

To: Sue Steigerwald, City of Foley
From: Nick Gagliano, Grant Coordinator
Date: 12-11-15
RE: Promotional Fund

Attached is the contract for the distribution of the Supplemental Gulf Tourism and Seafood Promotional Fund Grant.

Please note the following pages:

1. ✓ Page 7 – Please sign and print name
2. Page 3 – Reporting Updates should be sent to the Claims Administration Office on Oct. 1, 2015; Jan. 1, 2016; April 1, 2016 and then the final report.
3. Page 2 – Grant Award and distribution
4. Page 9 – Schedule of Deliverables

Please send the signed contract to:
Deepwater Horizon Claims Center
Attn: Nick Gagliano
935 Gravier Street, Suite 1905
New Orleans, LA 70112

If you would like a signed copy returned, please let me know and I will be happy to send one to you. If you would like an original signed copy, please make a copy of this contract and send both copies to us.

Should you have any question, please feel free to let me know. You can contact me at ngagliano@dheclaims.com.

I look forward to working with you.

Nick Gagliano

SUPPLEMENTAL PROMOTIONAL FUND GRANT AGREEMENT

This Supplemental Promotional Fund Grant Agreement (this "Agreement") is entered into by _____ ("Grantee"), whose mailing address is _____; and Patrick Juneau, as Trustee (the "Trustee") of the Settlement Trust as further defined below (the "Settlement Trust"), and as Claims Administrator of the Court Supervised Settlement Program (the "Claims Administrator").

RECITALS

WHEREAS, BP Exploration & Production Inc., a Delaware corporation and certain of its affiliates (collectively "BP") have been named as defendants in *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, MDL No. 2179 (the "MDL Litigation");

WHEREAS, BP and the Economic Class Representatives, individually and on behalf of the Economic and Property Damages Settlement Class, by and through Lead Class Counsel entered into an Economic and Property Damages Settlement Agreement ("Settlement Agreement") dated April 18, 2012, and amended May 1, 2012, for the purpose of settling all Released Claims against the Released Parties, including BP;

WHEREAS, the United States District Court of the Eastern District of Louisiana (the "Court") has approved the Settlement Agreement by Order dated December 21, 2012 (the "Final Approval Order," as further defined below);

WHEREAS, on May 4, 2012, BP, Lead Class Counsel, the Trustee and J.P. Morgan Trust Company (the "Directed Trustee") entered into the *Deepwater Horizon* Economic and Property Damages Trust Agreement (the "Trust Agreement") creating the Settlement Trust;

WHEREAS, the Settlement Trust is intended to meet the requirements of a qualified settlement fund within the meaning of section 468B of the Internal Revenue Code of 1986, as amended from time to time, and section 1.468B-1(c) of the Treasury Regulations promulgated thereunder;

WHEREAS, the Settlement Trust's purpose is to establish a mechanism to pay Settlement Payments (as defined in the Settlement Agreement) and the costs of administering the Settlement Program (as defined in the Settlement Agreement) in accordance with the terms of the Settlement Agreement and the Trust Agreement.

WHEREAS, the Trustee has the power, pursuant and subject to the terms of the Settlement Agreement and the Trust Agreement, to make distributions from the funds held by the Settlement Trust subject to the terms and conditions thereof; and

WHEREAS, Grantee has previously obtained funds for promotional services through one or more prior promotional fund grant agreements, and now desires to obtain additional funds for promotional services as described on attached Schedule "1";

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the terms and conditions set forth herein.

AGREEMENT

1. Definitions.

The following words and phrases have the meanings indicated. Other words and phrases appearing in capital letters throughout this Agreement shall have the meanings they are given with their first operative use. Terms not otherwise defined herein shall have the same meanings ascribed to them in the Settlement Agreement and/or the Trust Agreement.

- 1.1 Applicable Law: means all applicable local, state and federal laws, rules and regulations.
- 1.2 Claims Administrator: has the meaning ascribed to it in the Settlement Agreement.
- 1.3 Individual: means a natural person.
- 1.4 Lead Class Counsel: means the lawyers appointed by the Court to represent the Class of Claimants.
- 1.5 Settlement Trust: means the qualified settlement trust fund established pursuant to that certain *Deepwater Horizon* Economic and Property Damages Trust Agreement, dated May 4, 2012, among BP, Lead Class Counsel, the Claims Administrator, and the Directed Trustee.
- 1.6 Parties: means the Settlement Trust, the Claims Administrator and Grantee.
- 1.7 Final Approval Order: means the Order entered by the Court on December 21, 2012 granting final approval of the Settlement Agreement.

2. Scope of Services.

- 2.1 Services. The general scope of the services to be furnished by Grantee shall be those described on attached Schedule "1".
- 2.2 The Services shall be provided in strict accordance with the terms of the Settlement Agreement, the Final Approval Order, and in compliance with Applicable Law.

3. Grant Award.

- 3.1 Amount of Grant. Subject to the terms and conditions of this Agreement, and contingent upon sufficient funding of the Settlement Trust by BP, the Settlement Trust agrees to award to Grantee up to \$37,720.00 for the period August 1, 2015 to July 31, 2016. The Grant shall be payable as follows:

\$18,860.00, (which is 50% of this supplemental Grant), after signing of this Agreement.

\$ 18,860.00, (which 50% of this supplemental Grant), upon on receipt and approval of the final report and submission of all of the deliverables as outlined in Schedule 1.

- 3.2 Documentation. Grantee shall submit to the Claims Administrator all documentation as further described in Paragraph 3.3 within ten (10) days before the beginning of each calendar quarter, commencing with the quarter starting October 1, 2015, or more frequently as the Claims Administrator may require. The Claims Administrator shall review Grantee's documentation and if acceptable, authorize the next Grant payment. In the event that any documentation is deemed not acceptable by the Claims Administrator, Grantee shall be notified in writing of such deficiencies within ten (10) days of submission of the documentation.
- 3.3 Reporting. Grantee will provide reports to the Claims Administrator at least quarterly, within ten (10) days before the beginning of each calendar quarter, commencing with the quarter starting October 1, 2015, or more often as the Claims Administrator may require, in which it will report, for the preceding quarter the following: an updated list of services and deliverables as outlined on Schedule 1. The Claims Administrator may distribute such reports as it deems appropriate. In addition, Grantee may be required to provide additional reports as may further be defined by the Claims Administrator in writing.
- 3.4 Ownership of Documentation. All records, reports, documents and other material delivered or transmitted to Grantee by the Claims Administrator shall remain the property of the Claims Administrator, and shall be returned by Grantee to the Claims Administrator, at Grantee's expense, at termination or expiration of this Agreement. All records, reports, documents, or other material related to this Agreement and/or obtained or prepared by Grantee in connection with the performance of the Services contracted for herein shall become the property of the Claims Administrator, and shall, upon request, be returned by Grantee to the Claims Administrator, at Grantee's expense, at termination or expiration of this Agreement.
- 3.5 Audit Rights. Grantee will provide to the Claims Administrator copies of its audit reports, if and when requested to do so by the Claims Administrator. In addition, the Claims Administrator or its authorized representatives may, at any time on reasonable notice, audit the operation of Grantee in relation to the activities undertaken pursuant to this Agreement.
- 3.6 Payment in Full. The Grant payments made hereunder are and shall be deemed to constitute "payment in full" for any Services performed by Grantee.
4. Term.
- 4.1 This Agreement is effective as of 12:01 a.m. Eastern Standard Time on August 1, 2015 (the "Effective Date") and its term shall end on July 31, 2016 (the "Expiration Date"), unless terminated on a different date in accordance with Paragraph 4.2 or as otherwise agreed by the Parties.

- 4.2 Grantee shall be authorized to perform the Services as further defined in Schedule "1" to this Agreement starting on the Effective Date, through and including the earlier of: (1) the date that the Court enters an Order closing the proposed Court Supervised Settlement Program; (2) the effective date of any termination of Grantee by the Claims Administrator for "cause"; (3) the date that the Grantee is terminated by the Claims Administrator with at least thirty (30) days written notice before the end of any quarter, which the Claims Administrator shall have the right to do with or without cause or (4) the Expiration Date (collectively, "Termination Events"). As used herein, "cause" shall include, without limitation, the following: (i) the failure of Grantee to perform the Services in accordance with the requirements of this Agreement, (ii) the breach by Grantee of any other obligations under this Agreement, which breach is not cured within ten (10) days of written notice thereof, (iii) the commission of any act or any omission involving gross negligence, fraud, or other intentional or willful misconduct by Grantee, and (iv) any other violation of a statute, regulation, order, decree or court requirement or other Applicable Law by Grantee.

5. [Intentionally Omitted]

6. Representations and Warranties.

Grantee represents, warrants and covenants that: (i) it has the power and authority to enter into this Agreement and to perform all of its obligations hereunder; (ii) the execution, delivery and performance of this Agreement does not violate or conflict with any other agreement to which Grantee is a party or by which it is bound; (iii) Grantee has not previously entered into any agreement that would restrict Grantee in the performance of the Services; (iv) Grantee shall comply with all Applicable Law in performing its obligations under this Agreement; (v) Grantee shall use commercially reasonable efforts to verify that each of its employees performing Services is legally entitled to work in the United States and has all necessary visas and work permits; (vi) Grantee has the capacity and resources to perform the Services; (vii) all Services shall be performed by qualified personnel in a timely, professional and workmanlike manner in accordance with generally accepted industry practices; (viii) Grantee is either a governmental entity political subdivision of a governmental entity, or is recognized by the Internal Revenue Service (the "IRS") as a public charitable organization under sections 501(c)(3) and 509(a)(1), (2) or (3) of the Internal Revenue Code, and will inform the Claims Administrator immediately of any changes in, or IRS proposed or actual revocation (whether or not appealed) of such tax status; and (ix) all Grant funds shall be used only for the purposes described herein.

7. [Intentionally Omitted]

8. [Intentionally Omitted]

9. Miscellaneous.

9.1 Subcontracting. Notwithstanding any provision in this Agreement to the contrary, Grantee shall not subcontract any of its obligations under this Agreement to any third party unless approved in writing by the Claims Administrator.

9.2 Successors and Assigns. The terms and conditions of this Agreement shall be binding upon the Parties and inure to the benefit of the Parties and their respective successors and permitted assigns; provided, however, that, unless otherwise provided in this Agreement, the obligations of the Parties under this Agreement may not be delegated

nor shall any rights be assigned or transferred, including by merger, reorganization, change of control, acquisition or sale of all or substantially all of its assets or business or otherwise (including, without limitation, by operation of law) (collectively a "Sale Transaction"), by a Party without the other Parties' prior written consent.

- 9.3 Compliance with Laws. Grantee and its respective employees and agents shall comply with all Applicable Law in performance under this Agreement.
- 9.4 Tax Responsibility. Grantee shall be responsible for the payment of any taxes that might be due from or assessed on any of the Grant funds received under this Agreement.
- 9.5 Maintenance of Books and Records. In order to implement and effectuate the audit rights of the Claims Administrator as described in Paragraph 3.5, Grantee shall maintain its books and records and other documents pertaining to the use and disposition of the grant funds received and to the Services rendered under this Agreement, for a period of at least three (3) years after the Termination Date.
- 9.6 Dispute Resolution. Any and all claims, disputes and controversies arising under or relating to this Agreement that cannot be resolved by the Parties shall be determined solely in the Court, under Louisiana law without regard to its conflicts of law provisions. All Parties waive the right to a jury trial. In the Court's discretion, the prevailing Party in any dispute arising from this Agreement may be awarded reasonable attorney's fees.
- 9.7 Complete Agreement. This Agreement and any exhibits, together with any addenda, set forth the entire agreement of the Parties with respect to Services hereunder, and any prior or contemporaneous promotional fund grant agreements, promises, conditions or understandings are superseded and/or replaced with this Agreement.
- 9.8 Modification. No provision of this Agreement may be changed unless the change is set forth in a written amendment to this Agreement signed by the Parties.
- 9.9 No Waiver. If a Party waives compliance with any term or condition of this Agreement, it shall be not deemed a waiver of any other right, nor to permit less than strict compliance with any term or condition on any future occasion.
- 9.10 Governing Law; Severability. This Agreement shall be governed by and construed in accordance with the law of the State of Louisiana without reference to its conflict of laws principles. To the extent that any provision is found to be unenforceable or invalid, then such provision shall be ineffective only to the extent of such unenforceability or invalidity, and shall not affect the enforceability or validity of any other provision of this Agreement.
- 9.11 Notices. All notices and correspondence required to be given by this Agreement shall be delivered by hand or certified mail, return receipt requested and postage pre-paid, or by a nationally recognized courier service, or by facsimile transmission, and be addressed as follows:

If to Claims Administrator and/or Settlement Trust:

Patrick Juneau
935 Gravier St.
Suite 1905
New Orleans, LA 70112
Phone: 504-934-4920
Fax: 504-934-4998
Email: mjj@dheclaims.com

If to Grantee:

Kate Embury
PO Box 1750
Foley, AL 36536
Phone: (251) 970-1867
Fax: (251) 970-2144
Email: KEmbury@cityoffoley.org

- 9.12 Counterparts. This Agreement may be executed in one or more counterparts which taken together shall constitute one single agreement between the Parties.
- 9.13 Independent Contractors. Grantee is an independent contractor. No Party to this Agreement is an agent, representative, joint venturer, or partner of any other Party. No Party shall have any right, power or authority to enter into any agreement for or on behalf of, or incur any obligation or liability of, or to otherwise bind, any other Party. Each Party shall bear its own costs and expenses in performing the Agreement. Grantee shall be responsible for the payment of all fees, wages and/or salaries payable to Grantee personnel and for providing Grantee personnel with any fringe benefits to which they are entitled by reason of being an employee or contractor of Grantee. Grantee shall comply, at its expense, with all applicable provisions of workers' compensation laws, unemployment compensation laws, federal social security law, the Fair Labor Standards Act and all other applicable federal, state and local laws and regulations relating to terms and conditions of employment required to be fulfilled by employers. Grantee shall comply with all applicable occupational health and safety laws, standards and requirements pertaining to the Services, including, but not limited to, OSHA standards and analogous state standards for work performed under this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have caused this Agreement which shall be effective on the date first above-written, to be executed on their behalf by the undersigned duly authorized individuals.

Settlement Trust

By:

Signature

Patrick Juneau
Printed Name

Trustee
Printed Title

Date

Grantee:

Signature

Sue Steigermwald
Printed Name

Finance Director / Treasurer
Printed Title

12/14/15
Date

Claims Administrator

By:

Signature

Patrick Juneau
Printed Name

Claims Administrator
Printed Title

Date

Schedule 1

Description of Services

Based upon the marketing plan submitted, the following deliverables must be submitted for project completion:

The City of Foley will implement a marketing campaign to increase tourism in the City of Foley by using print, broadcast and cable advertising.

Deliverables for the project include:

1. Submit quarterly reports that outline the marketing activities that have occurred during the quarter, beginning February 1, 2016.
2. Submit originals ads placed in the following publications. Note: Advertising creative is not a sufficient deliverable and name and date of publication must be visible on the page with the ad.
 - Alabama Vacation Guide
 - Visitor Magazine, Fall/Winter 2015
 - Visitor Magazine, Spring/Summer 2016
 - Vacation Guide 2016 issue
 - Concierge Guide
 - RV Campground map
3. Submit a copy of the television spot that aired on Coast 360 TV. Note: The television commercial must be submitted on a flash drive or disk. Links to drop boxes, emails, websites, YouTube and other web-based sites are not sufficient deliverables.
4. Submit copies of the collateral materials produced as part of this project, including:
 - Downtown walking map
 - Foley Restaurant Guide
 - Visit Foley Rack Card
 - Rose Trail Rack Card
 - Holmes Medical Museum Rack Card
 - Foley Train Exhibit Rack Card
 - Visit Foley Discount Coupons
 - Visit Foley website card
 - Coastal Alabama Farmers and Fisherman's Market
 - Stay with us Lodging Guide.
5. Submit a final wrap-up report that summarizes the project and ensures that all deliverables are submitted.