

**CITY OF BILOXI
AGENDA ITEM
FACT SHEET**

Item No.: 5Z

Council Meeting Date: May 19, 2026

ITEM TITLE: RESOLUTION

INTRODUCED BY: Mayor Andrew "FoFo" Gilich

CONTACT PERSON: Richard Weaver, Chief Administrative Officer
James Lee, Director of Parks and Recreation

SUMMARY EXPLANATION:

Resolution accepting the proposal of Bonny Pesch and authorizing entry into a Professional Services Agreement for Market Manager

Resolution Ordinance _____ Public Hearing _____ Routine Agenda _____

Exhibits for Review

Contract Minutes _____ Plans/Maps _____ Deed _____ Lease _____

Other (Specify): Exhibit A: Bid Exhibit B: RFP
Exhibit C: Recommendation
Exhibit D: Professional Services Agreement for Market Manager

Submittal Authorization: Council President _____ Mayor

STAFF RECOMMENDATION: Staff recommends approval

COUNCIL ACTION: Motion By: _____ Second By: _____

Vote:	Councilmember	Yes	No	AFR	ABST	Councilmember	Yes	No	AFR	ABST
	Gray	_____	_____	_____	_____	Tisdale	_____	_____	_____	_____
	Marshall	_____	_____	_____	_____	Glavan	_____	_____	_____	_____
	Nail	_____	_____	_____	_____	Shoemaker	_____	_____	_____	_____
	Creel	_____	_____	_____	_____					

ACTION TAKEN:

Resolution No.

RESOLUTION ACCEPTING THE PROPOSAL OF BONNY PESCH AND AUTHORIZING ENTRY INTO A PROFESSIONAL SERVICES AGREEMENT FOR MARKER MANAGER

WHEREAS, in accordance with §31-7-13 of the Mississippi Code of 1972, the City of Biloxi (the "City") advertised for competitive bids for a market manager to operate a farmers' or community market, and received such bids on May 6, 2026;

WHEREAS, a single proposal was received from Bonny Pesch ("Pesch"), a copy of which is attached hereto as Exhibit "A," in response to the City's request for proposals;

WHEREAS, the City's Request for Proposals (the "RFP"), a complete copy of which is attached hereto as Exhibit "B," included a requirement that the "Manager shall pay the City, on a monthly basis, an amount equal to thirty percent (30%) of its revenue from the Market. In addition, the Market Manager will a guaranty minimum payment to the City for the use of its property for each Market day";

WHEREAS, Pesch's response provided two (2) options regarding fees, either a flat annual fee to be negotiated, or twenty-five percent (25%) of the revenue;

WHEREAS, the City's RFP also included provisions allowing the City to negotiate with the highest ranked respondent, and as only one (1) proposal was received, the selection committee contacted Pesch, and based on calculations of estimated revenue and expense, negotiated an acceptance of twenty-five percent (25%) of the revenue, with no payment for use of the property;

WHEREAS, the City's selection committee recommends acceptance of Pesch's proposal, as shown in its recommendation attached hereto as Exhibit "C," and award of the Professional Services Agreement for Market Manager, attached hereto as Exhibit "D."

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

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

SECTION TWO: The Mayor is hereby authorized to accept the proposal of Bonny Pesch for Market Manager.

SECTION THREE: The Mayor, on behalf of the City of Biloxi, is hereby authorized to execute the Professional Services Agreement for Market Manager, attached hereto to Exhibit "D," with Bonny Pesch.

SECTION FOUR: This resolution shall take effect and be in force from and after its adoption.



Market Manager Proposal

Bonny Pesch
28 Apr 2026

Proposal for Farmer's Market Manager

Submitted by:

Bonny Pesch

432 Sunflower Rd

Perkinston MS 39573

bpesch@aol.com

228 596-1360

Introduction

This proposal is being submitted for the position of Farmer's Market Manager. With decades of hands-on experience in event coordination, management, and municipal collaboration, I bring a strong foundation of leadership, organization, and community engagement to this role.

My goal is to maintain and grow a vibrant, well-organized, and profitable farmer's market that benefits vendors, customers, and the community alike.

Market Management Plan

As Market Manager, I will focus on the following key areas:

1. Vendor Coordination & Growth

- Maintain strong communication with all vendors
- Recruit new, diverse vendors to enhance product variety
- Ensure fair and consistent enforcement of rules and guidelines

2. Operations & Organization

- Oversee weekly market setup and breakdown
- Assign vendor spaces efficiently

- Ensure compliance with local regulations, permits, and safety standards

3. Community Engagement

- Organize seasonal events and themed market days
- Collaborate with local organizations and businesses
- Promote the market as a community gathering place

4. Marketing & Promotion

- Utilize social media and local advertising
- Promote vendor highlights and special events
- Increase customer attendance and vendor visibility
- Actively recruit new vendors through advertising and word of mouth
- Work on getting the Biloxi Farmers Market certified as a Certified Mississippi Farmers Market

5. Financial Oversight

- Manage vendor registrations and fees, including state sales taxes
- Maintain accurate records of participation and revenue
- Ensure transparency and accountability

Proposed Location

- For the past twenty years, the Biloxi Farmer's Market has been held under the I-110 overpass at the intersection of Howard Ave and Hopkins Blvd at 941 Howard Ave. The location has been a successful one for the market with a natural covering that the bridge provides. The area is already marked off with numbered parking spaces that act as vendor spots. I propose that the market continue in its current location which is well known to the public and easily accessible with plenty of parking.
- The market is currently held year round. I propose that it continues along the same timeline with the market being closed in January, which traditionally is a very slow month. I would continue the Tuesday and Thursday market days from 7 am to 1 pm, with all vendors being off the property by 1:30-2 pm.
- There are currently 89 numbered spaces in the current market area. I propose that the market continue within those boundaries with the goal of filling all the slots with vendors at some point in the future.

- I would like to propose at least two specialty markets in the Fall, one in the Halloween/Fall time frame and one in December as a holiday market. The specialty markets could be held on an existing market day or the possibility of a Saturday for the special event being explored.
- Regular market Festivals have in the past traditionally been held in June, July, September and October. They have not been held in the past two seasons. I would like to see them return during those months as they have been very successful in the past. They are always held as an add-on to a regular market day.

Experience & References

- *Extensive supervisory/management experience working with the City of Biloxi from 1979–2004*
- 14 years as an active vendor at the City of Biloxi Farmer's Market making me one of the vendors that has been very reliable in attending the market and therefore I have a wealth of knowledge on how the market works. The advantage being that I do not need to learn how the market is run, learn the rules or get to know the existing vendors.
- Proven experience organizing and managing multiple city events including National Night Out, several large scale conferences during my 25 years as a City of Biloxi employee
- Strong working relationships within the local vendor and community network

I have been a vendor at the Biloxi Farmer's Market for 14 years. I have extensive management experience that has served me well in the role of being a vendor. Moving into the Market Manager's position will be smooth transition since I know all the vendors, have a good working relationship with customers, have extensive management experience and have worked in the environment for years.

Capabilities & Skills

- *Strong leadership and organizational skills*
- *Excellent communication and conflict resolution abilities*
- *Event planning and coordination expertise*
- *Vendor relations and customer service experience*
- *Knowledge of market operations and logistics*
- *Dependable, self-motivated, and detail-oriented*

Fee Structure

- *I propose that the current vendor fee of \$150 per year, per vendor, per slot be continued. I would also add a \$50 per month seasonal and short-term vendor fee for vendors who don't want to commit to a year, and \$20 per week for vendors that want to try the market short term to determine if it will be a fit for them.*
- **Market capacity:** There are currently 89 slots with many vendors renting more than one space at a time

Proposed Management Fee:

- A structured management fee based on total vendor participation
- Option 1: Flat annual management fee (to be negotiated)
- Option 2: Percentage-based fee from total vendor revenue, proposed to be 25%

This flexible structure allows for sustainability while supporting continued market growth and improvements.

Closing

I am committed to ensuring the farmer's market continues to thrive as a successful and welcoming space for vendors and the community. Having been a market vendor for the past 14 years puts me in a unique position to jump into the role and take on the responsibilities of being market manager. My experience, dedication, and vision will help strengthen and expand the market's impact.

Thank you for your consideration. I look forward to the opportunity to serve as Farmer's Market Manager.

PROPOSAL CONTENT

Vendor's Contact Information:

Name: Bonny Pesch

**Address: 432 Sunflower Rd
Perkinston MS 39573**

Phone: 228 596-1360

Email: bpesch@aol.com

EIN: 41-4539418

Respondent acknowledges receipt of and has added to and made part of the proposal and contract documents the following addendum (addenda):

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

TOTAL ADDENDA: _____

The undersigned person, by the undersigned's authorized signature affixed hereon, warrants that:

1. The undersigned is an authorized representative of the Respondent's company and the enclosed Proposal is submitted on behalf of the Respondent's company.
2. The undersigned has carefully reviewed all the materials and data provided on the Respondent's Proposal on behalf of the company, and, after specific inquiry, believes all the material and data to be true and correct.
3. The Proposal offered by the Respondent's company is in full compliance with the Request for Proposal requirements set forth in this Request for Proposal.
4. The Respondent's company authorizes the City of Biloxi to contact any of the references provided in the Proposal and specifically authorizes such references to release either orally, or in writing, any appropriate data with respect to the Respondent's company offering this Proposal.
5. The undersigned has been specifically authorized to issue a contract in full compliance with all requirements and conditions as set forth in this Request for Proposal.
6. If this Proposal is accepted, contracts will be issued as negotiated in a format acceptable to the City of Biloxi in form and content.
7. By signing this proposal, Respondent certifies, acknowledges, understands and agrees to be bound by the conditions set forth in the RFP.

N/A

Name of Company

Bonny A. Pesch

Signature of Authorized Representative

BONNY A PESCH

Type or Printed Name of Authorized Representative

Respondent

Title

28 APR 26

Date

THIS PAGE MUST BE COMPLETED & SUBMITTED WITH PROPOSAL

Proposed new logo for the Biloxi Farmers Market



Bonny Pesch

Hopkins

Proposed Market
Location

Parking Lot

Howard Ave

	15		43		75
14		42		74	
	16		44		76
13		41		73	
	17		45		77
12		40		72	
	18		46		78
11		39		71	
	19		47		79
10		38		70	
	20		48		80
9		37		69	
	21		49		81
8		36		68	
	22		50		82
7		35		67	
	23		51		83
6		34		66	
	24		52		84
5		33		65	
	25		53		85
4		32		64	
	26		54		86
3		31		63	
	27		55		87
2		30		62	
	28		56		88
1		29		61	
				60	
				59	

941 Howard Ave Biloxi MS Under the I110 bridge at Howard Ave and Hopkins

REQUEST FOR PROPOSALS

Notice is hereby given that the City of Biloxi, Mississippi, will receive sealed proposals at City Hall, Second floor, Mayor's Office, until 10:00 a.m. on the 6th day of May, 2026, for the following:

**MARKET MANAGER SERVICES
CITY OF BILOXI, MISSISSIPPI**

Specifications are available on-line at www.biloxiplans.com and in the Purchasing Office, City Hall, 140 Lameuse Street, Biloxi, Mississippi (228-435-6252).

Proposals will be rated on the following system to determine best bid received: Plan for the Market (25%); Experience and Qualifications (20%); Capability and Skills (15%), Fees (35%) and Other Factors (5%)

The City of Biloxi reserves the right to reject any and all proposals and to waive any informality in the proposal subjected. The City of Biloxi is an equal opportunity employer.

PROPOSALS SHALL BE DELIVERED TO THE MAYOR'S OFFICE, SECOND FLOOR, CITY HALL BUILDING, 140 LAMEUSE STREET, BILOXI, MISSISSIPPI 39530 OR ELECTRONICALLY SUBMITTED AT WWW.BILOXIPLANS.COM.

Proposals sent through U.S. Mail are done so at the risk of the respondent and should be addressed to the City of Biloxi, City Hall, P.O. Box 429, Biloxi, MS 39533. The City is not responsible for proposals that arrive in the mail after the designated opening time. Proposals may be delivered in person to City Hall, Second Floor, 140 Lameuse Street, Biloxi, MS.

All responses shall be plainly marked "MARKET MANAGER" on the sealed envelope. Sealed proposals not so marked are submitted at the risk of the respondent and the City assumes no responsibility for the premature opening of same by any City employee.

If City Hall is closed for any reason, including but not limited to: acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters (the "Force Majeure Events"), which closure prevents the opening of proposals at the advertised date and time, all proposals received shall be publicly opened and read aloud on the next business day that the agency shall be open and at the previously advertised time. The new date and time of the proposals opening, as determined in accordance with this paragraph, shall not be advertised, and all respondents, upon submission of a proposal, shall be deemed to have knowledge of and shall have agreed to the provisions of this paragraph. Proposals shall be received by the City until the new date and time of the proposal opening as set forth herein. The City shall not be held responsible for the receipt of any proposals for which the delivery was attempted and failed due to the closure of City Hall as a result of a Force Majeure Event. Each respondent shall be required to ensure the delivery and receipt of its proposal by the City prior to the new date and time of the proposal opening.

All Electronic Proposals must be submitted on-line at www.biloxiplans.com prior to the opening


date and time as stated above. Questions regarding registration for the electronic bid process and document submission should contact Plan House Printing at (662) 407-0193.

All persons having a contract with the City of Biloxi must adhere to the City's policy concerning non-discrimination on the basis of race, color, religion, sex, age, sexual orientation, gender identity, national origin, veteran or disability status.

Proposals must be received before 10:00 a.m. May 6, 2026. The selection committee will review each proposal and invite all qualified firms to enter into a contract with the City to provide Market Management services. Performance is intended to begin in June 2026.

Published by the order of the Municipal Clerk, this the 24th day of March, 2026

SEAL


DEPUTY MUNICIPAL CLERK

SEND PROOF OF PUBLICATION:

Publish Twice: March 30, 2026 and April 6, 2026

**REQUEST FOR PROPOSALS
MARKET MANAGER
CITY OF BILOXI**

I. GENERAL INFORMATION:

RESPONSE DUE DATE: 10:00 AM (CST), May 6, 2026

SCOPE OF REQUEST: The City of Biloxi, Mississippi (referred to herein as the "City") is seeking proposals to provide a Community OR Farmers Market ("Market") with quality vendors and goods, and an overall high-quality experience for shoppers. The City anticipates awarding a contract to a qualified market manager ("Manager") capable of offering a Market that further strengthens and fosters the healthy, active, local lifestyle that the community seeks.

CONTACTS: For information concerning procedures for responding to this solicitation, contact the Purchasing Agent, Keith Stuart by email at kstuart@biloxi.ms.us or by telephone at (228) 435-6252.

Vendors may submit written inquiries regarding this solicitation via email to rquave@biloxi.ms.us. The City will respond to inquiries received at least five (5) business days prior to the Proposal due date. Emails should include "Market Manager RFP" in the subject line. The City will not respond to oral inquiries and will not be bound by oral responses to inquiries.

SUBMISSION OF RESPONSES: All responses must be submitted by 10:00 AM (CST), May 6, 2026.

Proposals must be submitted either by sealed and labeled proposal or electronically submitted at www.biloxiplans.com.

Proposals sent through U.S. Mail are done so at the risk of the respondent and should be addressed to the City of Biloxi, City Hall, P.O. Box 429, Biloxi, MS 39533. The City is not responsible for proposals that arrive in the mail after the designated opening time. Proposals may be delivered in person to City Hall, Second Floor, 140 Lameuse Street, Biloxi, MS.

Proposals shall be plainly marked "MARKET MANAGER" on the sealed envelope. Sealed proposals not so marked are submitted at the risk of the respondent and the City assumes no responsibility for the premature opening of same by any City employee.

All Electronic Responses must be submitted on-line at www.biloxiplans.com prior to the opening date and times as stated above. Questions regarding registration for the electronic bidding process and document submission should be directed to Plan House Printing at (662) 407-0193.

CHANGES OR MODIFICATIONS

Changes or modifications to this RFP made prior to the date and time of closing will be addressed by addenda from the City. Respondents are to acknowledge receipt of addenda in the space provided on the cover page of this RFP. This RFP and any addenda shall be incorporated, by reference, into any resulting contract.

PROPOSAL CONTENT

The City discourages overly lengthy and costly Proposals, however, for the City to evaluate Proposals fairly and completely, Respondents must follow the format set out in this RFP and provide all information requested.

Any Respondent that states in its Proposal any information that is determined to be substantially inaccurate, misleading, exaggerated, or incorrect shall be disqualified from consideration.

Proposal must, at a minimum, containing the information requested in Section III: Proposal Content.

AGREEMENT:

The successful Respondent will enter a Market Management Agreement with the City. All terms and conditions of which must be mutually acceptable to all parties and will be subject to approval by the Biloxi City Council, in its sole and absolute discretion. The Agreement must be fully executed and approved by all parties within 60 days after the Response Due Date, unless extended in writing by the Mayor and the successful Respondent.

AWARD CRITERIA:

The City intends to select a proposal and enter into an Agreement with a Market Manager based upon the following criteria that will be evaluated, weighted and measured in the City's sole and absolute discretion, as follows:

- a. Plan for the Market (25 points)
- b. Experience and Qualifications (20 points)
- c. Capability and Skills (15 points)
- d. Fees (35 points)
- e. Other Factors (5 points)

COST OF PREPARING RESPONSE:

The cost of developing and submitting the response is entirely the responsibility of the persons and firms submitting a response to this request for proposals. This includes, but is not limited to, costs to

response, submitting the response, negotiating for the Lease and other costs associated with this request for proposals.

**NO ORAL OR
IMPLIED
CONTRACTS:**

There shall be no oral or implied contracts relating to this request for proposals.

**ACCEPTANCE OR
REJECTION:**

The City reserves the right to:

- a. select, accept or reject any or all proposals or part of a proposal, with or without cause;
- b. to waive any informalities or technicalities, minor errors and inconsistencies;
- c. to clarify any ambiguities in proposals;
- d. to modify any criteria in this request for proposals; and
- e. to negotiate with any submitter upon terms that do not differ substantially from those set forth herein.

**OPEN RECORDS
LAW:**

All responses become the property of the City. All information contained in the responses shall become open for public review.

FORCE MAJEURE

If City Hall is closed for any reason, including, but not limited to: acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters (the "Force Majeure Events"), which closure prevents the opening of responses at the advertised date and time, all responses received shall be publicly opened and read aloud on the next business day that the agency shall be open and at the previously advertised time. The new date and time of the bid opening, as determined in accordance with this paragraph, shall not be advertised, and all Bidders, upon submission of a bid, shall be deemed to have knowledge of and shall have agreed to the provisions of this paragraph. Responses shall be received by the City until the new date and time of the bid opening as set forth herein. The City shall not be held responsible for the receipt of any responses for which the delivery was attempted and failed due to the closure of City Hall as a result of a Force Majeure Event. Each Bidder shall be required to ensure the delivery and receipt of its bid by the City prior to the new date and time of the bid opening.

**NON-
DISCRIMINATION**

All persons having a contract with the City of Biloxi must adhere to the City's policy concerning non-discrimination without regard to race, creed, color, age, sex, national origin, or handicap.

**SIGNATURE OF
RESPONSES:**

Each response shall give the complete mailing address of the submitter and be signed by an authorized representative with his or her name and legal title typed below the signature line.

**NOTICE OF
AWARD:**

The award will be announced on or before 60 days after the Response Due Date. No response may be withdrawn until such award or rejection of all responses. Only the City is authorized to issue news releases relating to this request for proposals, selection of the successful submitter, and/or implementation of the resulting agreement.

PERFORMANCE:

The successful Respondent must be available to begin the duties of the Market Manager, at full intended capacity, no later than June 1, 2026.

**PROHIBITION OF
GRATUITIES:**

Neither the successful Respondent nor any person, firm or corporation employed by the successful Respondent shall offer or give any gift, money or anything of value or any promise of future award or compensation to any of the City's officials, officers, directors, or employees at any time.

**THIRD PARTY
BENEFICIARIES:**

This request for proposals and resulting agreement shall not be construed as providing an enforceable obligation to any third party.

NO LIABILITY:

The City shall not have any liability and no obligation to any person nor shall it be compelled to enter into any agreement or any other arrangement as a result of issuing this request for proposals.

II. REQUEST FOR PROPOSALS

The purpose of this Request for Proposal (RFP) is to solicit proposals to provide a Community OR Farmers Market ("Market") with quality vendors and goods, and an overall high-quality experience for shoppers. The City anticipates awarding a contract ("the Agreement") to a qualified market manager ("Manager") capable of offering a Market that further strengthens and fosters the healthy, active, local lifestyle that the community seeks.

If the Respondent proposes a Farmers Market, the Respondent abide by all criteria established by the Mississippi Department of Agriculture and Commerce ("MDAC") and receive and maintain certification as a Farmers Market from the MDAC. If Respondent has proposed a Farmer Market, failure to receive and maintain such certification will result in termination of any Agreement entered with the City.

A. Duties of Market Manager.

The Manager will assume responsible for all aspects of the Market's management, including vendor selection, vendor space assignment, setup and breakdown supervision, marketing and promotion, coordination, security, invoice preparation, revenue collection, collection and remittance of sale tax to the Mississippi Department of Revenue and other duties as required by Market functions and operations.

1. The Manager will operate the Market with the highest industry standards and provide a high quality, healthy, innovative, affordable, and safe market for the market patrons.
2. The Manager will assume full responsibility for promotion of the event, including marketing and requirements of the Mississippi Department of Revenue for the collection and remittance of sales tax as an event promoter.
3. The Manager shall solicit, approve, and select Vendors to participate in the Market.
4. The Manager shall ensure vendors have appropriate licenses and permits prior to scheduling for participation in the Market.
5. The Manager will not allow any sublet or assignment of stall space or any other activity that will allow an unknown vendor to operate at the Market.
6. The Manager shall adopt rules for Vendors, which rules are consistent and compliant with the terms of the Manager's Agreement with the City, and ensure that the Vendors are aware of the rules and act in accordance with the rules.
7. The Manager must adhere to a policy of non-discrimination without regard to race, creed, color, age, sex, national origin, or handicap when selecting Vendors to participate in the Market.
8. The Manager shall resolve all Vendor and customer complaints in a professional, fair, and timely manner.
9. The Manager shall be on site and be in charge of the operation of the Market at all times that Vendors are present and during all times Market is operating.

10. The Manager shall work with the local media to promote the Market.
11. The Manager shall maintain a desirable appearing Market area; and keep the premises in good order and in a clean and sanitary condition on the days of the Market, including the removal of any substance or debris that attracts vermin or insects.
12. The Manager shall be informed regarding the items being sold and will use its best efforts to provide variety and high quality in the products being sold.
13. The Manager shall have the responsibility for assigning stalls to specific Vendors and for immediately resolving any disputes regarding stall assignments.
14. The Manager shall strive to increase the number of Vendors operating at the Market.
15. The Manager shall have the responsibility to eject any objectionable or noncompliant Vendor. Additionally, the Manager shall immediately eject any Vendor at the request of the City. No Vendor shall have any rights of appeal from a decision of the City or Manager that the Vendor be ejected.
16. The Manager shall operate the Market in a manner so as to reduce, as much as reasonably possible, any dangers associated with consumption of food products sold and dangers such as tripping, falling, or any other dangerous conditions resulting from Vendors' ingress, egress, set up, take down, or any other operation or participation in the Market.
17. The Manager shall ensure that the Market is operated in compliance with any requirements or requests of the City, Mississippi Department of Health, Police Department, Fire Department and the Mississippi Department of Agriculture and Commerce (if applicable).
18. The Manager is required to ensure that the Market is operated in accordance with all applicable federal, state, and local codes, laws, rules, regulations, and ordinances that pertain to the operation of this Market, including, but not limited to, any tax laws, child labor laws, licenses, permits, food handling and safety, farming practices, animal slaughter, manufacture of processed foods (ex. jam, pie), permit to sell processed foods, temperature and sanitation requirements for the storage, transport, and sale of certain items (ex. eggs, meat), sanitary covering of displayed produce, gloves or other sanitation requirements for the dispensing of items, displays of samples in a manner to decrease contamination potential, clear posting of prices and legal weighing scales.
19. The Manager shall operate the Market, and require that all Vendors operate in a professional, safe, sanitary, and lawful manner in total compliance with Manager's Agreement with the City.

B. Specific Requirements.

1. The Respondent awarded an Agreement with the City must provide evidence of general commercial liability insurance in an amount not less than Five Hundred Thousand and 00/100 Dollars (\$500,000.00), and the Manager shall furnish to the City within thirty (30) days after execution of

any Agreement written evidence of the existence of such insurance. The City shall be named in said policy as an additional insured and shall receive notice of any policy cancellation.

2. Respondents must have, or be capable of obtaining all required permits, licenses, and taxes, regarding business operations, applicable for the City of Biloxi and the State of Mississippi.

C. Location.

Respondent must propose either a fixed location, or a rotating schedule of locations from the following:

1. HowHop – located under the I-110 overpass at the intersection of Howard Avenue and Hopkins Boulevard;
2. Point Cadet Pavilion;
3. Eagle Point Park;
4. Lighthouse Park & Pavilion;
5. Popp's Ferry Recreational Area;
6. Hiller Park; and/or
7. Other City of Biloxi Park space.

All proposed locations are subject to availability and approval of the City. **Some blackout dates may apply due to scheduled permitted activities and park rentals.** In the event a rotating Market location is proposed, the Respondent must include a proposed schedule for the first Market season.

For each location proposed, the Respondent must provide a site plan of the proposed Market layout.

D. Market Season and Times.

Responses must include a proposed Market season (i.e. months of operation) for operation of the Market, and a proposed Market schedule (i.e. day(s) of operation). Please note that the City will not consider a Market operating more than twice weekly.

Responses should include proposed hours of operation, including setup and breakdown times. The Manager will be responsible for ensuring that all Vendors comply with this schedule. Further, the Manager shall be responsible to the City for any costs incurred by the City for a Vendor's failure to timely remove all property of the Vendor.

The City will consider specialty themed markets, which may occur outside of the normal, proposed Market Season.

The City reserves the right to cancel and/or terminate any Market, without notice, in situations that threaten the public health, safety, and welfare, which shall be determined at the sole discretion of the City. Such situations include, but are not

limited to, hurricanes, tropical storms, and other severe weather events, unruly or violent crowds, crowds in excess of property capacity and pandemics. The City shall not be liable for any costs or expenses incurred by Manager or vendors as a result of any such cancellation or termination.

E. Fees.

1. Manager shall have the right to establish fees for Vendor participation in the Market ("Stall Rental Fee"). All such Stall Rental Fees must be made publicly available. Stall Rental Fees will be considered revenue to the Manager.
2. In exchange for the use of City property on which to conduct the Market, Manager shall pay the City, on a monthly basis, an amount equal to thirty percent (30%) of its revenue from the Market. In addition, the Market Manager will a guaranty minimum payment to the City for the use of its property for each Market day.

F. Evaluation Criteria.

The Selection Committee is made up of selected City employees. The evaluation will be based solely on the evaluation factors set out in this RFP. The Proposal ranked highest shall be the Respondent to be negotiated with. A second-highest ranking Respondent may also be selected as a "back-up" to the highest Respondent should it be unable to fulfill the role of Market Manager.

All Proposals will be reviewed to determine if they are responsive. The awarded Respondent must have a proven record in the specified fields of service. Consideration will be given to reputation, experience, and ability to comply with requirements of this RFP.

G. Discussions with Respondents.

To determine if a Proposal is reasonably susceptible to award, communications by the Selection Committee are permitted with a Respondent to clarify uncertainties or eliminate confusion concerning the contents of a Proposal. Clarifications may not result in a material or substantive change to the Proposal. The evaluation by the Committee may be adjusted as a result of a clarification under this section.

The purpose of these discussions will be to ensure a full understanding of the requirements of the RFP and Proposal. Discussions will be limited to specific sections of the RFP or Proposal identified by the Selection Committee.

H. Scoring of Proposals. The Selection Committee will evaluate Proposals and score based on whether the delivery guarantees meet the needs of the City. All responses

received will be scored based on criteria detailed below.

1. Plan for the Market (25 points)
2. Experience and Qualifications (20 points)
3. Capability and Skills (15 points)
4. Fees (35 points)
5. Other Factors (5 points)

I. Contract Negotiation.

After final evaluation, the City's designee may negotiate with the Respondent of the highest-ranked Proposal. Negotiations, if held, shall be within the scope of the Request for Proposals and limited to those items that would not affect the ranking of Proposals. If the highest-ranked Respondent fails to provide necessary information for negotiations in a timely manner, or fails to negotiate in good faith, the City may terminate negotiations and negotiate with the Respondent of the next highest-ranked Proposal.

The City may terminate negotiations with the Respondent initially selected and commence negotiations with the next highest ranked Respondent if the selected Respondent:

1. fails to provide the information required to begin negotiations in a timely manner,
2. fails to negotiate in good faith;
3. indicates they cannot perform the contract within the budgeted funds available for the project; or
4. if, after a good faith effort, the Respondent and the City simply cannot come to terms.

I. Contract Documents. This RFP, its addenda(s), Respondent's proposal, any additional information requested, negotiated changes, and the final awarded contract will constitute the final contract hereafter referred to as the "Contract".

The Contract shall be governed by the contract documents in the following order of precedence:

1. The final negotiated Contract
2. The RFP, its attachments, and its addenda
3. Any negotiated changes to the foregoing documents
4. Offeror's proposal

In the event that there is a Conflict between this RFP, its attachments and addenda, Offeror's Bid, or any related documents and the final negotiated Contract, the final negotiated Contract shall supersede and control.

The contract included as an attachment to this RFP is intended for discussion

purposes only and may not reflect the negotiated agreement entered by the City and Manager.

III. PROPOSAL CONTENT

Vendor's Contact Information:

Name: _____

Address: _____

Phone: _____

Email: _____

EIN: _____

Respondent acknowledges receipt of and has added to and made a part of the proposal and contract documents the following addendum (addenda):

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

TOTAL ADDENDA: _____

(Must agree with total addenda issued prior to opening of bid)

THIS PAGE MUST BE COMPLETED & SUBMITTED WITH PROPOSAL

The undersigned person, by the undersigned's authorized signature affixed hereon, warrants that:

1. The undersigned is an authorized representative of the Respondent's company and the enclosed Proposal is submitted on behalf of the Respondent's company.
2. The undersigned has carefully reviewed all the materials and data provided on the Respondent's Proposal on behalf of the company, and, after specific inquiry, believes all the material and data to be true and correct.
3. The Proposal offered by the Respondent's company is in full compliance with the Request for Proposal requirements set forth in this Request for Proposal.
4. The Respondent's company authorizes the City of Biloxi to contact any of the references provided in the Proposal and specifically authorizes such references to release either orally, or in writing, any appropriate data with respect to the Respondent's company offering this Proposal.
5. The undersigned has been specifically authorized to issue a contract in full compliance with all requirements and conditions as set forth in this Request for Proposal.
6. If this Proposal is accepted, contracts will be issued as negotiated in a format acceptable to the City of Biloxi in form and content.
7. By signing this proposal, Respondent certifies, acknowledges, understands and agrees to be bound by the conditions set forth in the RFP.

Name of Company

Signature of Authorized Representative

Type or Printed Name of Authorized Representative

Title

Date

THIS PAGE MUST BE COMPLETED & SUBMITTED WITH PROPOSAL

Responses must include a narrative description of each of the following.

- A. Plan for the Market - Provide a concise description plan for the Market. Said description should include, but not be limited to:
 1. Statement of intent to operate a Farmers or Community Market.
 2. Proposed location(s) for the Market, including a proposed site map for each location.
 3. Proposed Market season and schedule.
 4. Proposed number of Vendors participating in the Market.
 5. Any proposed seasonal markets.

- B. Experience & References - Provide a concise description of all work experiences as they relate to the scope of work outlined herein. Said description should include, but not be limited to:
 1. Respondent's established experience record in providing comparable services to organizations similar to the City of Biloxi, including the number and types of customers the Respondent has served with comparable services.
 2. Number of years Respondent has been providing these types of services.
 3. References for which Respondent has completed services comparable to those described in this RFP. For each reference, detail:
 - (a) Name of firm
 - (b) Address of firm
 - (c) Name, title, address, email address, telephone and fax numbers of a contact for the firm
 - (d) Number of years the Respondent has served the firm
 - (e) Brief summary of scope of services provided to the firm
 4. Other available documentation to verify Respondent's experience
 5. A statement detailing why the Respondent is the best candidate to provide the City of Biloxi with the services requested in this RFP.

- C. Capability and Skill – Credentials and Experience of Team: Describe the qualifications and skills of the organization to provide the services. Said description should provide, but not be limited to, the following information:
 1. Background information about the organization, e.g., philosophy, ownership, size, facilities and locations, etc.
 2. Respondent's qualifications to perform the services.
 3. Qualifications and resumes of team members and other employees who will be managing and performing the services described in the RFP.
 4. A copy of the certificate verifying the Respondent is authorized to do business in the State of Mississippi.
 5. A copy of the Respondent's license to do business in Biloxi, Mississippi.

- D. Fees –

1. Respondent must submit schedule of the Respondent's proposed Stall Rental Fees, including, but not limited to, any variations based on Market location, discounts for advanced payment (ex. daily and seasonal rates), and any variation based on stall size or products sold.
2. Respondent must also provide an amount guaranteed to the City for use of its property on each Market day.

E. Other Factors – Respondent's may include the following:

1. Proposed rules for the Market.
2. Marketing plans.
3. Any other information Respondent believes is relevant and qualifies it to manage the Market.

Mayor
Andrew "FoFo" Gilich

City Council
Wayne Gray, Ward 1
Anthony L. Marshall, Ward 2
Mike Nail, Ward 3
Jamie Creel, Ward 4
Paul A. Tisdale, Ward 5
Kenny Glavan, Ward 6
David Shoemaker, Ward 7



140 Lameuse Street
P. O. Box 429
Biloxi, Mississippi 39533
www.biloxi.ms.us



May 13, 2026

The City of Biloxi Selection Committee for proposals for Market Manager Services, received May 6, 2026, has convened and reviewed all proposals received for such services. Based on the criteria established in the advertisement and specifications for such services, the Selection Committee recommends acceptance of the proposal submitted by Bonny Pesch and entry into a Professional Services Agreement for Market Manager with Ms. Pesch.

A handwritten signature in black ink, appearing to read "Richard Weaver".

Richard Weaver
Chief Administrative Officer

A handwritten signature in black ink, appearing to read "James Lee".

James Lee
Director of Parks and Recreation

A handwritten signature in black ink, appearing to read "Brooke Everett".

Brooke Everett
Administrative Assistant

PROFESSIONAL SERVICES AGREEMENT FOR MARKET MANAGER

THIS PROFESSIONAL SERVICES AGREEMENT FOR MARKET MANAGER (this “Agreement”) is made and effective as of the _____ day of May, 2026, by and between the CITY OF BILOXI, (hereinafter “City”) and BONNY PESCH (hereinafter “Manager”).

WHEREAS, the City controls real property commonly known as HowHop, located under the I-110 overpass at the intersection of Howard Avenue and Hopkins Boulevard;

WHEREAS, the City desires to have a bi-weekly community market (the “Market”) operate at HowHop (hereinafter, the “Premises”) subject to the terms and conditions of this Agreement, for the public purpose of providing for sale in the community, nutritious, fresh food products; and

WHEREAS, the Manager has the experience and ability to provide such community market and wishes to manage and operate a public community Market at HowHop in accordance with the terms and conditions of this Agreement;

NOW THEREFORE, in consideration of the mutual promises, covenants and undertakings hereinafter contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

1. GRANT OF USE

- (a.) Subject to the terms and conditions set forth in this Agreement, the City grants to the Manager use of Premises to operate a seasonal Market, vendors and weather permitting.
- (b.) The Manager agrees that only the Manager shall operate the Market. The Manager shall arrange for Market vendors (“Vendors”), to be qualified by the Manager to set up stalls to offer produce and other food products in accordance with the terms and conditions of this Agreement.

2. TERM.

- (a.) The term of this Agreement (the “Term”) will begin on July 2, 2026 (the “Effective Date”) and will remain in full force and effect for a period of one (1) year, subject to earlier termination as provided for below.
- (b.) This Agreement may be renewed for up to three (3) additional terms of one (1) year each.
- (c.) Prior to commencement of the Term of this Agreement, the Manager will obtain and deliver copies of her City of Biloxi Privilege License and Sales Tax Permit to the City.

3. SITE OF THE MARKET. The Market shall only be permitted to operate at the HowHop

site.

4. MARKET SEASON. The Market shall be operated on each Tuesday and Thursday from February through December of each year this Agreement remains in effect.

5. FEES. Manager shall pay the City, on a monthly basis, an amount equal to twenty-five percent (25%) of her revenue from Stall Rental Fees from the Market, due and payable in full on the first (1st) day of each month during the term of this Agreement. Manager shall provide reports to the City sufficient to validate the total gross revenue on a monthly basis, to be included with Manager's monthly payments. For any payment not paid by Manager and received by City by the fifteenth (15th) day of each month, the City shall be entitled to recover a late charge in the amount of five percent (5%) of overdue amount.

6. OPERATION OF THE MARKET.

- (a.) The purpose of the Market is to provide the citizens of the City of Biloxi and the surrounding communities with opportunities to purchase a variety of reasonably priced, high quality, fresh produce, farm products, seafood, and other prepared food items consistent with a farmers market operation and approved by the Manager.
- (b.) The City does not charge the Vendor for the stall, but the Manager may require such a charge from the Vendor. All Vendor fees shall be remitted to the Manager and are the property of the Manager.
- (c.) All Vendors shall be approved by the Manager and sell only items approved by the Manager.
- (d.) All Vendors shall comply with the law and requests from government health departments regarding smoking or the presence of pets in the area of the products offered for sale.
- (e.) The Market shall operate on Tuesday and Thursday of each week seasonally, as defined herein, rain or shine. However, the Manager may in its sole discretion cancel the market with no notice if the Manager determines that on a given day operation of the Market/s is not feasible or if operation of the market would not be safe. The day of operation may be changed based on mutual written agreement of the parties. Subject to prior written approval of the City, periodic additional markets may be held on dates mutually agreeable to the parties.
- (f.) The time for operation of the Market shall be from 7:00 a.m. until 1:00 p.m. The time of operation may be changed based on mutual written agreement of the parties.
- (g.) Vendors at the Market will be allowed to begin setting up their stalls at 7:00 a.m. Earlier set up allowed only with permission of the Manager.
- (h.) Vendors must remove their property, stall, products and vehicles and leave the areas clean, no later than 2:00 p.m. on the day of the Market. The Manager shall be responsible to the City for any costs incurred by the City for a vendor's failure to

timely remove all property of the Vendor.

- (i.) All Vendors shall comply with laws, industry standards, and requests of government health departments, including, but not limited to:
 - (1) Labeling of bulk packages, and other food produce or products;
 - (2) Providing instruction (ie., Keep refrigerated, or use by a certain date);
 - (3) Taxes;
 - (4) Licenses and permits;
 - (5) Food handling and safety as to transport, display, and dispensing including temperature, sanitation, and contamination risks;
 - (6) Farming practices, slaughter, manufacture of processed foods;
 - (7) Posting of prices and vendor identification;
 - (8) Legal weighing scales;
 - (9) Appropriate dress and behavior.
- (j.) If food is to be prepared for the purpose of consumption on site in areas provided by the Market, such operation must be properly licensed. No cooking demonstrations will be allowed without prior approval of the Manager. The Manager is required to ensure that the Market is operated in compliance with all licensing requirements of the City and requirements of all government agencies including health departments.
- (k.) Vendors shall be allowed to sell only products approved by the Manager.
- (l.) Vendors shall be open for business and sales only during the times allowed by this Agreement.
- (m.) The Manager and all Vendors shall behave toward the public, park staff, other vendors, and customers in a courteous and professional manner.
- (n.) A procedure for security and maintenance of the Market area will be established by the City and provided to the Manager.

7. USE OF PREMISES.

- (a.) The Manager recognizes that the premises are a municipal property. The premises shall not be used for any purpose for which municipal property may not be used.
- (b.) Vendors selected by the Manager shall have permission to operate a stall which permission can be immediately revoked by the Manager or the City for any reason

in the best interest of the Manager or the City. Upon revocation of this permission, the Vendor will immediately and peaceably leave the premises.

- (c.) The Manager and Vendors shall refrain from excessive noise and hawking.
- (d.) The Manager will operate the Community Market with the highest industry standards and provide a high quality, healthy, innovative, affordable, and safe market for the market patrons.
- (e.) The Manager shall not operate the Market in a manner to disturb or disrupt unreasonably other activities or the public in the area. The Manager shall not allow Vendors to obstruct any public way at any time.

8. RESPONSIBILITIES OF THE MANAGER. The Manager will assume responsible for all aspects of the Market's management, including vendor selection, vendor space assignment, setup and breakdown supervision, marketing and promotion, coordination, security, invoice preparation, revenue collection, collection and remittance of sale tax to the Mississippi Department of Revenue and other duties as required by Market functions and operations.

- (a.) The Manager will operate the Market with the highest industry standards and provide a high quality, healthy, innovative, affordable, and safe market for the market patrons.
- (b.) The Manager will assume full responsibility for promotion of the event, including marketing and requirements of the Mississippi Department of Revenue for the collection and remittance of sales tax as an event promoter.
- (c.) The Manager shall solicit, approve, and select Vendors to participate in the Market.
- (d.) The Manager shall ensure vendors have appropriate licenses and permits prior to scheduling for participation in the Market.
- (e.) The Manager will not allow any sublet or assignment of stall space or any other activity that will allow an unknown vendor to operate at the Market.
- (f.) The Manager shall adopt rules for Vendors, which rules are consistent and compliant with the terms of the Manager's Agreement with the City, and ensure that the Vendors are aware of the rules and act in accordance with the rules.
- (g.) The Manager must adhere to a policy of non-discrimination without regard to race, creed, color, age, sex, national origin, or handicap when selecting Vendors to participate in the Market.
- (h.) The Manager shall resolve all Vendor and customer complaints in a professional, fair, and timely manner.
- (i.) The Manager shall be on site and be in charge of the operation of the Market at all times that Vendors are present and during all times Market is operating.

- (j.) The Manager shall work with the local media to promote the Market.
- (k.) The Manager shall maintain a desirable appearing Market area; and keep the premises in good order and in a clean and sanitary condition on the days of the Market, including the removal of any substance or debris that attracts vermin or insects.
- (l.) The Manager shall be informed regarding the items being sold and will use its best efforts to provide variety and high quality in the products being sold.
- (m.) The Manager shall have the responsibility for assigning stalls to specific Vendors and for immediately resolving any disputes regarding stall assignments.
- (n.) The Manager shall strive to increase the number of Vendors operating at the Market.
- (o.) The Manager shall have the responsibility to eject any objectionable or noncompliant Vendor. Additionally, the Manager shall immediately eject any Vendor at the request of the City. No Vendor shall have any rights of appeal from a decision of the City or Manager that the Vendor be ejected.
- (p.) The Manager shall operate the Market in a manner so as to reduce, as much as reasonably possible, any dangers associated with consumption of food products sold and dangers such as tripping, falling, or any other dangerous conditions resulting from Vendors' ingress, egress, set up, take down, or any other operation or participation in the Market.
- (q.) The Manager shall ensure that the Market is operated in compliance with any requirements or requests of the City, Mississippi Department of Health, Police Department, Fire Department and the Mississippi Department of Agriculture and Commerce (if applicable).
- (r.) The Manager is required to ensure that the Market is operated in accordance with all federal, state, and local codes, laws, rules, regulations, and ordinances that pertain to the operation of this Market, including, but not limited to, any tax laws, child labor laws, licenses, permits, food handling and safety, farming practices, animal slaughter, manufacture of processed foods (ex. jam, pie), permit to sell processed foods, temperature and sanitation requirements for the storage, transport, and sale of certain items (ex. eggs, meat), sanitary covering of displayed produce, gloves or other sanitation requirements for the dispensing of items, displays of samples in a manner to decrease contamination potential, clear posting of prices and legal weighing scales.
- (s.) The Manager shall operate the Market, and require that all Vendors operate in a professional, safe, sanitary, and lawful manner in total compliance with Manager's Agreement with the City.

9. RESPONSIBILITIES OF THE CITY

- (a.) The City shall assist the Manager in working with the local media to promote the Market
- (b.) The City shall make reasonable efforts, thru local media and social media to provide publicity for the Market.
- (c.) The City shall have the responsibility to provide for litter containment during the Market and, at the end of each day, clean up and removal of all trash created by the operation of the Market.
- (d.) The City shall provide reasonable vendor and customer parking, ingress, and egress for the operation of the Market.
- (e.) The City reserves the right to make rules and regulations regarding the use of the Premises, including, rules regarding signs, entertainment, minimum and maximum number and type of vendors, and noise levels.
- (f.) The City shall provide the Manager reasonable notice of City-sponsored events that may impede the operation of Market.

10. CONTRACT DOCUMENTS. The City's request for proposals, its addenda(s), Manager's proposal, any additional information requested and negotiated changes are incorporated by reference as if fully set forth herein. In the event that there is a conflict between the request for proposals, its attachments and addenda, or any related documents and this Agreement, this Agreement shall supersede and control.

11. RIGHT OF ENTRY. The City reserves the right to enter the premises to inspect the operation of the community market, the premises, and Manager or Vendor products, equipment, or structures at any time.

12. CONFLICT OF INTEREST. The Manager warrants that in the performance of this Agreement that it does not have any interest, direct or indirect, which will create or cause a conflict of interest in any manner or degree with the performance of the services hereunder.

13. TERMINATION.

- (a.) The City reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the City without penalty or recourse. Upon receipt of the written notice, the Manager shall stop all work, as directed in the notice, notify all Vendors of the effective date of the termination, and minimize all further costs to the City.
- (b.) By Either Party. Either party shall have the right to immediately terminate this agreement, without penalty or prejudice to any other rights and remedies it may have, if:

- i. the other party fails to perform any material provision of this Agreement and the failure is not corrected within thirty (30) days after the other party gives the defaulting party written notice of the breach;
 - ii. the other party becomes insolvent, is unable to pay its debts as they mature or is the subject of a petition in bankruptcy, whether voluntary or involuntary, or of any other proceeding under bankruptcy, insolvency or similar laws; or makes an assignment for the benefit of creditors; or is named in, or its property is subject to a suit for appointment of a receiver; or is dissolved or liquidated; or
 - iii. the other party suspends, discontinues or materially alters its business operations.
- (c.) Mutual Agreement to Terminate. This Agreement may be terminated at any time, including during the Initial Term, without penalties or prejudice, by mutual agreement of both parties in writing.
- (d.) Upon expiration or termination of the Agreement, the terms of this Agreement shall survive and will apply with respect to any dispute that may exist between the parties.

14. REMEDIES UPON DEFAULT. Termination by either party of this Agreement shall not limit or otherwise effect the remedies of the non-defaulting or non-breaching party against the defaulting or breaching party. In the event that either party is in material default under any of the terms or conditions of this Agreement or has materially breached any of its representations or warranties in this Agreement, the non-defaulting or non-breaching party shall be entitled to pursue, in addition to any remedies specifically provided herein, all further remedies then available at law or in equity.

15. SUCCESSORS AND ASSIGNS. the City and Manager each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assigns, or such party, in respect to all covenants of this Agreement. Nothing expressed or referred to in this Agreement shall be construed as creating any personal liability on the part of any officer or agent of any public body, which may be a party hereto, nor shall it be construed as giving any rights, legal or equitable, benefits, remedies, or claims under or with respect to this Agreement or any provision of this Agreement, to anyone other than the City and Manager.

16. RELATIONSHIP OF THE PARTIES. Manager's relationship with the City is that of an independent contractor, and nothing in this Agreement is intended to, or shall be construed as creating a partnership, agency, joint venture, employment or similar relationship.

- (a.) Manager acknowledges that it and all its officers, employees, and agents is/are not an employee or agent of the City for any purpose whatsoever. Manager shall be responsible for all applicable I-9 and work eligibility verification, earnings reports and tax payments to government agencies, such as the U.S. Internal Revenue

Service and the Social Security Administration including payment of all wages due its employees, insurance premiums, license fees, fingerprinting costs, outfitting expenses, and all other obligations and/or expenses of Manager relative to its employees in performance of the duties under this Agreement.

- (b.) Manager acknowledges that its personnel are not entitled to receive any of the fringe benefits received by the City's employees, including but not limited to, Workers' Compensation Insurance.
- (c.) Manager shall not have the authority to enter into any contract on the City's behalf, or to otherwise bind the City to any agreement, unless expressly authorized to so do in writing.
- (d.) Because Manager is an independent contractor, the City has no direction or control over Services to be performed hereunder, nor over Manager's personnel, and Manager shall at all times remain the employer of its personnel performing the Services (and shall be liable for each of their actions, omissions or breaches). Manager shall indemnify the City from any claim made by any of Manager's personnel against the City alleging rights or benefits as an employee of the City.

17. INDEMNIFICATION.

- (a.) Manager agrees to indemnify, defend, and hold harmless the City, all present and former City Council members, mayors, officers, directors, and/or employees, (collectively the "**Indemnified Parties**"), from and against losses that Indemnified Parties incur or may incur or suffer and to the extent that the losses arise out of or relate to: (i) Manager's or Manager Personnel's negligence or willful misconduct in the performance or nonperformance of Services under this Agreement; (ii) any defect in design, material, or workmanship of Services; (iii) any breach of this Agreement including any breach of warranty or covenant and any misrepresentation related thereto by Manager Personnel; or (iv) any injury or death to any person or damage to or destruction of property of the City, the City's employees, Manager, Manager's personnel, or third parties.
- (b.) Manager shall, at its sole cost, defend all suits brought upon by such losses, and pay all costs and expenses incidental thereto, but the City, or any of Indemnified Parties, so sued shall have the right at its/their option, to participate in the defense of any such suit, without relieving Manager of any obligations hereunder.
- (c.) Manager's obligations to indemnify under this Agreement shall survive termination or expiration of this Agreement.

18. INSURANCE.

- (a.) Manager shall, at its sole expense, obtain and maintain in full force and effect general commercial liability insurance in an amount not less than Five Hundred Thousand and 00/100 Dollars (\$500,000.00).

- (b.) Manager shall furnish to the City within thirty (30) days after execution of this Agreement written evidence of the existence of such insurance.
- (c.) The City shall be named in said policy as an additional insured and shall receive notice of any policy cancellation.
- (d.) Manager shall cause its insurers to waive all rights of subrogation against the City.

19. NON-DISCRIMINATION. All persons having a contract with the City must adhere to the City's policy concerning non-discrimination based on race, color, religion, sex, age, sexual orientation, gender identity, national origin, veteran or disability status.

20. NOTICES. All notices, consents, waivers and other communications required or permitted by this Agreement shall be in writing and shall be deemed given to a party when (a) delivered to the appropriate address by hand or by nationally recognized overnight courier service (costs prepaid); or (b) received or rejected by the addressee, if sent by certified mail, return receipt requested, addressed and marked to the attention of the person (by name or title) designated below (or to such other address or person as a party may designate by notice to the other parties)

CITY:

The City of Biloxi, Mississippi:
Attention: Mayor A. M. Gilich, Jr.
140 Lameuse Street
Biloxi, Mississippi 39530

With mandatory copies to:

City of Biloxi, Mississippi
City Attorney / Contract Manager
Post Office Box 429
Biloxi, Mississippi 39533

MANAGER:

Bonny Pesch
432 Sunflower Road
Perkinston, Mississippi 39573

21. GOVERNING LAW AND JURISDICTION.

- (a.) Governing Law. The laws of the state of Mississippi shall govern the application and interpretation of this Agreement.
- (b.) Jurisdiction. The courts located in Harrison County, Mississippi (Second Judicial District) shall have exclusive jurisdiction of any dispute between the parties. If one party initiates an action against the other or should a party seek any form of relief against the other, then said action shall be filed in Harrison County, Mississippi (Second Judicial District). Any business or person doing business with the City of

Biloxi submits to the personal jurisdiction of the courts in Harrison County, Mississippi.

22. AMENDMENTS. This Agreement may not be altered or amended, nor may rights hereunder be waived, except by writing executed by both parties.

23. ASSIGNABILITY. Manager may not assign any of its rights or delegate any of its obligations under this Agreement without the prior express written consent of the City. Subject to the preceding sentence, this Agreement will apply to, be binding in all respects upon and inure to the benefit of the successors and permitted assigns of the Contractor.

24. NO WAIVER OF WARRANTIES. Notwithstanding any provisions to the contrary that may be found in this Agreement or any other supplemental terms that may be referenced therein, any provision that seeks to limit the City of Biloxi's recovery resulting from a breach of express or implied warranties shall be of no force or effect.

25. NO WAIVER OF DAMAGES. Notwithstanding any provisions to the contrary that may be found in the Agreement, or any other supplemental terms that may be referenced therein, any provision that seeks to limit the City of Biloxi's recovery in any manner shall be of no force or effect.

26. WAIVER OF JURY TRIAL. The City of Biloxi shall not be subject to the terms of any provision or any supplemental terms that may seek to waive its right to a jury trial; and any such term(s) requiring same, shall be deemed to be of no force or effect as against the City of Biloxi.

27. FORCE MAJEURE. Neither party shall be liable for failure to perform or delay in performing any obligation under the Agreement if the failure or delay is caused by any circumstances beyond its reasonable control, including, but not limited to: acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters (the "Force Majeure Events") ("Force Majeure"). If such delay or failure continues for at least sixty (60) days, then either party may provide written notice to terminate the Agreement; and, upon such termination, the parties will owe no further obligations to the other except with respect to any rights or obligations that may have accrued prior to termination.

28. SEVERABILITY. In the event any provision of this Agreement shall be held invalid or unenforceable for any reason, that provision shall be ineffective to the extent of such invalidity or unenforceability, and such invalidity or unenforceability shall not affect any other provision of this Agreement. If necessary, the parties shall negotiate in good faith to modify the Agreement to preserve (to the extent possible) their original intent.

29. AUTHORITY. The parties represent that they have full power and authority to enter into and perform this Agreement and the parties know of no contract, agreement, promise or undertaking which would prevent the full corporate execution and performance of this Agreement, and the persons executing this Agreement on behalf of the parties are duly authorized to do so and have the authority to bind such parties.

30. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement of the Parties and supersedes all prior agreements, whether written or oral, between the Parties with respect to its subject matter (including any letter of intent, memorandum of understanding or other such non-binding document).

31. ARBITRATION. The City of Biloxi shall not be subject to the terms of any provision any supplemental terms that may seek to require the City of Biloxi to submit a dispute to arbitration; and, any such term(s) requiring same, shall be deemed to be of no force or effect as against the City of Biloxi.

32. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile or email transmission shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile shall be deemed to be their original signatures for all purposes.

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

BILOXI:

MANAGER:

CITY OF BILOXI, MISSISSIPPI

By: _____
Name: A.M. Gilich, Jr.
Title: Mayor

BONNY PESCH

ATTESTED TO BY:

Municipal Clerk