

**REQUEST FOR AGENDA PLACEMENT FORM**

**Submission Deadline - Tuesday, 12:00 PM before Court Dates**

SUBMITTED BY: CJO | TODAY'S DATE: 8/10/22

DEPARTMENT: CJO COMMISSIONERS COURT

AUG 22 2022

SIGNATURE OF DEPARTMENT HEAD: \_\_\_\_\_

REQUESTED AGENDA DATE: 8/22/2022 **Approved**

**SPECIFIC AGENDA WORDING:**

Consideration of Beneficiary Agreement Between Johnson County and Meals on Wheels North Central Texas for the Distribution of ARPA Funds

**PERSON(S) TO PRESENT ITEM:**

Judge Harmon

**SUPPORT MATERIAL:** (Must enclose supporting documentation)

**TIME:** 1 minute  
(Anticipated number of minutes needed to discuss item)

**ACTION ITEM:** ✓  
**WORKSHOP:**  
**CONSENT:**  
**EXECUTIVE:**

**STAFF NOTICE:**

**COUNTY ATTORNEY:** ✓  
**AUDITOR:** ✓  
**PERSONNEL:**  
**BUDGET COORDINATOR:** ✓

**IT DEPARTMENT:**  
**PURCHASING DEPARTMENT:** ✓  
**PUBLIC WORKS:**  
**OTHER:**

This Section to be completed by County Judge's Office

ASSIGNED AGENDA DATE: \_\_\_\_\_

REQUEST RECEIVED BY COUNTY JUDGE'S OFFICE:

\_\_\_\_\_  
**COURT MEMBER APPROVAL:**

\_\_\_\_\_  
**DATE:**

**BENEFICIARY AGREEMENT BETWEEN JOHNSON COUNTY AND MEALS ON WHEELS NORTH CENTRAL TEXAS FOR THE DISTRIBUTION OF ARPA FUNDS**

THIS AGREEMENT made, entered into and executed by and between Johnson County, Texas, a political subdivision of the State of Texas, referred to as "County" and the Meals on Wheels North Central Texas, a nonprofit organizations in Johnson County, Texas.

**WITNESSETH:**

**WHEREAS**, on March 11, 2021, the American Rescue Plan Act (H.R. 1319), § 4001, ("ARPA") was signed into law providing federal funding relief for American workers, families, industries, and state and local governments;

**WHEREAS**, on May 10, 2021, the United State Department of Treasury released an interim final guide on allowed uses of funds and allocated \$350 billion for state, local, territorial, and Tribal governments from the American Rescue Plan Act Fund;

**WHEREAS**, Johnson County was allocated \$34,150,391 in ARPA funds, and received half of this amount in 2021 and the other half in 2022;

**WHEREAS**, the Meals on Wheels North Central Texas and its employees have been and continue to be on the front line of the Covid-19 pandemic. The Meals on Wheels North Central Texas has experienced a negative impact in responding to home-delivered meal service as specifically described in the memorandum provided herein as Exhibit "A";

**WHEREAS**, the Meals on Wheels North Central Texas was not a recipient of ARPA funds for the Home-Delivered Meals program. Specifically, the Meals on Wheels North Central Texas plans to continue the Home-Delivered Meal Service in Johnson County by utilizing ARPA funding for the Home-Delivered Meals program by the Meals on Wheels North Central Texas;

**WHEREAS**, The Meals on Wheels North Central Texas is a 501(c)(3) nonprofit organization, and is able to provide documentation as provided by the United States Internal Revenue Services; and

**WHEREAS**, the County has determined the Meals on Wheels North Central Texas is an appropriate beneficiary to receive a grant of ARPA funds.

**NOW, THEREFORE**, County and the Meals on Wheels North Central Texas, in consideration of these mutual covenants and agreements, agree as follows:

1. The purpose of this agreement is to enable County to provide a portion of its ARPA funding to the Meals on Wheels North Central Texas as a beneficiary to enable the Meals on Wheels North Central Texas to continue the Home-Delivered Meal Service. This agreement is not intended to provide ARPA funding for any purposes that are not allowable under Texas law.

2. The Meals on Wheels North Central Texas agrees that all funds received from County pursuant to this agreement shall be used for the purposes stated in paragraph 1.

3. The County agrees to provide the Meals on Wheels North Central Texas with \$109,100. It is the intent of the parties that these funds will be used within one year from the effective date of this agreement. If any portion of the funds have not been used within one year from the effective date, the Meals on Wheels North Central Texas will return the unused funds to County unless the Meals on Wheels North Central Texas requests and receives an extension of time. One Hundred (100%) of the funds will be provided to the Meals on Wheels North Central Texas within two weeks after approval of this agreement by the parties.

4. The amount provided pursuant to this agreement does not obligate County to provide additional funds to the Meals on Wheels North Central Texas for these or any other purposes in the future.

5. In order to ensure compliance with the existing ARPA and SLFRF (Coronavirus State and Local Fiscal Recovery Funds program) guidelines set forth by the US Treasury, while also ensuring that all expenditures within the scope of this Agreement adhere to future guidelines that may be established by the US Treasury during the term of this Agreement, the Meals on Wheels North Central Texas shall provide any additional documentation to support such expenditures requested by the Johnson County Auditor upon request.

6. The Meals on Wheels North Central Texas shall provide to the County monthly progress reports documenting the project progress. The Meals on Wheels North Central Texas shall provide to the County Auditor any invoices for work performed, goods and services, copies of cleared checks for payment of invoices, photographs, plans, designs, or any other documentation as deemed necessary by the County Auditor to show the projects progress. The Meals on Wheels North Central Texas shall provide the requested documentation on or before the last business day of each successive month after the effective date of this agreement. The County may request additional information from the Meals on Wheels North Central Texas, as needed, to meet any additional guidelines regarding the use of ARPA funds that may be established by the US Treasury.

7. The Meals on Wheels North Central Texas shall comply with all federal, state, and local laws and all requirements and published guidance set forth regarding the usage of any and all monies appropriated under the ARPA. The parties agree that the County reserves the right to hire or consult with a 3rd Party for compliance with all state, federal, and local laws regarding the usage of ARPA funds. The Meals on Wheels North Central Texas agrees to cooperate with any request for information, documentation, or other necessary actions to ensure ARPA compliance from either Johnson County, its contractors, or employees.

8. The Meals on Wheels North Central Texas shall maintain records, books, documents, and other materials relevant to its performance under this Agreement. These records shall be subject to inspection, review, and audit by the County or its designees, and the US Treasury for five (5) years following termination of this Agreement. If it is determined during the course of the audit that the Meals on Wheels North Central Texas was reimbursed for unallowable costs

under this Agreement, the Meals on Wheels North Central Texas agrees to promptly reimburse the County for such payments upon request

9. The Meals on Wheels North Central Texas agrees to comply with any reporting obligations established by Treasury as they relate to this grant.

10. If the Meals on Wheels North Central Texas uses any portion of the funds provided under this agreement for any purposes not directly related to the intended purpose of this agreement or uses the funds for a purpose not allowed by Texas law, County shall have the right to require a return of all or any portion of the funds so provided. If the Meals on Wheels North Central Texas fails to provide any report required by this agreement or fails to provide any other documents requested by a Johnson County official pursuant to this agreement, County shall have the right to require a return of all or any portion of the funds so provided.

11. At no times while operating under this Agreement will any officers, employees, or volunteers of either entity be considered employees or agents of the other entity.

12. It is expressly understood and agreed that no provision of this agreement is in any way intended to constitute a waiver by either party of any immunity from suit or liability that the parties or any of their officers and employees may have by operation of law.

13. This agreement shall be construed to effectuate the purpose stated in Section I. If any provision of this agreement is declared unconstitutional, or the applicability to any persons or circumstances is held invalid, the constitutionality of the remainder of the agreement and applicability to the other persons and circumstances shall not be affected.

14. The parties to this agreement do not intend to create a third-party beneficiary or for any third party to obtain a right by virtue of this Agreement. Neither this agreement, nor any term or provision hereof, nor any inclusion by reference, shall be construed as being for the benefit of any party not in signatory hereto.

15. The parties shall observe and comply with all applicable federal, state, and local laws, rules, ordinances, and regulations in any manner affecting this agreement.

16. It is mutually understood that nothing in this Agreement is intended or shall be construed in any way creating or establishing the relationship of partners between the parties hereto, or as constituting either party as an agent or representative of the other party for any purpose or in any manner whatsoever.

**17. INDEMNIFICATION: THE PROVISIONS OF THIS ARTICLE SHALL SURVIVE THE TERMINATION OF THIS AMENDED AGREEMENT HOWEVER CAUSED, AND NO PAYMENT, PARTIAL PAYMENT, OR ISSUANCE OF EITHER A CERTIFICATE OF SUBSTANTIAL COMPLETION OR FINAL SYSTEM ACCEPTANCE IN WHOLE OR IN PART SHALL WAIVE OR RELEASE ANY OF THE PROVISIONS OF THIS ARTICLE.**

**THE MEALS ON WHEELS NORTH CENTRAL TEXAS SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY ITS OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, SUCCESSORS AND ASSIGNS ("INDEMNIFIED PARTIES") FROM AND AGAINST ALL CLAIMS AND LIABILITY DUE TO THE ACTIVITIES OF CONTRACTOR, OR ANOTHER ENTITY OVER WHICH MEALS ON WHEELS NORTH CENTRAL TEXAS EXERCISES CONTROL, PERFORMED UNDER THIS AMENDED AGREEMENT AND WHICH RESULT FROM ANY NEGLIGENT ACT, ERROR, OR OMISSION; INTENTIONAL TORT; INTELLECTUAL PROPERTY INFRINGEMENT; OR FAILURE TO PAY A SUB MEALS ON WHEELS NORTH CENTRAL TEXAS OR SUPPLIER; COMMITTED BY MEALS ON WHEELS NORTH CENTRAL TEXAS OR ANOTHER ENTITY OVER WHICH MEALS ON WHEELS NORTH CENTRAL TEXAS EXERCISES CONTROL.**

**THE MEALS ON WHEELS NORTH CENTRAL TEXAS SHALL ALSO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY FROM AND AGAINST ANY AND ALL EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES WHICH MIGHT BE INCURRED BY THE COUNTY, IN LITIGATION OR OTHERWISE RESISTING SAID CLAIMS OR LIABILITIES WHICH MIGHT BE IMPOSED ON THE COUNTY AS THE RESULT OF SUCH ACTIVITIES BY MEALS ON WHEELS NORTH CENTRAL TEXAS OR ANOTHER ENTITY OVER WHICH THE MEALS ON WHEELS NORTH CENTRAL TEXAS EXERCISES CONTROL.**

**THE MEALS ON WHEELS NORTH CENTRAL TEXAS SHALL INDEMNIFY, DEFEND, AND HOLD THE COUNTY HARMLESS FROM ANY AND ALL LIABILITY, EXPENSE, JUDGMENT, SUIT, CAUSE OF ACTION, OR DEMAND FOR PERSONAL INJURY, DEATH, OR DIRECT DAMAGE TO TANGIBLE PROPERTY WHICH MAY ACCRUE AGAINST THE COUNTY TO THE EXTENT IT IS CAUSED BY THE NEGLIGENCE OF MEALS ON WHEELS NORTH CENTRAL TEXAS OR ANOTHER ENTITY OVER WHICH MEALS ON WHEELS NORTH CENTRAL TEXAS EXERCISES CONTROL, WHILE PERFORMING SERVICES UNDER THIS AMENDED AGREEMENT. COUNTY WILL GIVE THE MEALS ON WHEELS NORTH CENTRAL TEXAS PROMPT, WRITTEN NOTICE OF ANY SUCH CLAIM OR SUIT. COUNTY SHALL COOPERATE WITH MEALS ON WHEELS NORTH CENTRAL TEXAS IN ITS DEFENSE OR SETTLEMENT OF SUCH CLAIM OR SUIT.**

**THE MEALS ON WHEELS NORTH CENTRAL TEXAS SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY FROM AND ALL THIRD PARTY CLAIMS, DAMAGES, LIABILITIES AND EXPENSES (INCLUDING, WITHOUT LIMITATION ATTORNEY'S FEES) FOR INURY TO OR DEATH OF ANY PERSON OR FOR DAMAGE TO OR DESTRUCTION OF ANY THIRD PARTY PROPERTY RESULTING DIRECTLY FROM ANY AND ALL ACTS OR OMISSIONS OF MEALS ON WHEELS NORTH CENTRAL TEXAS AND ANY SUB MEALS ON WHEELS NORTH CENTRAL TEXAS OR ANYONE EMPLOYED BY OR AFFILIATED WITH ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE, PROVIDED THAT, FOR PURPOSES OF THIS PARAGRAPH, THE TERM "THIRD PARTY" SHALL**

**INCLUDE CONTRACTOR'S OFFICERS, AGENTS, SUBCONTRACTORS, AND EMPLOYEES.**

**THE MEALS ON WHEELS NORTH CENTRAL TEXAS SHALL ALSO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY FROM ALL DAMAGES, EXPENSES, SUITS, ACTIONS AND CLAIMS OF EVERY KIND AND CHARACTER WHATSOEVER WHICH THE COUNTY MAY SUFFER DIRECTLY DUE TO ANY BANKRUPTCY, STATE OR FEDERAL TAX LEVIES OR LIENS, OR OTHER SIMILAR LEGAL PROCEEDINGS AFFECTING THE CONTRACTOR, IN WHICH THE COUNTY MAY BECOME IN ANY WAY INVOLVED, WHETHER RELATED TO THE AMENDED AGREEMENT AND/OR CONTRACTOR'S PERFORMANCE OR NON-PERFORMANCE UNDER THIS AMENDED AGREEMENT.**


**IF A RESTRAINING ORDER OR TEMPORARY INJUNCTION IS GRANTED DUE TO ANY ACT, ERROR, OR OMISSION COMMITTED BY THE MEALS ON WHEELS NORTH CENTRAL TEXAS OR ANOTHER ENTITY OVER WHICH THE MEALS ON WHEELS NORTH CENTRAL TEXAS EXERCISES CONTROL, MEALS ON WHEELS NORTH CENTRAL TEXAS SHALL MAKE EVERY EFFORT, INCLUDING BUT NOT LIMITED TO SECURING A SATISFACTORY BOND, TO OBTAIN THE SUSPENSION OF ANY SUCH RESTRAINING ORDER OR TEMPORARY INJUNCTION. COUNTY RESERVES THE RIGHT, AT ITS OWN EXPENSE, TO BE INDEPENDENTLY REPRESENTED BY COUNSEL OF ITS OWN CHOICE IN CONNECTION WITH ANY SUCH SUIT OR PROCEEDING.**

18. The exclusive venue for any action under or related to this Beneficiary Agreement is in state district courts in Johnson County, Texas or the Federal District Courts in Dallas, Texas.

19. This instrument constitutes the entire agreement between the parties and supersedes any and all agreements previously entered into by these same parties pertaining to the activities covered by this agreement

EFFECTIVE DATE: The 9<sup>th</sup> day of August, 2022.

**Johnson County**

By:   
\_\_\_\_\_  
Roger Harmon  
Johnson County Judge

**ATTEST:**

*Becky Ivey*

By: \_\_\_\_\_

Becky Ivey  
Johnson County Clerk



**THE MEALS ON WHEELS NORTH CENTRAL TEXAS**

By: *Christine Hockin-Boyd*

Christine Hockin-Boyd  
Executive Director



## EXHIBIT A

For 45 years Meals on Wheels North Central Texas has proudly served a host of senior adults by supporting our mission: **Ending hunger and isolation. Delivering dignity and independence.** Each day we effectively steward the funding we receive to support our needy homebound elderly and disabled persons. Doing so ensures our seniors remain independent and healthy in their homes as we provide home-delivered meals, wellness check, and support for individuals and their families.

In addition to the meal delivery, caring volunteers provide a wellness check ensuring the safety of our clients and give our homebound neighbors the security of knowing they will receive something nutritious to eat and contact with the outside world.

With the onset of the COVID-19 pandemic the organization enacted the emergency preparedness plan mid-March 2020. The focus immediately turned to:

- Ensuring the safety and provision of meals to our senior clients including delivery of shelf-stable meals along with regular meals.
- Development of new safety protocols to minimize health risks and exposure to senior clients and volunteers. Following CDC guidelines staff/volunteers delivered meals by practicing “No Physical Contact”
  - All required to wear a facial cloth covering while approaching a client’s home.
  - Use hand sanitizer before retrieving a hot meal or frozen meal box.
  - When delivering a meal hang the plastic bag containing the hot meal and side items on the door knob, OR place frozen meal box on front porch or chair.
  - Knock or ring the door bell and step back six feet to honor physical distancing.
  - Wait for client to retrieve food and go back into their home. Making contact by sight is a necessity to ensure the client received their meal.
- Redirection of fundraising efforts for emergency funding and general operations to continue program services was paramount.

Even amidst the health pandemic our programs and services never ceased but rather increased. The request for service increased as the pandemic continued and staff worked diligently to bring senior adults onto meal service quickly.

Sadly, MOWNCT lost a number of seniors to death from the coronavirus.

As staff members contracted the virus, others stepped in to continue the work load, ensuring all senior adults were provided with home-delivered meal service and wellness checks. Again, it is worth noting the organization never ceased operations.

The organization experienced decreased funding. Specifically, to note:

- Annual fundraising event (Golf Benefit) – loss of \$25K
- Donors’ hesitancy to donate due to their unknown financial status.
- Grant funding – restrictions to COVID-19 versus general operating funds. The challenge with that is if you can’t keep the doors open you can’t serve the senior adults in need.



The organization experienced operation challenges. The walk-in freezer space became tighter and tighter as food request increased. A modification of food truck delivery was implemented until such time a larger walk-in freezer can be purchased and installed. An inclusion of shelf-stable, senior adult friendly, nutritious meals was added to the meal menu. Additionally, aged fleet vehicles began breaking down requiring much needed maintenance and repair. Several aged vehicles have high mileage and wear and tear need replacing. Vehicles travel many miles per day throughout the entire county.

The American Rescue Plan Act (ARPA) funding of \$109,100 will allow the organization to:

- Replace two (2) aged fleet vehicles with two (2) Transit Connect XLT Cargo Vans + TTL. The newer vehicles will help reduce maintenance costs and provide a safer traveling for employees during transport of home-delivered meals.
- Install top-of-ground dock lift for delivery truck to unload food product to ground level. This will enable employees to move food easier and safely.
- Convert from a manual pallet jack to electric pallet jack to move food from delivery truck to inside of walk-in freezer safely and quickly.