SHELBY COUNTY BOARD OF COMMISSIONERS
AGENDA ROUTE SHEET

CA094484

Referred to Commission Committee 4-Law Enforcement, Fire Corrections & Courts

For Commission Action on June 29, 2009

DESCRIPTION OF ITEM: A RESOLUTION APPROVING A CONTRACT IN THE AMOUNT OF $3,940,777.00 IN WHICH IS A COMBINATION OF PREVIOUSLY APPROVED CONTRACTS WITH THE MILITARY DEPARTMENT OF TENNESSEE AND THE TENNESSEE EMERGENCY MANAGEMENT AGENCY, TO PROVIDE ASSISTANCE TO BUILD AND ENHANCE CAPACITY TO PREVENT, TO PROTECT, RESPOND TO AND RECOVER FROM ACTS OF TERRORISM AND NATURAL DISASTERS AND THIS ITEM REQUIRES THE EXPENDITURE OF PASS THROUGH GRANT FUNDS UNDER THE U.S. DEPARTMENT OF HOMELAND SECURITY GRANT PROGRAMS IN THE AMOUNT OF $3,940,777.00 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: $3,940,777.00

Other funds (Specify source and amount): $_____

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

Originating Department: **Office of Preparedness**

APPROVAL:

	(Print your name & phone #.)	(Initials)	(Date)
Dept. Head:	Robert Nations, Jr. 901-515-2601	BN	6/15/09
Elected Official:			
Division Director:	Grace Hutchinson 901-545-4429	GH	6/17/2009
CIP – A&F Director:			
Finance Dept.	Mike Swift 901-545-4269	MAS	6/17/09
County Attorney:	Lisa Kelly 901-545-4363	LK	6-16-09
CAO/Mayor:	James F. Huntzicker 901-545-4514		6-17-09

SUMMARY SHEET

I. Description of Item:

A resolution approving a contract in the amount of $3,940,777.00 with the Military Department of Tennessee and the Tennessee Emergency Management Agency, to provide assistance to build and enhance capacity to prevent, to protect, respond to and recover from acts of terrorism and natural disasters and this item requires the expenditure of pass through grant funds under the U.S. Department of Homeland Security Grant Programs in the amount of $3,940,777.00

II. Source and Amount of Funding:

The Military Department of Tennessee and the Tennessee Emergency Management Agency provides grant funds in the amount of $3,940,777.00 for the provision of pass-through funding from the United States Department of Homeland Security, Urban Area Security Initiative Grant Program.

III. Contract Items:

Type of Contract – Grant Agreement Between the Military Department of Tennessee, Tennessee Emergency Management Agency and Shelby County.

IV. Additional Relevant Information:

This contract is a combination of the FY 2008 Homeland Security Grant Programs contracts that have already been accepted by the Mayor. These contracts include the Urban Area Security Initiative (UASI), Fund 269, Metropolitan Medical Response System (MMRS) Fund 265 and the Citizen Corp Program (CCP) Fund 270. The funds were previously budgeted into the FY 2010 Operating Budget where they will be expended.

Administration recommends approval of this resolution

ITEM NO: _____ PREPARED BY: Patrina Chambers

APPROVED BY: Lisa Kelly

A RESOLUTION APPROVING A CONTRACT IN THE AMOUNT OF $3,940,777.00 IN WHICH IS A COMBINATION OF PREVIOUSLY APPROVED CONTRACTS WITH THE MILITARY DEPARTMENT OF TENNESSEE AND THE TENNESSEE EMERGENCY MANAGEMENT AGENCY, TO PROVIDE ASSISTANCE TO BUILD AND ENHANCE CAPACITY TO PREVENT, TO PROTECT, RESPOND TO AND RECOVER FROM ACTS OF TERRORISM AND NATURAL DISASTERS AND THIS ITEM REQUIRES THE EXPENDITURE OF PASS THROUGH GRANT FUNDS UNDER THE U.S. DEPARTMENT OF HOMELAND SECURITY GRANT PROGRAMS IN THE AMOUNT OF $3,940,777.00 SPONSORED BY COMMISSIONER SIDNEY CHISM.

WHEREAS, The Department of Homeland Security provides coordination of critical terrorism planning, preparedness, response and other emergency services as are essential to residents of our County and entire region; and

WHEREAS, The Military Department of Tennessee and the Tennessee Emergency Management Agency provides grant funds in the amount of $3,940,777.00 for the provision of pass-through funding to provide for the purchase of equipment and for planning, training and exercises and

WHEREAS, The County Mayor has already approved three (3) individual contracts; CA097543, Citizen Corp Program (CCP) in the amount of $13,031.00, CA097542, Urban Area Security Initiative (UASI) in the amount of $3,606,525.00 and CA097541, Metropolitan Medical Response System (MMRS) in the amount of $321,221.00 in which makes up this new contract that totals $3,940,777.00.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That the Grant Agreement with the Tennessee Emergency Management Agency in the amount of $3,940,777.00 is hereby approved.

BE IT FURTHER RESOLVED That fund numbers 269, 265, and 270 which are currently budgeted remain the same as originally budgeted in FY 2010

BE IT FURTHER RESOLVED, That the County Mayor is hereby authorized to execute said grant agreement with the State of Tennessee, an executed copy of which shall be kept on file in the Purchasing Department.

BE IT FURTHER RESOLVED, That the County Mayor and the Director of Administration and Finance are authorized to issue their warrant or warrants in amount not to exceed $3,940,777.00 for purposes contained in this resolution and to take proper credit in their accounting therefore.

_____
A C Wharton, Jr., County Mayor

Date: _____

ATTEST:

_____
Clerk of County Commission

ADOPTED: _____

GG011609

CONTRACT COVER

(cost reimbursement grant to a federal or Tennessee local or quasi-governmental entity)

RFS Tracking #	Edison Contract ID #
34101-23809	
Service Caption	**Delegated Authority Requisition ID #** (ONLY if applicable)
FY 2008 HOMELAND SECURITY GRANT PROGRAM – 2008-GE-T8-0048	
Grantee	**Grantee FEIN**
SHELBY COUNTY	☒ C- 626000841

Begin Date	End Date	Subrecipient or Vendor	CFDA #(s)
9/1/2008	6/30/2011	☒ Subrecipient ☐ Vendor	97.067

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2009		3,940,777.00			3,940,777.00
TOTAL:		3,940,777.00			3,940,777.00

— OCR Use —

Procuring Agency Contact & Telephone #

MARSHA CORNISH, NATIONAL GUARD ARMORY, (615) 741-3018

Procuring Agency Budget Officer Approval (there is a balance in the appropriation from which this obligation is required to be paid that is not otherwise encumbered to pay obligations previously incurred.)

Speed Code	Account Code
	71301000

GRANT CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF MILITARY, TENNESSEE EMERGENCY MANAGEMENT AGENCY
AND
SHELBY COUNTY

This Grant Contract, by and between the State of Tennessee, Department of Military, Tennessee Emergency Management Agency, hereinafter referred to as the "State" and Shelby County, hereinafter referred to as the "Grantee," is for the provision of pass-through funding to fund costs related to homeland security preparedness activities associated with implementing the Tennessee State Homeland Security Strategy and the National Preparedness Goal, in accordance with the U.S. Department of Homeland Security Appropriations Act of 2008, as further defined in the "SCOPE OF SERVICES."

Grantee Federal Employer Identification Number: 626000841

A. SCOPE OF SERVICES:

A.1. The Grantee shall provide all service and deliverables as required, described, and detailed by this Scope of Services and shall meet all service and delivery timelines specified in the Scope of Services or elsewhere in this Grant Contract.

A.2. All Federal Fiscal Year (FFY) 2008 Homeland Security Grant Program (HSGP) Grantees are required to submit an investment justification, consistent with the investments approved for Tennessee by the U.S. Department of Homeland Security (DHS), that provides background information, strategic objectives and priorities addressed, their funding/implementation plan, and the anticipated impact of each proposed investment. As part of the FFY 2008 HSGP investment justifications, Grantees are required to establish specific outcomes pursuant to the target capabilities set forth by the State's Homeland Security Strategy, and associated with their proposed investments. The Grantee also agrees to comply with the approved Initial Strategy Implementation Plan (ISIP) based upon the State's Homeland Security Strategy, which is the representation of the jurisdiction's commitment to protect citizens from the threat of terrorism through detection and prevention, and to respond to terrorist acts and catastrophic natural disasters.

A.3. It shall be understood by the Grantee that each Grant Contract funded from the FFY 2008 HSGP will be in compliance with the FFY 2008 HSGP Guidance and the State of Tennessee's Homeland Security Strategy.

A.4. The Grantee has provided to the State the ISIP, which will be validated by the State and approved by the U.S. Department of Homeland Security prior to the Grantee initiating purchases, training, or any other activity to be paid with these funds.

A.5. The Grantee will provide to the State a Biannual Strategy Implementation Report (BSIR) to update the ISIP, as of the end of June (due July 15th), and the end of December (due January 15th).

A.6. The Grantee agrees to be responsible for the sustainment of previously established homeland security efforts, as well as FFY 2008 projects. The Grantee further agrees that the federal funds received through this agreement will be used to supplement, but not to supplant any funds for local governments.

A.7. The Grantee agrees to comply with the financial and administrative guidelines as established by the U.S. Department of Homeland Security, Office of Grants and Training, Preparedness Directorate, Office of Grant Operations (OGO) Financial Guide. The Grantee further agrees to comply with the audit requirements of the Office of Management and Budget (OMB) Circular A-133 and the standards put forth by OMB Circular A-87, which deals with cost principles for local governments.

A.8. The Grantee supports the implementation of State Homeland Security Strategies by addressing the identified planning, equipment, training and exercise needs required to prevent, respond to, and recover from acts of terrorism. In addition, the Grantee agrees to comply with the implementation of the National Preparedness Goal and the National Response Framework (NRF).

A.9. The Grantee will comply with the Cash Management Act and understands that no federal funds received by the Grantee may be invested in an interest bearing account.

B. GRANT CONTRACT TERM:

B.1. This Grant Contract shall be effective for the period commencing on September 1, 2008 and ending on June 30, 2011. The State shall have no obligation for services rendered by the Grantee which are not performed within the specified period.

B.2. Term Extension. The State reserves the right to extend the Contract for an additional period or periods of time representing increments of no more than one year and a total contract term of no more than five (5) years, provided that such an extension of the contract term is effected prior to the current, contract expiration date by means of an amendment to the Contract. If the extension of the Contract necessitates additional funding beyond that which was included in the original Contract, the increase in the State's maximum liability will also be effected through an amendment to the Contract, and shall be based upon rates provided for in the original Contract.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Grant Contract exceed three million, nine hundred forty thousand, seven hundred seventy-seven dollars and 00/100 ($3,940,777.00). The Grant Budget, attached and incorporated herein as a part of this Grant Contract as Attachment 1, shall constitute the maximum amount due the Grantee for the service and all of the Grantee's obligations hereunder. The Grant Budget line-items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Grantee.

C.2. Compensation Firm. The maximum liability of the State is not subject to escalation for any reason unless amended. The Grant Budget amounts are firm for the duration of the Grant Contract and are not subject to escalation for any reason unless amended, except as provided in Section C.6.

C.3. Payment Methodology. The Grantee shall be compensated for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the maximum liability established in Section C.1. Upon progress toward the completion of the work, as described in Section A of this Grant Contract, the Grantee shall submit invoices prior to any reimbursement of allowable costs.

C.4. Travel Compensation. Reimbursement to the Grantee for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.

C.5. Invoice Requirements. The Grantee shall invoice the State no more often than monthly, with all necessary supporting documentation, to:

Tennessee Emergency Management Agency
3041 Sidco Drive
Nashville, TN 37204
Attn: Homeland Security Grant Program Manager

a. Each invoice shall clearly and accurately (all calculations must be extended and totaled correctly) detail the following required information.

(1) Invoice/Reference Number (assigned by the Grantee);
(2) Invoice Date;
(3) Invoice Period (period to which the reimbursement request is applicable);
(4) Grant Contract Number (assigned by the State to this Grant Contract);
(5) Account Name: Department of Military, Tennessee Emergency Management Agency;
(6) Account/Grantor Number (uniquely assigned by the Grantee to the above-referenced Account Name);
(7) Grantee Name;
(8) Grantee Federal Employer Identification Number or Social Security Number (as referenced in this Grant Contract);
(9) Grantee Remittance Address;
(10) Grantee Contact (name, phone, and/or fax for the individual to contact with invoice questions);
(11) Complete Itemization of Reimbursement Requested for the Invoice Period, which shall detail, at minimum, the following:

i. Reimbursement Amount Requested by Grant Budget Line-Item for the invoice period (including any travel expenditure reimbursement requested in accordance with and attaching to the invoice appropriate documentation and receipts as required by the above-referenced "State Comprehensive Travel Regulations");
ii. Amount Reimbursed by Grant Budget Line-Item to Date;
iii. Total Amount Reimbursed under the Grant Contract to Date; and
iv. Total Reimbursement Amount Requested (all line-items) for the invoice period.

b. The Grantee understands and agrees that an invoice to the State under this Grant Contract shall:

(1) include only reimbursement requests for actual, reasonable, and necessary expenditures required in the delivery of service described in Grant Contract Section A subject to the Grant Budget and any other provision of this Grant Contract relating to allowable reimbursements; and
(2) not include any reimbursement requests for future expenditures.

c. The Grantee agrees that timeframe for reimbursement begins when the State is in receipt of each invoice meeting the minimum requirements above.

d. The Grantee shall complete and sign a "Substitute W-9 Form" provided to the Grantee by the State. The taxpayer identification number contained in the Substitute W-9 submitted to the State shall agree to the Federal Employer Identification Number or Social Security Number referenced in this Grant Contract for the Grantee. The Grantee shall not invoice the State under this Grant Contract until the State has received this completed form.

C.6. Budget Line-items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. The Grantee may request revisions of Grant Budget line-items by letter, giving full details supporting such request, provided that such revisions do not result in funding for a line-item that was previously funded at zero dollars ($0.00) and do not increase the total Grant amount. Grant Budget line-item revisions may not be made without prior, written approval of the State in which the terms of the approved revisions are explicitly set forth. Any such approval shall be superseded by a subsequent revision of the Grant Budget by contract amendment, and any increase in the total Grant amount shall require a contract amendment.

C.7. Disbursement Reconciliation and Close Out. The Grantee shall submit a final invoice and grant disbursement reconciliation report within sixty (60) days of the Grant Contract end date and in form and substance acceptable to the State.

a. If total disbursements by the State pursuant to this Grant Contract exceed the amounts permitted by the Section C, Payment Terms and Conditions of this Grant Contract, the Grantee shall refund the difference to the State. The Grantee shall submit said refund with the final grant disbursement reconciliation report.

b. The State shall not be responsible for the payment of any invoice submitted to the state after the final invoice and grant disbursement reconciliation report. The State will not deem any Grantee costs submitted for reimbursement after the final invoice to be allowable and reimbursable by the State, and such invoices will NOT be paid.

c. The Grantee's failure to provide a final grant disbursement reconciliation report to the state as required shall result in the Grantee being deemed ineligible for reimbursement under this Grant Contract, and the Grantee shall be required to refund any and all payments by the state pursuant to this Grant Contract.

d. The Grantee must close out its accounting records at the end of the grant period in such a way that reimbursable expenditures and revenue collections are NOT carried forward.

C.8. Indirect Cost. Should the Grantee request reimbursement for indirect cost, the Grantee must submit to the State a copy of the indirect cost rate approved by the cognizant federal agency and the State. The Grantee will be reimbursed for indirect cost in accordance with the approved indirect cost rate to amounts and limitations specified in the attached Grant Budget. Once the Grantee makes an election and treats a given cost as direct or indirect, it must apply that treatment consistently and may not change during the grant period. Any changes in the approved indirect cost rate must have prior approval of the cognizant federal agency and the State. If the indirect cost rate is provisional during the term of this agreement, once the rate becomes final, the Grantee agrees to remit any overpayment of funds to the State, and subject to the availability of funds the State agrees to remit any underpayment to the Grantee.

C.9. Cost Allocation. If any part of the costs to be reimbursed under this Grant Contract are joint costs involving allocation to more than one program or activity, such costs shall be allocated and reported in accordance with the provisions of Department of Finance and Administration Policy Statement 03 or any amendments or revisions made to this policy statement during the Grant Contract period.

C.10. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the costs invoiced therein.

C.11. Unallowable Costs. The Grantee's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits or monitoring conducted in accordance with the terms of this Grant Contract, not to constitute allowable costs.

C.12. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Grantee under this or any Contract between the Grantee and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Grantee.

C.13. Automatic Deposits. The Grantee shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Grantee by the State. Once this form has been completed and submitted to the State by the Grantee all payments to

the Grantee, under this or any other contract the Grantee has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Grantee shall not invoice the State for services until the Grantee has completed this form and submitted it to the State.

D. STANDARD TERMS AND CONDITIONS:

D.1. Required Approvals. The State is not bound by this Grant Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.

D.2. Modification and Amendment. This Grant Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.

D.3. Termination for Convenience. The State may terminate this Grant Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Grantee at least thirty (30) days written notice before the effective termination date. The Grantee shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the State be liable to the Grantee for compensation for any service which has not been rendered. The final decision as to the amount, for which the State is liable, shall be determined by the State. Should the State exercise this provision, the Grantee shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.4. Termination for Cause. If the Grantee fails to properly perform its obligations under this Grant Contract in a timely or proper manner, or if the Grantee violates any terms of this Grant Contract, the State shall have the right to immediately terminate the Grant Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Grantee shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Grant Contract by the Grantee.

D.5. Subcontracting. The Grantee shall not assign this Grant Contract or enter into a subcontract for any of the services performed under this Grant Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Grant Contract below pertaining to "Conflicts of Interest," "Lobbying," "Nondiscrimination," "Public Accountability," "Public Notice," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Grantee shall be the prime contractor and shall be responsible for all work performed.

D.6. Conflicts of Interest. The Grantee warrants that no part of the total Grant Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Grantee in connection with any work contemplated or performed relative to this Grant Contract.

D.7. Lobbying. The Grantee certifies, to the best of its knowledge and belief, that:

a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a

Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, ``Disclosure Form to Report Lobbying," in accordance with its instructions.

c. The Grantee shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, *U.S. Code*.

D.8. Nondiscrimination. The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Grantee shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.9. Public Accountability. If the Grantee is subject to *Tennessee Code Annotated*, Title 8, Chapter 4, Part 4 or if this Grant Contract involves the provision of services to citizens by the Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and the Grantee shall display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least twelve inches (12") in height and eighteen inches (18") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454

D.10. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee shall include the statement, "This project is funded under an agreement with the Department of Military, Tennessee Emergency Management Agency." Any such notices by the Grantee shall be approved by the State.

D.11. Licensure. The Grantee and its employees and all sub-grantees shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.

D.12. Records. The Grantee (and any approved subcontractor) shall maintain documentation for all charges under this Contract. The books, records, and documents of the Grantee (and any approved subcontractor), insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the state agency, the Comptroller of the Treasury, or their duly appointed representatives. The records of not-for-profit entities shall be maintained in accordance with the *Accounting Manual for the Recipients of Grant Funds in the State of Tennessee*, published by the Tennessee Comptroller of the Treasury (available at http://comptroller.state.tn.us/ma/nonprofit/nonprofit1.pdf). The financial statements shall be prepared in accordance with generally accepted accounting principles.

D.13. Monitoring. The Grantee's activities conducted and records maintained pursuant to this Grant Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.

D.14. Progress Reports. The Grantee shall submit brief, periodic, progress reports to the State as requested.

D.15. Annual Report and Audit. The Grantee shall prepare and submit, within nine (9) months after the close of the reporting period, an annual report of its activities funded under this Grant Contract to the commissioner or head of the Granting agency, the Tennessee Comptroller of the Treasury, and the Commissioner of Finance and Administration. The annual report for any Grantee that receives five hundred thousand dollars ($500,000) or more in aggregate federal and state funding for all its programs shall include audited financial statements. All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Grantee may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit contract between the Grantee and the licensed independent public accountant shall be on a contract form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the *Audit Manual for Governmental Units and Recipients of Grant Funds* published by the Tennessee Comptroller of the Treasury. The Grantee shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Grantee shall be subject to the provisions relating to such fees contained in the prescribed contract form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the State Granting Department, the Tennessee Comptroller of the Treasury, and the Department of Finance and Administration and shall be made available to the public.

D.16. Procurement. If the other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, and/or contracted services, such procurement shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method was not practical, said documentation shall include a written justification for such decision and non-competitive procurement. Further, if such reimbursement is to be made with funds derived wholly or partially from federal sources, the determination of cost shall be governed by and reimbursement shall be subject to the Grantee's compliance with applicable federal procurement requirements.

The Grantee shall obtain prior approval from the State before purchasing any equipment under this Grant Contract.

D.17. Strict Performance. Failure by any party to this Grant Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this agreement shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Grant Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.

D.18. Independent Contractor. The parties hereto, in the performance of this Grant Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Grant Contract shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any

purpose whatsoever.

The Grantee, being a political subdivision of the State, is governed by the provisions of the Tennessee Government Tort Liability Act, *Tennessee Code Annotated*, Sections 29-20-101 *et seq.*, for causes of action sounding in tort. Further, no contract provision requiring a Tennessee political entity to indemnify or hold harmless the State beyond the liability imposed by law is enforceable because it appropriates public money and nullifies governmental immunity without the authorization of the General Assembly.

D.19. State Liability. The State shall have no liability except as specifically provided in this Grant Contract.

D.20. Force Majeure. The obligations of the parties to this Grant Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, natural disasters, riots, wars, epidemics or any other similar cause.

D.21. State and Federal Compliance. The Grantee shall comply with all applicable state and federal laws and regulations in the performance of this Grant Contract.

D.22. Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Grantee agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Grant Contract. The Grantee acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.

D.23. Completeness. This Grant Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Grant Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.

D.24. Severability. If any terms and conditions of this Grant Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Grant Contract are declared severable.

D.25. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.

E. SPECIAL TERMS AND CONDITIONS:

E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Grant Contract, these special terms and conditions shall control.

E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Grant Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Cindy Hopkins, Program Manager
Tennessee Emergency Management Agency
3041 Sidco Drive
Nashville, TN 37204
chopkins@tnema.org
Telephone #: (615) 253-3108
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The Grantee:

A C Wharton, Jr.,County Mayor
Shelby County
160 N. Main St., Ste. 850
Memphis, TN 38103
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Telephone #: (901) 545-4500
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The Point of Contact:

Bob Nations, Director
Shelby County Office of Preparedness
1075 Mullins Station Rd., Rm. C-133
Memphis, TN 38134
bob.nations@shelbycountytn.gov
Telephone #: (901) 379-7094
FAX #: (901) 379-7096

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

E.3. Subject to Funds Availability. The Grant Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Grant Contract upon written notice to the Grantee. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Grantee shall cease all work associated with the Grant Contract. Should such an event occur, the Grantee shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Grantee shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

E.4. Voluntary Buyout Program. The Grantee acknowledges and understands that, for a period of two years beginning August 16, 2008, restrictions are imposed on former state employees who received a State of Tennessee Voluntary Buyout Program (VBP) severance payment with regard to contracts with state agencies that participated in the VBP.

a. The State will not contract with either a former state employee who received a VBP severance payment or an entity in which a former state employee who received a VBP severance payment or the spouse of such an individual holds a controlling financial interest.

b. The State may contract with an entity with which a former state employee who received a VBP severance payment is an employee or an independent contractor. Notwithstanding the foregoing, the Grantee understands and agrees that there may be unique business circumstances under which a return to work by a former state employee who received a

VBP severance payment as an employee or an independent contractor of a State grantee would not be appropriate, and in such cases the State may refuse Grantee personnel. Inasmuch, it shall be the responsibility of the State to review Grantee personnel to identify any such issues.

c. With reference to either subsection a. or b. above, a grantee may submit a written request for a waiver of the VBP restrictions regarding a former state employee and a contract with a state agency that participated in the VBP. Any such request must be submitted to the State in the form of the *VBP Contracting Restriction Waiver Request* format available from the State and the Internet at: www.state.tn.us/finance/rds/ocr/waiver.html. The determination on such a request shall be at the sole discretion of the head of the state agency that is a Party to this Grant Contract, the Commissioner of Finance and Administration, and the Commissioner of Human Resources.

E.5. Charges to Service Recipients Prohibited. The Grantee shall not collect any amount in the form of fees or reimbursements from the recipients of any service provided pursuant to this Grant Contract.

E.6. State Interest in Equipment. The Grantee shall take legal title to all equipment and to all motor vehicles, hereinafter referred to as "equipment," purchased totally or in part with funds provided under this Grant Contract, subject to the State's equitable interest therein, to the extent of its *pro rata* share, based upon the State's contribution to the purchase price. "Equipment" shall be defined as an article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds $5,000.00.

As authorized by the provisions of the terms of the Tennessee Uniform Commercial Code — Secured Transaction, found at Title 47, Chapter 9 of the *Tennessee Code Annotated*, and the provisions of the Tennessee Motor Vehicle Title and Registration Law, found at Title 55, Chapter 1 of the *Tennessee Code Annotated*, an intent of this Grant document and the parties hereto is to create and acknowledge a security interest in favor of the State in the equipment and/or motor vehicles acquired by the Grantee pursuant to the provisions of this Grant document. A further intent of this Grant document is to acknowledge and continue the security interest in favor of the State in the equipment or motor vehicles acquired by the Grantee pursuant to the provisions of this program's prior year Grants between the State and the Grantee.

The Grantee hereto grants the State a security interest in said equipment. This agreement is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the equipment herein specified which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and the Grantee hereby grants the State a security interest in said equipment. The Grantee agrees that the State may file this Grant Contract or a reproduction thereof, in any appropriate office, as a financing statement for any of the equipment herein specified. Any reproduction of this or any other security agreement or financing statement shall be sufficient as a financing statement. In addition, the Grantee agrees to execute and deliver to the State, upon the State's request, any financing statements, as well as extensions, renewals, and amendments thereof, and reproduction of this Grant Contract in such form as the State may require to perfect a security interest with respect to said equipment. The Grantee shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements the State may reasonably require. Without the prior written consent of the State, the Grantee shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said equipment, including replacements and additions thereto. Upon the Grantee's breach of any covenant or agreement contained in this Grant Contract, including the covenants to pay when due all sums secured by this Grant Contract, the State shall have the remedies of a secured party under the Uniform Commercial Code and, at the State's option, may also invoke the remedies herein provided.

The Grantee agrees to be responsible for the accountability, maintenance, management, and inventory of all property purchased totally or in part with funds provided under this Grant Contract. The Grantee shall maintain a perpetual inventory system for all equipment purchased with funds provided under this Grant Contract and shall submit an inventory control report which must include, at a minimum, the following:

a. Description of the equipment;
b. Manufacturer's serial number or other identification number, when applicable;
c. Consecutive inventory equipment tag identification;
d. Acquisition date, cost, and check number;
e. Fund source, State grant number, or other applicable fund source identification;
f. Percentage of state funds applied to the purchase;
g. Location within the Grantee's operations where the equipment is used;
h. Condition of the property or disposition date if Grantee no longer has possession;
i. Depreciation method, if applicable; and
j. Monthly depreciation amount, if applicable.

The Grantee shall tag equipment with an identification number which is cross referenced to the equipment item on the inventory control report. The Grantee shall inventory equipment annually. The Grantee must compare the results of the inventory with the inventory control report and investigate any differences. The Grantee must then adjust the inventory control report to reflect the results of the physical inventory and subsequent investigation.

The Grantee shall submit its inventory control report of all equipment purchased with funding through this grant within sixty (60) days of the Grant Contract end date and in form and substance acceptable to the State. This inventory control report shall contain, at a minimum, the requirements specified above for inventory control. The Grantee shall notify the State, in writing, of any equipment loss describing reason(s) for the loss. Should the equipment be destroyed, lost, or stolen, the Grantee shall be responsible to the State for the *pro rata* amount of the residual value at the time of loss based upon the State's original contribution to the purchase price.

Upon termination of the Grant Contract, where a further contractual relationship is not entered into, or at another time during the term of the Grant Contract, the Grantee shall request written approval from the State for any proposed disposition of equipment purchased with Grant funds. All equipment shall be disposed of in such a manner as parties may agree from among alternatives approved by Tennessee Department of General Services as appropriate and in accordance with any applicable federal laws or regulations.

E.7. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Grantee by the State or acquired by the Grantee on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Grantee to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Grantee's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Grantee of this Grant Contract; previously possessed by the Grantee without written obligations to the State to protect it; acquired by the Grantee without written restrictions against disclosure from a third party which, to the Grantee's knowledge, is free to disclose the information; independently developed by the Grantee without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Grantee to disclose any information that is confidential under federal or state law or regulations, regardless of whether it

has been disclosed or made available to the Grantee due to intentional or negligent actions or inactions of agents of the State or third parties.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Grant Contract.

E.8. Work Papers Subject to Review. The Grantee shall make all audit, accounting, or financial analysis work papers, notes, and other documents available for review by the Comptroller of the Treasury or his representatives, upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Grant Contract.

E.9. Certification Regarding Drug-Free Workplace Requirements. This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988, 28 CFR Part 67, Subpart F. The regulations, published in the January 31, 1989 Federal Register, require certification by grantees, prior to award, that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the agency determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government-wide suspension or debarment, (See 28 CFR Part 67, Subpart C 13.300 and Subpart D 13.400).

The grantee certifies that it will provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

b. Establishing a drug-free awareness program to inform employees about:
   (1) The dangers of drug abuse in the workplace;
   (2) The grantee's policy of maintaining a drug-free workplace;
   (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
   (4) The penalties that may be imposed upon employees for drug abuse violations in the workplace;

c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (E.9.a.);

d. Notifying the employee in the statement required by paragraph (E.9.a.) that, as a condition of employment under the grant, the employee will:
   (1) Abide by the terms of the statement; and
   (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

e. Notifying the agency within ten days after receiving notice under subparagraph [E.9.d.(2)], from an employee or otherwise receiving actual notice of such conviction;

f. Taking one of the following actions, within 30 days of receiving notice under subparagraph [E.9.d.(2)], with respect to any employee who is convicted.
   (1) Taking appropriate personnel action against such an employee, up to and including termination; or
   (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (E.9.a.), (E.9.b.), (E.9.c.), (E.9.d.), (E.9.e.), (E.9.f.), and (E.9.g.).

E.10. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Grantee shall prohibit smoking of tobacco products within any indoor premises in which services are provided to individuals under the age of eighteen (18) years. The Grantee shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Grant Contract.

E.11. Grantee Participation. Grantee Participation amounts detailed in the Grant Budget are intended as a goal for the total project, and the amount of actual Grantee Participation expenditures will not impact the maximum amounts reimbursable to the Grantee as detailed by the Grant Budget column, "Grant Contract."

E.12. Compliance With Title VI of the Civil Rights Act of 1964. The Grantee agrees to comply with the provisions contained in Title VI of the 1964 Civil Rights Act (42 U.S.C. 2000d), and any federal regulations specific to the funding of this grant. The Grantee further agrees to complete and return a self-compliance report as provided by the Grantor.

E.13. Compliance With National Incident Management System (NIMS). The Grantee will be in compliance with NIMS Standards established by the U.S. Department of Homeland Security and the Federal Emergency Management Agency authorized by Homeland Security Presidential Directive 08 (HSPD-08). The Grantee agrees that it has met NIMS compliance standards. The Grantee further agrees to complete within the announced suspense date the National Incident Management System Compliance Assistance Support Tool (NIMSCAST) report or provide any Correction Action Plan report for items not meeting compliance. The report and any suspense dates are provided by NIMSCAST at http://www.fema.gov/nimscast/index.jsp. The compliance items are in the Resources box under Metrics/Legacy Assessment (pdf). The Grantee will use the current year and the NIMS Implementation Matrix for Tribal and Local Jurisdictions.

IN WITNESS WHEREOF:

SHELBY COUNTY:

GRANTEE SIGNATURE **DATE**

A C WHARTON, JR., COUNTY MAYOR

PRINTED NAME AND TITLE OF GRANTEE SIGNATORY (above)

DEPARTMENT OF MILITARY:

GUS L. HARGETT, JR., MAJOR GENERAL, THE ADJUTANT GENERAL DATE

APPROVED:

COMMISSIONER OF FINANCE & ADMINISTRATION DATE

COMPTROLLER OF THE TREASURY DATE

I Certify that this Entity Meets
Civil Rights Title VI Compliance

Signature

Date
Reviewed by Department of Military Civil Rights Title VI Officer

ATTACHMENT 1

GRANT BUDGET

(BUDGET PAGE 1)

GRANTEE NAME: SHELBY COUNTY
FY 2008 STATE HOMELAND SECURITY GRANT PROGRAM

APPLICABLE PERIOD: The grant budget line-item amounts below shall be applicable only to expense incurred during the period beginning 9/1/08 and ending 6/30/11.

POLICY 03 Object Line-Item Reference	EXPENSE OBJECT LINE-ITEM CATEGORY [1] (detail schedule(s) attached as applicable)	GRANT CONTRACT	GRANTEE PARTICIPATION	TOTAL PROJECT
1 & 2	Salaries and Benefits & Taxes	0.00	0.00	0.00
4, 15	Professional Fee/ Grant & Award [2]	3,940,777.00	0.00	3,940,777.00
5, 6, 7, 8, 9, 10, 11 & 12	Supplies, Telephone, Postage & Shipping, Occupancy, Equipment Rental & Maintenance, Printing & Publications, and Travel/ Conferences & Meetings	0.00	0.00	0.00
13	Interest [2]	0.00	0.00	0.00
14	Insurance	0.00	0.00	0.00
16	Specific Assistance To Individuals	0.00	0.00	0.00
17	Depreciation [2]	0.00	0.00	0.00
18	Other Non-Personnel [2]	0.00	0.00	0.00
20	Capital Purchase [2]	0.00	0.00	0.00
22	Indirect Cost	0.00	0.00	0.00
24	In-Kind Expense	0.00	0.00	0.00
25	**GRAND TOTAL**	**3,940,777.00**	**0.00**	**3,940,777.00**

[1] Each expense object line-item shall be defined by the Department of Finance and Administration Policy 03, *Uniform Reporting Requirements and Cost Allocation Plans for Subrecipients of Federal and State Grant Monies, Appendix A.* (posted on the Internet at: www.state.tn.us/finance/rds/ocr/policy03.pdf).

[2] Applicable detail attached if line-item is funded.

ATTACHMENT 1 (continued)

GRANT BUDGET LINE-ITEM DETAIL

(BUDGET PAGE 2)

PROFESSIONAL FEE/ GRANT & AWARD	AMOUNT
FUNDING OF TRAINING, EXERCISES, PLANNING AND EQUIPMENT PURCHASES ALLOWABLE UNDER THE FY 2008 HOMELAND SECURITY GRANT PROGRAM	3,940,777.00
TOTAL	3,940,777.00