

**STATE OF INDIANA**  
**DEPARTMENT OF LOCAL GOVERNMENT FINANCE**  
**Room 1058, IGCN – 100 North Senate**  
**Indianapolis, IN 46204**

**IN THE MATTER OF THE PETITION            )**  
**FOR REVIEW ALLEGING ARTIFICIAL        )**  
**DIVISION OF A CONTROLLED PROJECT    )**       **CP22-002**  
**BY HANCOCK COUNTY                        )**

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**FINAL DETERMINATION**

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**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**INTRODUCTION**

1. Indiana Code 6-1.1-20-3.1 and IC 6-1.1-20-3.6 provide that a political subdivision may not artificially divide a capital project into multiple capital projects in order to avoid the requirements of the petition and remonstrance process or referendum process, respectively.
2. Indiana Code 6-1.1-20-3.1 and IC 6-1.1-20-3.6 also provide that a person that owns property within a political subdivision or a person that is a registered voter residing within a political subdivision may file a petition with the Department of Local Government Finance (“Department”) objecting that the political subdivision has artificially divided a capital project into multiple capital projects in order to avoid the requirements of the petition and remonstrance process or referendum process, respectively. The petition must be filed not more than ten days after the political subdivision gives notice of the preliminary determination to issue the bonds or enter into the lease for the project. If the Department receives such a petition, it must, not later than 30 days after receiving the petition, make a final determination on the issue of whether the capital projects were artificially divided.
3. A controlled project is, with some exceptions, any project financed by bonds or a lease that will cost a political subdivision more than the lesser of \$5,815,445 or an amount equal to 1% of the total gross assessed value of property within the political subdivision on the last assessment date, if that amount is at least \$1,000,000. IC 6-1.1-20-1.1; [Department Nonrule Policy Document #2021-1](#). Generally, a controlled project with a cost that exceeds \$5,815,445 is subject to the statutory requirements for a petition and remonstrance or, if the cost is greater than \$17,446,334, the referendum process. IC 6-1.1-20-3.1 & 3.2; IC 6-1.1-20-3.5 & 3.6; [Department Nonrule Policy Document #2021-1](#).
4. For purposes of the artificial division petition received by the Department, a county is a political subdivision. IC 6-1.1-1-12.

## RELEVANT PROCEDURAL HISTORY

5. On September 15, 2022, George Langston submitted a petition to the Department (“Petition”). The petition stated that Mr. Langston was a property owner and registered voter residing within Hancock County (“County”). *Petition.*

6. Mr. Langston claims in the Petition that a capital project proposed by the County “is splitting up a control[sic] project to avoid a public referendum” and lists the following statements to corroborate this claim:

- In a *Greenfield Daily Reporter* article, dated May 14, 2022, the President of the Hancock County Board of Commissioners [John Jessup] stated the cost of the project would be \$12 million dollars and would be paid out of general obligation bonds.
- On September 14, 2022, the Hancock County Council introduced Ordinance #2022-9A, an ordinance to issue General Obligation Bond 2022B at \$5,575,000.

*Petition.*

7. Mr. Langston attached the following documents to the Petition:

- A copy of County Board of Commissioners Resolution No. 2022-3-13 (“Resolution”).
- A copy of County Board of Commissioners Ordinance 2022-9A, unsigned and unattested, with exhibit (“Ordinance”).
- A copy of Schematic Design Packet, dated May 4, 2022, by BW Construction and DLZ Indiana, LLC (“Design Packet”).
- A Word document containing a purported article from the *Greenfield Daily Reporter* entitled “Plans progress for old jail”.

*Petition.*

8. On September 15, 2022, the Department notified the County Auditor that it received the Petition and requested additional information. *E-mail from Department to Debra Carnes, Hancock County Auditor, September 15, 2022, at 12:26 p.m.* On September 21, 2022, the Department received an e-mail from the County containing several documents including copies of resolutions, ordinances, and meeting minutes. *E-mail from Chyan Gilaspy to Department, September 21, 2022, at 11:40 a.m., with attachment.*

9. Subsequently, on October 10, 2022, the Department received a formal response from the County, which included as an attachment a revised copy of the Ordinance (“Revised Ordinance”). *E-mail from Scott Benkie, County Attorney, to Department, October 10, 2022, at 3:17 p.m., with attachment.*

10. The County's response letter made the following statements:

- The Petition is premature because the Ordinance has only been introduced on September 14, hence a decision has not been made that would trigger the right to file a petition under IC 6-1.1-20-3.1(c).
- The Project does not contemplate any work on the existing jail, which was funded using a previously issued bond. The Ordinance states the renovation work on the existing jail was excluded from the purposes for the bond issue.
- Each project stated in the Ordinance as a purpose for the bond issue is a stand-alone project and can be undertaken separately, are financed separately, and each have an independently desirable end.
- The Petition mistakenly aggregates all of the projects together with a projected cost of \$12 million because the Ordinance itself states the project cost is \$5,575,000. In addition, the Ordinance contemplates only one bond issuance.

*County Response Letter.*

11. In order to have a more complete picture of the claims made by both Mr. Langston and the County, the Department gathered additional documentation, specifically relating to the previous bond issue mentioned in the County's response. The information obtained from these documents will be included below, as necessary.

### **FINDINGS OF FACT**

12. Resolution No. 2022-3-13 states that the County Board has determined that there is a need for the "[r]enovation or acquisition of new buildings and remodeling of existing county buildings," including the "county's old jail"<sup>1</sup> and excluding the new jail. No further elaboration is made in the resolution as to the nature of the project. The resolution also states the Board requests that there be a bond issued in the amount of \$5,575,000 to fund the expenses for the project. *Resolution.*

13. The proposed Ordinance<sup>2</sup> by the County Council, dated September 14, 2022, states that the Council advises the issuance of bonds, designated the "Hancock County, Indiana General Obligation Bonds, Series 2022B" in a principal amount not to exceed \$5,575,000. The bonds were to fund the "[r]enovation or acquisition of new buildings and remodeling of existing county buildings," including the following:

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<sup>1</sup> References to "old jail" and "existing jail" will be used interchangeably, but refer to the same facility.

<sup>2</sup> This Ordinance was not numbered. Based on Mr. Langston and the County's statements, the Department accepts that this document is Ordinance No. 2022-9A.

- (i) The building “commonly described as the county’s old jail,” and excluding the new county jail.
- (ii) The existing community corrections facility.
- (iii) The buildings of the highway department.
- (iv) The basement of the County Annex building.
- (v) Flooring improvements and renovations at the building housing of the Purdue Extension.

*Ordinance.*

14. Therefore, the Resolution and Ordinance both state that the cost of the proposed project is \$5,575,000. This is below both the threshold to trigger a petition & remonstrance process under IC 6-1.1-20-3.1(a) and a referendum process under IC 6-1.1-20-3.5(a).

15. The Revised Ordinance is identical to the Ordinance provided by Mr. Langston, except that it includes additional statements, as follows:

**WHEREAS**, the County has previously issued its General Obligation Bonds, Series 2021, authorized by and issued pursuant to Ordinance No. 2021-10E adopted by the Council on October 13, 2021, in the aggregate principal amount of Five Million Five Hundred and Seventy-Five Thousand Dollars (\$5,575,000) (the “2021 Bonds”), for the purpose of paying the costs of renovation and equipping of the what is commonly described as the county’s old jail, located at 123 East Main Street, Greenfield, Indiana, 46140, including all or any portion of improvements necessary to accommodate the relocation to the old jail of the County Coroner, the Public Defender, Probation, and the administration offices of Community Corrections (the “2021 Project”); and

**WHEREAS**, the County has previously issued its General Obligation Bonds, Series 2022A, authorized by and issued pursuant to Ordinance No. 2022-3D adopted by the Council on March 9, 2022, in the aggregate principal amount of One Million Two Hundred Fifty Thousand Dollars (\$1,250,000) (the “2022A Bonds” or the “E911 Bonds”), for the purpose of paying the costs of all or any portion of various improvements to the 911 Emergency Management Center (the “E911 Project”); and

**WHEREAS**, the County now intends to issue the 2022B Bonds for the purpose of financing all or a portion of the Projects, as detailed in Exhibit A hereto, to be located at various County facilities separate from the sites of the 2021 Project and the E911 Project, and which Projects the County has determined shall not include, extend, or represent a division of any of the capital projects

included under the 2021 Project or the E911 Project or financed by the 2021 Bonds or the 2022A Bonds.

*Revised Ordinance.*

16. The Revised Ordinance also includes an amended Exhibit A which states that (i) the cost is for \$5,575,000, and (ii) “renovations and equipping of the old jail, the 911/Emergency Management Center, or any of the other projects financed by the 2021 Bonds or the 2022A Bonds” are excluded. *Revised Ordinance.*

17. The 2021 Bonds were issued pursuant to County Ordinance No. 2021-10E, adopted by the County Council on October 13, 2021.<sup>3</sup> Ordinance No. 2021-10E authorized the issuance of a bond issue totaling \$5,575,000 for the following purposes:

- Various improvements to the 911 Center including, but not limited to, the following:
  - Acquisition, installation, and equipping of the 911 System
  - Construction and equipping of a garage on the back of the building.
  - Construction and equipping of a second storage garage.
  - Acquisition and installation of new windows and front entry doors.
  - Renovation and equipping of basement to include 2-3 offices.
  - Renovation and equipping of upstairs to expand kitchen area.
  - Renovation and equipping of EMA kitchen.
  - Acquisition and installation of televisions.
  - Acquisition and installation of track and canned lighting in various areas of the building.
- Renovation and equipping of various county facilities, including, but not limited to, the County’s jail facilities.

*Ordinance No. 2021-10E.*

18. The Design Packet details the scope of work for each project listed above, including renovations and changes both to the community corrections center and the existing jail. However, the narrative of the Design Packet breaks out the project by categories such as “Site

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<sup>3</sup> The ordinance was retrieved from the Official Statement of the County’s General Obligation Bonds, Series 2021, from ESRB’s Electronic Municipal Market Access website, [emma.msrb.org](http://emma.msrb.org), last accessed October 12, 2022.

Development,” “Architectural,” “Mechanical,” “Plumbing,” “Fire Protection,” and “Electrical,” with each of the renovation components listed above broken out into each of these categories. *Design Packet, p. 7.* As with the bid package above, the details of the projects are further separated in the Design Packet by community corrections center and the existing jail. The Design Packet also includes both proposed combined and separate timelines for renovations to the jail and for the community corrections center:

There are two proposed design schedule options to complete the projects:

1. Complete the Jail and Community Corrections renovation designs simultaneously:

Design Development:	May 4 – July 8, 2022
Design Development Estimate (BW Construction):	July 8 – July 29, 2022
Design Development Presentation:	July 19th (Pending Commissioner confirmation)
Design Development Cost Estimate Presented:	Aug. 2nd
Construction Documents:	July 11 – Oct 18th
Construction Documents Presentation/ Request to proceed with bidding	Oct. 18th (Pending Commissioner confirmation)
Bidding:	Oct. 18 – Nov. 15, 2022
Receive/Open Bids:	Nov. 15th (Pending Commissioner confirmation)

2. Complete the Jail renovation design first and then the Community Correction renovation design:

Jail Renovation:

Design Development:	May 4 – July 8, 2022
Design Development Estimate (BW Construction):	July 8 – July 29, 2022
Design Development Presentation:	July 19th (Pending Commissioner confirmation)
Design Development Cost Estimate Presented:	Aug. 2nd
Construction Documents:	July 11 – Oct 18th
Construction Documents Presentation/ Request to proceed with bidding	Oct. 18th (Pending Commissioner confirmation)
Bidding:	Oct. 18 – Nov. 15, 2022
Receive/Open Bids:	Nov. 15th (Pending Commissioner confirmation)

Community Corrections Renovation:

Cost Update & Plan Review/Updates:	Feb. 7, 2023 (Pending Commissioner confirmation)
Design Development:	February 2023
Design Development Presentation:	March 7, 2023 (Pending Commissioner confirmation)
Design Development Estimate by BW Construction	April 4, 2023
Construction Documents:	March 8 – May 2, 2023
Construction Documents Presentation/ Request to proceed with bidding	May 2nd (Pending Commissioner confirmation)
Bidding:	May 2 – June 6, 2023
Receive/Open Bids:	June 6, 2023 (Pending Commissioner confirmation)

*Design Packet, pp. 5 - 6.*

19. The Petition also included a reference to the last page of the Design Packet, containing a Schematic Design Estimate (“Estimate”) as follows:



**SCHEMATIC DESIGN ESTIMATE**  
**HANCOCK COUNTY JUSTICE RENOVATIONS**  
 GREENFIELD, INDIANA  
 DLZ

DATE: 5/4/2022

BID PACKAGE SUMMARY	PROJECT TOTAL	\$ / GSF	CORRECTIONS TOTAL	\$ / GSF	JAIL TOTAL	\$ / GSF
00A - Site General Requirements	\$192,454	\$3.00	\$56,050	\$4.37	\$136,404	\$2.65
02A - Selective Demolition	\$338,063	\$5.26	\$86,380	\$6.73	\$251,683	\$4.90
03A - Concrete	\$17,000	\$0.26	\$3,000	\$0.23	\$14,000	\$0.27
04A - Masonry	\$334,700	\$5.21	\$65,200	\$5.08	\$269,500	\$5.24
05A - Structural & Misc Steel	\$25,000	\$0.39	\$10,000	\$0.78	\$15,000	\$0.29
06A - Finish Carpentry	\$263,300	\$4.10	\$80,600	\$6.28	\$182,700	\$3.56
06B - General Trades	\$1,080,400	\$16.82	\$183,150	\$14.26	\$897,250	\$17.46
07A - Roofing & Skylights	\$258,940	\$4.03	\$233,940	\$18.22	\$25,000	\$0.49
08A - Aluminum Framing & Glazing	\$120,700	\$1.88	\$35,200	\$2.74	\$85,500	\$1.66
09A - Stud Framing, Drywall & Ceilings	\$929,917	\$14.48	\$270,925	\$21.10	\$658,992	\$12.82
09B - Resinous Flooring	\$28,000	\$0.44	\$0	\$0.00	\$28,000	\$0.54
09C - Polished / Sealed Concrete	\$23,700	\$0.37	\$2,700	\$0.21	\$21,000	\$0.41
09D - Soft Flooring & Tile Work	\$407,915	\$6.35	\$80,270	\$6.25	\$327,645	\$6.38
09E - Painting & Coatings	\$228,922	\$3.56	\$45,440	\$3.54	\$183,482	\$3.57
14A - Elevators	\$0	\$0.00	\$0	\$0.00	\$0	\$0.00
21A - Fire Suppression	\$206,021	\$3.21	\$39,000	\$3.04	\$167,021	\$3.25
22A - Plumbing & HVAC	\$2,204,422	\$34.32	\$254,133	\$19.79	\$1,950,289	\$37.95
26A - Electrical & Communications	\$956,676	\$14.89	\$159,601	\$12.43	\$797,074	\$15.51
32A - Site Improvements	\$62,500	\$0.97	\$10,000	\$0.78	\$52,500	\$1.02
<b>SUBTOTAL DIRECT COST</b>	<b>\$7,678,629</b>	<b>\$119.55</b>	<b>\$1,615,589</b>	<b>\$125.82</b>	<b>\$6,063,040</b>	<b>\$117.98</b>
Estimating & Design Contingency 8.00%	\$614,290	\$9.56	\$129,247	\$10.07	\$485,043	\$9.44
Escalation (4th Qtr 2022) 3.00%	\$230,359	\$3.59	\$48,468	\$3.77	\$181,891	\$3.54
<b>TOTAL DIRECT COST</b>	<b>\$8,523,278</b>	<b>\$132.70</b>	<b>\$1,793,304</b>	<b>\$139.67</b>	<b>\$6,729,974</b>	<b>\$130.96</b>
Construction Contingency 3.00%	\$255,698	\$3.98	\$53,799	\$4.19	\$201,899	\$3.93
General Conditions & Staffing (BW)	\$664,493	\$10.35	\$199,348	\$15.53	\$465,145	\$9.05
Preconstruction Phase (BW)	\$25,000	\$0.39	\$10,000	\$0.78	\$15,000	\$0.29
Sub Bonding (None Anticipated)	\$0	\$0.00	\$0	\$0.00	\$0	\$0.00
Construction Manager OH&P (BW) 4.00%	\$849,139	\$13.22	\$184,424	\$14.36	\$664,715	\$12.93
<b>TOTAL CONSTRUCTION COSTS</b>	<b>\$10,317,609</b>	<b>\$160.63</b>	<b>\$2,240,875</b>	<b>\$174.52</b>	<b>\$8,076,734</b>	<b>\$157.16</b>
<b>SOFT COSTS (BY OWNER)</b>						
Builder's Risk Insurance	\$0		\$0		\$0	
Lead Design Fees (DLZ) 5.75%	\$593,263	\$9.24	\$128,850	\$10.04	\$464,412	\$9.04
Detention Furniture	TBD		TBD		TBD	
Residential Appliances	TBD		TBD		TBD	
Laundry Equipment	TBD		TBD		TBD	
Televisions / Projectors / Screens	TBD		TBD		TBD	
Visual Display Surfaces (Marker Boards, etc.)	TBD		TBD		TBD	
Access Control Equipment	TBD		TBD		TBD	
Security / CCTV (Cabling, Devices, Equipment)	TBD		TBD		TBD	
Audio / Visual (Cabling, Devices, Equipment)	TBD		TBD		TBD	
Owner Contingency 0.00%	\$0		TBD		TBD	
<b>SUBTOTAL SOFT COSTS</b>	<b>\$593,263</b>	<b>\$9.24</b>	<b>\$128,850</b>	<b>\$10.04</b>	<b>\$464,412</b>	<b>\$9.04</b>
<b>TOTAL PROJECT COSTS</b>	<b>\$10,910,871</b>	<b>\$169.87</b>	<b>\$2,369,725</b>	<b>\$184.56</b>	<b>\$8,541,146</b>	<b>\$166.20</b>

*Design Packet, p. 46.*

20. The Estimate therefore states that the combined cost of both the corrections project and the jail project is \$10,910,871. This is above the threshold needed to trigger the petition & remonstrance process. This amount, however, is below the threshold needed to trigger a referendum process<sup>4</sup>.

<sup>4</sup> The Department stresses that even if a project is over either threshold, that only means that a project is eligible for a petition & remonstrance or a referendum (as applicable) if there is a timely and sufficient petition filed with the county voter registration office pursuant to IC 6-1.1-20-3.2(b) or IC 6-1.1-20-3.6(b), respectively. Therefore, even if a project were to be above either threshold, that does not mean the project is automatically subject to public approval via a petition & remonstrance or a referendum.

21. The “Fire Protection Narrative” states that “[a]n automatic wet sprinkler system . . . will be provided throughout the facility,” in conformity with NFPA standard 13, “any area not having a sprinkler system will be fire rated construction,” and that existing fire department connections for each building will be used. *Design Packet, pp. 32 - 33*. Similar design criteria are described for each facility. Likewise, the “Electrical Narrative” includes general design criterion for load densities and voltage drop, as well as specific details for each facility. *Design Packet, pp. 34 - 39*. However, the Electrical Narrative also includes “common requirements” between the facilities. *Design Packet, p. 34*.

22. The HVAC narrative details the scope of work as to provide “conditioned air in all occupied offices, working spaces, and offender areas,” and “at least the minimum required amounts of outside air for ventilation through use of a variable air volume (VAV) supply system.” The HVAC narrative further details specific changes for each facility.

23. The sections of the Design Packet labelled “Architectural Narrative” have separate sections for the existing jail and the community corrections center. The narrative for the existing jail details “renovation of the existing Hancock County Jail into spaces for Community Corrections, Probation, Public Defender, and the Coroner” and outlines the purposes for each space:

The new primary areas include:

- **Community Corrections (First Floor)**
  - Lobby/reception
  - Administration Area
  - Intake screening area with lockers
  - Housing for approximately 130 beds.
- **Probation**
  - **Juvenile Probation (First floor)**
    - Lobby/reception
    - Offices
    - Conference Room
    - Workroom
  - **Alcohol & Drug Probation (Lower Level)**
    - Reception
    - Offices
    - Conference Room (shared with Adult Probation)
    - Secured Records
    - Workroom
    - Breakroom (shared with Adult Probation)
  - **Adult Probation (Lower Level)**
    - Reception
    - Offices
    - Conference Rooms (one shared with Alcohol & Drug Probation)
    - Workroom
    - General Storage
    - Breakroom (shared with Alcohol & Drug Probation)
- **Public Defender (Lower Level)**
  - Reception/Waiting
  - Offices
  - Conference Rooms
  - Workroom
- **Coroner (Lower Level)**
  - Offices
  - Conference Room
  - Garage



- Autopsy
- Body Cooler
- Storage

*Design Packet, pp. 11 - 12.*

24. The narrative for the community corrections center details “renovation of the existing Hancock County Community Corrections into spaces for the Prosecutor’s Office” and also outlines the purposes for those spaces:

The new primary areas include:

- Lobby/reception
- Offices
- Conference Rooms
- General Storage

*Design Packet, p. 18.*

25. The Design Packet also includes floor plans for the existing jail and a layout of site entrance improvements. The plans for the existing jail include the address of the facility at 123 E. Main Street, while the plans for the community corrections center include the address at 233 E. Main Street. *Design Packet, pp. 43 - 45.* A Google Maps search for these addresses, both in Greenfield, Indiana, shows that they are separate buildings.

26. Mr. Langston also provided a Word document which is represented to be a copy of an article from the Greenfield Daily Reporter, entitled “Plans progress for old jail,” dated May 14, 2022, and written by Mitchell Kirk.<sup>5</sup> The article states that with inmates being moved to the new jail facility, the County is proposing renovations to be made to the old jail and the community corrections center. The article went on to describe some of the purposes of the renovations, which include giving space to the offices of the county coroner and public defender, both of which operate out of rented facilities, as well as the adult probation office, and expanding space for community corrections. The article also includes statements by John Jessup, County Board president, regarding his intent to use general obligation bonds and plans to begin work on the community corrections center in 2023. No further statement was given by Mr. Langston regarding the content of the article.

## ANALYSIS

27. The Department acknowledges that both the Ordinance provided by Mr. Langston and the Revised Ordinance provided by the County represent a document that has not been adopted as of September 14, 2022. The Department has not received a record of a vote taken on either

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<sup>5</sup> The Department was able to retrieve an online version of this article on October 11, 2022. The URL for this article is <https://www.greenfieldreporter.com/2022/05/14/plans-progress-for-old-jail/>.

ordinance, whether on the ordinance itself or in the minutes of a public meeting. The Department has also not been presented any finalized ordinance authorizing the bond issuance. More importantly, there is no documentation presented that the County has published notice of the decision to issue bonds after adoption of the Ordinance. Therefore, the Department finds that the Petition was prematurely filed, and that the Department does not have statutory authority under IC 6-1.1-20-3.1(c) to make a preliminary determination on the Petition.<sup>6</sup>

28. The Department, however, acknowledges Mr. Langston’s concerns about potential artificial division. Thus, the Department offers the following as an informal review, though it should be understood that this is not binding and does not create any obligation on either Mr. Langston or the County.

29. Indiana Code 6-1.1-20-3.1(c) & 3.6(j) state that a controlled project is artificially divided when the result of one (1) or more of the subprojects cannot reasonably be considered an independently desirable end in itself without reference to another capital project. This a fact-sensitive inquiry. The Department makes its determinations on a case-by-case basis in reliance on the applicable law and facts.

30. The narrative for each project describes some of the tasks generally, without specifying whether the task is specific to the community corrections center or the existing jail. For example, under the “Site/Civil/Landscape Architecture Narrative,” the task “Site Clearing” is described as “[c]lear all existing items on site identified to be removed to install improvements as specified.”

31. While there is overlap between the general purposes of some of the spaces between the two facilities—for example, reception area, conference rooms, offices, and storage space—the community corrections center also uses space for more specific purposes, including incarcerating persons and conducting coroner work, which are not included in the tasks for the jail facility. These also include specific furnishings, such as laundry equipment, lockers, and bedding for community corrections housing and a morgue refrigerator for the coroner.<sup>7</sup> In the HVAC narrative, it is also stated that “[t]he Coroner/Autopsy area” will be designed so that it is at a negative air pressure in relation to the adjacent spaces in the building to prevent the spread of airborne contaminants.” *Design packet, p. 25*. Therefore, there is evidence that some of the work at one facility has an end for which work at the other facility is not required.

32. It is to be expected that other specifications, such as materials and design, will differ between the two facilities. The facilities have their own preexisting designs, and the renovations will follow the needs specific to that facility as well as code standards and local ordinance

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<sup>6</sup> The Department also acknowledges that the Revised Ordinance expressly excludes the old jail. While the County says in its response that this was done to clarify the scope of the project for which the bond will be issued, as the old jail renovation has already been financed, this could arguably be seen as an attempt to artificially divide a project (though it is not presumptive evidence of such), especially in light of the possibility a third bond issuance in 2023. Therefore, the Department will not find the exclusion of the old jail from the bond ordinance dispositive.

<sup>7</sup> Although it is not clearly indicated, the Estimate appears to place the bedding, laundry equipment, and other furniture as “soft costs” with an estimated cost to be determined. There is no separate item for the morgue refrigerator.

requirements. Likewise, it is expected that there will be some similarities in design that reference independently promulgated standards or ordinances. Therefore, differences in materials and design, by themselves, do not indicate independently desirable ends for each renovation.

33. Moreover, the fact that each renovation follows a different schedule does not in itself indicate an independently desirable end. Subprojects completed in self-contained stages or phases at different projects can be considered components of a single project, specifically when the subprojects served a single goal of enclosing a building. However, renovation of an individual building may still constitute its own project.

34. It is not disputed that there are two separate facilities for which the renovations are proposed. Each facility is treated separately for most of the Design Packet, although there is some overlap both in the narrative and the description of what is to be done. The Estimate also lists the costs separately for each facility. Therefore, the Department finds that, with one caveat, the community corrections facility renovation and the existing jail renovation are each separate projects with their own independently desirable ends.

35. The caveat is in the site improvements as described in pages 8 through 10 of the Design Packet. The Department does not object to renovation of each building being its own project to the extent the scope of each project is limited to the interior and exterior of that building only.<sup>8</sup> The Department would be more skeptical if the renovations are done to landscaping, parking lots, and other outdoor areas immediate to the facilities and when the facilities are themselves located next to each other. Here, both the community corrections building, and the existing jail are situated on the same city block and are diagonal from each other. The description of the site improvements is general in nature and are not referenced separately for each facility. Therefore, the site improvements can be considered one project, albeit one in which the cost is below what is necessary to trigger either a petition and remonstrance or a referendum. Moreover, this would not thereby cause the community corrections project and the old jail project to be treated as if they were the same project. IC 6-1.1-20-3.1(c) does not prohibit capital projects in which the result of each can reasonably be considered an independently desirable end in itself. As discussed above, the renovation work at each facility still retains their own independent and distinct character.

36. The *Daily Reporter* article does include statements from Mr. Jessup and Mr. Carnegie which suggest an overall plan to renovate multiple facilities that have some association with public safety. Public statements by a local official and other persons involved with the projects play a part in ascertaining the objectives of the County. Given the lack of description that often occurs in public statements, especially statements reported secondhand, the Department will not give much weight to them. The Department will instead look to the components of the projects to determine whether the results of the projects can be reasonably considered to be independently desirable.

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<sup>8</sup> The outcome may be different if, for example, renovations at separate but close by buildings included adding walkways—sidewalks, tunnels, skyways, etc.—that connect the buildings, or parking spaces or garages that are used for the benefit of both facilities. Such improvements would be more likely to have purposes that reference multiple projects.

37. Based on the evidence obtained, the Department concludes that the County has not made a decision regarding the issuance of bonds or entering into leases regarding the community corrections project, and has not given notice of same pursuant to IC 6-1.1-20-5, as of September 15, 2022, when the Department received the Petition. By virtue of IC 6-1.1-20-3.1(c) and IC 6-1.1-20-3.6(j), the Department can only act on a petition when that petition has been submitted no later than ten (10) days after the publishing and posting of notice of the decision to issue bonds or enter into leases. As no such notice has been given prior to the submission of any of the petitions to the Department, the Department has no statutory authority to act on the petition that have been submitted.

38. Although the Department cannot take official action on this Petition for the reasons stated above, the Department informally concludes that the community corrections facility project and the old jail project can be reasonably considered to have independently desirable ends in themselves without reference to the other project. Although the Design Packet describes similar activities, the renovation work planned for the community corrections center, and the work that had been done at the old jail, are distinct projects occurring within separate buildings and have different requirements. Although landscaping and outdoor site improvements may represent work done at both locations, they do not necessarily result in both projects being treated as one.

39. The Department emphasizes that the determination of whether a controlled project has been artificially divided is very fact-sensitive and the Department reserves the right to make that determination on a case-by-case basis in reliance on the applicable law and facts.

Dated this 14 day of October, 2022.

STATE OF INDIANA  
DEPARTMENT OF LOCAL GOVERNMENT FINANCE



(for)

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Wesley R. Bennett, Commissioner