

**REQUEST FOR AGENDA PLACEMENT FORM**

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

SUBMITTED BY: CJO

TODAY'S DATE: 8/25/22

DEPARTMENT: CJO

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

REQUESTED AGENDA DATE: 9/12/2022

**SPECIFIC AGENDA WORDING:**

Consideration of Beneficiary Agreement Between Johnson County and Promises Community Ministry of FBC Burluson for the Distribution of ARPA Funds

COMMISSIONERS COURT

SEP 12 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:** ✓

**IT DEPARTMENT:**

**AUDITOR:** ✓

**PURCHASING DEPARTMENT:** ✓

**PERSONNEL:**

**PUBLIC WORKS:**

**BUDGET COORDINATOR:** ✓

**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 PROMISES  
COMMUNITY MINISTRY OF FBC BURLESON 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 Promises Community Ministry of FBC Burleson, 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 Promises Community Ministry and its employees have been and continue to be on the front line of the Covid-19 pandemic. The Promises Community Ministry has experienced an increase in demand and need for our services as specifically described in the memorandum provided herein as Exhibit "A";

**WHEREAS**, the Promises Community Ministry was not a recipient of ARPA funds for our Hope Starts Here Project. Specifically, the Promises Community Ministry plans were to build additional warehouse space and increase our freezer storage in Johnson County by utilizing ARPA funding securing a refrigerated box truck and display fridge and freezer for Promises Community Ministry to allow for more food and self-select process for our clients;

**WHEREAS**, The Promises Community Ministry 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 Promises Community Ministry is an appropriate beneficiary to receive a grant of ARPA funds.

**NOW, THEREFORE**, County and the Promises Community Ministry, 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 Promises Community Ministry as a beneficiary to enable the Promises Community

Ministry to build additional warehouse space and increase our freezer storage. This agreement is not intended to provide ARPA funding for any purposes that are not allowable under Texas law.

2. The Promises Community Ministry 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 Promises Community Ministry with \$59,244.54. 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 Promises Community Ministry will return the unused funds to County unless the Promises Community Ministry requests and receives an extension of time. One Hundred (100%) of the funds will be provided to the Promises Community Ministry 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 Promises Community Ministry 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 Promises Community Ministry shall provide any additional documentation to support such expenditures requested by the Johnson County Auditor upon request.

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

7. The Promises Community Ministry 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 Promises Community Ministry 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 Promises Community Ministry 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 Promises Community Ministry was reimbursed for unallowable costs under this Agreement, the Promises Community Ministry agrees to promptly reimburse the County for such payments upon request

9. The Promises Community Ministry agrees to comply with any reporting obligations established by Treasury as they relate to this grant.

10. If the Promises Community Ministry 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 Promises Community Ministry 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 Promises Community Ministry 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 Promises Community Ministry 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 Promises Community Ministry OR SUPPLIER; COMMITTED BY Promises Community Ministry OR ANOTHER ENTITY OVER WHICH Promises Community Ministry EXERCISES CONTROL.**

**THE Promises Community Ministry 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 Promises Community Ministry OR ANOTHER ENTITY OVER WHICH THE Promises Community Ministry EXERCISES CONTROL.**

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

**THE Promises Community Ministry 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 Promises Community Ministry AND ANY SUB Promises Community Ministry 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 Promises Community Ministry 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 Promises Community Ministry OR ANOTHER ENTITY OVER WHICH THE Promises Community Ministry EXERCISES CONTROL, Promises Community Ministry 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.

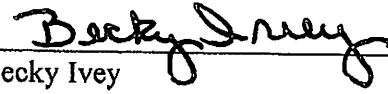
19. This instrument constitutes the entire agreement between the parties and supersedes any and all agreements previously entered into by these same parties pertaining to the activities covered by this agreement

EFFECTIVE DATE: The 12<sup>th</sup> day of Sept, 2022.

Johnson County

By:   
Roger Harmon  
Johnson County Judge

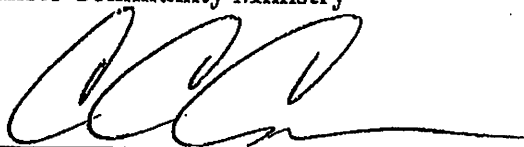
ATTEST:

By:   
Becky Ivey  
Johnson County Clerk



**THE Promises Community Ministry**

By:

A handwritten signature in black ink, appearing to be 'Cass', written over a horizontal line.

Christopher Cass  
Chief Executive Officer

## EXHIBIT A

**Promises Community Ministry  
First Baptist Church of Burleson  
Hope Starts Here Project**

**First Baptist Church of Burleson, has a community ministry called Promises. We started a project in 2019 to seek funds to get a new walk-in freezer, a refrigerated box truck with a lift, and some remodel of our existing warehouse. As we began in late 2019 it was only months later that COVID hit the nation. This increased the need for our food pantry as well as the need for counseling. So, we set a budget of \$300,000 and sought support from other businesses/organizations in Johnson County. Shortly after we started, we found we were in position to get a whole new warehouse to meet the food demands of our community. It doubled our food pantry space. So, we included that into the project. We had some promise that the building would be paid for by an anonymous donor which ultimately fell through.**

**However, the need continued to grow, and more than that we wanted to be able to go back to self-select food pantry which has less waste and provide dignity and respect in ways that us filling bags does not do.**

**Through COVID we never had to close due to infection and was able to partner with the fire department to provide food to families who were isolated due to all members infected. Our service grew. We were able to complete the new building and move into the new warehouse pantry in May 2022. We the cost of the new building now falling on Promises, and we only collected \$250,000 we ran out of**



**money before we could acquire the box truck and a display refrigerator and freezer. Our request for the grant money was to complete those purchases. Since we have opened our new warehouse our volume of clients has nearly tripled and have returned to numbers we haven't seen since COVID started. For us to be able to meet these demands we must be able to transport food from pickup locations and transport to the warehouse safely. And to provide the variety needed for our clients we need the display refrigerators and freezers. So, our \$59,244.00 is to complete the Hope Starts Here Project to bring a premier self-select food pantry to Johnson County.**

**Debbie Beeman,  
Director,  
Promises Community Ministry**