CITY OF GAUTIER
MEMORANDUM

To: Samantha Abell, City Manager

From: Robert Jones, Fire Chief

Date: March 31st, 2015

Subject: Authorization to accept Target Solutions

REQUEST:
City Council authorization is requested to accept an agreement with Target Solutions a developer and provider of an online training platform.

BACKGROUND:
Target Solutions provides an online web based training and management platform that consist of over 250 hours of training for first responders. Courses are based on the NFPA codes and standards, including NFPA 1001, NFPA 1021, and the NFPA 1500 series. Target Solutions also has training catalogs with over 1000 courses related to Risk Management, OSHA, Human Resources, and Sexual Harassment training. In addition to their provided training catalogs you have the capability to develop and upload your own training courses that can be administered online as well.

The benefit to the City of Gautier that Target Solutions will provide its Fire Department will be the ability to provide specific subject training in house to each of our members that will able them to maintain required continuing education hours for various certifications such as HAZMAT and EMT training. Also with a complete documented monthly training program the requirements that the Mississippi Rating Bureau also mandate will be met.

The agreement with Target Solutions will be for a period of 12 months with a total cost being $3785.00. This cost includes a one-time $1500.00 setup fee and an annual maintenance fee of $395.00 equating to approx. $108.00 per firefighter for the first year and $65.00 per firefighter each 12 month period thereafter.

RECOMMENDATION:
Based on the information provided, it is recommended that the Council approve to enter into an agreement with Target Solutions for the total amount of three thousand seven hundred eighty five dollars ($3785.00).

The City Council may:
1). Approve the Contract
2). Disapprove the Contract

CONFIDENTIAL

TARGETSOLUTIONS

TargetSolutions

10805 RANCHO BERNARDO ROAD, SUITE 200
SAN DIEGO, CA 92127-5703
877-944-6372 - TOLL FREE
858-592-6880 - DIRECT / 858-487-8762 - FAX

DATE of SUBMISSION	
3/19/2015	
LICENSE TERMS:	12mos

TS Sales Contact: Rhianna Syvertsen
Email: rds@targetsolutions.com
Phone: 954-881-3121

Proposal To:

Gautier Fire Department
c/o Dep Chief Derek McCoy
2502 College Circle Gautier, MS 39553
dmccoy@gautier-ms.gov

TargetSolutions Online Training Platform License Customized Website, Administration Tools, and Applications

Online Training Platform includes Learning Management System with Assignment Scheduler, File Center, Calendar, Reports, Notifications, Forums and more. The Course Bundle includes our complete Course Catalog; NFPA/Fire/EVO, Driver Safety, OSHA and Compliance, HR and Employment Practices, and EMS Recertification.

PLATFORM OPTIONS	UNIT PRICE PER USER	QUANTITY (# of Users)	TOTAL
Online Training Platform	$ 24.00	35	$ 840.00
Course Bundle	$ 30.00	35	$ 1,050.00
Annual Maintenance Fee	$ 395.00	1	$ 395.00
One Time Set Up Fee	$ 1,500.00	1	$ 1,500.00
			$ -
			$ -
Optional Products and/or services:			$ -
		TOTAL DUE	**$ 3,785.00**

NOTES: This is an annual term for 35 personnel to receive the Online Training Platform with the Course Bundle.

By signing the Client agreement, you are 1) agreeing to the pricing and terms presented in this proposal; 2) agreeing you have read and accept the Client Agreement and License terms and; 3) agreeing you have read the TargetSolutions Platform System Requirements and Platform Solution Description documents listed in detail at the following url:

http://www.targetsolutions.com/clients/client-resources/

TargetSolutions, Inc. business proposal pricing is good for 30 days from Date of Submission listed above.

TARGETSOLUTIONS

Client Agreement

This Client Agreement (the "Agreement"), effected as of the date noted in the attached Schedule A (the "Effective Date"), is by and between TargetSolutions Learning, LLC. ("TSL"), a Delaware limited liability company, and the undersigned client ("Client"), and governs the purchase and ongoing use of the services described in this Agreement (the "Services").

1. **Services**. TSL shall provide the following services:

1.1. Access. TSL will provide Client a non-exclusive, non-transferable, revocable, limited license to remotely access and use the Services hereunder and, unless prohibited by law, will provide access to any person designated by Client ("Users").

1.2. Availability. TSL shall use commercially reasonable efforts to display its content and coursework for access and use by Client's Users twenty-four (24) hours a day, seven (7) days a week, subject to scheduled downtime for routine maintenance, emergency maintenance, system outages and other outages beyond TSL's control.

1.3. Help Desk. TSL will assist Users as needed on issues relating to usage via e-mail, and a toll free Help Desk five (5) days per week at scheduled hours.

2. **Client's Obligations.**

2.1. Compliance. Client shall be responsible for Users' compliance with this Agreement, and use commercially reasonable efforts to prevent unauthorized access to or use of the Services.

2.2. Identify Users. Client shall (i) provide a listing of its designated/enrolled Users; (ii) cause each of its Users to complete a profile; (iii) maintain user database by adding and removing Users as appropriate.

2.3. Future Functionality. Client agrees that its purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any public comments regarding future functionality or features.

3. **Fees and Payments.**

3.1. Fees. Client will pay for the Services in accordance with the fee schedule in Schedule A attached to this Agreement. Fees shall be increased by 2.5% per year for any renewal terms.

3.2. Payments. All fees due under this Agreement must be paid in United States dollars. Such charges will be made in advance, according to the frequency stated in Schedule A. TSL will invoice in advance, and such invoices are due net 30 days from the invoice date. All fees collected under this Agreement are fully earned when due and nonrefundable when paid.

3.3. Suspension of Service for Overdue Payments. Any fees unpaid for more than ten (10) days past the due date shall bear interest at 1.5% per month. With fifteen (15) days prior written notice, TSL shall have the right, in addition to all other rights and remedies to which TSL may be entitled, to suspend Client's Users' access to the Services until all overdue payments are paid in full.

4. **Intellectual Property Rights.**

4.1. Client acknowledges that TSL alone (and its licensors, where applicable) shall own all rights, title and interest in and to TSL's software, website or technology, the course content, and the Services provided by TSL, as well as any and all suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Client, and this Agreement does not convey to Client any rights of ownership to the same. The TSL name and logo are trademarks of TSL, and no right or license is granted to Client to use them.

4.2. Except as otherwise agreed in writing or to the extent necessary for Client to use the Services in accordance with this Agreement, Client shall not: (i) copy the course content in whole or in part; (ii) display, reproduce, create derivative works from, transmit, sell, distribute, rent, lease, sublicense, transfer or in any way exploit the course content in whole or in part; (iii) embed the course content into other products; (iv) use any trademarks, service marks, domain names, logos, or other identifiers of TSL or any of its third party suppliers; or (v) reverse engineer, decompile, disassemble, or access the source code of any TSL software.

4.3. Client hereby authorizes TSL to share any intellectual property owned by Client ("User Generated Content") that its Users upload to the Community Resources section of TSL's website with TSL's 3rd party customers and users that are unrelated to Client ("Other TSL Customers"); provided that TSL must provide notice to Client's users during the upload process that such User Generated Content will be shared with such Other TSL Customers.

5. **Term.**

The term of this Agreement shall commence on the Effective Date, and will remain in full force and effect for the term indicated in Schedule A ("Term"). Upon expiration of the Initial Term, this agreement shall automatically renew for successive one (1) year periods (each, a "Renewal Term"), unless notice is given by either party of its intent to terminate the Agreement, at least sixty (60) days prior to the scheduled termination date.

6. **Mutual Warranties and Disclaimer.**

6.1. Mutual Representations & Warranties. Each party represents and warrants that it has full authority to enter into this Agreement and to fully perform its obligations hereunder.

6.2. Disclaimer. EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

7. **Miscellaneous.**

7.1. No Consequential Damages. To the extent permissible under Mississippi law, TSL shall not be liable to Client or its Users for special, incidental, indirect or consequential damages (including lost profits) arising out of or in connection with this Agreement.

7.2. Indemnification. TSL shall indemnify and hold Client harmless from any and all claims, damages, losses and expenses, including but not limited to reasonable attorney fees, arising out of or resulting from any third party claim that the Services or any component thereof infringes or violates any intellectual property right of any person.

7.3. Assignment. Neither party may assign or delegate its rights or obligations pursuant to this Agreement without the prior written consent of the other, provided that such consent shall not be unreasonably withheld. Notwithstanding the foregoing, TSL may freely assign or transfer any or all of its rights without Client consent to an affiliate, or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets.

7.4. Force Majeure. TSL shall have no liability for any failure or delay in performing any of its obligations pursuant to this Agreement due to, or arising out of, any act not within its control, including, without limitation, acts of God, strikes, lockouts, war, riots, lightning, fire, storm, flood, explosion, interruption or delay in power supply, computer virus, governmental laws or regulations.

7.5. No Waiver. No waiver, amendment or modification of this Agreement shall be effective unless in writing and signed by the parties.

7.6. Severability. If any provision of this Agreement is found to be contrary to law by a court of competent jurisdiction, such provision shall be of no force or effect; but the remainder of this Agreement shall continue in full force and effect.

7.7. Entire Agreement. This Agreement and its exhibits represent the entire understanding and agreement between TSL and Client, and supersedes all other negotiations, proposals, understandings and representations (written or oral) made by and between TSL and Client.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the last date set forth below.

[SIGNATURE PAGE IMMEDIATELY FOLLOWS]

TargetSolutions Learning, LLC

By: _____

Printed Name: _____

Title: _____

Date: _____

Client Name:

Address:

By: _____

Printed Name: _____

Title: _____

Date: _____