CITY OF GAUTIER
MEMORANDUM

To:	Samantha Abell, City Manager
From:	Patty Huffman, Grants & Projects Manager
Through:	Chandra Nicholson, Economic Development and Planning Director
Date:	October 4, 2013
Subject:	Sponsorship Order Agreement with Total Traffic Network (a Division of Clear Channel Broadcasting, Inc.) for Advertisement of Gautier Halloween Event

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REQUEST:

The Economic Development and Planning Department requests authorization for the City of Gautier to enter into a sponsorship order agreement with Total Traffic Network (a Division of Clear Channel Broadcasting, Inc.) for advertisement of the City of Gautier sponsored Halloween Haunted Trails and Festival.

BACKGROUND:

The City of Gautier's Cultural Services Division and the Gautier Firefighters Association will host a Halloween Haunted Trails and Festival at Shepard State Park on October 18th and 19th, October 25th and 26th, and October 31st. Total Traffic Network has submitted a proposal for broadcast sponsorships over a number of radio stations during the week of October 16th through October 22nd. The total cost for the 23 radio spots is $276.00. The City of Gautier is partnering with the City of Pascagoula to share advertising time and costs for events in both cities.

RECOMMENDATION:

City staff recommends that City Council authorize entering into a sponsorship order agreement with Total Traffic Network for the services described above.

The City Council may:

1. Authorize entering into the sponsorship order agreement as presented; or
2. Authorize entering into the sponsorship order agreement with changes; or
3. Disapprove entering into the sponsorship order agreement as presented.

ATTACHMENT(S):

Total Traffic Network Sponsorship Order Agreement

SAM: Samantha Catchot Advertiser City Of Gautier Ms

Total Traffic Network

SPONSORSHIP ORDER AGREEMENT

Contract Date: 10/2/2013
Billing Code:
Contract ID: 11342

☑ New Advertiser Classification: Local ☐ New Agency ☐ New Business

Advertiser: City Of Gautier Ms
3330 Hwy 90
Gautier Ms 39553

Contact:

CO-OP:

Category: Arts/Entertainment

Special Billing Instructions: Attention - Chandra Nicholson
cnicholson@gautier-ms.gov

Additional SAM's

Agency:

Contact:

Contract Type: ◉ Cash ○ Trade

Estimate Number:

Bill To: ○ Agency ◉ Advertiser ○ Both Combo Bill

Alternate Billing Information

Address:
City: State: Zip:
Contact:
Phone: Email:

GRP Information

ALL SECTIONS MUST BE FILLED IN ORDER FOR THE ORDER TO BE ENTERED

☐ GRP Order
○ National - DMA
○ Market by Market - MSA

Demo
○ Adults ○ 18+
○ Women ○ 18-49
○ Men ○ 25-54
○ 35-64

GRP Goal Per Period/Total
GRPs Per Guarantee Prd:
Total GRPs:

Negotiated Final CPP:

GRP Goal Guarantee Period
○ Week
○ Month
○ Quarter
○ Year
○ Flight

"GRP Guarantee" connotes that TOTAL TRAFFIC shall undertake commercially reasonable efforts to deliver, including by delivering make goods as described in Section III hereof, the gross rating points (GRP) agreed upon by the parties (as set forth on the cover of this Agreement, subject to modification forms entered into between the parties) and not a guarantee or certainty that such gross rating points actually will be delivered by TOTAL TRAFFIC To the extent TOTAL TRAFFIC is unable to deliver ninety-five percent (95%) or more of the GRP levels set forth herein, TOTAL TRAFFIC shall invoice Sponsor and/or Agency only such percentage of the order as mutually agreed upon by the parties, which percentage shall not be less than the percentage of the order actually delivered by TOTAL TRAFFIC.

Sponsorship Flexibility
○ Within Month
If the above is checked then you must provide a %

Flexibility %
○ 90/110
○ 75/125
○ 50/150
○ 25/175

☐ Market Mobile

Allow to over deliver
○ In Spec Only
○ In and Out of Spec
If one delivery runs out of spec, it will run on any day, at any time, on any format regardless of exclusions specified

Billable Substitutions
☐ Markets
☐ In Spec Overdelivery Across The Month
☐ Reach Max
☐ Days of the Week
☐ M ☐ Tu ☐ W ☐ Th ☐ F ☐ Sa ☐ Su

Holiday Exclusions

☐ New Years ☐ Good Friday ☐ Pioneer Day ☐ Day Before Christmas Eve ☐ Day Before New Years Eve
☐ Day After New Year ☐ Easter ☐ Labor Day ☐ Christmas Eve ☐ New Years Eve
☐ M L KIng day ☐ Memorial Day ☐ Thanksgiving ☐ Christmas
☐ President's Day ☐ Fourth of July ☐ Day After Thanksgiving ☐ Day After Christmas

Any Additional Information

Flight Start: 10/16/2013 Flight End: 10/22/2013 Total Spots: 23 Total Gross: $276.00 Total Net: $276.00

Order Lines

Line ID	Market	Inventory Group	Spots	Distribution	Rate	Flight Start	Flight End	Start & End Time	Networks	Total Spots	Total Gross	Total Net
86085	Biloxi	M-F 5a-8p	1	Daily	$12.00	10/16/2013	10/18/2013	6:00a - 7:00a	TRP	3	$36.00	$36.00
Services Included: Weather												

SAM: Samantha Catchot Advertiser City Of Gautier Ms

Total Traffic Network

SPONSORSHIP ORDER AGREEMENT

Contract Date	10/2/2013
Billing Code	
Contract ID	11342

Order Lines

Line ID	Market	Inventory Group	Spots	Distribution	Rate	Flight Start	Flight End	Start & End Time	Networks	Total Spots	Total Gross	Total Net
Affiliates Included: WBUV-FM Affiliates Excluded: WKNN-FM, WMJY-FM, WQYZ-FM Active Weeks: 10/14												
86087	Biloxi	M-F 5a-8p	1	Daily	$12.00	10/16/2013	10/18/2013	6:00a - 7:00a	TRP	3	$36.00	$36.00
Services Included: Weather Affiliates Included: WKNN-FM Affiliates Excluded: WBUV-FM, WMJY-FM, WQYZ-FM Active Weeks: 10/14												
86088	Biloxi	M-F 5a-8p	1	Daily	$12.00	10/16/2013	10/18/2013	6:00a - 7:00a	TRP	3	$36.00	$36.00
Services Included: Weather Affiliates Included: WMJY-FM Affiliates Excluded: WBUV-FM, WKNN-FM, WQYZ-FM Active Weeks: 10/14												
86089	Biloxi	M-F 5a-8p	1	Daily	$12.00	10/16/2013	10/18/2013	6:00a - 7:00a	TRP	3	$36.00	$36.00
Services Included: Weather Affiliates Included: WQYZ-FM Affiliates Excluded: WBUV-FM, WKNN-FM, WMJY-FM Active Weeks: 10/14												
86090	Biloxi	M-F 5a-8p	1	Daily	$12.00	10/21/2013	10/22/2013	6:00a - 7:00a	TRP	2	$24.00	$24.00
Services Included: Weather Affiliates Included: WBUV-FM Affiliates Excluded: WKNN-FM, WMJY-FM, WQYZ-FM Active Weeks: 10/21												
86093	Biloxi	M-F 5a-8p	1	Daily	$12.00	10/21/2013	10/22/2013	6:00a - 7:00a	TRP	2	$24.00	$24.00
Services Included: Weather Affiliates Included: WKNN-FM Affiliates Excluded: WBUV-FM, WMJY-FM, WQYZ-FM Active Weeks: 10/21												
86094	Biloxi	M-F 5a-8p	1	Daily	$12.00	10/21/2013	10/22/2013	6:00a - 7:00a	TRP	2	$24.00	$24.00
Services Included: Weather Affiliates Included: WMJY-FM Affiliates Excluded: WBUV-FM, WKNN-FM, WQYZ-FM Active Weeks: 10/21												
86095	Biloxi	M-F 5a-8p	1	Daily	$12.00	10/21/2013	10/22/2013	6:00a - 7:00a	TRP	2	$24.00	$24.00
Services Included: Weather Affiliates Included: WQYZ-FM Affiliates Excluded: WBUV-FM, WKNN-FM, WMJY-FM Active Weeks: 10/21												
86096	Biloxi	M-F 5a-8p	3	Weekly	$12.00	10/21/2013	10/22/2013	6:00a - 7:00a	TRP	3	$36.00	$36.00
Services Included: Weather Affiliates Included: WBUV-FM, WKNN-FM, WMJY-FM Affiliates Excluded: WQYZ-FM Active Weeks: 10/21												

The terms and provisions set for hereof, including those attached to this agreement as the same may be amended from time to time, are incorporated herein and made part of this agreement. This agreement is non-cancelable.
IN WITNESS WHEREOF, we, the undersigned, hereunto set our hands effective as of the first date written above.

TOTAL TRAFFIC NETWORKS

By: _____
Authorized Signatory

AGENCY AND/OR ADVERTISER

By: _____
Authorized Signatory

SPONSORSHIP ORDER AGREEMENT

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CONDITIONS OF AGREEMENT

The client and/or authorized agent acting on behalf of the client contracting for sponsorship covered by this agreement (hereinafter referred to as "Sponsor") and Total Traffic Network, a division of Clear Channel Broadcasting, Inc., (hereinafter referred to as "Total Traffic Network") hereby agree to the following terms and conditions (this "Agreement"):

I. BROADCAST OF ANNOUNCEMENTS AND PROGRAMS

A. Unless otherwise provided herein, Total Traffic Network will deliver for broadcast sponsorships over a number of radio stations in the contract market area between the hours of 5:00 a.m. and 8:00 p.m., Monday through Friday each week. Sponsorships shall include a 10-second commercial announcement denoting sponsorship by Sponsor. The minimum number of commercial announcements to be delivered under this Agreement is listed on the preceding pages hereof.

B. The order set forth in this Agreement is an order for delivery of sponsorships to be broadcast across particular Total Traffic Network networks as designated on the preceding pages of this Agreement, and not of audience, particular stations or formats. Such networks include certain metropolitan and suburban affiliate radio stations of various ratings levels, a list of which stations will be provided to you upon request, which stations may be changed from time to time as deemed advisable by Total Traffic Network in its sole discretion. Sponsor acknowledges such radio stations may experience changes which will affect this order, including changes to their respective formats and fluctuations in their inventory, over which Total Traffic Network has no control. Only in the case that Total Traffic Network preempts sponsorships, and not as a result of any of the foregoing, will Total Traffic Network be obliged to provide a reasonable substitute in accordance with Section III hereof.

II. BILLINGS AND PAYMENT – AGENCY COMMISSION

A. Total Traffic Network shall bill Sponsor monthly. Sponsor shall pay Total Traffic Network upon receipt of invoice. If Sponsor fails to pay an invoice in full within 30 days of its receipt of such, Total Traffic Network may add a service charge of 1.5% per month, or such lesser amount allowed by law, on any unpaid balance until payment is received. Advertising agency ("Agency") and Sponsor are jointly and severally liable for payments due under this Agreement.

B. If this Agreement is with a recognized Agency, a commission of 15% shall apply, provided all invoices are paid when due, unless otherwise agreed by the parties.

C. If this Agreement is made with Sponsor directly, reference herein to Agency shall be deemed to apply to Sponsor except that, in such case, no commission will be allowed.

D. Unless otherwise expressly set forth in this Agreement, Agency and/or Sponsor shall not be obligated to pay for, and Total Traffic Network shall not be obligated to deliver, any commercial announcements broadcast in excess of the minimum stipulated on the preceding pages of this Agreement. However, Sponsor and/or Agency acknowledge(s) that any inventory provided to Sponsor and/or Agency as over-delivery, or as an accommodation or bonus, shall be at Total Traffic Network's sole discretion and subject to any standard terms and conditions of Total Traffic Network then in effect.

E. Sponsor shall be responsible for, and shall pay all sales use, gross receipts or similar taxes or levies of any governmental body imposed on the transaction.

F. Total Traffic Network shall provide proof of performance, which may have been prepared by a third party, specifying times when commercials are aired.

III. MAKE GOODS

If elected by Sponsor on the preceding pages of this Agreement, the number of commercial announcements falls below the amount contracted for on the preceding pages of this Agreement during any contracted broadcast period because of preemption or error by Total Traffic Network and/or Total Traffic Network's affiliate stations, then Sponsor shall be credited with 10 seconds of commercial airtime on the network of radio stations contracted hereunder and an equal amount of

alternative airtime shall be made available during such contracted broadcast period, or at Total Traffic Network's option, Sponsor shall be given credit for the charge for each omitted report at the rate per sponsorship stipulated on the preceding pages of this Agreement.

IV. TERMINATION: EFFECT OF BREACH

A. Sponsor may not cancel this Agreement.

B. Total Traffic Network reserves the right to terminate this Agreement upon default by Agency of Sponsor in the payment of invoices upon one day's prior notice. Upon such termination, all charges for broadcasts completed hereunder shall immediately become due and payable. Upon such default, Agency or Sponsor's liability shall be: (a) to pay not only for broadcasts completed hereunder prior to termination by Total Traffic Network but for broadcasts to be completed thereafter under this Agreement less any fees collected by Total Traffic Network from another Agency or Sponsor who may purchase the sponsorship made available as a result of Agency or Sponsor's default; and (b) to pay any attorney and court costs incurred by Total Traffic Network in enforcing the provisions of this Agreement.

V. REPRESENTATION;

A. Sponsor, or Agency if Agency is entering this Agreement on behalf of Sponsor, has the requisite power and authority to enter into this Agreement and when duly executed by the such party, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, reorganization or similar laws or by other equitable principles of general application.

B. In accordance with paragraphs 49 and 50 of the United States Federal Communications Commission Report and Order No. FCC 07-217, neither party will discriminate in any contract for advertising on the basis of race or ethnicity, and all such contracts will be evaluated, negotiated, and completed without regard to race or ethnicity.

VI. COMMERCIAL MATERIAL

A. Total Traffic Network will attempt to advise Agency or Sponsor if Agency or Sponsor's commercial material and scheduling instructions do not arrive 72 hours in advance of the broadcast date. If such instructions do not arrive at Total Traffic Network's address as shown on the preceding pages of this Agreement within 24 hours after Total Traffic Network has notified the Agency or Sponsor, Total Traffic Network may bill Agency or Sponsor for the commercial announcements reserved. It is the Sponsor's responsibility to supply copy during the term on the contract. Total Traffic Network shall not incur any liability for airing the most current copy in its possession. Total Traffic Network will use commercially reasonable efforts to broadcast material received from Agency or Sponsor despite late receipt. In the event of late receipt, Total Traffic Network cannot, however, guarantee acceptance of materials by all radio stations.

B. Sponsor agrees to indemnify Total Traffic Network against any and all claims, FCC penalties, actions or other losses resulting from the content of advertising copy aired, including but not limited to claims based on inaccurate, misleading, false or deceptive representations.

C. If, due to public emergency or necessity, force majeure, restrictions imposed by law, acts of God, or labor disputes, Agency or Sponsor cannot provide commercial material prior to the scheduled broadcast hereunder, Agency or Sponsor shall not be liable to Total Traffic Network. In such event, Total Traffic Network shall suggest a reasonable substitute time period for broadcast of such announcements and Agency or Sponsor shall not unreasonably withhold agreement to such substitution. If no such substitute day and time period is mutually agreed upon, Total Traffic Network shall credit agency or Sponsor for the charges related to the announcements which failed to be broadcast at the rate per sponsorship stipulated on the preceding pages of this Agreement.

D. Commercial material provided by Agency or Sponsor is subject to Total Traffic Network's approval and radio stations may exercise a right to reject such material based on technical quality or content. Total Traffic Network shall have the right to

substitute acceptable material at no penalty.

E. A request by Sponsor (denoted in the special instructions portion of this Agreement) not to broadcast Sponsor's commercial announcement on controversial programming shall mean Total Traffic Network shall use its commercially reasonable efforts to ensure that commercial announcements are not broadcast on programming that is of an overt sexual nature, or is significantly political in nature. The parties agree that determining what is "controversial" is subjective and that Total Traffic Network shall have satisfied its obligation by making a good faith determination. If at any time, Sponsor believes that its sponsorships are being broadcast on controversial programming, it agrees to notify Total Traffic Network of such belief as promptly as practicable to enable Total Traffic Network to remedy such situation.

VII. FAILURE TO BROADCAST

Total Traffic Network shall not incur any liability if, due to a public emergency or necessity, force majeure, labor disputes, acts of God or any other cause, including mechanical or electrical breakdowns, there is an interruption or omission of any commercial announcement(s) contracted hereunder. Total Traffic Network may suggest a substitute time period for the broadcast of the interrupted or omitted announcement(s) and Agency or Sponsor shall not unreasonably withhold approval of such substitute time period.

VIII. GENERAL

A. The provisions of this Agreement shall be binding upon any successor or merged company, or any successor in control of or any assign of any party hereto.

B. The terms of this Agreement are confidential and Sponsor and/or Agency shall not disclose the contents herein, including rates, to any third party. This confidentiality shall survive termination and fulfillment of this Agreement.

C. Rights and obligations of Sponsor hereunder may not be assigned without prior written consent of Total Traffic Network. Total Traffic Network may assign this Agreement to a related entity or purchaser of all or substantially all of its assets.

D. This Agreement contains the entire agreement between the parties related to the subject matter herein contained and supersedes any and all prior written or oral understanding or agreements between the parties. No change or modification of any of its terms and provisions shall be effective against any party unless the same is in writing and duly signed and dated by said party; provided, however, that Total Traffic Network shall use commercially reasonable efforts to deliver sponsorships in accordance with modification forms as are customarily entered into in the ordinary course of business provided such modification forms are delivered to Total Traffic Network with reasonable notice as determined or directed by Total Traffic Network. For the avoidance of doubt, such modification forms shall apply solely to those sponsorships delivered a reasonable time period (as determined by Total Traffic Network) after the date such modification forms are received by Total Traffic Network.

E. Failure by Total Traffic Network to enforce any provision of this Agreement shall not constitute a waiver of its rights under such provision or any other provision of this Agreement.

F. This Agreement is independent of any other agreements between the parties which relate to matters outside the scope of this Agreement. Sponsor and/or Agency hereby expressly waive(s) any right of offset or similar right relating to any amount owed or owing under any other agreement between the parties.

G. Total Traffic Network may have compensatory arrangements, monetary or otherwise, with certain third parties and agencies or their representatives, the terms of which are not set forth herein, and which may be related to this Agreement.

H. If any provision of this Agreement requires notice, such notice shall be effective only upon Total Traffic Network's receipt of written notice sent certified mail, return receipt to: Total Traffic Network, a division of Clear Channel Broadcasting, Inc., 125 West 55th Street, New York, NY, 10019, Attn: President of Sales with a courtesy copy (which shall not constitute notice) to the General Counsel at Clear Channel Media and Entertainment, 200 East Basse Road, San Antonio, TX, 78209.

SPONSORSHIP ORDER AGREEMENT

Contract Date	10/2/2013
Billing Code	
Contract ID	11342

I. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New York, without regard to conflict of law principles. Any dispute, controversy or claim arising hereunder shall be finally settled by arbitration in New York County, New York in accordance with the Judicial Arbitration and Mediation Services (JAMS) Arbitration Rules and Procedures in effect on the date of the Agreement and judgment upon the award may be entered in any court having jurisdiction thereof.

J. This Agreement may be executed in counterparts, including via facsimile, each of which shall constitute an original, and all of which when taken together shall be considered one and the same agreement.