




BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Sheriff
Department No.: 032
For Agenda Of: January 20, 2009
Placement: Administrative
Estimated Tme: .
Continued Item: Yes
If Yes, date from: September 2, 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: Central Coast Regional Secure Community Reentry Facility, Memorandum of Understanding

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions: This action allows the County to take necessary action to complete a condition of a previously Board adopted Resolution, and to remain compliant with conditions of the Conditional Funding award pursuant to Assembly Bill 900 (AB 900) Construction of County Jails Grant Proposal, specifically to :

- a. **Authorize the Chairman of the Board of Supervisors** to sign the Central Coast Regional Secure Community Reentry Program Facility Memorandum of Understanding (Attachment # A) for a Regional Secure Community Reentry Facility (CCRSCRF) among the Counties of San Benito, Santa Barbara, and San Luis Obispo the City of El Paso de Robles and the California Department of Corrections and Rehabilitation.

Summary Text:

The purpose of this Memorandum of Understanding is to complete assurances provided in a previous Resolution of the Board of Supervisors. That resolution was passed on September 2, 2008, (File Ref. #08-00686) and provided the steps necessary to be compliant with the conditional award requirements that continued to make the County eligible to receive a grant of \$56.295 million. That grant award was from an application submitted in the AB 900 Grant process, submission of which was approved by the Board on March 11, 2008, (File Ref. #08-00131).

Background

In response to its Proposal to the state, the County then met two state requirements to proceed to Conditional Funding Award from a Tentative Conditional Funding Award. The two requirements were:

- 1) Adopt a Resolution of Local Jail Site Assurance
- 2) Sign a Reentry Program Facility Siting Agreement

The County provided compliance with requirement #1 on August 19, 2008, when it adopted a Resolution of Site Assurance (File Ref. No. 08-00686). That action provided confirmation to the Corrections Standards Authority (CSA) of County's possession of the land for the intended construction of the Northern Branch Jail.

The County provided compliance with the second requirement on September 2, 2008, when it authorized the Chairman of the Board of Supervisors to sign the Central Coast Regional Secure Community Reentry Facility (CCRSCRF) Siting Agreement (File Reference No. 08-00686). That agreement indicated that the facility would be placed in the City of Paso Robles.

An element of the resolution adopted by the County on September 2, 2008, was an expectation that the City of Paso Robles would pass an appropriate resolution on September 16, 2008. The City of Paso Robles required a Memorandum of Understanding with the partnering counties and CDCR as a condition of approval of a Resolution from their City. Pursuant to AB 900, when a Secure Community Reentry facility was going to be sited within a city, a Resolution from that City was required to make the Siting Agreement valid.

The resolution passed by the City of Paso Robles (Attachment C) was conditioned upon the parties of the CCRSCRF coming to agreement on a Memorandum of Understanding within 180 days. The MOU needed to assure the City of Paso Robles that the counties will fund and maintain procedures to transport parolees from the Regional facility to their communities in a timely and efficient manner.

The attached Memorandum of Understanding (MOU-Attachment A) represents the culmination of discussions between the parties to the agreement (The City of Paso Robles, the CDCR, and the Counties of San Benito, San Luis Obispo and Santa Barbara). Authorized signatures on this agreement complete the Siting Agreement previously authorized by the Board, and the previous expectations between the parties to the CCRSCRF. The City of Paso Robles, and the Counties of San Benito and San Luis Obispo have already approved the MOU. The CDCR will act to approve the MOU following approval by the County of Santa Barbara.

The significant points of the agreement are that:

1. CDCR will coordinate reentry inmate transportation,
2. Partnering Counties will provide transportation of the inmates to their respective County,
3. Reimbursement to CDCR for the cost of transportation if Counties are unable to provide,
4. City of Paso Robles services will not be used to supplement release transportation,
5. Services for parolees will be assessed, expanded and supplemented at the cost of CDCR in each county,
6. CEQA requirements will be met prior to construction of the CCRSCRF.

The elements of the agreement are considered reasonable and recommended by Sheriff and General Services staff.

Partnering with these entities provides an acceptable method of compliance to maintain funding preference under AB 900, and still provide long-term access to reentry programming to Santa Barbara destined parolees within a neighboring community.

According to County Counsel, approval of the proposed MOU would obligate the County to transport inmates on an as needed basis directly from the facility to the appropriate destination in Santa Barbara County, which is estimated to cost approximately \$17,000 per year. This MOU formalizes the agreement already taken by the Board when it adopted the Reentry Siting Agreement resolution on September 2, 2008.

Approval of this MOU will still not commit the County to accept the grant award or to construct and operate 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. The step where that would be anticipated to occur is when the County is asked to sign the Project Delivery and Construction agreement. This conclusion is supported by the language of the proposed documents and has been confirmed with CSA/CDCR staff. The County has not reached the point in the process where that action is yet required.

There are two options available for the Board to take.

Option 1: The Board may authorized the Chairman to sign the Memorandum of Understanding among the Counties of San Benito, Santa Barbara, and San Luis Obispo the City of El Paso de Robles and the California Department of Corrections and Rehabilitation.

This option allows the County to remain eligible to receive AB 900 funding, currently conditionally awarded at \$56.295 million.

The several *advantages* of this option are that the action will show the County's diligent intent to comply with all requirements set by CDCR and to take advantage of the grant award. This action continues the strong commitment by the County toward the original AB 900 proposal.

The County would remain eligible to receive State funding for nearly $\frac{3}{4}$ of the capital cost of the new county jail facility in the Santa Maria area. The County will need to provide approximately \$23.9 million toward construction of a 304-bed jail facility that will actually cost \$80.2 million. The County has been presented with the cost options to construct a new jail solely from its own funding sources on several occasions. Those decisions are not part of this present action.

This step does not commit the County to accept and complete the AB 900 proposed Jail facility. The County may still choose in the future to decline to accept the AB 900 grant, not construct the Northern Branch Jail using grant funding, and would not be irreversibly committed to construct a 304 bed jail facility, which it would then have to operate within 90 days of completion.

The *disadvantage* of this option is that it commits the county to provide transportation to released inmates released from the CCRSCRF, already destined for the County of Santa Barbara. Sheriff's staff has determined that this commitment will cost a maximum of \$17,000 annually. However, Sheriff's staff believes that the cost of this service will be mitigated in several ways.

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Also, it has not yet been determined how the ongoing operation of the Northern Branch jail would be funded. This MOU does not commit the county to accept the grant funding or to construct the Northern Branch Jail facility, or to proceed further in a commitment to that project. The next significant decision the county will have to make that provides a level of commitment to the project itself will be approval of the Project Delivery and Construction agreement. That decision will be brought to the Board when required. This action is anticipated to be necessary in the next several months.

Option 2: The Board may decline to authorize the Memorandum of Understanding among the Counties of San Benito, Santa Barbara, and San Luis Obispo the City of El Paso de Robles and the California Department of Corrections and Rehabilitation.

Selection of this option would end the County's competition and possible award of Phase I, AB 900 grant funding. The County gives up the \$56.295 million it has been selected to receive under the AB 900 grant process for construction of the jail. This MOU provides completion to the previously authorized Reentry Siting agreement for placement and construction of the CCRSCRF at the Paso Robles location. The CDCR has reported that counties not completing the siting agreement would no longer be eligible for Phase I funding. 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. Any future funding by the state (Phase II funding), 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 the County would not commit to providing return transportation to the county from the CCRSCRF, and would not be forced to absorb the cost related to this commitment.

The *disadvantages* of not authorizing this MOU are that the County will lose the opportunity to have the State pay for approximately $\frac{3}{4}$ of the construction costs of the new jail (up to \$56.295 million). The County will continue to be faced with the worsening problem of jail overcrowding. Further effort without the assistance of AB 900 funding would require that the County fully fund construction, debt service, and the cost of operations of the new jail. Other steps to mitigate the problem of jail overcrowding must be taken pursuant to the court's order until a new facility is approved and built. These may include:

- Further early releases prior to completion of sentence
- Increased use of additional restrictions in booking practices
- Immediate citation release of most misdemeanor arrestees
- Remodeling of existing jail facilities and addition of custody staff

Not addressing the jail overcrowding problem will, over time, lead to further 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 (304 beds) would increase substantially from the \$2.4 million County share on a cooperative project. The Treasurer provided an updated estimate of the cost of debt service for an \$80.2 million jail, i.e., the cost for the County to fund the project independent of CDCR finding. This debt service cost would be

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between \$5.8 and \$7.2 million annually depending on amortization schedule (20 years and 30 years respectively) and may vary based upon interest rates.

The additional expense for debt service equates to the approximate annual cost of 34 to 49 Custody Deputies, depending upon the amortization schedule chosen. Effectively the grant provides an indirect state subsidy to the operational cost of the new jail. If the County chooses to act alone, this indirect benefit of the grant would be lost. The County would then also be forced to identify those funds from other sources (i.e., existing program budgets or revenue streams).

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

Historical Background:

The necessity for a new County Jail facility has been present for over thirty years. Since 1986 the County has been subject to court orders to limit overcrowding and the impacts therein (Superior Court # 152487). 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 substantial portions 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 is 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 an 808-bed facility with the infrastructure to support up to 1520 inmate beds, at a cost then of \$153 million. That facility would cost well in excess of \$30 million annually to operate today, and was planned to cost \$31.2 million annually to operate in 2005 (\$19.2 operations + \$11.9 debt service). That study also presented several options for funding the construction and operation of the facility (File Reference No. 05-01065).

2007 Local Jail Construction Funding Program (AB 900):

Assembly Bill 900 (AB900) was enacted and became law on May 7, 2007. This bill authorizes jail construction funding totaling \$1.2 billion in two phases. Phase I (\$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 during Phase I. The CDCR published an RFP on Dec 20, 2007, for the Construction or Expansion of County Jails. The grant required that counties commit to 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.

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 in the same hearing 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 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 and 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 necessary to meet county and jail population needs. These design principles will maximize the value of investment while minimizing initial costs.

This jail facility is planned for construction at a 50-acre site at Black and Betteravia Roads, near the City of Santa Maria. This property was identified and purchased specifically for construction of the Northern Branch jail (File Reference No. 08-00194).

The project is scoped to balance the cost of construction, debt service payments, and operational costs in conjunction with the number of beds needed. 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 qualified for the maximum 300 grant funding preference points by submitting an agreement to cooperate that was passed by Board action on December 19, 2006 (File Ref, #06-01151). Resolution #08-073 adopted by the Board on March 11, 2008, identified a portion of the property at Black and Betteravia Roads adjacent to the new jail as the location for a collocated SCRF (File Ref # 08-00131). That resolution also provided assurance to the formation of a Reentry Planning Team.

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

Conditional Intent to Award:

The Sheriff's Department was notified in May 2008, by the Corrections Standards Authority (CSA) of Intent to Award Conditional Funding in the amount of \$56.295 million. Two conditions were required to be complete within 90 days of receipt of the notice.

1. Submit a Board of Supervisors Resolution giving assurance of site possession for the property targeted for construction of the Northern Branch Jail; and
2. Produce a signed Reentry Facility Siting Agreement.

On August 19, 2008, the Board of Supervisors adopted a Resolution of Site Assurance (File Ref. # 08-00686).

On September 2, 2008, the Board of Supervisors adopted a resolution that gave assurance to cooperate with the CDCR in the placement of a CCRSCRF in the County of San Luis Obispo, and approved the Reentry Program Facility Siting Agreement, placing the reentry facility (CCRSCRF) on property adjacent to the Estrella Correctional Facility, in the City of El Paso de Robles, in the County of San Luis Obispo (File Ref. # 08-00686).

Those actions completed all the required conditions necessary up to that time, with the anticipation that the City of Paso Robles would also pass a needed resolution. AB 900 requires a Resolution from the host City to make the Siting Agreement signed by any partnering county valid.

The City of Paso Robles passed their resolution identifying the site for the CCRSCRF, being within the City of Paso Robles on September 16, 2008, (Attachment C). That site was property owned by CDCR adjacent to the Estrella Correctional Facility. However, Paso Robles resolution required a Memorandum of Understanding be negotiated and executed between all the parties of the CCRSCRF within 180 days.

Compliance with all necessary conditions was reviewed by the CSA at a Board meeting on September 18, 2008. The County of Santa Barbara was found in compliance during that review. The county was then moved from Tentative Conditional award, to Conditional award.

The present action today for the Board of Supervisors is to authorize that Memorandum of Understanding (Attachment A) that was a condition of the Paso Robles resolution. The City of Paso Robles authorized the attached MOU on November 18, 2008. The Sheriff of San Luis Obispo County approved the MOU on December 19, 2008. The County of San Benito approved the MOU on January 6, 2009.

Authorization of the MOU provides the requisite step that the City of Paso Robles desired within 180 days of their resolution approving the site for the CCRSCRF in their City (Attachment C).

Central Coast Regional Secure Community Reentry Facility (CCRSCRF):

Santa Barbara County originally intended to site a Secure Community Reentry Facility (SCRF) on a portion of the land purchased for the Northern Branch Jail, adjacent to the planned new jail. This would have also been on the property acquired at Black and Betteravia Roads near the City of Santa Maria. The Sheriff planned to operate the SCRF under agreement with CDCR. Placement of these two operations adjacent to each other and having both operated by the County provided significant cost saving opportunities in construction, and cost of operations to both the County and to CDCR. This adjacency would also allow both facilities to develop and share program elements that one facility may not otherwise be able to support alone.

The final Siting Agreement received from CDCR in June of 2008, would not allow the Sheriff to operate that facility under contract with the state. This was in spite of the fact that the previous discussions between the Sheriff's Department and CDCR had been to operate the facility in this manner.

The Sheriff's Department proposed to the Board of Supervisors to partner with San Luis Obispo County (SLO), the City of Paso Robles (CiPR), County of San Benito (CoSBe), and CDCR in a regional CCRSCRF. This facility will be located on CDCR land adjacent to the Estrella Correctional Facility, in the City of Paso Robles, in San Luis Obispo County (SLO). It is anticipated that approximately 250 of the 500 planned beds in the facility would be used for parolees already destined for Santa Barbara County.

When this change was made, the City of Paso Robles desired certain assurances that provided that parolees being released from the facility (CCRSCRF) in their community would receive transportation

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to the County to which they were already destined to return. This included parolees already destined to the County of Santa Barbara. The assurance required by the City of Paso Robles necessitated an MOU between the city, the partnering Counties, and CDCR.

Reentry Programming

Parolees presently being released on parole are failing the conditions of their parole approximately 70% of the time within three years of release, according to CDCR statistics. This rate of failure negatively affects the communities into which those parolees are released. There are approximately 700 to 1400 parolees returning to Santa Barbara County annually already. The 250 inmates that would be housed at the CCRSCRF would be a portion of these inmates.

Reentry programming is designed to provide intensive programming to State prison inmates during the last year of their incarceration. During this last year, these inmates would be involved in programs that are evidence-based and are intended to improve their chances for success. Inmates would be involved in transition plans that address needs revealed by individualized assessment of factors that contribute to failure. Training and programming would include, but not be limited to:

- Transition Planning
- Vocation skills
- Substance Abuse
- Life Skills
- Anger Management
- GED/ESL classes

Under the agreement to cooperate with the CCRSCRF, inmates destined to return to Santa Barbara County would otherwise be paroled to Santa Barbara County regardless of the existence of a reentry facility. The placement of a reentry facility in San Luis Obispo County has no additional impact on the community to which these parolees would return. The County will not receive additional parolees that it would not otherwise receive, or receive a different risk level of parolees. However, the parolees that it does receive, in many cases, will have received additional services to prepare them for release and will continue to receive services after their release to mitigate the difficulties of returning to the community after a prison sentence.

The opportunity for these inmates to be better prepared for return to our community is anticipated to improve their opportunities for success following release, while they reside in our county. Their success would serve to reduce crimes subsequently committed in our community and that victimize local residents.

Memorandum of Understanding (Attachment A):

The Memorandum of Understanding between the three counties, the City of Paso Robles, and the CDCR completes conditional statement included in the City of Paso Robles siting resolution.

The significant points of the agreement are that:

1. CDCR will coordinate reentry inmate transportation,
2. Partnering Counties will provide transportation of the inmates to their respective County,
3. Reimbursement to CDCR for the cost of transportation if Counties are unable to provide,

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4. City of Paso Robles services will not be used to supplement release transportation,
5. Services for parolees will be assessed, expanded and supplemented at the cost of CDCR in each county,
6. CEQA requirements will be met prior to construction of the CCRSCRF.

The major point of concern to the County is the expectation that the County of Santa Barbara will provide transportation to the inmates being released (#2 above) from the CCRSCRF that are already destined to return to the County.

Also pursuant to the MOU, if the County fails to provide transportation, CDCR is expected to then provide that service, and be reimbursed from the County (Item #3 above).

Sheriff's staff has discussed several ways to accomplish this function without significant cost or impact to the County. With the construction of the Northern Branch Jail, daily long distance inmate transportation trips between Santa Barbara and Santa Maria will be greatly reduced, as will the hours necessary to accomplish those trips. Coordinating with CDCR for two-day a week trips from the CCRSCRF to Santa Barbara County is one possible option. County staff estimates that this would cost less than \$17,000 annually assuming approximately 250 released parolees needing that transport. However, ongoing out-of-county inmate transports that are otherwise necessary could also decrease the impact and cost of these transports.

Another option that will be considered is for certain programs that will be contracted to provide after care services to parolees returning to Santa Barbara County, to provide transportation to the County as part of their release plan and service. The Santa Barbara Reentry Project Director has already indicated that the direct transport of parolees from the CCRSCRF to their aftercare program would improve the possibilities for parolee success following release.

Sheriff's staff does not anticipate ever having CDCR performing transportation of inmates on the county's behalf.

Sheriff's staff does not believe this transportation assurance will have a significant impact to current or future jail operations, and feels that additional ways to lower costs can be found.

Fiscal Analysis:

The only fiscal impact of this MOU is the requirement to provide transportation to the County of Santa Barbara from the CCRSCRAF in the City of Paso Robles, currently estimated at \$17,000 per year.

The cost of Northern Branch jail is not being discussed at this step. The authorization of the MOU does not obligate the County to construct or subsequently operate the Northern Branch jail. Those financial issues will be reviewed

Special Instructions:

Upon Approval and Execution:

- 1) Have Chairman of the Board of Supervisors sign the five original versions of the Memorandum of Understanding. Originals will be provided to the Clerk of the Board upon receipt from San Benito County.
- 2) Retain one copy of the Memorandum of Understanding for filing.
- 3) Provide the five signed originals of the Memorandum of Understanding to Commander T. Jenkins to forward to the California Department of Corrections and Rehabilitation (CDCR) for final signatures.

Attachments:

- A) Copy of the Memorandum of Understanding Reentry Program Facility Siting Agreement for the Central Coast Regional SCRF in the City of Paso Robles, County of San Luis Obispo, as signed by the City of Paso Robles, and the Counties of San Benito and San Luis Obispo (Pre-signature copies of the originals, Attachment B below).
- B) Five Original versions of the Memorandum of Understanding (MOU) with signatures from City of Paso Robles, San Luis Sheriff, and San Benito County will be delivered to the Clerk prior to January 20, 2008 for final Board signature.
- C) Copy of the Paso Robles Resolution (08-141) adopted on September 16, 2008.

Authored by:

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

cc:

Xenia Tihomirova - County Executive Office
Michael Ledbetter – County Counsel's Office
Grady Williams - General Services, Capital Projects
Mark Paul - Auditor-Controller