

**PRI Testifies:
Juvenile Justice Planning Requires Expanded Commitment to
Accountability, Transparency, Community Engagement, Sustainability**

On Tuesday, June 3, 2014, the Progressive Research Institute (PRI)¹ testified before the Douglas County Board of Commissioners.² Our testimony was in response to the County's plans to financially support a collective impact³ approach to create a strategic plan and implementation process to overhaul the County's juvenile justice system. Our testimony outlined our grave concerns about the project, related to accountability, transparency, community engagement, and sustainability. Only with intense resolve and determination to do things completely differently do we believe that the core values of all of the entities that make up Douglas County's juvenile justice system can evolve from a focus on the punitive, to ideals that embrace a just, open, engaged, equitable and accountable system grounded on evidence-based, data-driven approaches.

The Board of Commissioners was presented with the proposal for the strategic planning project at its meeting on May 6, 2014,⁴ by a representative of the New York State-based consulting organization, FSG (<http://www.fsg.org/>). At its June 3, 2014 meeting, the Board of Commissioners voted unanimously in favor of the 10½-month contract with FSG, totaling some \$700,000.⁵ According to the contract, the project is a public-private venture. Although the County will be the contractor, County tax payer dollars will pay for only one-fifth of the total cost of the project; the remaining four-fifths will be supported by equal contributions from the following three foundations and one individual benefactor: The Sherwood Foundation; The Peter Kiewit Foundation; The Lozier Foundation; John A. Scott.

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Board of Commissioners:

PRI applauds the County's interest in juvenile justice system reform. Furthermore, we understand that an organization from outside Douglas County might bring needed neutrality and independence to this process. Our concerns about the project are related to accountability, transparency, community involvement, and sustainability following FSG's departure after the termination of its 10½-month contract.

¹ PRI is an Omaha-based, nonprofit think tank that expands democracy by using research on issues of local concern to foster community awareness, engagement and partnerships for action.

² PRI's June 3, 2014 testimony can be viewed at approximately minute 166 of the videotaped session available at: <http://www.douglascounty-ne.gov/board-meetings/videos>.

³ FSG defines collective impact as a process that "occurs when organizations from different sectors agree to solve a specific social problem using a common agenda, aligning their efforts, and using common measures of success": <http://www.fsg.org/OurApproach/CollectiveImpact.aspx>.

⁴ A videotape of the May 6, 2014 meeting of the Douglas County Board of Commissioners can be viewed at: <http://www.douglascounty-ne.gov/board-meetings/videos>.

⁵ The contract can be viewed in its entirety in Appendix A.

The Douglas County juvenile justice system is unhealthy—it delivers bad outcomes, has an over-representation of youth of color,⁶ is plagued by gridlock, and despite deep infusions of funding and other resources over the past several years aimed at data-driven, evidence-based reform,⁷ has changed little. Individuals and organizations from the Black, Hispanic, and Native American communities whose children are over-represented among the County’s population of incarcerated juveniles are not embraced and welcomed into existing planning and reform efforts.

To date, there has been no County funding and/or other resources to these communities of color, aimed specifically at expanding their awareness of—or capacity to engage in—assessment, strategic planning, implementation and evaluation of juvenile justice reform efforts. Given all of the above, we greatly fear that without intense resolve and determination to do things completely differently, on the parts of everyone concerned with the juvenile justice system, the FSG project may be an unsustainable waste of some \$700,000.

But, despite these profound worries, PRI also clings to the hope that Douglas County’s juvenile justice system will change. If adopted, we hope that the FSG planning process will lead to successful implementation of strategies that will repair our ailing system and lead to healthy and positive outcomes. Therefore, the purpose of this testimony is to more specifically detail our concerns with the current system, and provide a brief explanation of what we believe should be required if there is to be any hope of sustaining the outcomes of the FSG project, should the County elect to support it.

Snapshot of Systemic Problems in Douglas County’s Juvenile Justice System:

- Outcomes & Racial Injustice: The system delivers unacceptably poor outcomes to the children with which it comes into contact and that is particularly true for children of color.⁸ In many cases, desired outcomes have never been clearly defined, and therefore are not measured.
- Accountability: A system without effective mechanisms of accountability is not required to act responsibly. There are two huge problems related to accountability facing Douglas County’s juvenile justice system:
 - (1) The system includes a multitude of entities controlling outcomes, and therefore no one is in charge. No answerable, single entity is charged with: (a) Setting meaningful goals by and for system stakeholders, including the public, (b)

⁶ Nearly 51% of youth held in Douglas County’s juvenile detention center are Black (see Voices for Children in Nebraska’s Kids Count in Nebraska Report, p. 52: <http://voicesforchildren.com/wp-content/uploads/2014/01/Kids-Count-2013-FINAL2.pdf>), yet only 17% of youth under age 17 in Douglas County are Black (see Douglas County Comprehensive Juvenile Services Plan 2012-2015, p. 12: http://www.ncc.ne.gov/pdf/strategic_plans/county_juvenile_services/Douglas_County_Comp_Plan.pdf).

⁷ In 2010, the Annie E. Casey Foundation began funding the Juvenile Justice Detention Alternatives Initiative (JDAI) in Douglas County with the aim of improving outcomes for children caught up in the system. Yet, today, over 90% of the children in detention in Douglas County are there for low-risk misdemeanor and/or status offenses.

Establishing regularly scheduled performance reviews, (c) Enforcing the consistent use of evidence-based, outcomes-oriented procedures and practices, and (d) Making corrections to overcome failures.

(2) Nebraska legislation uses vague and ambiguous language to define the reasons that a child may be detained. When legislation is poorly written and imprecise, there is vast room for various interpretations, which in turn creates opportunities for over-incarceration.

- Data & Evaluation: The paucity of available data is a significant barrier to change. The system can't determine where it wants to go without a firm understanding of where it is now. Collecting data to assess the existing condition of the system, as well as the condition of the children in its care, is essential. Yet, data is neither systematically collected nor analyzed. System-wide attempts to unify and analyze data are forestalled, and, on those sporadic occasions when data is collected and analyzed, the analysis is ignored.⁹
- Transparency: Despite assertions to the contrary, data is not openly shared, even between entities traditionally associated with the system (e.g., juvenile detention center, county attorney, probation, courts, police, etc.) and requests for data to these entities, by the public, are routinely thwarted.
- Rhetoric v. Reality: Terms such as “collective impact,” “community engagement” and “data sharing” are frequently used during the development of juvenile justice policy, but seem to be abandoned during the actual implementation of policy.

Suggested strategies to transform Douglas County's juvenile justice system:

- An Informed, Capable Public: Only an informed, capable public can successfully take part in transforming its own destiny. It is the responsibility of the system to be open and transparent and to keep the public up to date about how it functions—especially the people of color and low-income people whose children are disproportionately incarcerated. It is also the responsibility of the system to help expand the capacity of the public—which is part of the system—to successfully engage in planning and problem solving to transform the juvenile justice system and their relationship to that system.
- Racial/Economic Justice & Balance of Power: Increasing racial and economic justice will only happen through authentic community engagement, inclusion and power sharing with grassroots activists and organizations¹⁰ that are representative of, and/or trusted by, the Black, Hispanic, Native American, and low-income youth and

⁹ One glaring example of a costly report that remains unutilized is the 2009 “Evaluation of the Guardian Ad Litem System in Nebraska” by Pitchal, Freundlich and Kendrick, of the National Association of Counsel for Children: http://c.ymcdn.com/sites/www.naccchildlaw.org/resource/resmgr/nebraska/final_nebraska_gal_report_12.pdf

¹⁰ See Appendix B for a list of suggested community engagement participants.



their families who are disproportionately represented in the juvenile justice system. A transformed juvenile justice system requires that equal weight in decision-making about the system (i.e., assessment, planning, implementation, monitoring and evaluation) be given to the public as to those entities traditionally associated with the system (e.g, juvenile detention center, county attorney, probation, courts, police, etc.). Finally, authentic community engagement and shared power requires the positive, inclusive participation of vulnerable, disadvantaged and marginalized individuals and groups.

- Accountability: Establish an effective mechanism for system oversight. Develop, enhance and monitor clear goals and clear standards, develop effective processes for data collection and maintenance, and enforce the requirement that these goals, standards and processes are actually used. Work to write and pass legislation that is clear, precise and explicit.
- Commitment to Sustaining Outcomes: A sustainable system has the ability to achieve long term desired outcomes through a continual and ongoing process of mutual adaptation to changing needs and a shared commitment to evolving goals. The process must include continuous monitoring and evaluation of both process and outcomes. While measuring outcomes for the children and their families caught up in juvenile justice is critical, it is also crucial to measure institutional, organizational and structural change, development and transformation.

In conclusion, we believe that the core values of all of the entities that make up Douglas County's juvenile justice system can evolve from a focus on the punitive, to ideals that embrace a just, open, engaged, equitable and accountable system grounded on evidence-based, data-driven approaches. For the sake of the wellbeing of the children and families of Douglas County, this transformation must take place sooner rather than later.



APPENDIX A

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 4:00 P.M WEDNESDAY

Agenda item: Child and Youth

Date to be on agenda: June 3, 2014

Exact wording to be used for the agenda: Approval of contract with FSG Consulting to conduct a comprehensive study of the Douglas County juvenile justice system

Action requested: None

Amount requested: \$674,000 plus out of pocket costs not to exceed \$62,000 Object Code: _____

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

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

If yes, explain: 4/5 of the project expense will be funded by four local foundations and the County will be able to fund its share of this project through the use of other grant funds.

If an agreement or contract, has the County Attorney reviewed and approved? Yes Under Review 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.): Patrick Bloomingdale Ext. 6237

Date submitted: May 27, 2014

List Attachments: Resolution and Agreement

(Attach resolution and all pertinent documentation; i.e. contract, agreement, memorandums, etc.)

Certified Copies of the resolution should be sent to (please include name and addresses of all individuals or departments that need a certified copy):

Completed by receiving office
Received in Administrative Office: Date 5/27/14 Time _____

BOARD OF COUNTY COMMISSIONERS
DOUGLAS COUNTY, NEBRASKA

WHEREAS, FSG, Inc. is a nonprofit international consulting firm that serves its charitable purpose through the provision of consulting services that enable its clients to help alleviate social and environmental problems; and,

WHEREAS, the Sherwood Foundation approached Douglas County about using FSG to assist the County in conducting a comprehensive study of the County's juvenile justice system, with the intent of improving the outcomes for those youth who have been exposed to, or are at risk of being exposed to, that system; and,

WHEREAS, after learning of FSG's success in providing consulting services to the State of New York on its juvenile justice system, this Board desires to contract with FSG to provide similar consulting services to Douglas County; and,

WHEREAS, several local charitable foundations have generously committed to contributing to the cost of the consulting project and Douglas County will be able to use other grant funds to cover the remaining portion of the cost.

NOW, THEREFORE, BE IT RESOLVED BY THIS BOARD OF COUNTY COMMISSIONERS, DOUGLAS COUNTY, NEBRASKA that the attached contract with FSG, Inc. for a comprehensive study of the Douglas County juvenile justice system is hereby approved and the Chair of this Board is authorized and directed to execute said contract on behalf of Douglas County.

DATED this 3rd day of June, 2014.



**Consulting Services
Agreement
Between
FSG, INC.
And
Douglas County Nebraska**

This Agreement is entered into between FSG, Inc., a Massachusetts nonprofit 501(c)(3) tax-exempt corporation with corporate headquarter located at 500 Boylston Street, Suite 600, Boston, MA 02116, ("FSG"), and Douglas County, Nebraska, a Nebraska Political Subdivision located at Omaha-Douglas Civic Center, 1819 Farnam, LC2, Omaha, NE 68183 ("Douglas County").

Whereas, FSG serves its charitable purpose through the provision of consulting services that enable its clients to help alleviate social and environmental problems, and Douglas County desires to retain and engage FSG to provide the services described in this Agreement and its attachments;

Now, therefore, in consideration of the mutual promises and covenants herein, the parties hereby agree as follows:

1. Scope of Services.

FSG shall provide to Douglas County the services described in the proposal letter from FSG to Douglas County dated 02/12/2014, attached and incorporated hereto as Exhibit A ("Proposal"). Neither the scope nor the substance of the services to be provided under this Agreement may be modified, altered, revised, increased, or limited except upon the prior, express and mutual written approval of both parties pursuant to this Agreement. If either Party proposes any change to the scope of services or delivery, FSG shall prepare a written proposal to include the cost of said change and shall not commence any work pursuant to this proposal without the express written approval of Douglas County. Should such an equitable adjustment be necessary, both Parties agree to negotiate the equitable adjustment in good faith. All equitable adjustments which necessitate expenditures by Douglas County in excess of the total maximum fees and expenses ("Contract Price") of the Agreement require prior execution of a Contract Amendment. Any equitable adjustments which do not necessitate expenditures by Douglas County in excess of the Contract Price of the Agreement may be done by in writing by the authorized representatives of each Party.

2. Compensation.

- a. As consideration for services provided by FSG, Douglas County agrees to pay total professional fees of \$674,000.00 as described in Exhibit A, under the following terms:

The parties understand that Douglas County cannot compensate FSG until services for the designated period have been rendered. Therefore, Douglas County shall pay the compensation to FSG in four phases at the rate of \$168,500 per phase, plus the out of pocket expenses incurred by FSG during each particular phase, pursuant subsection b of this section. The project phases are outlined in Exhibit A.

Douglas County is initially obligated to participate in only the first phase. At the end of the first phase, the parties shall meet to review the results of that phase and determine whether it was successful. That meeting shall be considered part of the first phase. The parties agree that the grant



funders referred to elsewhere in this subsection shall be allowed to participate in this meeting and any subsequent meetings between the parties to determine the success or failure of the other phases of the project.

If the parties agree that the first phase was successful, the County shall pay to FSG the \$168,500 for that phase and the out of pocket expenses incurred by FSG for that phase pursuant to subsection b of this section, and shall be obligated to participate in the second phase of the project. This process shall be repeated for the subsequent phases of the project.

If the parties agree that the first phase was not successful, or if the parties are unable to agree on whether the first phase was successful, this contract and the project will immediately be terminated and the County will only be obligated to pay to FSG the \$168,500 for that phase, plus any out of pocket expenses that FSG incurred pursuant to subsection b of this section. This process shall be repeated for the subsequent phases of the project.

The parties understand that Douglas County shall receive significant grant funding that it will use to fulfill the majority of its financial obligations under this contract. Those grant funds will be provided to Douglas County for each phase of the project, and will be provided by the grant funders prior to the beginning of each phase. A letter of intent from the grant funders is attached to this agreement as Exhibit B. The grant funders are not a party to this agreement.

The parties agree that, notwithstanding the starting date of the consulting services, as stated in Section 3, Term, of this agreement, FSG shall not commence any work under this agreement, and shall not incur any expenses pursuant to this agreement, until Douglas County has notified FSG that Douglas County has received the phase one grant funding outlined in Exhibit B. If Douglas County does not receive the phase one grant funding outlined in Exhibit B, Douglas County reserves the right to terminate this contract prior to commencement of phase one.

- b. In addition to professional fees, Douglas County agrees to reimburse FSG for all out of pocket expenses, including travel, meals, accommodations, conference calls, printing by outside vendors, and the like. Domestic air travel will be in economy class. There shall be no international travel conducted. Client acknowledges that FSG may utilize staff from different offices, and travel expenses may include internal travel between offices for team meetings. Expenses shall not exceed \$62,000 without prior written consent by Douglas County. FSG shall document expenses by providing reports with expense detail including category, amount and payee along with copies of receipts.
- c. FSG shall invoice Douglas County for each payment, and payment shall be made to FSG by Douglas County within a reasonable period of time from Douglas County's receipt of each invoice. Invoices shall be sent by [mail/email/fax] to:

Patrick Bloomingdale, CAO
Billing Address: Douglas County, Nebraska
Omaha-Douglas Civic Center, 1819 Farnam Street, Suite LC2
Omaha, Nebraska 68183
Telephone: 402-444-6237
Fax: 402-444-6559
Email: Patrick.Bloomingdale@douglascounty-ne.gov

- d. Payments may be made by check or wire transfer.





- e. If payment is not received by FSG within 60 days from the date of the invoice, FSG shall be under no obligation to continue to provide the services described in the Proposal to Douglas County. FSG shall also have the right to terminate this Agreement for non-payment, as described below in Paragraph 4.
3. **Term.** This Agreement shall become effective on the date executed and the consulting services shall commence no later than July 1, 2014, and shall conclude on June 30, 2015, or completion of project, whichever is sooner. Any changes to the term of this Agreement shall be agreed upon in writing by the authorized representatives of both parties.
4. **Termination.**
- a. **Termination Without Cause.** Either party may terminate this Agreement without cause prior to its scheduled termination date upon providing thirty days prior written notice to the other party. In the event of such termination, Douglas County shall provide payment to FSG for services performed and expenses already incurred or committed through the effective date of termination.
 - b. **Termination With Cause.** Either party may terminate this Agreement upon providing written notice to the other party if the other party is in breach of any material provision, term, representation or warranty under this Agreement. However, the party seeking termination shall first provide the breaching party with thirty days in which to remedy any such breach. Should the breaching party remedy such breach before the expiration of the thirty-day period, termination shall not take effect. The breaching party shall remain liable to the non-breaching party for any damages sustained as a result of any such breach.
 - c. **Termination For Non-Payment.** FSG shall have the right to immediately terminate this Agreement for failure of Douglas County to provide payment in the timely manner stipulated under Paragraph 2 (c) above. In such event, FSG shall provide written notice to Douglas County and Douglas County shall have 5 days to cure the default before termination.
5. **Materials and Intellectual Property.**
- a. Under this Agreement, the term "Works and Materials" shall mean all works, materials, information, and items conceived, created, developed, or produced by FSG under this Agreement, and shall include copyrights, trademarks, patents, protocols, processes, data, results, work product, published materials, and all other intellectual property whether expressed in written, visual, electronic, or other form or medium. FSG shall own exclusive right, title, and interest in and to any and all Works and Materials. The Works and Materials shall not be deemed to be "works made for hire" and shall be the exclusive property of FSG.
 - b. Douglas County may use and adapt the Works and Materials solely for its own purposes but may not sell or license said Works and Materials, nor may Douglas County transfer or distribute said Works and Materials for any commercial purpose.
 - c. Douglas County agrees that all of FSG's Works and Materials are accepted "as is" without warranty of any kind. Without limitation, FSG expressly disclaims all warranties, including but not limited to warranties as to merchantability or fitness for any particular purpose of any and all Works and Materials under this Agreement.



6. Confidentiality.

- a. Douglas County agrees that FSG may publicly disclose that Douglas County is a current or former client of FSG's.
- b. In order to provide the consulting services, each party (the "Disclosing Party") may provide to the other (the "Recipient") certain "Confidential Information." Confidential Information refers to the confidential and proprietary information of the Disclosing Party including, but not limited to, information relating to such matters as research and development, analysis, processes, techniques, applications of particular technologies, materials or designs, vendor names, customer lists, schematics, designs, drawings, management systems, sales and marketing plans, financial information, information containing trade secrets and know how, and data which may be disclosed or made available from any source or in any form, including paper record, oral communication, audio recording, electronic media, electronic display or electronic transmission, relating to either party's business. All information deemed by the Disclosing Party to be Confidential Information must be clearly labeled as such at the time of disclosure.
- c. To the extent allowable by law, recipient will maintain all Confidential Information disclosed hereunder by the Disclosing Party in confidence and shall not disclose such Confidential Information to any third party other than those of its employees or consultants with a need to know such Confidential Information, provided that each such employee or consultant must be bound by the obligations of Recipient hereunder. Recipient will not use the Confidential Information except in the conduct of the consulting engagement. Recipient will safeguard the Confidential Information with the same degree of care which it uses to protect its own confidential information and in no event less than a reasonable standard of care. Recipient will undertake and perform the necessary measures to ensure the security, confidentiality, and integrity of all electronic Confidential Information on media or transmitted to Recipient or stored on media or Recipient's server(s), including without limitation: (i) firewall protection; (ii) maintenance of independent archival and backup copies of electronic Confidential Information; and (iii) protection from any network attack and other malicious harmful or disabling data, work, code, or program.
- d. This Agreement will not apply to any Confidential Information which (i) is already lawfully in Recipient's possession (unless received pursuant to a nondisclosure agreement), (ii) becomes generally available to the public through no fault or breach of Recipient or breach of any other obligation of confidentiality owed to the Disclosing Party, (iii) is disclosed to Recipient by a third party who may transfer or disclose such Confidential Information without restriction, (iv) is required to be disclosed by Recipient as a matter of law; provided that Recipient will use all reasonable efforts to provide the Disclosing Party with prior notice of such disclosure and an opportunity to appear and object to such disclosure, (v) is disclosed by Recipient with the Disclosing Party's approval or (vi) is independently developed by Recipient without any use of Confidential Information.
- e. Recipient acknowledges that the Disclosing Party will suffer irreparable harm on any unauthorized disclosure of Confidential Information by Recipient. Accordingly, on any breach hereof by Recipient, the Disclosing Party will be entitled to equitable relief, including injunctive relief, in addition to any other remedies it may have at law or in equity.

7. Exclusivity.

- a. Nothing in this Agreement shall prevent either party from doing business with any other company, regardless of whether such company's products or services are competitive, so long as the Recipient does not use the Confidential Information in the course of such other business.



8. Hiring.

- a. During the term of this Agreement and for a period of one year after execution or termination of this Agreement, whichever is later, neither party will directly or indirectly, recruit, hire or employ former, current or future employees, subcontractors, vendors or consultants of the other party or otherwise seek to induce such employees, subcontractors, vendors or consultants to terminate employment or violate any agreement with the other party. This clause pertains to just those individuals that have been introduced to the other party through the consulting services.

9. Relationship Between Parties.

Douglas County and FSG shall at all times be deemed to be independent entities. Nothing contained in this Contract shall be deemed to create any association, partnership, joint venture, or relationship of principal and agent or employer and employee between Douglas County and FSG. Any and all acts that either Party 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.

10. Representations, Disclaimers, and Indemnification.

- a. The parties each represent and warrant that they have the legal right and authority to enter into this Agreement and that their performance hereunder will not conflict with or violate any commitment, agreement, or understanding they have to or with any other person or entity.
- b. Each Party will indemnify, defend and hold harmless the other Party 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 other Party to the extent it is caused by the negligent acts or omissions of the Indemnifying Party, its officers, employees, agents, or subcontractors while performing their duties under this Agreement, provided that the other Party gives the Indemnifying Party prompt, written notice of any such claim, suit, demand or cause of action. The other Party shall cooperate in the defense or settlement negotiation of such claim, suit, demand or cause of action. The provisions of this section shall survive expiration or termination of this Agreement. These Indemnification provisions are not intended to waive a Party's sovereign immunity. A 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.



11. Assignment.

Neither party may assign its obligations or rights under this Agreement without the express prior written consent of the other party. An assignment without such prior written consent shall be a material breach of this Agreement.

12. Amendment.

No amendment, modification, extension, or rescission of any term or provision of this Agreement shall be effective unless agreed upon in writing mutually by the authorized representatives of both parties. Every amendment shall specify the date on which its provisions shall be effective.

13. Governing Law.

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.

14. Authorized Representatives and Notice.

Except for any notice required under applicable law to be given in another manner, any notice or communication required to be given or otherwise given pursuant to this Agreement shall be in writing and shall be effective upon receipt. Delivery with a receipt acknowledgment may be made by email, hand certified or registered mail, or sent by recognized overnight courier service. 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 representatives of the Parties:

For FSG:

Valerie Bockstette
FSG, Inc.
1901 L Street, NW, Suite 850
Washington, DC 20036
617-502-6130
valerie.bockstette@fsg.org

For Douglas County:

Patrick Bloomingdale, CAO
Omaha-Douglas Civic Center
1819 Farnam, LC2
Omaha, NE 68183
402-444-7025
patrick.bloomingdale@douglascounty.ne.gov

With a copy to:

Mr. Todd Ellis, CFO
FSG, Inc.
500 Boylston Street, Suite 600
Boston, MA 02115
617-502-6124
Todd.Ellis@FSG.org



15. **Severability.** If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, that term will be severed and then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

16. **Waiver.**

The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement. 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 either Party which is it 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. **Entire Agreement.**

This Agreement and all attachments hereto contain the entire agreement of the parties with respect to the matters covered herein and cannot be modified, except in writing signed by both parties. No representations were made or relied upon by either Party other than those that are expressly set forth herein.

16. **Nondiscrimination.**

Both Parties agree that in accordance with the Nebraska Fair Employment Practice Act, Neb.Rev.Stat. §48-1122, they will 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 age, 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.

18. **Unavailability of Funding.**

Due to possible future reductions in County, State and/or Federal appropriations, Douglas 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, Douglas County may terminate the Agreement or reduce the consideration upon notice in writing to FSG. Douglas 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, FSG may cancel this Agreement as of the effective date of the proposed reduction upon the provision of advance written notice to Douglas County.

19. **No Third Party Rights.**

This Agreement is executed for the benefit of the named parties only. 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.



20. New Employee Work Eligibility Status (Neb. Rev. Stat. § 4-114).

FSG 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.

21. 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 Two Million Dollars (\$2,000,000.00) for each occurrence and shall provide proof thereof. 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 FSG's insurance carrier to Douglas County Purchasing. FSG shall provide a certificate of insurance to Douglas County Purchasing. FSG 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 Agent
902 Civic Center, 1819 Farnam St.
Omaha NE 68183.

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 FSG or its interests. FSG is solely responsible to determine its need for and to procure additional coverage which may be needed in connection with this Agreement. The procuring of insurance as required by this Agreement shall not be construed to limit FSG's liability hereunder or to fulfill the indemnification provisions of this Agreement.

22. Right to Audit.

FSG shall establish a reasonable accounting system, which enables ready identification of FSG'S cost of goods/services and use of funds. Upon thirty (30) days written notice to FSG, Douglas County may audit FSG'S records any time before three (3) years after final payment to verify Douglas County's payment obligation and use of Douglas County's funds. This right to audit shall include subcontractors in which goods or services are subcontracted by FSG. FSG shall insure Douglas County has these rights with subcontractors.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized representatives on the day and year set forth below.



ACCEPTED AND AGREED TO BY:

FSG, INC.

Douglas County Board of Commissioners

By: Valerie Bockstette

By: _____

Name: Valerie Bockstette
Title: Managing Director

Name: Mary Ann Borgeson
Title: Chair

Date: 04/15/14

Date: _____

Approved as to Form:

Deputy County Attorney



APPENDIX B

To succeed, community engagement within the Douglas County juvenile justice system must intentionally include a very specific list of committed, trusted community activists and grassroots organizations strongly linked to the Black, Hispanic, Native American and low-income communities that are disproportionately represented among the County's juvenile justice population:

Organizations & Individuals:

- A'Jamal, Advocates & Associates
- Black Men United
- Community Conversations
- Family Advocacy Movement
- Heartland Workers Center
- Laura McCormick
- Leo Louis II
- Malcolm X Center
- Nebraska Urban Indian Health Coalition
- Progressive Research Institute
- Project Everlast
- Project Keeping North Omaha Safe for Everyone (K.N.O.S.E.)
- South Omaha Community Care Council
- South Omaha Violence Intervention and Prevention (SOVIP)

