



Santa Rosa County

Board of County Commissioners

Sheila Fitzgerald, Special Projects/Grants Director

6495 Caroline Street, Milton, FL. 32570-4978, Phone (850) 983-1848 / Fax (850) 983-1944

MEMORANDUM

TO: Tony Gomillion

FROM: Sheila Fitzgerald

DATE: March 2, 2016

SUBJECT: Atkins North America, Inc. Contract Modification Related to RESTORE Act Funding

RECOMMENDATION:

Recommend approval of revised scope of services for contract with Atkins North America, Inc. (Atkins) related to the RESTORE Act and the criminal fines associated with the Deepwater Horizon Oil Spill for a period of one year beginning April 1, 2016.

BACKGROUND

Santa Rosa County entered into a contract with Atkins on June 24, 2013 for services intended to augment SRC staff and to help position SRC to maximize funds flowing to SRC from the various pots of money established by the RESTORE Act and the criminal fines associated with the Deepwater Horizon Oil Spill. The contract included a not to exceed amount of \$12,000 per month as well as the tasks listed below.

- 1) Provide representation at Consortium and Council meetings related to the RESTORE Act
- 2) Formulate criteria for evaluating potential projects
- 3) Perform an initial review/feasibility analysis of candidate projects as directed by the Local Restore Council
- 4) Determine which possible funding sources are available for candidate projects
- 5) Develop a multi-year implementation plan

Anticipating the evolving nature of the RESTORE Act process, the contract also included the provision that consultant services will be authorized on a quarterly basis in order to allow greater flexibility in refining RESTORE priorities.

With the completion of the aforementioned tasks and the addition of one more Grants Department personnel, staff is now able to manage the RESTORE Act process, but still requires the technical expertise provided by Atkins. As such, staff recommends amending the scope of services to include the following with a not to exceed amount of \$3,000 per month:

- 1) Attend Local RESTORE Council and Board of County Commissioner as requested to provide updates on Deepwater Horizon funding sources.

(Services Continued)

- 2) Continue to provide technical support for submittal of water quality or environmental projects to Treasury Department for consideration of Direct Component Funding through the MYIP.
- 3) Continue to provide technical support for submittal of water quality or environmental projects to the Florida Department of Environmental Protection related to future NRDA phases.
- 4) Continue to provide technical support in the areas of the Gulf Environmental Benefit Fund Final Restoration Strategy development, regional watershed management, water quality, and environmental project proposals or funding opportunities.
- 5) Support Santa Rosa County's efforts regarding the EPA's Gulf Estuary Program funding grant application through the Bay Area Resource Council (\$2.2 million grant opportunity).
- 6) As approved by the county, attend all relevant meetings related to Deep Horizon Oil Spill funding sources including Gulf Consortium, NRDA and Triumph meetings.

FUTURE ACTION

Staff will continue to evaluate the changing opportunities associated with the various pots of money from the Deepwater Horizon Oil Spill and recommend any necessary future modifications to the Atkins contract.



Public Client

PROFESSIONAL SERVICE AGREEMENT

THIS AGREEMENT made and entered into, by and between Atkins North America, Inc. (Atkins) and the Client identified herein, provides for the Professional Services described under Item 2 of this Agreement.

CLIENT: Santa Rosa County Board of County Commissioners

PHONE NUMBER: 850.981.7100

ADDRESS: 6495 Caroline Street, Suite M

FAX NUMBER: 850.983.2161

Milton, FL 32570

PROJECT NUMBER:

SHORT TITLE: Consultant Services Related to the RESTORE Act

1. DESCRIPTION OF PROJECT SITE:

Santa Rosa County and associated watershed

2. SCOPE OF SERVICES TO BE PROVIDED BY ATKINS (If additional pages are necessary, they are identified as Attachment A):

Consulting services intended to augment SRC staff and to help position SRC maximize the funds flowing to SRC from the various pots of money established by the RESTORE Act and the criminal fines associated with the Deepwater Horizon oil spill. In order to carry out the stated tasks, Consultant will be expected to interact with other governmental agencies, jurisdictions, and funding entities as approved by SRC. See Attachment "A"

3. THE COMPENSATION TO BE PAID ATKINS for providing the requested services shall be (If additional pages are necessary, they are identified as Attachment B):

- Direct personnel expense plus a surcharge of % , plus reimbursable costs.*
A Lump-Sum charge of \$, plus out-of-pocket expenses.*
Unit Cost/Time Charges identified in Attachment B, plus reimbursable costs.*
Other - See Attachment B.

* See explanation under Item 5 below.

4. IF ATKINS's SERVICES UNDER THIS AGREEMENT ARE DELAYED for reasons beyond Atkins' control, the time of performance shall be adjusted appropriately. Except where the services provided are under a continuous service contract for more than one year, if the services under this Agreement are delayed for a period of more than one (1) year from the beginning date (as above provided), the fees shall be subject to renegotiation; any change in such fees shall apply only to the unfinished services as of the effective date of such change.

IN WITNESS WHEREOF, this Agreement is accepted on the date written above and subject to the terms and conditions above stated. (SIGN WITH BALL POINT PEN)

CLIENT: Santa Rosa County

ATKINS NORTH AMERICA, INC.

SIGNED:

SIGNED: [Signature]

TYPED NAME: Lane Lynchard

TYPED NAME: Jeff C. Helms, P.E.

TITLE: Chairman

TITLE: Vice President

DATE:

DATE: February 26, 2016

5. **COMPENSATION:** Direct personnel expense shall be defined as: the cost of salaries and fringe benefit costs related to vacation, holiday, and sick leave pay; contributions for Social Security, Workers' Compensation Insurance, retirement benefits, and medical and insurance benefits; unemployment and payroll taxes; and other allowed benefits of those employees directly engaged in the performance of the requested service.

Reimbursable costs include: fees of Professional Associates (whose expertise is required to complete the project) and out-of-pocket expenses, the cost of which shall be charged at actual costs ~~plus an administrative charge of 18%~~ and shall be itemized and included in the invoice.

Typical out-of-pocket expenses shall include, but not be limited to, travel expenses (lodging, meals, etc.), job-related mileage at the prevailing Company rate, long distance telephone calls, courier, printing and reproduction costs, and survey supplies and materials. In the event the requested service involves the use of electronic measuring equipment, computers, plotters, and other special equipment such as boats, swamp buggies, etc., an additional direct charge shall be made for the use of this equipment. It is understood and agreed that ATKINS' services under this Agreement are limited to those described in Item 2 hereof (and Attachment A, if applicable) and do not include participation in or control over the operation of any aspect of the project. Compensation under this Agreement does not include any amount for participating in or controlling any such operation.

6. **INVOICE PROCEDURES AND PAYMENT:** ATKINS shall submit invoices to the Client for work accomplished during each financial month. For services provided on a Lump Sum basis, the amount of each monthly invoice shall be determined on the "percentage of completion method" whereby ATKINS will estimate the percentage of the total work (provided on a Lump Sum basis) accomplished during the invoicing period. Monthly invoices shall include, separately listed, any charges for services for which time charges and/or unit costs shall apply. Such invoices shall also include, separately listed, any charges for Professional Associates and reimbursable costs. Such invoices shall be submitted by ATKINS as soon as possible after the end of the month in which the work was accomplished and shall be due and payable by the client upon receipt.

The Client, as owner or authorized agent for the owner, hereby agrees that payment as provided herein will be made for said work within 30 days from the date the invoice for same is mailed to the Client at the address set out herein or is otherwise delivered, and, in default of such payment, hereby agrees to pay all costs of collection, including reasonable attorney's fees, regardless of whether legal action is initiated. The Client hereby acknowledges that unpaid invoices shall accrue interest at the maximum retailed by law after they have been outstanding for over 30 days. ATKINS reserves the right to suspend all services on the Client's project without notice if an invoice remains unpaid 45 days after date of invoice. This suspension shall remain in effect until all unpaid invoices are paid in full.

It is understood and agreed that ATKINS' services under this Agreement do not include participation, whatsoever, in any litigation. Should such services be required, a supplemental Agreement may be negotiated between the Client and ATKINS describing the services desired and providing a basis for compensation to ATKINS.

7. **COST ESTIMATES:** Client hereby acknowledges that ATKINS cannot warrant that any cost estimates provided by ATKINS will not vary from actual costs incurred by the Client.
8. **LIMIT OF LIABILITY:** The limit of liability of ATKINS to the Client for any cause or combination of causes shall be, in total amount, limited to the fees paid under this Agreement.
9. **CONSTRUCTION SERVICES:** If, under this Agreement, professional services are provided during the construction phase of the project, ATKINS shall not be responsible for or have control over means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work; nor shall ATKINS be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents or for the Contractor's failure to comply with applicable laws, ordinances, rules or regulations.
10. **INSURANCE:** ATKINS shall at all times carry Workers' Compensation insurance as required by statute; commercial general liability insurance including bodily injury and property damage; automobile liability coverage; and professional liability coverage. Insurance certificates will be provided to the Client upon request. Client agrees to require that ATKINS be named as an additional insured on insurance coverages provided by contractors on the project.
11. **ASSIGNMENT:** Neither the Client nor ATKINS will assign or transfer its interest in this Agreement without the written consent of the other.
12. **SUSPENSION, TERMINATION, CANCELLATION OR ABANDONMENT:** In the event the project described in Attachment A, or the services of ATKINS called for under this Agreement, is/are suspended, cancelled, terminated or abandoned by the Client, ATKINS shall be given seven (7) days prior written notice of such action and shall be compensated for the professional services provided up to the date of suspension, termination, cancellation or abandonment in accordance with the provisions of this Agreement for all work performed up to the date of suspension, termination, cancellation or abandonment, including reimbursable expenses.
13. **ENTIRETY OF AGREEMENT:** This writing, including attachments and addenda, if any, embodies the entire agreement and understanding between the parties hereto, and there are no other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby. No alteration, change or modification of the terms of this Agreement shall be valid unless made in writing signed by both parties hereto.
14. **DOCUMENTS:** Any reuse by the client or others of documents and plans that result from ATKINS' services under this agreement shall be at the Client's or others' sole risk without liability to ATKINS.
15. **WAIVER:** Any failure by ATKINS to require strict compliance with any provision of this contract shall not be construed as a waiver of such provision, and ATKINS may subsequently require strict compliance at any time, notwithstanding any prior failure to do so.
16. **DISPUTE RESOLUTION:** If a dispute arises out of or relates to this Agreement or the breach thereof, the parties will attempt to settle the matter between themselves. If no agreement can be reached the parties agree to use mediation with a mutually agreed upon mediator before resorting to a judicial forum. The cost of a third party mediator will be shared equally by the parties. In the event of litigation, the prevailing party will be entitled to reimbursement of all reasonable costs and attorneys' fees. The parties mutually agree that a similar dispute resolution clause will be contained in all other contracts executed by Client concerning or related to this contract and all subcontracts executed by ATKINS.
17. **HAZARDOUS WASTE, MATERIALS OR SUBSTANCES:** Unless otherwise specifically provided in this Agreement, ATKINS shall not be responsible for or have control over the discovery, presence, handling, removal, transport or disposal of hazardous waste, materials or substances in any form on the project site.
18. **GOVERNING LAW:** This Agreement shall be governed by and construed according to the laws of the State where the situs of the work is located.
19. **LIMITED COPYRIGHT LICENSE:** ATKINS grants Client a paid-up, non-transferable, non-exclusive license to make or have made copies of any copyrightable materials delivered under this Agreement and specifically marked by ATKINS as "Reproduction Authorized".
20. **INTELLECTUAL PROPERTY:** With the sole exception of specifically marked reproducible materials subject to the Limited Copyright License herein, all worldwide right, title and interest in and to any and all Intellectual Property conceived, invented, authored or otherwise made by or on this Agreement shall remain the sole and exclusive property of ATKINS, its successors and assigns unless licensed or assigned by ATKINS pursuant to a separate written instrument. The term "Intellectual Property" shall be construed broadly to include all forms of intellectual property including without limitation all inventions, discoveries, designs, plans, improvements, trademarks, service marks and copyrights in drawings, computer programs, architectural works and in all other original works of authorship.

Exhibit A

Consultant Services Related to the RESTORE Act Santa Rosa County, Florida

Revised Scope of Services – March 7, 2016

The following scope of services will define the tasks necessary to complete consultant management services associated with the RESTORE Act for Santa Rosa County (SRC) Florida, and have been revised from the date of the contract executed on June 24, 2013. The services are intended to augment SRC staff and to help position SRC to maximize the funds flowing to SRC from the various pots of money established by the RESTORE Act and the criminal fines associated with the Deepwater Horizon oil spill. In order to carry out the stated tasks, Consultant will be expected to interact with other governmental agencies, jurisdictions, and funding entities.

The consultant management services will be authorized by SRC on a quarterly basis for the contract period April 1, 2016 - March 30, 2017. The consultant shall incur no more than \$3,000 per month in charges. To the extent practical, Atkins will prepare a quarterly task work order depicting specific tasks to be initiated during that quarter along with corresponding milestone to be achieved. Further, monthly invoices will be detailed sufficient to identify all staff, services and tasks accomplished by Atkins. Any tasks not explicitly outlined below but determined to be necessary are authorized upon approval by staff.

The following tasks are revised as a result of the evolving RESTORE Act process.

Revised Task #1- Attend Local RESTORE Council and Board of County Commissioner as requested to provide updates on Deepwater Horizon funding sources.

Revised Task #2 – Continue to provide technical support for submittal of water quality or environmental projects to Treasury Department for consideration of Direct Component Funding through the MYIP.

Revised Task #3 – Continue to provide technical support for submittal of water quality or environmental projects to the Florida Department of Environmental Protection related to future NRDA phases.

Revised Task #4-Continue to provide technical support in the areas of the Gulf Environmental Benefit Fund Final Restoration Strategy development, regional watershed management, water quality, and environmental project proposals or funding opportunities. Support Santa Rosa County's efforts regarding the EPA's Gulf Estuary Program funding grant application through the Bay Area Resource Council (\$2.2 million grant opportunity).

Revised Task #5- As approved by the county, attend all relevant meetings related to Deep Horizon Oil Spill funding sources including Gulf Consortium, NRDA and Triumph meetings.

Exhibit B
RESTORE Act Consultant Management
Santa Rosa County, Florida
Atkins Rate Table*

Employee Classification	Hourly Rate
Principal/Program Manager	\$217.00
Sr. Group Manager/Special Advisor/Ph.D.	\$200.00
Sr. Engineer/Sr. Environmental Scientist	\$145.00
Sr. Planner	\$127.00
Environmental Scientist	\$106.50
Engineer	\$79.32
Administrative Assistant/Grant Writer	\$60.00

*These rates are specific to the RESTORE Act Consultant Management Contract for Santa Rosa County. Specific additional tasks will be negotiated based upon the above rates.