

SCANNED

CITY OF DALTON
AIRPORT AUTHORITY

GENERAL PROFESSIONAL SERVICES AGREEMENT

THIS GENERAL PROFESSIONAL SERVICES AGREEMENT is made and entered into on this 16th day of June, 2020 by and between the City of Dalton, a Georgia Municipal Corporation, hereinafter referred to as "CITY", and Westmor Fluid Solutions, LLC of 14044 W. Freeway Drive, Columbus, Minnesota 55038, hereinafter referred to as "SERVICE PROVIDER".

WHEREAS, the CITY desires to engage the SERVICE PROVIDER to provide professional services; and,

WHEREAS, the CITY finds that the proposed Scope of Services and terms of this Contract are acceptable; and,

WHEREAS, the SERVICE PROVIDER desires to provide said services and agrees to do so for the compensation and upon the terms and conditions as hereinafter set forth,

WITNESSETH: That the parties hereto for the considerations hereinafter provided covenant and agree as follows:

1. EMPLOYMENT OF SERVICE PROVIDER: The CITY hereby engages the SERVICE PROVIDER and the SERVICE PROVIDER hereby agrees to perform the professional services hereinafter set forth.

2. PROJECT/SCOPE OF SERVICES: The SERVICE PROVIDER shall complete the project and perform the scope of services specified in the CITY's Request for Proposal which is included herein by reference and the specifications provided as follows:

Removal of one (1) 2200 gallon, stainless-steel tank and pump/meter assembly from a 1993 Ford F700 chassis. Upon removal, mount tank on new, customer supplied, Freightliner M2-106 chassis. Work will include: removal of tank from current chassis, clean/steam tank and remove old decals, rebuild pump, install new meters (2), replace primary and secondary control valves, install electronic water detection system with external test feature, replace overwing and underwing hoses with new, replace underwing nozzle with new, install new DP gauge with test feature, install new fueling and pump pressure gauges, refurbish control boxes, test and repair/refurbish electrical control system, PTO and shaft assembly, install brake interlock system, install new fire extinguishers with side bucket holders, refurbish emergency valve operation/cable



system, install NFPA required secondary overflow system, conform tank and new chassis to all current ATA and NFPA 407 standards including installation of new required decals, install new Shell tank decals, perform full operational test and provide new truck manual (electronic).

3. **ADDITIONAL SERVICES:** The SERVICE PROVIDER shall provide additional services, not specifically provided for in herein, upon written request and authorization by the CITY.

4. **DATE OF COMMENCEMENT:** The SERVICE PROVIDER shall commence work on the project on September 1, 2020 or upon receipt of both chassis components at site identified by SERVICE PROVIDER, whichever occurs later.

5. **DATE OF COMPLETION:** The SERVICE PROVIDER shall complete the project between 55-90 days.

6. **CONTRACT SUM:** The CITY shall pay to SERVICE PROVIDER the total sum of \$66,900.00 Dollars for the complete performance of the project and terms of this Agreement. In addition, CITY shall pay to SERVICE PROVIDER for any authorized additional services performed at the rate or amount provided in any mutually agreed to change order.

7. **CONTRACT PENALTY:** The SERVICE PROVIDER shall pay to the CITY the amount of \$100.00 Dollars per calendar day for unexcused delay in completion of the project past 90 days of the date of commencement. **CONTRACT BONUS:** CITY shall pay a contract bonus of \$400.00 if the project is completed on or before 55 days of the date of commencement.

8. **PAYMENT:** The CITY shall pay the contract sum to SERVICE PROVIDER as follows:

a.) 25 % deposit in the amount of \$16,725.00 upon execution of the Agreement.

b.) the remaining contract balance in the amount of \$50,175.00 upon complete performance of the project and terms of this Agreement. SERVICE PROVIDER shall provide to CITY an Affidavit from the SERVICE PROVIDER stating the SERVICE PROVIDER has fully performed all terms of the Agreement. Final payment shall be made no later than 30 days after receipt of said Affidavit. Upon completion of any additional services, said additional services shall be paid within 30 days of receipt of invoice from SERVICE PROVIDER. Payment(s) shall be made via electronic funds transfer (EFT).

9. **CITY COVENANTS:** CITY covenants and agrees:

(a) to provide all available information, data, reports, records and maps to which

CITY has possession or control which are necessary for SERVICE PROVIDER to perform the scope of services provided for herein;

(b) to provide reasonable assistance and cooperation to SERVICE PROVIDER in obtaining any information or documentation which are necessary for SERVICE PROVIDER to perform the scope of services provided for herein;

(c) to designate a representative authorized to act on the CITY's behalf with respect to the project. Unless otherwise provided, said CITY representative shall be the Director of Public Works;

(d) to permit access to the subject public property and obtain permission to access necessary private property for SERVICE PROVIDER to complete the scope of services;

(e) to provide reasonable assistance to SERVICE PROVIDER in applying for and obtaining any necessary Federal, State or local government permits for the scope of services;

10. SERVICE PROVIDER COVENANTS: SERVICE PROVIDER covenants and agrees:

- (a) to perform the scope of services in a professional manner, using that degree of care and skill ordinarily exercised by consultants practicing in the same or similar field;
- (b) to use only employees and subcontractors qualified to complete the work with sufficient experience in same or substantially similar projects;
- (c) to use only properly licensed employees or subcontractors for any work requiring a specialty or professional license issued by the State of Georgia;
- (d) to designate a representative authorized to act on the SERVICE PROVIDER's behalf with respect to the project.
- (e) to use the subject property in a safe, careful and lawful manner;
- (f) to promptly report in writing to CITY any unsafe or defective condition of the subject;
- (g) to promptly report in writing to CITY any damage to or injuries sustained on the subject property and to promptly repair any damage to the subject property which is made necessary by any act of SERVICE PROVIDER, its employees, agents, subcontractors, or invitees;

- (h) to keep the subject property in a clean and orderly condition and to remove any personal property of SERVICE PROVIDER upon completion of the project;
- (i) to perform all work on the project in a good and workmanlike manner, free from faults and defects, and in conformance with the terms of this Agreement;
- (j) to determine the appropriate method, details and means of performing the scope of services provided by this Agreement;
- (k) to exercise the ordinary standard of care in complying with the laws, codes, and regulations applicable to the SERVICE PROVIDER's services;
- (l) to exercise diligence and to complete delivery of the scope of services in a timely manner consistent with the exercise of due care;
- (m) to attend meetings to make presentations or to otherwise review the progress of the work as set out in the scope of services at the reasonable request of the CITY;
- (n) to prepare and submit to the CITY reports required by the scope of services or upon the written request of the CITY.

11. INDEMNITY: SERVICE PROVIDER shall indemnify CITY from and hold CITY harmless against all claims, demands and judgments for loss, damage or injury to person or property, resulting from or incurring by reason of SERVICE PROVIDER'S use and occupancy of the subject property or by the negligence, willful acts, or errors or omissions with respect to the performance of the professional services of SERVICE PROVIDER, its employees, agents, subcontractors, or invitees and from all expenses incurred by CITY as a result thereof including, without limitation, reasonable attorneys' fees and expenses and court costs, except if arising from or caused by the sole fault or negligence of CITY or any of CITY's employees, agents or representatives acting on behalf of the CITY.

Additionally, pursuant to State law, CITY shall not indemnify or hold harmless SERVICE PROVIDER for any claims arising from the actions or omissions of SERVICE PROVIDER or any third party.

12. INSURANCE: SERVICE PROVIDER agrees to carry at its own expense through the term of this Agreement the types and amounts of insurance required to maintain status as a Vendor of the City of Dalton or as provided herein below, whichever is greater. SERVICE PROVIDER shall provide CITY with copies or evidence of such insurance coverage prior to the commencement date of the Agreement. Such insurance policies shall name CITY as an additional insured and shall be issued by such insurance companies and on such forms as may be approved by CITY. Said insurance shall include the following:

- (a) General Liability Coverage - General Liability policy with a minimum limit of \$1,000,000.00 per occurrence for bodily injury and property damage.

(b) Workers' Compensation Coverage – Workers' Compensation policy with the following minimum limits:

(1) Workers' Compensation statutory limits;

(2) Employer's Liability:

a. Bodily Injury by Accident - \$100,000.00

b. Bodily Injury by Disease - \$500,000.00 policy limit

c. Bodily Injury by Disease - \$100,000.00 each employee.

SERVICE PROVIDER shall complete the Workers' Compensation Insurance Affidavit of the City of Dalton to determine if any exemption to Workers' Compensation Insurance is applicable.

(c) Auto Liability Coverage – Auto Liability policy with a minimum of \$1,000,000.00 limit per occurrence for bodily injury and property damage, if motor vehicle is used in performance of scope of services. Comprehensive form covering all owned, non-owned, and hired vehicles.

14. ASSIGNMENT: SERVICE PROVIDER may not assign all or any portion of the Agreement without the prior written permission of CITY.

15. SUBCONTRACTOR: The SERVICE PROVIDER shall provide written notice to CITY of SERVICE PROVIDER'S intent to use a subcontractor for any portion of the project. CITY shall be entitled to reject any subcontractor it deems not qualified to complete the project. Any subcontractor approved for work on the project shall abide by any and all terms of this Agreement.

16. NON-WAIVER OF DEFAULT: The failure or delay by either party hereto to enforce or exercise at any time any of the rights or remedies or other provisions of this Agreement shall not be construed to be a waiver thereof, not affect the validity of any part of this Agreement or the right of either party thereafter to enforce each and every such right or remedy or other provision. No waiver of any default or breach of the Agreement shall be held to be a waiver of any other default and breach.

17. NOTICES: Any notice required or permitted to be given under this Agreement or by law shall be deemed to have been given if reduced in writing and delivered in person or mailed by certified mail, return receipt requested, postage prepaid to the party who is to receive such notice.

Such notice to CITY shall be mailed to: City of Dalton
ATTN: City Administrator
P.O. Box 1205
Dalton, GA 30722-1205

Such notice to SERVICE PROVIDER shall be mailed to:

Westmor Fluid Solutions, LLC
14044 W. Freeway Drive
Columbus, Minnesota 55038

When so mailed, the notice shall be deemed to have been given as of third (3rd) day after the date it was mailed. The addresses may be changed by giving written notice thereof to the other party.

18. CONTRACT DOCUMENTS: The Agreement shall include the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Addenda relating to bidding and proposal requirements, and any other written information provided by the CITY in anticipation of receiving bids or proposals, if any, except as specifically excluded herein, and the SERVICE PROVIDER'S bid or proposal. The terms of this Agreement shall supersede any terms in the above-referenced documents in direct conflict with the terms of this Agreement.

Additionally, the Contract Documents and all drawings, plans, specifications and other related construction or service related documents shall be the sole property of the CITY. The SERVICE PROVIDER shall be permitted to retain copies thereof for its records and for its future professional services.

Additionally, CITY shall be authorized to rely upon all documents, whether in hard copy or electronic format, provided by SERVICE PROVIDER. Any changes to the material terms of any document shall be clearly identified and noted to CITY.

19. VENDOR: SERVICE PROVIDER shall register and remain active as a Vendor of the CITY by completing the City of Dalton Vendor Packet and fully comply with any and all requirements of said Vendor during the term of this Agreement.

20. TERMINATION OF CONTRACT: In the event that SERVICE PROVIDER defaults or neglects to perform work on the project in accordance with the terms of this Agreement, CITY may terminate this Agreement by providing written notice of termination. Prior to termination of this Agreement for default, CITY shall provide written notice to SERVICE PROVIDER of any default and provide SERVICE PROVIDER ten (10) days to correct said default or deficiency,

21. MISCELLANEOUS PROVISIONS:

(a) Governing Law; Venue. This Agreement is being executed and delivered in the State of Georgia and shall be construed and enforced in accordance with the laws of that state. The exclusive jurisdiction and venue for any action arising out of this Agreement shall be the Superior Court of Whitfield County Georgia, and the parties hereby waive any and all objections or defenses thereto.

(b) Successors and Assigns. This Agreement and the respective rights and obligations of the parties hereto shall inure to the benefit of and be binding upon the successors and

permitted assigns of the parties. SERVICE PROVIDER shall not assign its rights or obligations under this Agreement without the prior written consent of the CITY.

(c) Severability of Invalid Provisions. If any provision of this Agreement shall be deemed invalid, void or unenforceable, the remaining provisions hereof shall not be affected or impaired, and such remaining provisions shall remain in full force and effect.

(d) Complete Agreement; Amendments. This Agreement constitutes the entire agreement between the parties hereto; it supersedes all previous understandings and agreements between the parties, if any, and no oral or implied representation or understanding shall vary its terms, and it may not be amended except by written instrument executed by both parties hereto.

(e) Remedies Cumulative. All rights, powers, and privileges conferred hereunder upon the parties hereto shall be cumulative, but not restrictive to those given by law.

(f) Time is of the Essence. Time is of the essence of this Agreement in each and all of its provisions.

(g) Attorney Fees. In the event the CITY must enforce the terms of this Agreement by filing a civil action against SERVICE PROVIDER, then SERVICE PROVIDER shall pay an amount equal to fifteen percent (15%) of the contract sum as attorney fees.

(h) Confidentiality. All information and documentation regarding the project and the SERVICE PROVIDER's services shall be maintained in confidence and shall not be disclosed to any third party by SERVICE PROVIDER, without CITY's written authorization, except as may be required by the Georgia Open Records Act. SERVICE PROVIDER shall promptly notify CITY of any third party request for said information or documentation prior to any disclosure. CITY agrees that the technical methods, design details, techniques and pricing data contained in any material submitted by SERVICE PROVIDER pertaining to this Agreement shall be considered confidential and proprietary, and shall not be disclosed to any third party, except as may be required by the Georgia Open Records Act.

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

SERVICE PROVIDER:

Westmor Fluid Solutions, LLC

By: *Michelle R. [Signature]*

Title: *Controller*

CITY:

CITY OF DALTON, GEORGIA

By: _____
MAYOR

Attest: _____
CITY CLERK



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
6/12/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Fairly Consulting Group, LLC 1800 S. Washington, Suite 400 Amarillo, TX 79102	CONTACT NAME: Dawn Harelik
	PHONE (A/C, No, Ext): (806) 345-3655 FAX (A/C, No): (806) 376-5136
	E-MAIL ADDRESS: dawn.harelik@fairlygroup.com
	INSURER(S) AFFORDING COVERAGE
	INSURER A : Navigators Specialty Insurance Company NAIC # 36056
	INSURER B : Phoenix Insurance Company 25623
	INSURER C : Sentry Casualty Company
	INSURER D :
	INSURER E :
	INSURER F :

INSURED
Westmor Fluid Solutions, LLC
14044 W Freeway Drive
Columbus, MN 55038

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			MP19NP30A2OYDIC	12/31/2019	6/30/2021	EACH OCCURRENCE	\$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 500,000
							MED EXP (Any one person)	\$ 25,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
								\$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			Y-810-6N949566-PHX-19	6/30/2019	6/30/2020	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
A	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 0			MP19NP30A2OYDIC	12/31/2019	6/30/2021	EACH OCCURRENCE	\$ 1,000,000
							AGGREGATE	\$ 1,000,000
								\$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input checked="" type="checkbox"/> Y <input checked="" type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	90-19728-03	6/30/2019	6/30/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER	
							E.L. EACH ACCIDENT	\$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER City of Dalton Attn: City Administrator PO Box 1205 Dalton, GA 30722	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

