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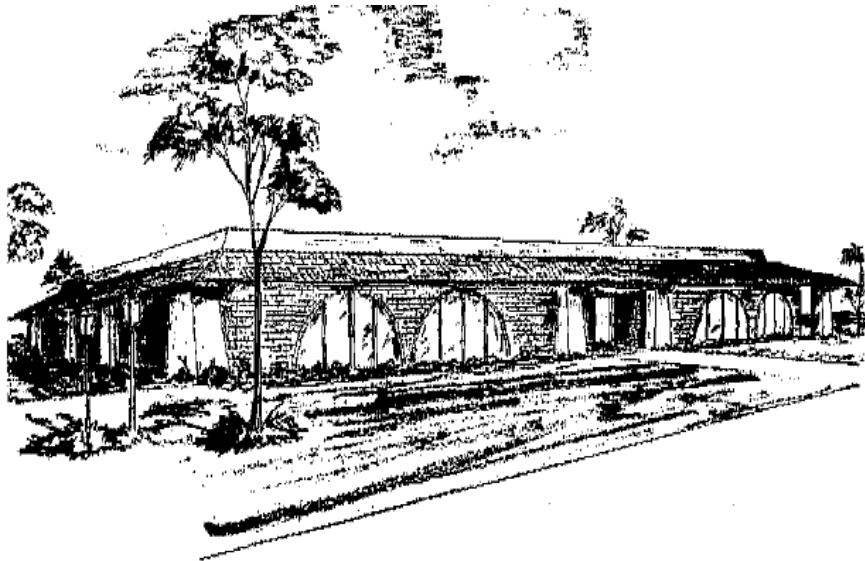
# City of California City

City Hall



PHONE (760) 373-8661

21000 HACIENDA BLVD. - CALIFORNIA CITY, CALIFORNIA 93505



## Notice of Preparation of an Environmental Impact Report And Public Scoping Meeting

Date: May 3, 2021  
To: Interested Persons, Responsible and Trustee Agencies, and Organizations  
From: City of California City, 21000 Hacienda Boulevard, California City, CA 93505  
Subject: **Notice of Preparation of an Environmental Impact Report and Notice of a Public Scoping Meeting for the Correctional Development Facility at California City**

In compliance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines, the City of California City (City) will serve as the Lead Agency for preparation of an Environmental Impact Report (EIR) for the proposed Correctional Development Facility at California City (CDFCC or Project). The EIR will be the environmental document for responsible and trustee agencies when considering any discretionary approvals related to the proposed Project. The City has prepared this Notice of Preparation (NOP) with Project-related information to solicit input from the public, trustee and responsible agencies, the State Office of Planning and Research, and other interested parties regarding the scope and content of the environmental information that is germane to your agency's statutory responsibilities or that your organization believes should be addressed in the EIR.

The City requests that any potential responsible or trustee agencies responding to this NOP reply in a manner consistent with Section 15082(b) of the CEQA Guidelines, which allows for the submittal of any comments in response to this notice no later than 30 days after receipt of the NOP. The City will accept comments regarding this NOP through the close of business, **Monday, February 5, 2018**.

**Project Location and Existing On-Site Uses:** The Project site is comprised of approximately 215 acres located immediately east and southeast of the existing California City Correctional Facility (22844 Virginia Boulevard, California City), which is located to the east of Virginia Boulevard and south of Twenty Mule Team Parkway. The Project site is located on the eastern portion of the northern one-half of Section 13, Township 32 South, Range 38 East, Mount Diablo Base and Meridian, also known as Assessor's Parcel Number 350-031-02. The Project site is undeveloped and is not identified on government databases as a hazardous material user or hazardous waste generator, in accordance with Section 65962.5 of the California Government Code. See Exhibit 1 for the Project location.

**Project Description Summary:** The Project involves the construction of a one-level, 1,512-bed correctional center on the northern portion of the site and an identical 1,512-bed correctional center on the southern portion of the site. Building heights would not exceed 45 feet. Each facility would contain seven secure housing structures that are located in a semi-circular arrangement around a central open area with indoor and outdoor recreational facilities and open areas. West of the housing and recreational area would

be a central building for various services and programs, such as intake, food service, medical, education, maintenance, laundry, chaplain, library, visitation, and other support areas. A common surface parking area would be located between the buildings on the east and a series of five stormwater retention basins on the west, with an administration building and warehouse building near the access road that would extend from Virginia Boulevard to the Project site. Access to the Project site would be via the extension of Gordon Boulevard easterly towards the northwest corner of the Project site. Development of the Project site would require mass grading to create a building pad, installation of on-site stormwater control facilities and the extension of existing water, wastewater, natural gas, electrical and communication infrastructure into the Project site. See Exhibit 2 for the Conceptual Site Plan.

The Project would be designed to meet American Correctional Association standards and all applicable building codes and regulations. Facility design would incorporate state-of-the-art security technology, complete with a perimeter road, perimeter fencing, observation posts/towers, a motion detection system, and nighttime security lights. Daily operations would require 24-hour staffing in three shifts per day, seven days per week. It is estimated that each of the two facilities within the Project would be staffed by approximately 400 to 500 full-time equivalent employees or a total of 800 to 1,000 individuals, depending on the operating scenario and the occupancy rate.

Off-site utility improvements would be required and are anticipated to occur in existing roadway rights-of-way, public facility/utility sites, and within existing/proposed utility easements. The preliminary alignments of these utility line extensions are shown in Exhibit 1, which include the conceptual alignments for water, sewer and natural gas extensions. Improvements at the City's Wastewater Treatment Plant (WWTP) located at 10835 Nelson Drive, California City, are required to accommodate Project operations. Anticipated improvements at the WWTP may include equipment capacity upgrades and/or reconfiguration of the percolation ponds to increase storage capacity. The City's potable water supply system in the Project vicinity may require installation of an additional pump at the City's Phase 1 booster pump station. The utility line alignments and utility system improvements are preliminary and may change based on final engineering plans.

**Preliminary Project Schedule:** The Project would be implemented in two phases. Phase 1 would include the construction of one of the 1,512-bed correctional centers, which is anticipated to overlap with construction of off-site infrastructure upgrades, including improvements to the City's WWTP and the City's potable water supply system. Phase 1 construction activities could potentially begin in January 2022, and be completed by December 2024, totaling approximately 24 months. Phase 1 is anticipated to be entirely completed and occupied prior to the commencement of Phase 2, unless facility demands dictate otherwise. Phase 2 is assumed to begin within 6 to 8 months following completion of Phase 1 (sometime in 2024). The total construction schedule for Phase 2 is expected to require approximately 18 months.

**Potential Environmental Effects:** The Project Applicant is requesting the following discretionary actions from the City of California City: Approval of the CoreCivic CDFCC Project, including approval of the City's Wastewater Treatment Plant upgrades and extensions of City-owned infrastructure to serve the Project (i.e., water and sewer lines and facilities).

An Initial Study was not prepared and, instead, the EIR will evaluate the Project's potential impacts on all environmental issue areas included within the CEQA Guidelines Appendix G Environmental Checklist Form. CEQA Guidelines Section 15082(a)(1) requires a disclosure of the probable environmental effects of the Project. Because the Project will involve both short-term construction related impacts, and long-term operational impacts on currently undeveloped land, significant environmental effects may occur for Aesthetics; Air Quality; Biological Resources; Cultural Resources; Geology and Soils; Greenhouse Gas Emissions; Hazards and Hazardous Materials; Hydrology and Water Quality; Land Use and Planning; Noise; Public Services; Transportation and Traffic; and Utilities and Service Systems. Significant impacts are not anticipated for the Agriculture and Forestry Resources; Mineral Resources; Population and

Housing; or Recreation. However, all environmental topical areas will be addressed in the EIR and mitigation measures will be provided for significant environmental impacts.

**Public Scoping Meeting:** A Scoping Meeting will be held to share information regarding the proposed Project and the environmental review process, and to receive written public comments regarding the scope and content of the environmental analysis to be addressed in the EIR. The Scoping Meeting will be held on **Wednesday, 24 January, 2018** at 6:00 PM at the City Council Chambers located at 21000 Hacienda Boulevard, California City, CA 93505.

Written comments may be submitted at this meeting, but there will be no verbal comments or public testimony taken at the Scoping Meeting. No decisions about the proposed Project will be made at the Scoping Meeting. A separate public hearing for Project consideration by the City Council will be scheduled after completion of the EIR.

**Accommodations:** The Scoping Meeting facility (i.e. City Hall) and its parking are wheelchair accessible. Translation services may be provided upon written request to the City a minimum of 14 days prior to the Scoping Meeting.

Written responses to this Notice of Preparation should be sent to:

City of California City  
City Hall  
21000 Hacienda Boulevard  
California City, CA 93505-2293  
Attn: Planning Division  
Anu Doravari  
Fax: 760-373-7141  
Email: [planning2@californiacity-ca.gov](mailto:planning2@californiacity-ca.gov)

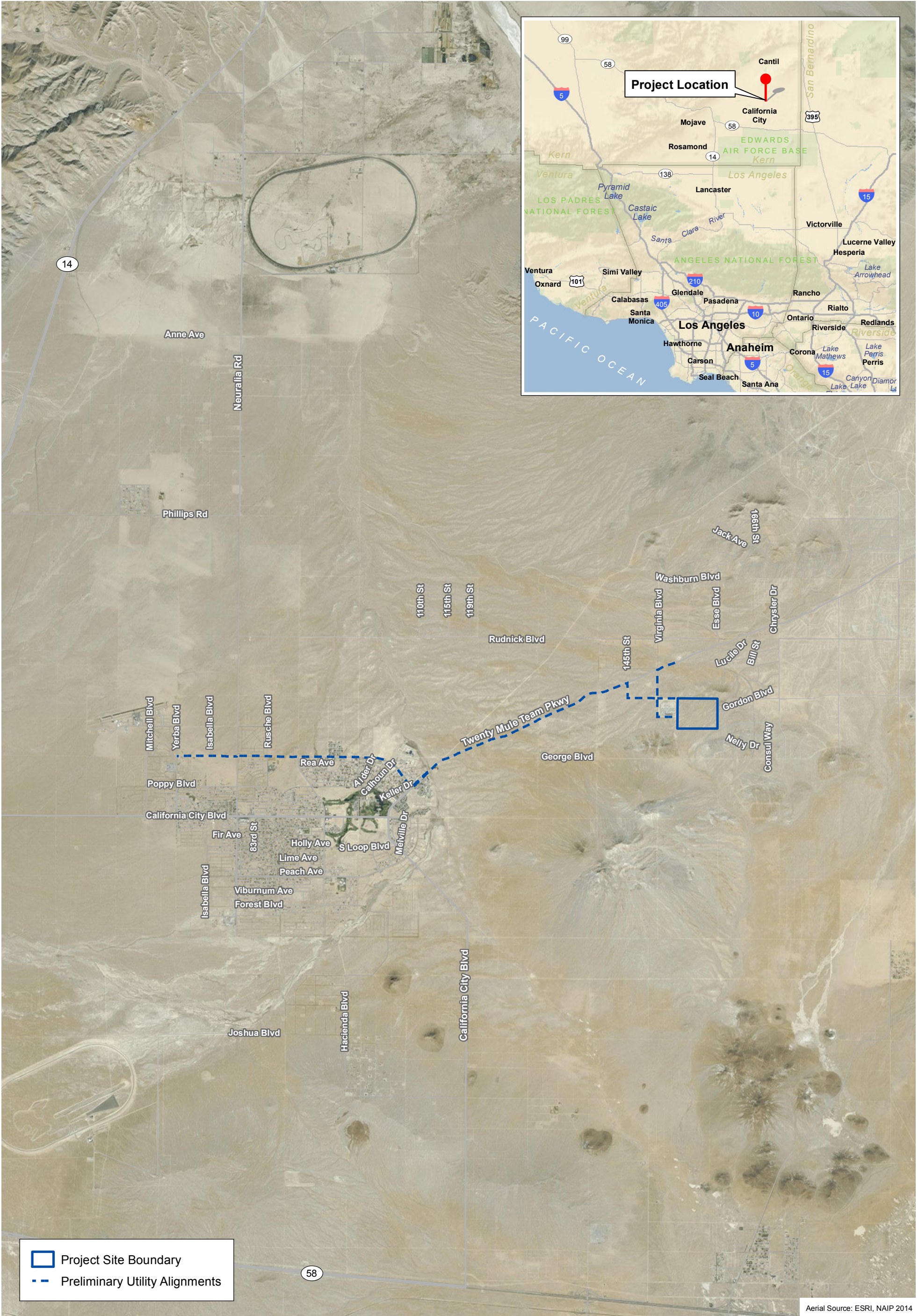
In accordance with the time limits established by CEQA, your response to this Notice of Preparation should be sent to the address above at the earliest possible date, but no later than 30 days from the receipt of this notice. Your interest and participation in the EIR process for this Project is appreciated.

Sincerely,

Anu Doravari  
Planning Technician  
Planning Division  
City of California City

*Insert Exhibit 1 - Location Map*

*Insert Exhibit 2 – Conceptual Site Plan*

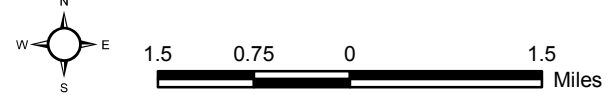


Project Site Boundary  
 Preliminary Utility Alignments

Aerial Source: ESRI, NAIP 2014

### Project Location

Correctional Development Facility at California City (CDFCC)

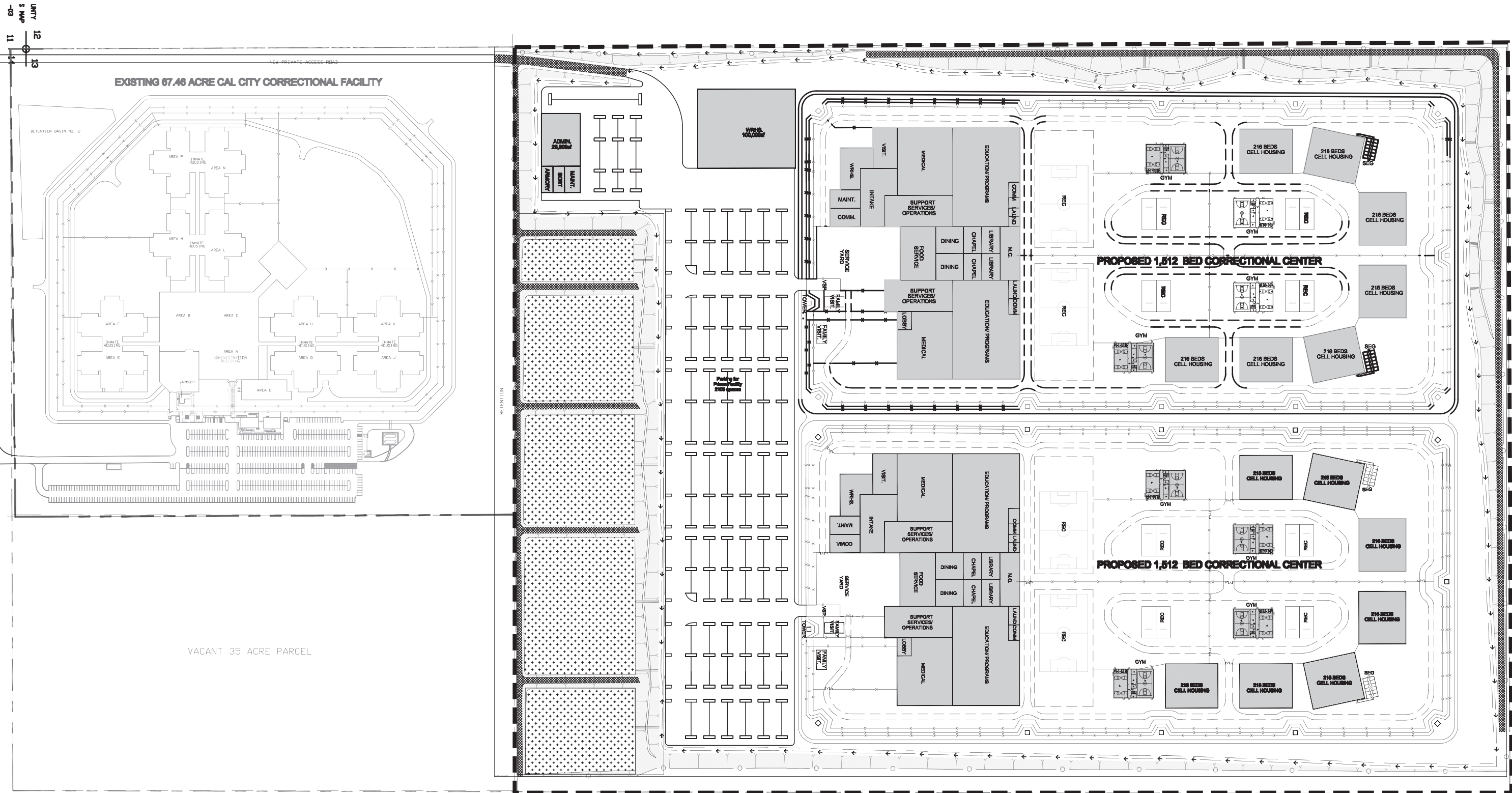


### Exhibit 1

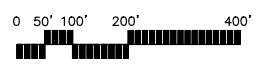


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 CDFCC Site Boundary



# Conceptual Site Plan

Correctional Development Facility at California City (CDFCC)



Source: Psomas 2017

# Exhibit 2

PSOMAS



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# Eastern Kern

Air Pollution Control District

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Glen E. Stephens, P.E.  
Air Pollution Control Officer

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January 09, 2018

Mr. Anu Doravari, Planning Technician  
City of California City  
21000 Hacienda Blvd.  
California City, CA 93505

SUBJECT: Comments for Notice of Preparation of an EIR for Correctional Development Facility at California City

Dear Mr. Doravari:

Eastern Kern Air Pollution Control District (District) has received your Notice of Preparation of an Environmental Impact Report (EIR) for the expansion of the Correctional Development Facility at California City.

In accordance with District Rule 402 (Fugitive Dust), construction activity located on a site involving 10 or more contiguous acres of disturbed surface area, earthmoving activity exceeding a daily volume of 10,000 cubic yards, or relocating more than 2,500 cubic yards per day of bulk materials at least 3 days per year requires a Fugitive Dust Emission Control Plan (Dust Plan) be submitted to the District and approved by the Air Pollution Control Officer (APCO) prior to the start of construction.

If the construction phase involves the use of pollution generating equipment (generator sets, concrete batch plants, etc.), they may require a permit from the District. Additionally, any new pollution generating equipment to be installed at the facility (boilers, spray booths, fuel storage tanks, generator sets) may also require a District permit.

The proposal notes that the California City Wastewater Treatment Plant (WWTP) will need to undergo expansion for this proposed project. There are currently 3 active permits/Authority to Construct (ATC) associated with the WWTP issued by the district. Prior to commencement of construction, an ATC for the proposed changes will need to be obtained from the District. If any new engines need to be installed, they may also require a District permit.

If you have any questions or concerns, feel free to contact Samuel Johnson of my staff at (661) 862-5250 or [johnsonsam@kerncounty.com](mailto:johnsonsam@kerncounty.com).

Sincerely,

A handwritten signature in blue ink, appearing to read "Glen E. Stephens".

Glen E. Stephens, P.E.  
Air Pollution Control Officer

GES:SJ:tf

**DEPARTMENT OF TRANSPORTATION**

DISTRICT 9  
500 SOUTH MAIN STREET  
BISHOP, CA 93514  
PHONE (760) 872-0785  
FAX (760) 872-0678  
TTY 711  
www.dot.ca.gov



*Making Conservation  
a California Way of Life.*

January 18, 2018

Ms. Anu Doravari  
California City Planning Division  
21000 Hacienda Boulevard  
California City, CA 93505-2293

File: Ker-58-R130.33  
NOP DEIR  
SCH #: 2017121069

**Correctional Development Facility at California City - Notice of Preparation (NOP) of a draft Environmental Impact Report (EIR)**

Dear Ms. Doravari:

The California Department of Transportation (Caltrans) District 9 appreciates the opportunity to comment during the NOP phase for the Correctional Development Facility (Project) in California City. We offer the following:

- Please ensure that new traffic analysis is performed (the 2006 Traffic Study for the Final Subsequent Environmental Impact Report appears to no longer be valid). Study intersections of Caltrans' concern are State Route 58/California Blvd and State Route 14/California City Blvd along with any other likely state highway access points. The Project would be responsible to mitigate (actual improvements, fair share fees, etc.) for any transportation impacts.
- With input from the City, Kern County, Kern COG, and others - in October 2017, Caltrans finished the Feasibility Study Report for State Route 58 Freeway – California City. This examines improving SR 58 to full freeway standards. This report was emailed to the City on November 3, 2017. It may be of use in the traffic analysis endeavor.

We value a cooperative working relationship with California City concerning project impacts to the State transportation system and travelers. Feel free to contact me at (760) 872-0785, with any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gayle J. Rosander".

GAYLE J. ROSANDER  
External Project Liaison

c: State Clearinghouse  
Mark Reistetter, Caltrans



**FACILITY PLANNING, CONSTRUCTION AND MANAGEMENT**

P.O. Box 942883  
Sacramento, CA 94283-0001



January 25, 2018

Ms. Anu Doravari  
Planning Division, City Hall  
21000 Hacienda Boulevard  
California City, CA 93505-2293

Dear Ms. Doravari:

RESPONSE TO CALIFORNIA ENVIRONMENTAL QUALITY ACT NOTICE OF  
PREPARATION OF ENVIRONMENTAL IMPACT REPORT FOR CORRECTIONAL  
DEVELOPMENT FACILITY AT CALIFORNIA CITY

Thank you for inviting comments from California Department of Corrections and Rehabilitation (CDCR) on the Notice of Preparation (NOP) for the City of California City's (City) proposal to construct two 1,512-bed correctional centers on 215 acres immediately east and southeast of the existing California City Correctional Facility (CCCF). The two centers, at build-out, could house 3,024 inmates and are anticipated to be staffed by approximately 1,000 employees depending on the facilities' operating scenario and occupancy rate.

CCCF is a privately owned facility that is leased, staffed and operated under the authority of CDCR. Because of the proposed project's location directly next to CCCF, CDCR will be interested in reviewing the Environmental Impact Report (EIR), particularly the traffic impact discussion and the short-term construction air and noise discussions when the EIR is released for the public comment period.

Thank you for the opportunity to participate in the scoping process for the proposed project and its California Environmental Quality Act review, and for keeping us apprised of additional opportunities to review the proposed project as details become available during the planning process regarding operations and design.

Should your office have any questions or require additional information, please contact Nancy MacKenzie at (916) 255-2159 or via email at [Nancy.MacKenzie@cdcr.ca.gov](mailto:Nancy.MacKenzie@cdcr.ca.gov).

Sincerely,

  
DEBORAH HYSEN  
Director  
Facility Planning, Construction and Management

cc: Dean L. Borg, CDCR  
Michael Beaber, CDCR  
Nancy MacKenzie, CDCR

## NATIVE AMERICAN HERITAGE COMMISSION

Environmental and Cultural Department  
1550 Harbor Blvd., Suite 100  
West Sacramento, CA 95691  
Phone (916) 373-3710  
Email: [nahc@nahc.ca.gov](mailto:nahc@nahc.ca.gov)  
Website: <http://www.nahc.ca.gov>  
Twitter: @CA\_NAHC



January 31, 2018

Anu Doravari  
California City  
2100 Hacienda Boulevard  
California City, CA 93505

RE: SCH#2017121069, Correctional Development Facility California City, Kern County

Dear Ms. Doravari:

The Native American Heritage Commission has received the Notice of Preparation (NOP) for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code § 21000 et seq.), specifically Public Resources Code section 21084.1, states that a project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit. 14, § 15064.5 (b) (CEQA Guidelines Section 15064.5 (b)). **If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an environmental impact report (EIR) shall be prepared.** (Pub. Resources Code § 21080 (d); Cal. Code Regs., tit. 14, § 15064 subd.(a)(1) (CEQA Guidelines § 15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources with the area of project effect (APE).

**CEQA was amended significantly in 2014.** Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code § 21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code § 21084.3 (a)). **AB 52 applies to any project for which a notice of preparation or a notice of negative declaration or mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. § 800 et seq.) may also apply.

**The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible** in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments. **Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.**

#### AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. **Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:** Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
  - a. A brief description of the project.

- b. The lead agency contact information.
  - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code § 21080.3.1 (d)).
  - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code § 21073).
2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code § 21080.3.1, subs. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or environmental impact report. (Pub. Resources Code § 21080.3.1(b)).
    - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code § 65352.4 (SB 18). (Pub. Resources Code § 21080.3.1 (b)).
  3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
    - a. Alternatives to the project.
    - b. Recommended mitigation measures.
    - c. Significant effects. (Pub. Resources Code § 21080.3.2 (a)).
  4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:
    - a. Type of environmental review necessary.
    - b. Significance of the tribal cultural resources.
    - c. Significance of the project's impacts on tribal cultural resources.
    - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code § 21080.3.2 (a)).
  5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code sections 6254 (r) and 6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code § 21082.3 (c)(1)).
  6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
    - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
    - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code section 21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code § 21082.3 (b)).
  7. Conclusion of Consultation: Consultation with a tribe shall be considered concluded when either of the following occurs:
    - a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
    - b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code § 21080.3.2 (b)).
  8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document: Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code section 21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources

Code section 21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code § 21082.3 (a)).

9. **Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code section 21084.3 (b). (Pub. Resources Code § 21082.3 (e)).
10. **Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
  - a. Avoidance and preservation of the resources in place, including, but not limited to:
    - i. Planning and construction to avoid the resources and protect the cultural and natural context.
    - ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
  - b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
    - i. Protecting the cultural character and integrity of the resource.
    - ii. Protecting the traditional use of the resource.
    - iii. Protecting the confidentiality of the resource.
  - c. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
  - d. Protecting the resource. (Pub. Resource Code § 21084.3 (b)).
  - e. Please note that a federally recognized California Native American tribe or a nonfederally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code § 815.3 (c)).
  - f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code § 5097.991).
11. **Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An environmental impact report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
  - a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code sections 21080.3.1 and 21080.3.2 and concluded pursuant to Public Resources Code section 21080.3.2.
  - b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
  - c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code section 21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code § 21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: [http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation\\_CalEPAPDF.pdf](http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf)

### **SB 18**

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code § 65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: [https://www.opr.ca.gov/docs/09\\_14\\_05\\_Updated\\_Guidelines\\_922.pdf](https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf)

Some of SB 18's provisions include:

1. **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code § 65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation.** There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code section 65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code sections 5097.9 and 5097.993 that are within the city's or county's jurisdiction. (Gov. Code § 65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation:** Consultation should be concluded at the point in which:
  - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
  - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>

#### NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center ([http://ohp.parks.ca.gov/?page\\_id=1068](http://ohp.parks.ca.gov/?page_id=1068)) for an archaeological records search. The records search will determine:
  - a. If part or all of the APE has been previously surveyed for cultural resources.
  - b. If any known cultural resources have been already been recorded on or adjacent to the APE.
  - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
  - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
  - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.
3. Contact the NAHC for:
  - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
  - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.

4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
- a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, section 15064.5(f) (CEQA Guidelines section 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
  - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
  - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code section 7050.5, Public Resources Code section 5097.98, and Cal. Code Regs., tit. 14, section 15064.5, subdivisions (d) and (e) (CEQA Guidelines section 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions, please contact me at my email address: [sharaya.souza@nahc.ca.gov](mailto:sharaya.souza@nahc.ca.gov).

Sincerely,



**Sharaya Souza**  
Staff Services Analyst  
(916) 573-0168

cc: State Clearinghouse



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Central Region  
1234 East Shaw Avenue  
Fresno, California 93710  
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor  
CHARLTON H. BONHAM, Director



February 21, 2018

Anu Doravari  
Planning Division  
City of California City  
21000 Hacienda Boulevard  
California City, California 93505

**Subject: Notice of Preparation (NOP) for the Environmental Impact Report (EIR);  
Correctional Development Facility Project at California City (Project)  
SCH# 2017121069**

Dear Anu Doravari:

The California Department of Fish and Wildlife (CDFW) received a Request for Comments from the City of California City regarding a NOP for the EIR for Correctional Development Facility at California City pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code. Although the comment period for your request has passed, CDFW would appreciate if you would still consider the following comments.

#### **CDFW ROLE**

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. For example, as proposed, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & Game Code, § 1600 et seq). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include §§ 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

CDFW also has jurisdiction over furbearing mammals pursuant to Title 14, California Code of Regulations, § 460. This Section states, "Fisher, marten, river otter, desert kit fox and red fox may not be taken at any time"; therefore, the CDFW cannot authorize their take.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** CoreCivic

**Objective:** The Project is proposing to construct of a one-level, 1,512-bed correctional center and an identical 1,512-bed correctional center on a 215-acre site east and southeast of the existing prison facility. Each new facility would contain seven secure housing structures in a semi-circular arrangement around a central open area with indoor and outdoor recreational facilities. West of the housing and recreational area would be a central building for various inmate services and programs. A common surface parking area would be located between the buildings on the east and a series of five retention basins on the west, with an administration building and warehouse building near the access road that would extend along Gordon Boulevard from Virginia Boulevard to the project site. Off-site utility line and system improvements would also be constructed to serve the Project.

**Location:** The Project site is comprised of approximately 215 acres located immediately east and southeast of the existing California City Correctional Facility (22844 Virginia Boulevard, California City), which is located to the east of Virginia Boulevard and south of Twenty Mule Team Parkway. The Project site is located on the



eastern portion of the northern one-half of Section 13, Township 32 South, Range 38 East, Mount Diablo Base and Meridian, Assessor's Parcel Number 350-031-02.

**Timeframe:** The Project would be implemented in two phases. Phase 1 would include the construction of one of the 1,512-bed correctional centers and off-site infrastructure upgrades, which could potentially begin in January 2022, and be completed by December 2024. Phase 2 is assumed to begin within 6 to 8 months following completion of Phase 1 (sometime in 2024) and is expected to take 18 months.

In review of the NOP for the EIR, CDFW provides the following comments as the project area is within Mojave Desert habitat. This habitat type has the potential to support the State listed threatened desert tortoise (*Gopherus agassizii*) and Mohave ground squirrel (*Xerospermophilus mohavensis*), the State species of special concern burrowing owl (*Athene cunicularia*) and American badger (*Taxidea taxus*), the State protected furbearing mammal desert kit fox (*Vulpes macrotis macrotis*), and desert cymopterus (*Cymopterus deserticola*). Therefore, CDFW requests that the EIR fully identify potential impacts to biological resources and provide proper avoidance, minimization, and mitigation measures to address potential Project-related impacts to these species. CDFW recommends that additional biological surveys be conducted and that the results of these surveys be used to inform the analysis of impacts to resources and to provision suitable avoidance, minimization, and mitigation measures to reduce impacts to less than significant levels.

CDFW issued an Incidental Take Permit (ITP; No. 2081-1998-17-4) to Corrections Corporation of America (now doing business as CoreCivic) on May 22, 1998 for the incidental take of desert tortoise and Mohave ground squirrel related to the construction of the existing prison. The existing prison is located on approximately 67.5 acres with potential future facility expansions expected to be constructed in the approximately 35-acre area located immediately south of the existing prison. The ITP referenced above expires on May 22, 2018 and does not include any expansion to the east and southeast of the existing prison as a contemplated activity, and therefore, does not provide take authorization for the State listed species known to occupy the site. Given this, acquisition of a new ITP may be necessary prior to initiating any ground-disturbing activities associated with the Project described in the NOP to comply with CESA. Consultation with CDFW is warranted to discuss the need for a new ITP.

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist California City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

Editorial comments or other suggestions may also be included to improve the document.

**Desert Tortoise:** The proposed Project site is within desert tortoise range, a species listed as threatened pursuant to CESA, and an ITP has been issued to authorize take of desert tortoise for past facility activities. Potentially significant impacts that may result from Project-related activities include loss of foraging habitat, burrow destruction, and direct mortality. Any take of desert tortoise without appropriate take authorization would be a violation of Fish and Game Code.

To evaluate potential Project-related impacts, CDFW recommends that a qualified wildlife biologist conduct surveys during the appropriate survey period following the protocol contained in "Preparing for any action that may occur within the range of the Mojave desert tortoise (*Gopherus agassizii*)" (USFWS 2010). CDFW advises that survey results be submitted to both the CDFW and the United States Fish and Wildlife Service (USFWS). Consultation with CDFW and the USFWS to develop avoidance, minimization, and mitigation measures is recommended if surveys indicate the presence or potential presence of desert tortoise. If take could occur as a result of Project implementation, acquisition of an ITP is necessary prior to initiating any ground-disturbing activities to comply with CESA. Alternatively, the Project proponent has the option of assuming presence for this species and securing an ITP, which would authorize incidental take of State-listed species during Project implementation.

**Mohave Ground Squirrel:** Mohave Ground Squirrel (MGS), a species listed as threatened pursuant to CESA, and an ITP has been issued to authorize take of MGS for past facility activities. Potentially significant impacts that may result from Project-related activities include loss of foraging habitat, burrow destruction, and direct mortality. Any take of MGS without appropriate take authorization would be a violation of Fish and Game Code.

In order to implement full avoidance for MGS, CDFW recommends that a 50-foot no-disturbance buffer be employed around all burrows that could be used by MGS. If this is not feasible, CDFW advises that a qualified permitted biologist conduct protocol surveys for MGS following the methods described in the "Mohave Ground Squirrel Survey Guidelines" (CDFG 2003) at all Project-related impact areas during the appropriate survey season prior to Project implementation. CDFW recommends that the results of the MGS surveys be submitted to CDFW and that consultation with CDFW occurs to develop avoidance, minimization, and mitigation measures. If take could occur as a result of Project implementation, acquisition of an ITP is necessary prior to initiating any ground-disturbing activities to comply with CESA. Alternatively, the Project proponent has the option of assuming presence for this species and securing an ITP, which would authorize incidental take of State-listed species during Project implementation.

**Burrowing Owl:** Burrowing owl, a State Species of Special Concern, has been documented within five miles of the Project site and suitable habitat exists within the Project site (CDFW 2018). Impacts to burrowing owls due to Project activities may include adult abandonment of the nest, causing eggs or young to be directly impacted (crushed), and/or resulting in reproductive failure.

To avoid impacts to the species, CDFW recommends that focused surveys be conducted following the survey methodology developed by the California Burrowing Owl Consortium (CBOC 1993) well in advance of any ground disturbance associated with Project construction as well as a 10-day prior to disturbance pre-construction survey effort. If any ground-disturbing activities will occur during the burrowing owl nesting season (approximately February 1 through August 31), and potential burrowing owl burrows are present within the Project footprint, implementation of avoidance measures are warranted. In the event that burrowing owls are found, CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012) (Staff Report) recommends that impacts to occupied burrows be avoided by implementation of no-disturbance buffer zones, as described in the table below, unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

\* meters (m)

If the Project proponent proposes to evict burrowing owls that may be present, CDFW recommends passive relocation during the non-breeding season only. CDFW recommends that the draft EIR describe all avoidance measures that would be employed in the event that owls are found on the Project site, as well as methods that would be used to evict owls from burrows. CDFW also recommends that the draft EIR specify how the impact of evicting owls would be mitigated to a less than significant level.

The Staff Report recommends that foraging habitat be acquired and permanently protected to offset the loss of foraging and burrow habitat. CDFW also recommends replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1:1) as mitigation for the potentially significant impact of evicting a burrowing owl if a biologist knowledgeable with the biology and natural

history of the species determines that suitable burrows are a potential limiting factor for the species.

**Protected Furbearing Mammals:** The proposed Project site is within desert kit fox range and has potential habitat for the species; as such, the Project has the potential to impact this species through direct take and/or destruction of dens. The desert kit fox is protected under Title 14, California Code of Regulations, § 460, which prohibits take of the species at any time. CDFW recommends that the avoidance measures within the USFWS “Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance” (2011) be followed and that surveys be conducted accordingly and prior to commencing any Project-related ground-disturbing activities, including temporary use activities. If any active or potential dens are found on the Project site during these surveys, consultation with CDFW would be warranted for guidance on take avoidance measures for the desert kit fox.

**American Badger:** American badger, a State Species of Special Concern, has been documented within five miles of the Project site and suitable habitat exists within the Project site (CDFW 2018). CDFW recommends species-specific focused surveys, conducted by qualified biologists, in advance of project implementation in order to evaluate if impacts to American badger could occur. Avoidance of American badger whenever possible is encouraged via delineation and observing appropriate no-disturbance buffers. In addition, CDFW recommends that if a badger is detected within a project work area during project activities, it be allowed to move out of the work area of its own volition. If an American badger is found denning on or immediately adjacent to a project work area, consultation with CDFW is advised to determine whether the animal(s) may be evicted from the den. CDFW recommends fully addressing avoidance, minimization, and mitigation measures for American badger and that these measures be included as enforceable mitigation in the EIR.

**Special-Status Plant Species:** There is potential for special-status plant species to occur on or adjacent to the Project site. CDFW recommends that the Project site be surveyed for special-status plants by a qualified botanist following the “Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities” (CDFG, 2009). This protocol, which is intended to maximize detectability, includes the identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. In the absence of protocol-level surveys being performed, additional surveys might be necessary. Further, CDFW recommends that special-status plant species be avoided whenever possible by delineation and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then consultation with CDFW may be warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species. If a State-listed plant species is

identified during botanical surveys, it is recommended that consultation with CDFW be conducted to determine permitting needs.

**Nesting Birds:** The trees, shrubs, and grasses within and in the vicinity of the Project site likely provides nesting habitat for songbirds and raptors. CDFW encourages Project implementation to occur during the bird non-nesting season. In addition to direct impacts, such as nest destruction, nests might be affected by noise, vibration, odors, and movement of workers or equipment. If Project activities must occur during the breeding season (February through mid-September), the Project proponent is responsible for ensuring that implementation of the Project does not result in any violation of the Migratory Bird Treaty Act or relevant Fish and Game Code Sections.

Prior to work commencing, including staging, clearing, and grubbing, surveys for active nests should be conducted by a qualified wildlife biologist no more than 10 days prior to Project commencement and that the surveys be conducted in a sufficient area around the work site to identify any nests that are present and to determine their status. A sufficient area means any nest within an area that could potentially be affected by the Project. Identified nests should be continuously surveyed for the first 24 hours prior to any construction-related activities to establish a behavioral baseline. Once work commences, all nests should be continuously monitored to detect any behavioral changes as a result of the Project. If behavioral changes are observed, the work causing that change should cease and CDFW consulted for additional avoidance and minimization measures.

If active nests are found and a monitor is not feasible, CDFW recommends implementing a minimum 250-foot no-disturbance buffer around active nests of non-listed bird species and a 500-foot no-disturbance buffer around the nests of non-listed raptors until the breeding season has ended, or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. Variance from these no-disturbance buffers may be implemented when there is compelling biological or ecological reason to do so, such as when the Project area would be concealed from a nest site by topography. Any variance from these buffers is advised to be supported by a qualified wildlife biologist and it is recommended CDFW be notified in advance of implementation of a no-disturbance buffer variance.

**Streambed Alteration:** A network of numerous ephemeral streams intersect the Project area. Construction activities associated with the Project could impact these waterways, including, but not limited to, temporary changes in grades and drainage patterns, sedimentation and pollution resulting from construction activities, and erosion of stockpiles and areas that have been cleared and grubbed. As a result, Project activities include potential substantial changes to the bed, bank, and channel of several features that are jurisdictional pursuant Fish and Game Code § 1600 et seq., therefore

notification is warranted. Fish & Game Code § 1600 et seq. requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial. CDFW is required to comply with CEQA in the issuance of a Lake and Streambed Alteration Agreement. For additional information on notification requirements, please contact our staff in the Lake and Streambed Alteration Program at (559) 243-4593.

### **Editorial Comments and/or Suggestions**

CDFW also recommends consulting with the USFWS on potential impacts to federally listed species. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of Project implementation.

### **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: [http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB\\_FieldSurveyForm.pdf](http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf). The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: [http://www.dfg.ca.gov/biogeodata/cnddb/plants\\_and\\_animals.asp](http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp).

### **FILING FEES**

If it is determined the Project would have an impact on fish and/or wildlife, an assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

Anu Doravari  
California City  
February 21, 2018  
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## CONCLUSION

CDFW appreciates the opportunity to comment on the NOP for the EIR for Correctional Development Facility at California City to assist the City of California City in identifying and mitigating Project impacts on biological resources. CDFW understands that the comment period for the Project has closed, however CDFW is respectfully requesting the above recommendations be taken into consideration.

More information on survey and monitoring protocols for sensitive species can be found at the CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Questions regarding this letter or further coordination should be directed to Craig Bailey, Senior Environmental Scientist (Supervisor), at the address provided on this letterhead, by telephone at (559) 243-4014 extension 227, or by email at [Craig.Bailey@wildlife.ca.gov](mailto:Craig.Bailey@wildlife.ca.gov).

Sincerely,



Julie A. Vance  
Regional Manager

cc: Ray Bransfield  
United States Fish and Wildlife Service  
2493 Portola Road, Suite B  
Ventura, California 93003

## REFERENCES

CBOC, 1993. Burrowing Owl Survey Protocol and Mitigation Guidelines. California Burrowing Owl Consortium, April 1993.

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