CONTRACT NUMBER _____

CONTRACT BETWEEN SHELBY COUNTY TENNESSEE AND THE CITY OF MILLINGTON, TENNESSEE FOR OLD TOWN LIGHTING IMPROVEMENTS USING COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

THIS AGREEMENT, entered into this___ _Day of___ , 2012, by and between Shelby County, Tennessee (herein called"Shelby County") and the City of Millington (herein called "Millington"):

WHEREAS, Shelby County has applied for and received Community Development Block Grant (CDBG) funds from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383; and

WHEREAS, Shelby County wishes to engage Millington to assist Shelby County in utilizing such funds;

NOW THEREFORE, the parties agree to the following:

I. SCOPE OF SERVICE

A. Work to Be Performed

As a sub-recipient, Millington will be responsible for administering a project eligible under the CDBG program and utilizing CDBG funds received by Shelby County in a manner satisfactory to Shelby County and consistent with any standards required as a condition to the provision and use of funds. The purpose of the project will be to provide funds for a lighting project in the "old town" section of Millington. The project will include the following activities eligible under the Community Development Block Grant program:

1. Work Description

Millington will utilize up to Forty Five Thousand Dollars ($45,000.00) in CDBG funds for lighting improvements in Millington's Old Town district in accordance with Appendix 1. The project involves the improvement of public facilities for persons presumed to be of low and moderate income under 24 C. F.R. 570.208 (a) (2) (I) (A).

2. General Administration

Millington will procure all necessary engineering designs for the project.

3. Budget

Millington's expenditure of funds for the project shall be in accordance with the budget agreed upon by the parties, as set forth in **Appendix 1**. Any expenditure in any line item category of the budget in excess of the specific amount set forth in **Appendix 1** shall require the written approval of Shelby County prior to said expenditure. It is expressly understood between the parties that the anticipated total cost of the project is $45,000.00 and that Millington shall be solely responsible for paying any and all amounts over $45,000.00.

4. Monitoring of Performance

Shelby County will monitor the performance of Millington against the goals and performance standards required herein. Substandard performance as determined by Shelby County will constitute noncompliance with this Agreement. If no action to correct such substandard performance is taken by Millington within a reasonable period of time after being notified by Shelby County, Shelby County may exercise the contract suspension or termination procedures set forth in paragraph VII

II. BEGINNING OF PERFORMANCE AND TERM AGREEMENT

The work being performed by Millington hereunder shall begin no later than twenty (20) days after complete execution of this Agreement. This Agreement shall terminate on the 30th day of June 2012. In accordance with the amendment procedures set forth in paragraph VI, the term of this Agreement and the provisions herein may be extended to cover any additional period during which Millington remains in control of CDBG funds or other assets, including program income.

III. PAYMENT

In consideration for the service to be performed by Millington hereunder, Shelby County shall pay an amount to Millington from the CDBG program funds up to, but not to exceed Forty Five Thousand Dollars ($45,000.00). Such funds shall be used only for payment of expenses eligible for coverage under the CDBG program. In

the discretion of Shelby County, drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in Paragraph I. A.3 herein. Expenses for general administration shall also be paid against line item budgets specified in Paragraph I .A. 3 and in accordance with performance. Payments may be contingent upon Millington's compliance with all applicable uniform administration requirements as set forth in 24 CFR 571.502. Millington agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

IV. NOTICES

Communications and details concerning this contract shall be directed to the following contract representatives:

Shelby County	Cilty of Millington
James Vazquez, Director Shelby County Department of Housing 1075 Mullins Station Memphis, TN 38134	Linda Carter, Mayor 7930 Nelson MILLINGTON, TN 38053 (901) 872-2211

V. General Conditions

A. General Compliance with Federal Regulations

Millington agrees to comply with all applicable requirements of 24 CFR Part 570 concerning CDBG funds, all applicable portions of 24 CFR Part 85, and all other federal requirements and policies issued pursuant to these regulations, including, but not limited to, those set forth in Paragraphs VIII, IX, and X. A copy of 24 CFR parts 570 is attached hereto as Appendix 3. Millington shall be responsible for complying with all applicable changes or additions to the requirements currently set forth in said regulations. Millington agrees to comply with all other applicable Federal State or Local laws.

B. Hold Harmless

Millington shall hold harmless, defend, and indemnify Shelby County from any and all claims, actions, suits charges, and judgments whatsoever that arise out of Millington's performance or nonperformance of the services of subject matter called for in this Agreement.

VI. AMENDMENTS

The parties may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, are executed in writing, and are signed by a duly authorized representative of both parties and approved by either party's governing body to the extent required by state law, local charter or otherwise. In addition, Shelby County may, in its sole discretion amend this Agreement to conform with federal, state, or local governmental guidelines, policies, and available funding amounts. However, if any such amendments result in a change in the funding, the scope of services, or the scheduling of services to be undertaken as a part of this Agreement such modifications will be incorporated only by written amendment signed by both parties.

VII. SUSPENSION OR TERMINATION

Either party may terminate this contract at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least thirty (30) days before the effective date of such termination. However, any partial termination of the work to be performed as set forth in Paragraph I.A. above may only occur with the prior approval of Shelby County. Shelby County may also suspend or terminate this Agreement, in whole or in part, if Millington materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein. In such event, Shelby County may declare Millington ineligible for any further participation in Shelby County contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe Millington is in noncompliance with any applicable rules or regulations, Shelby County may suspend payment of up to fifteen (15) percent of the contract funds until such time as Millington is found to be in compliance by Shelby County or is otherwise adjudicated to be in compliance. In the event of any termination, all finished or unfinished documents, data reports, or other materials prepared by Millington under this agreement shall, at the option of Shelby County, become the property of Shelby County. In the event of termination, Millington shall be entitled to receive just and equitable compensation

for any satisfactory work completed prior to termination. Shelby County shall be entitled to the repayment of any payments made to Millington over and above that to which it is entitled as just and equitable compensation for satisfactory work completed.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

Millington agrees to comply with all the accounting principles and procedures as set forth in 24 CFR 570.502 and 570.610 and all other pertinent regulations and OMB Circulars referred to herein, including, but not limited to, those relating to adequate internal controls and maintenance of necessary source documentation for all cost incurred.

B. Documentation and Record-Keeping

1. Records To Be Maintained

Millington shall maintain all records required by federal regulations as specified in 24 CFR 571.506, as they are pertinent to the activities to be funded under this Agreement. Such records shall include, but not be limited to:

a. Records providing a full description of the activity undertaken;

b. Records demonstrating that each activity undertaken meet one of the national objectives of the CDBG program. As set forth in 24 CFR 570.208, namely, benefiting low/moderate income persons, aiding in the prevention or elimination of slums or blight, and meeting community development needs having a particular urgency;

c. Records required determining the eligibility of activities;

d. Records required to document the acquisition, improvements, use or disposition of any real property acquired or improved with CDBG assistance;

e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program to the

extent applicable;

f. Financial records as required by CFR 570.502; and

g. Other records necessary to document any required compliance with 24 CFR 570.600, 570.612

2. Retention

Millington shall retain records pertinent to expenditures incurred under this contract for a period of three (3) years after the termination of all activities funded under the contract, or after the resolution of all federal audit findings, whichever occurs later. Records for non-expendable property acquired with funds under this Agreement shall be retained for three (3) years after he/she has received final payment.

3. Disclosure

Millington understands that any information collected under this agreement on specific residents in the affected HUD LMI Census Block is private, and the public use or disclosure of such information, when not directly connected with the administration of responsibilities with respect to the services provided under this Agreement, without the written consent of the resident involved and, in case of a minor, that of a responsible parent/guardian, is prohibited to the extent such use or disclosure is required by applicable federal, state or local law.

4. Property Records

Millington shall maintain real property inventory records, which clearly identify any properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR 560.503 (b) (8).

5. Close-Outs

Millington's obligation to Shelby County shall not end until all closeout requirements are completed, as set forth in 24 CFR 570.509. Activities during this closeout period shall include, but are not limited to, making final payments, disposing of the program assets (including the return of all unspent cash advances and program income balances to Shelby County),

and determining the custodianship of records.

6. Audits and Inspections

All of Millington's records with respect to any matters covered by this Agreement shall be made available to Shelby County, or its designees, or the U.S. Department of Housing and Urban Development, or its designees, at any time during the normal business hours, as often as deemed necessary, in order to audit, examine or make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by Millington within thirty (30) days after receipt by Millington. Failure by Millington to comply with the above requirements will constitute a violation of this Agreement and may result in the withholding of future payments. Specifically, all rights and remedies regarding performance reviews as set forth in 24 CFR 570.900 - 570.913 shall be available to Shelby County and the U.S. Department of Housing and Urban Development, or their designees.

C. Reporting and Payment Procedures

1. Budgets

Millington will submit a detailed contract budget of a form and content prescribed by Shelby County for approval by Shelby County. The parties shall revise the budget from time to time if necessary in order to be in accordance with the existing Shelby County policies.

2. Program Income

Millington shall report on a monthly basis any program income, as defined at 24 CFR 570.500 (a), generated by activities carried out with CDBG funds made available under this Agreement. The use of program income by Millington shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitations, Millington may use such income during the contract period for activities permitted under this Agreement and shall reduce requirements for additional funds by the amount of any such program income balances on hand. All unused program income shall be returned to Shelby County at the end of the contact period. Any

interest earned on cash advances from the U.S. treasury is not program income and shall be remitted promptly to Shelby County.

3. Indirect Costs

If indirect administration costs are charged, Millington will develop an indirect cost allocation plan for determining the appropriate share of administration costs and shall submit the plan to Shelby County for approval prior to Shelby County's payment for any such costs.

4. Payment Procedures

Shelby County will pay to Millington funds available under this Agreement based upon information submitted by Millington and consistent with any approved budget and Shelby County policy concerning such payments. With the exception of any funds that Shelby County in its discretion decide to advance, payments will be made for eligible expenses actually incurred by Millington, not to exceed the contract amount as set forth in Paragraph I. A. 1. Payments will be adjusted by Shelby County in accordance with the advance funds and program income balances available in Millington's accounts. In addition, Shelby County reserves the right to reduce funds available under this agreement for costs incurred by Shelby County on behalf of Millington in carrying out the project.

5. Progress Reports

Millington shall submit for each calendar month during which work is performed hereunder progress reports to Shelby County in the form and content as required by Shelby County. Said progress reports shall be submitted no later than the tenth day of the month following the month covered by the report.

D. Procurement

1. Standards of Procurement

Millington shall procure materials and services in accordance with the requirements of 24 CFR 85.236, and accordance with the requirements of 24 CFR 85.36.

2. Travel

Millington shall obtain written approval from Shelby County for any travel outside the metropolitan area with funds provided under this Agreement.

3. Relocation, Acquisition and Displacement

Millington agrees to comply with 24 CFR 570.606 and 24 CFR 85.31 relating to the acquisition and disposition of all real property utilizing grant funds and to any displacement of persons, businesses, non-profit organizations and farms occurring as a direct result of any acquisition of real property utilizing grant funds. Millington further agrees to comply with any applicable Shelby County ordinances, resolutions and/or policies concerning displacement of individuals from their residences.

IX. Personnel and Participating Conditions

A. Civil Rights

1. Compliance

Millington agrees to comply with all the requirements set forth in 24 CFR 570.600, including, but not limited to, compliance with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 109 of Title I of the Housing and Community Development act of 1974, Executive order 11063, and Executive Order 11246 as amended by Executive Order 12086. Millington also agrees to comply with all applicable provisions of the Americans with Disabilities Act of 1990.

B. Employment Activity

Millington is prohibited from using funds provided herein or personnel employed in the administration of the program for political activities, sectarian or religious activities, and lobbying, political patronage and nepotism activities.

1. Labor Standards

Millington agrees to comply with the requirements of the secretary of labor in accordance with the Davis Bacon Act as amended (40 U.S.C. 276a-276a5), the provisions of Contract Work-Hours the Safety standards Act (40 U.S.C.327 et seq.), the Copeland “Anti-Kickback” Act (40 U.S.C. 276,

327-333) and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. Specifically, Millington agrees to adhere to all wage decisions issued pursuant to the Davis-Bacon Act as amended that are applicable to this project. Attached hereto as **Appendix 2** is the most recent wage decision applicable to this project. Millington agrees to display this wage decision at the job site, as well as any updates, and applicable posters from the U.S. department of Labor, Wage and House Division that may be furnished to it. Millington shall be responsible for insuring that weekly payroll reports (WH347 or equivalent) are submitted by all contractors (and by all subcontractors through contractors) which certify that all laborers and mechanics engaged in the construction of this project have been paid no less than the minimum wage rates as listed on the applicable wage decision(s). Millington shall maintain documentation that demonstrates compliance with the hour and wage requirements of this part. Such documentation shall be made available to Shelby County for review upon request.

2. Employment Opportunities for Low Moderate Income Persons

a. Millington acknowledges and agrees to comply with Section 3 of the Housing and Urban Development Act of 1968, as found at 24 CFR Part 135.

b. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended,12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

c. The parties to this contract agree to comply with HUD's regulations

in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

d. Millington agrees to send to each labor organizations or representative of workers with which the contractor has a collective bargaining agreement or other understanding. If any, a notice advising the labor organization or workers' representative of Millington's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

e. Millington agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR parts 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. Millington will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

f. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to

circumvent the contractor's obligations under 24 CFR part 135.

g. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

h. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogations of compliance with section 7(b).

i. Conflict of Interest

Millington further agrees that, in the performance of this contract, no person having a financial interest shall be employed or retained by Millington. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of Millington or Shelby County, or of any designated public agencies or subrecipients which are receiving funds under the CDBG program.

4. Subcontracts

a. Approvals

Millington shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of Shelby County prior to the execution of such contract.

b. Monitoring

Millington will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in Millington's monthly written reports to Shelby County and supported with documentation evidence of follow-up actions taken to correct areas noncompliance.

c. Content

Millington shall cause all of the provisions of this contract in their entirety to be included in and made part of any subcontract executed in the performance of this Agreement.

d. Selection Process

Millington shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open basis. Executed copies of all subcontracts shall be forwarded to Shelby County along with documentation concerning the selection process.

X. ENVIRONMENTAL CONDITIONS

A. Air and Water

Millington agrees to comply with the following regulations insofar as they apply to the performance of this contract:

The Clean Air Act (42 U.S.C., 1857, et seq.);

The Federal Water Pollution Control Act as Amended 33 U.S.C. 1251 et seq.); Environmental Protection Agency (EPA) regulations set forth in 40 CFR Part 50, as amended;

The National Environmental Policy Act of 1969; and

HUD environmental review procedures as set forth in 24 CFR 58 et seq.

B. Flood Disaster Protection

To the extent applicable, Millington agrees to comply with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106) in regard to the sale, lease or other transfer of land acquired, cleared or improved under the terms of this contract.

C. Historic Preservation

Millington agrees to comply with the historic preservation requirements set forth in the National Historic Preservation Act of 1966 as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR 800 et seq. Insofar as they apply to the performance of this contract.

IN WITNESS WHEREOF, the parties have executed this contract on the date first above written.

APPROVED AS TO FORM

_____

Monice Hagler, Assistant County Attorney

SHELBY COUNTY, TENNESSEE

_____

Mark H. Luttrell, Jr., Mayor

CITY OF MILLINGTON

_____

Linda Carter, Mayor

Appendix 1

Budget for the Millington Old Town Lighting Project

This activity will provide funding for lighting improvement to the old town district of the City of Millington

Millington Lighting	-	$45,000.00

APPENDIX 2

DAVIS BACON WAGE DECISION

APPENDIX 3

24 CFR PART 570