



REPORT TO COUNCIL

City of Sacramento

19

915 I Street, Sacramento, CA 95814-2604
www. CityofSacramento.org

Consent
July 22, 2008

Honorable Mayor and
Members of the City Council

Title: Grant: Alcoholic Beverage Control (ABC) Liaison Officer

Location/Council District: Citywide (All Districts)

Recommendation: Adopt a **Resolution:** 1) authorizing the City Manager, or his designee, to accept a grant award of \$100,000 from the California State Department of Alcoholic Beverage Control, (2) increasing the Police Department's grant expense and grant revenue budgets in the amount of \$100,000, and (3) maintaining the current staffing level of one Police Officer Full Time Equivalent (FTE) position for an additional one-year period.

Contact: Mike McCarthy, Captain, 808-0700; Eric Poerio, Lieutenant, 808-0868

Presenters: Not applicable

Department: Police

Division: Metro

Department ID: 11001141

Description/Analysis

Issue: Staff recommends adoption of the resolution to accept a grant award for \$100,000 from the California State Department of Alcoholic Beverage Control, for a one-year period starting July 1, 2008, and ending June 30, 2009. The grant will fund the cost of 1.0 FTE for an ABC Liaison Officer to work in conjunction with current staff to enhance education, prevention, and enforcement programs.

Policy Considerations: Accepting this funding is consistent with past practices of using grant funding to increase law enforcement and community safety.

Environmental Considerations: This activity is not subject to the California Environmental Quality Act (CEQA), because it does not constitute a "project" as defined in section 15378 of the CEQA Guidelines, and is exempt pursuant to Section 15061(b)(3) (no significant effect on the environment) of the CEQA Guidelines.

Commission/Committee Action: None.

Rationale for Recommendation: Over the past several years, the Sacramento Police Department has developed a very effective and successful working relationship with the local ABC office and its investigators. Grant funding for an ABC Liaison Officer will permit enforcement of alcohol-related compliance laws throughout the City of Sacramento.

Financial Considerations: The total grant award for Fiscal Year (FY) 2008/09 is \$100,000. No match is required. These funds are allocated from the California State Department of Alcoholic Beverage Control. The grant will fund 100% of the labor costs of an ABC Liaison Officer during the grant period. Additionally, the grant will provide for operating expenses, such as confidential funds and training. The position will continue to require the use of a department vehicle, which was not funded by the grant, to conduct inspections and sting operations.

At the end of the grant period, the Police Department will seek additional funding sources to continue the program. If no funding sources are available, the program will be terminated. If terminated, Police Department staffing levels will be reduced by 1.0 Police Officer FTE.

The following table is a breakdown of how the ABC Liaison Officer Grant funds will be allocated:

ABC Liaison Officer Grant	
Expenditure	Total
Labor and Benefits	\$95,000
Confidential Funds	1,500
Travel/Training	3,500
Total Grant Award	\$100,000

Emerging Small Business Development (ESBD): No goods or services are being purchased as a result of this grant.

Respectfully Submitted by: Mike McCarthy
Mike McCarthy, Captain

Approved by: Rick Brazzel (For)
Rick Brazzel, Chief of Police

Recommendation Approved:

for Ray Kerridge
Ray Kerridge
City Manager

Ref: COP 6-09

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ATTACHMENT 1

Background

The City of Sacramento has 936 Alcohol and Beverage Control (ABC) licensed establishments, an increase of 10 establishments during the past year, with most newly licensed businesses and more than 43 percent of all licensed businesses located in the Downtown core. Alcohol-related problems, such as underage drinking, are of significant concern because of the number of young adults and minors attracted to the area's entertainment venues, which include clubs that admit persons under the age of 21. Both the Downtown and the Old Town areas continue to experience alcohol-related problems, including public drunkenness, a high percentage of alcohol-related traffic accidents and fatalities, underage and excessive drinking, alcohol-related crime, and community complaints about ABC licensed businesses and events.

Over many years, the Sacramento Police Department (SPD) has developed a very effective and successful relationship with the local ABC office and its investigators. Working with other local law enforcement agencies, local businesses, merchant associations, and the community, SPD officers have achieved significant successes in addressing compliance at ABC licensed businesses and events. Our program focuses on citywide ABC compliance and enforcement, with particular emphasis on the Downtown and Old Town areas. Our proposal includes increased enforcement, training and participation with the downtown business organizations to address these problems. Grant funding for an ABC Liaison Officer will continue to provide the necessary resources to enhance education, prevention, and enforcement of alcohol-related compliance laws in the Downtown core and throughout the City of Sacramento.

RESOLUTION NO. 2007-

Adopted by the Sacramento City Council
July 22, 2008

**ACCEPTANCE OF ALCOHOLIC BEVERAGE
CONTROL (ABC) LIAISON OFFICER GRANT**

BACKGROUND

- A. The City of Sacramento has received a \$100,000 grant administered by the California Department of Alcoholic Beverage Control (ABC) for the FY2008/09 Sacramento Police Department's ABC Liaison Officer Program.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL
RESOLVES AS FOLLOWS:**

- Section 1. The City Manager, or his designee, is hereby authorized to accept a grant award on behalf of the City of Sacramento, from the California State Department of Alcoholic Beverage Control, which totals \$100,000, including any future extensions, agreements, modifications or attachments thereof.
- Section 2. Award of the grant will maintain the current program Police Officer Full Time Equivalent (FTE) position for an additional one-year period. At the end of the grant period, if no funding sources are available, the program will be terminated, and the Police Department's staffing will be reduced by 1.0 FTE.
- Section 3. The City Manager, or designated representative, is authorized to make the necessary grant revenue and expense budget adjustments to implement the \$100,000 grant award.

STATE OF CALIFORNIA
STANDARD AGREEMENT
FD 213 (Rev 06/03)

AGREEMENT NUMBER

08G-LA24

REGISTRATION NUMBER

This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

Department of Alcoholic Beverage Control

CONTRACTOR'S NAME

City of Sacramento through the Sacramento Police Department

The term of this Agreement is: **July 1, 2008, through June 30, 2009**

3. The maximum amount \$ **100,000.00**
of this Agreement is:

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement:

- | | |
|---|----------|
| Exhibit A - Scope of Work/Project Narrative | 4 pages |
| Exhibit B - Budget Estimate | 1 page |
| Exhibit C - General Terms and Conditions | GTC 307* |
| Exhibit D - Payment Provisions | 2 pages |
| Exhibit E - Special Terms and Conditions | 1 page |

Items shown with an Asterisk (*) are hereby incorporated by reference and made part of this agreement as if attached hereto.
These documents can be viewed at www.documents.dgs.ca.gov/ols/GTC-307doc

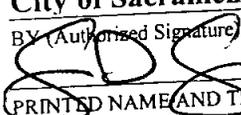
IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)

City of Sacramento through the Sacramento Police Department

BY (Authorized Signature)

 - A/LOD (E2)

DATE SIGNED (Do not type)

7/3/08

PRINTED NAME AND TITLE OF PERSON SIGNING

Rick Braziel, Chief

ADDRESS

**5770 Freeport Boulevard, Suite 100
Sacramento, CA 95822**

STATE OF CALIFORNIA

AGENCY NAME

Department of Alcoholic Beverage Control

BY (Authorized Signature)

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Ed Jimenez, Assistant Director, Administration

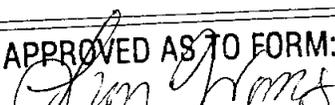
ADDRESS

**3927 Lennane Drive, Suite 100
Sacramento, CA 95834**

California Department of General
Services Use Only

Exempt per

APPROVED AS TO FORM:

 Senior Deputy Chief Attorney

PROJECT NARRATIVE

i. Summary –

- a. **Agency Description** – Founded in 1849, the Sacramento Police Department (SPD) faces the challenge of providing its large, culturally diverse population of 467,343 residents (48% Caucasian, 16% African American, 17% Asian & 22% Hispanic*) with a safe place to “live, work, and play.” SPD, with 730 sworn police officers and 369 civilian staff (including dispatchers, record clerks, identification technicians, and administrative/clerical personnel), is managed by the Chief of Police and two Deputy Chiefs, who oversee the Offices of Operations, Investigations, Technical Services, and Emergency Services and Homeland Security. The City of Sacramento has 936 ABC-licensed establishments (644 are on-sale and wholesale; 292 are off-sale and special license), an increase of 10 establishments during the past year, with most newly licensed businesses and more than 43 percent of all licensed businesses located in the Downtown core. Over many years, SPD has developed a very effective and successful relationship with the local Alcoholic Beverage Control (ABC) office and its investigators. Working with other law enforcement agencies, businesses, merchant associations, and the community, SPD officers have achieved significant successes in addressing compliance at ABC-licensed businesses and events.
- * *Hispanic ethnicity is a separate data category from race and should not be added to race totals.*
- b. **Funding Requested** – The Sacramento Police Department requests funding of \$100,000 to continue its programs and add to its successes in focusing on citywide ABC compliance and enforcement.
- c. **Goals and Objectives** – The project goal and objective components are:
- Beverage Service Program Compliance – to focus on responsibility in service to minors and intoxicated patrons at liquor establishments, bars, and restaurants;
 - Education/Community Awareness/Prevention – to educate and disseminate information about youth and young adult alcohol access and use through media events, direct contact, and school visits;
 - Enforcement – to conduct Minor Decoy and Shoulder Tap operations, establishment inspections, intoxicated patron surveillance, parking lot enforcement, DUI checkpoints, and multi-agency task force operations, and to respond to citizen concerns regarding their neighborhoods;
 - Training – to train Patrol, Problem Oriented Police officers, ABC licensees, and outside agencies in ABC compliance strategies;
 - Strategy Development – to gather and analyze data on arrests, calls for service, DUI’s, enforcement actions, problem locations, and training techniques, and to network with other agencies to share information and add to the body of knowledge on addressing ABC issues.
2. **Problem Statement** – During the past seven years, the City of Sacramento has experienced a continuous population increase. With this growth has come an increase in the number of ABC-licensed businesses located within city limits. More than 43 percent of the all the City’s ABC-licensed businesses and more than 80 percent of all businesses with city entertainment permits are located in the Downtown area. These percentages are particularly significant because the Downtown area is only one of six citywide policing districts. Underage drinking is a significant problem because many young adults and minors are attracted to the Downtown area, where a number of clubs offer entertainment venues that admit patrons under the age of 21. Both the Downtown and the Old Town areas continue to experience an increase in alcohol-related problems, including public drunkenness, a high percentage of alcohol-related traffic accidents and fatalities, underage and excessive drinking, alcohol-related crime, and community complaints about ABC-licensed businesses and events. Alcohol-related traffic problems are of particular concern. According to current Office of Traffic Safety statewide statistics, the City of Sacramento ranked first out of thirteen cities in “ranking by average population” category (250,000+) for Total Fatal and Injury Collisions in 2006, first in Alcohol Involved Collisions, first in HBD Drivers

- 21-24, first in Bicycle Collisions, and first in the Composite Category of Collisions. In addition, in the "ranking by average population for the same category," Sacramento ranked first out of thirteen for Speed Related Collisions and Nighttime (2100-0300 hours) Collisions. SPD's DUI Arrest Ranking is .52%, a measure of DUI enforcement activity that ranks the City eleventh out of thirteen cities. The City had 28 fatalities in 2007, a 17% increase from the 24 fatalities recorded in 2006. The Department's Major Collisions Investigative Unit investigated a four-person fatal accident that occurred during daylight hours in March of 2007 in which the responsible drunk driver had just left a local bar. This tragedy highlights the need for ABC enforcement efforts during daytime as well as nighttime hours. Continuing alcohol-related problems exist throughout the City. Especially significant are the number of violent crimes associated with alcohol use. Excessive alcohol consumption and underage drinking contribute heavily to the volume of crime, including: homicides, felony assaults, vandalism, indecent exposure, domestic violence, battery, reckless driving, public inebriation, DUI's, auto accidents, hit and runs, and disturbances. SPD identifies ABC-licensed locations that are current problems by: 1) analyzing calls for service and crime reports originating at ABC license locations; 2) investigating complaints initiated by district officers, specialized units, city personnel, City Council members, and citizens; 3) attending community meetings to address concerns; 4) working with state and local agencies to identify ABC establishments possibly involved in other criminal activities such as the illegal purchase of suspected stolen property or Electronic Benefit Transfer (EBT) cards for food stamp trafficking; and 5) investigating reports of off sale businesses that have been selling alcohol during decoy operations. Working with other local law enforcement agencies, local businesses, merchant associations, and the community, SPD officers have achieved significant successes in addressing compliance at ABC-licensed businesses and events. From July 2007 through February 2008, SPD has:
- Conducted 13 Minor Decoy operations, resulting in 35 arrests;
 - Conducted Shoulder Tap operations at 55 businesses and contacting 211 persons, resulting in 2 arrests and 39 citations issued;
 - Conducted 25 multi-agency operations involving 237 officers, resulting in 51 arrests and 247 citations issued;
 - Conducted 4 DUI checkpoints and DUI saturation patrols, resulting in 12 DUI arrests, 188 citations issued, 153 tows, and 10 non-DUI arrests;
 - Conducted 28 Parking Lot operations at nightclubs, resulting in 23 arrests, 138 citations issued, and 12 minor in possessions;
 - Conducted 5 LEAD training sessions for 115 employees of 27 ABC-licensed businesses;
 - Conducted 3 IMPACT/ROSTF operations and 7 inspections;
 - Conducted 5 ABC training sessions for 129 officers;
 - Conducted enforcement operations at large Sacramento events such as the Jazz Festival, Mardi Gras, Independence Day, St. Patrick's Day, "Best of Sac", the Causeway Classic, and New Year's Eve;
 - Worked with ABC, CSUS Alcohol Advisory Council and Greek Fraternity House to address underage and binge drinking by college students;
 - Trained Entertainment Team, Problem Oriented Policing personnel and reserve officers on conducting undercover operations.
3. **Project Description** – Our program proposal focuses on citywide ABC compliance and enforcement, with particular emphasis on the Downtown and Old Town areas. Our proposal includes increased enforcement, training and participation with downtown business organizations to address problems. Both the Downtown Partnership and the Old Sacramento Management organizations strongly support our efforts to improve alcohol enforcement and compliance. The Sacramento City Council also strongly supports the traffic and alcohol safety programs implemented by SPD. ABC funding for an ABC liaison

officer to work with current staff will provide the necessary resources to enhance education, prevention and enforcement of ABC laws and regulations. Their goals and objectives will be to:

Education/Community Awareness/Prevention

- Expand the influence of the ABC Grant and its effectiveness to include partnering with other law enforcement agencies, such as the Sacramento Department of Human Assistance, to address other criminal violations associated with ABC licensees;
- Educate owners of ABC-licensed businesses to ensure their compliance with all ABC provisions;
- Conduct a minimum of five LEAD seminars for ABC licensees during the grant period;
- Conduct 50 IMPACT inspections at identified problem ABC-licensed establishments to educate them on how they can help reduce alcohol-related crime;
- Conduct regular community meetings to identify and evaluate alcohol prevention strategies;
- Strategize with Old Sacramento Management and Downtown Sacramento Partnership;
- Provide continued education at city schools and assist sworn School Resource Officers with school events to address underage drinking, binge drinking, and driving under the influence;
- Conduct at least 5 media events with partners to publicize ABC programs and activities, including a grant "kick-off", DUI checkpoints (ABC and MADD), and entertainment venue enforcement (Old Sacramento Management), and to publicize clean-up efforts;
- Issue press releases for significant ABC Enforcement Campaigns.

Enforcement

- Conduct 30 to 40 new inspections at ABC-licensed establishments in Sacramento;
- Implement problem analysis and compliance measures at 10 disruptive and disorderly retail alcoholic beverage establishments that have been identified by local community groups and/or have high repeat calls for service;
- Conduct a minimum of 15 Minor Decoy operations and a minimum of 15 Shoulder Tap operations;
- Coordinate and conduct a minimum of 2 (per quarter) multi-agency task force operations, involving the ABC office, the Fire Department, Code Enforcement, Licensing Unit and others;
- Participate in at least 6 DUI checkpoints at problem city locations with SPD's Metro Traffic Section;
- Conduct 30 parking lot enforcements for minors consuming/possessing alcohol at nightclubs that hold venues for the 21 and under crowd and also at other ABC-licensed establishments;
- Conduct 1 Trap Door operation per quarter;
- Conduct IMPACT inspections, Minor Shoulder Tap Operations, and Minor Decoy Operations at ABC-licensed establishments located near high schools;
- Target ABC-licensed entertainment establishments that over-serve patrons;
- Maintain ABC compliance at special entertainment events such as the Jazz Jubilee, Independence Day, Causeway Classic, Mardi Gras, St. Patrick's Day, and New Year's Eve;
- Coordinate investigations with other law enforcement agencies, including Sacramento County Department of Human Assistance, when evidence exists of illegal purchase of suspected stolen property or Electronic Benefit Transfer (EBT) fraud.

Training/Strategy Development

- Train 10 Problem Oriented Police officers (2 per team) to run alcohol-related operations;
- Assist Patrol with training enforcement for ABC-licensed businesses within areas that have a high concentration of alcohol serving establishments;
- Provide training to patrol officers and supervisors on recognizing other criminal activities at ABC establishments, such as Electronic Benefit Transfer (EBT) fraud;

- Conduct regularly scheduled meetings with Metro officers, Patrol sergeants, and ABC agents to discuss problem locations and develop strategies to bring licensees into compliance;
- Continue to improve tracking/reporting procedures on ABC related issues that document the correlation among arrests, DUI's, and specific ABC license establishments;
- Maintain, continue, and expand ongoing grant liaison between SPD and the Sacramento District Office of ABC by meeting weekly to discuss operations and ensure timely receipt of police reports.

Method of Procedure

Activities for Quarter One – 1) Evaluate target list of problem locations for education and enforcement compliance; 2) Partner with community groups such as Downtown Partnership and Old Sacramento Management to address issues regarding ABC licensees; 3) Continue ongoing operations – Shoulder Tap, Trap Door, Minor Decoy, Unlicensed Sales Operations, ABC inspections to assess compliance with Business and Professions Code (IMPACT), DUI checkpoints, monitor targeted business to prevent alcohol sales to intoxicated persons; 4) Attend community meetings to solicit and respond to citizen concerns on ABC issues; 5) Work with SPD's Licensing and Neighborhood Services Units to monitor alcohol-serving locations; 6) Gather statistical data on training hours, problem licensees, enforcement action, ABC meetings held, multi-agency meetings attended/hosted, community meetings attended, minor decoy operations conducted, and LEAD seminars hosted; 7) Complete monthly performance audits and activity reports detailing crime, arrests, filings and enforcement operations and summarize in quarterly reports. The Metro Command Captain and Operations Lieutenant will review and analyze this and other related data and conduct periodic multi-agency reviews with the ABC office.

Activities for Quarter Two – 1) Meet with intra-agency and other city personnel to outline goals for the calendar year and enlist their participation and support; 2) Develop and distribute the project timeline outlining goals and objectives; 3) Conduct Undercover Juvenile Operations: citywide Shoulder Tap and Minor Decoy Operations, including both on-site and off-site locations. Perform surveillance at licensed and unlicensed locations receiving complaints of selling to minors and other associated problems, including parking lots, clubs that admit the under 21 crowd, and high school events.

Activities for Quarter Three – 1) Assess feasibility that 100 percent of goals and objectives will be met; 2) Conduct ongoing enforcement activities, media contact, education and community involvement.

Activities for Quarter Four – 1) Conduct ongoing enforcement activities, media contact, education and community involvement; 2) Compile statistical data and complete fiscal evaluation. Complete summary report with project team for submission to ABC to describe operations during the project year and detail the impact and outcomes of the project, focusing on measurable data, such as criminal and administrative filings and location calls for service both before and after project implementation.

4. Project Personnel –

The staffing required to carry out the grant objectives as supported by the proposed budget (attached) will work under the direction of the Office of Operations, Metro Division Lieutenant and will number two full-time officers:

- A/Lieutenant Michael Carrasco of the Traffic and Air Ops Section, Metro Division, Office of Operations; 21 years with SPD; assignments in Narcotics, Patrol, SWAT, Narcotics/Vice, Parole Intervention Team, and Midtown POP.
- Officer Corey Morgan – ABC Liaison Officer since August 2007, with training in DUI, BNE Narcotics, Motors, ABC Party Patrol, Gangs. Sworn SPD officer for four years.
- Officer Jonathon Houston – ABC Liaison Officer since June 2006, with training in DUI, BNE Narcotics, Bike Officer, ABC Party Patrol, School Resource Officer, Gangs, GREAT, FEMA, SART, among many others. Sworn SPD officer for seven years.

BUDGET ESTIMATE

BUDGET CATEGORY AND LINE-ITEM DETAIL	COST (Round budget amounts to nearest dollar)
A. Personnel Services (salaries, overtime, and benefits)	
1. Salaries 1.00 FTE Police Officer \$5,538/mo 100%	\$66,458
2. Overtime for Officers Estimated 146.73 hours at \$53.55/hour	\$ 7,858
3. Employee Benefits for 1 full-time Police Officer & OT Benefits estimated at 30% x \$68,947	\$20,684
TOTAL PERSONNEL SERVICES	\$95,000
B. Operating Expenses (maximum \$2,500)	
Decoy Operations, Shoulder Tap Operations & Narcotic Investigations "buy money."	\$1,500
TOTAL OPERATING EXPENSES	\$1,500
C. Equipment (maximum \$2,500)	
None	\$0
TOTAL EQUIPMENT	\$0
D. Travel Expense/Registration Fees (maximum \$3,500)	
Registration for July 2008 GAP Conference <u>3</u> Attendees at \$200 each	\$600
Registration for January 2009 Conference <u>3</u> Attendees at \$200 each	\$600
Winter & Summer Grant Meeting Travel Costs	\$2,300
TOTAL TRAVEL EXPENSE	\$3,500
TOTAL BUDGET ESTIMATE, ALL CATEGORIES	\$100,000

Payment Provisions

1. **INVOICING AND PAYMENT:** Payments of approved reimbursable costs (per Budget Detail attached) shall be in arrears and made via the State Controller's Office. Invoices shall be submitted in duplicate on a monthly basis in a format specified by the State. Failure to submit invoices and reports in the required format shall relieve the State from obligation of payment. Payments will be in arrears, within 30 days of Department acceptance of Contractor performance, pursuant to this agreement or receipt of an undisputed invoice, whichever occurs last. Nothing contained herein shall prohibit advance payments as authorized by Item 2100-101-3036, Budget Act Statutes of 2008.
2. Revisions to the "Project Narrative" and the "Budget Estimate" may be requested by a change request letter submitted by the Contractor. If approved by the State, the revised Grant Assistance Program Narrative and/or Budget Estimate supersede and replace the previous documents bearing those names. A contract amendment will be required to implement any such changes with the exception that changes in a budget line item of expense not to exceed five percent (5%) of the line item may be authorized without requiring a contract amendment if the total amount of the contract remains unchanged.
3. Contractor agrees to refund to the State any amounts claimed for reimbursement and paid to Contractor which are later disallowed by the State after audit or inspection of records maintained by the Contractor.
4. Only the costs displayed in the "Budget Estimate" are authorized for reimbursement by the State to Contractor under this agreement. Any other costs incurred by Contractor in the performance of this agreement are the sole responsibility of Contractor.
5. Title shall be reserved to the State for any State-furnished or State-financed property authorized by the State which is not fully consumed in the performance of this agreement. Contractor is responsible for the care, maintenance, repair, and protection of any such property. Inventory records shall be maintained by Contractor and submitted to the State upon request. All such property shall be returned to the State upon the expiration of this contract unless the State otherwise directs.
6. If travel is a reimbursable item, the reimbursement for necessary traveling expenses and per diem shall be at rates set in accordance with Department of Personnel Administration rates set for comparable classes of State employees. No travel outside of the State of California shall be authorized. No travel shall be authorized outside of the legal jurisdiction of Contractor without prior authorization by the State.

Exhibit D

7. Prior authorization by the State in writing is required before Contractor will be reimbursed for any purchase order or subcontract exceeding \$2,500 for any articles, supplies, equipment, or services to be purchased by Contractor and claimed for reimbursement. Contractor must justify the necessity for the purchase and the reasonableness of the price or cost by submitting three competitive quotations or justifying the absence of bidding.
8. Prior approval by the State in writing is required for the location, costs, dates, agenda, instructors, instructional materials, and attendees at any reimbursable training seminar, workshop or conference, and over any reimbursable publicity or educational materials to be made available for distribution. Contractor is required to acknowledge the support of the State whenever publicizing the work under the contract in any media.
9. It is understood between the parties that this contract may have been written before ascertaining the availability of appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the contracts were executed after that determination was made.
10. BUDGET CONTINGENCY CLAUSE - It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.

If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

Special Terms and Conditions

1. Disputes: Any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Director, Department of Alcoholic Beverage Control, or designee, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Department shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the State a written appeal addressed to the Director, Department of Alcoholic Beverage Control. The decision of the Director of Alcoholic Beverage Control or his duly authorized representative for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, Contractor shall proceed diligently with the performance of the contract and in accordance with the decision of the State.
2. Termination Without Cause: Either party may terminate this agreement at any time for any reason upon ten (10) days written notice. No penalty shall accrue to either party because of contract termination.
3. Contract Validity: This contract is valid and enforceable only if approved by the Office of Legal Services, State Department of General Services, if required, and if adequate funds are appropriated in Item 2100-101-3036, Budget Act of 2008, for the purposes of this program.
4. Contractor Certifications: By signing this agreement, Contractor certifies compliance with the provisions of CCC 307, Standard Contractor Certification Clauses. This document may be viewed at: www.dgs.ca.gov/contracts.
5. If the State determines that the grant project is not achieving its goals and objectives on schedule, funding may be reduced by the State to reflect this lower level of project activity.

