II
B-2

AGENDA ITEM
REQUEST/JUSTIFICATION FORM
(To be completed by requesting Department)
Forward all requests to Sharon Bourke, LC2 Civic Center
DEADLINE SUBMITTAL IS *3:00 P.M.* WEDNESDAY
Before the Tuesday meeting

Agenda item: **CONSENT**

Date to be on agenda: **DECEMBER ~~8~~ 15, 2015**

Exact wording to be used for the agenda:

Resolution to Approve the Agreement with Charles Drew Community Health Center regarding 2nd year for breastfeeding education and training.

Action being requested by the County Board: **APPROVAL**

Amount requested: Not to exceed $25,000.00 Grant Funded Object Code: N/A

Is item in current year's budget? Yes x No

Does this item commit funds in future years? Yes No X

If yes, explain: n/a

If an agreement or contract, has the County Attorney reviewed and approved?

Yes X No

Previous action taken on this item if any: Previously approved by Health Director

Recommendations and rationale for action: n/a

Will anyone speak on behalf of this item, if so who? Health Director or Designee

If this is a rush agenda item, please explain why: n/a

Submitted by (Name & Department): Adi M. Pour, Ph. D., Health Director Ext: 7471
Douglas County Health Department

Date Submitted: 11/23/2015

List Attachments: Resolution and 3 original contracts
(Attach resolution and all pertinent documentation, i.e., contract, agreement, memorandums, etc.)

Certified Resolution can be obtained at the County Clerks' website:
http://www.douglascountyclerk.org/county-board-records/search-for-resolutions

Completed by receiving office
Received in Administrative Office: Date: 12/2/15 Time:

Revised 01-26-2010

BOARD OF COUNTY COMMISSIONERS
DOUGLAS COUNTY, NEBRASKA

Resolved

WHEREAS, the Douglas County Board of Health will meet on December 16, 2015 to review and consider contracts and Agreements submitted in furtherance of the objectives of the Douglas County Health Department (DCHD); and,

WHEREAS, at said meeting the Board of Health will vote to ratify the following:

Agreement with the Charles Drew Community Health Center regarding NACCHO and LWOK program to reduce disparities in breastfeeding by providing training opportunities, policy development, and implementation of support clinics; and,

WHEREAS, said Agreement has been executed by the Health Director of the Douglas County Health Department and is forwarded to this Board of Commissioners for review and consideration; and,

WHEREAS, this Board of Commissioners has reviewed and considered said Agreement as evidenced and desires to approve said Agreement.

NOW THEREFORE BE IT RESOLVED BY THIS BOARD OF DOUGLAS COUNTY COMMISSIONERS that the Agreement evidenced is hereby approved and the Chair of this Board is hereby authorized to sign the necessary documents to execute said Agreement.

Dated this 15th day of December, 2015.

AGREEMENT
between the
DOUGLAS COUNTY HEALTH DEPARTMENT
and
CHARLES DREW HEALTH CENTER

This Agreement is entered into between Douglas County, Nebraska, on behalf of the Douglas County Health Department (hereinafter "Department") and Charles Drew Health Center ("Contractor") for the purpose of increasing access to community level peer and professional support for African American and underserved women and families.

SECTION I
PURPOSE AND DUTIES

The Department has been contracted by the National Association of City and County Health Officials (NACCHO) and Live Well Omaha Kids (LWOK) to reduce disparities in breastfeeding through peer and professional support projects. The goal of the project is to increases access to community level peer and professional support for African American and underserved women and families. This contract aims to provide Federally Qualified Health Centers with training opportunities, policy development and implementation support that facilitates breastfeeding friendly clinics.

1. **Duties of Contractor**. The Contractor shall:
    A. Identify at least one medical clinic staff member (i.e. Certified Nurse Assistant (CNA)) that will complete an online Lactation Educator Counselor Training Program within the performance period.
    B. Identify at least one entry level support staff within the Health Center to complete the peer breastfeeding support model Loving Support training.
    C. Create and implement at least one written policy that outlines how trained staff services will be integrated into clinic services (ex. One-on-one or group breastfeeding support classes) in the Health Center.
    D. Identify agency lactation needs and as needed provide and maintain effective lactation accommodations for all employees and visitors within the Health Center.
    E. Create and implement at least one written policy and/or environmental support that supports breastfeeding employees and community member visitors in meeting their breastfeeding goals.

2. **Duties of Department.** The Department shall do the following:
    A. Oversee and direct the implementation of the Douglas County NACCHO and LWOK Grants.
    B. Review all Contractor required documentation for financial and progress reporting for approval.

C. Provide the Contractor with program information, program training, technical assistance, and coordinate with other Contractors as necessary and appropriate in order to assist the Contractor in carrying out its obligations under this Agreement.
D. Provide the Contractor's identified staff with Loving Support Peer Breastfeeding training.
E. Conduct necessary program audits, evaluations, and reviews of Contractor's activities.

SECTION II
DURATION, COMPENSATION, AND TERMINATION

1. **Duration and Termination**. This Agreement shall become effective November 1, 2015, and shall remain in effect until April 30, 2016. This Agreement may be terminated upon mutual written consent of the parties or by either of the parties giving thirty (30) days written notice to the other of its intention to terminate the Agreement. If Contractor terminates this Agreement prior to completion of its duties under this Agreement, Contractor will only be entitled to a portion of the Compensation set forth in section (II)(2) of this Agreement less any excess costs incurred by the Department in completing Contractor's duties under this Agreement.

2. **Compensation**. Payment shall be structured as follows: The Department shall reimburse the Contractor the completion of the following deliverables as described below. The amount of the payment for the terms of the agreement shall not exceed twenty-five thousand dollars ($25,000). The Contractor is to submit to Douglas County Health Department invoices for reimbursement following the completion of the following deliverables as described below. Contractor shall receive payment in amount not to exceed four thousand five hundred dollars ($4,500.00) for completion of each milestone deliverable. All invoicing for deliverables must be received by May 15th 2016. A detailed report outlining the work completed and overall progress towards grant goals must be included with all invoices. Payment of said amount shall be considered full payment for any and all expenses incurred by Contractor to complete outlined deliverable milestones. The program manager and Division Chief shall both review the invoice and then sign the invoice acknowledging that the services as outlined in each invoice and report were provided during the month as stated on the invoice. Notwithstanding any other provision of this Agreement, the contractor will not be paid in any month(s) in which no milestone deliverables were completed.
   Deliverables for a maximum payment not to exceed four thousand five hundred dollars ($4,500.00) per each completed:
   A. Identification of medical clinic staff member(s) and completion of the online Lactation Educator Counselor Training Program with a passing letter grade.
   B. Identification of at least one entry level support staff(s) and completion of the Loving Support peer breastfeeding training.

C. Creation of new written breastfeeding policy and implementation of policy that outlines support within clinical services and addresses the utilization of trained staff in providing one-on-one or group breastfeeding support.
D. Creation of and implementation of written policy/environmental support that facilitates both staff and visitors in successfully breastfeeding.

SECTION III
GENERAL PROVISIONS

1. **Independent Contractors.** None of the provisions of this Agreement are intended to create any relationship between the parties other than that of independent entities contracting with each other solely for the purpose of effecting the provisions of this Agreement. Neither of the parties, nor any of their respective officers, directors, employees or agents, shall have the authority to bind the other or shall be deemed or construed to be the agent, employee or representative of the other except as many be specifically provided herein. Neither party, nor any of their employees or agents, shall have any claim under this Agreement or otherwise against the other party for Social Security benefits, workers' compensation, disability benefits, unemployment insurance, vacation, sick pay or any other employee benefits of any kind. All acts and contracts of each shall be in its own name and not in the name of the other, unless otherwise provided herein.

2. **Nondiscrimination.** Both parties shall comply with all applicable local, state and federal statutes and regulations regarding civil rights and equal opportunity employment, including Title VI of the Civil Rights Act of 1964; the Rehabilitation Act of 1973, Public Law 93-112; the Americans with Disabilities Act of 1990, Public Law 101-336; and the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. §§ 48-1101 to 48-1125 in the performance of this Agreement. Violation of said statutes and regulations will constitute a material breach of this Agreement.

3. **Captions.** Captions used in this Agreement are for convenience and are not used in the construction of this Agreement.

4. **Applicable Law and Venue.** Parties to this Agreement shall conform to all existing and applicable city ordinances, resolutions, state and local laws, federal laws, and all existing and applicable rules and regulations. The laws of the State of Nebraska shall govern this Agreement. All legal proceedings arising out of this agreement shall be brought forth in the appropriate state or federal court located within Douglas County, Nebraska.

5. **Amendments and Integration.** This Agreement contains the entire agreement of the parties. The provisions of this Agreement may not be explained, supplemented, or qualified through evidence of trade usage or prior course of dealings. No representations were made or relied upon by either party other than those that are expressly set forth herein. No agent, employee or other representative of either party is empowered to alter any of the terms hereof except as provided herein. This

Agreement supersedes and replaces any and all previous agreements between the parties.

A. This Agreement may be modified only by written amendment, duly executed by authorized officials of the parties. No alteration or variation of the terms and conditions of this Agreement shall be valid unless made in writing and signed by the parties hereto. Every amendment shall specify the date on which its provisions shall be effective.

6. **Assignment and Delegation.** This contract is exclusive to the parties and may not be assigned nor duties delegated by Contractor except on prior written consent by the Department. Any attempted assignment without such approval shall be void and shall constitute a material breach of contract.

7. **Successors and Assigns Bound by Covenants.** All covenants, stipulations, and agreements in this Agreement shall inure to the benefit of the parties hereto, and extend to and bind the legal representatives, successors, and assigns of the respective parties hereto.

8. **Waiver.** Failure or delay by any party to exercise any right of power under this Agreement will not operate as a waiver of such right or power. For a waiver of a right or power to be effective, it must be in writing signed by the waiving party. An effective waiver of a right or power shall not be construed as a future or continuing waiver of that same right or power, or the waiver of any other right or power. In addition, any act by either party, which it is not obligated to do hereunder, shall not be deemed to impose any obligation upon that party to do any similar act in the future or in any way change or alter any of the provisions of this Agreement.

9. **Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or otherwise unenforceable, that provision will be severed and the remainder of this Agreement will remain in full force and effect, provided that the fundamental terms and conditions of this Agreement remain legal and enforceable.

10. **Dispute Resolution.** Any dispute that, in the judgment of a party of this Agreement, may affect the performance of such party shall be reduced to writing and delivered to the other party. As soon as possible thereafter, the parties' authorized representatives shall schedule a face-to-face meeting to resolve the dispute in a mutually satisfactory manner. Prior to the institution of any formal legal proceeding, the parties must meet in this manner to resolve the dispute. This meeting must take place within ten (10) business days after service of the written statement of dispute. During the pendency of negotiations, the Parties shall act in good faith to perform their respective duties described herein.

11. **Right to Audit.** Contractor shall establish a reasonable accounting system, which enables ready identification of Contractor's cost of goods and use of funds. Upon

thirty (30) days written notice to Contractor, the Department may audit Contractor's records any time before three (3) years after final payment to verify the Department's payment obligation and use of the Department's funds. This right to audit shall include subcontractors in which goods or services are subcontracted by Contractor. Contractor shall ensure the Department possesses such rights with subcontractors.

12. **Indemnification**. Contractor will indemnify, defend, and hold harmless the Department from any and all liability, expense, cost, attorney's fees, claim, judgment, suit and/ or cause of action (whether or not meritorious), settlement or demand for personal injury, death, or damage to tangible property which may accrue against the Department to the extent it is caused by the negligent acts or omissions of the Contractor, its officers, employees, agents, or subcontractors while performing their duties under this Agreement, provided that the Department gives the Contractor prompt, written notice of any such claim, suit, demand, or cause of action.
    A. Department's liability is governed by and limited to the extent provided by the Nebraska Political Subdivision Tort Claims Act or other applicable provisions of law. The provisions of this section shall survive expiration or termination of this Agreement.

13. **No Third Party Rights**. This Agreement is not intended to, nor shall it provide third parties, excluding any assignment as provided herein, with any remedy, claim, liability, reimbursement, cause of action, or other right or privilege; except that this Agreement's indemnification provision shall also inure to the benefit of a party's employees, officers, agents, and servants.

14. **Licensing Requirements**. Contractor agrees to comply with any and all required licensing provisions of the Nebraska Revised Statutes and other relevant State or Federal law and Regulations.

15. **Drug Free Policy**. Both parties assure that they have established and maintain a drug-free workplace policy.

16. **Ownership and Use**. Contractor shall ensure, to the fullest extent possible, that Department shall own any and all right, title, and interest in and to, including copyrights, trade secret, patent and other intellectual property rights, with respect to any copy, photograph, promotional piece, music, lyrics, or other work or thing created by Contractor or at Contractor's direction for Department pursuant to this Agreement and utilized by Department. Upon termination of this Agreement, Contractor agrees that any promotional piece, package, plan or idea prepared by Contractor and submitted to Department (whether submitted separately or in conjunction with or as part of other material) which Department has elected not to utilize, shall remain the property of Contractor, unless Department has paid Contractor for its services in preparing such item(s). If Department possesses such item(s) at the termination of this Agreement, Department shall return such item(s) to Contractor. Upon termination of this Agreement, Contractor shall transfer, assign, and make available to Department all property and materials, including intangibles,

in Contractor's possession or subjection to Contractor's control that are property of Department.

17. **Failure of Future Appropriations**. Due to possible future reductions in State and/or Federal appropriations, the Department cannot guarantee the continued availability of funding for the Agreement, notwithstanding the consideration stated above. In the event funds to finance this Agreement become unavailable either in full or in part due to such reductions in appropriations, the Department may terminate the Agreement or reduce the consideration upon notice in writing to Contractor. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. The effective date of such Agreement termination or reduction in consideration shall be specified in the notice as the date of service of said notice or the actual effective date of the State and/or Federal funding reduction, whichever is later. Provided, that reduction shall not apply to payments made for services satisfactorily completed prior to the effective date. In the event of a reduction in consideration, Contractor may cancel this Agreement as of the effective date of the proposed reduction upon the provision of advance written notice to the Department.

18. **New Employee Work Eligibility Status**. The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. §1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

19. **Insurance**. Contractor shall also maintain comprehensive General Liability insurance with limits of not less than One Million Dollars ($1,000,000.00) for each person and Five Million Dollars ($5,000,000.00) for each occurrence.
    A. Both parties agree to provide and maintain throughout the term of this Agreement and at their own expense adequate statutory Nebraska workers' compensation insurance.
    B. At least 60 days before the effective date of any material change in or cancellations of, such insurance, written notice shall be mailed by the Contractor's insurance carrier to Douglas County. For notice to Douglas County, the insurance notice shall be sent to the Douglas County Clerk and the Chief Administrative Officer (CAO) by certified mail.
    C. Douglas County does not represent in any way that the insurance specified herein, whether in scope of coverage or limits, is adequate or sufficient to protect Contractor or its interests. The procuring of insurance as required by this Agreement shall not be construed to limit Contractor's liability hereunder or to fulfill the indemnification provisions of this Agreement.

20. **Publicity**. Neither party will use the name, trademarks, service marks or logos of the other party for any marketing or promotional purposes without the prior written consent of the other party. The provisions of this section shall survive the termination of this Agreement.

21. **Research.** Contractor shall not engage in research utilizing the information obtained through the performance of this Agreement without the express written consent of the Department. The term "research" shall mean the investigation, analysis, or review of information, other than aggregate statistical information, which is used for purposed unconnected with this Agreement.

22. **Conflict of Interest**. In the performance of this Agreement, Contractor will avoid all conflicts of interest and appearances of it. Contractor will report any conflict of interest immediately to the Department.

23. **Debarred or Suspended Contractors**. Pursuant to OMB Circular A-110, Contractor acknowledges it is not listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension."

24. **Whistleblower Protection**. Pursuant to 41 U.S.C. 4712 employees of a contractor or subcontractor not be discharged, demoted, or otherwise discriminated against as reprisal for "whistleblowing."

25. **Authorized Representatives and Notice**. In further consideration of the mutual covenants herein contained, the parties hereto expressly agree that for purposes of notice, during the term of this Agreement and for the period of any applicable statute of limitations thereafter, the following named individuals shall be the authorized representative of the parties:

For the Contractor:
Kenney McMorris .
Charles Drew Health Center
2915 Grant Street
Omaha, NE 68111
(402) 457-1200 - phone
(402) 451-8973 - fax

For the Department:
Adi Pour, Ph.D.
Douglas County Health Director
1111 S 41 Street, Suite 205
Omaha, NE 68105
(402)444-7471 - phone
(402)444-6267 - fax

Notice shall be in writing and shall be effective upon receipt. Delivery may be by hand, in which case signed receipt shall be obtained, or by United States mail, registered or certified, return receipt requested or by facsimile with a signed return facsimile acknowledging receipt.

IN WITNESS THEREOF, the parties have executed this Agreement on the latest date signed below.

Douglas County Board of Health

Board President Date

Contractor

Kenney McMorris Date
Chief Executive Officer

Douglas County Health Department

12/9/15

Adi M. Pour, Ph.D. Date
Health Director

Douglas County Board of Commissioners

Board Chairman Date

Approved as to form:

12/9/15

Deputy County Attorney Date
Douglas County Attorney's Office