VII
C-1

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: **Child and Youth Services**
(i.e. Consent/Recognition-Proclamation/Presentation/Public Hearing/Committee, etc.)
Date to be on agenda: **December 15, 2015**

Exact wording to be used for the agenda: **Approval of agreement with Empowerment Network for Step Up Jobs Program**

Action requested: **Approval**

Amount requested: $17,000 in grant funds Object Code: _____

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

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

If yes, explain: _____

If an agreement or contract, has the County Attorney reviewed and approved? Yes X No

Previous action taken on this item, if any: _____

Recommendations and rationale or action: _____

Will anyone speak on behalf of this item, if so who? _____

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

Submitted by (Name & Dept.:) **Catherine Hall, Administration** Ext. **6416**
Date submitted: **12/9/2015**
List Attachments: **Resolution, Agreement**
(Attach resolution and all pertinent documentation; i.e. contract, agreement, memorandums, etc.)

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

Completed by receiving office
Received in Administrative Office: Date 12/9/15 Time

agenda request form effective 1-26-2010

Revised 1-26-2010

BOARD OF COUNTY COMMISSIONERS
DOUGLAS COUNTY, NEBRASKA

WHEREAS, this Board desires to enter into the attached agreement with The African-American Empowerment Network ("Empowerment Network") for the *Step-Up Omaha* jobs program extension; and,

WHEREAS, the *Step-Up Omaha* jobs program aims to prevent or reduce involvement in the juvenile justice system through career exploration, job training, work experience opportunities and the support of a coach; and,

WHEREAS, participants in the *Step-Up Omaha* extension include youth referred from Douglas County's Youth Center and Juvenile Assessment Center; and,

WHEREAS, Douglas County was awarded 2014 Community-based Juvenile Services grant funds to support funding for the *Step-Up Omaha* program; and,

WHEREAS, it is in the best interests of Douglas County to enter into the attached Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THIS BOARD OF COUNTY COMMISSIONERS, DOUGLAS COUNTY, NEBRASKA that the attached agreement between Douglas County and the Empowerment Network is hereby approved and adopted and the Chair of this Board is authorized and directed to execute said Agreement on behalf of Douglas County.

DATED this 15th day of December, 2015.

AGREEMENT
WITH
AFRICAN AMERICAN EMPOWERMENT NETWORK, INC.

This Agreement is entered into by African American Empowerment Network, Inc. (hereinafter "CONTRACTOR"), with its principal place of business at 105 N 31st Ave #101, Omaha, NE 68131, and Douglas County, Nebraska (hereinafter "COUNTY"), a political subdivision of the State of Nebraska, with its principal place of business at 1819 Farnam Street, Ste. LC2, Omaha, NE 68183.

1. Purpose of this Agreement. The purpose of this Agreement is to define the expectations between CONTRACTOR and COUNTY for Step-Up Omaha Employment Program.

2. Payment for Services. COUNTY shall pay to CONTRACTOR seventeen thousand dollars ($17,000) to perform the services specified in this Agreement, unless a greater amount is agreed to by the parties by written amendment to this Agreement. CONTRACTOR will invoice COUNTY for each payment and payment will be made to CONTRACTOR as follows:

$17,000 on or before December 31, 2015.

After this Agreement is terminated, CONTRACTOR shall return to COUNTY any unexpended funds. COUNTY will be utilizing Grant Funds for this agreement.

3. Description of Services. CONTRACTOR will provide extension to the "Step-Up Omaha" summer employment program. Eligible youth will be referred to CONTRACTOR by COUNTY. The program focuses on prevention and intervention to prevent or reduce involvement in the juvenile justice system. Services include costs for ten participants and one coach. Participants will receive soft skills training, employability training and on-the-job training with targeted work-sites. The coach will utilize the "Bring Your A Game" curriculum as recommended by Heartland Workforce Solutions. The coach will conduct career interest, reading and math assessments. The coach will also conduct an employment readiness assessment and work with the participant to develop an individual development plan. The focus will be on worksites that offer the potential of longer-term employment or allow participants to gain transferable skills.

4. Reporting.

CONTRACTOR shall comply with Community-based Juvenile Services Aid Program's reporting, evaluation and data sharing requirements. The provisions of this section shall survive termination of this Agreement.

5. Independent Contractor. It is agreed that nothing contained herein is intended or should be construed in any manner as creating or establishing a partnership or joint venture between the Parties. Any and all acts that COUNTY or their personnel, employees, agents, contractors, or servants, perform pursuant to the terms of this Agreement shall be undertaken as independent contractors and not as employees of the other. The Parties shall, except as provided herein, act in their individual capacities and not as agents, employees, partners, joint ventures or associates of

the other. An employee or agent of one shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever.

None of the Parties nor its personnel, employees, agents, contractors, or servants shall be entitled to any benefits of the other. The Parties shall not provide any insurance coverage to the other or their employees including, but not limited to, workers' compensation insurance. Each Party shall pay all wages, salaries and other amounts due its employees and shall be responsible for all reports, obligations, and payments pertaining to social security taxation, income tax withholding, workers' compensation, unemployment compensation, group insurance coverage, collective bargaining agreements or any other such similar matters.

Any and all claims that may or might arise under the Workers' Compensation Act of the State of Nebraska on behalf of said personnel or other persons while so engaged, and any and all claims whatsoever on behalf of any such person or personnel arising out of employment or alleged employment, including without limitation claims of discrimination against a Party its officers, employees, agents, contractors or servants shall in no way be the responsibility of the other Party.

Neither Party shall have any authority to bind the other by or with any contract or agreement, nor to impose any liability upon the other. All acts and contracts of each shall be in its own name and not in the name of the other, unless otherwise provided herein.

6. Term & Termination of the Agreement. The Agreement will begin upon execution of this Agreement by both parties, and shall terminate January 31, 2016, or upon expenditure of the allotted Grant Funds, whichever occurs earlier.

Either party may terminate this Agreement upon thirty (30) days written notice to the other party. Any CONTRACTOR breach of these provisions or failure to satisfactorily perform, as determined by COUNTY, shall be cause for automatic termination.

7. Insurance. CONTRACTOR agrees to provide, at their own expense, general liability insurance, professional liability insurance and automobile liability insurance to indemnify them in the event that they become liable for the payment of a judgment based on the acts or omissions of its agents and employees in performing this Agreement. CONTRACTOR shall take out and maintain during the life of the contract the applicable Nebraska statutory Workers' Compensation and Employer's Liability Insurance for all of CONTRACTOR'S employees.

CONTRACTOR shall also maintain comprehensive General Liability insurance with limits of not less than One Million Dollars ($1,000,000.00) per occurrence and Two Million Dollars ($2,000,000.00) aggregate.

Contractor shall maintain throughout the term of this Agreement Commercial Auto Liability with a combined Single Limit of not less than One Million Dollars ($1,000,000.00) and shall provide proof thereof.

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. CONTRACTOR is solely responsible to determine its need for and to procure additional coverage that may be needed in connection with this Agreement. 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.

At least 60 days before the effective date of any material change in or cancellations of, such insurance, written notice shall be mailed by CONTRACTOR's insurance carrier to Douglas County Purchasing. Douglas County shall be named as an additional insured on CONTRACTOR's Certificates of Insurance.

CONTRACTOR shall provide a certificate of insurance to COUNTY. CONTRACTOR shall provide the certificate(s) before work or services are undertaken pursuant to this Agreement.

All insurance documents and insurance notifications shall be sent to:

Douglas County Purchasing
902 Civic Center
Omaha NE 68183

8. Release and Indemnity. CONTRACTOR agrees to indemnify and hold harmless COUNTY, its directors, officers, employees and agents from and against any and all claims, actions or liabilities of any nature, which may be asserted against them by third parties in connection with the performance of CONTRACTOR, its directors, officers, employees or agents under this agreement.

COUNTY agrees to indemnify and hold harmless CONTRACTOR, its directors, officers, employees and agents from and against any and all claims, actions or liabilities of any nature which may be asserted against them by third parties in connection with the performance of COUNTY, its directors, officers, employees or agents under this agreement.

These Indemnification provisions are not intended to waive a Party's sovereign immunity. Each Party'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.

9. Confidentiality. CONTRACTOR acknowledges that in order to perform services ("Services") under this Agreement it may have access to personal health information (hereinafter "INFORMATION"). INFORMATION that may be disclosed to or used by CONTRACTOR includes, but is not limited to, names and demographics of the juveniles, treatment, programs, and patient medical records. Such INFORMATION is confidential. The permitted and required uses and disclosures of INFORMATION are specifically limited to that necessary for

CONTRACTOR to provide the Services under this Agreement. In addition, CONTRACTOR agrees to:

a. Not disclose or provide INFORMATION to anyone other than its employees, COUNTY or other approved party. No other information is to be disclosed to any party.
b. To use and disclose INFORMATION only as permitted or required by this Agreement and as allowed by the applicable laws;
c. Use reasonable safeguards to prevent use or disclosure of INFORMATION not otherwise provided for by this Agreement or allowed by law;
d. That it will not at any time or in any manner, either directly or indirectly, use any INFORMATION for its own benefit, or otherwise divulge, disclose or communicate in any manner any INFORMATION to any third party except as allowable by law and this Agreement, and with written consent of COUNTY;
e. At termination of this Agreement, return to COUNTY or destroy all INFORMATION received from or created or received by CONTRACTOR on behalf of COUNTY, which it or its employees, subcontractors or agents still maintain in any form, and retain no copies of such INFORMATION. If CONTRACTOR is unable to return or destroy such INFORMATION, the terms of this section shall apply to such INFORMATION for as long as it or its employees, subcontractors or agents has possession or access to INFORMATION;
f. Comply with all applicable provisions of the Health Insurance Portability and Accountability Act ("HIPAA"). Notwithstanding any other provision of this Agreement, and in addition to any other remedies that COUNTY may have, COUNTY may immediately terminate this Agreement without penalty or recourse to it if it determines, in its sole discretion, that CONTRACTOR, its employees, subcontractors or agents have violated a material term of this section; and
g. Parties' obligations and rights under this section surviving termination of this Agreement.

10. Amendment/Merger. This instrument, the grant application, and grant award, including sub-grant adjustment(s) contain the entire Agreement of the parties and are intended as a complete and exclusive statement of the promises or conditions, and shall be binding on all successors and assigns of the respective parties. 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.

11. Nondiscrimination Clause. In accordance with the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. §48-1122, CONTRACTOR agrees that it shall not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to hire, tenure, terms, conditions, or privileges of employment because of the race, color, religion, sex, disability or national origin of the employee or applicant. None of the Parties shall, in the performance of this Agreement, discriminate or permit discrimination in violation of federal or state laws or local ordinances.

12. 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. Nebraska law will govern the terms and the performance under this Agreement. Venue for any non-federal legal proceeding under this Agreement shall be in the State of Nebraska, District Court of Douglas County and for any federal legal proceeding in the United States District Court for the State of Nebraska located in Omaha Nebraska.

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

14. Drug Free Policy. CONTRACTOR assures COUNTY that CONTRACTOR has established and maintains a drug free workplace policy.

15. Funding Out Clause or Loss of Appropriation. Due to possible future reductions in COUNTY, State and/or Federal appropriations, COUNTY cannot guarantee the continued availability of funding for this Agreement, notwithstanding the consideration stated in this Agreement. In the event funds to finance this Agreement become unavailable either in full or in part due to such reduction in appropriations, COUNTY may terminate the Agreement or reduce the consideration upon notice in writing to CONTRACTOR. COUNTY shall be the final authority as to the availability of funds. The effective date of such Agreement termination or reduction in consideration shall be specified in the notice as the date of service of the notice or the actual effective date of the COUNTY, 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 of consideration, CONTRACTOR may cancel this Agreement as of the effective date of the proposed reduction upon the provision of advance written notice to COUNTY.

16. Severability/Waiver. If any part of this Agreement shall be adjudged contrary to law, that part shall be severed and the remaining provisions shall remain in full force and effect. The failure of either Party to insist on strict performance of any covenants or conditions, or to exercise any option herein conferred on any one or more instances, shall not be construed as a waiver or relinquishment of any such covenant, condition, right, or option, but the same shall remain in full force and effect.

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 either 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 a Party 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.

17. Documents Incorporated by Reference. All references in this Agreement to laws, rules, regulations, guidelines and directives, which set forth standards and procedures to be followed

by CONTRACTOR in discharging its obligations under this Agreement, as well as any amendments, during the term of this Agreement shall be deemed incorporated by reference and made a part of this Agreement, with the same force and effect as if fully set forth herein.

18. New Employee Work Eligibility Status (Neb. Rev. Stat. § 4-114). 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. Public Benefits. With regard to Neb. Rev. Stat. §§4-108 - 113, neither Party is an individual or sole proprietorship. Therefore, neither Party is subject to the public benefits attestation and related requirements of Neb. Rev. Stat. §§4-108 – 113.

20. 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, COUNTY may audit CONTRACTOR'S records any time before three (3) years after final payment to verify Douglas COUNTY's payment obligation and use of COUNTY's funds. This right to audit shall include subcontractors in which goods or services are subcontracted by CONTRACTOR. CONTRACTOR shall ensure COUNTY has these rights with subcontractors

21. Third Party Rights. This Agreement does not create any third-party rights to employees, juveniles served pursuant to this Agreement, or others who are not a party to this Agreement.

22. Dispute Resolution. Any dispute which, in the judgment of a Party to 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.

23. Notice. All notices required to be sent hereunder shall be deemed sufficient if in writing and if personally delivered or if mailed by certified mail, postage prepaid, to:

In the case of CONTRACTOR:

Willie Barney, President
101 N. 31st Ave., #101

Omaha, NE 68131
(402) 502-5153.

In the case of COUNTY:

Patrick Bloomingdale, CAO
1819 Farnam Street, Suite LC2
Omaha, NE 68183
(402) 444-6237.

The place for such notices may be changed from time to time by written notice to either party.

24. Licensing. CONTRACTOR agrees to comply with any and all required licensing provisions of the Nebraska Revised Statutes and all other applicable State, Federal or local laws or regulations in the performance of this Agreement.

25. Compliance with Laws. In performance of this Agreement, both parties will comply with all applicable governmental laws, regulations, and ordinances.

26. Grant Compliance. Upon request by COUNTY, CONTRACTOR will assist COUNTY with any reports or provide any information which COUNTY needs to comply with the Grant Funds associated with this Agreement.

27. Force Majeure. Neither party will be liable for any costs or damages resulting from its inability to perform any of its obligations under this Contract due to a natural disaster, or other similar event outside the control and not the fault of the affected party ("Force Majeure Event"). A Force Majeure Event will not constitute a breach of this Contract. The party so affected will immediately give notice to the other party of the Force Majeure Event. Upon such notice, all obligations of the affected party under this Contract which are reasonably related to the Force Majeure Event will be suspended, and the affected party will do everything reasonably necessary to resume performance as soon as possible.

28. Joint Work Product. This Agreement is the joint work product of the Parties; accordingly, in the event of any ambiguity, no presumption shall be imposed against or in favor of either Party by reason of document preparation.

29. 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. No referral(s), client(s), youth(s), and/or families serviced by CONTRACTOR during the performance of this Agreement shall be utilized by CONTRACTOR for any publicity, promotional, testimonial, or other self-benefitting manner without the explicit written consent of COUNTY. CONTRACTOR and its employees may not disclose any individually identifying information regarding any referral(s), client(s), youth(s), and/or families serviced by CONTRACTOR during the performance of this Agreement on any publically available medium

including newspaper, radio, television, internet, social media, and similar venues. The provisions of this section shall survive the termination of this Agreement.

ATTEST:

_____ _____

Chairperson, Douglas County Board of Commissioners Date

_____ _____

President, African American Empowerment Network, Inc. Date

Approved as to form: _____

Deputy Douglas County Attorney