

**REQUEST FOR AGENDA PLACEMENT FORM**

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

SUBMITTED BY: CJO | TODAY'S DATE: 8/30/22

DEPARTMENT: CJO

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

REQUESTED AGENDA DATE: 9/12/2022

**SPECIFIC AGENDA WORDING:**

Consideration of Beneficiary Agreement Between Johnson County and HOPE Medical/Dental Clinic 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:** ✓

**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 HOPE  
Medical/Dental Clinic 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 HOPE Medical/Dental Clinic, a nonprofit organization 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 HOPE Medical/Dental Clinic and its employees have been and continue to be on the front line of the Covid-19 pandemic. The HOPE Medical/Dental Clinic has experienced a considerable decline in the clinic's donations. Those who were able to support the clinic prior to the pandemic are no longer financially able to do so. We have been unable to perform upkeep on the clinic facility itself or our computer hardware and software due to this loss of income. We have been in our current facilities for 15 years with no refurbishing or improvements. These funds will allow us to do a past due upgrade and refurbishing to the facilities. Our computers and network are approximately 12 years old. We have not been able to upgrade them due to financial constraints. These funds will allow us to upgrade and take advantage of recent software that is needed for record keeping and operation of the clinic (See attached "Exhibit A" for more details);

**WHEREAS**, the HOPE Medical/Dental Clinic was not a recipient of ARPA funds (see attached "Exhibit A"). **DESCRIPTION OF PROJECT**. Specifically, the HOPE Medical/Dental Clinic plans in Johnson County by utilizing ARPA funding;

**WHEREAS**, The HOPE Medical/Dental Clinic 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 HOPE Medical/Dental Clinic is an appropriate beneficiary to receive a grant of ARPA funds.

**NOW, THEREFORE**, County and the HOPE Medical/Dental Clinic, 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 HOPE Medical/Dental Clinic as a beneficiary to enable the HOPE Medical/Dental Clinic to (see attached "Exhibit A"). This agreement is not intended to provide ARPA funding for any purposes that are not allowable under Texas law.

2. The HOPE Medical/Dental Clinic 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 HOPE Medical/Dental Clinic with \$20,000. 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 HOPE Medical/Dental Clinic will return the unused funds to County unless the HOPE Medical/Dental Clinic requests and receives an extension of time. One Hundred (100%) of the funds will be provided to the HOPE Medical/Dental Clinic 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 HOPE Medical/Dental Clinic 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 HOPE Medical/Dental Clinic shall provide any additional documentation to support such expenditures requested by the Johnson County Auditor upon request.

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

7. The HOPE Medical/Dental Clinic 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 HOPE Medical/Dental Clinic 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 HOPE Medical/Dental Clinic 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 HOPE Medical/Dental Clinic was reimbursed for unallowable costs under this Agreement, the HOPE Medical/Dental Clinic agrees to promptly reimburse the County for such payments upon request

9. The HOPE Medical/Dental Clinic agrees to comply with any reporting obligations established by Treasury as they relate to this grant.

10. If the HOPE Medical/Dental Clinic 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 HOPE Medical/Dental Clinic 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 HOPE Medical/Dental Clinic 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 HOPE Medical/Dental Clinic 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 SUBHOPE Medical/Dental Clinic OR SUPPLIER; COMMITTED BY HOPE Medical/Dental Clinic OR ANOTHER ENTITY OVER WHICH HOPE Medical/Dental Clinic EXERCISES CONTROL.**

**THE HOPE Medical/Dental Clinic 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 HOPE Medical/Dental Clinic OR ANOTHER ENTITY OVER WHICH THE HOPE Medical/Dental Clinic EXERCISES CONTROL.**

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

**THE HOPE Medical/Dental Clinic 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 HOPE Medical/Dental Clinic AND ANY SUBHOPE Medical/Dental Clinic 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 HOPE Medical/Dental Clinic 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 HOPE Medical/Dental Clinic OR ANOTHER ENTITY OVER WHICH THE HOPE Medical/Dental Clinic EXERCISES CONTROL, HOPE Medical/Dental Clinic 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 HOPE Medical/Dental Clinic**

By:           Diane Westcott            
Diane Westcott  
Chief Executive Officer

## HOPE Medical/Dental Clinic

Cleburne, Texas

### Exhibit A

HOPE Medical/Dental Clinic is a charitable clinic who serves Johnson and Hill Counties by providing access to medical and dental care at no charge to our patients. We are staffed with volunteer doctors, nurses and clerical staff. We are open Monday thru Friday 8:30 to 5.

During the pandemic, HOPE Clinic, as other clinics, closed its doors to patient visits. We instead went to telephone calls that were handled as visits. Some of our volunteer providers came to the clinic weekly to help us process these telephone visits. We had two nurses that came to the clinic to return the calls after the doctors reviewed them.

Patients that needed lab or x-rays were still sent to the facilities to have these done. This was sometimes difficult for our patients because of the restricted access to these facilities.

During the first year, all of our staff did contract COVID-19 and were quarantined at home for up to three weeks.

Due to COVID-19, the majority of our nursing and clerical volunteers, who were older and retired, chose not to risk being exposed to COVID-19 and resigned from volunteering. We have not been able to replace them, as of this time. There is still the lingering concern that they will be exposed to COVID-19.

Due to COVID-19's negative impact on the economy – the clinic's donations have decreased considerably. Those who were able to support the clinic prior to the pandemic are no longer financially able to do so. We have been unable to perform upkeep on the clinic facility itself or our computer hardware and software due to this loss of income.

We have been in our current facilities for 15 years with no refurbishing or improvements. These funds will allow us to do a past due upgrade and refurbishing to the facilities. Our computers and network are approximately 12 years old. We have not been able to upgrade them due to financial constraints. These funds will allow us to upgrade and take advantage of recent software that is needed for record keeping and operation of the clinic.