

## AMERICAN RESCUE PLAN FISCAL RECOVERY FUNDS AGREEMENT

### Between Porter County Government, Indiana and Housing Opportunities

**THIS AGREEMENT** is made and entered into by and between the County of Porter County, Indiana, with its principal offices at 155 Indiana Ave., Valparaiso, Ind., 46383 (the "County") and Housing Opportunities with its principal offices at 2001 Calumet Ave., Valparaiso, IN 46383 ("Housing Opportunities")

**WHEREAS**, on March 11, 2021, President Joe Biden signed into law the American Rescue Plan Act (ARPA), providing federal funding relief to American workers, families, industries, and states and local governments to respond to and recover from the COVID-19 pandemic; and

**WHEREAS**, on June 9, 2022, the County received its second tranche for a total allocation of \$33,096,066 of the ARPA's Coronavirus State and Local Fiscal Recovery Funds (SLFRF); and

**WHEREAS**, on January 6, 2022, U.S. Treasury issued a Final Rule (Final Rule) on eligible uses of the SLFRF; and

**WHEREAS**, the Porter County Commissioners adopted an SLFRF plan on August 2, 2022 that included an allocation to Housing Opportunities; and

**WHEREAS**, on October 18, 2022, the Porter County Council approved a \$675,000 appropriation for ARP Assistance to Housing Opportunities.

**NOW THEREFORE**, in consideration of the mutual benefits and covenants contained herein and the terms and conditions set forth below, the parties agree as follows:

**1. Effective Date and Term:**

This Agreement shall commence when last executed by all parties and shall remain in effect through December 31, 2026, the deadline for expending all SLFRF funds obligated by Housing Opportunities by July 1, 2024.

**2. County SLFRF Funds to be Allocated:**

The County SLFRF funds to be allocated to Housing Opportunities under this Agreement shall not exceed \$675,000.

**3. SLFRF Subaward Provisions:**

Housing Opportunities is deemed a beneficiary of the County's SLFRF award, which means, per the Final Rule, that Housing Opportunities demonstrated a financial impact caused or exacerbated by the COVID-19 pandemic and that it is an end user of the award.

**4. Limitations Regarding the Use of the SLFRF Funds:**

Housing Opportunities shall ensure that all expenditures utilizing the SLFRF funds received in accordance with this Agreement are limited only to those eligible uses outlined in Treasury's Final Rule under the expenditure category of Negative Economic Impacts: Assistance to Non-Profits. Specifically, the subaward to Housing Opportunities shall be used for the following purposes:

Construction of Prominence Commons II, a new affordable housing development consisting of 36 apartments at 6440 Evergreen Ave., Portage, Ind., with 27 units to be occupied by those up to 60% of the Porter County average median income and nine units to support those up to 30% AMI.

**5. Required Supporting Documentation:**

Housing Opportunities agrees to provide the County with any requested information necessary for the County to be assured that the proposal constitutes an eligible use of the SLFRF funds.

Requests include but are not limited to: All approved contracts, invoices, and associated grant documentation. Housing Opportunities acknowledges that the County has full discretion to reject a payment or distribution of SLFRF dollars if the County deems the information provided is not complete or satisfactory.

**6. Release of SLFRF Subaward:**

The County will release the Housing Opportunities SLFRF award in the following manner:

*Reimbursement:* The County will reimburse Housing Opportunities for acceptable claim(s) upon receiving from Housing Opportunities an Accounts Payable voucher, on a form prescribed by the Indiana State Board of Accounts, with supporting documentation such as paid receipts, for expenditures.

**7. Obligated and Expended SLFRF funds:**

Housing Opportunities must expend all of its SLFRF allocation by July 1, 2024 or document to the County that it has obligated its remaining balance by that date. As stated in the Final Rule, an "obligation" means "an order placed for property and services and entering into contracts, subawards, and similar transactions that require payment." Any obligated SLFRF dollars must be expended by December 31, 2026. For purposes of this Agreement, "expended" means documented proof of payment made for a program or service.

**8. End of Project**

Housing Opportunities agrees to report to the Auditor's Office when its approved projects are complete and no further expenditures needed. Any balance in the Housing Opportunities account will revert to the County's use.

**9. Forfeiture of Subrecipient SLFRF Allocation:**

Housing Opportunities will forfeit all or part of its SLFRF allocation if it fails to adhere to all terms and conditions in this Agreement at any time that the Agreement remains in effect. Housing Opportunities will forfeit any or all of the balance of its SLFRF allocation if it fails to document that it has obligated its remaining balance by July 1, 2024. In the event all or part of the SLFRF allocation is forfeited, the County reserves the right to un-appropriate the Housing Opportunities allocation.

**10. Disputes:**

The Accounts Payable vouchers and all supporting documentation will be submitted by Housing Opportunities to the Porter County Auditor's office. In the event of a dispute over acceptable documentation or any other matter relevant to this Agreement, Housing Opportunities may file an

appeal with the Porter County Commissioners, with the appeal terms to be decided by the Commissioners.

**10. Compliance Matters:**

Housing Opportunities shall comply with all applicable federal, state, and local laws, rules, and regulations in its performance of this Agreement.

**11. Non discrimination:**

Housing Opportunities, its assignees, delegates, or any subcontractors shall not discriminate against any person in the performance of any of its obligations hereunder on the basis of race, color, creed, religion, national origin, age, gender, sexual orientation, gender identification, marital status, veteran status or the presence of any disability.

**12. Commitment by County to Assist:**

The County agrees to provide Housing Opportunities with assistance in such ways as guidance regarding compliance with the Final Rule, submission of an acceptable Accounts Payable voucher, and information regarding updated directives or interpretations that might affect Housing Opportunities in its performance of this Agreement.

**13. Hold Harmless and Indemnification**

Housing Opportunities shall hold harmless, indemnify, and defend the County and its officers, officials, employees and agents from and against any and all claims, actions, suits, liabilities, losses, expenses, damages and judgments of any nature whatsoever, including reasonable costs and attorney's fees in defense thereof, for any injury, sickness, disability or death to persons or damages to property or businesses, arising in connection with Housing Opportunity's use of its SLFRF subaward, or caused or occasioned in whole or in part by reasons of the presence of Housing Opportunities, or its subcontractors or their property upon or in proximity of the property of the County. Housing Opportunities' obligations shall include, but are not limited to, investigating, adjusting, and defending all claims alleging loss from action, error, or omission, or breach or any common law, statutory or other delegated duty by Housing Opportunities or its employees, agents, or subcontractors.

**14. Amendments**

The County has sole discretion to amend this Agreement in the event of changing regulations, directives, or policies at the federal, state, or local level, or for any reason it believes to be in the best interests of the County. The County shall give Housing Opportunities 10 days advance written notice of any amendments. The amended Agreement shall take effect upon execution by all parties. Provisions in this Agreement subject to amendment shall become null and void upon the County's notice to Housing Opportunities.

**15. Termination**

The County may terminate this Agreement in whole or part whenever the County determines, in its sole discretion, that such termination is in the best interest of the County. The County will give Housing Opportunities 10 days advance written notice of termination. In such an event, the County shall pay any invoices previously and properly submitted in accordance with all provisions of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their duly constituted legal representatives and is effective on the last date signed.

Jeff Good  
Jeff Good, Porter County Commissioner President

12/16/22  
Date

Jocelyn Hirschman  
Jocelyn Hirschman, Chair, Housing Opportunities

11/23/2022  
Date

ATTEST:

Vicki Urbanik  
Vicki Urbanik, Porter County Auditor

Dec. 8, 2022  
Date