

BOARD OF SUPERVISORS AGENDA LETTER

EK

Clerk of the Board of Supervisors 105 E. Anapamu Street, Suite 407

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Department No.: Sheriff
Department No.: 032

Agenda Number:

For Agenda Of: August 19, 2008
Placement: Departmental
Estimated Tme: 15 minutes

1 hour on September 2, 2008; and 1 hour on September 9, 2008.

Continued I tem: Yes

If Yes, date from: July 15, 2008 Vote Required: Majority

TO: Board of Supervisors

FROM: Department Bill Brown, Sheriff x 4290

Director(s)

Contact Info: Tom Jenkins, Commander x 4249

SUBJECT: Santa Barbara Jail-Northern Branch – AB 900 Conditional Award Compliance

<u>County Counsel Concurrence</u> <u>Auditor-Controller Concurrence</u>

As to form: Yes As to form: Yes

Recommended Actions: This Hearing allows the County to take certain necessary actions to comply with conditions set by the Corrections Standards Authority (CSA) for award of Conditional Funding:

- a. **Adopt a Resolution** giving assurance of site possession to the Corrections Standards Authority (CSA), for the Santa Barbara County Main Jail-Northern Branch, which includes the site for the Secure Community Reentry Facility.
- b. **Set Hearing** for September 2, 2008 (Time Estimate: 1 Hour) as follows:
 - i. **To authorize the Chairman of the Board of Supervisors to** sign a Reentry Program Facility Siting Agreement between the County and the California Department of Corrections and Rehabilitation (CDCR).
 - ii. **Adopt a Resolution** giving assurance of Reentry Parolee release transportation (from the City of Paso Robles within the County of San Luis Obispo returning them to the County of Santa Barbara) to the City of Paso Robles and the County of San Luis Obispo.
 - iii. **Adopt a Resolution** agreeing to cooperate with a Regional Secure Community Reentry Facility (Regional SCRF) sited in the County of San Luis Obispo.
- c. **Set Hearing** for September 9, 2008 (Time Estimate: 1 hour) as follows:
 - To respond to questions from the Board of Supervisors from the September 2, 2008 hearing, and provide any additional feedback data that may be required to authorize the Siting Agreement.

Summary Text:

The purpose of this hearing is to allow the County to Adopt a Resolution that assures possession of the site of the Santa Barbara County Jail-Northern Branch, located at the southwest corner of Black and Betteravia Roads, near the city of Santa Maria. This accomplishes our compliance with one of two requirements of the AB 900 tentative conditional funding for the award of \$56.295 million by the Corrections Standards Authority. The conditions are as follows:

- 1. Adopt a Board of Supervisor's Resolution giving assurance of local site possession.
- 2. Provide a signed Reentry Program Facility Siting Agreement.

Action 'a' by the Board, the approval of the Resolution (Attached), completes the first condition listed above (#1).

Actions 'b.' and 'c', i.e. setting the hearings for September 2nd and September 9th, will provide an opportunity for the County to comply with the second condition (#2 above) listed, i.e. the signing of a Reentry Program Facility Siting Agreement. Upon completion of both, the CSA will award a Conditional Funding award. Upon completion of these actions, the California Department of Corrections and Rehabilitation will conduct property due diligence on the portion of the land identified for the construction of a Secure Community Reentry Facility.

The requirements are as listed in an Intent to Award Conditional Funding dated May 15, 2008, and received on May 19, 2008 (Attachment "B"). The letter is a tentative notice that requires the County to perform the listed actions to progress to the next steps in the process. The letter is the CSA's response to the County's 2008 Local Jail Construction Funding Program Proposal submission under the AB 900 grant process.

Both above actions (#1 and #2) were required to be completed by the County August 14, 2008 to be in compliance with the tentative conditional award. Site assurance (#1) could not be completed until the filing of a Prejudgment Order of Possession for the property. That was accomplished on July 9, 2008. Legal possession of the parcel for construction of the County Jail-Northern Branch then took place on July 24, 2008 pursuant to that action. A request for extension of the timeline for approval of a siting agreement was made to the Corrections Standards Authority (CSA) on July 10 2008. They approved an extension until September 13, 2008, to comply with the signing of the Siting Agreement (item #2 above).

The language for the Siting Agreement is being negotiated between the County and CDCR at this time. It is anticipated that reasonable language will be available for approval at the September 2, 2008, Board meeting.

However, concurrently with this action, Sheriff staff is negotiating with the County of San Luis Obispo to enter into a cooperative agreement for placement of a Regional Secure Community Reentry Facility (SCRF) in the City of Paso Robles on existing CDCR land. In the event that an agreeable Reentry Program Siting Agreement cannot be negotiated for collocation of the SCRF near Santa Maria, this agreement would be a less desirable secondary option that would assure compliance with the Tentative Intent to Award Conditional Funding, and keep the County eligible for AB 900 funding for its county jail.

The status of compliance with the requirements set for the County will be reviewed at the Corrections Standards Authority (CSA) Board meeting on September 18, 2008.

County Counsel has analyzed the Resolution and concludes that no financial liability or irreversible commitment will result from its passage. Passage of the Resolution is a required condition of entitlement to preference points in the award of AB 900 funds for jail construction.

Approval of the Siting Agreement proposed by the State would commit the County to selling the subject property to the State at fair market value for use as a correctional treatment or reentry facility, and is the next step in securing the County's entitlement to preference points in the awarding of AB 900 grant funds. The State's proposed Siting Agreement would allow the County no control over, or role in, the operation of the State facility.

However, approval of the proposed Siting Agreement would still not commit the County to accept the grant and construct the proposed county jail. The County would be committed to do so only in the event that it signs an agreement accepting the grant funds in return for such a commitment. This conclusion is supported by the language of the proposed documents and has been confirmed with CSA/CDCR staff.

There are two options available for the Board to take.

Option 1: The Board may elect to Adopt the Resolution and Set the Hearing Dates, thereby continuing to pursue the tentatively awarded \$56.295 million grant from the CDCR.

This option allows the County to remain in contention for AB 900 funding, currently tentatively awarded at \$56.295 million. County staff will continue to work with the CSA and CDCR toward a Siting Agreement.

The *advantage* of this option is that it shows a good faith effort by the County to comply within the 90-day timeframe originally set by CSA for the site assurance resolution. This action continues the strong commitment by the County toward the original proposal. At the scheduled September 2nd, and September 9th hearings, the Board will likely be presented with two Reentry Program Siting Agreements: One agreement for a collocated siting of the SCRF with the County Jail-Northern Branch on a portion of the land purchased for the Santa Barbara County Jail-Northern Branch, and another for siting of a regional SCRF in cooperation with the County of San Luis Obispo and the City of Paso Robles, in Paso Robles. The exact language of those agreements is currently being discussed in negotiations with CDCR and the CSA. One or both of the agreements would accomplish the second condition that the County must complete to remain in contention for immediate funding. The Board could at that time elect to continue the process and make any related commitment. The level of commitment will be reviewed and presented for the Board's consideration at those hearings.

A Resolution agreeing to cooperate in a Regional SCRF in San Luis Obispo County will also be presented for Adoption at the hearings. This resolution provides compliance to the original Proposal requirement now that a regional facility may be the option available to the County to retain its Conditional Award.

An advantage of a collocated facility in Santa Barbara County is that it provides cost savings in the construction and operation of a new jail facility. These savings are realized through the reduced cost of C:\Documents and Settings\suzanne\Local Settings\Temporary Internet Files\OLKB5\!!Board Letter 8-19-08 Finalv2 (2).doc !BoardLetter2006.dot v 1106c

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capital construction to the County, the related annual debt service payments, and the reduced costs from shared infrastructure and services with a collocated county jail and Secure Community Reentry Facility (SCRF).

The *disadvantage* of this option is that it has not yet been determined how the ongoing operations shall be funded. This could cause a reduction in other County operations, or require the creation of new or expanded revenue streams. In addition, the County assumes overrun costs on the construction project for the county jail based on the conditions of the proposal.

Previous staff analysis indicated that a transaction and use tax was the most feasible venue for generating the required additional revenues. A countywide transaction and use tax for the purpose of public safety would be recommended and is most feasible based on the countywide nature of the service provided. A two thirds vote of the Santa Barbara County voters would be required. The transaction and use tax can be increased in increments of ½ percent by statute. A ½ percent increase is estimated to generate \$16.9 million per year and a ½ percent increase is estimated to generate \$33.8 million per year (FY 08-09).

Much discussion has taken place into the possibility of an oil production tax. If put before the voters, this tax could be earmarked to provide a revenue source to support the additional jail costs.

Option 2: The Board may elect to decline to Adopt the Resolution or to set the hearing dates, thereby ending the pursuit of AB 900 funding.

Selection of this option would end the County's competition and possible award of Phase 1, AB 900 grant funding. The County would not receive \$56.295 million under the AB 900 grant process for construction of its jail. The CDCR has reported that counties not completing these steps would no longer be eligible for Phase 1 funding. The County would have made no financial commitments to CDCR under course for this action. The funding previously awarded to the County would likely be diverted to another county that was not awarded funding, based upon their placement on the funding list. Phase II is not assured at this time, nor has a process for selection been defined. It is unknown if declining Phase I funding would make the County ineligible to apply for Phase II funding.

The *advantages* of this option are that County staff will not invest time and resources negotiating a Reentry Program Siting Agreement with CDCR. The County will not be faced with the possibility that discretionary funds, which are currently funding existing County operations, will need to be redirected to fund the operations of this project. The County will have the flexibility of starting jail construction and operations in accordance with overall County strategy and economic conditions. The County will also be able to pursue other revenue streams prior to beginning operation in order to assure proper funding for the project.

The *disadvantages* of this option are that the County will lose the opportunity to have the State pay for approximately ³/₄ of the construction costs of the new jail (approximately \$56.295 million). The County will continue to be faced with the worsening problem of jail overcrowding. As the County Executive Officer agreed on February 19, 2008, the construction and operation of a new jail should proceed. However, further effort without the assistance of AB 900 funding would require that the County fully fund construction, debt service, and the cost of operations. Other steps taken to mitigate the problem of jail overcrowding will also continue and may need to increase until a new facility is approved and built.

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These include:

- o Early release prior to completion of sentence
- o Increased use of additional restrictions in booking practices
- o Immediate citation release of many arrestees

Not addressing the jail overcrowding problem, will over time, lead to declines in the safety of the general public, custody staff, and inmates alike. Based upon two previous needs assessments (1999 and 2008 by Rosser International), and a National Institute of Corrections Justice System assessment (2005), the problem of jail overcrowding cannot be effectively managed without the new facility and without potential impediments to the criminal justice system and to public safety.

If the County chooses to act independent of the CDCR, the debt service cost of the same sized facility would be an additional \$4 million annually (a total of \$6.4 million annually to fund construction of the entire facility). This \$4 million equates to the approximate annual cost of 40 Custody Deputies; i.e. a significant indirect reduction in the cost of operations.

Finally, the County's exposure to liability stemming from lawsuits and court sanctions with regard to jail overcrowding would significantly increase under this option.

Background: The necessity for a new County Jail facility has been present for over twenty years. Since 1986 the County has been subject to court orders to limit overcrowding and the impacts therein. This has resulted in capacity limits to the Main Jail, the formulation of limitations to the intake of inmates into the jail system, and early release programs. These actions allow convicted criminals to avoid portions if not all of court ordered sanctions upon their behavior. Over 20 grand jury reports have reiterated the need for a new jail.

The North County Jail project has been presented to the Board several times and as part of the Capital Improvement Plan (CIP) where it has been the largest project presented.

A study conducted by County staff in 2005 proposed construction of a 808-bed facility with the infrastructure to support up to 1520 inmate beds, at a cost of \$153 million. An acute need for additional jail beds was again recognized. That facility would cost in excess of \$20 million annually to operate today, and was planned to cost \$19.2 million annually to operate in 2005. That study also presented several options for funding the construction and operation of the facility. The most feasible of these was the transaction and use tax, (commonly referred to as a sales tax). It is estimated that a countywide $\frac{1}{2}\phi$ tax would generate \$33.8 million annually.

2007 Local Jail Construction Funding Program (AB 900):

Assembly Bill 900 was enacted and became law on May 7, 2007. This bill authorizes jail construction funding totaling \$1.2 billion in two phases. Phase One (\$750 million) is targeted to build more than 4000 local jail beds and 2000 Secure Community Reentry Facility (SCRF) beds in the State of California. The second Phase of funding (\$470 million) will not be authorized unless certain benchmarks are attained. The CDCR published an RFP on Dec 20, 2007, for the Construction or Expansion of County Jails. The grants required that the counties provide a match of 25% of the eligible construction costs. County agreement to provide the 25% match for construction made the county eligible for up to 75% of the cost of local jail construction paid for by the AB 900 grant.

The State of California is also faced with Prison overcrowding problems, and the problem of continuing recidivism.

Santa Barbara County Proposal:

Santa Barbara County prepared a Proposal pursuant to AB 900 for a grant to construct the Santa Barbara County Jail—Northern Branch. The Board was presented with that Proposal at a hearing on March 11, 2008 (File Reference No. 08-00131). In addition, the Board was asked to adopt a Resolution Authorizing the Submission of the Application for Local Jail Construction Grant Funds and providing for the County's Participation in, and Other Assurances required under, Assembly Bill 900 (AB 900) at the same hearing. The Board adopted the Resolution and authorized the Sheriff to submit the AB 900 Proposal.

Santa Barbara County's proposal is to build a 304-bed Type II county jail. The project included necessary supporting infrastructure; including inmate receiving, laundry, kitchen, administration, programming and related functions. The facility will house both male and female inmates, in a mix of medium, high security and isolation cells. When designed, the facility will take advantage of construction elements that reduce the cost of materials and to reduce long term operational cost. Though the infrastructure will be what is necessary for initial operation of the 304 beds, the design will take into account the ability to expand important support functions if future expansions and additions are required. These design principles will maximize the value of investment while minimizing initial costs.

The project is scoped to balance the cost of construction, debt service payments, operational costs, and the State operational elements. The facility was estimated to cost \$80.2 million. The County's proposal identified and requested a grant of \$56.295 million in eligible costs from AB 900 funding for the project.

The County's Proposal was submitted by the March 18, 2008, due date.

<u>Tentative Conditional Intent to Award:</u>

A letter dated May 15, 2008, from the Corrections Standards Authority (CSA) notified the Sheriff's Department of Intent to Award Conditional Funding in the amount of \$56.295 million. Two conditions were listed in the letter that the County was required to complete within 90 days of receipt of the notice. Upon completion of these conditions, the County would proceed from a tentative award to a conditional funding award. The conditions were:

- 1. Submit a Board of Supervisors Resolution giving assurance of site possession, and
- 2. Produce a signed Reentry Facility Siting Agreement.

Compliance with these conditions is scheduled for review by the CSA at a Board meeting on September 18, 2008.

Though initially required to be completed and submitted prior to August 14, 2008, staff has taken steps to provide what it believes to be sufficient good faith compliance to the CSA requirements.

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Property Acquisition:

In a separate action on March 11, 2008, the Board also took action to acquire portions of two parcels at Black and Betteravia Roads, near the City of Santa Maria for the Santa Barbara Jail-Northern Branch. The Board adopted a Resolution of Necessity to acquire approximately 50 acres in fee simple interest in the property. (File Reference No. 08-00194)

On July 9, 2008, the County filed an Order for Prejudgment Order of Possession for the property, in the Santa Barbara Superior Court (Superior Court # 1269496, Attachment "C"). Pursuant to that Order, the County took possession of the property on July 24, 2008. A letter was sent to the CSA by Sheriff Brown on July 28, 2008, reporting completion of site possession (Attachment "D"). The letter also indicated that the first available opportunity for Board action on the Resolution following this action was August 19, 2008.

Board of Supervisors Resolution of Site Assurance:

The attached Resolution completes the first listed action required by the CSA for Conditional Award. The Resolution provides assurance to the CSA that the County has site possession of property for construction of the county jail as listed in our proposal.

Reentry Program Facility Siting Agreement:

The second condition, approval of a Siting Agreement, identifies the location that the State will construct a Secure Community Reentry Facility (SCRF). This Agreement starts the process to transfer ownership through purchase by the State, of approximately 15 acres of the project site at Black and Betteravia Roads. Following this action, the State would conduct due diligence on the property, and negotiate a land purchase agreement with the County for a portion of the property.

CDCR was delayed in producing a final draft siting agreement for the counties to review and edit. This is also a more technical condition requiring review and negotiation. The Sheriff requested an extension for completion of the siting agreement from the CSA Board at a meeting on July 10, 2008. The CSA Board granted an extension of that requirement until September 13, 2008 (Attachment "E").

The SCRF would house up to 500 State inmates who are scheduled to return to Santa Barbara County for the final year of their sentence. These are inmates who would be returning to Santa Barbara County upon completion of the prison commitment, regardless of the presence of a SCRF in the county or not. This facility would provide evidence-based intense programming service designed to prepare them for return to their community.

It has been the Sheriff's plan to collocate the new jail and SCRF on the property acquired at Black and Betteravia Roads, near the City of Santa Maria. Collocation of the two facilities provides the opportunity to maximize cost efficiency in design and construction for both structures. This would be accomplished by sharing certain infrastructure elements that would otherwise be required and duplicated for both adjacent facilities. Collocation would reduce both cost of construction of each facility, and also reduce the annual operational costs of both facilities. Collocation is estimated to save the County \$3.6 million in annual cost of operation of a 304-bed county jail (FY 08/09).

The Sheriff's plan has also been that an SCRF located in Santa Barbara County would employ and be operated by County employees, and use Community-Based Organizations (CBOs) under contract through the county for certain program elements. However, following the publication of the Reentry Program Siting Agreement, the CDCR provided an opinion that AB 900 does not permit the County to operate a SCRF. County Counsel has offered a differing opinion which was cited in a letter the Sheriff sent to the Office of the Governor, and to Secretary Matthew Cate of the CDCR (Attachment "E"). If CDCR's opinion does not change, and if no other options were available, Santa Barbara County would be faced with two courses of action relative to the site collocated with the planned Northern Branch Jail and the siting agreement:

- 1. Sign a siting agreement that allows the State to build a State operated Secure Community Reentry Facility adjacent to the county jail.
- 2. Not sign the agreement and terminate attempts to comply with Phase 1 conditional funding.

Assuming the State operates the facility, the County is also examining the possibility of a long term ground lease of the site for the SCRF adjacent to the county jail on a portion of the existing project property.

Regional Reentry Facility – County of San Luis Obispo:

The Sheriff's Department has been in discussion with San Luis Obispo County Sheriff staff and CDCR to make Santa Barbara County a possible participant in a regional Secure Community Reentry Facility located on CDCR land adjacent to the Estrella Correctional Facility, in the City of Paso Robles in San Luis Obispo County (SLO). The Reentry Siting Agreement allows each county to submit up to three sites for the siting of the SCRF.

San Luis Obispo County's Proposal under the AB 900 process for expansion of their county jail, agreed to site a regional SCRF in cooperation with San Benito County. San Luis Obispo County was not given an Intent to Award Conditional Funding under its proposal. San Luis Obispo County is the next eligible county on the priority list for AB 900 Phase I funding. SLO may get funding if certain other counties are unable to comply with the Conditional Award requirements and lose their conditional award placement.

This option would allow Santa Barbara County to be in compliance with the two CDCR Conditional Award requirements, and thus remain eligible for the award of \$56.295 million to build our new county jail. This is considered a secondary project site for compliance to the conditional award. If this became the only alternative for Santa Barbara County to comply with the Conditional Award, and get final funding, the overall cost of the jail project may change.

Under this option, the proposed capital cost of construction of the new jail in Santa Barbara County would not change. The cost of Santa Barbara County's initial proposal assumed a stand-alone structure with the necessary infrastructure. The opportunity to generate potential savings in construction of collocated infrastructure elements would be lost under this option. The reduced operational costs that a collocated facility offers would also be lost (\$3.6 million annually).

San Luis Obispo County and the City of Paso Robles indicate one expectation of this regional agreement. Santa Barbara County would be expected to pass a resolution providing assurance to C:\Documents and Settings\suzanne\Local Settings\Temporary Internet Files\OLKB5\!!Board Letter 8-19-08 Finalv2 (2).doc !BoardLetter2006.dot v 1106c

transport Santa Barbara bound parolee releases from the regional SCRF in SLO County to Santa Barbara County immediately upon release. Discussions with SLO County, CDCR, and the City of Paso Robles began on August 5, 2008.

To participate in this Regional SCRF, retain our current preference points and continue to comply with the tentative Intent to Award Conditional funding from the CSA, the County of Santa Barbara would need to Adopt a Resolution agreeing to cooperate with a regional facility in San Luis Obispo County. This resolution is being prepared by county staff, and will be brought to the Board at the Hearing scheduled for September 2, 2008.

County Staff has not yet had an adequate opportunity to fully analyze the transportation requirement. However, assuming the least economical method of providing this function, it is estimated that the cost of providing this function would be approximately \$70,000 annually. However, Sheriff's staff anticipates finding ways to reduce this cost substantially through negotiated agreements with CDCR, SLO Sheriff, or Santa Maria area CBO's providing contracted reentry services to parolees scheduled for release to Santa Barbara County. Also, with the construction of a Santa Maria Jail, which would provide for a reduced number of trips and distance of transportation costs, this requirement may be achievable without additional impact to the budget.

Fiscal Analysis:

Funding Sources	Current FY Cost:		Annualiz Ongoing C		Total One-Time Project Cost	
General Fund	\$	2,400,000.00			\$	23,900,000.00
State					\$	56,295,000.00
Federal						
Fees						
Other:						
Total	\$	2,400,000.00	\$	-	\$	80,195,000.00

Narrative: Adoption of the current recommendations will fulfill the conditions for acceptance of the AB 900 award in the amount of \$56.295 million. Given that the project is continued as planned, the estimated cash flow needed in FY2008-09 is \$2.4 million. The total construction cost of the jail project is estimated to be \$80.2 million; \$56.295 of which will come from the State if all conditions are met. Per conditions of the grant, the County will be reimbursed on a quarterly basis. The estimated cash flow by fiscal year is shown below, where the total net construction cost to the County is \$23.9 million, not including potential Certificates of Participation (COP) issuance costs, should the COP option of funding be chosen for the construction match.

	FY2007-08	FY2008-09	FY2009-10	FY2010-11	FY2011-12	FY2012-13
Total Cash Spent less Payments Received from the State	\$ (3,300,000)	\$ (2,400,000)	\$ (2,500,000)	\$ (6,700,000)	\$ (11,000,000)	\$2,000,000

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Operating Cost Estimates

The net ongoing operational cost of the proposed Santa Barbara Jail-Northern Branch is \$12.9 million (FY 08/09).

Item	Cost
Staffing Estimate - 304-bed facility (Gross)	\$ 11,642,232
Services and Supplies-S&S (Gross)	\$ 4,365,837
Less Existing Staff-Transferred to facility	\$ (2,648,101)
Less Existing S&S-Santa Maria Branch Jail	\$ (150,000)
Less Reduced Inmate Transportation Overtime	\$ (160,000)
Less Reduced Inmate Transportation Mileage	\$ (112,276)
Net Cost - Stand alone Jail	\$ 12,937,692
Cost reductions for collocated Jail/SCRF	\$ (3,616,711)
Net County Cost - Collocated with SCRF	\$ 9,320,981

The listed staffing estimates include the following additional fulltime positions:

- o 60 additional Custody Deputies at various ranks.
- o 40 civilian support positions including: Custody Records, Utility workers, Accounting, Food Services, Maintenance, and Laundry.

The Services and Supplies estimate takes into account all the costs relative to the inmates housed in the facility based upon Sheriff's current experience. These estimates also assume construction of the jail in the Santa Maria area.

To fund operation of the new facility would require increasing revenues by \$12.9 million, or redirecting funds from other discretionary programs. Some level of "phase-in" of the project is planned. Portions of the main jail where actual beds exceed the rated number of allowed beds could be reduced with some reduction in personnel costs.

Special Instructions:

Upon approval and Execution

1). Copy of the signed Resolution

Sheriff's Department – Attn: Cmdr. Tom Jenkins

Attachments: Resolution Providing Assurance as to Site Possession

- B) Copy of Intent to Award Conditional Funding, dated May 15, 2008,
- C) Copy of Order for Prejudgment Possession, (Superior Court # 1269496)
- D) Copy of Letter by Sheriff Brown giving Site Assurance, dated July 28, 2008
- E) Extension of 90-day Siting Agreement Period, dated July 31, 2008
- F) Copy of letter by Sheriff Brown to CDCR re: Legal Opinion

Authored by:

Tom Jenkins – Sheriff's Department, Commander Ext. 4249.

cc:

Xenia Tihomirova - County Executive Office Grady Williams - General Services, Capital Projects Mark Paul - Auditor-Controller Stacy Matson – Treasurer-Tax Collector-Public Administrator