

PUBLIC SAFETY COMMITTEE

12-0429R

RESOLUTION AUTHORIZING PROPER CITY OFFICIALS TO ACCEPT A GRANT FROM THE ENHANCED COLLEGE ENFORCEMENT GRANT PROGRAM IN AN AMOUNT NOT TO EXCEED \$4,000 FOR REIMBURSEMENT OF POLICE OFFICER OVERTIME FOR CONDUCTING ENHANCED COLLEGE ENFORCEMENT DUTIES.

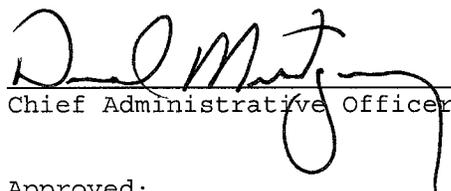
CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the Invitation Health Institute in an amount not to exceed \$4,000, and to execute a grant agreement substantially in the same form as that on file in the office of the city clerk as Public Document No. _____ or a form deemed by the city attorney's office to provide greater legal security to the city, for overtime backfill salary/fringe benefits for police officers in order to support the Enhanced College Enforcement Initiative, funds to be deposited in Fund No. 110-160-1610-4210-02 (General, Police, Administration and Investigating, Pass through Federal Grants, Operating).

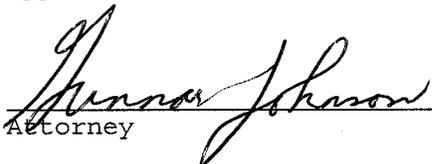
Approved:


Department Director

Approved for presentation to council:


Chief Administrative Officer

Approved as to form:


Attorney

Approved:


Auditor

DPD/ATTY TLL:dma 08/15/2012

STATEMENT OF PURPOSE: This resolution authorizes the proper city officials to accept a grant in the amount of \$4,000 and to enter into a grant agreement with the Invitation Health Institute. The grant monies will be used to reimburse overtime backfill salary/fringe benefits for police officers in order to support enhanced college enforcement duties. These duties include an enhanced college enforcement initiative scheduled for August 30, 2012 through September 3, 2012,

which is the "move-in" period for local colleges. The duties are tied to enforcement of underage drinking laws and education for alcohol retailers and community members regarding underage drinking laws.

GRANT AGREEMENT

THIS GRANT AGREEMENT ("**Agreement**") is made this 15th day of August 2012 (the "**Effective Date**"), by and between Invitation Health Institute ("**the Institute**") and City of Duluth Police Department ("**Grantee**").

WHEREAS, the Institute is contracted by the Minnesota Department of Public Safety to administer an Enhanced College Enforcement Grant program.

WHEREAS, the Federal funds for this grant contract are provided under the U.S. Department of Justice's Enforcing Underage Drinking Laws Program to enforce underage drinking laws and educate alcohol retailers and community members regarding underage drinking laws.

WHEREAS, the Grantee wants and is willing to enforce underage drinking laws in its jurisdiction.

WHEREAS, the parties hereto desire to enter into a working relationship; and

WHEREAS, the parties hereto have agreed as to various matters concerning the organization and operation of such a working relationship, and wish a written memorandum of their agreement;

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter set forth, the parties hereto hereby agree as follows:

I. Term and Termination of Agreement

A. The term of this Agreement shall be from the Effective Date and continuing until May 31, 2013 (the "**Expiration Date**"), or until the contracted Services have been completed, or the maximum dollar amount has been reached, whichever occurs first. Notwithstanding the foregoing, this Agreement shall remain in effect with respect to any Schedules then in effect on the date of termination or Expiration Date until the date on which such Schedules are themselves terminated or are otherwise completed. It is also contingent upon, and subject to, a successfully executed and signed contract between the Institute and the Minnesota Department of Public Safety (the "**Prime Agreement**").

B. Either party shall have the right at any time to terminate this Agreement and/or any Schedule without cause upon fifteen (15) days written notice. In event of such termination, Grantee's sole and exclusive remedy shall be limited to payment (on a pro-rata basis if fixed fee) for Services rendered and expenses properly incurred through the date of termination.

C. Either party shall have the right to terminate this Agreement and/or any Schedule(s) immediately in the event of a material breach of this Agreement and/or any Schedule(s) by the other party, which breach remains uncured for a period of ten (10) days after written notice reasonably specifying the nature of the breach is given to the breaching party.

D. Upon receiving notice from the Institute to stop work, Grantee shall cease all work under this Agreement. Grantee will not be paid for fees or expenses incurred as of the effective date of any such stop work notice until or unless Grantee is instructed to resume work.

II. Duties

A. The Grantee shall:

- Conduct innovative underage drinking enforcement activities on or near college campuses.
- Enforce adult provider laws, third party transactions, and social host ordinances on or near college campuses.
- Conduct independent investigations of illegal providers of alcohol to underage persons and underage use of alcohol within its jurisdictions as specified in the Grantee's Enhanced College Overtime Enforcement Application, Attachment A, which is attached and incorporated into this contract and in the applicable guidance that is incorporated by reference and made part of this grant contract.
- Maintain a primary goal of enforcement operations being the identification and forwarding of criminal complaints against illegal providers of alcohol and social hosts of underage drinking parties.
- Develop a process to call in off-duty officers to work overtime when large underage drinking parties are identified by on-duty officers.
- Include for reimbursement only those approved underage drinking enforcement operations described in Grantee's Application (Attachment A).
- Issue two news releases to include, first, an announcement of the grant funding and intent to conduct enhanced college overtime enforcement and, second, to announce the results of the underage drinking operations.
- Report findings back to the Institute using the Institute approved reporting form.
- Grantee will comply with the Single Audit Act Amendments of 1996 and Office of Management and Budget Circular A-133.
- Ensure the compensation under this grant contract provides **ONLY** for officer overtime Federal funds must not supplant existing resources.
- To help fulfill Institute Federal reporting requirements, Grantee must report expenses and resources expended to conduct underage drinking enforcement operations that are not reimbursed through this grant contract. There is no requirement for other funds to be used to support enforcement, but where other funds are used, it must be reported.

B. The Institute shall:

- Provide technical assistance to Grantee for performance of duties within this grant contract.
- Provide reporting and invoicing forms to Grantee. The Institute may modify or change all forms at their discretion during the grant term.
- Compensate Grantee promptly for duties satisfactorily performed under this grant contract as described under Consideration and Payment.

C. Payment of undisputed fees for Services shall be made thirty (30) days after the Institute's receipt of invoice submitted by Grantee.

III. Consideration and Payment

The Institute will pay for all services performed satisfactorily by Grantee under this grant contract as follows:

- The Grantee will be paid an amount not to exceed \$4,000.00 for reimbursement of officer actual overtime, including fringe benefits, for conducting enhanced college enforcement duties under this grant contract.
- The total obligation of the Institute for all compensation and reimbursements to the Grantee under this contract will not exceed \$4,000.00

The Institute will promptly pay the Grantee after the Grantee presents an itemized invoice for the services actually performed and the Institute accepts the invoiced services. Invoices must be submitted timely and according to the following schedule. Itemized invoices will be filed in arrears. Invoices must be submitted and received by the Institute no later than January 5, 2013 for operations conducted August 15 to December 31, 2012, and no later than June 10, 2013, for operations conducted January 1 to May 15, 2013. The Grantee will not receive payment for work found by the Institute to be unsatisfactory, outside the dates of this grant contract, or performed in violation of federal, state, or local, law.

Payments under this grant contract will be made from Federal funds, obtained by the Institute under contract to the Minnesota Department of Public Safety pursuant to CFDA number 16.727. The Grantee is responsible for compliance with all federal requirements imposed on these funds and accepts full financial responsibility for any requirements imposed by the Grantee's failure to comply with federal requirements.

Grantee assumes responsibility for ensuring that grant contract compensation provides for actual overtime enforcement to conduct underage drinking enforcement operations. Allowable costs that may be reimbursed through this grant contract include:

- 1) Officer overtime

The grant contract funds may not be used for the purchase of alcohol as part of the enforcement operation ("buy money").

Agreement to the grant contract indicates Grantee's certification that Federal funds will not be used to supplant State or local funds Federal funds must be used to supplement existing funds for program activities and must not replace those funds that have been appropriated for the same purpose.

IV. AMENDMENTS

Any amendments to this Agreement shall be in writing, signed by the parties.

V. INDEPENDENT CONTRACTOR RELATIONSHIP

Grantee is an independent contractor, and is not an employee, servant, agent, partner, or joint venturer of the Institute. Neither party to this Agreement will have any authority to bind or represent the other party. The Institute shall identify and request the Services to be performed, but Grantee shall determine the legal means by which all Services are to be accomplished. The

Institute is not responsible for withholding, and shall not withhold, FICA or any other employment-related taxes of any kind from any payments made to Grantee. Neither Grantee, its employees, nor any subcontracted personnel shall be entitled to receive any benefits which employees of the Institute are entitled to receive, nor shall Grantee, its employees or subcontracted personnel be entitled to receive from or through the Institute workers' compensation, unemployment compensation, medical insurance, life insurance, paid vacations, paid holidays, pension, profit sharing or Social Security on account of Services performed under this Agreement.

Grantee is responsible for overseeing and managing the tasks and functions for the Services provided under this Agreement. Grantee shall not subcontract with any third party for the performance of any Services to be provided to the Institute without in each instance obtaining the prior written consent of the Institute to Grantee's use of such third party subcontractor and the subcontractor's individual personnel proposed to be assigned to perform Services, which consent may be withheld in the Institute's sole and absolute discretion. Such third party subcontractor and the subcontractor's individual personnel for whom the Institute's prior written consent may subsequently be given are hereafter referred to as "**Permitted Subcontractors**". Grantee shall require each Permitted Subcontractor to agree in writing to perform in accordance with, and subject to the terms of this Agreement prior to the performance of any Services by such Permitted Subcontractor. Grantee shall make reasonable efforts to honor specific requests by the Institute with regard to Grantee's Employees, including replacements thereof, who are assigned to perform Services and any other aspect of obtaining the desired results under this Agreement.

VI. INDEMNIFICATION

To the fullest extent permitted by law, Grantee shall indemnify, defend and hold harmless the Institute, its trustees, officers, employees and Affiliates from and against all claims, demands, suits, actions, losses, damages, injuries, liabilities, expenses, judgments, liens, encumbrances, orders, fines, penalties and awards, including, without limitation, reasonable attorneys fees, expert witness fees and court costs, (all of which are collectively referred to as "**Claims**") arising out of any of the following:

A. Grantee's performance of Services and provision of the Deliverables, Grantee's failure to perform under this Agreement and/or Grantee's breach of this Agreement.

B. Claims relating to bodily injury to or death of any person or damage to real property and/or tangible or intangible personal property, incurred while Grantee is performing Services and to the extent caused by the negligent or willful acts or omissions of Grantee, its Employees, Permitted Subcontractors or agents in the performance of the Services hereunder.

C. Claims arising out of any disputes between Grantee and Grantee's employees and/or Permitted Subcontractors, including without limitation, Employee Related Claims. "**Employee Related Claims**" means any pending, threatened or future action, suit, arbitration, inquiry, proceeding or investigation by or before a court, arbitrator, governmental or other regulatory or administrative agency or commission, whether civil, criminal or other, and whether known or unknown, fixed or contingent, or matured or unmatured at the Effective Date or at any time before or after the Effective Date for any and all Claims, incurred in connection with the Agreement that arise in connection with or relate to any of Grantee's or any of its Permitted Subcontractor's employees or classification of employees, the terms or conditions of such employment, any accident, illness, injury or other harm of any nature arising in connection with or relating to such employment, or the termination of such employment.

D. Claims that any Services or Deliverables provided by Grantee hereunder infringe upon any existing or future patent right, copyright, trade secret or other Intellectual Property Right. Grantee will defend such Claim at its expense and will pay all costs and damages that may be awarded against the Institute, its trustees, officers, employees and/or Affiliates incurred and resulting therefrom. Grantee will not be obligated to indemnify the Institute hereunder, however, if the claim of infringement is caused by the Institute's modification of such Deliverables. If any such Deliverables are, or in either the Institute's or Grantee's opinion are likely to be, held to constitute an infringing product, Grantee shall promptly at Grantee's option and at Grantee's sole cost and expense either (a) procure the right for the Institute to continue using it, or (b) modify it so that it is non-infringing, provided that such Deliverable as modified must be functionally equivalent and perform and conform in all material respects to the specifications and requirements, or (c) replace it with a non-infringing functionally equivalent that performs and conforms in all material respects to the specifications and requirements. If none of the options in the preceding sentence are reasonably available and/or practical after Grantee has exercised its best efforts to implement said options, Grantee shall refund to the Institute all amounts paid by the Institute to Grantee pertaining to such Deliverables under this Agreement, and Grantee shall remain liable for all other damages and remedies available to the Institute which are expressly reserved.

VII. WARRANTIES

Grantee warrants that (a) Grantee, its Employees and Permitted Subcontractors, if any, shall have and maintain the requisite technical knowledge, skills, abilities, licenses and qualifications to provide the Services and Deliverables, (b) Grantee shall comply with all applicable local, state and federal ordinances, laws and regulations in providing the Services and Deliverables, (c) all Services to be performed hereunder will be performed in good faith and in a good, professional, workmanlike, competent and timely manner, in conformity with all applicable standards and the requirements of this Agreement and the respective Schedules, and (d) Grantee's performance of Services does not and will not violate the terms and conditions of any other contract or obligation of Grantee.

VIII. GOVERNING LAW

The formation, interpretation and performance of this Agreement and any disputes arising out of it shall be governed by the substantive and procedural laws of the State of Minnesota and, to the extent applicable, the laws of the United States of America. This Agreement is deemed to be executed in Minnesota and the parties hereby consent to the jurisdiction of the State and Federal Courts located in Minnesota for such disputes. All litigation arising out of this Agreement must be brought in Courts located in Hennepin County, Minnesota.

IX. AUTHORIZED REPRESENTATIVE

The Institute's Authorized Representative is Tanya Prah, Grant Consultant, 2720 Highway 10 NE, Mounds View, MN 55112, 763-427-5310 x126, tprahl@invitationhealthinstitute.org, or her successor, and has the responsibility to monitor the Grantee's performance and the authority to accept the services provided under this grant contract. If the services are satisfactory, the

Institute's Authorized Representative will certify acceptance on each invoice submitted for payment.

The Grantee's Authorized Representative is Susan Campbell, City of Duluth Police Department, 2030 North Arlington Avenue, Duluth, MN 55811, scampbell@duluthmn.gov. If the Grantee's Authorized Representative changes at any time during this contract, the Grantee must immediately notify the Institute.

X. FORCE MAJEURE

Neither party shall be liable for the non-performance of its obligations under this Agreement for a maximum period of sixty (60) days if such non-performance is caused by acts of civil or military authority, civil disturbance, war, terrorism, explosions, fires, earthquakes, floods or other acts of God ("**Force Majeure Event**"). The party so affected shall give notice to the other party and shall do everything reasonably possible to resume performance. If the period of non-performance exceeds sixty (60) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may terminate the Agreement and/or any applicable Schedule(s) upon written notice.

XI. Assignment

Grantee shall neither assign nor transfer any rights or obligations under this Agreement without the prior written consent of the Institute. Any attempted assignment in contravention of this Section shall be null and void.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

Date: _____

Invitation Health Institute

Signed: _____

By: _____

Title: _____

City of Duluth

Date: _____

Signed: _____

The Grantee certifies that the appropriate person(s) have executed the grant contract on behalf of the Grantee as required by applicable articles, bylaws, resolutions, or ordinances.

By: _____

Title: Mayor

Attest: _____
City Clerk

Countersigned:

City Auditor

Approved as to form:

City Attorney

College Enforcement Application Attachment A

- Timestamp
- Law Enforcement Agency Name
- Chief Law Enforcement Officer Name
- Law Enforcement Grant Applicant Name
- Street Address 1 Street Address 2 City Zip Code
- Applicant Phone Number and Email Address
- MN Tax ID # Federal Employer Tax ID #
- Number of officers needed for college enforcement activity
- Number of hours activity will be done
- Anticipated dates when college enforcement activities will be done
- Location of college enforcement activities
- In detail, describe the college enforcement activity your agency will conduct
- Requested budget (max \$4000) include detail of anticipated overtime rate and number of hours.
- Describe any other activities (public education, other enforcement) not funded by this application that will directly support the outcomes you hope to achieve through this application.
- Number of officers and hours (regular pay) that will be used for this effort that the grant will not reimburse

7/13/2012 13:50:13

7. City of Duluth, Police Department

Chief Gordon Ramsay Susan Campbell

2030 N. Arlington Ave.

Duluth, MN55811-2030 218-730-5422

scampbell@duluthmn.gov

8021696 416005105

(28) regular duty police officers – (4) officers per each of (7) shifts during college enforcement activity answering college enforcement calls for service. Two Community Oriented Police (COPS) per each of the (7) shifts will be available to assist the college enforcement as requested by the college enforcement team. (14) overtime regular duty officers will support the non-college enforcement calls for service during the four days of the initiative in districts 27 & 28. Twenty-eight (28) shifts of Duluth Police Officers will support sixty- four (64) hours of college enforcement activity with support from the University of MN, Duluth Police Department. College Enforcement during college “move in” has taxed the University of Minnesota Duluth Police Department in years past.

64 hours over the course of four days.

Thursday Aug. 30, 2012 through 0200 hours on the morning of Monday, Sept. 3, 2012.

Enforcement activities will take place in patrol areas 27 & 28 in the City of Duluth. The patrol areas encompass the University of MN. Duluth, College of St. Scholastica neighborhoods and student housing areas.

One squad each from districts 27 and 28 will participate for the entire "College Enforcement" initiative. Two regular duty officers "per squad" from districts 27 & 28 will serve the initiative. Each squad will answer all student behavior complaints and inappropriate activity such as underage drinking, loud parties, illegal parking and littering. A Sergeant will be assigned to oversee the initiative. A video camera will be available to increase evidence gathering. Two overtime officers per enforcement shift will serve districts 27 & 28 for all non-college enforcement calls for service during the initiative. Thursday, August 30th and Friday, August 31st, "College Enforcement" will commence with Day Watch 0800 – 1600 hours. Community Police Officers (COPS) will carry most of the college enforcement calls for service until 1700 hours on the first day of the initiative. Four (4) regular duty district 27 & 28 officers and at least two "Community Policing Officers" (COPS) per shift will assist the College Enforcement Initiative by doing party interventions prior to Thursday evening. Officers will proactively seek out potential party locations and communicate behavior expectations with new neighborhood college residents. Party interventions will continue throughout the college enforcement initiative. The importance of having district 27 & 28 community policing officers serve during the entire initiative is imperative. These are the officers that the new student residents will see on a daily basis as these officers patrol their neighborhoods for the remainder of the school year. These officers will be the "face" of the Duluth Police Department that will protect and serve their community. All communication between college residents and the Police Department will be handled by these patrol officers. Communication with campus police will be on-going throughout the college enforcement Initiative. College Campus Police and administration are privileged to calls for service and all Duluth Police Department arrest records for arrestee's ages 18 – 22 years old. College enforcement will continue through Late Watch on Thursday 1600 hours – 0200 hours Friday morning. College enforcement Officers will reconnoiter beginning with Friday Day Watch at 0800 hours and continue through 0200 hours early Saturday morning. College enforcement will continue on Saturday, Sept. 1st & Sunday Sept. 2nd, 2012. Two regular duty community officers per squad, one squad each in district 27 & 28 (4 officers total) for Late Watch through 0200 early Saturday morning and will then be repeated Sunday into Late Watch 0200 hours early Monday morning. Monday September 3rd is the first day of college classes. Two overtime officers will support all non- student related calls for service in districts 27 & 28 during the entire sixty-four (64) hours of the initiative while four regular duty community officers serve on the college enforcement team.

(2) officers X 40 hours of officer overtime at \$50/hour = \$4,000

The entire college enforcement initiative will maintain a total of 128 overtime officer hours for the City of Duluth Police Department. The City of Duluth will support overtime hours not provided by grant funding. St. Louis County 9-1-1 Dispatch will also partner in the College Enforcement initiative. They will assign additional staff to support the college enforcement event and corresponding increased calls for service. Tri-Campus & Community Coalition on Student Drinking (TC3 or TCCC) promotes a campaign to address irresponsible and dangerous use of alcohol by students at three of Duluth, Minnesota higher education institutions Lake Superior College, the College of St. Scholastic and the University of Minnesota Duluth. A committee is maintained at each college and works to identify promising campus/community programs, interventions and provide education. Communication between TC3 and the Duluth Police Department is ongoing. TC3 will display the Welcome Back Students signs again this year. Each campus has its own plan to incorporate discussions/education about alcohol over move-in days. They will also distribute magnets and wallet cards promoting responsible alcohol use during move-in. Magnets will also be available for interested landlords.

(28) regular duty police officers – (4) officers per each of (7) shifts during the course of college enforcement activity answering college enforcement calls for service. Community Police Officer (COPS) from the East Team of Community Policing Officers shifts A, B, C, and D, will be available to support the College Enforcement Activity over the course of the seven (7) shifts per 64 hours of enforcement as requested by the enforcement team. Overtime squad car fuel and maintenance @ \$16/hr. X 2 squads /x 64 hours = \$2,048. Duluth Police overtime @ \$50/hr. X (2) officers per hour X 24 hours = \$2,400. St. Louis County Dispatch support = \$22/hr. X 55 hours = \$1,210