

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

VINCENT MORRIS, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	No. 1:20-cv-00034-DRL-SLC
)	
SHERIFF OF ALLEN COUNTY, <i>et al.</i> ,)	
)	
Defendants.)	

NOTICE OF SUPPLEMENTAL SUBMISSION IN RESPONSE TO ORDER

Defendant, Allen County,¹ by counsel, to comply with the March 31, 2022 Opinion and Order on the Plaintiffs' Motion for Summary Judgment (Doc 60), to supplement the Notice of Defendants' Submission in Response to Order (Doc 62), and to comply with the Court's directive at the hearing on June 16, 2022 and the entry on June 17, 2022 (Doc 72), provides the following statement:

1. The Court ordered that the Defendants file a plan within 45 days of the date of the Order addressing the long-term solution and short-term steps to address the Constitutional deficiencies, as found and noted in the Order in the Allen County Jail (hereinafter the "Constitutional Deficiencies"). Excerpted directly from the Order, the Court identified the following:
 - a. If the proposed long-term solution will involve construction of a new or expanded Allen County Jail, the plan must specify:
 - i. the general construction plan—*i.e.*, whether jail expansion or the construction of a new facility is contemplated;

¹ The party name recognized by the Court is Allen County. As also recognized by the Court in prior pleadings and Orders, the Board of Commissioners of the County of Allen is acting as the county executive.

- ii. the anticipated benchmarks for expansion or construction leading up to the completion and occupancy dates. As appropriate, these benchmarks must include, without limitation, when the following events have occurred or will be occurring:

execution of a purchase agreement for the property on which the jail will be located, if a new facility will be constructed;

approval from zoning and planning authorities;

hiring of an architect and construction manager;

approval of final architectural and engineering documents;

initiation of construction of the new facility, or the beginning of the renovation of the existing facility if the latter option is chosen;

completion of construction of the new facility, or completion of the renovation of the existing facility if the latter option is chosen.

- iii. the prisoner occupancy of the new facility or of the renovation of the existing facility.

Doc 60, pages 29-30. The Defendant, Allen County, will address each in turn.

2. “[T]he general construction plan—*i.e.*, whether jail expansion or the construction of a new facility is contemplated”

Construction of a new facility is contemplated for a new facility with approximately 1,100 beds.

3. “[W]hen the following events have occurred or will be occurring: execution of a purchase agreement for the property on which the jail will be located, if a new facility will be constructed”

To attempt to comply with the timeline presented in the Notice (Doc 62), Allen County has decided that new property will likely not be available in a reasonable period of time, and, therefore, the property on which the jail will be located will be

property currently owned by Allen County located at Adams Center and Paulding Roads in Fort Wayne, Allen County, Indiana (hereinafter “the Property”).

4. “[W]hen the following events have occurred or will be occurring: approval from zoning and planning authorities”

The Property for the proposed site is located within the City of Fort Wayne. The County currently owns no property in the unincorporated areas of Allen County, which would meet the requirements for the facility as contemplated. As such, Allen County must apply for approval from the Fort Wayne Board of Zoning Appeals (“FWBZA”) for a “contingent use” of the Property in order to build a jail facility on it. Per the existing calendar for the FWBZA, applications for contingent use are due on August 2, 2022 for the September 22, 2022 hearing, or on September 6, 2022 for the October 20, 2022 hearing. A more detailed survey of the site, and other architectural work, may be required before the hearing with the FWBZA. Allen County is working with planning and zoning counsel and Elevatus Architecture to confirm a date for the filing of an application, as well as the required documentation. It is uncertain as to when or if the FWBZA would approve the application for a contingent use.

5. [W]hen the following events have occurred or will be occurring: hiring of an architect and construction manager”
 - Allen County previously hired an Owner’s Representative, Construction Control, Inc., to assist them with all aspects of the construction.
 - Allen County approved the hiring of Elevatus Architecture as the architect on June 21, 2022.

- Allen County anticipates the hiring of a construction manager as an advisor (CMa) or a construction manager as a constructor (CMc). This will occur in conjunction with the Design and Development phase in the following paragraph.

6. [W]hen the following events have occurred or will be occurring: approval of final architectural and engineering documents;

Utilizing benchmarks provided in the bidding documents and information from Elevatus Architecture, Allen County understands the following calendar benchmarks for the presentation of and approval of architectural and engineering documents:

Programming/Concept	– September 30, 2022;
Schematic Design	– December 31, 2022;
Design Development	– April 30, 2023;
Construction Documents	– September 30, 2023.

7. [W]hen the following events have occurred or will be occurring: initiation of construction of the new facility;

Utilizing benchmarks provided in the bidding documents and information from Elevatus Architecture, Allen County understands the following calendar benchmarks for the bidding and the initiation of construction are:

Bidding	– November 30, 2023
Construction Initiation	– April (Spring) 2024

8. [W]hen the following events have occurred or will be occurring: completion of construction of the new facility.

Utilizing benchmarks provided in the bidding documents and information from Elevatus Architecture, Allen County understands that construction will likely take 30-36 months:

Completion of Construction – April (Spring) 2027

9. The benchmarks set forth herein, and paragraphs 6-8 specifically, are contingent upon obtaining appropriate funding and appropriations for the costs of construction. The Defendants have already taken steps in regard to financing, which were detailed in the Notice (Doc 62). It is anticipated that bond counsel will be selected prior to July 31, 2022. Discussions on funding, tax implementation, tax levies, bonding, and any potential public voting or referenda on the same continue, and the Board of Commissioners commits to taking all actions in its power to ensure that adequate funding is obtained.
10. In addition to these steps, following the June 16, 2022 hearing, counsel for the parties met by Zoom conference on June 27, including counsel for the proposed *amicus curiae* to discuss the formalization of a Committee related to the conditions at the Allen County Jail. As a result of the meeting, with the support of the Defendants and the proposed *amicus curiae*, counsel for the Plaintiffs prepared and delivered a letter to certain judicial stakeholders concerning the conditions of the Allen County Jail and suggestions about forming a committee regarding the same. Counsel for the Plaintiffs identified a similar committee that was formed in Marion County while Marion County was facing similar circumstances.

Wherefore, Allen County respectfully requests that the Court review the prior Response (Doc 62) and this Supplemental Notice, and approve them as being compliant with the Court's Order (Doc 60), and for all other appropriate relief.

Respectfully submitted,

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Commissioners of the County of Allen,
incorrectly named as Allen County*

CERTIFICATE OF SERVICE

I hereby certify that on the July 14, 2022, a copy of the foregoing was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's CM/ECF system.

Kenneth Falk
Samuel L. Bolinger

J. Spencer Feighner
John O. Feighner

Diana Bauer

/s/ Theodore T. Storer

Theodore T. Storer