for convenience.
- c) **Termination by Client.** If the Client terminates this agreement without cause, the Client shall have two options concerning work and assignments that are in-progress. The Client shall select from: (1) Allowing

BVNA the opportunity to complete all work and assignments in-progress that may be completed by another provider after the effective date of BVNA's termination; or (2) Providing BVNA with a complete and unconditional release from any and all liability and indemnification requirements regarding all work and assignments that remain in-progress upon BVNA's termination effective date. In the event that Client is silent on termination or does not make an affirmative selection, option (2) providing BVNA with a complete and unconditional release from any and all liability and indemnification requirements will be the default and active selection.

d) **Termination by BVNA.** If BVNA terminates without cause, BVNA will provide client with a thirty (30) day transition period from the notice of termination to allow Client sufficient time to secure a new Service Provider. During this transition period, BVNA and Client's responsibilities under this agreement will remain in full force and effect. At the end of the thirty (30) day transition period BVNA will cease all activities. In the event Client shall request BVNA to continue to provide any Services beyond the expiration of the transition period, including any extensions, then BVNA and Client may negotiate in good faith terms of any such extension, including the pricing of Services

20. **Force Majeure.** A delay in, or failure of, performance of either party hereto shall not constitute a default hereunder or give rise to any claim for damage if and to the extent such delay or failure is caused by (an) occurrence(s) beyond the reasonable control of the party affected, including, but not limited to, act(s) of God, or the public enemy, expropriation or confiscation of facilities or compliance with any order or request of governmental authority or person(s) purporting to act therefore affecting to a degree not presently existing the supply, availability, or use of engineering personnel or equipment, act(s) of war, public disorder(s), insurrection(s), rebellion(s), or sabotage, flood(s), riot(s), strike(s), pandemics or any cause(s), whether or not of the class or kind of those specifically named above, not within the reasonable control of the party affected, and which, by the exercise of reasonable diligence, said party is unable to prevent. A party who is prevented from performing for any reason shall immediately notify the other party in writing of the cause of such non-performance and the anticipated extent of the delay.

21. **Audit.** Client shall have the right during the course of the Work and until one (1) year after acceptance of the Services to audit BVNA's books and records relating to the costs to be reimbursed pursuant to Article 3. BVNA shall, during the progress of the Services, provide Client with evidence of payment for and records of receipt of materials, supplies and equipment as they become available and are presented for payment, together with such other data as Client may reasonably request.

22. **Remedies.** The obligations and remedies provided herein are exclusive and in lieu of any other rights or remedies available at law or in equity.

23. **Waiver.** No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.

24. **Written Notification.** Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent prepaid, first class mail. Any such notice, demand, etc., shall be addressed to the other party at the address set forth herein below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

If to Client:	City of Mansfield PO Box 35 3146 Hwy 11 S. Mansfield, GA 30055-0035
If to BVNA	Bureau Veritas North America, Inc. Attn: Contract Processing 1000 Jupiter Road, Suite 800 Plano Texas 75074

With cc to	Bureau Veritas North America, Inc. Attention: Legal Department 1601 Sawgrass Corporate Parkway, Suite 400 Fort Lauderdale FL 33323

25. **Confidential Information.** Neither party shall disclose information identified as confidential to anyone except those individuals who need such information to perform the Services; nor should either party use such confidential information, except in connection with the Work, the performance of the Services or as authorized by the other party in writing. Regardless of the term of this Agreement, each party shall be bound by this obligation until such time as the confidential information shall become part of the public domain. Confidential information shall not include information which is either: (i) known to the public; (ii) was known to the receiving party prior to its disclosure; or (iii) received in good faith from a third party. If either party is required to produce information by valid subpoena or Court order, parties agree to first provide prompt notice to other party in order to allow the party to seek a protective order or other appropriate remedy. This shall not prevent either party from disclosing information to the extent reasonably necessary to substantiate a claim or defense in any adjudicatory proceeding. Client agrees that BVNA shall be permitted to use Client's name and logos in BVNA's marketing materials unless advised or prohibited against it by the Client in writing. The technical and pricing information contained in any proposal or other documents submitted to Client by BVNA is to be considered confidential and proprietary and shall not be released or disclosed to a third party without BVNA's written consent.

26. **Miscellaneous.** This Agreement constitutes the entire agreement between the parties and shall supersede other agreements and representations made prior to the date hereof. No amendments to this contract or changes in the Scope of the Services shall be valid unless made in writing and signed by the parties. Pre-printed terms and conditions (including, but not limited to, waivers of rights and remedies, and variations from any of the warranty, guarantee, standard of care, indemnity, and liability provisions) contained in purchase orders, work orders, invoices or other documents issued by Client with respect to any Services shall have no force or effect and shall be superseded by the terms and conditions herein. The captions in this Agreement are for purposes of convenience only and form no part of this Agreement. In no event shall they be deemed to limit or modify the text of this Agreement. The invalidity or unenforceability of any portion(s) or provision(s) of this Agreement shall in no way affect the validity or enforceability of any other portion(s) or provision(s) hereof. Any invalid or unenforceable provision(s) shall be severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain a particular portion(s) or provision(s) held to be invalid or unenforceable. In the event the terms and conditions of this Standard Professional Services Agreement conflict with the terms and conditions of any other agreement, this Agreement shall govern and control over any such conflicts.

27. **Non-Solicitation / Hiring of Employees.**

- a) To promote an optimum working relationship, the Client agrees in good faith that for the term of this Agreement and one year after the completion or termination of the Agreement not to directly or indirectly employ or otherwise engage any current employee of BVNA or any former employee of BVNA who left the employ of BVNA within the six (6) months prior to and including the date of the execution of the Agreement. The loss of any such employee would involve considerable financial loss of an amount that could not be readily established by BVNA. Therefore, in the event that Client should breach this provision and without limiting any other remedy that may be available to BVNA, the Client shall pay to BVNA a sum equal to the employee's current annual salary plus twelve (12) additional months of the employee's current annual salary for training of a new employee as liquidated damages.
- b) BVNA's employees shall not be retained as expert witnesses except by separate written agreement. Client agrees to pay BVNA's legal expenses, administrative costs and fees pursuant to BVNA's then current fee schedule for BVNA to respond to any subpoena.

28. **Prevailing Wage.** This Agreement and any proposals hereunder specifically exclude compliance with any project labor agreement or other union or apprenticeship requirements. In addition, unless explicitly agreed to in the

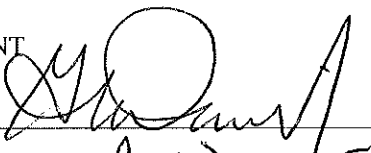

body of the proposal, this Agreement and any proposals hereunder specifically exclude compliance with any State or Federal prevailing wage law or associated requirements, including the Davis Bacon Act. Due to the professional nature of its services, BVNA is generally exempt from the Davis Bacon Act and other prevailing wage schemes. It is agreed that no applicable prevailing wage classification or wage rate has been provided to BVNA, and that all wages and cost estimates contained herein are based solely upon standard, no-prevailing wage rates. Should it later be determined by the Client or any applicable agency that in fact prevailing wage applies, then it is agreed that the contract value of this agreement shall be equitably adjusted to account for such changed circumstance. These exclusions shall survive the completion of the project and shall be merged into any subsequently executed documents between the parties, regardless of the terms of such agreement. Client will reimburse, defend, indemnify and hold harmless BVNA from any liability resulting from a subsequent determination that prevailing wage regulations cover the Projects, including all costs, fines and reasonable attorney's fees.

29. **Interpretation of Agreement.** This Agreement shall be interpreted as though prepared by all parties and shall not be construed unfavorably against either party.

30. **Waiver of Jury Trial.** Each party waives its right to a jury trial in any court action arising between the parties, whether under this Agreement or otherwise related to the work being performed under this Agreement.

31. **Third Party Beneficiary.** It is expressly understood and agreed that the enforcement of these terms and conditions shall be reserved to the Client and BVNA. Nothing contained in the agreement shall give or allow any claim or right of action whatsoever by any third person. It is the express intent of the Client and BVNA that any such person or entity, other than Client or BVNA, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary.

32. **Assignment.** Neither party may assign this Agreement or any right or obligation hereunder without the prior written consent of the other party, which shall not be unreasonably withheld or delayed; provided, however, that no consent shall be necessary in the event of an assignment to a successor entity resulting from a merger, acquisition or consolidation by BVNA or an assignment to an Affiliate of BVNA if such successor or Affiliate assumes all obligations under this Agreement. Any attempted assignment, which requires consent hereunder, shall be void and shall constitute a material breach of this Agreement if such consent is not obtained.

CLIENT		BVNA	
By: 	_____	By: 	_____
Print Name: <u>G.W. Davis</u>	_____	Print Name: <u>Hal Chitwood</u>	_____
Title: <u>Mayor</u>	_____	Title: <u>Operations Manager</u>	_____
Date: <u>8-10-2020 9/14/2020</u>	_____	Date: <u>August 10, 2020</u>	_____

ATTACHMENT A
SCOPE OF SERVICES

Code Enforcement/Property Maintenance Inspections

Property maintenance inspections will be conducted in accordance with the City's Code of Ordinances and the current adopted edition of the International Property Maintenance Code. Inspections are performed as needed when complaints are made by the City or its citizens. Voluntary compliance is sought through education and conversation with the violator. Citations are issued at the discretion of the City as it pertains to the minimum days to comply as stated in the Code of Ordinances. The City is the final interpretive authority.

Tier 1: Basic Service – as-needed/as requested



- Basic Inspection, seeing violation from the street in plain sight: Unclean Premises, High Grass & Weeds, Junk Vehicles, Litter and Stagnate Water (Raw Sewage)
- Verify complaint, (supplied to city in writing)
- Ownership/Tenant information, phone numbers and addresses, This information must be supplied for true service
- All inspections are strictly complaint driven

Type of Inspections

- Property Maintenance: : Structural Exterior Damage or Defects, Unclean Premises, High Grass & Weeds, Junk Vehicles, Litter and Stagnate Water (Raw Sewage), Vacant and Open Property

Actions

- Photos, of all violations found along with photo of posted Red Tag
- Red Tag – warning notice posted
- Case information provided to the City
- Case records maintained by the City
- Follow up inspections as requested by City
- Court appearance as requested by the City

Client Initials 
BVNA Initials 



ATTACHMENT B
FEE SCHEDULE

Code Enforcement/Property Maintenance Inspections

Hourly

For code enforcement and property maintenance inspections, BVNA will invoice the client at a rate of \$90.00 per hour with a minimum of two hours.

For court appearances and meetings or inspections performed outside of normal business hours, BVNA will invoice the client at a rate of \$125.00 per hour with a minimum of two hours.

Client Initials 
BVNA Initials 

East Metro Concrete
 2141 Butler Bridge Road
 Covington, GA 30016 US
 (770) 318-1665
 eastmetroconcrete@gmail.com

Estimate 1034

ADDRESS
 City of Mansfield

DATE
 08/26/2020

TOTAL
 \$1,350.00

EXPIRATION
 DATE
 12/31/2020

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
	Sales	4- 8'x4' concrete pads for park benches Excavate grass and dirt for new pads Form , place and finish all pads with light broom finish with 3000 psi commercial concrete @ 4" thick Dirt and grass loaded onto City of Mansfield dump truck for disposal East Metro concrete is not responsible for damage to any underground utilities, sprinklers or any objects while excavating for new pads. Materials & labor included in total price	1	1,350.00	1,350.00

TOTAL \$1,350.00

THANK YOU.

Accepted By

Accepted Date

DATE: 8-31-20

No 2148

**G.A.C CONSTRUCTION, INC.
INVOICE / ESTIMATE**

P.O. Box 130
Mansfield, GA 30055
GREG A. CARTER (OWNER)
HOME: (770) 788-1290 CELL: (770) 757-8829

NAME: City of Mansfield

ADDRESS: _____

PHONE: () _____ BUS: () _____

PRICE: \$1650.00

START DATE: _____

COMPLETION DATE: _____

ADDITIONAL NOTES:

4 - 8' X 4' X 4" Concrete
pads.