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Office of the Sheriff
Parish of Orleans ~ State of Louisiana

Marlin N. Gusman
Sheriff

January 26, 2010

Hon. Arnie Fielkow, President, At Large
Hon. Jackie Clarkson, At Large
Hon. Susan Guidry, District A
Hon. Stacey Head, District B
Hon. Kristen Gisleson Palmer, District C
Hon. Cynthia Hedge Morrell, District D
Hon. Jon Johnson, District E

Suite 2W - City Hall
1300 Perdido Street
New Orleans, Louisiana 70112

Dear Councilmembers:

The Sheriff's Office serves the people of New Orleans in partnership with the City Council and Mayor's Office. Accordingly, some of the provisions in Ordinance Calendar No. 28,291 are impossible for the Sheriff's Office to accomplish, and absolutely not in the best interest of our citizens. It is with this in mind that we respectfully request that Ordinance Calendar No. 28,291 which would provide for the establishment of a conditional use to permit a prison and related uses in an H1 Heavy Industrial District be amended. The provisos in the ordinance are, in some cases conflicting, in other cases burdensome and financially impossible. In still other cases, these provisions appear to be "boilerplate" language that may be suitable for private developers but not for governmental agencies. In addition, certain provisos are arbitrary, capricious, and beyond the responsibility and authority of the Orleans Parish Sheriff's Office to accomplish.

It is the responsibility of the Parish (or in this case, the City of New Orleans) to provide a good and sufficient jail under LA R.S. 33:4715. The Sheriff's Office is constructing this facility as a replacement for several facilities destroyed by Hurricane Katrina. FEMA is the primary source of funding for this replacement facility. FEMA will fund the replacement structure as long as it has the same capacity and function, and will allow for any additional costs associated with current building codes and standards.

Proviso No.1 is perhaps suitable for a private development and developer, but certainly not for a governmental agency. Furthermore, any additional facilities erected by the Sheriff's Office or the City of New Orleans would require an Amendment of the Conditional Use, with Council approval under Proviso 5. Accordingly, Proviso No. 1 is superfluous and would entail additional expenses

We will comply with Proviso No. 8 to the extent possible.

Proviso No. 9 would require additional expenditure of funds that are simply not available. Even if funds were available, we would also have to man an additional security post on a 24 hour basis. Construction and extension of this road would also create additional security concerns since our perimeter would extend directly underneath a public overpass and compromise our security perimeter. In addition, there is no apparent justification for this added expense. Clearly this stipulation demonstrates a fundamental lack of understanding and knowledge of the operations of the Sheriff's Office. For these reasons, Proviso No. 9 should be deleted.

Proviso No. 10 would also require additional funds that are not available. This proviso should be deleted with regards to widening and improvement of the Ring Road. However, we have and will continue to comply with all requirements of Sewerage and Water Board, the New Orleans Fire Department and the State Fire Marshall.

As respect to Proviso No. 11, we will submit any proposed landscaping improvements to the City Planning Commission and Department of Parks and Parkways for approval. However, this is a detention facility and we do not contemplate any plantings other than low level groundscape. The Sheriff's Office does not own any property along Tulane Avenue, Broad Street or South Jefferson Davis Parkway and we question the legality of using the Sheriff's Office funds for enhancements of property outside of its purview. Any requirement for the Sheriff's Office to plant trees on a State highway is arbitrary and capricious, and outside of our authority and responsibility.

In terms of Proviso No. 12, however, we will provide green space, to the extent possible, within the confines of our facility. However, please note our facility is designed to the standards of the American Corrections Association, including recreation area(s) for prisoners.

Proviso No. 13 is in apparent conflict with Proviso No.4 which requested a transparent wall by the Sally Port. However, we will comply with this requirement except at the Kitchen/Warehouse building which has an entrance on Perdido Street.

Proviso No. 14 is superfluous, and not necessary since the trash dock is already behind a wall.

We will comply with Proviso Numbers 15, 16, 17, 18, 19, and 20, to the extent possible.

We will demolish the eight existing tent prison structures and restore parking and green space (Proviso No. 21), however, all of the properties in that area are not owned by the Sheriff's Office. Accordingly, we will not be able to provide the parking spaces requested, so this proviso must be amended.

Additionally, we will work with the Sewerage and Water Board in accordance with Proviso No. 22.

Members of the Committee, the Mayor's Office, and the expert hired by the City all have previously publicly stated that this new facility is necessary. Therefore, this Ordinance should be amended to insure that these Provisos cannot prevent, impede, nor cause excess burden preventing the new

that are not available and would serve no purpose since all of the land in question is owned by governmental agencies and used for a governmental purpose.

Proviso No. 2 is in conflict with Proviso No. 9 which would require that the Ring Road, a permanent structure, be extended to a secure gate on Poydras Street under the Broad Street Viaduct (which, incidentally, would constitute an encroachment upon the Poydras Street Right of Way.) Similarly, in Proviso No. 10 (a) the widening of the Ring Road would also create an encroachment on the Poydras Street Right of Way. We will seek to obtain a long term Lease of Servitude from the City of New Orleans for any improvements made upon the Poydras Street Right of Way, as provided for in Proviso No 6.

We are unsure of the cost of the “low masonry chain wall with a half metal picket fence” that Proviso No. 3 requires to enclose the surface parking lot and hence may not be able to fund this cost. However, we are in agreement of the proviso to create a street edge along Perdido Street and curvilinear along South Broad Street/ Poydras Service Drive. However, a private party owns two lots on Perdido/Broad Streets. Those properties are not within our control or responsibility. Furthermore, FEMA will not fund any items beyond the function and capacity that existed.

Proviso No. 4 requires an alteration of the Sally Port Window openings to make them larger and more transparent. This change would compromise security and must be amended or rejected.

We will comply with Proviso No. 5 to the extent possible.

We will seek a long term Lease of Servitude on any existing improvements as required by Proviso No. 6.

We are unable to comply with the provisions of Proviso No. 7 (a), specifically, that the 1,438 bed facility at the Templeman III & IV site be capable of accommodating any type of prisoner under any jurisdiction for security reasons. Furthermore, our funding source, FEMA, will not fund the replacement of any function that was not contained in the demolished facilities. As stated previously, FEMA will only fund replacement of the capacity and functions that existed in the previous structures. Only with substantial additional funding from the City of New Orleans for design and construction could this proviso even be considered.

Proviso No. 7 (b) requires the decommissioning of a facility owned by the City of New Orleans that FEMA spent \$24 million to upgrade. This proviso would relegate its use to a holding facility. This facility is utilized as a detention facility for maximum security prisoners while in trial to avoid security concerns in daily transportation to and from the court house. Clearly, this stipulation demonstrates a fundamental lack of understanding and knowledge of the operations of the Sheriff's Office. It is purely arbitrary and bears no relation to current operations, current population or even the projected population as put forth by the expert hired by the City. Please note that prisoners in the Transitional Work Program sleep in the McDaniels facility and are segregated from the rest of the population as part of the Transitional Work Program. We intend to abide by Proviso No. 7 (c) except that the 365 day restriction is unrealistic and must be amended.

Inmate Housing - Intake Processing Center construction from proceeding.

Currently, the construction of the New Inmate Housing - Intake Processing Center is out for bid. The compliance with and/or inclusion of some of these provisos would cause major redesign of the project resulting in major and excessive cost impacts and construction delays, most of which would not be FEMA funded. This facility will provide a humane, safe and secure environment for inmates, staff, and the community that the City so desperately needs. Delaying this project would be irresponsible, possibly causing major expense to the City and negatively impacting the safety of its citizens.

If you have any questions or wish to discuss this matter, I am available at your convenience.

Sincerely,

A handwritten signature in black ink that reads "Marlin N. Gusman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Marlin N. Gusman
Sheriff

MNG/dcb/itb

c: Honorable Mitchell J. Landrieu, Mayor, City of New Orleans
Honorable Leon Cannizzaro, District Attorney for the Parish of Orleans
Honorable Paul Sens, Chief Judge, Municipal Court for the City of New Orleans
Honorable Terri Alarcon, Chief Judge, Criminal District Court for the Parish of Orleans
Yolanda Rodriguez, Director, City Planning Commission