

AMERICAN RESCUE PLAN FISCAL RECOVERY FUNDS AGREEMENT

Between Porter County Government, Indiana
and Shirley Heinze Land Trust, Inc.

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 Shirley Heinze Land Trust, Inc., with its principal offices at 109 W 700 N, Valparaiso, Ind., 46385 ("the Land Trust")

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 May 25, 2021, the County received its first tranche of \$33,096,066 allocated to it through 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, on August 2, 2022, the Porter County Commissioners adopted an SLFRF plan that included an allocation to the Land Trust; and

WHEREAS, on October 18, 2022, the Porter County Council approved a \$555,750 appropriation for ARPA assistance for the Land Trust.

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 the Land Trust by July 1, 2024.

2. County SLFRF Funds to be Allocated:

The County SLFRF funds to be allocated to the Land Trust under this Agreement shall not exceed \$555,750.

3. SLFRF Subaward Provisions:

The Land Trust is deemed a beneficiary of the County's SLFRF award, which means, per the Final Rule, that the Land Trust is deemed a negatively impacted industry and that it is an end user of the award.

4. Limitations Regarding the Use of the SLFRF Funds:

The Land Trust 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 Aid to Impacted Industries for a project agreed to by the County. Specifically, the Land Trust's subaward shall be used for the following purposes:

To increase the size of the Land Trust's Meadowbrook Nature Preserve to 300 acres through the acquisition of an adjacent 73 acres to provide habitat preservation, agricultural best management practices, and bike and walking trail connections, as well as to construct a new amphitheater.

5. Required Supporting Documentation:

The Land Trust 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 and land sale documents as requested. The Land Trust 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 Land Trust's SLFRF award in the following manner:

Direct Invoicing: The County will process payment upon receiving from the Land Trust an Accounts Payable voucher, on a form prescribed by the Indiana State Board of Accounts, with supporting documentation such as an invoice, for each claim submitted. The Land Trust agrees to provide the County with any requested information related to the voucher and supporting documentation. The County agrees to process payment for an accepted claim promptly.

7. Obligated and Expended SLFRF funds:

The Land Trust 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

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

9. Forfeiture of Subrecipient SLFRF Allocation:

The Land Trust 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. The Land Trust 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 Land Trust's allocation.

10. Disputes:

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

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

11. Compliance Matters:

The Land Trust shall comply with all applicable federal, state, and local laws, rules, and regulations in its performance of this Agreement including, but not limited to, the County's Responsible Bidder Ordinance.

12. Non discrimination:

The Land Trust, 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.

13. Commitment by County to Assist:

The County agrees to provide the Land Trust 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 the Land Trust in its performance of this Agreement.

14. Hold Harmless and Indemnification

The Land Trust 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 the Land Trust's use of its SLFRF subaward, or caused or occasioned in whole or in part by reasons of the presence of the Land Trust, or its subcontractors or their property upon or in proximity of the property of the County. The Land Trust's 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 the Land Trust or its employees, agents, or subcontractors.

15. 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 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 the Land Trust.

16. 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 the Land Trust 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

12/6/22
Date

Matt Vessely
Matt Vessely, Land Trust Board Vice-President

11/29/22
Date

ATTEST:

Vicki Urbanik
Vicki Urbanik, Porter County Auditor

Dec. 8, 2022
Date