

**ORDINANCE NO. 2021-BC-O- 12**

**AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF  
MADISON COUNTY, INDIANA, ADOPTING A PLAN FOR DISTRIBUTION OF  
THE PROCEEDS OF THE COUNTY'S GRANT FROM THE AMERICAN  
RESCUE PLAN ACT OF 2021**

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WHEREAS, Madison County, Indiana, has been awarded a grant from the American Rescue Plan Act of 2021 ("the Act"), in the amount of Twenty Five Million, One Hundred Sixty Seven Thousand, Two Hundred Fifty-Nine and 00/100 Dollars (\$25,167,259.00) (the "Grant Funds"), half of which, or Twelve Million, Five Hundred Eighty Three Thousand, Six Hundred Twenty-Nine and 50/100 Dollars (\$12,583,629.50) was received on June 10, 2021, and the remaining balance to be received in 2022; and,

WHEREAS, the County intends to use portions of the Grant Funds to respond to the COVID-19 public health emergency, pursuant to Section 603(c)(1)(A) of the Act; and,

WHEREAS, the Act requires a Grant Recipient to adopt a plan (the "Plan") to distribute the Grant Funds; and,

WHEREAS, the Act provides that the legislative body of the County shall adopt the definition of "Eligible Employees" as defined in Section 603(g)(2) of the Act for purposes of distributing Premium Pay to Eligible Employees as authorized by the Act; and,

WHEREAS, the County intends to use portions of the Grant Funds to recover the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the County prior to the emergency, pursuant to Section 603(c)(1)(C) of the Act; and,

WHEREAS, the County intends to use portions of the Grant Funds to make necessary investments in water, sewer, and broadband infrastructure, pursuant to Section 603(c)(1)(D) of the Act; and,

WHEREAS, this Plan is subject to amendments approved by the Madison County Board of Commissioners (the "Commissioners") as permitted by the Act.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Madison County, Indiana, as follows:

**SECTION I. Introduction.**

The County's Plan for distribution of the Grant funds are as follows:

1. The payments identified in this Plan and future amendments to the Plan shall be authorized uses of the Grant Funds.
2. The Plan may be amended to comply with the Act, any subsequent Amendments to the Act, or at the discretion of the Commissioners, to the extent provided by the Act.
3. The payment of all Grant Funds and any subsequent Grant Funds received pursuant to the Act, shall be subject to appropriation by the Madison County Council upon the request of the Commissioners.
4. The Commissioners shall be the final authority on the use and administration of the Grant Funds.
  - 4.1 The County's Grant Administrator(s) and the County Attorneys shall administer the Grant Funds on a day-to-day basis under the oversight of the Commissioners.
  - 4.2 The Auditor's office shall maintain all documents concerning the use of the Funds.
5. The Plan's procedures and designated uses for distribution of the Grant Funds from the Act are stated as follows in sections below.

**SECTION II. Recovering Lost Revenue Due to COVID-19.**

1. The second permitted use of the initial Grant Funds shall be to recover the County's reduction in revenue (the "Lost Revenue") due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the County prior to the emergency, pursuant to Section 603(c)(1)(C) of the Act.
2. This permitted use shall allow the County to use Grant Funds to avoid cuts to "government services" and to continue to provide valuable services that ensure that fiscal austerity measures do not hamper the broader economic recovery.
3. General Revenue's definition shall be based on the Census Bureau's definition and includes revenue from taxes, current charges, miscellaneous general revenue, and intergovernmental transfers between state and local governments.

3.1 General Revenue shall exclude intergovernmental transfers to the County from the Federal Government.

4. The Lost Revenue shall include, but not limited to:

4.1 Local Income Tax Receipts.

4.2 Food and Beverage Tax Receipts.

4.3 Lost Gas Tax Receipts.

4.4 Lost Rental Receipts for County facilities, including but not limited to the Madison County Parks and Madison County 4-H facilities.

4.5 Lost Tourism revenue from Uniform Innkeepers Tax.

4.6 Lost property tax revenue due to the reassessment of property value resulting from COVID-19.

5. The Lost Revenue will be calculated pursuant to the requirements provided by the Act.

5.1 Calculating Lost Revenue shall be done pursuant to the guidelines provided by the Department of the Treasury.

6. The Lost Revenue through 2024 shall be added as an amendment to the Plan once the United States Treasury adopts a Final Rule providing guidance on specifics concerning calculations.

7. The County preliminarily predicts the Lost Revenue amounts could be more in 2021, 2022, 2023, and 2024; the balance of any of the Lost Revenue in subsequent years from 2020 may be funded from the initial Grant Funds, the second half of the Grant Funds received by the County in 2022, or any subsequent Grant under the Act.

8. The Act provides broad and flexible uses of Lost Revenue recoupment outside of the eligibility requirements stated in other categories of permitted uses by the Act. The Commissioners shall have broad latitude to use the Lost Revenue funds for the provision of government services as follows:

8.1 Government services, which can be funded from Lost Revenue funds, may include, but not limited to:

8.1.1 Maintenance or "pay-go" funding for building of infrastructure, including roads.

8.1.1.1 "Pay-go" infrastructure is defined as the practice of funding capital projects with cash-on hand from taxes, fees, grants, and other sources, rather than with borrowed sums.

8.1.2 Modernization of cybersecurity, including hardware, software, and protection of critical infrastructure.

8.1.3 Health services.

8.1.4 Environmental remediation.

8.1.5 School or educational services.

8.1.6 The provision of police, fire, and other public safety services.

8.2 Lost Revenue funds shall not be used to replenish "rainy day," County reserve funds, nor debt service payments.

8.3 The Commissioners shall have broad discretion to determine what government services shall be funded by the Lost Revenue funds and how much of the Lost Revenue funds shall be used for each selected government service.

9. The permitted uses of Loss Revenue funds are subject to change and amendments to the Plan for the use of Loss Revenue funds shall be permitted upon the Commissioners' request or subject to the Act itself.

### **SECTION III. Drainage Projects.**

1. The third permitted use of the initial Grant Funds shall be used by the County to make necessary investments in water and sewer infrastructure pursuant to Section 603(c)(1)(D) of the Act.

2. The Act provides the County with wide latitude to identify investments and projects in water and sewer infrastructure that are of the highest priority to the County, which may include projects on privately-owned infrastructure.

3. To be permitted under the Act, any project or category of project must be eligible to receive financial assistance from the Environmental Protection Agency's ("EPA") Clean Water State Revolving Fund ("CWSRF") or Drinking Water State Revolving Fund ("DWSRF").

3.1. The CWSRF provides financial assistance for a wide range of water infrastructure projects to improve water quality and address water pollution.

3.1.1 The types of projects eligible under the Act and CWSRF include projects to construct, improve, and repair wastewater treatment plants, control non-point sources of pollution, improve resilience of infrastructure to severe weather events, create green infrastructure, and protect waterbodies from pollution.

3.2. The DWSRF provides financial assistance for projects to protect public health and comply with drinking water regulations.

3.2.1 The types of projects eligible under the Act and the DWSRF include projects that improve water infrastructure capital improvements, including the installation and replacement of failing treatment and distribution systems.

4. The Madison County Surveyor (the “Surveyor”) shall provide the Commissioners a report containing a list of prioritized projects, that would be compliant with the CWSRF and DWSRF requirements and regulations, and the Commissioners shall evaluate the proposed projects to determine which would respond most to the needs of the County.

4.1 The Surveyor’s list shall be submitted via an amendment to this Plan once complete.

4.2 Due to the limited amount of Grant Funds, not all of the permitted projects submitted by the Surveyor may be funded through the Grant Funds; the Commissioners shall have discretion to determine which projects would provide the greatest positive impact on the County.

#### **SECTION IV. Broadband Projects.**

1. The fourth permitted use of the initial Grant Funds shall be used by the County to make necessary investments in broadband infrastructures pursuant to Section 603(c)(1)(D) of the Act.

2. The Act provides that eligible investments in broadband are those that are designed to provide services meeting adequate speeds and are provided to unserved and underserved households and businesses in the County.

2.1 An area shall be considered to be unserved or underserved if the area lacks access to a wireline connection capable of reliably delivering at least minimum speeds of 25 Mbps download and 3 Mbps upload.

3. The Act provides the County with flexibility to identify the specific locations within the County to be served and design the permitted projects

4. Eligible projects shall be designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical upload and download speeds of 100 Mbps.

5. The flexibility provided by the Acts does recognize that it might not be feasible for all projects to meet the required goal and some areas may not need the required amounts.

5.1 For projects that might not be able to meet the required goal in Section V(4), the project would be expected to be designed to deliver, upon project completion, service that reliably meets or exceeds 100 Mbps download and between at least 20 Mbps and 100 Mbps upload speeds and be scalable to minimum of 100 Mbps symmetrical for download and upload speeds.

5.2 When determining whether the standards in Section V(4) or Section V (5.1) should apply, the Commissioners must consider geography, topography, or excessive costs associated with the project and projected estimates of typical household demands in the project's selected area.

6. The County shall prioritize investments and projects in fiber optic infrastructure where feasible, as such advanced technology shall enable the next generation of application solutions for the County.

7. The County shall focus on investments and projects that deliver a physical broadband connection by prioritizing projects that achieve last mile-connections; this will ensure a more immediate positive impact on the households and businesses in the selected areas.

8. The County shall prioritize support for broadband networks owned, operated by, or affiliated with local governments, non-profits, and co-operatives – providers with less pressure to turn profits and with commitments to serving the entire County.

9. When the County is selecting an area to be served by an investment or project, the County shall take into consideration, and may avoid, area that have existing agreements to build reliable wireline services that meet the standards stated in Section V(4) in order to avoid duplication of efforts and resources.

10. This section prioritizes many factors to be considered by the County; however, the Commissioners shall be provided broad discretion and can consider any and all relevant factors when determining which appropriate investments and/or projects to fund with the Grant Funds.

**SECTION V. Mitigating Backlog of County Government Services and Ongoing Effects of Public Health Emergency.**

1. The fifth permitted use of the Initial Grant Funds shall be used by the County to respond to the COVID-19 public health emergency pursuant to Section 603(c)(1)(A) of the Act.

2. This permitted use shall allow the County to use the Grant Funds to address the backlog of government services and mitigate the ongoing effects of the COVID-19 public health emergency.

3. A broad range of services are needed to contain the COVID-19 and are eligible uses including, but not limited to:

- 3.1 Testing and/or vaccination services
- 3.2 Medical Care
- 3.3 Contract Tracing
- 3.4 Support for vulnerable population to access medical or public health services
- 3.5 Public communication efforts
- 3.6 Enhancement to health care capacity
- 3.7 Purchasing of personal protective equipment
- 3.8 Support for prevention, mitigation, or other services.

4. The Interim Final Rule, 86 Fed. Reg. 26,786 (May 17, 2021) (to be codified at 31 CFR Part 35) recognizes that a “decrease(s) to a state or local government’s ability to effectively administer services” constitutes a negative impact of the COVID-19 public health emergency. During the COVID-19 public health emergency, many County offices were unable to operate safely and, as a result, now face significant backlogs. Therefore, efforts to reduce these backlogs are eligible uses and include, but are not limited to:

- 4.1 Capital projects to renovate or convert existing infrastructure
- 4.2 Hiring additional staff beyond pre-pandemic levels and the payment of overtime to process the backlog of claims, inquiries, requests, or other responsibilities of County offices accumulated during the course of the COVID-19 public health emergency
- 4.3 Hiring additional staff beyond pre-pandemic levels and paying overtime to the staff of the Clerk’s Office, Sheriff’s Department, Courts, Prosecutor’s Office, and

Public Defender's Office to safely facilitate court operations, address the backlog of cases, and increase the speed of case resolution.

**SECTION VI. Conclusion.**

1. Pursuant to the Act, the County shall only use Grant Funds obligated prior to December 31, 2024.


2. The period of performance for projects funded by the Grant Funds shall conclude on December 31, 2026; all projects funded by Grant Funds must be completed on or prior to this date.

3. This Plan is subject to amendments as more permitted uses are determined by the Act, Treasury guidance, and as priorities for the County develop under the discretion of the Commissioners.

4. This Ordinance and Plan shall be in full force and effect upon passage and maybe subsequently amended to conform with the Act.

**IN WITNESS WHEREOF**, the Board of Commissioners of Madison County, Indiana, have adopted this ORDINANCE this 21st day of September, 2021.

MADISON COUNTY BOARD OF COMMISSIONERS

  
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John Richwine, President  
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Kelly Gaskill  
\_\_\_\_\_  
Darlene Likens

ATTEST:

  
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Rick Gardner, Auditor