

**CITY OF BILOXI
AGENDA ITEM
FACT SHEET**

Item No.: 5 H

Council Meeting Date: **August 6, 2019**

ITEM TITLE: RESOLUTION
INTRODUCED BY: Mayor Andrew "FoFo" Gilich
CONTACT PERSON: E. Michael Leonard, CAO *EM*
 Peter Abide, City Attorney

SUMMARY EXPLANATION:

Resolution approving and authorizing entry into Amendment to Agreement to Provide Research, Marketing & Consulting Services between Nextsite, LLC and the City of Biloxi and amending the municipal budget for fiscal year ending September 30, 2019

Resolution Ordinance _____ Public Hearing _____ Routine Agenda _____

Exhibits for Review

Contract Minutes _____ Plans/Maps _____ Deed _____ Lease _____

Other (Specify): Exhibit A: Amendment to Agreement
 Exhibit B: Budget Amendment

Submittal Authorization: Council President _____ Mayor

STAFF RECOMMENDATION: Staff recommends approval

COUNCIL ACTION: Motion By: _____ Second By: _____

Vote:	<u>Councilmember</u>	<u>Yes</u>	<u>No</u>	<u>Other</u>	<u>Councilmember</u>	<u>Yes</u>	<u>No</u>	<u>Other</u>
	Lawrence	___	___	___	Tisdale	___	___	___
	Gines	___	___	___	Glavan	___	___	___
	Newman	___	___	___	Barrett	___	___	___
	Deming	___	___	___				

ACTION TAKEN:

Resolution No.

RESOLUTION APPROVING AND AUTHORIZING ENTRY INTO AMENDMENT TO AGREEMENT TO PROVIDE RESEARCH, MARKETING & CONSULTING SERVICES BETWEEN NEXTSITE, LLC AND THE CITY OF BILOXI AND AMENDING THE MUNICIPAL BUDGET FOR FISCAL YEAR ENDING SEPTEMBER 30, 2019

WHEREAS, by Resolution No. 199-18, the governing authorities of the City of Biloxi (the "City") approved entry into that certain Agreement to Provide Research, Marketing and Consulting Services (the "Agreement") with Nextsite, LLC ("Nextsite");

WHEREAS, on May 21, 2019, the City's Mayor put forth a resolution authorizing him to continue the Agreement with Nextsite and amend the municipal budget for fiscal year ending September 30, 2019 in order to provide funding for Nextsite's second year of services;

WHEREAS, after discussion, the Biloxi City Council tabled the resolution;

WHEREAS, since May 21, 2019, the City Attorney has negotiated an Amendment to the Agreement, attached hereto as Exhibit "A," which will compensate Nextsite for its second year of services, in the total amount of \$28,000.00, and terminate the Agreement following payment of same;

WHEREAS, entry into the Amendment will relieve the City of the obligation to pay Nextsite a total of \$28,000.00 for its services in the third year of the Agreement;

WHEREAS, entry into the Amendment will require an amendment to the municipal budget for fiscal year ending September 30, 2019 in order to providing the funding necessary to compensate Nextsite for its second year of services;

WHEREAS, Section 21-35-25 of the Mississippi Code of 1972, Annotated, provides authorization for the governing authorities of a municipality to amend the budget of such municipality, provided there be funds in the treasury of the municipality not appropriated by

the budget and there is a deficit in any one (1) or more items provided for in the budget;
and

WHEREAS, it is the recommendation of E. Michael Leonard, Chief Administrative Officer, and Peter Abide, City Attorney that additional funds in the amount of \$28,000.00 be transferred from the General Fund into the other profession services account for the Administration Department, line item 01111-6432, as detailed in Exhibit "B" attached hereto, so as to provide sufficient funds to satisfy the City's contractual obligations to NextSite and terminate the Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI, THAT:

Section 1: The findings, conclusions, and statements of fact contained in the foregoing preamble are hereby adopted, ratified, and incorporated herein.

Section 2: The Mayor is, on behalf of the City of Biloxi, hereby authorized to accept and execute the Amendment to Agreement to Provide Research, Marketing & Consulting Services, attached hereto as Exhibit "A," with Nextsite, LLC.

Section 3: The Municipal Budget of the City of Biloxi for fiscal year ending September 30, 2019, is hereby amended to reflect the transfer of \$28,000.00 from the General Fund to the account established for the Administration Department's professional services costs, line item 01111-6432, as detailed on Exhibit "B" attached hereto.

Section 4: Payment in the total of \$28,000.00 to Nextsite, LLC for its second year of professional services is hereby authorized and approved.

Section 5: Upon payment of \$28,000.00 to Nextsite, LLC for professional services rendered between May 1, 2019 and the date of said payment, the Agreement to Provide

Research, Marketing & Consulting Services between Nextsite, LLC and the City of Biloxi shall be terminated.

Section 6: This resolution shall take effect and be in force from and after adoption.

AMENDMENT TO AGREEMENT TO PROVIDE RESEARCH, MARKETING & CONSULTING SERVICES BETWEEN NEXTSITE, LLC AND THE CITY OF BILOXI

THIS AMENDMENT TO AGREEMENT TO PROVIDE RESEARCH, MARKETING & CONSULTING SERVICES (this "Amendment"), is made by and between the CITY OF BILOXI, MISSISSIPPI, a Mississippi municipal corporation (the "Client"), and NEXTSITE, LLC, an Alabama limited liability company ("Consultant"), and is effective as of the 6th day of August, 2019

WITNESSETH:

WHEREAS, Consultant and Client entered into that certain Agreement to Provide Research, Marketing & Consulting Services (the "Agreement") on April 17, 2018; and

WHEREAS, the parties desire to amend the Agreement.

NOW, THEREFORE, this Agreement is modified as follows:

A. The third and fourth sentences of Paragraph 3. Compensation are deleted and shall be replaced with the following:

Upon payment of compensation for Year 2 in the amount of \$28,000, the parties mutually agree to terminate the Agreement.

B. Both parties agree the other has acted in good faith and agree no further duties or obligations are owed after payment for Year 2. The City agrees that it will not hire a competitor consultant during the remaining term of the April 17, 2018 Agreement.

C. In the event of a conflict in the terms between the original Agreement and this Amendment, this Amendment will control.

Signatures on following page



City of Biloxi



Resolution Number: _____

Date: May 21, 2019

Budget Amendment

FROM: (or credit)

Revenue or Expense	Category	Org Code	Object	Project	\$ Amount
Blank					
Total From:					\$0.00

TO: (or debit)

Revenue or Expense	Category	Org Code	Object	Project	\$ Amount
Expense	Supplies/Other Charges	01111	6432		\$28,000.00
Total To:					\$28,000.00

Explanation:

To amend budget to provide for funding of the NextSite LLC engagement for fiscal year 18-19 which was not funded in the original budget. Funds from beginning fund balance of General Fund.

Department Head


 Accounting Department