

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

SIGNATURE OF DEPARTMENT HEAD: _____

REQUESTED AGENDA DATE: 8/22/2022

SPECIFIC AGENDA WORDING:

Consideration of Beneficiary Agreement Between Johnson County and HIM
Food Bank for the Distribution of ARPA Funds

COMMISSIONERS COURT

AUG 22 2022

Approved

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 HIM FOOD
BANK 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 HIM Food Bank, 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 (HIM Food Bank) and its employees have been and continue to be on the front line of the Covid-19 pandemic. The (HIM Food Bank) has experienced a negative impact due to Covid-19 and are responding to tremendous growth in need for groceries and a supply shortage as specifically described in the memorandum provided herein as Exhibit "A";

WHEREAS, the HIM Food Bank was not a recipient of ARPA funds. Specifically, the HIM Food Bank participates in The Mobile Pantry Project in Johnson County and will utilize ARPA funding for bulk food/grocery purchases to continue to provide to those in need who come to the HIM Food Bank for assistance;

WHEREAS, The HIM Food Bank 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 HIM Food Bank is an appropriate beneficiary to receive a grant of ARPA funds.

NOW, THEREFORE, County and the HIM Food Bank 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 HIM Food Bank as a beneficiary to enable the HIM Food Bank to distribute healthy groceries to the residents of Johnson County. This agreement is not intended to provide ARPA funding for any purposes that are not allowable under Texas law.

2. The HIM Food Bank 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 HIM Food Bank with \$65,000.00. 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 HIM Food Bank will return the unused funds to County unless the HIM Food Bank requests and receives an extension of time. One Hundred (100%) of the funds will be provided to the HIM Food Bank 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 HIM Food Bank 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 HIM Food Bank shall provide any additional documentation to support such expenditures requested by the Johnson County Auditor upon request.

6. The HIM Food Bank shall provide to the County monthly progress reports documenting the project progress. The HIM Food Bank 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 HIM Food Bank 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 HIM Food Bank, as needed, to meet any additional guidelines regarding the use of ARPA funds that may be established by the US Treasury.

7. The HIM Food Bank 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 HIM Food Bank 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 HIM Food Bank 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 HIM Food Bank was reimbursed for unallowable costs under this Agreement, the HIM Food Bank agrees to promptly reimburse the County for such payments upon request

9. The HIM Food Bank agrees to comply with any reporting obligations established by Treasury as they relate to this grant.

10. If the HIM Food Bank 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 HIM Food Bank 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 HIM Food Bank 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 HIM Food Bank 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 HIM Food Bank OR SUPPLIER; COMMITTED BY HIM Food Bank OR ANOTHER ENTITY OVER WHICH HIM Food Bank EXERCISES CONTROL.

THE HIM Food Bank 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 HIM Food Bank OR ANOTHER ENTITY OVER WHICH THE HIM Food Bank EXERCISES CONTROL.

THE HIM Food Bank 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 HIM Food Bank OR ANOTHER ENTITY OVER WHICH HIM Food Bank EXERCISES CONTROL, WHILE PERFORMING SERVICES UNDER THIS AMENDED AGREEMENT. COUNTY WILL GIVE THE HIM Food Bank PROMPT, WRITTEN NOTICE OF ANY SUCH CLAIM OR SUIT. COUNTY SHALL COOPERATE WITH HIM Food Bank IN ITS DEFENSE OR SETTLEMENT OF SUCH CLAIM OR SUIT.

THE HIM Food Bank 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 INJURY 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 HIM Food Bank AND ANY SUB HIM Food Bank 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 HIM Food Bank 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.

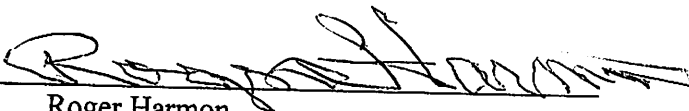
IF A RESTRAINING ORDER OR TEMPORARY INJUNCTION IS GRANTED DUE TO ANY ACT, ERROR, OR OMISSION COMMITTED BY THE HIM Food Bank OR ANOTHER ENTITY OVER WHICH THE HIM Food Bank EXERCISES CONTROL, HIM Food Bank SHALL MAKE EVERY EFFORT, INCLUDING BUT NOT LIMITED TO SECURING A SATISFACTORY BOND, TO OBTAIN THE 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 22 day of August, 2022.

Johnson County

By: 
Roger Harmon
Johnson County Judge

ATTEST:

By: 
Becky Ivey
Johnson County Clerk



THE HIM Food Bank


By: 
Lisa Richardson
Chief Executive Officer

EXHIBIT A



Project Name – H.I.M. Mobile Pantry Project

Harvesting in Mansfield Food Bank is a 501(c)3 non-profit organization whose mission is to provide nutritious food with dignity, to all those in need of food assistance, while striving to change lives in the communities we serve by feeding the hungry and providing a hunger-free tomorrow for each of those individuals. HIM Food Bank was founded in 1999 and continues to grow today to fulfill the needs of the communities in the DFW Metroplex.

The negative impact of COVID-19 placed increased demands on both the HIM Food Bank and Food Pantry. The demand for food assistance more than tripled with the increased need because of job loss, illness, death and food shortages. Johnson County residents were pushed to local food pantries and the HIM Food Bank is the largest in the area. The ability to order bulk foods was crippled by supply chain issues and increased expense. As the effects of COVID-19 continue, the families we serve has remained at a 300% increased rate from the beginning of 2020.

The project funding will be utilized to continue purchasing bulk foods from food distributors in order to continue to provide for all those in need. The current economic climate shows no relief in sight for lowering grocery costs or other cost of living expenses, forcing more families into our Mobile Pantry line.

The Mobile Pantry Project is a continuation of the mobile service we offer to anyone in need on Tuesdays and Thursdays each week. We focus on the entire DFW metroplex area but our highest concentration of food assistance lies within Johnson and the deprived areas of Tarrant counties.

The Mobile Pantry Project is designed to provide 250 – 300 lbs. of food per household on a monthly basis. Currently, the registered number of monthly families is 6,300 and the individuals total 28,000. The Mobile Pantry provides an opportunity for all in need of nutritious groceries, to come, remain in their vehicle and we load the groceries into their vehicle. The mobile pantry provides a safe opportunity and provides an expeditious line so that more patrons may be served each week. Currently more than 1500 families are served weekly with groceries.