CA107948

SHELBY COUNTY BOARD OF COMMISSIONERS
AGENDA ROUTE SHEET

Referred to Commission Committee: _____

For Commission Action on: _____

DESCRIPTION OF ITEM:

RESOLUTION APPROVING A CONTRACT BETWEEN THE DISTRICT ATTORNEY GENERAL'S OFFICE AND TRUST MARKETING IN THE AMOUNT OF $150,000 FOR THE PROVISION OF THE OPERATION SAFE COMMUNITY; A COORDINATED LAW ENFORCEMENT INITIATIVE. THIS ITEM REQUIRES EXPENDITURE OF FEDERAL GRANT FUNDS IN THE AMOUNT OF $150,000. SPONSORED BY COMMISSIONER SIDNEY CHISM.

SPONSORED BY COMMISSIONER SIDNEY CHISM.

CHECK ALL THAT APPLY BELOW:

_____This Action does NOT require expenditure of funds.

___X___This Item requires/approves expenditure of funds as follows (complete all that apply):

County General Funds: $_____; County CIP Funds- $_____

State Grant Funds: $_____; State Gas Tax Funds: $_____

Federal Grant Funds: $ 150,000

Other funds (Specify source and amount): $_____

Other pass-thru funds (Specify source and amount): $ _____

Originating Department: Shelby County District Attorney General's Office_____

APPROVAL:

Dept. Head: _______________
(Type your name & phone #.) (Initials) (Date)

Elected Official: _____Priscilla C. Campbell__545-5955__\ PCC __07/27/09____
(Type your name & phone #.) (Initials) (Date)

Division Director: _______________
(Type your name & phone #.) (Initials) (Date)

CIP – A&F Director: _______________
(Type your name & phone #.) (Initials) (Date)

Finance Dept. Mike Swift \ MAS \ 7/20/09
(Type your name & phone #.) (Initials) (Date)

uRichards 8/20/09

County Attorney: Maryl. Bright \ mlb \ 8/19/09
(Type your name & phone #.) (Initials) (Date)

CAO/Mayor: James F. Huntzicker 545-4514 \ JFH \ 8/20/09
(Type your name & phone #.) (Initials) (Date)

SUMMARY SHEET

I. Description of Item:

Requesting approval of a contract with Trust Marketing in the amount of $150,000 for outside professional services for the District Attorney General's Office for the Operation Safe Community: Coordinated Law Enforcement Initiative. Trust Marketing has been approved as a sole source to purchase local television and radio spots, YouTube video spots played in movie theatres, ads on buses, bus stops and billboards for this campaign.

II. Source and Amount of Funding:

The Department of Justice, Office of Justice Programs, Bureau of Justice Assistance in the amount of $150,000.

III. Additional Information Relevant to Approval of This Item:

There is no required match.

Item No._____ Prepared by Dana Dockery

Commissioner _____ Approved _____

RESOLUTION APPROVING A CONTRACT BETWEEN THE DISTRICT ATTORNEY GENERAL'S OFFICE AND TRUST MARKETING IN THE AMOUNT OF $150,000 FOR THE PROVISION OF THE OPERATION SAFE COMMUNITY; A COORDINATED LAW ENFORCEMENT INITIATIVE. THIS ITEM REQUIRES EXPENDITURE OF FEDERAL GRANT FUNDS IN THE AMOUNT OF $150,000. SPONSORED BY COMMISSIONER SIDNEY CHISM.

WHEREAS, The Office of the District Attorney General has been awarded $150,000 for the Operation Safe Community, a Coordinated Law Enforcement Initiative by the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance for August 1, 2008 through February 28, 2010; and

WHEREAS, This funding is for the continuation of the media campaign being used by Operation Safe Community; and

WHEREAS, Trust Marketing has been approved as a sole source to buy local television and radio spots, YouTube videos, video spots played in movie theatres, ads on buses, bus stops and billboards for this campaign; and

WHEREAS, Funds are available in the FY 2009/2010 Operating Budget Account Number 658-709001-6678 outside professional services.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That the expenditure of funds for outside professional services in the amount of $150,000 to Trust Marketing for the District Attorney General's Office is hereby approved.

BE IT FURTHER RESOLVED, That funds in the amount of $150,000 are hereby appropriated from FY 2009/2010 Operating Budget Account Number 658-709001-6678 outside professional services.

BE IT FURTHER RESOLVED, That the Purchasing Department is authorized to issue a purchase order to Trust Marketing in the amount of $150,000 for the purpose of outside professional services for the Operation Safe Community: Coordinated Law Enforcement Initiative for the District Attorney General's Office.

BE IT FURTHER RESOLVED, That the County Mayor and the Director of Finance and Administration are hereby authorized to issue their warrant or warrants in an amount not exceed $150,000 to Trust Marketing and to take proper credit in their accounting thereof.

_____
A C Wharton, Jr., County Mayor

Date:_____

Attest:

_____
Clerk of County Commission

Adopted: _____

Poole, Bernita

From: Campbell, Priscilla [Priscilla.Campbell@scdag.com]
Sent: Tuesday, August 18, 2009 3:53 PM
To: Poole, Bernita
Subject: FW: SOLE SOURCE

Bernita,

The email at the bottom of this is the formal approval from Clifton Davis for Trust Marketing as sole source. I'll forward you the email from Trust Marketing with their insurance certificate

Trust Marketing has completed the on-line vendor registration and is waiting for their EOC # and vendor #. Does the encumbrance form have to be included with the resolution?

Thanks for your help.
Priscilla

From: Campbell, Priscilla
Sent: Tuesday, August 18, 2009 2:31 PM
To: 'Bright, Mary'
Subject: FW: SOLE SOURCE

Mary,

Cliff Davis did not write a letter - this was his only communication approving Trust Marketing as sole source.

Priscilla

From: Davis, Clifton [mailto:clifton.davis@shelbycountytn.gov]
Sent: Monday, July 13, 2009 2:59 PM
To: Campbell, Priscilla
Subject: RE: SOLE SOURCE

Approved.

From: Campbell, Priscilla [mailto:Priscilla.Campbell@scdag.com]
Sent: Monday, July 13, 2009 2:10 PM
To: Davis, Clifton
Subject: SOLE SOURCE
Importance: High

Cliff,

We have been awarded federal funding for continuation of the media communications campaign being used by "Operation Safe: Community".

In February 2008 you approved Trust Marketing as the sole source to buy local television and radio spots, YouTube videos, video spots played in movie theatres, ads on buses, bus stops and billboards for this campaign.

We respectfully request approval of Trust Marketing to continue providing their sole source services for this project.

Priscilla C. Campbell
Chief Administrative Officer
District Attorney General
201 Poplar Ave., 3rd Floor
Memphis, TN 38103
Office phone: 901-545-5955
Cell phone: 901-508-3386
Fax: 901-545-3937

CERTIFICATE OF INSURANCE

This certifies that

- ☒ STATE FARM FIRE AND CASUALTY COMPANY, Bloomington, Illinois
- ☐ STATE FARM GENERAL INSURANCE COMPANY, Bloomington, Illinois
- ☐ STATE FARM FIRE AND CASUALTY COMPANY, Aurora, Ontario
- ☐ STATE FARM FLORIDA INSURANCE COMPANY, Winter Haven, Florida
- ☐ STATE FARM LLOYDS, Dallas, Texas

insures the following policyholder for the coverages indicated below:

Policyholder: Trust Marketing (Howard Robertson CEO)

Address of policyholder: 44 N Second St. Memphis, Tn. 38103

Location of operations: same

Description of operations:

The policies listed below have been issued to the policyholder for the policy periods shown. The insurance described in those policies is subject to all the terms, exclusions, and conditions of those policies. The limits of liability shown may have been reduced by any paid claims.

POLICY NUMBER	TYPE OF INSURANCE	POLICY PERIOD Effective Date	POLICY PERIOD Expiration Date	LIMITS OF LIABILITY (at beginning of policy period)
92-GQ-7568-82	Comprehensive	07/29/09	07/29/10	BODILY INJURY AND PROPERTY DAMAGE
SAME	Business Liability	07/29/09	07/29/10	
This insurance includes:	☒ Products - Completed Operations ☒ Contractual Liability ☐ Personal Injury ☐ Advertising Injury ☐ ☐ ☐			Each Occurrence $ 1MM General Aggregate $ 2MM Products – Completed Operations Aggregate $ 2MM
	EXCESS LIABILITY ☐ Umbrella ☐ Other	POLICY PERIOD Effective Date	POLICY PERIOD Expiration Date	BODILY INJURY AND PROPERTY DAMAGE (Combined Single Limit) Each Occurrence $ Aggregate $
	Workers' Compensation and Employers Liability	POLICY PERIOD Effective Date	POLICY PERIOD Expiration Date	Part I - Workers Compensation - Statutory Part II - Employers Liability Each Accident $ Disease - Each Employee $ Disease - Policy Limit $

POLICY NUMBER	TYPE OF INSURANCE	POLICY PERIOD Effective Date	POLICY PERIOD Expiration Date	LIMITS OF LIABILITY (at beginning of policy period)

THE CERTIFICATE OF INSURANCE IS NOT A CONTRACT OF INSURANCE AND NEITHER AFFIRMATIVELY NOR NEGATIVELY AMENDS, EXTENDS OR ALTERS THE COVERAGE APPROVED BY ANY POLICY DESCRIBED HEREIN.

Name and Address of Certificate Holder

Shelby County Government
Purchasing Department
160 N Main, Suite 350
Memphis, Tn. 38103

If any of the described policies are canceled before their expiration date, State Farm will try to mail a written notice to the certificate holder 30 days before cancellation. If however, we fail to mail such notice, no obligation or liability will be imposed on State Farm or its agents or representatives.

Emerson R Able

Signature of Authorized Representative

Emerson R. Able — 08/14/2009

Title — Date

Agent

Agent Name

Telephone Number 901-837-7400

Agent's Code Stamp
Agent Code 42-1967
AFO Code Kemp

558-994 a.6 Printed in U.S.A. Rev. 05-09-2006

CONTRACT

This contract (the "Contract") entered into this _____ day of _____, 2009, and between SHELBY COUNTY GOVERNMENT, hereinafter referred to as "COUNTY" and **TRUST MARKETING & COMMUNICATIONS, INC.**, hereinafter referred to as "CONTRACTOR".

WITNESSETH

WHEREAS, the COUNTY has the need for the provision of professional services for the placement of advertising and other means of marketing to communicate the consequences of engaging in gun and gang violence, in accordance with the Operation: Safe Community strategic plan; and

WHEREAS, the CONTRACTOR has the knowledge and expertise to provide such services; and

WHEREAS, the County declared on July 13, 2009 the Contractor as a sole source provider of the above named professional services; and

WHEREAS, the parties are desirous of entering into a contract setting forth the terms and conditions under which the CONTRACTOR will provide said services.

NOW THEREFORE, for and in consideration of mutual promises and covenants herein contained, the parties hereto agree as follows:

I. SCOPE OF WORK

1. The CONTRACTOR shall provide the services as outlined within the Scope of Work which is attached hereto as Exhibit "A" and incorporated herein by reference as if stated verbatim (the "Services").

II. TERM AND COMPENSATION

1. The term of this Contract (the "Term") will commence upon the execution of this Contract and continue through **June 30, 2010**.

2. The COUNTY agrees to compensate the CONTRACTOR for the

provision of the Services the sum total not to exceed **ONE HUNDRED FIFTY THOUSAND AND 00/100($150,000.00) Dollars** (the "Fee") during the term of this Contract which shall include all reimbursable expenses.

4. The CONTRACTOR shall submit invoices to the COUNTY on a monthly basis for Services performed during the preceding month. Invoices shall be submitted in duplicate to the address set forth in Paragraph 33 of this Contract to the attention of **Mary Cook.** The COUNTY shall pay such invoices within thirty (30) days of its receipt and approval of said invoices. The COUNTY is not obligated to pay, and will withhold from payment, any amounts the COUNTY has in dispute with the CONTRACTOR based on CONTRACTOR'S non-performance or negligent performance of any of the Services under this Contract.

III. GENERAL CONDITIONS

The parties further agree as follows:

1. CONTROL

All Services by the CONTRACTOR will be performed in a manner satisfactory to the COUNTY, and in accordance with the generally accepted business practices and procedures of the COUNTY.

2. CONTRACTOR'S PERSONNEL

The CONTRACTOR certifies that it presently has adequate qualified personnel to perform all Services required under this Contract. All work performed during the Term of this Contract will be supervised by the CONTRACTOR. The CONTRACTOR further certifies that all of its employees assigned to serve the COUNTY have such knowledge and experience as required to perform the duties assigned to them. Any employee of the CONTRACTOR who, in the opinion of the COUNTY, is incompetent, or whose conduct becomes detrimental to the work, shall immediately be removed from association with the Services under this Contract.

3. INDEPENDENT STATUS

a. Nothing in this Contract shall be deemed to represent that the CONTRACTOR, or any of the CONTRACTOR's employees or agents, are the agents, representatives, or employees of the COUNTY. The CONTRACTOR will be an independent CONTRACTOR over the details and means for performing the

Services under this Contract. Anything in this Contract which may appear to give the COUNTY the right to direct the CONTRACTOR as to the details of the performance of the Services under this Contract or to exercise a measure of control over the CONTRACTOR is solely for purposes of compliance with local, state and federal regulations and means that the CONTRACTOR will follow the desires of the COUNTY only as to the intended results of the scope of this Contract.

b. It is further expressly agreed and understood by CONTRACTOR that neither it nor its employees or agents are entitled to any benefits which normally accrue to employees of the COUNTY; that CONTRACTOR has been retained by the COUNTY to perform the Services specified herein (not hired) and that the remuneration specified herein is considered fees for the Services performed (not wages) and that invoices submitted to the COUNTY by CONTRACTOR for the Services performed shall be on the CONTRACTOR's letterhead.

4. REPORTS

CONTRACTOR shall prepare and submit quarterly reports of its activities, funded under this Contract, to the originating department and the Contract Administration Department of the COUNTY. The reports shall include an itemization of the use of COUNTY's funds, pertinent information pursuant to the applicable Living Wage Ordinance, and shall be inclusive of specific Services delivered. Any such reports provided to the COUNTY shall be prepared with the understanding that the COUNTY may make such reports available to the public. The quarterly reports and all books of account and financial records that are specific to the work performed in accordance with this Contract may be subject to audit by the Director of the Division of Administration and Finance of the COUNTY. The COUNTY shall have the right to withhold future disbursement of funds under this Contract and any future Contracts until this provision has been met.

5. TERMINATION OR ABANDONMENT

a. It shall be cause for the immediate termination of this Contract if, after its execution, the COUNTY determines that:

i) Either the CONTRACTOR or any of its principals, partners or corporate officers, if a corporation, including the corporation itself, has pled nolo contendere, or has pled or been found guilty of a

criminal violation, whether state or federal, involving, but not limited to, governmental sales or purchases, including but not limited to the rigging of bids, price fixing, or any other collusive and illegal activity pertaining to bidding and governmental contracting; or

ii) CONTRACTOR has subcontracted, assigned, delegated, transferred its rights, obligations or interests under this Contract without the COUNTY's consent or approval; or

iii) CONTRACTOR has filed bankruptcy, become insolvent or made an assignment for the benefit of creditors, or a receiver, or similar officer has been appointed to take charge of all or part of CONTRACTOR assets.

b. The COUNTY may terminate the Contract upon five (5) days written notice by the COUNTY or its authorized agent to the CONTRACTOR for CONTRACTOR's failure to provide the Services specified under this Contract.

c. This Contract may be terminated by either party by giving thirty (30) days written notice to the other, before the effective date of termination (the "Termination Date"). In the event of such termination, the CONTRACTOR shall be paid for all Services rendered prior to the Termination Date, provided the CONTRACTOR shall have delivered to COUNTY such statements, accounts, reports and other materials as required under this Contract; however, CONTRACTOR shall not be compensated for any anticipatory profits that have not been earned as of the date of the Termination Date. All Services completed by CONTRACTOR prior to the Termination Date shall be documented and tangible work documents shall be transferred to and become the sole property of the COUNTY prior to payment for the Services rendered.

d. Notwithstanding the above or any section herein to the contrary, CONTRACTOR shall not be relieved of liability to the COUNTY for damages sustained by the COUNTY by virtue of any breach of the Contract by CONTRACTOR and the COUNTY may withhold any payments to CONTRACTOR for the purpose of setoff until such time as the exact amount of damages due the COUNTY from CONTRACTOR is determined.

6. COMPENSATION FOR CORRECTIONS

No compensation shall be due or payable to CONTRACTOR pursuant

to this Contract for any CONTRACTOR's Services performed by the CONTRACTOR in connection with effecting of corrections to the design of the Services, when such corrections are required as a direct result of negligence by the CONTRACTOR to properly fulfill any of his obligations as set forth in this Contract.

7. SUBCONTRACTING, ASSIGNMENT OR TRANSFER

a. Any subcontracting, assignment, delegation or transfer of all or part of the rights, responsibilities, or interest of either party to this Contract is prohibited unless by written consent of the other party. No subcontracting, assignment, delegation or transfer shall relieve the CONTRACTOR from performance of the Services under this Contract. The COUNTY shall not be responsible for the fulfillment of the CONTRACTOR's obligations to its transferors or subcontractors.

b. Upon the request of the other party, the subcontracting, assigning, delegating or transferring party shall provide all documents evidencing the subcontract, assignment, delegation or transfer.

8. CONFLICT OF INTEREST

The CONTRACTOR covenants that it has no public or private interest, and will not acquire directly or indirectly any interest which would conflict in any manner with the performance of the Services. The CONTRACTOR warrants that no part of the total Contract Fee shall be paid directly or indirectly to any officer or employee of the COUNTY as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor or contractor to the CONTRACTOR in connection with any work contemplated or performed relative to this Contract.

9. CONTINGENT FEES

The CONTRACTOR warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONTRACTOR any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the COUNTY will have the right to recover the full amount of such fee, commission, percentage,

brokerage fee, gift, or other consideration.

10. EMPLOYMENT OF COUNTY WORKERS

The CONTRACTOR will not engage, on a full, part-time, or any other basis during the Term of the Contract, any professional or technical personnel who are or have been at any time during the Term of the Contract in the employ of the COUNTY.

11. ACCESS TO RECORDS

During all phases of the work and Services to be provided hereunder, CONTRACTOR agrees to permit duly authorized agents and employees of the COUNTY to enter CONTRACTOR's offices for the purpose of inspections, reviews and audits during normal working hours. Reviews may also be accomplished at meetings that are arranged at mutually agreeable times and places. The CONTRACTOR will maintain all books, documents, papers, accounting records, and other evidence pertaining to the Fee paid under this Contract and make such materials available at their offices at all reasonable times during the Term of this Contract and for three (3) years from the date of payment under this Contract for inspection by the COUNTY or by any other governmental entity or agency participating in the funding of this Contract, or any authorized agents thereof. Copies of said records shall be furnished to the COUNTY upon request.

12. ARBITRATION

Any dispute concerning a question of fact in connection with the work not disposed of by agreement between the CONTRACTOR and the COUNTY will be referred to the Shelby County Contract Administrator or its duly authorized representative, whose decision regarding same will be final.

13. RESPONSIBILITIES FOR CLAIMS AND LIABILITIES

a. CONTRACTOR shall indemnify, defend, save and hold harmless the COUNTY, and its elected officials, officers, employees, agents, assigns, and instrumentalities from and against any and all claims, liability, losses or damages—including but not limited to Title VII and 42 USC 1983 prohibited acts—arising out of or resulting from any conduct; whether actions or omissions; whether intentional, unintentional, or negligent; whether legal or illegal; or otherwise that occur in connection with or in breach of this Contract or in the performance of the Services hereunder, whether performed by the CONTRACTOR its subcontractors, agents, employees or assigns. This

indemnification shall survive the termination or conclusion of this Contract.

b. CONTRACTOR expressly understands and agrees that any insurance protection required by this Contract or otherwise provided by the CONTRACTOR shall in no way limit the responsibility to indemnify, defend, save and hold harmless the COUNTY or its elected officials, officers, employees, agents, assigns, and instrumentalities as herein provided.

c. The COUNTY has no obligation to provide legal counsel or defense to CONTRACTOR or its subcontractors in the event that a suit, claim or action of any character is brought by any person not a party to this agreement against CONTRACTOR as a result of or relating to performance of the Services under this Contract.

d. Except as expressly provided herein, the COUNTY has no obligation for the payment of any judgment or the settlement of any claims against CONTRACTOR as a result of or relating to performance of the Services under this Contract.

e. CONTRACTOR shall immediately notify the COUNTY of any claim or suit made or filed against CONTRACTOR or its subcontractors regarding any matter resulting from or relating to CONTRACTOR's performance of the Services under this Contract and will cooperate, assist and consult with the COUNTY in the defense or investigation thereof.

14. GENERAL COMPLIANCE WITH LAWS

a. The CONTRACTOR certifies that it is qualified or will take steps necessary to qualify to do business in the State of Tennessee and that it will take such action as, from time to time, may be necessary to remain so qualified and it shall obtain, at its expense all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of the Services under this Contract.

b. The CONTRACTOR is assumed to be familiar with and agrees that at all times it will observe and comply with all federal, state, and local laws, ordinances, and regulations in any manner affecting the performance of the Services. The preceding shall include, but is not limited to, compliance with all Equal Employment Opportunity laws, the Fair Labor Standards Act,

Occupational Safety and Health Administration (OSHA) requirements, and the Americans with Disabilities Act (ADA).

c. This Contract will be interpreted in accordance with the laws of the State of Tennessee. By execution of this Contract, the CONTRACTOR agrees that all actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this Contract will be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee, and in no other. In accordance herewith, the parties to this Contract submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.

15. NON-DISCRIMINATION

The CONTRACTOR hereby agrees, warrants, and assures compliance with the provisions of Title VI and VII of the Civil Rights Act of 1964 and all other federal statutory laws which provide in whole or in part that no person shall be excluded from participation or be denied benefits of or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the CONTRACTOR on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional or statutory law. The CONTRACTOR shall upon request show proof of such non-discrimination and shall post in conspicuous places available to all employees and applicants notices of non-discrimination.

16. ENTIRE AGREEMENT

This Contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, whether oral or written.

17. AMENDMENT

This Contract may be modified or amended only by written instrument signed by both parties.

18. SEVERABILITY

If any provision of this Contract is held to be unlawful, invalid or unenforceable under any present or future laws, such provision shall be fully severable; and this Contract shall then be construed and enforced as if such unlawful,

invalid or unenforceable provision had not been a part hereof. The remaining provisions of this Contract shall remain in full force and effect and shall not be affected by such unlawful, invalid or unenforceable provision or by its severance here from. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, there shall be added automatically as a part of this Contract a legal, valid and enforceable provision as similar in terms to such unlawful, invalid or unenforceable provision as possible.

19. NO WAIVER OF CONTRACTUAL RIGHT

No waiver of any term, condition, default, or breach of this Contract, or of any document executed pursuant hereto, shall be effective unless in writing and executed by the party making such waiver; and no such waiver shall operate as a waiver of either (a) such term, condition, default, or breach on any other occasion or (b) any other term, condition, default, or breach of this Contract or of such document. No delay or failure to enforce any provision in this Contract or in any document executed pursuant hereto shall operate as a waiver of such provision or any other provision herein or in any document related hereto. The enforcement by any party of any right or remedy it may have under this Contract or applicable law shall not be deemed an election of remedies or otherwise prevent such party from enforcement of one or more other remedies at any time.

20. MATTERS TO BE DISREGARDED

The titles of the several sections, subsections, and paragraphs set forth in this contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Contract.

21. SUBJECT TO FUNDING

This Contract is subject to funds being available to the District Attorney's office for the purposes as set forth herein. In the event sufficient funds for this Contract are not available for any of its fiscal period during the Term hereof, then this Contract will be terminated. In the event of such termination, the CONTRACTOR shall be entitled to receive just and equitable compensation for any satisfactory work performed as of the Termination Date.

22. NON-LIABILITY FOR CONTRACTOR EMPLOYEE TAXES

Neither CONTRACTOR nor its personnel are COUNTY's employees, and COUNTY shall not take any action or provide CONTRACTOR's personnel with any benefits and shall have no liability for the following:

a. Withholding FICA (Social Security) from CONTRACTOR's payments;

b. Making state or federal unemployment insurance contributions on behalf of CONTRACTOR or its personnel;

c. Withholding state and federal income tax from payment to CONTRACTOR;

d. Making disability insurance contributions on behalf of CONTRACTOR; and

e. Obtaining workers' compensation insurance on behalf of CONTRACTOR or CONTRACTOR's personnel.

23. CHARGES FOR SERVICES/RIGHTS TO CREATIVE MATERIALS

CONTRACTOR agrees that, as part of the consideration of this contract, it shall perform all creative work on an at-cost basis, with no charges for time incurred and, likewise, shall perform all necessary consultation and coordination with County and the District Attorney's office with no charges for time incurred. CONTRACTOR confirms that it has full and complete rights to utilize all broadcast, outdoor and print creative materials produced previously for the "No Deals" and "Gun Crime IS Jail Time" marketing efforts.

24. INCORPORATION OF OTHER DOCUMENTS

It is understood and agreed between the parties that in the event of a variance between the terms and conditions of this Contract and any amendment thereto and the terms and conditions contained in any other communications or correspondence between the parties, the terms and conditions of this Contract as well as any amendment shall take precedence and control the relationship and understanding of the parties.

25. CONSULTATION ON ADVERTISING

Prior to the purchase or placement of any advertising, CONTRACTOR shall consult with Associate Professor Richard Janikowski of the University of Memphis on (a) the target

audience(s) the advertising is intended to reach and (b) the best means of reaching the audience(s). Professor Janikowski is Director for the Center fro Community Criminology and Research. He is one of the community partners in Operation Safe Community.

26. CONTRACTING WITH LOCALLY OWNED SMALL BUSINESSES

The CONTRACTOR shall take affirmative action to assure that Locally Owned Small Businesses that have been certified by the COUNTY are utilized when possible as sources of supplies and equipment, construction and services.

27. RIGHT TO REQUEST REMOVAL OF CONTRACTOR's EMPLOYEES

The COUNTY may interview the personnel CONTRACTOR assigns to COUNTY's work. COUNTY shall have the right, at any time, to request removal of any employee(s) of CONTRACTOR, whom COUNTY deems to be unsatisfactory for any reason. Upon such request, CONTRACTOR shall use all reasonable efforts to promptly replace such employee(s) with substitute employee(s) having appropriate skills and training.

28. INCORPORATION OF WHEREAS CLAUSES

The foregoing whereas clauses are hereby incorporated into this Contract and made a part hereof.

29. DISCLOSURE OF REPORTS, DATA OR OTHER INFORMATION

Notwithstanding anything to the contrary contained herein or within any other document supplied to COUNTY by CONTRACTOR, CONTRACTOR understands and acknowledges that COUNTY is a governmental entity subject to the laws of the State of Tennessee and that any reports, data or other information supplied to COUNTY by CONTRACTOR due to Services performed pursuant to this Contract is subject to being disclosed as a public record in accordance with the laws of the State of Tennessee.

30. ORGANIZATION STATUS AND AUTHORITY

a. CONTRACTOR represents and warrants that it is a corporation, limited liability company, partnership, or other entity duly organized, validly existing and in good standing under the laws of the state of Tennessee; it has the power and authority to own its properties and assets and is duly qualified to carry on its business in every jurisdiction wherein such qualification is necessary.

b. The execution, delivery and performance of this Contract by the CONTRACTOR has been duly authorized by all requisite action and will not violate any provision of law, any order of any court or other agency of government, the organizational documents of CONTRACTOR, any provision of any indenture, agreement or other instrument to which CONTRACTOR is a party, or by which CONTRACTOR's respective properties or assets are bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien , charge or encumbrance of any nature whatsoever upon any of the properties or assets.

31. INSURANCE REQUIREMENTS

a. The CONTRACTOR shall purchase and maintain, in a company or companies licensed to do business in the State of Tennessee, such insurance as will protect the County from claims which may arise out of or result from the CONTRACTOR's operations under the Contract, whether such operations are performed by himself or by any subcontractors or by anyone directly or indirectly employed by any of them, or by anyone for whose acts the CONTRACTOR or subcontractor may be liable.

b. The insurance required shall be written for not less than any limits of liability specified or required by law, whichever is greater. Shelby County Government, its elected officials, appointees and employees will be named as additional insured. All policies will provide for thirty (30) days written notice to COUNTY of cancellation or material change in coverage provided. The CONTRACTOR will maintain throughout the life of this Contract insurance, through insurers rated A- or better by A.M. Best, in the following minimum requirements:

i) Errors and Omissions/or Professional Liability coverage with limits of $1,000,000.00 per occurrence/$3,000,000.00 annual aggregate, indicating if coverage is on occurrence basis or claims made.

ii) Commercial General Liability coverage with minimum limits of $1,000,000.00 per occurrence bodily injury and property damage/ $1,000,000.00 personal and advertising injury/$2,000,000.00 general aggregate coverage, $2,000,000.00 annual aggregate products/completed operations, indicating whether

coverage provided on a claims-made or on an occurrence basis. The insurance shall include coverage for the following:

a. Premises/Operation;
b. XCU coverage, where applicable
c. Products/Completed Operations;
d. Contractual Liability;
e. Independent Contractors;
f. Broad Form Property Coverage;
g. Personal Injury.

iii) Workers Compensation and Employers' Liability Insurance - Workers' compensation statutory limits as required by Tennessee. This policy should include Employers' Liability coverage for $1,000,000.00 per accident.

iv) Business Automobile Liability Insurance - minimum limit of $1,000,000.00 each accident for property damage and personal injury. Coverage is to be provided on all owned/leased, hired and non-owned autos.

c. CONTRACTOR shall provide County with a current copy of the Certificate of Insurance at the time of contracting and shall maintain said insurance during the entire Contract period as well as provide renewal copies on each anniversary date. The certificate holder is to read:

Shelby County Government
Purchasing Department
160 N. Main, Suite 550
Memphis, TN 38103

d. Upon termination or cancellation of insurance currently in effect under this Contract, the CONTRACTOR shall purchase an extended reporting endorsement and furnish evidence of same to the County.

32. NOTICE

Any notices required or permitted to be given under the provisions of this Contract shall be effective only if in writing and delivered either in person to the COUNTY's authorized agent or by First Class or U.S. Mail to the addresses set forth below, or to such other person or address as either party may designate in writing and deliver as herein provided:

COUNTY: District Attorney General
201 Poplar Ave., Suite 301
Memphis, Tennessee 38103
Attn.: Mary Cook

and

Shelby County Government
Contract Administration
160 N. Main St., Suite 550
Memphis, Tennessee 38103

VENDOR: Trust Marketing Communications, Inc.
Attn: Howard Robertson, Jr.
44 North Second St., Suite 701
Memphis, TN 38103

33. LIVING WAGE ORDINANCE

In accordance with Ordinance Number 328, commonly referred to as the Living Wage Ordinance, all persons/entities engaged in service contracts with the COUNTY, including but not limited to both prime and sub-contractors, shall pay a Living Wage to employees for all work performed on said service contract, as defined in the Living Wage Ordinance. Proof of such compensation must be evidenced as required in the Living Wage Ordinance.

IN WITNESS WHEREOF, the parties hereto have set their signatures for the purposes contained herein, on the day and date first above written.

APPROVED AS TO FORM AND LEGALITY:

Assistant Contract Administrator/
Assistant County Attorney

SHELBY COUNTY GOVERNMENT

A C Wharton, Jr., Mayor

(TRUST Marketing, Inc.)

BY: Howard Robertson

TITLE: Principal

CORPORATE ACKNOWLEDGMENT

STATE OF Tennessee

COUNTY OF Shelby

Before me, the undersigned Notary Public, in and for the State and County aforesaid, personally appeared Howard Robertson with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself/herself to be president or other officer authorized by appropriate Corporate action and/or Resolution to execute the preceding instrument of the TRUST Marketing the within named bargainor, a corporation, and that he as such Principal, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself/herself as Principal.

WITNESS my hand and official seal at office this 10th day of August, 2009.

Faye Walton
Notary Public

My Commission Expires: My Commission Expires Jan 10th, 2012

FAYE WALTON
NOTARY PUBLIC AT LARGE
SHELBY COUNTY TENNESSEE

CONTRACT NO. CA _____

CONTRACT AND ENCUMBRANCE INFORMATION SHEET
AN ORIGINAL AND 1 COPY OF THIS FORM MUST BE SUBMITTED

THIS SHEET MUST BE COMPLETED, SIGNED BY THE DEPARTMENT HEAD AND DIVISION DIRECTOR AND ATTACHED TO ALL CONTRACT AND RESOLUTION PACKETS BEFORE ANY ACTION WILL BE TAKEN.

1. Department Requesting Services: District Attorney General

2. Preparer's Name, Telephone #, and E-Mail Address:
Mary Cook, 901-545-5953 mary.cook@scdag.com

3. DESCRIPTION OF ITEM TO BE PURCHASED, BUILT, OR SERVICE TO BE PROVIDED:
Professional services to buy local TV and radio spots, YouTube videos, video spots played in movie theaters, bus and billboard ads

4. NAME, ADDRESS, VENDOR NUMBER, AND EOC NUMBER OF VENDOR/CONSULTANT/AGENCY WITH WHICH SHELBY COUNTY WILL BE CONTRACTING:
Trust Marketing, Inc.
44 N. Second St., Suite 701, Memphis, TN 38103

VENDOR NO. 60142

EOC NO. EOC-S-0810-15510

5. COST OF ITEM OR SERVICE REQUESTED: $150,000

6. TERM OF PROPOSED CONTRACT/AGREEMENT: September 1, 2009 - June 30, 2010

7. FUND, ORG, AND ACCOUNT NUMBER (13 DIGITS) **FOR MULTIPLE ACCOUNTS, PLEASE SPECIFY DOLLAR AMOUNT FOR EACH**
658-709001-6678

8. COMMODITY CODE:

9. VENDOR/CONSULTANT/AGENCY SELECTED BY (CHECK ONE):
PLEASE ATTACH APPROVAL DOCUMENTS

a. ☐ Bid/RFP Process - # & Date _____

b. ☒ Emergency/Sole Source

10. LOSB/MBE INFORMATION: Please check the appropriate description

☒ MBE (MINORITY OWNED BUSINESS ENTERPRISE)
☐ MALE ☐ FEMALE

☐ WBE (WOMEN OWNED BUSINESS ENTERPRISE)

☐ LOSB (LOCALLY OWNED SMALL BUSINESS)
ANNUAL SALES DOES NOT EXCEED $3 MILLION

☐ N/A

11. SPECIAL INSRUCTIONS (ROUTING, FUNDING, BUDGET TRANSFER IN PROCESS)

REVIEWED AND APPROVED BY:

DEPARTMENT HEAD — DATE

ELECTED OFFICIAL

DIVISION DIRECTOR — DATE

CONTRACT NO. CA _____

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    ANNUAL SALES DOES NOT EXCEED $3 MILLION

    ☐ N/A

11. SPECIAL INSRUCTIONS (ROUTING, FUNDING, BUDGET TRANSFER IN PROCESS)

REVIEWED AND APPROVED BY:

	DEPARTMENT HEAD	DATE
	RCampbell	8/19/09
ELECTED OFFICIAL	DIVISION DIRECTOR	DATE