



Date: October 9, 2009
To: J. Clark Kelso, Receiver
Cc: Secretary Matthew Cate
From: Wendy S. Saunders, Sr. CEQA /Community Relations Project Manager
Subject: Certification of the CHCF Stockton Environmental Impact Report

Project Description

The California Health Care Facility (CHCF) Stockton project is the construction of a subacute medical and mental health care facility with 1,734 beds. The facility would consist of approximately 1.2 million square feet and would include housing clusters, diagnostic and treatment centers, an armory, warehousing and support facilities, a central plant, a gatehouse, a central kitchen, staff training facilities and parking areas. A 12-foot-tall lethal electrified fence would surround the secured area, a vehicle sally port would be incorporated into the fencing, and 11 45-foot tall guard towers would be located every 700-feet along the secured perimeter. The project also includes exterior lighting, but does not include high-mast. Parking would be provided for staff members, as well as the 75–100 daily visitors anticipated. Approximately ten inmate patients are anticipated to be checked into and out of the facility each day, although the number of patients checking in is anticipated to be much higher during the facility's start-up period because of current unmet demand.

It is anticipated that the proposed medical care facility would employ between 2,400 – 3,000 employees. The factors that will determine the final number of employees at the proposed facility include: (1) the acuity level of the patients, particularly the mental health patients; (2) whether or not women's facilities will be included at the proposed facility; (3) the decision to locate administrative and/or managerial functions at this site or at some other correctional/medical facilities; and (4) various California licensure standards for medical and correctional facilities. These employees would work over several different shifts, and the total number of employees present on the site in the course of a day would be less than the total number of persons hired, due to the nature of the shifts at the facility, i.e. weekend shifts, evening shifts, etc. The facility would operate 24 hours a day, 7 days a week, and the staff would rotate among the various shifts and days of operation.

Project construction is expected to take 24 months. During the 7-month peak construction period, construction activities would require up to 1,700 construction workers per day. As proposed and analyzed in the EIR, the project would be developed on up to 144.2 acres. However, as the project program is refined, the project site acreage may be reduced. If less land is required for the project than evaluated in the EIR, the project will commensurately result in less ground disturbance and fewer associated environmental impacts to resources affected by ground disturbance (e.g., biological resources, agriculture).

The CEQA Process

The CHCF Stockton CEQA process is complete and included the following:

1. Notice of Preparation (NOP) Issued – June 16, 2008
2. Public Scoping Meeting Held – June 30, 2008
3. Revised Notice of Preparation Issued – August 11, 2008
 - The Revised NOP was issued due to a change in the project description, specifically the increase in staffing numbers
4. Draft Environmental Impact Report (EIR) Released for 45-day Circulation Period – October 24, 2008
5. Public Meeting on the Draft EIR Held – November 10, 2008
6. Response to Comments Sent to Public Agencies for 10-day Review Period – March 16, 2009
7. Technical Memorandum Sent to Public Agencies who Commented on the Draft EIR for 10-day review – October 2, 2009
 - The Technical Memorandum describes minor changes to the project description including the addition of ten guard towers, modifying the kitchen from a regional facility to one designed to only serve the project, and consolidation of facilities on the west side of the project site. These minor changes to the project do not constitute "substantial new information" as defined by CEQA (State *CEQA Guidelines* Section 15088.5) as the changes would not result in any new direct or cumulative significant adverse impact or result in a substantial increase in the severity of an impact previously identified in the DEIR and FEIR.

On or after October 12, 2009, the Receiver will be considering the adequacy of the Final Environmental Impact Report (FEIR) for the project. The Final EIR consists of the Draft EIR, including revisions thereto, comments and recommendations received on the DEIR, a list of persons, organizations, and public agencies commenting on the DEIR, the responses to comments to significant environmental points raised in the review and consultation process, appendices to the DEIR and the FEIR, and the Technical Memorandum describing minor changes to the project. The Secretary will also consider the adequacy of the FEIR, and will decide whether to concur with the Receiver.

Prior to approving the project, the Receiver must certify that:

1. The FEIR has been completed in compliance with CEQA;
2. The FEIR was presented to the Receiver and the Receiver reviewed and considered the information contained in the FEIR prior to approving the project; and
3. The FEIR reflects the Receiver's independent judgment and analysis.

The Resolution Certifying the Final Environmental Impact Report (attached hereto as Attachment A) should be adopted by the Receiver if he chooses to certify the Final EIR. The same Resolution should be executed by the Secretary if he concurs that the Final EIR should be certified.

Once the Receiver has certified the EIR, the Receiver can determine whether to approve the proposed project. Documents supporting the potential decision of the Receiver to approve the project include:

1. Statement of Decision and Resolution of Approval;
2. Findings of Fact and Statement of Overriding Considerations; and
3. Mitigation Monitoring and Reporting Program.

If the project is approved by the Receiver and the Secretary concurs with such approval, the Secretary can so execute his concurrence.

1. Statement of Decision and Resolution of Approval

The Statement of Decision and Resolution of Approval for the CHCF Stockton Project (attached hereto as Attachment B) includes Conditions of Approval for the project including:

- The number of medical and/or mental healthcare beds constructed at the CHCF Stockton site as part of the project shall not exceed 1,734;

- Emergency Transport Services (EMT Services), shall be provided by an outside vendor, subject to reimbursement by contract or other agreement;
- The CHCF Stockton Project shall include a provision prohibiting any staff shift changes during the a.m./p.m. peak periods of 7:00 – 9:00 a.m. and 4:00 – 6:00 p.m. Monday-Friday, and restricting visitor hours and deliveries to 9:00 a.m. to 3:00 p.m. or after 6:00 p.m.;
- Documents and procedures pertaining to the procurement of equipment and appliances shall require that Energy Star® or equivalent energy efficient equipment and appliances shall receive purchasing preference where practicable; and
- Hiring and purchasing decisions shall be made consistent with the Local Labor Hire & Purchase Policies dated October 07, 2009.

2. Findings of Fact and Statement of Overriding Considerations

Public Resources Code section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]” The same statute states that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.” Section 21002 goes on to state that “in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.”

The mandate and principles announced in Public Resources Code Section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required. (See Pub. Resources Code, § 21081, subd. (a); CEQA Guidelines, § 15091, subd. (a).) For each significant environmental effect identified in an EIR for a proposed project, the approving agency must issue a written finding reaching one or more of three permissible conclusions. The three possible findings are:

1. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.
2. Changes or alterations to the project would mitigate or avoid the significant effects on the environment; those changes or alterations are within the responsibility and jurisdiction of another public agency; and those changes or alterations have been, or can and should be, adopted by that other agency.
3. Specific economic, legal, social, technological, other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

Because the EIR identified significant effects that may occur as a result of the project, and in accordance with the provisions of the Guidelines presented above, the Receiver must adopt findings of fact and a statement of overriding considerations as part of the approval of the CHCF Stockton project. Draft Findings of Fact and Statement of Overriding Considerations are attached hereto as Exhibit 1 to Attachment B.

3. Mitigation Monitoring and Reporting Program (MMRP)

CEQA Section 21081.6 requires that when a public agency is making the findings required by Section 21081, the public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval to mitigate or avoid significant effects on the environment.

Because mitigation measures must be adopted to mitigate or avoid significant environmental effects of the project, a mitigation monitoring and reporting program has been prepared for the CHCF Stockton

project and must be adopted along with the findings for the project. The proposed mitigation monitoring and reporting program is attached hereto as Exhibit 2 to Attachment B.

Proposed Mitigation

As stated above, mitigation measures must be adopted to mitigate or avoid significant environmental effects of the project, and therefore a mitigation monitoring and reporting program has been prepared for the CHCF Stockton project and must be adopted along with the findings.

Significant and Unavoidable Adverse Impacts

The MMRP includes a number of mitigation measures that reduce identified impacts to less than significant levels. However, as explained in the FEIR and Findings of Fact, the CHCF Stockton project would also result in a number of significant and unavoidable adverse impacts including:

- Agricultural Resources – The conversion of farmland to a nonagricultural use;
- Air Quality - Short-term construction emissions, climate change, global climate change;
- Noise - Construction-generated traffic noise levels, cumulative effects related to short-term construction noise, cumulative effects related to noise from project operation;
- Traffic and Circulation –Off-peak intersection impacts at the following:
 - Austin Road/Arch Road Intersection
 - Austin Road/Project Driveway Intersection
 - SR 99 Northbound Off-Ramp /Arch Road Intersection
 - SR 99 Southbound Off-Ramp Queue
 - SR 99 Northbound Off-Ramp Queue; and
- Visual Resources - Related to an increase in light and glare.

These impacts remain significant and unavoidable because the impacts could not be mitigated to less than significant levels.

Errata and Technical Memorandum to the FEIR

Attached as Attachment C is the Errata, and attached as Attachment D is the Technical Memorandum to the CHCF Stockton FEIR. The Errata document corrects minor textual errors in the FEIR, but does not alter any of the FEIR conclusions. The Technical Memorandum addresses changes to the project since preparation of the Responses to Comments on the Draft EIR (March 2009), and documents that none of the changes would alter any of the FEIR conclusions reached in the March 2009 document.

Comments Received Following the 10-Day Review of Response to Comments

One comment was received since the Response to Comments document was sent to public agencies for the 10-day review, which ended March 26, 2009. The comment received was from Thomas Terpstra, representing the County of San Joaquin. He expressed concern over the fact that a public hearing will not be held before the Final EIR is certified or the project is approved. Mr. Terpstra also requested opportunity for public comment with respect to the Final EIR and the project. Such a public hearing is not required by CEQA; further, the 10-day review period already provides opportunity to comment on the Final EIR. A public hearing on the Final EIR, therefore, was not conducted.

Comments Received Following the 10-Day Review of the Technical Memorandum

The Receiver will be briefed orally on comments received during the 10-day review of the Technical Memorandum

Recommendation

The following actions by the Receiver are recommended, along with recommendations for concurrence by the Secretary:

1. Receiver adopts the Resolution Certifying the Final Environmental Impact Report and Secretary concurs (attached hereto as Attachment A);
2. Receiver Adopts the Statement of Decision and Resolution of Approval (attached hereto as Attachment B), the Findings of Fact and Statement of Overriding Considerations; the Mitigation, Monitoring and Reporting Program (MMRP), and the Local Labor Hire & Purchasing Policies (attached hereto as Exhibits 1, 2 and 3 to Attachment B) and Secretary concurs;
3. Direct staff to file a Notice of Determination (NOD) within five working days of approving the project at the State Office of Planning and Research;
4. Direct staff to send a copy of the NOD to any person who has filed a written request for notices within five working days of approving the project; and
5. Direct staff to send a copy of the MMRP to the San Joaquin Council of Governments and the California Department of Transportation.

Attachment A
Resolution Certifying the Final Environmental Impact Report

CALIFORNIA PRISON HEALTHCARE RECEIVERSHIP
RESOLUTION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT
FOR THE
CALIFORNIA HEALTH CARE FACILITY STOCKTON PROJECT

ADOPTED ON OCTOBER 12, 2009

A RESOLUTION OF THE RECEIVER FOR THE CALIFORNIA
PRISON HEALTH CARE RECEIVERSHIP CORPORATION
EXERCISING AUTHORITY OF SECRETARY OF CDCR FOR
PURPOSES OF PRISON HEALTH CARE CERTIFYING THE FINAL
ENVIRONMENTAL IMPACT REPORT FOR THE CALIFORNIA
HEALTH CARE FACILITY (CHCF) STOCKTON PROJECT

WHEREAS, in 2001, certain California inmates filed a class action lawsuit in the U.S. District Court for the Northern District of California against officials of California Department of Corrections and Rehabilitation (CDCR) (then the California Department of Corrections), alleging that the State's provision of medical care at all state prisons violated the Eighth Amendment of the U.S. Constitution, which prohibits cruel and unusual punishment (*Plata v. Schwarzenegger*, No. C01-01351 TEH [E.D. Cal.] [*Plata*]).

WHEREAS, on February 14, 2006, Judge Henderson appointed a federal Receiver to take control of the delivery of medical services to prisoners confined by CDCR and exercise the powers vested in the Secretary of CDCR as they relate to the California prison health care system. Receiver J. Clark Kelso was appointed by the district court in January 2008 to replace the former Receiver.

WHEREAS, the Receiver and CDCR seek to work in collaboration to identify and analyze the impacts of developing facilities necessary to help remedy the Court's concerns regarding the state's prison health care system.

WHEREAS, the Receiver has reviewed and considered the information contained in the Final Environmental Impact Report (EIR), including the Draft EIR and all supporting documents, including maps, exhibits, testimony, the Technical Memorandum, and written documents contained in the file for this project, including its environmental analysis on record with the consultants EDAW and URS BOVIS LEND LEASE JOINT VENTURE, and within the California Prison Health Care Receivership Corporation (CPR) office and the California Prison Health Care Services Division of CDCR. All references to the EIR and Final EIR hereafter shall include all documents cited above.

WHEREAS, the Receiver, acting as lead agency under the California Environmental Quality Act, now finds that:

1. Notice has been given in the time and in the manner required by State Law.
2. The Final Environmental Impact Report for the CHCF Stockton Project incorporated herein by reference, was presented to the Receiver. The Final Environmental Impact Report (FEIR) includes the Draft Environmental Impact Report, all comments and recommendations received on the Draft EIR, a list of all persons, organizations, and public agencies commenting on the Draft EIR, the responses to comments made regarding significant environmental points, all revisions to the Draft EIR, the Final EIR for the CHCF Stockton project, and the Technical Memorandum (collectively the FEIR). The Receiver has independently reviewed and considered the information contained in the FEIR, including comments received from the public.
3. The FEIR was completed in compliance with CEQA.
4. The FEIR reflects the Receiver's independent judgment and analysis.

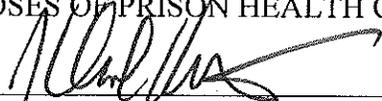
BE IT RESOLVED and CERTIFIED by the Receiver that:

1. The FEIR was completed in compliance with the California Environmental Quality Act of 1970 (Cal. Public Resources Code section 21000 et seq.), as amended, and the State Guidelines thereto (Cal. Code of Regs. Section 15000 et seq.).
2. The FEIR was presented to the Receiver, and was independently reviewed and considered by the Receiver.

3. The FEIR reflects the Receiver's independent judgment and analysis.

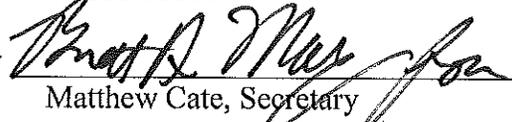
PASSED AND ADOPTED by the Receiver on October 12, 2009.

PRISON HEALTH CARE RECEIVERSHIP CORPORATION
EXERCISING AUTHORITY OF SECRETARY OF CDCR FOR
PURPOSES OF PRISON HEALTH CARE

By 
J. CLARK KELSO, Receiver

BE IT RESOLVED that the Secretary of the CDCR, based on his independent review of the FEIR and his independent judgment and analysis, concurs in certification resolutions 1-3 above.

CALIFORNIA DEPARTMENT OF CORRECTIONS AND
REHABILITATION

By 
Matthew Cate, Secretary

Attachment B
Statement of Decision and Resolution of Approval

CALIFORNIA PRISON HEALTHCARE RECEIVERSHIP
STATEMENT OF DECISION AND RESOLUTION OF APPROVAL
FOR THE
CALIFORNIA HEALTH CARE FACILITY STOCKTON PROJECT

ADOPTED ON OCTOBER 12, 2009

A RESOLUTION OF THE RECEIVER FOR THE CALIFORNIA PRISON HEALTH CARE RECEIVERSHIP CORPORATION EXERCISING AUTHORITY OF SECRETARY OF CDCR FOR PURPOSES OF PRISON HEALTH CARE APPROVING THE CALIFORNIA HEALTH CARE FACILITY (CHCF) STOCKTON PROJECT, ADOPTING THE CEQA FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS, ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM, AND ADOPTING THE CONDITIONS OF APPROVAL

WHEREAS, in 2001, certain California inmates filed a class action lawsuit in the U.S. District Court for the Northern District of California against officials of California Department of Corrections and Rehabilitation (CDCR) (then the California Department of Corrections), alleging that the State's provision of medical care at all state prisons violated the Eighth Amendment of the U.S. Constitution, which prohibits cruel and unusual punishment (*Plata v. Schwarzenegger*, No. C01-01351 TEH [E.D. Cal.] [*Plata*]).

WHEREAS, on February 14, 2006, Judge Henderson appointed a federal Receiver to take control of the delivery of medical services to prisoners confined by CDCR and exercise the powers vested in the Secretary of CDCR as they relate to the California prison health care system. Receiver J. Clark Kelso was appointed by the district court in January 2008 to replace the former Receiver.

WHEREAS, the Receiver and CDCR seek to work in collaboration to identify facilities necessary to help remedy the Court's concerns regarding the state's prison health care system.

WHEREAS, the Receiver has on this date adopted a resolution, certifying the Final Environmental Impact Report (EIR), for the CHCF Stockton Project.

BE IT RESOLVED and CERTIFIED by the Receiver that:

1. The Receiver, exercising the authority granted to the Secretary of CDCR for purposes of prison health care, approves the CHCF Stockton project. The approval of the project is subject to the following conditions and directions:
 - a. The number of medical and/or mental healthcare beds constructed at the CHCF Stockton site as part of the project shall not exceed 1,734, nor shall total inmate population exceed this total.
 - b. Emergency Transport Services (EMT Services), shall be provided by an outside vendor subject to reimbursement by contract or other agreement.
 - c. The Receiver shall schedule staff shift changes to occur outside of the weekday peak commute periods (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.). Deliveries and visitors to the site shall also be restricted through purchasing contracts or other binding agreements to the hours of 9:00 a.m. to 3:00 p.m. and after 6:00 p.m.
 - d. Documents and procedures pertaining to the procurement of equipment and appliances shall require that Energy Star® or equivalent energy efficient equipment and appliances receive purchasing preference where practicable.
 - e. Hiring and purchasing decisions shall be made consistent with the Local Labor Hire & Purchase Policies dated October 07, 2009, consistent with state law governing CDCR's operations, in accordance with Exhibit 3 attached hereto.
 - f. The Receiver directs CPR and CDCR staff to undertake those steps necessary to proceed with the approved project, consistent with the September 21, 2009 Delegation of Authority Regarding Health Care Construction.
2. The CEQA Findings and Statement of Overriding Considerations for the CHCF Stockton project, attached hereto as Exhibit 1 and incorporated herein by reference, are hereby adopted.

3. The Mitigation Monitoring and Reporting Program (MMRP) for the CHCF Stockton project, attached hereto as Exhibit 2 and incorporated herein by reference, is hereby adopted. The Receiver directs the CPR staff to carry out the MMRP.
4. The Receiver directs CPR staff to file a Notice of Determination with the California Office of Planning and Research regarding this determination.

PASSED AND ADOPTED by the Receiver on October 12, 2009.

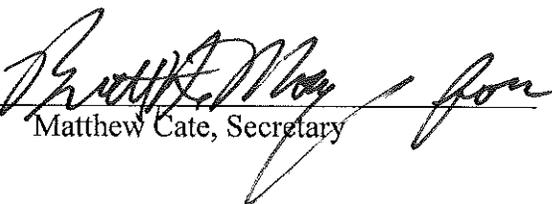
PRISON HEALTH CARE RECEIVERSHIP CORPORATION
EXERCISING AUTHORITY OF SECRETARY OF CDCR FOR
PURPOSES OF PRISON HEALTH CARE

By 

J. CLARK KELSO, Receiver

BE IT RESOLVED that the Secretary of the CDCR concurs in the project approval resolution adopted by the Receiver, and that this concurrence is consistent with the September 21, 2009 Delegation of Authority Regarding Health Care Construction with the understanding that CDCR will be responsible for construction and operation of the project.

CALIFORNIA DEPARTMENT OF CORRECTIONS AND
REHABILITATION

By 

Matthew Cate, Secretary

Exhibit 1 to Attachment B
Findings of Fact and Statement of Overriding Considerations

**FINDINGS OF FACT
AND
STATEMENT OF OVERRIDING CONSIDERATIONS
FOR THE
CALIFORNIA HEALTH CARE FACILITY, STOCKTON PROJECT
ENVIRONMENTAL IMPACT REPORT**

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SECTION 1

STATEMENT OF FINDINGS

1.1 INTRODUCTION

1.1.1 Need for Project

In 2005 the U.S. District Court for the Northern District of California placed California's prison health care system in receivership in response to the April 2001 lawsuit in the case of *Plata v. Schwarzenegger*, which alleged unconstitutional medical care for prison inmates, as well as subsequent cases (the *Coleman v. Schwarzenegger* case regarding mental health care, the *Perez v. Tilton* case regarding dental care, and the *Armstrong v. Schwarzenegger* case regarding disabled inmates). In justifying this decision, U.S. District Court Judge Thelton Henderson pointed to the uncontested fact that, on average, one California inmate dies every 6–7 days because of constitutional deficiencies in the state prison health care system. The District Court established a Receivership to address substandard healthcare within the California correctional system.

Several joint orders in *Coleman v. Schwarzenegger* (mental health care), *Perez v. Tilton* (dental care) and in *Plata v. Schwarzenegger* (medical care) approved various coordination agreements made between the representatives of the three health care class actions. These agreements create a number of efficiencies and allow the *Plata* Receiver to assume responsibility for direct oversight of various shared functions of the medical, dental, and mental health care programs. Among other areas of coordination, the Receiver is tasked with assuming the lead role in the implementation of the contracting, information technology and pharmacy operations serving the medical, dental, and mental health programs. The Receiver was also tasked with coordinating construction efforts.

The California Prison Health Care Receivership Corporation (CPR) is the non-profit organization created to house the activities of the federal Receiver. CPR is charged with creating a system in which prison custody and health care staff together can guarantee that inmates' access to health care and services in California prisons meets constitutional standards. Once the prison health care system is stabilized and a constitutionally adequate medical system is established, the federal court will remove the Receiver and return control to the State.

CPR identified the need to construct new health care facilities statewide with a total of approximately 5,000 beds for medical patients and 5,000 beds for mental health patients to fulfill the court's mandate. The optimum size of each new health care facility is between 1,300 and 1,800 beds. In the Stockton area, a portion of the existing Northern California Youth Correctional Center (NCYCC) has been identified as a potential location for a 1,734-bed health care facility.

CPR plans to coordinate with CDCR to build health care facilities in locations near larger urban areas with qualified pools of skilled professionals that can support the needs of employees re-locating to the area in order to

work at the proposed facilities. The Receiver and CDCR recently agreed to the appointment of a corrections construction project and management expert to unify and coordinate implementation of the plan, and the Governor approved the appointment of a Senior Chief, Facility Planning, Construction and Management who commenced service on September 14, 2009.

1.1.2 Requirement for Findings of Fact

CPR originally proposed to construct a 1.2-million square foot subacute medical care facility on the project site with up to 1,734 beds. The facility would employ between 2,400 and 3,000 people working various shifts around the clock. Through ongoing coordination with CDCR, minor revisions to the Project were subsequently proposed and analyzed in a Technical Memorandum, as discussed below.

The CPR prepared an Environmental Impact Report (EIR) for the proposed project in compliance with the California Environmental Quality Act of 1970 (CEQA) (Public Resources Code Section 21000 *et seq.*) and the State CEQA Guidelines (California Administrative Code Section 15000 *et seq.*, as amended).

Public Resources Code section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]” The same statute states that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.” Section 21002 goes on to state that “in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.”

The mandate and principles announced in Public Resources Code Section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required. (See Pub. Resources Code, § 21081, subd. (a); CEQA Guidelines, § 15091, subd. (a).) For each significant environmental effect identified in an EIR for a proposed project, the approving agency must issue a written finding reaching one or more of three permissible conclusions. The three possible findings are:

- (1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.
- (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

- (3) Specific economic, legal, social, technological, other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

(Public Resources Code Section 21081, subd (a); see also CEQA Guidelines Sections 15091, subd. (a) .)

Public Resources Code section 21061.1 defines “feasible” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.” CEQA Guidelines section 15364 adds another factor: “legal” considerations. (See also *Citizens of Goleta Valley v. Board of Supervisors (Goleta II)* (1990) 52 Cal.3d 553, 565.)

The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417 (*City of Del Mar*).) “[F]easibility” under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors.” (*Ibid.*; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715 (*Sequoyah Hills*).)

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project’s “benefits” rendered “acceptable” its “unavoidable adverse environmental effects.” (CEQA Guidelines, §§ 15093, 15043, subd. (b); see also Pub. Resources Code, § 21081, subd. (b).) The California Supreme Court has stated, “[t]he wisdom of approving . . . any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced.” (*Goleta II*, 52 Cal.3d at p. 576.)

Because the EIR identified significant effects that may occur as a result of the project, and in accordance with the provisions of the Guidelines presented above, the Receiver hereby adopts these findings as part of the approval of the California Health Care Facility (CHCF), Stockton project. These findings constitute the Receiver’s best efforts to set forth the evidentiary and policy bases for its decision to approve the CHCF Stockton project in a manner consistent with the requirements of CEQA. These findings, in other words, are not merely informational, but rather constitute a binding set of obligations that come into effect with the Receiver’s approval of the project.

1.1.3 Documents Used as Basis for Findings and Approval of the Project

The record or proceedings for the Receiver's decision on the CHCF Stockton project and these findings consists of the following documents, at a minimum:

- ▶ The Notice of Preparation (NOP), the Revised NOP, and all other public notices issued by the CPR in conjunction with the project.
- ▶ *California Health Care Facility (Stockton) Draft Environmental Impact Report (DEIR)* prepared for the California Prison Health Care Receivership Corporation by EDAW, Inc. October 2008 and all appendices.
- ▶ All comments submitted by agencies or members of the public during the comment period on the DEIR.
- ▶ *California Health Care Facility (Stockton) Final Environmental Impact Report* prepared for the California Prison Health Care Receivership Corporation by EDAW, Inc. March 2009 including comments received on the DEIR, and responses to those comments, appendices and the errata to the FEIR.
- ▶ *Technical Memorandum, Environmental Review of Minor Changes to Proposed Project, California Health Care Facility (Stockton)* by EDAW, Inc. October 2009, including comments received on the Technical Memorandum.
- ▶ The mitigation monitoring reporting program for the CHCF Stockton project.
- ▶ All findings and resolutions adopted by the Receiver in connection with the CHCF Stockton project and all documents cited or referred to therein.
- ▶ All reports, studies, memoranda, maps, staff reports, or other planning documents relating to the CHCF Stockton project prepared by the CPR, consultants to CPR, or responsible or trustee agencies with respect to the CPR's compliance with the requirements of CEQA and with respect to the Receiver's action on the CHCF Stockton project.
- ▶ All documents submitted to CPR by other public agencies or members of the public in connection with the CHCF Stockton project, up through the approval of the project.
- ▶ Any documentary or other evidence submitted to the Receiver at such information sessions, public meetings, and public hearings.
- ▶ Matters of common knowledge to CPR, including, but not limited to federal, state, and local laws and regulations.
- ▶ Any documents expressly cited in these findings, in addition to those cited above.

- ▶ Any other materials required for the record of proceedings by Public Resources Code Section 21167.6, subdivision (e).

The official custodian of the Record is the CEQA Project Manager for the CPR, URS\Bovis Lend Lease Joint Venture, 2400 Del Paso Rd. Ste 255, Sacramento, CA 95834. (916)779-6400. E-mail: dc@ursbljv.com.

1.2 DESCRIPTION OF THE PROJECT

The following summarizes the description of the CHCF Stockton project. Additional detailed information concerning each component of the project is set forth in Chapter 3 of the DEIR and Section 2.5 of the FEIR, and in the Technical Memorandum, Environmental Review of Minor Changes to Proposed Project, CHCF Stockton (“Technical Memorandum”). Together, Chapter 3 of the DEIR, Section 2.5 of the FEIR, and the Technical Memorandum set forth the description of the project being approved.

As described, the project would involve the construction of a subacute medical and mental health care facility that would include up to 1,734 beds, and would accommodate a 100-person inmate worker crew for the facility (part of the 1,734 bed count). The facility would consist of approximately 1.178 million square feet and would include housing clusters, diagnostic and treatment centers, an armory, warehousing and support facilities, a central plant, a gatehouse, a central kitchen, staff training facilities and parking areas. The Receiver intends that all facilities achieve Leadership in Energy and Environmental Design (LEED) certification with a minimum Silver rating.

A 12-foot-tall lethal electrified fence between two razor-wire covered security fences would surround the secured area, a vehicle sally port would be incorporated into the fencing, and 11 45-foot-tall guard towers would be placed every 700 feet along the secured perimeter. Since originally proposed, the updated site plan includes a shift of the secured perimeter (including the majority of the structures) by approximately 1,100 feet to the west, resulting in the perimeter now being located approximately 1,500 feet from the nearest residence on Austin Road (as opposed to approximately 400 feet as previously proposed). (See Technical Memorandum, Exhibit 1.) The parking lot, which was originally to be located adjacent to Austin Road, has also been moved approximately 500 feet to the west. As explained in the Technical Memorandum, these changes would substantially reduce the amount of project-generated light and glare experienced at residences on Austin Road. (See Technical Memorandum, p. 11.)

The project includes exterior lighting for safety and security, although high mast yard lights are not proposed. Parking would be provided for staff members, as well as the 75–100 daily visitors anticipated. Approximately ten inmate patients are anticipated to be checked into and out of the facility each day, although the number of patients checking in is anticipated to be much higher during the facility’s start-up period because of current unmet demand.

It is anticipated that the proposed medical care facility would employ between 2,400 – 3,000 employees. The factors that will determine the final number of employees at the proposed facility include: (1) the acuity level of the patients, particularly the mental health patients; (2) whether or not women’s facilities will be included at the proposed facility; (3) the decision to locate administrative and/or managerial functions at this site or at some other proposed CPR facilities; and (4) various California licensure standards for medical and correctional facilities.

These employees would work over several different shifts, and the total number of employees present on the site in the course of a day would be less than the total number of persons hired, due to the shift changes, weekends, vacations, and leaves of absence. The facility would operate 24 hours a day, 7 days a week, and the staff would rotate among the various shifts and days of operation. Staff distribution across shifts is based on the highest number of potential employees (3,000 persons).

Project construction is anticipated to start in 2010 and be completed in 2012 (24 months). During the 7-month peak construction period, construction activities would require up to 1,700 construction workers per day. As proposed and analyzed in the EIR, the project would be developed on up to 144.2 acres. However, as the project program is refined, the project site acreage may be reduced. If less land is required for the project than evaluated in the EIR, the project will commensurately result in less ground disturbance and fewer associated environmental impacts to resources affected by ground disturbance (e.g., biological resources, agriculture). Mitigation measures based on the amount of land disturbance would be adjusted accordingly. These findings address construction of the project as proposed, on a site up to 144.2 acres. If less acreage is needed, and impacts are reduced along with the need for mitigation, these findings nevertheless address the project because they are based on the foreseeable worst case development, and the significance of impacts would neither increase nor be substantially reduced if less acreage is needed.

1.3 ABSENCE OF SIGNIFICANT NEW INFORMATION

CEQA Guidelines Section 15088.5 requires a lead agency to recirculate an EIR for further review and comment when significant new information is added to the EIR after public notice is given of the availability of the draft EIR but before certification of the Final EIR. New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect that the project proponent declines to implement. The CEQA Guidelines provide the following examples of significant new information under this standard:

- ▶ A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- ▶ A substantial increase in the severity of an environmental impact would result unless mitigations are adopted that reduce the impact to a level of insignificance.
- ▶ A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.

- ▶ A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.

The FEIR incorporates information obtained by CPR since the release of the DEIR. This information includes comments submitted on the DEIR, responses to those comments, and additional information developed since the release of the DEIR as set forth in the Final EIR and Technical Memorandum. For example, additional information addresses the traffic and circulation impacts of the project and revisions to the project. The updated traffic analysis reflects the careful consideration of comments received on the DEIR, including those received from the California Department of Transportation (Caltrans) (included in the FEIR as letter 26). As shown in Table 3-7 of the FEIR, as a result of the new mitigation strategy developed in response to concerns raised by Caltrans and other commenters on the DEIR, the project would result in fewer significant adverse traffic impacts than previously identified in the DEIR. With respect to the new impacts identified at the SR 99 northbound off-ramp intersection at Arch Road and the SR 99 southbound off-ramp to Arch Road, the FEIR demonstrates that the mitigation measures identified for those impacts are feasible (see Statement of Findings p. 63). Indeed, the impact would occur at the northbound off-ramp in cumulative impacts even without the project, so Caltrans should implement the recommended mitigation measure even without the project. Because the mitigation measures for the impacts to the SR 99 northbound off-ramp intersection at Arch Road and the SR 99 southbound off-ramp to Arch Road are technically feasible and would be fully funded by CPR, Caltrans can and should adopt them. (See CEQA Guidelines Section 15091, subd. (a)(2)). Thus, there would be no new significant and unavoidable impact of the project. As noted, many traffic impacts identified as significant in the DEIR have been reduced to less than significant with implementation of the new mitigation strategy identified in the FEIR.

The Technical Memorandum addresses minor modifications to the project description, including the additions of ten guard towers for a total of 11 guard towers; replacement of the Regional Food Service Facility, intended to prepare food for three CHCF facilities, with a central kitchen, intended to serve only CHCF Stockton; and consolidation of facilities on the west side of the project site. As described in the Technical Memorandum, these changes do not constitute "substantial new information" as described by CEQA; there would be no increase in the severity of any significant impacts and no new significant impacts would result.

In summary, the "new" information added to the FEIR and the revisions to the project as explained in the Technical Memorandum reflect the revised project (FEIR Section 2.5). The new information included in response to the comments submitted on the DEIR, and in the Technical Memorandum do not reflect "significant new information" requiring the need for recirculation of the EIR. Where a potentially new significant impact was identified in response to comments received on the DEIR, feasible mitigation measures were identified that would reduce any such impact to a less than significant level. Indeed, many of the revised project's impacts are less than those associated with the project as originally proposed. Also, the comments, responses, and information updated

in response to the project's revisions do not demonstrate that there is a feasible alternative or mitigation measure considerably different from the alternatives and mitigation measures evaluated in the draft EIR that would clearly reduce environmental impacts.

With respect to the fourth example of circumstances triggering recirculation a “fundamentally and basically inadequate” Draft EIR – the Supreme Court has stated the obligation to recirculate is triggered by new information showing that an EIR was so deficient as to render public comment “in effect meaningless.” (*Laurel Heights Improvement Assn. v. Regents of the Univ. of California* (1993) 6 Cal.4th 1112, 1130 (*Laurel Heights II*.) Here, the modifications to the Draft EIR were made in response to comments received on the DEIR and did not identify any new significant impact of the Project. The additional revisions were made to lessen impacts (as with respect to shifting the secured perimeter and parking away from Austin Road), and as the project has evolved through discussions with CDCR. These changes illustrate the CEQA process at work in that the comments received on the DEIR prompted CPR and its environmental consultants to undertake additional CEQA analysis to fully inform the public and decision makers of the environmental consequences of the CHCF Stockton. Thus, the information added to the DEIR and as revised through the Technical Memorandum does not meet the definition of “significant new information” requiring recirculation.

1.4 BASIS TO APPROVE THE PROJECT RATHER THAN AN ALTERNATIVE TO THE PROJECT

Where a lead agency has determined that, even after the adoption of all feasible mitigation measures, a project as proposed will still cause one or more significant environmental effects that cannot be substantially lessened or avoided, the agency, prior to approving the project as mitigated, must first determine whether, with respect to such impacts, there remain any project alternatives that are both environmentally superior and feasible within the meaning of CEQA. An alternative may be “infeasible” if it fails to fully promote the lead agency’s underlying goals and objectives with respect to the project. Thus, “‘feasibility’ under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors.” of a project. (*City of Del Mar, supra*, 133 Cal.App.3d at p. 417; see also *Sequoiah Hills, supra*, 23 Cal.App.4th at p. 715.)

In accordance with Section 15126.6 of the State CEQA Guidelines, a range of reasonable alternatives to the project that could feasibly accomplish the basic project objectives was addressed in the EIR. In considering alternatives, a number of factors were considered, as described in the EIR. Among the factors considered were the project objectives including:

- ▶ Locate the facility in a geographic area which effectively serves State prisons.
- ▶ Locate the facility in proximity to a metropolitan area where there is access to a large employment base to serve the facility, including areas with potential training facilities.
- ▶ Locate the facility on state-owned property with priority given to existing CDCR facilities.
- ▶ Size the facility to provide between 1,300 and 1,800 beds to achieve the most efficient and optimal patient care while ensuring a secure facility.
- ▶ Design the facility in a manner that is conducive to optimal care, including patient access to the diagnostic and treatment center, patient support areas, and outdoor areas.
- ▶ Provide a high level of security to protect the safety of patients, correctional and medical staff and the surrounding community.

These criteria and other factors, expressed in the EIR, resulted in the determination that the alternatives considered represented a reasonable range (for further information concerning project alternative selection, see Master Response 1 of the FEIR). The alternatives considered in the DEIR are presented and summarized below. In addition, the feasibility of each of the alternatives evaluated in the DEIR is determined below.

1.4.1 No Project (No Development) Alternative

A comprehensive evaluation of the no project alternative, as required by Section 15126.6(e) of the CEQA Guidelines, was included in the EIR. Under this alternative no actions would be taken at the project site. No development of the project site, including construction of medical or mental health facilities or associated structures or facilities, would occur. Although it is possible that an alternative correctional use would occur in the future given the high demand for correctional facilities throughout California, there are no proposals for doing so at the site, and it would be speculative to assume such an alternative. The site is primarily within the former Karl Holton Youth Correctional Facility (at NCYCC), and it is currently abandoned. It would remain abandoned under this alternative.

Under this alternative, the mandate of the U.S. District Court to improve health care in the state prison system to meet Constitutional standards would not be met at the project site. CPR would be required to meet the need for the beds it would have provided at the NCYCC at another prison site or other state-owned site. Therefore, although this alternative may result in less environmental impact than the proposed project or other alternatives, because CPR has determined that developing correctional medical facilities is necessary to comply with the federal court mandate, this alternative would relocate the proposed beds and staff members to a different location,

which would likely result in other unknown environmental impacts. Further, alternative sites that attain most of the project objectives are limited throughout the state.

The No Project (No Development) Alternative would not meet the project's basic and fundamental objective to comply with U.S. District Court legal orders to provide constitutionally adequate medical and mental health care facilities for inmates in California's prison system.

For these legal reasons (would delay compliance with court orders) and social reasons (would reduce potential for project to address prison health care crisis), the Receiver rejects the No Project (No Development) Alternative as infeasible within the meaning of CEQA.

1.4.2 Reduced Footprint Alternative

The EIR evaluated a Reduced Footprint Alternative, which was intended to reduce certain significant and significant and unavoidable impacts of the proposed project. Significant project impacts are generally loss of agricultural land; visual impacts; biological habitat reduction; construction-related traffic, air quality, and noise impacts; and operational traffic, air quality, and noise impacts. The Reduced Footprint Alternative would make the project more compact but would not change its capacity; the number of beds and staff members and the floor area would be the same as under the proposed project. Under this alternative, the project footprint would have been reduced by increasing building heights and the number of floors to accommodate the floor area requirements.

Under the Reduced Footprint Alternative, the entire health care facility would have been located within the boundaries of the former Karl Holton Youth Correctional Facility. The vacant and agricultural property east of the former youth facility, which comprises nearly half the site under the proposed project, would have remained undeveloped. CPR would have reduced the number of separate structures indicated on the proposed site plan by combining various programs and facilities, and building heights would have increased from one- to three-story structures to as tall as eight stories (considering space needed to provide parking). Under the Reduced Footprint Alternative, access would have been shared with the NCYCC facility (from Newcastle Road), as currently provided to the former Karl Holton Youth Correctional Facility.

This alternative would attain some of the project objectives; however exceeding three stories is considered undesirable for a variety of reasons, including:

- ▶ Vertical construction is ineffective from a programmatic perspective. For example, the diagnostic and treatment center and admissions and discharge area have certain design requirements related to program, security, and transportation needs. These might not be realized if the facilities are stacked higher than three stories. The facility would be compromised, which would have an impact on the treatment provided to the

patients as well as the security of the facility staff. This would interfere with the objective to “size the facility to provide between 1,300 and 1,800 beds to achieve the most efficient and optimal patient care while ensuring a secure facility.”

- ▶ This alternative would place the large majority of patients above the ground floor level and would therefore substantially limit easy access to outdoor and treatment areas. This would impede access to medical and mental health care provision, making it more difficult for the Receiver to provide the care and services necessary to reach minimal constitutional levels of care.
- ▶ Structures exceeding three stories would have limited space on lower levels, which would greatly increase difficulty to house, treat, and transport patients of certain acuity levels. The economies of scale realized by a facility designed to adequately address various acuity levels would be lost, leading to higher costs and again, less effective care.
- ▶ Construction costs grow exponentially as building height increases, due to changes in foundation design, seismic requirements, steel costs, and increased security measures. A facility of three stories or less allows for a more flexible and cost efficient design, leading to more effective treatment programs and therefore, better care.

Although this alternative would avoid the significant impacts of the proposed project related to conversion of farmland, conversion of some of the site’s habitat, and possibly also the impact related to construction noise and would attain most of the objectives of the project, the alternative would decrease availability of lower-level floor area which would substantially limit the ability to meet treatment goals. The Reduced Footprint Alternative would also result in reduction to operational efficiencies, due to the difficulties associated with transporting patients securely between floors and would limit housing for treating and transporting patients at certain acuity levels. The security issues related to a facility higher than three stories are significant and violate prison design standards due to difficulties with transporting patients between floors and the need for higher numbers of custodial staff. In addition, the increased security issues may impact the Receiver’s ability to attract staff. Finally, the increased construction costs associated with development of tall buildings would make viability of this alternative more difficult. Considering the above technical, social and economic reasons, the Receiver rejects the Reduced Footprint Alternative as infeasible within the meaning of CEQA. It bears noting that as the project is refined through the design process, less than the 144.2 acres identified under the proposed project may be needed. This is addressed in Section 1.2, Description of Proposed Project.

1.4.3 Reduced Intensity Alternative

The Reduced Intensity Alternative is proposed to eliminate those significant and unavoidable impacts that would be a direct result of the size of the proposed facilities, the number of patients it would serve, and the number of

people who would be employed at the project site. This alternative would provide roughly 25% fewer beds at the site than the proposed project, or 1,300 beds. All support structures and facilities would also be reduced because fewer services would be required to serve the reduced patient population. For purposes of this analysis, staffing levels are estimated to be reduced by 25%, resulting in the employment of between 1,800 and 2,250 new personnel.

For CPR to provide sufficient beds to meet the objectives of the project, this alternative would likely require CPR to enlarge other facilities. Specific impacts associated with such an expansion are not speculated in this discussion, because environmental analyses for the other sites are still in progress; however, these unknown impacts are generally acknowledged in the consideration of the environmentally superior alternative below.

This alternative assumes a construction footprint similar to that of the proposed project. However, if fewer beds were needed, it is also possible that the footprint could be commensurately reduced. If that were the case, in addition to the reduction in impacts described below, impacts would be reduced as described in the Reduced Footprint Alternative (less impact on agricultural resources, air quality, noise, and biological resources).

Although the alternative could slightly reduce the level of impacts related to traffic, air quality, and greenhouse gas emission, this alternative would not avoid any of the significant impacts of the proposed project, and the alternative generally results in impacts similar to the proposed project. If combined with a reduced footprint, this alternative could also reduce impacts on agricultural resources, biological resources, and construction-related air quality and noise. However, the Reduced Intensity Alternative would result in the need to place additional beds elsewhere, which would likely result in increased impacts at the site of one of the other facilities CPR is evaluating. Because the locations of these beds and staff members are unknown, these impacts could not be determined in the EIR.

The Receiver rejects this alternative as infeasible within the meaning of CEQA because of environmental reasons (increased impacts), legal reasons (would delay fully satisfying court order) and social reasons (would reduce potential for project to address prison health care crisis). In addition, this alternative would not avoid any significant impacts resulting from the proposed project and would simultaneously result in likely impacts at a different California Health Care Facility site.

1.4.4 Alternatives Considered but not Analyzed in Detail

Section 15126.6(c) of the State CEQA Guidelines provides that an EIR “should also identify any alternatives that were considered by the lead agency but rejected as infeasible during the scoping process and briefly explain the reasons underlying the lead agency’s determination.” This section provides a discussion of three alternatives raised in scoping comments and explains the reasons for rejecting these alternatives from further consideration.

1.4.5 Off-Site Location Alternative

Under the Off-Site Location Alternative, the Karl Holton Youth Correctional Facility at the NCYCC would remain unoccupied and the medical and mental health facilities would be located at an off-site prison site or other state-owned location. The facilities under this alternative were assumed to be the same size as those under the proposed project, which involves the construction of subacute medical and mental health facilities (1,734 beds and up to 3,000 staff members), support facilities, and associated infrastructure. The only difference assumed is the proposed location.

CPR has identified the need to construct new health care facilities with a total of approximately 5,000 beds for medical patients and 5,000 mental health patients in facilities throughout California, which could require approximately seven correctional health care facilities. This plan has not changed substantially and has required a tremendous effort to identify available property appropriate to accommodate these medical and mental health care facilities.

CPR's site selection process for the new medical and mental health care facilities emphasized cost efficiency through two central criteria: (1) Sites had to be close to a sizable job base to ensure that qualified medical staff members and correctional officers could be recruited; and (2) sites had to be located near existing CDCR facilities on state-owned property to avoid the need to purchase land. Also, see the discussion in the introductory paragraphs to this section. These criteria, among several other development constraints—property size, access, utilities service and infrastructure, site constructability, and land use compatibility—substantially reduced the number of available sites. An Off-Site Location Alternative is considered infeasible because other state-owned properties close to an urban center are either already being considered for their own uses, or were found to be unable to accommodate a facility that would meet the project objectives in a reasonable time consistent with the Receiver's mission. See also FEIR Master Response 1.

1.4.6 Juvenile Corrections Facility Alternative

Under the Juvenile Corrections Facility Alternative, the project site would be developed with a use similar to the former Karl Holton Youth Correctional Facility, which currently occupies a portion of the project site. However, CPR, as lead agency, does not have any purview over the development of a correctional youth facility. In addition, the development of a correctional youth facility on the project site would not meet any of the project objectives, particularly the primary objectives associated with providing health care to inmates, and was therefore found to be infeasible. Therefore, this alternative has been dismissed from consideration.

1.4.7 Karl Holton Rehabilitation Alternative

Under the Karl Holton Rehabilitation Alternative, the existing Karl Holton Youth Correctional Facilities would not be demolished and would instead be rehabilitated and retrofitted to provide sub-acute medical and mental

health care services to inmates (similar to the proposed project). If all existing structures could be fully utilized, the proposed alternative would include 166,838 square feet (the same as the existing structures). Therefore, the Alternative would accommodate less than 14% of the proposed project's floor area (1.2 million square feet). Assuming a similar ratio of beds to the proposed project, the alternative would provide only 242 beds, which does not meet the project's objective for size (1,300 to 1,800 beds) and would not be large enough to feasibly serve the region or operate as a standalone facility. Therefore, this alternative has been dismissed from consideration.

1.4.8 CONCLUSIONS REGARDING PROJECT ALTERNATIVES

Based on the foregoing analysis and pursuant to CEQA Guidelines Section 15126.6, the Receiver has considered a range of reasonable alternatives to the proposed project, which could feasibly attain most of the basic objectives of the project but would avoid or substantially lessen certain significant effects of the project. The Receiver has evaluated the comparative merits of the various alternatives and identified and analyzed potentially environmentally superior alternatives. Based on this analysis and substantial evidence in the record, the Receiver finds and determines that none of the alternatives is feasible within the meaning of CEQA and therefore rejects each alternative in favor of the proposed project.

1.5 FINDINGS OF FACT

The Receiver has reviewed the FEIR for the California Health Care Facility Stockton, consisting of the *California Health Care Facility Stockton Project Draft EIR* (October 2008) and the *California Health Care Facility Stockton Project Final EIR* (March 2009), and the *Technical Memorandum, Environmental Review of Minor Project Changes, California Healthcare Facility (Stockton)* (October 2009), together which form the full Final EIR. The Receiver has considered the public record on the project, which is listed in Section 1 (Documents Used as a Basis for Findings).

Pursuant to Public Resources Code Section 21081, for each significant effect identified in the EIR, the Receiver must make one or more of the findings listed in Section 1 of this document.

After reviewing the record of proceedings, composed of the documents listed in Section 1 of this document, the Receiver hereby makes the following findings regarding the significant effects of the proposed project, pursuant to Public Resources Code Section 21081 and Section 15091 of the California Code of Regulations.

1.5.1 Effects Found Not to be Significant

Effects of the project found to be less-than-significant, and which require no mitigation, are identified in the bulleted list below. The impact title and number follow the impact titling and number conventions used in the Final EIR. The Receiver has reviewed the record and agrees with the conclusion that the following impacts would not be significantly affected by the project, and therefore no additional findings are needed. The Receiver notes

that after publication of the DEIR, it was determined that a stormwater detention basin that currently serves NCYCC is large enough to also accommodate the project; as a result, several impacts that may have occurred if expansion of the detention basin was needed (which was assumed in the DEIR) would no longer occur:

- ▶ *LAND-1: Physical Division of an Established Community.* The proposed project would be located entirely on state-owned property among existing operational correctional facilities and agricultural property and would not physically divide an established community.
- ▶ *LAND-2: Conflict with an Applicable Land Use Plan, Policy, or Regulation of an Agency with Jurisdiction over the Project.* The proposed project is not subject to local plans, policies, or goals; nonetheless, it is consistent with the planned land uses and zoning for the site.
- ▶ *LAND-3: Conflict with an Applicable Habitat Conservation Plan or Natural Community Conservation Plan.* The proposed project does not conflict with the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan, and will participate in provisions of the plan relevant to mitigation of project impacts to biological resources.
- ▶ *AG-2: Conflict with Existing Agricultural Zoning.* The proposed project would locate a medical and mental health care facility near existing agricultural uses to the east of the project site. San Joaquin County's Right-to-Farm Ordinance provides a mechanism to protect the ongoing agricultural practices of the adjacent properties. Although the state is not subject to local ordinances, the setbacks between project facilities and adjacent agriculture are sufficient to avoid substantial conflicts with agricultural uses.
- ▶ *AG-3: Conversion of Off-site Farmland.* Lands surrounding the site are located in the City of Stockton's urban services boundary and are designated for industrial land use in the land use diagram of the City of Stockton General Plan 2035. The project would cause, directly or indirectly, offsite conversion of farmland.
- ▶ *TRAF-2: Potential for Substantial Degradation of LOS at Local Intersections under Existing Conditions.* The proposed project would not, under existing conditions, degrade level of service (LOS) at any of the intersections within the City of Stockton's jurisdiction, below LOS D, which is the City of Stockton's LOS standard for intersections. The proposed project would not, under existing conditions, degrade LOS at any of the intersections within San Joaquin County's jurisdiction below LOS C, which is the San Joaquin County's LOS standard for intersections.
- ▶ *TRAF-3: Potential for Substantial Degradation of LOS of Local Roadway Segments under Existing Conditions.* The project would not, under existing conditions, degrade LOS at local roadway segments within the City of Stockton's jurisdiction below LOS D, which is the City of Stockton's LOS standard for roadway segments. The project would not, under existing conditions, degrade LOS at any local roadway segments

within San Joaquin County's jurisdiction below LOS C, which is San Joaquin County's LOS standard for roadway segments.

- ▶ **TRAF-5: Potential for Addition of Project Traffic to Result in Substantial Degradation of LOS of Local Roadway Segments under EPAP Conditions.** The project would not, under existing plus approved project (EPAP) conditions, degrade LOS at any local roadway segments within the City of Stockton below LOS D, which is the City of Stockton's LOS standard for roadway segments. The project would not, under EPAP conditions, degrade LOS at any local roadway segments within San Joaquin County's jurisdiction below LOS C, which is San Joaquin County's LOS standard for roadway segments.
- ▶ **TRAF-9: Potential for Inadequate Parking.** The proposed parking supply (1,913 parking spaces) is anticipated to meet project demand for parking.
- ▶ **AIR-3: Long-Term Local Emissions of CO during Project Operation that Violate the Air Quality Standard or Contribute Substantially to an Air Quality Violation.** Project-related activities would not generate emissions of CO that would exceed SJVAPCD's 20-ppm (1-hour) or 9-ppm (8-hour) standards.
- ▶ **AIR-4: Potential for Short- and Long-Term Emissions of Substantial Concentrations of TACs.** Off-road heavy-duty diesel equipment would be used only temporarily and CPR would comply with applicable rules and regulations to reduce the risk associated with emissions of toxic air contaminants (TACs) from stationary sources. Therefore, project-generated emissions would not exceed 10 in one million for excess cancer risk or one hazard index for noncancer risk at the maximally exposed individual.
- ▶ **AIR-5: Potential Emissions of Objectionable Odors during Project Construction and Operations.** The proposed project would not introduce new, permanent sources of substantial objectionable odors, nor would it locate sensitive receptors significantly closer to existing permanent sources of odors. Odors generated during project construction would be intermittent and would dissipate quickly.
- ▶ **NOI-2: Groundborne Noise and Vibration Levels due to Construction Activities at Sensitive Receptors.** Implementation of the proposed project could expose sensitive receptors to groundborne noise and vibration levels that could exceed the County's threshold of significance. These groundborne noise and vibration levels could expose on- and off- site sensitive receptors or damage structures.
- ▶ **NOI-6: Potential for Incompatibility of Proposed On-Site Land Uses with the Ambient Noise Environment.** The proposed project includes development of on-site noise-sensitive land uses that could be exposed to noise levels exceeding applicable criteria.

- ▶ **HYDRO-2: Increase in Surface Runoff Potentially Exceeding the Capacity of Existing or Planned Stormwater Drainage Systems.** The proposed project would increase surface runoff, which would result in an increase in both the total volume and the peak discharge rate of stormwater runoff, and therefore could result in greater potential for on- and off-site flooding. However, the project's drainage system would be designed to accommodate project-generated stormwater runoff from a 100-year storm event. Engineering studies have been completed and indicate the detention basin currently has adequate volume to serve the project.
- ▶ **HYDRO-3: Potential Violation of Water Quality Standards or Other Substantial Degradation of Water Quality Resulting from Project Operation.** The proposed project could increase the level of long-term discharges of urban contaminants to the stormwater drainage system, but stormwater quality control measures and "best management practices" (BMPs), would reduce this projected increase.
- ▶ **HYDRO-4: Potential for Flooding On- and Off-Site, Including Inundation from the 100-Year Flood.** The project's stormwater facilities would be adequate to assure that the project would not result in the substantial flooding of on- or off-site areas. The proposed project is not located within the 100-year flood zone. No dams or detention basins are located upstream of the site.
- ▶ **HYDRO-5: Potential for Exposure to 200-Year Flood (Pursuant to SB 5).** The project site is located outside of the 500-year flood zone, and therefore does not require 200-year flood protection as required by SB 5.
- ▶ **HYDRO-6: Reduction in Available Groundwater Supply Because of Substantial Interference with Groundwater Recharge.** The proposed project would create additional impervious surfaces in the form of new prison housing facilities and associated program space and infrastructure, which could reduce infiltration of precipitation into the groundwater. However, a large portion of the project site is currently developed with existing impervious surfaces (roadways, sidewalks, and structures), and the total percentage of impervious surface proposed is small in relation to the overall NCYCC area. This increase would not measurably affect recharge to the local groundwater basin.
- ▶ **BIO-3: Injury or Mortality of Special-Status Reptile Species.** Because the project does not require new stormwater detention facilities, implementation of the project would not affect any sensitive species, including giant garter snakes and northwestern pond turtles in upland areas around Littlejohns Creek .
- ▶ **BIO-4: Injury or Mortality of Tricolored Blackbirds.** Expansion of the stormwater detention basin is not needed so injury and mortality of tricolored blackbirds would not occur.
- ▶ **BIO-6: Short-Term Disturbance of Jurisdictional Waters.** Expansion of the capacity of the stormwater detention basin is not needed, so the short-term disturbance of jurisdictional waters of the United States, which is considered a sensitive habitat by USACE would not result.

- ▶ **CUL-1: Substantial Adverse Change in the Significance of a Historic or Archaeological Resource As Defined in Section 15064.5 of the State CEQA Guidelines.** Resources identified on the project site are not considered significant because of a lack of integrity and/or association and limited research potential.
- ▶ **GEO-1: Exposure of People to Injury and Structures to Damage Resulting from Seismic Hazards.** No active or potentially active faults are located on or near the project site, and the project site is not located in an Alquist-Priolo Earthquake Fault Zone.
- ▶ **HAZ-1: Hazards to a Nearby School or the General Public Related to Use, Transport, and Disposal of Hazardous Materials.** The proposed project would involve the storage, use, and transport of hazardous materials at the project site during construction. In addition, because the project proposes medical and correctional uses, some facilities could use hazardous materials during operation. However, use of hazardous materials at the site would be in compliance with federal, state, and local regulations.
- ▶ **HAZ-3: Interference with an Adopted Emergency Response Plan or Emergency Evacuation Plan.** The NCYCC has a facility wide disaster emergency plan and also works cooperatively with the San Joaquin County Office of Emergency Services.
- ▶ **HAZ-4: Exposure of Construction Workers to Groundwater Exceeding Water Quality Standards. Arsenic and thallium were detected at concentrations exceeding maximum contaminant levels.** The presence of arsenic and thallium in the groundwater may limit the use of the groundwater as a source of drinking water, but it does not represent a project-related human health hazard because the project would connect to the City of Stockton's water supply as the sole water supply source.
- ▶ **POP-1: Potential to Induce Substantial Population Growth by Increasing Construction Employment.** Implementation of the project would result in short-term construction jobs, in a region with a relatively large labor pool and with moderately high unemployment. It is anticipated that the available workforce in the region and surrounding communities would provide a pool of employees that could adequately meet the proposed project's employment needs without resulting in substantial in-migration of new residents to the region. Population growth related to construction employment would not stimulate any new development, the construction of which could result in significant environmental impacts.
- ▶ **POP-2: Potential to Induce Substantial Population Growth by Increasing Medical Facility Employment.** The project would provide jobs to an estimated 2,400-3,000 new employees for operation of the facility. Some of these employees would likely be new to the region. The demand for housing for new employees would be met by the surrounding metropolitan region within the existing housing stock and as a component of planned future growth. Because there is already and ample supply of housing in the region, as well as a number of planned housing projects that would construct tens of thousands of new homes, the population growth related

to increased employment opportunities at the medical facility would not be sufficient to stimulate new development, the construction of which could result in significant environmental impacts, and the project-related population growth would be included in the growth projections of the regional and local communities.

- ▶ **POP-3: Potential to Induce Substantial Population Growth or Physical Deterioration of a Community Caused by the Patient Population.** The housing of 1,734 patients on the project site would not be considered a substantial adverse effect because population growth in the correctional medical facility is not, in itself, an environmental effect (although it has implications related to increased demand for public utilities [e.g., water, wastewater], which are addressed in other areas of the EIR but do not result in environmental impacts. Other potential physical impacts on the community, including blight or other physical deterioration of a community, caused by project-related local economic decline would not occur.
- ▶ **POP-4: Potential to Induce Substantial Population Growth in Specific Locations.** No single city would receive a substantial number of new residents, and the region offers a large housing base in addition to future housing growth. Therefore, the project would not substantially decrease the available housing stock in surrounding communities and would not result, in and of itself, in the construction of substantial new housing in the study area.
- ▶ **PUB-1: Potential for Increase in Demand for Police Protection Services Requiring Construction of New or Expanded Facilities.** Development of the proposed project would not substantially increase the demand for police protection facilities and services, nor would it result in the need for additional staff members to maintain an adequate level of service. See also FEIR Master Response 4.
- ▶ **PUB-2: Potential Increase in Demand for Fire Protection and Emergency Services Requiring Construction of New or Expanded Facilities.** Development of the proposed project would not increase the demand for fire protection and emergency services and facilities. See also FEIR Master Response 4.
- ▶ **PUB-3 Potential Increase in Demand for Schools Requiring Construction of New or Expanded Facilities.** Development of the proposed project would not increase the demand for schools and facilities.
- ▶ **WS-1: Lack of Sufficient Water Supplies to Serve the Project from Existing Entitlements or Resources.** Although the proposed project would increase demand for potable water, the City has sufficient water supply capacity to serve the project. The City is expanding its long-term water supply capacity to serve other development by developing the Delta Water Supply Project (DWSP) (currently estimated to be operational in 2010 – 2011), the same timeframe as completion of the project. Even if the DWSP is not completed by 2011, the City has sufficient supplies to serve existing customers, the project, and anticipated growth through the year 2020 and beyond. Therefore, the project would result in a less-than-significant impact. See also FEIR, responses to comments 10-5, 10-12 through 10-19.

- ▶ *UTIL-1: Potential Increase in Demand for Electricity Requiring Construction of Facility Improvements.* The proposed project would increase demand for electricity enough to require PG&E to construct improvements to its existing PG&E facilities, but such construction would occur in existing utility easements and the resulting environmental effects would not be significant.
- ▶ *UTIL-2: Potential Increase in Demand for Natural Gas Requiring Construction of Facility Improvements.* The proposed project would increase demand for natural gas enough to require PG&E to install on-site facilities, but off-site improvements to existing PG&E facilities would not be required.
- ▶ *UTIL-3: Potential Increase in Demand for Wastewater Treatment Exceeding Available Treatment Capacity at the Stockton RWCF.* The proposed project could generate wastewater flow rates that exceed the current wastewater treatment agreement between NCYCC and the City of Stockton. However, the wastewater treatment plant has sufficient capacity to accommodate project flows, so no improvement to the plant would be needed as a result of the project.
- ▶ *UTIL-4: Potential Need for Stormwater Drainage Facility Construction or Expansion that Would Cause Significant Environmental Effects.* The proposed project would increase impervious surfaces on the project site, which would increase the rate of stormwater runoff. However, the existing detention/retention basin on the project site can accommodate the increased runoff and prevent an increase in the amount of discharge into the adjacent creek. Therefore, the proposed project would not result in the need for other new or expanded stormwater drainage facilities.
- ▶ *UTIL-5: Potential for Increased Generation of Solid Waste.* Although the proposed project would increase generation of solid waste, both during construction and operation, the nearby landfill is expected to have capacity to accept the increased solid waste.
- ▶ *UTIL-6: Potential Need for New Water Infrastructure.* The proposed project would not require construction of a new water distribution system beyond what is currently planned by the City of Stockton. See also FEIR response to comment 10-20.
- ▶ *VIS-1: Potential Degradation of a Scenic Vista.* Agricultural land on the project site may be considered scenic by a small number of people. A limited number of people consider this land scenic and the limited effects of a new facility would be consistent with the surrounding context.
- ▶ *VIS-2: Potential Degradation of the Visual Character of the Project Site.* Residents and some motorists immediately east of the project site would experience a slight degradation in visual character from converting 70 acres of agricultural land to an institutional use; however, this would not be a substantial change from the current visual character of the areas.

- ▶ ***Growth Inducement.*** The proposed project would not substantially increase population growth in the surrounding region because it would not construct new housing. The project would not remove barriers to population growth because no new public infrastructure facilities would be installed. The project is unlikely to tax existing local or regional community service facilities. Although the proposed project would foster some economic and population growth, it would not affect the ability of public service providers to serve their existing customers, nor would it require the construction of new facilities to serve the project. See Master Response 3 and Master Response 4.

1.5.2 Significant Effects of the Project

The Receiver has reviewed the record and agrees with the conclusion that the following impacts would be significantly affected by the project, and therefore requires findings pursuant to PRC Section 21081 and CCR Section 15091. Although the findings below identify the specific language of mitigation measures and rationale behind the various conclusions, the Receiver has no quarrel with, and thus incorporates by reference and adopts as its own, the reasoning set forth in the environmental document, including all appendices and the Technical Memorandum, and thus relies on that reasoning, even where not specifically mentioned or cited below, in reaching the conclusions set forth below, except where additional evidence is specifically mentioned. This is especially true with respect to the Receiver's approval of all mitigation measures recommended in the FEIR, and the reasoning set forth in responses to comments in the FEIR. In preparing these Findings, CPR has taken great care to ensure consistency between the FEIR, the Findings and the Mitigation Monitoring Reporting Program (MMRP) for the project. In the event that the language describing the mitigation measures for the proposed project as set forth or as set forth in the FEIR inadvertently differs from that of the MMRP adopted for the project, the language of the MMRP shall govern.

AGRICULTURAL RESOURCES

Significant Effect: Conversion of Significant Farmland to a Nonagricultural Use. (Impact AG-1)

The EIR analyzed conversion of the actively cultivated state-owned 70-acre field east of the closed Karl Holton Youth Correctional Facility and bounded by Austin. Using the Land Evaluation Site Assessment (LESA) model, developed by the California Department of Conservation (CDC), the EIR's model results indicate that the site is considered significant farmland. The proposed project consists of converting the significant farmland to non-agricultural, institutional land uses. The EIR concluded that this impact is significant. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Finding

Changes or alterations, which substantially reduce but do not completely avoid the significant effects on farmland conversion, have been incorporated by the Receiver into the project. While these mitigation measures would substantially reduce the significant effects of the project, the residual impact would continue to be significant. Therefore, the impact related to conversion of significant farmland is considered significant and unavoidable.

The impact will be reduced by implementation of two mitigation measures. The Receiver will purchase conservation easements at a 1:1 ratio to protect, in perpetuity, off-site farmland that is of equal or greater value compared to the on-site farmland converted by the project. See Mitigation Measure for Impact AG-1 as listed below in Facts in Support of Findings.

This impact may also be reduced by participation in the San Joaquin Multi-Species Conservation Plan (SJMSCP) as set forth in Mitigation Measure for Impact BIO-1, which, in part, requires third-party participation in the SJMSCP and payment of the Natural Lands and Agricultural Habitat Lands Fee as defined in SJMSCP Section 7.4.1.2, "Agricultural Habitat Lands, Non-Vernal Pool Natural Lands, and Multipurpose Open Space Lands." The SJMSCP Joint Powers Authority will determine the fee amount to be paid based on the acreage of disturbance. The total amount could be up to 153.2 acres. This money is pooled by the SJCOG and used to purchase conservation easements and to implement the various measures within the MSCP. The fee would conserve a like amount of land (153.2 acres) as would be developed. This is twice the agricultural acreage that would be converted by the project.

Therefore, while implementation of AG-1 would provide conservation of comparable off-site farmland at a 1:1 ratio, participation in the SJMSCP, as set forth in BIO-1, could result in the conservation of farmland at a ratio of up to 2:1 (since the habitat conservation easements would likely partially include farmland). This could result in an overall conservation of 3 acres of farmland to every 1 acre converted by the proposed project.

However, although implementation of these mitigation measures would conserve between 1 and 3 acres of off-site farmland for each acre converted to non-agricultural use by the proposed project, the impacts to the 70 acres of farmland are not fully reduced, since the conservation of farmland off-site does not replace the converted farmland. In order to mitigate the impact, the proposed project would need to create farmland, rather than only conserve existing farmland. This would mean converting 70 acres of non-agricultural land, such as habitat, back to farmland, which would result in additional environmental impacts.

There is no other mitigation available to reduce this impact to less than significant. The impacts related to conversion of significant farmland would be avoided by the No Project (No Development) and Reduced Footprint alternatives. As discussed in Section 1.3 of this document and as discussed herein, specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the EIR that

would reduce these impacts to a less-than-significant level. Therefore, this impact is considered significant and unavoidable. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Please see additional information regarding significant and unavoidable impacts contained in the statement of overriding conditions included as Section 2 of this document.

Facts in Support of Finding

The CPR has adopted the following mitigation measures that will substantially reduce significant effects related to conversion of significant farmland to a non-agricultural use.

Mitigation Measure(s) for Impact AG-1:

At the time that final design is completed, CPR will complete the following:

- Calculate and document the number of acres of Important Farmland that will be converted for CHCF Stockton improvements, including all facilities, roads, and other rights-of-way.
- Coordinate with the San Joaquin Agricultural Commissioner to locate Important Farmland (as determined by the Land Evaluation and Site Assessment [LESA] Model) where an agricultural conservation easement could be recorded.

Before operation of CHCF Stockton, a perpetual agricultural conservation easement or deed shall be recorded on land that meets the LESA Model score for Important Farmland equal in acreage to the number of Important Farmland converted by the proposed project at a minimum 1:1 ratio.

TRAFFIC AND CIRCULATION

In response to traffic-related comments on the DEIR, most notably the comment letter from Caltrans, the traffic analysis in the DEIR was revised, and a new traffic model was used, as recommended by Caltrans. In addition, several adjustments were made to the inputs and assumptions. Using the new model with these new assumptions the traffic model results indicated impacts at several intersections and roadways. In order to address these impacts, all of the project's peak hour trips would be eliminated by excluding shift changes, deliveries, and visitors during peak hours. Mitigation Measure to TRAF-4 was revised in the FEIR to require this peak hour restriction. This reduced all operations-related traffic impacts identified in the DEIR to a less-than-significant level (with exception of the project driveway's intersection with Austin Road, which requires signalization).

Because moving all of the project traffic to the off-peak hour could result in off-peak impacts, an off-peak analysis was performed. The results of this analysis indicate that the project would result in LOS impacts at the

intersection of the Project Driveway/Austin Road and Arch Road/Austin Road, as well as at the northbound off-ramp of SR 99 onto Arch Road. Queuing impacts were also identified. Mitigation measures have been identified to reduce some of the impacts. Impacts that remain significant and unavoidable are the same as identified in the DEIR as significant and unavoidable. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings, although the number of truck trips to the site would be reduced by nature of changing the kitchen from one that serves several prisons into a central kitchen serving only this project.

Significant Effect: Short-Term Traffic Impacts during Project Construction. (Impact TRAF-1)

The EIR analyzed the short-term impacts associated with the two-year construction of the CHCF Stockton project, most notably during the 7-month peak construction period during which as many as 1,700 construction workers could be arriving/departing from the project site (or approximately 3,400 total daily construction trips). The Final EIR concluded that the peak project construction period would result in short-term impacts to intersections, roadways, and the mainline freeway.

Finding

Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

The CPR has adopted the following mitigation measures to reduce to less-than-significant levels the project's short-term impacts related to construction traffic.

Mitigation Measure(s) for Impact TRAF-1

CPR will hire a qualified traffic consultant to prepare a Construction Traffic Mitigation Plan (CTMP) for the proposed project.

The CTMP will eliminate construction traffic in each peak traffic hour during which construction would occur. The CTMP shall require all construction workers to be on the site prior to 6 a.m. or after 10 a.m. and they shall not leave the site between the hours of 4 p.m. and 6 p.m. In addition, to reduce construction traffic in the off-peak hours, the CTMP shall include a combination of the following measures, so there are no more than 333 vehicles access/exit the site in any single hour:

- ▶ Encourage construction workers to carpool with a goal of 3.40 average vehicle occupancy at all times during the construction period.

- ▶ Instruct construction employees to (equally) utilize three separate east-west routes to the project site: 1) Mariposa Road; 2) Arch Road; and 3) French Camp Road. This would disperse construction trips from Arch Road and SR 99 north and south of Arch Road.
- ▶ Provide shuttle buses (seating capacity = 40) to pick up construction workers from four remote locations. These four pick up locations would ideally be located in north Stockton, two in central Stockton and one in the south towards the City of Modesto.

In addition to these measures, the CPR will include the following to improve operations near the site:

- ▶ A flagman or other traffic control will be placed at the intersection of Arch Road/Austin Road and the project access driveway during peak arrival/departure whenever there is significant congestion at this intersection.

Significant Effect: Potential for Addition of Project Traffic to Result in Substantial Degradation of LOS at Local Intersections under Existing Conditions plus Approved Projects in the Area (EPAP). (TRAF-4)

The EIR analyzed the project's effects related to traffic using the City of Stockton's EPAP model, which includes existing conditions plus other approved projects in the vicinity. The DEIR also included a queuing analysis. The DEIR indicated that the project, in combination with other approved projects, would deteriorate the intersection of Kingsley Road (Frontage Road) and Arch Road from LOS D to LOS E in the a.m. peak hour and LOS E to LOS F in the p.m. peak hour. Newcastle Road and Arch Road would deteriorate from LOS B to LOS D in the a.m. peak hour and LOS C to LOS E in the p.m. peak hour. Therefore, the proposed project would result in a LOS that exceeds the threshold (LOS D or better). The DEIR concluded that this impact would be significant. Mitigation measure included in the DEIR reduced the impacts, but not to a less-than-significant level.

Several comment letters were received during the comment period for the DEIR that raised issues related to the DEIR's traffic analysis. The most notable comment was from Caltrans, and, in response to Caltrans' comments, the DEIR's traffic analysis was revised using a different model. The results of the revised traffic analysis are summarized in the FEIR (see Master Response 5: "Traffic Issues"). As noted in the FEIR, the revised traffic analysis indicated several new peak hour impacts to various traffic facilities, including impacts to the SR-99 northbound off-ramp onto Arch Road (which was not previously analyzed in the DEIR). In order to mitigate these impacts, Mitigation Measure for Impact TRAF-4 was revised to restrict all project traffic to occur outside of the peak hour. This revised mitigation measure reduced peak hour impacts to a less-than-significant level.

However, this revised mitigation measure resulted in the need to evaluate the project's potential off-peak traffic impacts. An off-peak analysis was performed and indicated that, under the EPAP plus Project scenario, no significant off-peak impacts would occur and the project would result in a less-than-significant impact.

Consequently, the revised mitigation measure avoids a significant impact identified in the DEIR. See the Master Response 5 in the FEIR for additional information. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Finding

Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

The CPR has adopted the following mitigation measures to reduce to less-than-significant levels the project’s near-term traffic impacts.

Mitigation Measure(s) for Impact TRAF-4

The Receiver shall schedule staff shift changes to occur outside of the weekday peak commute periods (7:00 a.m. to 9:00 a.m., and 4:00 p.m. to 6:00 p.m.). Deliveries and visitors to the site shall also be restricted through purchasing contracts or other binding agreements to the hours of 9 a.m. to 3 p.m. and after 6:00 p.m. to minimize project-generated traffic during the a.m. peak hour. Some examples of the off-peak hour staff shift changes could be as follows:

- ▶ 8-hour shift: 5:00 a.m. to 2:00 p.m. and/or 9:00 a.m. to 6:00 p.m.; and late evening/early morning shifts
- ▶ 12-hour shift: 6:00 a.m. to 6:00 p.m.

Table 4.3-17 presents the revised project trip generation with the implementation of this measure.

Variable	Daily Trips	A.M. Peak-Hour Trips			P.M. Peak-Hour Trips		
		In	Out	Total	In	Out	Total
Staff	3,292	0	0	0	0	0	0
Deliveries	42	0	0	0	0	0	0
Visitors	232	0	0	0	0	0	0
Total Trip Generation	3,566	0	0	0	0	0	0

Source: Data compiled by DKS Associates in 2009

Significant Effect: Substantial Degradation of Mainline Freeway Levels of Service. (TRAF-8)

The EIR analyzed the potential for the propose project to result in or contribute to unacceptable LOS (below LOS D) at Caltrans freeway mainline facilities. The DEIR concluded that under the 2035 condition, SR 99 would operate at an acceptable LOS D or better, with the exception of northbound SR 99 (north of Arch Road) during the p.m. peak hour.

Several comment letters were received during the comment period for the DEIR that raised issues related to the DEIR's traffic analysis. One such letter was submitted by Caltrans. This letter is of particular note because Caltrans has jurisdiction over SR 99. In response to Caltrans' comments, the DEIR's traffic analysis was revised using a different model. The results of the revised traffic analysis are summarized in the FEIR (see Master Response 5: "Traffic Issues"). As noted in the FEIR, the revised traffic analysis indicated several new peak hour impacts to various traffic facilities, including impacts to the SR-99 northbound off-ramp onto Arch Road (which was not previously analyzed in the DEIR). In order to mitigate these impacts, Mitigation Measure for Impact TRAF-4 was revised to restrict all project traffic to occur outside of the peak hour. The revised mitigation effectively reduced all peak hour impacts to mainline SR 99. The revised traffic analysis also evaluated off-peak hour impacts to the mainline facilities. Although there is no forecast of future off-peak traffic volumes on SR 99 in this area, based on observations made by DKS Associates and existing traffic counts during off-peak hours at ramp intersections, it is reasonable to assume that the baseline mainline traffic volumes during off-peak conditions would be lower compared to the traditional a.m. and p.m. peak hours. However, because it is not certain how much lower, the FEIR concludes that the project's potential impacts would still be considered significant, as concluded in the DEIR, and the CPR would still be required to pay the project's fair share to the Regional Transportation Improvement Program. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Finding

Because the impact would occur during cumulative 2035 conditions, the mainline segment would be constructed to its ultimate width. Therefore, mitigation is not available to reduce significant effects to freeway mainline to reduce off-peak effects to a less-than-significant level, but, as indicated in the DEIR, the traffic fees paid by the project would assist in improving the freeway to its ultimate right of way.

Impacts to mainline SR 99 from project-generated traffic would be avoided by the No Project (No Development) Alternative. As discussed in Section 1.3 of this document and as discussed herein, specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the EIR that would reduce these impacts to a less-than-significant level.

A Statement of Overriding Considerations has been prepared (see Section 2 of this document) to address the impacts to mainline SR 99 associated with project-generated traffic.

Facts in Support of Finding

Feasible mitigation measures are not available to effectively reduce impacts to a less-than-significant level.

AIR QUALITY

Significant Effect: Short-Term Emissions of ROG, NOX, and PM10 during Construction that Violate Air Quality Standards or Contribute Substantially to Air Quality Violations. (Impact AIR-1)

The EIR analyzed the potential for the proposed project to emit pollutants during construction which would exceed San Joaquin Valley Air Pollution Control District (SJVAPCD) significance thresholds. The EIR concludes that project construction would generate emissions of ozone precursors that would exceed 10 tons per year (TPY), the SJVAPCD's significance threshold. Specifically, the proposed project would generate 21.5 TPY of reactive organic gases (ROG) and 51.3 TPY of oxides of nitrogen (NO_x) in 2010. However, the construction-related emissions of particulate matter (10 microns in diameter or less) (PM₁₀) would not exceed SJVAPCD's significance thresholds of 15 TPY, and the proposed project would be required to comply with Regulation VIII, "Fugitive Dust PM₁₀ Prohibitions." The EIR concludes that because the proposed project would exceed the SJVAPCD thresholds for ROG and NO_x and because the SJVAPCD-recommended control measures for PM₁₀ were not included in the project description, the short-term impact to air quality due to project construction is considered significant.

Finding

Changes or alterations, which substantially reduce but do not completely avoid the short-term significant effects on air quality, have been incorporated by the Receiver into the project. Other changes or alterations are within the responsibility and jurisdiction of another public agency, SJVAPCD, and not the agency making these findings. These measures can and should be adopted by that agency. The Receiver, as lead agency, will be responsible for implementing the measures, once adopted by the SJVAPCD.

While these mitigation measures would reduce the significant effects of the project associated with PM₁₀ emissions below the SJVAPCD significance threshold of 15 TPY, and would also substantially reduce the construction-related emissions of ozone precursors, ROG and NO_x, the mitigation measures would not reduce the construction-related emissions of ozone precursors below the SJVAPCD threshold of 10 TPY and the residual impact related to ROG and NO_x emissions remains significant. Therefore, the impact related to short-term pollutant emissions during construction is considered significant and unavoidable.

CPR will comply with Regulation VIII, “Fugitive Dust PM₁₀ Prohibitions,” as outlined in Mitigation Measure to Impact AIR-1, as well as additional SJVAPCD-recommended mitigation measures provided in this mitigation measure.

There is no other mitigation available to reduce this impact to less than significant. Short-term impacts to air quality from project construction-related emissions would be avoided by the No Project (No Development) Alternative or further reduced by the Reduced Footprint alternatives, but these alternatives have been rejected as infeasible. As discussed in Section 1.3 of this document and as discussed herein, specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the EIR that would reduce these impacts to a less-than-significant level.

A Statement of Overriding Considerations has been prepared (see Section 2 of this document) to address the short-term air quality impacts associated with construction of the proposed project.

Facts in Support of Finding

The CPR has adopted the following mitigation measures that will substantially reduce short-term significant effects to air quality related to project construction emissions, but will not reduce effects associated with ozone precursor emissions to a less-than-significant level:

Mitigation Measure(s) for Impact AIR-1:

Reduction of Emissions of Ozone Precursors during Construction. CPR will comply with SJVAPCD’s Rule 9510, “Indirect Source Review,” as required by SJVAPCD based on the project’s specifications. Rule 9510 applies to any applicant that seeks to gain a final discretionary approval for a development project, or any portion thereof, that upon full buildout would include 50 residential units, 2,000 square feet of commercial space, 25,000 square feet of light-industrial space, or 9,000 square feet of any space, as well as similar minima for other land use types.

CPR will submit an air impact assessment (AIA) application to SJVAPCD prior to initiating construction. Nothing in Rule 9510 precludes CPR from submitting an AIA application before final discretionary approval of the project. CPR will submit the AIA application as early as possible in the process. The AIA application will be submitted on a form provided by SJVAPCD and will contain, at a minimum, the contact name and address for CPR, a detailed project description, an on-site emission reduction checklist, a monitoring and reporting schedule, and an AIA. The AIA will quantify NO_x and PM₁₀ emissions associated with project construction. This assessment will include the estimated construction baseline emissions, and the mitigated emissions for each applicable pollutant for project construction, or each phase thereof, and will quantify the

off-site fee, if applicable. CPR will comply with the following general mitigation requirements for construction emissions, as contained in the ISR rule:

- ▶ Exhaust emissions for construction equipment greater than 50 horsepower used or associated with the development project shall be reduced by 20% of the total NO_x and by 45% of the total PM₁₀ exhaust emissions from the statewide average as estimated by ARB.
- ▶ An applicant may reduce construction emissions on-site by using less polluting construction equipment, which can be achieved by utilizing add-on controls, cleaner fuels, or newer lower emitting equipment.
- ▶ Additional strategies for reducing construction emissions may include, but are not limited to:
 - providing commercial electric power to the project site in adequate capacity to avoid or minimize the use of portable electric generators and the equipment;
 - substitution of electric-powered equipment for diesel engine-driven equipment; and
 - limiting the hours of operation of heavy duty equipment and/or the amount of equipment in use at any one time.
- ▶ The requirements listed above can be met through any combination of on-site emission reduction measures or off-site fees. The ISR rule provides a method of calculating fees to be paid to offset any NO_x and PM₁₀ emission reductions that would not be achieved by selection of construction equipment and fuels.

CPR will implement the following SJVAPCD-recommended additional control measures to further reduce exhaust emissions:

- ▶ Minimize idling time (e.g., 10-minute maximum).
- ▶ Replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set).

Reduction of Particulate Emissions during Construction. CPR will comply with SJVAPCD's Regulation VIII, "Fugitive Dust PM₁₀ Prohibitions," and will implement all applicable control measures. Regulation VIII contains the following required control measures, among others:

- ▶ Pre-water site sufficient to limit visible dust emissions (VDE) to 20% opacity.

- ▶ Phase work to reduce the amount of disturbed surface area at any one time.
- ▶ During active operations, apply water or chemical/organic stabilizers/suppressants sufficient to limit VDE to 20% opacity.
- ▶ During active operations, construct and maintain wind barriers sufficient to limit VDE to 20% opacity.
- ▶ During active operations, apply water or chemical/organic stabilizers/suppressants to unpaved haul/access roads and unpaved vehicle/equipment traffic areas sufficient to limit VDE to 20% opacity and meet the conditions of a stabilized unpaved road surface.
- ▶ Limit the speed of vehicles traveling on uncontrolled unpaved access/haul roads within construction sites to a maximum of 15 miles per hour.
- ▶ Post speed limit signs that meet state and federal Department of Transportation standards at each construction site's uncontrolled unpaved access/haul road entrance. At a minimum, speed limit signs shall also be posted at least every 500 feet and shall be readable in both directions of travel along uncontrolled unpaved access/haul roads.
- ▶ When handling bulk materials, apply water or chemical/organic stabilizers/suppressants sufficient to limit VDE to 20% opacity.
- ▶ When handling bulk material, construct and maintain wind barriers sufficient to limit VDE to 20% opacity and with less than 50% porosity.
- ▶ When storing bulk materials, comply with the conditions for a stabilized surface as listed above.
- ▶ When storing bulk materials, cover bulk materials stored outdoors with tarps, plastic, or other suitable material and anchor in such a manner that prevents the cover from being removed by wind action.
- ▶ When storing bulk materials, construct and maintain wind barriers sufficient to limit VDE to 20% opacity and with less than 50% porosity. If utilizing fences or wind barriers, apply water or chemical/organic stabilizers/suppressants to limit VDE to 20% opacity or utilize a three-sided structure with a height at least equal to the height of the storage pile and with less than 50% porosity.
- ▶ Load all haul trucks such that the freeboard is not less than 6 inches when material is transported across any paved public access road sufficient to limit VDE to 20% opacity.
- ▶ Apply water to the top of the load sufficient to limit VDE to 20% opacity.

- ▶ Cover haul trucks with a tarp or other suitable cover.
- ▶ Clean the interior of the cargo compartment or cover the cargo compartment before the empty truck leaves the site.
- ▶ Prevent carryout and trackout, or immediately remove carryout and trackout when it extends 50 feet or more from the nearest unpaved surface exit point of a site.
- ▶ Cleanup of carryout and trackout shall be accomplished by manually sweeping and picking up; or operating a rotary brush or broom accompanied or preceded by sufficient wetting to limit VDE to 20% opacity; or operating a PM₁₀-efficient street sweeper that has a pickup efficiency of at least 80%; or flushing with water, if curbs or gutters are not present and where the use of water would not result as a source of trackout material or result in adverse impacts on storm water drainage systems or violate any National Pollutant Discharge Elimination System permit program.
- ▶ Submit a dust control plan to the air pollution control officer (APCO) prior to the start of any construction activity on any site that will include 5 acres or more of disturbed surface area, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials on at least 3 days. Construction activities shall not commence until the APCO has approved or conditionally approved the dust control plan. Provide written notification to the APCO within 10 days prior to the commencement of earthmoving activities via fax or mail.

CPR will implement the following SJVAPCD-recommended enhanced and additional control measures for all construction phases to further reduce fugitive PM₁₀ dust emissions:

- ▶ Install sandbags or other erosion control measures to prevent silt runoff to public roadways from adjacent project areas with a slope greater than 1%.
- ▶ Suspend excavation and grading activity when winds exceed 20 mph.

Significant Effect: Long-Term Emissions of ROG, NO_x, and PM₁₀ during Project Operation that Violate Air Quality Standards or Contribute Substantially to Air Quality Violations. (Impact AIR-2)

The EIR analyzed the potential for the proposed project's operation to emit air pollutants from mobile and transportation sources in excess of SJVAPCD standards. As indicated in the EIR (See DEIR, Table 4.4-6) project-related activities in 2011 would result in annual unmitigated emissions of approximately 10.7 TPY of NO_x, which would exceed SJVAPCD's threshold value of 10 TPY. Thresholds for ROG and PM₁₀ would not be exceeded. The EIR also indicates that in 2012, the second year of operation, the project-generated NO_x emissions would be

less than the SJVAPCD 10-TPY threshold because the average emissions of vehicles in California are anticipated to improve each year as older vehicles are retired and newer lower-emission vehicles are added.

The EIR indicates that stationary sources proposed as part of the project would be subject to SJVAPCD permitting and BACT requirements, and would not be allowed individually to exceed applicable thresholds. However, the EIR indicates that emissions from these sources would be additive to those quantified from project-generated area- and mobile-source emissions and that SJVAPCD Rule 9510 “Indirect Source Review” does not apply to stationary sources.

Project-related activities in 2011 would generate emissions of NO_x exceeding SJVAPCD’s applicable threshold of 10 TPY. The proposed project would therefore have the potential to violate or contribute substantially to an existing or projected air quality violation, expose sensitive receptors to substantial pollutant concentrations, and conflict with air quality planning efforts. The EIR concludes that this impact is significant.

Finding

Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effects on the environment. Those changes or alterations are within the responsibility and jurisdiction of another public agency, SJVAPCD, and not the agency making these findings. These measures can and should be adopted by that agency. The Receiver, as lead agency, will be responsible for implementing the measures, once they are adopted by the SJVAPCD.

Facts in Support of Finding

The CPR has adopted the following mitigation measures to reduce to less-than-significant levels the generation of long-term, operations-related emissions.

Mitigation Measure(s) for Impact AIR-2:

CPR will comply with SJVAPCD’s Rule 9510, “Indirect Source Review.” Although NO_x emissions would be below the 10-tons per year (TPY) threshold for 2012 and beyond, compliance with Rule 9510 is required for projects where NO_x emissions would exceed 2 TPY. CPR will submit an AIA application to SJVAPCD prior to initiating construction, as described in the mitigation measure “Reduction of Emissions of Ozone Precursors during Construction” for Impact AIR-1. The AIA will quantify operational emissions of NO_x and PM₁₀ exhaust associated with the project. The AIA will include the estimated operational baseline emissions and the mitigated emissions for each applicable pollutant for the project and will quantify the off-site fee, if applicable. CPR will comply with the following general mitigation requirements for operations emissions, as contained in SJVAPCD Rule 9510:

- ▶ Applicants shall reduce 50% of the project's operational baseline PM₁₀ emissions over a period of 10 years as quantified in the approved AIA.
- ▶ Applicants shall reduce 33.3% of the project's operational baseline NO_x emissions over a period of 10 years as quantified in the approved AIA.

The requirements listed above can be met by implementing any combination of on-site emission reduction measures or payment of off-site fees. SJVAPCD Rule 9510 provides a method of calculating fees to be paid to offset any NO_x and PM₁₀ emission reductions that would not be achieved by selection of construction equipment and fuels.

Mitigation of potential impacts, especially emissions of ozone precursors and PM₁₀, is best achieved in the project design stage. CPR will implement, at a minimum, the following SJVAPCD-recommended mitigation measures to further reduce operational emissions from mobile sources:

- ▶ Rideshare Operational: Implement carpool/vanpool program such as carpool ride matching for employees, assistance with vanpool formation, provisions of vanpool vehicles, and others.
- ▶ Parking Operational: Provide preferential parking for carpool and vanpool vehicles, implement parking fees for single occupancy vehicle commuters, implement parking cash-out program for employees.
- ▶ Include as many clean alternative energy features as possible to promote energy self-sufficiency (e.g., photovoltaic cells, solar thermal electricity systems, small wind turbines).

CPR will implement the following SJVAPCD-recommended mitigation measures, as feasible, to further reduce operational emissions from area sources:

- ▶ Provide electrical outlets at building exterior areas and electric powered landscape maintenance equipment.
- ▶ Increase wall and attic insulation beyond Title 24 requirements (residential and commercial).
- ▶ Orient buildings to take advantage of solar heating and natural cooling and use passive solar designs.
- ▶ Provide highly reflective roofing materials and radiant heat barriers.
- ▶ Utilize day lighting systems such as skylights, light shelves, and interior transom windows.

NOISE

Significant Effect: Short-Term Construction-Generated Noise Levels Exceeding Applicable Noise Standards. (Impact NOI-1)

The EIR analyzed the potential for construction of the proposed project to exceed applicable local noise standards. Such construction activities include demolishing existing structures and constructing new buildings. These construction activities could expose sensitive receptors to noise levels that exceed the applicable noise standards and/or result in a noticeable increase in ambient noise levels.

The nearest off-site noise-sensitive receptors in the project vicinity are the single-family residential land uses located approximately 1,100 feet east of the acoustical center of the site, east of Austin Road. The EIR indicates that construction activities could result in a substantial (i.e., 3- to 5-dB or greater) temporary increase in ambient noise levels at these noise-sensitive land uses. Furthermore, if construction activities occur before 6:00 a.m. or after 9:00 p.m., project-generated noise levels would exceed the San Joaquin County noise standards at the single-family residential land uses east of Austin Road. The EIR concludes that this impact is significant. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Finding

Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

The CPR has adopted the following mitigation measures to reduce to less-than-significant levels the project's short-term, construction-related noise impacts. The revisions to the project do not change these findings. (See Technical Memorandum, p.8.)

Incorporation of these measures will limit construction noise at the source of noise generation, as well as to hours when noise sensitivity is relatively low. When nighttime construction is needed, additional mitigation will be imposed, including either noise barriers or providing the option for affected residences to be relocated (e.g., to a hotel) during nighttime operations.

Mitigation Measure(s) for Impact NOI-1:

CPR will implement the following mitigation measures to reduce noise levels generated by on-site construction-equipment:

- ▶ Construction equipment will be properly maintained per manufacturers' specifications and fitted with the best available noise suppression devices (e.g., mufflers, silencers, wraps). All impact tools will be shrouded or shielded and all intake and exhaust ports on power equipment will be muffled or shielded.
- ▶ Construction equipment will not be idled for extended periods of time in the vicinity of noise-sensitive receptors.
- ▶ Fixed/stationary equipment (such as generators, compressors, rock crushers, and cement mixers) will be located as far as possible from noise-sensitive receptors.
- ▶ A disturbance coordinator will be designated by CPR, which will post contact information in a conspicuous location near the entrance so that it is clearly visible to nearby receivers most likely to be disturbed. The coordinator will manage complaints resulting from the construction noise. Reoccurring disturbances will be evaluated by a qualified acoustical consultant retained by CPR to ensure compliance with applicable standards. The disturbance coordinator will contact nearby noise-sensitive receptors, advising them of the construction schedule.
- ▶ Where feasible, project construction and related activities will occur between 6 a.m. and 9 p.m., the operational hours outlined in the San Joaquin County Development Code's Noise Ordinance.
- ▶ Where construction operations and related activities occur during more sensitive evening and nighttime hours (9 p.m. to 6 a.m.), CPR will notify the three residences along Austin Road 24 hours in advance of nighttime construction activities, and temporary noise barriers will be erected to minimize noise disturbances at nearby noise-sensitive land uses. Temporary barriers will be placed as close to the noise source or as close to the receptor as possible and break the line of sight between the source and receptor. Acoustical barriers will be constructed of material with a minimum surface weight of 2 pounds per square foot or greater, and a demonstrated Sound Transmission Class (STC) rating of 25 or greater as defined by American Society for Testing and Materials (ASTM) Test Method E90. Placement, orientation, size, and density of acoustical barriers will be specified by a qualified acoustical consultant (when specific equipment configurations, locations, and operational details become available) such that noise generated by construction activities occurring after 9 p.m. would not exceed applicable County standards at the single-family residences. Alternatively, contingent upon agreement by the occupants, CPR may pay to temporarily relocate occupants of the residences during periods of nighttime construction.
- ▶ Pile holes shall be pre-drilled to the maximum feasible depth. Pre-drilling pile holes shall reduce the number of blows required to completely seat the pile, and shall concentrate the pile driving activity closer to the ground where pile driving noise can be shielded more effectively by a noise barrier/curtain.

Significant Effect: Off-Site Construction-Generated Traffic Noise Levels Exceeding Applicable Noise Standards. (Impact NOI-3)

The EIR assumed that as many as 3,400 trips would be generated by construction personnel during peak operations in addition to an estimated 55 daily truck trips. Adding construction traffic to the local roadway network would result in a substantial temporary increase in traffic noise levels along Austin Road, south of Arch Road by + 5.8 dB L_{dn} . The EIR indicates that noise increases in excess of 5 dB are considered significant. The three single-family residences located along Austin Road, east of the project site, would be exposed to temporary increases in traffic noise levels during construction of the proposed project. This impact is therefore significant.

Finding

Changes or alterations, which substantially reduce but do not completely avoid the short-term significant effects related to construction-traffic noise, have been incorporated by the Receiver into the project.

Incorporation of these mitigation measures could reduce off-site construction-generated traffic noise levels by 5 dB. However, because of the low traffic volumes and relatively low traffic noise levels at noise-sensitive receptors along Austin Road, off-site construction traffic could result in a significant temporary increase in the ambient noise environment in the project vicinity. As a result, this impact would remain significant and unavoidable. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

CPR will implement noise reduction measures for heavy trucks as outlined in Mitigation Measure to Impact NOI-3. It should also be noted that the CPR will prepare and implement a construction traffic management plan (CTMP), which is outlined in Mitigation Measure for TRAF-1 (Section 4 of the Final EIR). The CTMP establishes a target for substantially reducing construction traffic in any single hour which could include, among other options, encouraging a higher average vehicle occupancy and provision of shuttle buses, both of which would reduce daily trips related to project construction, which would further reduce noise from construction traffic. However, because it is unknown which options the CPR will utilize to gain the overall traffic reduction, a quantification of noise reduction cannot be provided, and the impact remains significant and unavoidable.

No other mitigation measures are available to further reduce this noise impact. Short-term noise impacts from construction traffic would be avoided by the No Project (No Development) Alternative. As discussed in Section 1.3 of this document and as discussed herein, specific economic, legal, social, technological, or other considerations make infeasible the project alternative identified in the EIR that would reduce these impacts to a less-than-significant level.

A Statement of Overriding Considerations has been prepared (see Section 2 of this document) to address the short-term noise impacts associated with the project's construction traffic.

Facts in Support of Finding

The CPR has adopted the following mitigation measures that will substantially reduce short-term significant effects related to construction traffic noise, but will not reduce effects to a less-than-significant level:

Mitigation Measure(s) for Impact NOI-3:

CPR will ensure that the mitigation measures described below are implemented to reduce exposure of noise-sensitive receptors to excessive off-site construction-generated traffic noise levels:

- ▶ All heavy trucks will be equipped with noise control (e.g., muffler) devices in accordance with manufacturers' specifications.
- ▶ All haul trucks will be inspected before use and a minimum of once per year to ensure proper maintenance and presence of noise-control devices (e.g., lubrication, nonleaking mufflers, and shrouding).
- ▶ Construction entrances and heavy truck haul routes will be located as far as possible from nearby noise-sensitive receptors.
- ▶ Reduced heavy-truck speed limits will be established and enforced within 600 feet of noise-sensitive receptors.

Significant Effect: Long-Term Increase in Traffic Noise Levels at Existing Noise-Sensitive Receptors. (Impact NOI-4)

Based on the modeling conducted, the EIR indicates that implementation of the proposed project would result in changes in traffic noise levels increases of up to +8.3 dB L_{dn} . Traffic volumes on the local roadway network in the project vicinity under existing and near-term conditions are subjectively low; as a result, minimal increases in traffic volumes can potentially result in substantial increases in traffic noise levels. However, as development and growth occur in the region, approaching cumulative 2035 City General Plan buildout conditions and larger projects such as Mariposa Lakes begin to be implemented, traffic noise contributions from the proposed project would be masked by those associated with regional development. Although there are no traffic noise level impacts due to the implementation of the proposed project, under cumulative 2035 City General Plan conditions, under existing and EPAP conditions, the proposed project would result in significant increases (more than 3–5 dB or greater) in traffic noise levels along Arch Road and Austin Road. The EIR concludes that this impact is significant. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Finding

Although changes have been made to the project through the elimination of the regional kitchen (changed to a central kitchen), additional changes or feasible mitigation measures are not available to effectively reduce long-

term operational noise impacts to a less-than-significant level. The EIR (DEIR p. 4.5-25) describes the various mitigation methods considered for reducing traffic noise levels, including noise barriers, roadway design modifications, and traffic management, and how each method is infeasible for implementation by the proposed project.

Long-term noise impacts from project-generated traffic would be avoided by the No Project (No Development) and reduced by the Reduced Intensity alternatives. As discussed in Section 1.3 of this document and as discussed herein, specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the EIR that would reduce these impacts to a less-than-significant level.

A Statement of Overriding Considerations has been prepared (see Section 2 of this document) to address the long-term noise impacts associated with project-generated traffic.

Facts in Support of Finding

Feasible mitigation measures are not available to effectively reduce impacts to a less-than-significant level.

Significant Effect: Long-Term Increase in On-Site Noise Levels from Operation of Stationary Noise Sources. (Impact NOI-5)

The EIR indicates that the proposed project could introduce several on-site stationary noise sources associated with the support and operation of the facility. Stationary noise sources associated with facility operations could include rooftop heating, ventilation, and air conditioning (HVAC) equipment; mechanical equipment; emergency electrical generators; parking lot activities; and loading dock operations. Detention and medical facilities generally incorporate outdoor paging systems, multiple alarms, and outdoor recreation facilities for inmates. The EIR found that all of these stationary noise sources would result in less-than-significant noise impacts, except for emergency electrical generators. The EIR concludes that this impact is significant. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Finding

Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effects on the environment.

The measures impose noise controls on the generators, resulting in routine operations during daytime (less noise-sensitive) hours, screening facilities and muffling noise so it is below thresholds.

Facts in Support of Finding

The CPR has adopted the following mitigation measures to reduce to less-than-significant levels the project's impacts related to stationary noise sources.

Mitigation Measure(s) for Impact NOI-5:

For the proposed project, CPR will implement one of the following two mitigation measures to reduce the effect of noise levels generated by on-site stationary noise sources located within 1,200 feet from a sensitive receptor:

- ▶ Routine testing and preventive maintenance will be conducted during the less sensitive daytime hours (i.e., 7:00 a.m. to 6:00 p.m.). All electrical generators will be equipped with noise control (e.g., muffler) devices in accordance with manufacturers' specifications. OR
- ▶ Electrical generators will be located within equipment rooms or enclosures that incorporate noise-reduction features, such as acoustical louvers, and exhaust and intake silencers. Equipment enclosures will be oriented so that major openings (i.e., intake louvers, exhaust) are directed away from nearby noise-sensitive receptors.

HYDROLOGY AND WATER QUALITY

Significant Effect: Short-Term, Construction-Related Violation of Water Quality Standards or Other Substantial Degradation of Water Quality. (Impact HYDRO-1)

The EIR indicates that project-related construction activities would involve soil removal, trenching, pipe installation, grading, and revegetation creating the potential for soil erosion and sedimentation of stormwater drainage systems, both within and downstream of the project site. The construction process may also result in accidental release of other pollutants that could ultimately flow to surface waters, including oil and gas, chemical substances used during construction, waste concrete, and wash water. Project construction activities that are implemented without mitigation could violate water quality standards or directly harm aquatic organisms. In addition, intense rainfall and associated stormwater runoff could result in short periods of sheet erosion within areas of exposed or stockpiled soils. If uncontrolled, these soil materials could cause sedimentation, blocking drainage channels. Further, soils could be compacted by heavy equipment, which may reduce the soils' infiltration capacity and increase the potential for runoff and erosion. The proposed project could adversely affect water quality within on-site drainage channels and ultimately off-site drainage channels as a result of temporary construction activities. The EIR concludes that this impact is significant. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Finding

Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effects on the environment. In addition to changes incorporated by the Receiver into the project, some changes or alterations are within the responsibility and jurisdiction of another public agency, the Central Valley Regional Water Quality Control Board (RWQCB), and not the agency making these findings. These measures can and

should be adopted by that agency. The Receiver, as lead agency, will be responsible for implementing the measures, once they are adopted by the RWQCB.

The EIR includes various measures that control erosion and sedimentation during construction; it also includes best management practices (BMPs) to reduce and clean pollutants from stormwater, provide for the control of chemical spills, and provide training to personnel. These measures, which will reduce and control pollutants, will be required to meet State standards for the control of water pollutants. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Facts in Support of Finding

The CPR has adopted the following mitigation measures to reduce to less-than-significant levels the project's impacts related to short-term, construction-related degradation of water quality.

Mitigation Measure(s) for Impact HYDRO-1:

Before any construction-related ground disturbance, CPR will consult with County Public Works staff members to ensure that project construction procedures are consistent with County stormwater requirements. CPR will also contact the State Water Resources Control Board (SWRCB) and the Central Valley RWQCB to obtain Section 401 water quality certification, a statewide National Pollutant discharge Elimination System (NPDES) stormwater permit for general construction activity, and any other necessary site-specific waste discharge requirements (WDRs) or waivers under the Porter-Cologne Act. CPR will prepare and submit the appropriate notices of intent and prepare the Storm Water Pollution Prevention Plan (SWPPP) and any other necessary engineering plans and specifications for pollution prevention and control. The SWPPP and other appropriate plans will identify and specify:

- ▶ BMPs to be used for erosion and sediment control, including construction techniques to reduce the potential for runoff as well as other measures to be implemented during construction (e.g., sedimentation ponds, inlet protection, perforated riser pipes, check dams, and silt fences);
- ▶ approved local plans and nonstormwater-management controls to be implemented, permanent postconstruction BMPs to be followed, and responsibilities associated with inspection and maintenance;
- ▶ the pollutants that are likely to be used during construction that could be present in stormwater drainage and nonstormwater discharges, and other types of materials used to operate equipment;
- ▶ spill prevention and contingency measures, including measures to prevent or clean up spills of hazardous waste and of hazardous materials used to operate equipment, and emergency procedures for responding to spills;

- ▶ personnel training requirements and procedures that will be used to ensure that workers are aware of permit requirements and proper installation methods for BMPs specified in the SWPPP; and
- ▶ the appropriate personnel responsible for supervising implementation of the SWPPP.

Where applicable, BMPs identified in the SWPPP will be in place throughout all site work and construction/demolition and will be used in all subsequent site development activities. BMPs may include such measures as the following:

- ▶ Implementing temporary erosion-control measures in disturbed areas to minimize discharge of sediment into nearby drainage conveyances. These measures may include silt fences, staked straw bales or wattles, sediment/silt basins and traps, geofabric, sandbag dikes, and temporary vegetation.
- ▶ Establishing permanent vegetative cover to reduce erosion in areas disturbed by construction by slowing runoff velocities, trapping sediment, and enhancing filtration and transpiration.
- ▶ Using drainage swales, ditches, and earth dikes to control erosion and runoff by conveying surface runoff down sloping land, intercepting and diverting runoff to a watercourse or channel, preventing sheet flow over sloped surfaces, preventing runoff from accumulating at the base of a grade, and avoiding flood damage along roadways and facility infrastructure.

All construction contractors will retain a copy of the approved SWPPP on the construction site.

BIOLOGICAL RESOURCES

The DEIR evaluated the potential need for expansion of a stormwater basin, and the associated impacts (primarily biological). Since publication of the DEIR, engineering studies prepared by Kimley-Horn and Associates concluded that the proposed expansion of the existing retention basin is no longer needed, as reported in the FEIR. The existing retention basin has sufficient capacity to serve the CHCF Stockton and existing Northern California Youth Correctional Center facilities. The proposed project would not discharge dredged or fill material into jurisdictional waters of the United States and no authorizations from the U.S. Army Corps of Engineers or Central Valley Regional Water Quality Control Board are required. Discussions of several impacts in Section 4.7, “Biological Resources,” of the DEIR—impacts on special-status reptiles such as northwestern pond turtle and giant garter snake, on tricolored blackbird, and on potential waters of the United States—are directly related to the previously proposed expansion of the detention basin. Therefore, because the proposed project has been revised to no longer include expansion of the detention basin, mitigation measures for Impacts BIO-3, BIO-4, and BIO-6, which mitigate potential injury or mortality of the special-status species mentioned above and short-term impacts on waters of the United States, are no longer necessary and will not be included in the mitigation monitoring reporting program for the project. Because this change in the proposed project would result in avoidance of an

impact, rather than mitigation of the impact to a less-than-significant level, the overall project impact would be less than originally considered. The following describe the findings for the remaining significant effects. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Significant Effect: Loss of Raptor Nesting and Foraging Habitats. (Impact BIO-1)

The EIR indicates that potentially active raptor stick nests were observed in trees and light standards on the project site. These trees and light standards could provide nesting sites for Swainson's hawk, white-tailed kite, and common raptors protected under California Fish and Game Code. Should trees or light standards be removed during the raptor breeding season (February–August), mortality of eggs and chicks could result if an active nest were present. In addition, project construction could disturb active nests near the project site or in trees not yet removed from the project site, potentially resulting in nest abandonment by the adults and mortality of chicks and eggs. Development of the project could also result in the permanent loss of habitat for burrowing owls and approximately 70 acres of foraging habitat for Swainson's hawks. The EIR concludes that this impact is significant. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Finding

Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effects on the environment. In addition to changes incorporated by the Receiver into the project, some changes or alterations are within the responsibility and jurisdiction of another public agency, the San Joaquin Council of Governments (SJCOG), and not the agency making these findings. Additionally, some changes or alterations are within the responsibility and jurisdiction of yet another public agency, California Department of Fish and Game (DFG), and not the agency making these findings. In all cases, the measures can and should be adopted by SJCOG and DFG, as applicable. Except for those measures implemented as a result of fee payment to SJCOG, the Receiver, as lead agency, will be responsible for implementing the measures, once they are adopted by the SJCOG and DFG.

Impacts to raptors will be mitigated by conducting pre-construction surveys, avoiding nesting sites during breeding season, providing passive relocation of burrowing owls if needed, and providing sufficient fees to implement conservation strategies as provided for in the San Joaquin Multi-Species Conservation Plan (SJMSCP).

Facts in Support of Finding

The CPR has adopted the following mitigation measures to reduce to less-than-significant levels the project's impacts to raptors.

Mitigation Measure(s) for Impact BIO-1:

Prior to the site excavation and grading of habitat land, CPR will, as encouraged in the letter dated August 15, 2008 from San Joaquin Council of Governments (SJCOG), request from the SJMSCP Joint Powers Authority (under SJCOG) concurrence that the proposed project qualifies for third-party participation in the SJMSCP because the project is consistent with permitted activities as defined in SJMSCP Section 8.2.2.c, "Major Impact Projects." Upon receipt of the concurrence letter, CPR will pay the Natural Lands and Agricultural Habitat Lands Fee (adjusted for inflation annually by the Joint Powers Authority) as defined in SJMSCP Section 7.4.1.2, "Agricultural Habitat Lands, Non-Vernal Pool Natural Lands, and Multipurpose Open Space Lands." Site grading and excavation may commence upon payment of the fees. The SJMSCP Joint Powers Authority will determine the fee amount to be paid based on the acreage of disturbance. The total amount could be up to 144.2 acres (up to: 70 acres of farmland raptor foraging habitat and the 74.2 acres of raptor nesting habitat at the existing Karl Holton Youth Correctional Facility).

In addition, the following avoidance and minimization measures for Swainson's hawk and other tree-nesting raptors and burrowing owl will be implemented.

Swainson's Hawk and Other Tree-Nesting Raptors. Consistent with the avoidance and minimization measures in the SJMSCP, CPR will implement the following measures to reduce impacts on Swainson's hawk and other tree-nesting raptors:

- ▶ If trees and floodlights are removed between September 1 and February 15, then no further mitigation will be required.
- ▶ If trees and floodlights are removed between February 16 and August 31, then a qualified biologist will be retained to conduct preconstruction surveys for active raptor nests on and within 0.5 mile of the project site no more than 14 days and no less than 7 days before tree and floodlight removal. Surveys for Swainson's hawks will follow the guidelines provided in the *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in the Central Valley* (DFG 2000). If no active nests are found, then no further mitigation will be required.
- ▶ If active nests are found, the qualified biologist will establish a buffer around the tree or floodlight where the active nest is located. No project activity will commence within the buffer area until the qualified biologist confirms that the nest is no longer active or that the young have fully fledged. For Swainson's hawk nests, DFG guidelines recommend implementation of 0.25- or 0.5-mile buffers, but the size of the buffer may be adjusted if a qualified biologist and DFG determine that it would not be likely to adversely affect the nest. Monitoring of the nest by a qualified biologist may be required if the activity has potential to adversely affect the nest.

Burrowing Owl. Consistent with the avoidance and minimization measures in the SJMSCP, CPR will implement the following measures to reduce impacts on burrowing owl:

- ▶ Retain a qualified biologist to conduct focused surveys for burrowing owls in areas of suitable habitat on and within 250 feet of the project site. Surveys will be conducted before project activity and in accordance with DFG protocol (DFG 1995).
- ▶ If no occupied burrows are found in the survey area, a letter report documenting survey methods and findings will be submitted to DFG, and no further mitigation is necessary. If occupied burrows are found, to the extent feasible, establish a buffer of 165 feet around the occupied burrow during the nonbreeding season (September 1–January 31) or 250 feet during the breeding season (February 1–August 31). The size of the buffer area may be adjusted if a qualified biologist and DFG determine that adjusting the buffer size would not be likely to have adverse effects. No project activity will commence within the buffer area until a qualified biologist confirms that the burrow is no longer occupied. If the burrow is occupied by a nesting pair, a minimum of 6.5 acres of foraging habitat contiguous to the burrow will be preserved until the breeding season is over.
- ▶ If occupied burrows cannot be avoided, during the nonbreeding season conduct on-site passive relocation techniques, approved by DFG, to encourage owls to move to alternative burrows outside of the impact area. No burrows found by the survey to be occupied will be disturbed during the breeding season.
- ▶ After burrowing owls have been confirmed absent or removed from the site, the burrows may be destroyed.

Significant Effect: Injury or Mortality of Special-Status Bat Species. (Impact BIO-2)

As indicated in the EIR, numerous vacant buildings on the project site could provide roosting habitat for pallid bat, a California species of special concern that has been documented in the vicinity and is not a species covered by the SJMSCP. Day roosts are used throughout the spring and summer and maternity colony roosts can be active from early April until mid-October. All buildings on the existing site would be demolished. Should any of these buildings support an active roost of pallid bats, building demolition could result in injury or mortality of a potentially large number of bats. The EIR concludes that this impact is significant. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Finding

Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effects on the environment.

Impacts to pallid bats will be mitigated by surveying for their presence and, if they are found, removing roosts, excluding the creation of new roosts, and replacing lost roosts.

Facts in Support of Finding

The CPR has adopted the following mitigation measures to reduce to less-than-significant levels the project's impacts to special-status bats.

Mitigation Measure(s) for Impact BIO-2:

Surveys for roosting bats on the project site will be conducted by a qualified biologist. Surveys will consist of a daytime pedestrian survey looking for evidence of bat use (e.g., guano) and/or an evening emergence survey to note the presence or absence of bats. The type of survey will depend on the condition of the buildings. If no bat roosts are found, then no further study is required. If evidence of bat use is observed, the number and species of bats using the roost will be determined. Bat detectors may be used to supplement survey efforts, but are not required.

If roosts of pallid bats are determined to be present and must be removed, the bats will be excluded from the roosting site before the facility is removed. A mitigation program addressing compensation, exclusion methods, and roost removal procedures will be developed in consultation with DFG before implementation. Exclusion methods may include use of one-way doors at roost entrances (bats may leave but not reenter), or sealing roost entrances when the site can be confirmed to contain no bats. Exclusion efforts may be restricted during periods of sensitive activity (e.g., during hibernation or while females in maternity colonies are nursing young). The loss of each roost (if any) will be replaced in consultation with DFG and may include construction and installation of bat boxes suitable to the bat species and colony size excluded from the original roosting site. Roost replacement will be implemented before bats are excluded from the original roost sites. Once the replacement roosts are constructed and it is confirmed that bats are not present in the original roost site, the building may be removed.

Significant Effect: Mortality of Special-Status Wildlife Species from the Lethal Electrified Fence. (Impact BIO-5)

The proposed project includes installation and operation of an electrified fence within the prison's security perimeter, which, based on monitoring data collected at other existing electrified fences, would likely result in the electrocution and death of an undetermined number of animals, including primarily native birds and some mammals. Although it is not expected that any species listed as threatened or endangered or candidates for listing under the ESA or CESA would be killed by the electrified fence at the project site, the presence of Swainson's hawk nesting and foraging habitat precludes ruling out mortality of this species. Some common bird species likely to be killed by the electrified fence for the proposed project include house finch, northern mockingbird, mourning

dove, yellow-rumped warbler, Brewer's blackbird, and red-winged blackbird. In addition, the Austin Road Landfill is located less than a mile away and is likely to attract various gull species to the project area during the winter months. The EIR concludes that this impact is significant. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Finding

Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effects on the environment. In addition to changes incorporated by the Receiver into the project, some changes or alterations are within the responsibility and jurisdiction of two other public agencies, DFG and the U.S. Fish and Wildlife Service (USFWS), and not the agency making these findings, and they can and should be adopted. The Receiver, as lead agency, will be responsible for implementing the measures, once they are adopted by the DFG and USFWS.

Impacts to wildlife will be reduced by designing the electrified fence to minimize the attractiveness to wildlife of the area near the fence and by designing the fence with measures that will reduce the ability of wildlife to contact electrical strands. Impacts from wildlife mortality will be reduced by purchasing compensatory land and enhancing habitat.

Facts in Support of Finding

The CPR has adopted the following mitigation measures to reduce to less-than-significant levels the impacts of the proposed lethal electrified fence on special-status wildlife species.

Mitigation Measure(s) for Impact BIO-5:

CPR will consult with USFWS and DFG regarding the proposed project and anticipated wildlife mortality and will take appropriate actions to minimize wildlife electrocutions to the extent feasible and compensate for impacts on native wildlife species. It is anticipated that this will be accomplished by seeking coverage under the Statewide Electrified Fence HCP in agreement with USFWS and DFG, with concurrence from CDCR. The proposed project will replace the NCWF site in the HCP. The tiered mitigation approach used by the HCP to offset potential adverse effects on birds protected under MBTA and the California Fish and Game Code is outlined below. If coverage under the Statewide Electrified Fence HCP is not authorized, then avoidance and minimization measures in Tier 1 and Tier 2 will be implemented as described below and habitat compensation commensurate with Tier 3 mitigation will be developed in consultation with USFWS and DFG.

- ▶ *Tier 1:* These mitigation measures are designed to eliminate or reduce wildlife attractants near the prison perimeter by implementing specific maintenance and operation procedures. By making the perimeter less

hospitable, wildlife will frequent this area less often, thus reducing their exposure to accidental electrocution. Tier 1 maintenance and operation procedures will include:

- *Minimization of vegetation in the vicinity of the electrified fence perimeter.* This will include removal of vegetation growing between and adjacent to chain link fences that surround electrified fences and keeping the first 100 feet of vacant land outside the perimeter and patrol road free of vegetation. Landscaping vegetation near the electrified fence will be minimized and will be trimmed or mowed to reduce its attractiveness to wildlife. Facility landscaping will be designed to provide as little cover and as few foraging and nesting opportunities as possible. Detailed information, including recommended landscape plantings that are less attractive to wildlife, can be found in the *Handbook to Reduce Wildlife Use* (MBA 1996).
 - *Minimization of standing water near the fence perimeter.* Rainwater will not be allowed to stand in or near the perimeter for more than 24 hours after a storm. Localized recontouring, excavation of ditches, and placement of gravel will occur to prevent ponding. Weeds, grasses, or emergent vegetation will be removed from ditches regularly.
 - *Timely correction of erosion gaps and spaces under fencing.* Inner and outer chain link fences will be inspected weekly to ensure that no gaps or spaces have formed. All eroded areas will be filled with soil or gravel as soon as feasible to prevent animals from entering electrified-fence areas.
 - *Proper storage of materials and waste.* To the extent feasible, equipment, supplies, rubble, or pallets will not be stored (temporarily or permanently) within 200 feet of either side of the fence perimeter. Garbage cans and dumpsters will be covered at all times and emptied as often as required to prevent overflow. The area within 200 feet of the fence perimeter will be kept free of all trash, litter, and loose food waste.
- *Tier 2:* These mitigation measures consist of both exclusion and deterrent devices. Tier 2 measures to be installed on the proposed electrified fence are listed below.
- *Vertical netting.* Past analysis of the locations of carcasses has shown that wildlife kills were typically the result of animals contacting the lowest nine wires, because wires are vertically closer together, resulting in more opportunities for birds to contact two lethal wires or a wire and a ground. Install three-quarter-inch mesh vertical netting enveloping both sides of the lower section of the electrified fence, which will prevent most birds from contacting the fence.
 - *Anti-perching wire.* Several birds have been electrocuted as a result of contacting electrified wires while perching, or attempting to perch, on the grounding brackets and fence posts of the electrified

fence. Anti-perching wires, which consist of 2- to 4- inch pieces of stiff wire connected to an aluminum base, will be strategically attached to the tops of perching sites in and near the perimeter. Once installed, this wire will reduce the ability of birds to perch near the electrified fence, thus reducing exposure to accidental electrocutions.

- ▶ *Tier 3:* These mitigation measures compensate for residual wildlife mortality impacts. Habitat compensation for residual wildlife impacts associated with operation of the electrified fence at this site was provided in the HCP for the Statewide Electrified Fence Project. Collectively, the HCP is providing 2,565 acres of mitigation at 10 sites to offset the loss of individuals from electrified-fence mortality by improving reproductive success elsewhere in the state. The compensatory mitigation for the Statewide Electrified Fence Project's HCP includes habitat acquisition, restoration, management, and creation of 71 acres of riparian woodland, 1,162 acres of scrub/savanna, 700 acres of grassland/agriculture, 250 acres of mixed oak/pine woodland, 202 acres of emergent wetland/open water, and 180 acres of montane/coastal forest. Therefore, if USFWS and DFG agree to use the Statewide Electrified Fence Project's HCP for this project, no additional compensatory mitigation is required.

Alternatively, if the project does not receive coverage under the HCP, CPR will contribute funds to an existing non-profit organization that creates and manages habitat enhancement areas that would improve opportunities for reproductive success of birds likely to be adversely affected by the project. Birds likely to be adversely affected will be predicted based on the results of mortality monitoring at comparable CDCR facilities and based on birds expected to occur in the project vicinity based on surrounding habitat. Mechanisms for implementing the mitigation will be similar to those previously utilized by CDCR for the Statewide and Six Prison Electrified Fence Projects and may include additional funding for a project to which CDCR has already contributed as part of these existing projects. The San Joaquin Valley will be targeted, but mitigation could be implemented at federal, state, or private lands located anywhere in California if the lands support a large percentage of the species at risk of electrocution at the project site. The amount of funding contributed would depend on the acreage of habitat that would benefit from the mitigation. The mitigation acreage required would be determined based on the anticipated annual mortality of native birds and the area required to support an equivalent number of individuals of the species at greatest risk of electrocution.

CULTURAL RESOURCES

Significant Effect: Substantial Adverse Change in the Significance of a Unique Archaeological Resource as Defined in Section 15064.5 of the State CEQA Guidelines. (Impact CUL-2)

The EIR indicates that although no “unique” or “historic” cultural resources (as defined in CEQA and the State CEQA Guidelines) have been documented on the project site, the potential exists for unrecorded cultural resources to be unearthed or otherwise discovered at the project site during ground-disturbing construction activities. The EIR concludes that if such resources were determined to meet CRHR eligibility criteria, this impact would be significant. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Finding

Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

The CPR has adopted the following mitigation measures to reduce to less-than-significant levels the project’s impacts to archaeological resources.

Impacts to cultural resources, if they are found, will be reduced by consultation, avoidance, preservation, or appropriate documentation.

Mitigation Measure(s) for Impact CUL-2:

A qualified professional archaeologist will train construction personnel who will perform ground-disturbing activities, such as grading and excavation, on how to identify cultural materials. The archaeologist will train construction personnel on the nature of subsurface cultural resources that may be present, based on his or her knowledge of the relevant prehistoric and historic archaeology of the region. If cultural materials are inadvertently discovered during project-related construction activities, ground disturbances in the area of the find will cease immediately and the archaeologist will be notified of the discovery. The archaeologist will evaluate the find to determine whether it constitutes a unique archaeological resource or a historical resource within the meaning of CEQA (Sections 15064.5[a][1] through 15064.5[a][4] of the State CEQA Guidelines). If the archaeologist determines that the find is not a unique archaeological resource or historical resource as defined in the State CEQA Guidelines, construction may commence, and a memorandum shall be prepared documenting the factual basis for this decision. No public circulation or notice is required.

If the archaeologist determines that the discovery is a unique archaeological resource or historical resource, then one of the following actions will occur, in order of priority as described below:

- ▶ If possible, the resource will be avoided and preserved in place. This is the preferred treatment under CEQA (California Public Resources Code, Section 21083.2[b][3]).
- ▶ If preservation in place is not feasible, CPR shall retain a qualified archaeologist (with qualifications determined by training and experience in the region and relevant research domains) to prepare and implement an excavation plan. This plan will involve retrieving a suitable sample of the physical materials that make the resource significant and qualify the site as a unique archaeological resource or a historical resource under CEQA. The excavation plan will also specify a program of analysis to retrieve and convey the information that makes the resource significant. This plan will specifically refer to the relevant eligibility criteria for listing on the California Register of Historical Resources (CRHR) or the criteria for a unique archaeological site in the State CEQA Guidelines. The plan will summarize the findings of this program of research in an excavation report, which shall be filed at the local information center for the California Historical Resources Information System upon completion, so that the findings inform future archaeological and historical research. This plan will specify how the program of excavation and analysis will recover and convey the portions of the site that convey its significance before project implementation may materially alter or demolish those physical characteristics, as provided in Section 15064.5(b)(2) of the State CEQA Guidelines.

Ground-disturbing activities may commence again after the excavation required to implement the plan has occurred. Ground-disturbing work may commence before the completion of the analysis and preparation of a report documenting the findings of the excavation plan.

Significant Effect: Disturbance of Human Remains, Including Those Interred Outside of Formal Cemeteries. (Impact CUL-3)

The EIR indicates that although no evidence of prehistoric or early historic interments was found in the project site on the ground surface, this does not preclude the existence of buried subsurface human remains. California law recognizes the need to protect historic-era and Native American human burials, skeletal remains, and items associated with Native American interments from vandalism and inadvertent destruction. The EIR concludes that if any human remains were unearthed during project construction, this impact would be significant. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Finding

Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effects on the environment.

Impacts to any buried Native American human remains, if they are found, will be mitigated by consultation with the Most Likely Descendant and appropriate preservation or removal and re-burial, as agreed.

Facts in Support of Finding

The CPR has adopted the following mitigation measures to reduce to less-than-significant levels the project's impacts to human remains.

Mitigation Measure(s) for Impact CUL-3:

In accordance with the California Health and Safety Code, if human remains are uncovered during ground-disturbing activities, all such activities in the vicinity of the find will be halted immediately and CPR or its designated representative will be notified. CPR will immediately notify the county coroner and a qualified professional archaeologist. The coroner will examine all discoveries of human remains within 48 hours of receiving notice of the discovery. If the coroner determines that the remains are those of a Native American, he or she will contact the NAHC by phone within 24 hours of making that determination. CPR or its appointed representative and the professional archaeologist will consult with a Most Likely Descendant (MLD) designated by the NAHC regarding the removal or preservation and avoidance of the remains and determine whether additional burials could be present in the vicinity.

GEOLOGY AND PALEONTOLOGY

Significant Effect: Location of the Project on Expansive Soils. (Impact GEO-2)

According to the EIR, the project site soils (Jacktone and Stockton soil associations) have a high clay content and are subject to development limitations associated with high shrink-swell potential, slow permeability, and low bearing strength. The EIR concludes that this impact is significant. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Finding

Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effects on the environment.

Impacts from expansive soils will be mitigated by using engineering fill, per any specifications of a geotechnical or soils engineer.

Facts in Support of Finding

The CPR has adopted the following mitigation measures to reduce to less-than-significant levels the project's impacts related to expansive soils.

Mitigation Measure(s) for Impact GEO-2:

CPR will retain a licensed geotechnical or soils engineer to prepare a soils report for each area of proposed development. The report will identify the site-specific engineering limitations of soils and provide engineering recommendations to reduce potential damage to planned improvements from shrink-swell potential. Recommendations may include actions such as structural enforcement, soil treatment, or replacement of existing soil with engineered fill. CPR will implement all feasible engineering and design recommendations contained in the report consistent with the standards identified in the California Building Code.

All earth-work in each phase of project development will be monitored by a geotechnical or soils engineer retained by CPR. The geotechnical or soils engineer will provide oversight during all excavation, placement of fill, and disposal of materials removed from and deposited on the project site.

Significant Effect: Potential for Temporary, Short-term Erosion and Loss of Topsoil. (Impact GEO-3)

The EIR indicates that construction activities, including demolition, would temporarily disturb soil and would expose disturbed areas to storms. Rain of sufficient intensity could dislodge soil particles from the soil surface. Once particles are dislodged and the storm is large enough to generate runoff, localized erosion could occur. In addition, soil disturbance during the summer months could result in loss of topsoil because of wind erosion. The EIR concludes that this impact is significant. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Finding

Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effects on the environment.

Impacts from erosion will be reduced by following the measures listed for hydrology (HYDRO-1), which require implementation of a SWPPP, BMPs, and other similar methods.

Facts in Support of Finding

The CPR has adopted the following mitigation measures to reduce to less-than-significant levels the project's erosion-related impacts.

Mitigation Measure(s) for Impact GEO-3:

CPR will implement the mitigation measure for Impact HYDRO-1, "Implementation of the project could result in short-term, construction-related impacts on water quality," as described in Section 4.6, "Hydrology and Water Quality."

Significant Effect: Potential Damage to Unknown, Potentially Unique Paleontological Resources. (Impact GEO-4)

According to the EIR, the entire project site is underlain by younger Pleistocene-age sediments of the Modesto Formation, which is considered a paleontologically sensitive rock. Furthermore, three recorded vertebrate fossil localities and two unrecorded fossil localities have been identified in the project vicinity, and other specimens from sediments referable to the Modesto Formation have been reported at other locations throughout the Central Valley. Therefore, additional similar fossil remains could be uncovered and potentially damaged during construction-related earthmoving activities at the project site. The EIR concludes that this impact is significant. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Finding

Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effects on the environment.

Any impacts to paleontological resources will be reduced through training of construction crews so they are aware of what the resources may look like and contacting a paleontologist for data recovery if resources are uncovered.

Facts in Support of Finding

The CPR has adopted the following mitigation measures to reduce to less-than-significant levels the project's impacts to paleontological resources.

Mitigation Measure(s) for Impact GEO-4:

CPR will implement the following measures to minimize potential adverse impacts on unique, scientifically important paleontological resources:

- ▶ Before the start of grading, excavation, or demolition, CPR will retain a qualified paleontologist or archaeologist to train all construction personnel involved with earthmoving activities, including the site superintendent, regarding the possibility of encountering fossils, the appearance and types of fossils likely to be seen during construction, and proper notification procedures should fossils be encountered.

- ▶ If paleontological resources are discovered during earthmoving activities, the construction crew will be directed to immediately cease work in the vicinity of the find and notify CPR. CPR will retain a qualified paleontologist to evaluate the resource and prepare a mitigation plan in accordance with SVP guidelines (1996). The mitigation plan may include a field survey, construction monitoring, sampling and data recovery procedures, museum storage coordination for any specimen recovered, and a report of findings. Recommendations determined by CPR to be necessary and feasible will be implemented before construction or demolition activities can resume at the site where the paleontological resources were discovered.

HAZARDS AND HAZARDOUS MATERIALS

Significant Effect: Exposure of Construction Workers to Surficial Hazardous Materials. (Impact HAZ-2)

The EIR indicates that the project site contains contaminated soil associated with diesel and motor oil associated with the existing Karl Holton Youth Correctional Facility and that these soils should be removed from the site, as the contaminant levels exceed California human health screening levels. Asbestos containing materials (ACMs) and paint containing lead were identified in the existing structures on the site. The presence of fluorescent light tubes was noted. Such tubes may contain mercury and light ballasts that may contain PCBs. Developing the project site would involve demolishing existing on-site facilities, grading, excavation, and constructing new institutional facilities. These construction activities at or near existing structures or recorded or currently unrecorded contaminated soil could expose construction workers to hazardous materials. The EIR concludes that this impact is significant. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Finding

Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

The CPR has adopted the following mitigation measures to reduce to less-than-significant levels the project's impacts to construction workers related to hazardous materials.

Impacts from hazardous soils will be reduced by developing and implementing a plan to fully identify all hazardous materials and remove them from the site, such that they are below action levels.

Mitigation Measure(s) for Impact HAZ-2:

Additional Investigation of Soil Contamination and Preliminary Soil Excavation Plan. CPR will implement the following measures to remediate existing soil contamination on the project site:

- ▶ CPR will complete the additional investigation of contaminated soil before excavation to further define the extent of contaminated soil near borings E-4 and E-5. The scope of that work will include soil sampling at 8–16 “step-out” borings in the vicinity of the affected areas. Those borings will be placed approximately 20 feet from borings E-4 and E-5 to assess the lateral extent of contaminated soil. Selected soil samples will be analyzed for TPHd, TPHmo, SVOCs, and chlorinated pesticides.
- ▶ Based on the results of the additional investigation, CPR will hire a qualified technician to create a preliminary plan of soil excavation and disposal that includes the entire area of contamination (an area approximately 70 feet by 100 feet and 8 feet deep, encompassing the locations of both borings E-4 and E-5, with a preliminary in-place soil volume of approximately 2,100 cubic yards). The goal of the soil excavation plan and disposal plan will be to remove all the soils containing chemical concentrations in excess of the California human health screening levels and render excavated soil suitable for disposal as a nonhazardous waste, subject to additional testing as required by the appropriate landfill.
- ▶ Soil removal activities will be completed in accordance with state and local regulatory requirements. As recommended in the final hazardous materials investigation report, CPR will contact DTSC to discuss the findings and approach for remediation discussed herein. Typically, DTSC will require a contractual arrangement (voluntary cleanup agreement) to fund their oversight costs during the removal action. If required by DTSC, CPR will prepare a work plan for conducting additional investigations and will prepare a remedial action work plan before affected soil is excavated.

Abatement of Lead Paint Hazards Related to Existing Buildings. If loose and peeling paint is encountered during demolition, CPR will conduct sampling and analysis for leachable lead content to characterize the waste. Because most paints at the on-site buildings were found to contain lead, and for the purpose of complying with the California Occupational Safety and Health Administration’s (Cal/OSHA’s) lead in construction regulation (Title 8, Section 1532.1 of the California Code of Regulations [8 CCR 1532.1]), all coated surfaces will be considered to contain some lead. As required by 8 CCR 1532.1, CPR will provide monitoring of lead in the air monitoring, adaptive work practices, and respiratory protection to avoid exposure to the presence of even very low levels of lead where the lead is loose and peeling.

Asbestos Abatement. Before demolition, materials to be removed will be tested for the presence of asbestos. Also, CPR will perform a survey of building materials at the portable trailers near the educational buildings to assess the presence of paint containing lead and ACM; any lead-containing paint and ACM encountered in the

trailers will be removed according to federal, state, and local regulations, including appropriate notification, equipment, handling, and disposal. Consistent with the requirements of the San Joaquin Air Quality Management District, friable ACM with greater than 1% asbestos will be properly disposed of as asbestos waste in accordance with National Emissions Standards for Hazardous Air Pollutants (NESHAP) regulations.

VISUAL RESOURCES

Significant Effect: Increase in Light and Glare. (Impact VIS-3)

As indicated in the EIR, the project site does not currently generate any light, glare, or skyglow. During project construction, night lighting may be used which can create a nuisance by spilling onto residential properties (and through windows). Construction impacts from light and glare for two residences east of the project site, although temporary, would be substantial. During project operation, the proposed parking lot and facility lighting would be viewed against the existing backdrop of pole-mounted lighting at the two adjacent youth facilities and perimeter lighting surrounding the CTCA property. Due to the proximity and extent of proposed lighting near visually sensitive residents, the EIR concludes that light and glare impacts on residents east of the project site are significant. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Finding

Changes or alterations, which substantially reduce but do not completely avoid the significant effects related to light and glare, have been incorporated by the Receiver into the project.

Implementation of mitigation measures identified in the EIR would minimize construction lighting impacts and would direct lighting from project operations downward and away from residences to the east. Although construction and operational night lighting would be shielded, where possible, from sensitive residents east of the project site, the overall intensity of light would increase substantially for the residences directly adjacent to the site, despite the use of glare shields, because of the need to provide overall security to the site. The EIR concludes that, despite the mitigation, this impact remains significant and unavoidable. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings. Although the project now includes 10 additional guard towers, because the secured perimeter (and therefore nearly all the proposed structures) would be moved 1,100 feet (nearly 4 football fields) further from the existing residences along Austin Road. This increased distance would reduce the amount of project generated light and glare experienced by these residences. It is unknown at this time, however, whether the additional distance would reduce impacts to a less-than-significant level; consequently, the impact remains significant and unavoidable. The changes to the site plan and the additional guard towers, moreover, would not substantially affect the views from the residences and do not alter the conclusions of the EIR. (See Technical Memorandum, pp. 10-11.)

No other mitigation measures are available to further reduce light and glare impacts. The impacts related to light and glare would be avoided by the No Project (No Development) and would be reduced by the Reduced Footprint alternatives. As discussed in Section 1.3 of this document and as discussed herein, specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the EIR that would reduce these impacts to a less-than-significant level.

A Statement of Overriding Considerations has been prepared (see Section 2 of this document) to address the project's impacts associated with increased light and glare.

Facts in Support of Finding

The CPR has adopted the following mitigation measures that will substantially reduce significant effects related to increased light and glare, but will not reduce effects to a less-than-significant level:

Mitigation Measure(s) for Impact VIS-3:

Minimizing of Construction Lighting Impacts. To minimize the construction light that could spill onto the residential properties immediately east of the project site, the flood or area lighting needed for construction activities will be directed downward toward work activities and shielded from adjacent residences. Portable construction lights will be operated at the lowest allowable height and in the smallest number feasible to maintain adequate night lighting.

Redirecting Lighting from Project Operations Downward and Away from Residences to the East. To minimize the light from operation of the proposed project that could spill and glare onto residential properties immediately east of the project site, lights will be shielded such that direct lighting does not spill onto the residences. Further, light fixtures will not use reflective surfaces.

CUMULATIVE IMPACTS

Significant Cumulative Effect: Agricultural Resources

The EIR indicates that implementation of the project would result in the loss of approximately 70 acres of Important Farmland, as indicated by the results of the LESA modeling. According to the EIR for the City General Plan, buildout of the City General Plan would result in the conversion of up to 32,520 acres of Important Farmland. The General Plan EIR concludes that conversion of this farmland would be a significant and unavoidable impact. The proposed project would contribute to this conversion of farmland. The loss of Important Farmland is considered a cumulatively considerable (i.e., significant) impact when considered in connection with the losses that would occur as a result of the proposed project; past farmland conversions; and planned future development proposed in the city, the surrounding cities, and the county as a whole. The EIR concludes that the

project's contribution to this impact is considerable and therefore significant. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Finding

Required changes or alterations, which substantially reduce the project's significant cumulative impacts to agricultural resources, have been incorporated into the project by the CPR. While these mitigation measures would substantially reduce the significant effects of the project, the residual impact would continue to be significant. Therefore, the cumulative impact related to conversion of significant farmland is considered significant and unavoidable.

The Receiver will purchase conservation easements at a 1:1 ratio to protect, in perpetuity, off-site farmland that is of equal or greater value compared to the on-site farmland converted by the project. See Mitigation Measure for Impact AG-1 as revised in the FEIR.

The project impact may also be reduced by participation in the San Joaquin Multi-Species Conservation Plan (SJMSCP) as set forth in Mitigation Measure for Impact BIO-1, which, in part, requires third-party participation in the SJMSCP and payment of the Natural Lands and Agricultural Habitat Lands Fee as defined in SJMSCP Section 7.4.1.2, "Agricultural Habitat Lands, Non-Vernal Pool Natural Lands, and Multipurpose Open Space Lands." The SJMSCP Joint Powers Authority will determine the fee amount to be paid based on the acreage of disturbance. The total amount could be up to 153.2 acres. This money is pooled by the SJCOG and used to purchase conservation easements and to implement the various measures within the MSCP. The fee would conserve a like amount of land (153.2 acres) as would be developed. This is twice the agricultural acreage that would be converted by the project.

Therefore, while implementation of AG-1 would provide conservation of comparable off-site farmland at a 1:1 ratio, participation in the SJMSCP, as set forth in BIO-1, could result in the conservation of farmland at a 2:1 ratio (since the habitat conservation easements would likely include farmland). This could result in an overall conservation of 3 acres of farmland to every 1 acre converted by the proposed project.

Preserving agricultural lands in perpetuity through purchase of a conservation easement, as well as participation in the SJMSCP, would ensure the continued protection of farmland in the project vicinity, partially offsetting project impacts. However, these measures cannot fully and feasibly mitigate the proposed project's cumulatively considerable contribution to the loss of agricultural land in San Joaquin County to a level that is not considerable, because no new farmland would be created; rather, existing farmland would be protected.

The project's contribution to cumulative impacts to agricultural resources would be reduced or avoided by the No Project (No Development) or Reduced Footprint alternatives. With regard to mitigation measures, As discussed in

Section 1.3 of this document and is discussed herein, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR that would reduce these impacts to a less-than-significant level. Therefore, this cumulative impact is considered significant and unavoidable.

A Statement of Overriding Considerations has been prepared (see Section 2 of this document) to address the project's cumulatively significant agricultural resources impact.

Facts in Support of Finding

As described earlier in this section (see discussion of AG-1), CPR has committed to implementing all feasible measures available and within reasonable cost parameters to substantially reduce the project's significant impacts related to loss of farmland. These measures include purchase of conservation easements and participation in the SJMSCP. Additional feasible mitigation measures are not available to reduce this impact. Because the project's conversion of farmland would remain substantial and adverse, the project would result in a cumulatively considerable and unavoidable impact to agricultural resources.

Significant Cumulative Effect: Substantial Degradation of LOS at Local Intersections under Cumulative Conditions. In combination with traffic generated from buildout under the City of Stockton General Plan 2035, the project would contribute to deterioration of LOS at three of eight study intersections. (TRAF-6)

The DEIR analyzed the project's cumulative effects related to traffic at buildout under the City of Stockton General Plan 2035. The DEIR also included a queuing analysis. The DEIR indicated that under the cumulative 2035 scenario, the proposed project would contribute to impacts at three of the eight intersections, which are assumed to be constructed to their ultimate widths in 2035:

- ▶ SR 99 single point urban interchange (SPUI)/Arch Road Intersection
- ▶ Austin Road/Arch Road Intersection
- ▶ Austin Road/Project Driveway Intersection

The proposed project would also contribute to a queuing impact in 2035. The DEIR indicated that the proposed project would result in a significant impact under 2035 conditions. Mitigation measures included in the DEIR reduced the impacts, but not to a less-than-significant level.

Several comment letters were received on the DEIR that raised issues related to the DEIR's traffic analysis. The most notable comment was from Caltrans, and, in response to Caltrans' comments, the DEIR's traffic analysis was revised using a different traffic model. The results of the revised traffic analysis are summarized in the FEIR (see Master Response 5: "Traffic Issues"). As noted in the FEIR, the revised traffic analysis indicated several new

peak hour impacts to various traffic facilities, including impacts to the SR-99 northbound off-ramp onto Arch Road (which was not previously analyzed in the DEIR). In order to mitigate these impacts, Mitigation Measure for Impact TRAF-4 was revised to restrict all project traffic to occur outside of the peak hour. Implementation of this revised mitigation measure would reduce peak hour impacts to a less-than-significant level under the cumulative 2035 scenario.

However, this revised mitigation measure resulted in the need to evaluate the project's potential off-peak traffic impacts. An off-peak analysis was performed and indicated that, under the Cumulative 2035 plus Project scenario, with implementation of revised Mitigation Measure for TRAF-4, the proposed project would result in the following off-peak impacts:

- ▶ Austin Road/Arch Road Intersection
- ▶ Austin Road/Project Driveway Intersection
- ▶ SR 99 Northbound Off-Ramp/Arch Road Intersection
- ▶ SR 99 Southbound Off-Ramp Queue
- ▶ SR 99 Northbound Off-Ramp Queue

Additional mitigation measures are included in the FEIR (for Impact TRAF-6) to reduce the project's off-peak impacts; however the mitigation measures would not reduce the off-peak impact at the intersection of Austin Road and Arch Road to a less-than-significant level, and the impact to this intersection would remain significant and unavoidable, which is consistent with the conclusion in the DEIR. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Finding

Required changes or alterations, which substantially reduce the project's significant cumulative impacts related to intersections, have been incorporated into the project by the CPR. One of these measures is the responsible of another public agency, Caltrans, and it can and should be implemented. Other measures are the responsibility of other public agencies, the city of Stockton and the County of San Joaquin, and they can and should be adopted. While these mitigation measures would substantially reduce the significant effects of the project, the residual impact would continue to be significant. Therefore, the cumulative impact to intersections (TRAF-6) is considered significant and unavoidable.

The project's contribution to cumulative traffic impacts could be reduced or avoided by the No Project (No Development) alternative. Regarding mitigation measures, the revised Mitigation Measure to TRAF-4 eliminates cumulative impacts to intersections during the peak hour, and revised Mitigation Measure to TRAF-6 reduces the off-peak impacts to the extent feasible. In fact, revised Mitigation Measure to TRAF-6 would reduce the project's contribution to 2035 impacts to intersections to a less-than-significant level with the exception of the intersection

of Austin Road and Arch Road. The addition of a third eastbound left turn lane at this intersection is necessary to reduce the impact to a less-than-significant level; however, this mitigation measure is not considered feasible, since three left-turn lanes is not consistent with City standards and right-of-way constraints exist. Therefore, the proposed project will contribute its fair share payment for its contribution at this intersection, and the project would contribute to a cumulatively considerable traffic impact at this intersection, and the project's cumulative impact remains significant and unavoidable.

No additional mitigation is available to reduce impacts. The impact would be avoided by the No Project Alternative and would be reduced by Reduced Intensity Alternative. As discussed in Section 1.3 of this document and is discussed herein, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR that would reduce these impacts to a less-than-significant level. Therefore, this cumulative impact is considered significant and unavoidable.

A Statement of Overriding Considerations has been prepared (see Section 2 of this document) to address the project's cumulatively significant traffic and circulation impact.

Facts in Support of Finding

The CPR has adopted the following mitigation measures that will substantially reduce significant cumulative effects related to cumulative impacts to intersections, but will not reduce effects to a less-than-significant level. Note that this mitigation measure assumes implementation of Mitigation Measure to Impact TRAF-4.

Mitigation Measure(s) for Impact TRAF-6:

Prior to initiating construction, CPR shall coordinate, as appropriate, with the County of San Joaquin's and City of Stockton's departments of public works and Caltrans for implementation of the following measures:

- ▶ **Intersection of Arch Road and SR 99 Northbound Access:** The CPR shall fully fund the installation of a traffic signal at the intersection of Arch Road and the northbound SR 99 SPUI off-ramp. (Caltrans and City of Stockton jurisdictions)
- ▶ **Southbound SR 99 Off-ramp:** The CPR shall fully fund the expansion of the northbound SR 99 off-ramp to add 131 feet of capacity by widening the two-lane segment of the off-ramp to three lanes prior to where the off-ramp splits into two lefts and one right turn lane.(Caltrans jurisdiction)
- ▶ **Intersection of Arch Road and Austin Road:** The addition of an additional eastbound left-turn lane (to create triple eastbound left-turn lanes) would offset the project's impact in the year 2035. Because of right-of-way constraints and the City's design standards, these improvements would not be feasible. The project would contribute 10.0% of the new (cumulative) traffic that affects this intersection. CPR shall

pay its fair share, based on the estimated (10 %) contribution into the City's Regional Transportation Improvement Program (RTIP). (City of Stockton jurisdiction)

- ▶ **Intersection of the Proposed Project Driveway and Austin Road:** CPR will install a traffic signal on Austin Road at the proposed project driveway to offset the project's impact. The project results in this impact and is fully responsible for mitigation. (County of San Joaquin jurisdiction)

Significant Cumulative Effect: Air Quality and Climate (Short-Term Construction-Related Impacts)

The EIR indicates that emissions of fugitive dust during project construction could violate or contribute substantially to an existing or projected air quality violation and/or expose sensitive receptors to substantial pollutant concentrations. In addition, because San Joaquin County is currently designated as a nonattainment area for ozone, PM₁₀, and fine particulate matter with an aerodynamic diameter of 2.5 micrometers or less (PM_{2.5}), construction-generated emissions could contribute cumulatively to pollutant concentrations that exceed California ambient air quality standards. The EIR indicates that this is a significant cumulative impact. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Finding

Changes or alterations, which substantially reduce but do not completely avoid the short-term significant effects on air quality, have been incorporated by the Receiver into the project. Those changes or alterations are within the responsibility and jurisdiction of another public agency, SJVAPCD, and not the agency making these findings. These measures can and should be adopted by that agency.

Implementation of mitigation identified in Section 4.4 of the DEIR would reduce construction-related impacts from emissions of PM₁₀ to a less-than-significant level. Assuming that all related projects also implement all feasible construction emission control measures consistent with SJVAPCD guidelines and regulations, construction emissions from related projects may be less than significant, although it is likely that larger projects would result in significant and unavoidable air quality impacts on their own. However, given the scale of development that would occur with the related projects combined with the nonattainment status of the San Joaquin Valley Air Basin (SJVAB) for ozone, PM₁₀, and PM_{2.5}, the proposed project would likely result in a cumulatively considerable construction-related air quality impact. The EIR includes all available feasible mitigation to reduce the project's contribution to cumulative air quality impacts; see Section 4.4 of the DEIR. However, although mitigation measures would substantially reduce air emissions from the project, they are not sufficient to reduce the project's cumulative contribution to below a level that is considerable.

The SJVAB is in nonattainment status for ozone, PM₁₀, and PM_{2.5}. This is a result of past cumulative development in the basin, as well as transport of pollutants from other basins. New development, including the project, would be required to comply with SJVAPCD measures that would reduce potential new construction emissions of these pollutants. However, adding construction of related projects to a cumulatively adverse condition would exacerbate air quality impacts. The EIR concludes that contribution of the proposed project to this impact, though mitigated to the extent feasible, would be considerable. This cumulative impact is significant and unavoidable.

The project's contribution to cumulative air quality impacts could be avoided by the No Project (No Development) alternative and would be reduced by Reduced Intensity Alternative. As discussed in Section 1.3 of this document and is discussed herein, specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the EIR that would reduce these impacts to a less-than-significant level. Therefore, this cumulative impact is considered significant and unavoidable.

A Statement of Overriding Considerations has been prepared (see Section 2 of this document) to address the project's cumulatively significant the air quality impact. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Facts in Support of Finding

As described earlier in this section, CPR has committed to implementing all feasible measures available and within reasonable cost parameters to substantially reduce the project's significant cumulative impacts to air quality related to construction, especially pertaining to particulate matter (PM₁₀ and PM_{2.5}). These measures include compliance with applicable SJVAPCD rules and programs that would reduce emissions of these pollutants. Because the project's construction-related impacts to air quality remain substantial and adverse, the project would result in a cumulatively considerable and unavoidable impact.

Significant Cumulative Effect: Air Quality and Climate (Climate Change)

According to the EIR, the project would generate 23,070 tons of carbon dioxide equivalent (CO₂e) emissions per year from operations-related energy consumption, and 30,281 total metric tons per year from all sources, which is more than twice as much as "business as usual" (i.e., emissions at today's rates). Compliance with SJVAPCD Rule 9510 (which acts to reduce ozone precursors by 33%) would somewhat reduce the CO₂e emissions; however, because a large portion of the project's emissions would result from energy consumption (as opposed to trip generation), this rule is only marginally effective. The EIR concludes that the project's contribution to the cumulative climate change impact is considerable and therefore significant. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings.

Finding

Required changes or alterations, which substantially reduce the project's significant cumulative impacts related to climate change, have been incorporated into the project by the CPR. While these mitigation measures would substantially reduce the significant effects of the project, the residual impact would continue to be significant. Therefore, the cumulative impact related to climate change is considered significant and unavoidable.

To meet the target set in Assembly Bill (AB) 32, the California Global Warming Solutions Act of 2006 (Health and Safety Code, Sections 38500–38599), the proposed project would need to reduce CO₂e emissions to be approximately 30% of the business-as-usual total. Although the EIR includes mitigation measures to reduce the project's CO₂e emissions, the project may not meet the reduction targets necessary to attain consistency with goals established by AB 32. As a result, the project would contribute to a cumulatively considerable impact related to climate change, and the project's cumulative impact remains significant and unavoidable.

No other feasible mitigation is available to reduce the project's impact further; a number of additional measures were explored and found to be infeasible in the Final EIR. The project's contribution to cumulative climate change impacts could be avoided by the No Project (No Development) alternative As discussed in Section 1.3 of this document and is discussed herein, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or project alternative identified in the EIR that would reduce these impacts to a less-than-significant level. Therefore, this cumulative impact is considered significant and unavoidable.

A Statement of Overriding Considerations has been prepared (see Section 2 of this document) to address the project's cumulatively significant impact to climate change.

Facts in Support of Finding

The CPR has adopted the following mitigation measures that will substantially reduce significant cumulative effects related to climate change, but will not reduce effects to a less-than-significant level.

MITIGATION MEASURES

Implementation of the mitigation measure for Impact AIR-2, which would reduce operational emissions of criteria air pollutants and precursors, would also act to reduce GHG emissions associated with project operation. This mitigation measure is relevant to Impact AIR-2 because emissions of both criteria air pollutants and GHGs are frequently associated with combustion byproducts. In addition, CPR will implement where feasible the following measures to reduce direct and indirect GHG emissions associated with the proposed project. Certain measures could already be considered components of the project, but are provided here for purposes of completeness.

A. Energy Efficiency

- ▶ Design buildings to be energy efficient. Site buildings to take advantage of shade, prevailing winds, landscaping and sun screens to reduce energy use.
- ▶ Install efficient lighting and lighting control systems. Use daylight as an integral part of lighting systems in buildings. LED lights, or a similar low energy use alternative, shall be used for outdoor lighting except in places where use of such lights is not consistent with applicable security lighting standards.
- ▶ Install light-colored “cool” roofs, cool pavements, and strategically placed shade trees (consistent with mitigation requirements for biological resources in connection with operation of the electrified fences).
- ▶ Install energy-efficient heating and cooling systems, appliances and equipment, and control systems.

B. Renewable Energy

- ▶ Install solar and wind power systems, solar and tankless hot water heaters, and energy-efficient heating ventilation and air conditioning.
- ▶ Improve the thermal integrity of buildings, and reduce the thermal load with automated time clocks or occupant sensors.
- ▶ Install solar panels over parking areas.

C. Water Conservation and Efficiency

- ▶ Create water-efficient landscapes with native, drought-resistant species.
- ▶ Install water-efficient irrigation systems and devices, such as soil moisture-based irrigation controls.
- ▶ Design buildings to be water-efficient. Install water-efficient fixtures and appliances.
- ▶ Restrict watering methods (e.g., prohibit systems that apply water to nonvegetated surfaces) and control runoff.
- ▶ Restrict the use of water for cleaning outdoor surfaces and vehicles.
- ▶ Provide education about water conservation and available programs and incentives.

D. Solid Waste Measures

- ▶ Reuse and recycle construction and demolition waste (including but not limited to soil, vegetation, concrete, lumber, metal, and cardboard).
- ▶ Provide interior and exterior storage areas for recyclables and green waste and adequate recycling containers located in public areas.

E. Transportation and Motor Vehicles

- ▶ Limit idling time for commercial vehicles to five minutes, including delivery and construction vehicles.
- ▶ Promote ridesharing programs, e.g., by designating a certain percentage of parking spaces for ridesharing vehicles, designating adequate passenger loading and unloading and waiting areas for ridesharing vehicles, and providing a Web site or message board for coordinating rides.
- ▶ Create car-sharing programs. Accommodations for such programs include providing parking spaces for the car-share vehicles at convenient locations.
- ▶ Implement a low carbon emission vehicle incentive program and provide the necessary facilities and infrastructure to encourage the use of low- or zero-emission vehicles (e.g., electric-vehicle charging facilities).
- ▶ Use low or zero emission construction vehicles to the extent practicable.
- ▶ Provide shuttle service to public transit.
- ▶ Provide public transit incentives such as free or low-cost monthly transit passes.
- ▶ Join a local transportation management association and prepare employer-based trip reduction plans

Significant Cumulative Effect: Noise (Short-Term Construction-Related Impacts)

The EIR indicates that construction work would result in site-specific noise impacts. However, construction activities associated with the California Conservation Corps (CCC) and Northern California Re-Entry Facility (NCRF) projects, which could overlap with construction of the proposed project, are within close proximity (i.e., 1,000 feet) to the proposed project such that these construction activities could cumulatively combine with noise from the project. The proposed project would result in significant construction-related noise impacts. These impacts could be exacerbated by overlapping construction activities by the CCC project and the NCRF project. Therefore, the proposed project would contribute to a cumulatively considerable (though short-term) impact. This cumulative impact is significant.

Finding

Required changes or alterations, which substantially reduce the project's significant cumulative impacts related to construction noise, have been incorporated into the project by the CPR. While these mitigation measures would substantially reduce the significant effects of the project, the residual impact would continue to be significant. Therefore, the cumulative impact related to construction noise is considered significant and unavoidable.

Mitigation measures included in the EIR require noise reduction measures for trucks and construction equipment, as well as recommendations for construction schedules to avoid nighttime construction. Although these measures would reduce project impacts to a less-than-significant level, when the project impacts are considered alongside other potential construction projects in the vicinity, the mitigation measures do not reduce the impact below the threshold of significance. The EIR concludes that the project results in a significant and unavoidable cumulative impact.

The project's contribution to cumulative construction noise impacts could be avoided by the No Project (No Development) alternative. As discussed in Section 1.3 of this document and is discussed herein, specific economic, legal, social, technological, or other considerations make infeasible the project alternative identified in the EIR that would reduce these impacts to a less-than-significant level. Therefore, this cumulative impact is considered significant and unavoidable. The proposed revisions to the project, as described and analyzed in the Technical Memorandum, do not change these findings. A Statement of Overriding Considerations has been prepared (see Section 2 of this document) to address the project's cumulatively significant short-term noise impact.

Facts in Support of Finding

CPR has committed to implementing all feasible measures available and within reasonable cost parameters to substantially reduce the project's significant cumulative impacts related to construction noise. These measures include noise reduction measures for trucks and construction equipment. Because the project's contribution to construction-related noise impacts remains substantial and adverse, the project would result in a cumulatively considerable and unavoidable impact.

Significant Cumulative Effect: Noise (Long-Term Operational Impacts)

The EIR includes an analysis of operational noise impacts, including increased roadway noise under cumulative 2035 conditions, which includes anticipated roadway volumes at buildout of the City General Plan, as well as traffic generated from related projects. Although the proposed project would not, by itself, result in a significant increase in roadway noise levels under 2035 conditions, the project-related traffic would contribute to an existing cumulatively considerable noise impact along Arch Road and Austin Road. The EIR concludes that this impact is significant.

Finding

Because the proposed project would result in significant noise impacts to sensitive receptors due to increased traffic, the project's contribution to cumulative traffic noise impacts along these roadways would also be significant. As indicated in the EIR, feasible mitigation measures are not available to effectively reduce traffic-related impacts to a less-than-significant level. The EIR (DEIR p. 4.5-25) describes the various mitigation

methods considered for reducing traffic noise levels, including noise barriers, roadway design modifications, and traffic management, and how each method is infeasible for implementation by the proposed project.

Cumulative operational noise impacts from project-generated traffic would be avoided by the No Project (No Development) and reduced by the Reduced Intensity alternative. As discussed in Section 1.3 of this document and as discussed herein, specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the EIR that would reduce these impacts to a less-than-significant level.

A Statement of Overriding Considerations has been prepared (see Section 2 of this document) to address the project's cumulatively significant long-term noise impact.

Facts in Support of Finding

Feasible mitigation measures are not available to effectively reduce cumulative operational noise impacts to a less-than-significant level.

1.6 MITIGATION MONITORING REPORTING PROGRAM

CEQA Section 21081.6 requires that when a public agency is making the findings required by Section 21081, the public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval to mitigate or avoid significant effects on the environment. Because mitigation measures have been adopted to mitigate or avoid significant environmental effects of the project, a Mitigation Monitoring Reporting Program has been prepared for the proposed project and is adopted along with these findings. The Mitigation Monitoring Reporting Program is attached to the Statement of Decision and Resolution of Approval for the CHCF Stockton Project as Exhibit 2. The Receiver will use the MMRP to track compliance with project mitigation measures. The MMRP will remain available for public review during the compliance period.

SECTION 2

STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA requires all public agencies to balance the benefits of a proposed project against its unavoidable environmental effects in determining whether to approve the project or not. The Receiver proposes to approve the proposed California Health Care Facility Stockton project despite the significant unavoidable adverse impacts identified in the Environmental Impact Report (EIR). The EIR includes two volumes, including the Draft EIR text and technical appendices (Volume I), and the Responses to Comments on the Draft EIR document (Volume II), and the Technical Memorandum. Together, Volumes I and II and the Technical Memorandum constitute the Final EIR.

The Final EIR identifies and discusses unavoidable significant effects that will occur as a result of the proposed project, in addition to addressing comments received on the Draft EIR. These impacts will result from the development of the new medical and health care facility, including associated construction activities and the patients and employees associated with the project.

With the implementation of the Mitigation Monitoring Reporting Program adopted by the Receiver, which includes changes to the project to mitigate or avoid significant effects on the environment, most of the environmental impacts of the project can be mitigated to less-than-significant levels. The Final EIR and Findings of Fact for the project determined that the project is expected to result in significant unavoidable impacts to agricultural resources, traffic, air quality, climate change, noise, and visual resources.

2.1 SIGNIFICANT UNAVOIDABLE ADVERSE IMPACTS

AGRICULTURAL RESOURCES

Project and Cumulative Effects Related to Conversion of Farmland to a Nonagricultural Use.

The proposed project would convert 70 acres of Important Farmland to non-agricultural, institutional land uses, which is a significant adverse effect, both at the individual project level and cumulatively.

Mitigation measures included in the EIR and described above in the Findings of Fact would not reduce impacts to a less-than-significant level because conservation of off-site farmland does not replace the farmland converted by the proposed project. Therefore, implementation of the proposed project would result in individual and cumulative significant and unavoidable impacts to agricultural resources.

AIR QUALITY

Project and Cumulative Effects to Air Quality Related to Short-Term Construction Emissions.

The proposed project's construction emissions would exceed the SJVAPCD thresholds for ROG and NO_x, even after mitigation. This is a significant impact of the project.

In addition, because San Joaquin County is currently designated as a nonattainment area for ozone, PM₁₀, and PM_{2.5}, construction-generated emissions could contribute cumulatively to pollutant concentrations that exceed California ambient air quality standards. This is a significant cumulative adverse effect. The SJVAPCD-required and -recommended mitigation measures would not reduce the construction-related emissions of ozone precursors below the SJVAPCD threshold of 10 TPY and the residual impact related to ROG and NO_x emissions remains significant and unavoidable.

Furthermore, given the scale of development that would occur with the related projects combined with the nonattainment status of the San Joaquin Valley Air Basin (SJVAB) for ozone, PM₁₀, and PM_{2.5}, the proposed project would likely result in a cumulatively considerable construction-related air quality impact. Although CPR will adopt mitigation measures to reduce cumulative adverse effects to the extent feasible, the residual impact remains significant and unavoidable.

CLIMATE CHANGE

Cumulative Effects Related to Global Climate Change

The project would generate 23,070 tons of carbon dioxide equivalent (CO₂e) emissions per year from operations-related energy consumption, and 30,281 total metric tons per year from all sources, which is more than twice as much as "business as usual" (i.e., emissions at today's rates). Compliance with SJVAPCD Rule 9510 (which acts to reduce ozone precursors by 33%) would somewhat reduce the CO₂e emissions; however, because a large portion of the project's emissions would result from energy consumption (as opposed to trip generation), this rule is only marginally effective. The EIR concludes that the project's contribution to the cumulative climate change impact is considerable and therefore significant.

The CPR will adopt mitigation measures included in the EIR to reduce the project's CO₂e emissions. However, to meet the target set in Assembly Bill (AB) 32, the California Global Warming Solutions Act of 2006 (Health and Safety Code, Sections 38500–38599), the proposed project would need to reduce CO₂e emissions to be approximately 30% of the business-as-usual total. The project may not meet the reduction targets necessary to attain consistency with goals established by AB 32. As a result, the project

would contribute to a cumulatively considerable impact related to climate change, and the project's cumulative impact remains significant and unavoidable.

NOISE

Project Effects Related to Construction-Generated Traffic Noise Levels

Project construction would, at its peak, generate as many as 3,400 trips by construction personnel addition to an estimated 55 daily truck trips. Adding construction traffic to the local roadway network would result in a substantial temporary increase in traffic noise levels in the project vicinity ranging from +3.7 to + 5.8 dB L_{dn} . The three single-family residences located along Austin Road, east of the project site, would be exposed to temporary, significant (greater than 5 dB) increases in traffic noise levels during construction of the proposed project. CPR will adopt mitigation measures included in the EIR that require noise reduction for heavy trucks. The CPR will prepare and implement a construction traffic management plan (CTMP), which is outlined in Mitigation Measure for TRAF-1 and may reduce total traffic substantially during construction, although other measures are also available and would not reduce total daily traffic substantially. However, it is unknown which options will be utilized to reduce construction traffic impacts, so a quantification of noise reduction cannot be provided, and the impact remains significant and unavoidable.

Cumulative Effects Related to Short-Term Construction Noise

Project construction activities, in combination with construction activities associated with the California Conservation Corps (CCC) and Northern California Re-Entry Facility (NCRF) projects, could cumulatively generate elevated noise levels at nearby sensitive receptors. Therefore, the proposed project would contribute to a cumulatively considerable (though short-term) impact. This cumulative impact is significant.

The CPR will adopt mitigation measures included in the EIR that would require noise reduction measures for trucks and construction equipment, as well as recommendations for construction schedule. Although these measures would reduce project impacts to a less-than-significant level, when the project impacts are considered alongside other potential construction projects in the vicinity, the mitigation measures do not reduce the impact below the threshold of significance. The EIR concludes that the project results in a significant and unavoidable cumulative impact.

Cumulative Effects Related to Noise from Project Operation

The proposed project would not, by itself, result in a significant increase in roadway noise levels; however, the project-related traffic would contribute to an existing cumulatively considerable noise

impact along Arch Road and Austin Road. This is a significant cumulative impact. As indicated in the EIR, feasible mitigation measures are not available to effectively reduce traffic-related impacts to a less-than-significant level. The EIR describes the various mitigation methods considered for reducing traffic noise levels, including noise barriers, roadway design modifications, and traffic management, and how each method is infeasible for implementation by the proposed project. This cumulative impact is significant and unavoidable.

TRAFFIC AND CIRCULATION

Comments were received from Caltrans concerning the DEIR's analysis of impacts on SR 99. In response to Caltrans' comments, the DEIR's traffic analysis was revised using an additional traffic model, as requested by Caltrans. The results of the revised traffic analysis are summarized in the FEIR (see Master Response 5: "Traffic Issues"). As noted in the FEIR, the revised traffic analysis indicated several new peak hour impacts to various traffic facilities, including impacts to the SR-99 northbound off-ramp onto Arch Road (which was not previously analyzed in the DEIR). In order to mitigate these impacts, Mitigation Measure for Impact TRAF-4 was revised to restrict all project traffic to occur outside of the peak hour. Implementation of this revised mitigation measure would reduce peak hour impacts to a less-than-significant level under the cumulative 2035 scenario.

This revised mitigation measure resulted in the need to evaluate the project's potential off-peak traffic impacts. An off-peak analysis was performed and indicated that, under the Cumulative 2035 plus Project scenario, with implementation of revised Mitigation Measure for TRAF-4, the proposed project would result in the following off-peak impacts:

- ▶ Austin Road/Arch Road Intersection
- ▶ Austin Road/Project Driveway Intersection
- ▶ SR 99 Northbound Off-Ramp /Arch Road Intersection
- ▶ SR 99 Southbound Off-Ramp Queue
- ▶ SR 99 Northbound Off-Ramp Queue

Additional mitigation measures are included in the FEIR to reduce the project's off-peak impacts; however the mitigation measures would not reduce the off-peak impact at the intersection of Austin Road and Arch Road to a less-than-significant level, and the impact to this intersection would remain significant and unavoidable, which is consistent with the conclusion in the DEIR.

Required changes or alterations, which substantially reduce the project's significant cumulative impacts related to intersections, have been incorporated into the project by the CPR. One of these measures is the responsible of another public agency, Caltrans, and it can and should be implemented. Other measures are

the responsibility of other public agencies, the city of Stockton and the County of San Joaquin, and they can and should be adopted. While these mitigation measures would substantially reduce the significant effects of the project, the residual impact would continue to be significant. Therefore, the cumulative impact to intersections is considered significant and unavoidable.

The revised Mitigation Measure to TRAF-4 eliminates cumulative impacts to intersections during the peak hour, and revised Mitigation Measure to TRAF-6 reduces the off-peak impacts to the extent feasible. In fact, revised Mitigation Measure to TRAF-6 would reduce the project's contribution to 2035 impacts to intersections to a less-than-significant level with the exception of the intersection of Austin Road and Arch Road. The addition of a third eastbound left turn lane at this intersection is necessary to reduce the impact to a less-than-significant level; however, this mitigation measure is not considered feasible, since three left-turn lanes is not consistent with City standards and right-of-way constraints exist. Therefore, the proposed project will contribute its fair share payment for its contribution at this intersection, and the project would contribute to a cumulatively considerable traffic impact at this intersection, and the project's cumulative impact remains significant and unavoidable.

Revised Mitigation Measure TRAF-4 eliminates cumulative impacts related to the potential for substantial degradation of LOS of local roadway segments under cumulative conditions (Impact TRAF-7). Therefore, the Receiver finds that changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the project's contribution to significant cumulative effects on the environment regarding substantial degradation of LOS at local roadways under cumulative conditions.

With respect to cumulative effects to freeway mainline LOS (Impact TRAF-8), implementation of revised Mitigation Measure TRAF-4 would require that no project-related trips occur within the peak hour. However, future off-peak volumes for mainline SR 99 are not available, it is likely, based on observation and off-peak counts at other facilities, that the volumes would be lower. Because the amount of volume decrease cannot be quantified, the EIR assumes that the project would still contribute to unacceptable LOS in the off-peak hour under 2035 conditions. The project therefore results in a cumulative significant and unavoidable impact to SR 99 mainline.

VISUAL RESOURCES

Project Effects Related to Increase in Light and Glare

The project site does not currently generate any light, glare, or skyglow. During project construction, night lighting may be used which can create a nuisance by spilling onto residential properties (and through windows). Construction impacts from light and glare for two residences east of the project site, although temporary, would be substantial. During project operation, the proposed parking lot and facility

lighting would be viewed against the existing backdrop of pole-mounted lighting at the two adjacent youth facilities and perimeter lighting surrounding the CTCA property. Due to the proximity and extent of proposed lighting near visually sensitive residents, the EIR concludes that light and glare impacts on residents east of the project site are significant.

CPR will adopt mitigation measures identified in the EIR that would minimize construction lighting impacts and would direct lighting from project operations downward and away from residences to the east. Although construction and operational night lighting would be shielded, where possible, from sensitive residents east of the project site, the overall intensity of light would increase substantially for the residences directly adjacent to the site, despite the use of glare shields, because of the need to provide overall security to the site. Despite the mitigation, this impact remains significant and unavoidable.

2.2 OVERRIDING CONSIDERATIONS

The Receiver has determined that the economic, legal, social, technological and other benefits of implementing the project outweigh and override the unavoidable adverse effects of the project. The Receiver has determined that the benefits of the project, when balanced against all adverse effects, cause those effects remaining after mitigation to be acceptable because of the following considerations:

- ▶ The CHCF Stockton project helps implement the federal district courts' orders to bring the level of medical and mental health care provided to California's inmates up to federal standards.
- ▶ The CHCF Stockton project is one piece of a new, sustainable system that provides constitutionally adequate medical care to all class members as soon as practicable.
- ▶ The CHCF Stockton project will save human lives that are ending needlessly in California from deficient prison health care.
- ▶ The CHCF Stockton project would bring an economic benefit to the City of Stockton and San Joaquin County.

These considerations are further explained below.

The CHCF Stockton project will help bring the State of California's prison medical and mental health care services into Constitutional compliance. By way of background, in 2001, a group of California inmates filed a class action lawsuit in the U.S. District Court for the Northern District of California against officials of CDCR (then the California Department of Corrections), alleging, among other things, that the State of California's provision of medical care at all state prisons violated the Eighth Amendment

of the U.S. Constitution, which prohibits cruel and unusual punishment (*Plata v. Schwarzenegger*, No. C01-01351 TEH [E.D. Cal.] [*Plata*]) (See FEIR Appendix B). In response to the suit, CDCR agreed to enter into a consent decree and to implement comprehensive medical care policies and procedures at all of its institutions. The district court ordered CDCR to implement the policies and procedures on a staggered basis until statewide constitutional compliance had been achieved.

In 2004, court appointed experts submitted a report to the district court, which found an “emerging pattern of inadequate and seriously deficient physician quality in CDC[R] facilities.” (*Plata v. Schwarzenegger*, Findings of Fact and Conclusions of Law Re: Appointment of Receiver, p. 3 [“District Court Findings of Fact”].) The experts concluded that a failure to implement the required remedies had placed prisoners “at serious risk of harm or death.” (*Ibid.*)

On February 14, 2006, Judge Henderson appointed a federal Receiver to take control of the delivery of medical services to prisoners confined by CDCR in California. Receiver J. Clark Kelso was appointed by the district court in January 2008 to replace former Receiver Robert Sillen.

The district court’s order required the Receiver to develop a detailed plan of action to bring California’s prison health care delivery system up to constitutional levels. Pending development of the plan of action, the Receiver was to undertake “immediate and/or short term measures designed to improve medical care and begin the process of restructuring and development of a constitutionally adequate medical health care delivery system” (Order Appointing Receiver:2; see also FEIR, Master Response 1 for additional background information). In June, 2008, after extensive public comment, workshops, and coordination with the federal district court and plaintiffs in the class actions against the state’s prison system, the Receiver finalized his plan to bring the prison health care system into constitutional compliance in a document titled Turnaround Plan of Action.

The Turnaround Plan of Action contains six goals to focus the Receiver’s efforts for bringing the prison health care delivery system up to constitutional standards (CPR 2008a:iv):

- (1) Ensure timely access to health care services.
- (2) Improve the medical program.
- (3) Strengthen the health care workforce.
- (4) Implement quality assurance and continuous improvement.
- (5) Establish medical support infrastructure.
- (6) Provide health care and health care–related facilities.

Developing 10,000 new patient beds is a core component of goal 6—to provide health care and health care–related facilities (CPR 2008a:27). As explained in the Turnaround Plan of Action:

The facilities available for providing health care services within CDCR are woefully inadequate. Through years of neglect, the facilities have long since passed the time when modest investments could remedy the problem. We are dealing not with deferred maintenance, but with some facilities that are literally falling apart. In addition, investments in health care facilities have significantly lagged behind growing inmate populations, so much so that available clinical space is less than half of what is necessary for daily operations.

The only cost-effective remedy is to improve and/or build new administrative and clinical facilities at each of CDCR’s 33 prison locations to provide local health care services. These facilities will generally include clinical treatment space, medical administrative space, medical storage space and other medical support spaces such as pharmacy, medical records and laboratories.

In addition to these local facilities, CDCR needs to establish seven regional long-term care centers at existing CDCR institutions with administrative, clinical and housing facilities to serve up to 6% of CDCR’s inmate population who have long-term medical and/or mental health needs. Approximately three-quarters of the housing at these centers will consist of open dormitory quality housing for patient-inmates with functional impairments or chronic conditions requiring ready access to health care services.

(Turnaround Action Plan, p. 25, emphasis added).

The district court approved the Turnaround Action Plan on June 16, 2008, finding the plan to be a “reasonable and necessary strategy to address the deficiencies in California’s prison health care system.” (Order Approving the Receiver’s Turnaround Plan of Action, p. 1).

The Receiver determined that up to seven new regional health care facilities may be required. (See FEIR, Master Response 1 for details concerning this decision making process.) In light of the ongoing state fiscal crisis, though, both the Receiver and CDCR are examining ways to achieve the goal of providing in-patient medical services for 10,000 inmates as cost-effectively as possible. CHFC Stockton will be a part of any plan to meet this goal and so, in order to address California’s prison healthcare crises, should be approved.

The CHCF Stockton project site would have the following benefits:

- ▶ The site would enable CPR to attain all the project objectives (see Findings of Fact, Section 1.4 for a list of project objectives).
- ▶ The site already serves an incarcerated population. A prison reentry facility for adult males is proposed by CDCR to reuse a former women's prison to the immediate north. Operating juvenile detention facilities are located on the site to the south. The proposed project would reuse an existing, but no longer operating, campus within a juvenile detention facility. Except for a relatively small area owned by the state and used for farming, the proposed project would entirely reuse an existing developed property. In other words, the facility would be placed on a site dedicated to detention facilities, reusing the site of a facility no longer in operation.
- ▶ The number of inmates who are from the San Joaquin Valley is rapidly growing, which makes Stockton a logical location in terms of locating the facility near an inmate/patient's home to ease in family visits (Bailey and Hayes 2006:13).
- ▶ Because the property is already developed and owned by the state, siting the facility at the Northern California Youth Correctional Center (NCYCC) site would be more efficient, less disruptive, and more cost effective, and would result in fewer environmental impacts than siting the facility on a vacant or non-state-owned site.

(See also FEIR Master Response 1; FEIR Appendix C).

Lastly, in addition to helping improve California's prison medical and mental health care system; the proposed project would bring significant economic benefits to the City of Stockton and San Joaquin County. It is estimated that on an annual basis, the CPR's Stockton facility's operations could contribute approximately 6,800 jobs and about \$675 million of output in the regional economy including direct, indirect, and induced benefits. (*Draft Economic Impacts Analysis of the Proposed California Health Care Facility, Stockton, March 2009*). By bringing new jobs and construction activity into the community, the CHCF Stockton project would provide an economic benefit to the area.

Each of these considerations is sufficient to approve the project. For each of the reasons stated above, and all of them, the project should be implemented notwithstanding the significant unavoidable adverse impacts identified in the EIR.

**Exhibit 2 to Attachment B
Mitigation Monitoring and Reporting Program**

**MITIGATION MONITORING AND REPORTING PROGRAM
FOR THE
CALIFORNIA HEALTH CARE FACILITY STOCKTON PROJECT**

Prepared by:

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A	Inventory of Mitigation Measures
B	Mitigation Monitoring and Reporting Form

SECTION 1 INTRODUCTION

The California Environmental Quality Act (CEQA) requires public agencies to adopt a mitigation reporting or monitoring program for all projects for which an environmental impact report has been prepared. This is intended to ensure the implementation of all mitigation measures adopted through the CEQA process. Specifically, Section 21081.6(a)(1) of the Public Resources Code requires a lead or responsible agency to "... adopt a reporting or monitoring program for changes made to the project or conditions of project approval, adopted to mitigate or avoid significant effects on the environment."

The California Prison Health Care Receivership Corporation (CPR) proposes to construct an approximately 1.2 million square foot facility to provide subacute medical and mental health care to up to 1,734 inmate patients. The proposed project would replace the existing closed Karl Holton Youth Correctional Facility in San Joaquin County near the Stockton city limits with housing units, a diagnostic and treatment center, community space for patients, administrative buildings, support structures (a warehouse, central kitchen, and central plant), and secured perimeter (11 guard towers, lethal electrified fence, sally port, and armory).

The Receiver is the lead agency for the proposed project. The terms "Receiver" and "CPR" are used interchangeably throughout this document. A Final EIR for this project was certified on October 12, 2009, by the Receiver. The Final EIR for the project consists of the following:

- ▶ *Draft Environmental Impact Report for the California Health Care Facility (Stockton)* (including Appendices A–I), dated October 2008 (Volumes I–III);
- ▶ Comments received on the DEIR;
- ▶ CPR's responses to comments received on the DEIR, dated March 16, 2009 (Volume IV);
- ▶ Corrections and revisions to the DEIR, dated March 16, 2009 (Volume V); and
- ▶ FEIR Appendices A through E, dated March 16, 2009 (Volume VI through X); and
- ▶ Technical Memorandum: Environmental Review of Minor Changes to Proposed Project dated October 2009.

This mitigation monitoring and reporting program includes all mitigation measures recommended in the EIR.

SECTION 2

PROGRAM MANAGEMENT

The MMRP for the project will be in place through all phases of the project including design, construction, and operation. The Receiver, or his designee (designee) assigned to the project will supervise project implementation and will be responsible for the overall management of the MMRP through the design and construction period. Once the project is operational, the MMRP will be the responsibility of the Chief Executive (CE) (e.g., warden) assigned to the facility. The designee and CE are thoroughly familiar with the project and are qualified to determine whether an adopted measure is being properly implemented. If it is found that an adopted mitigation measure is not being properly implemented, the designee or CE will require corrective actions to ensure adequate implementation. The designee, will be responsible for ensuring that the following procedures are implemented:

1. An MMRP Reporting Form will be prepared for each potentially significant impact and its corresponding mitigation identified in the attached list of mitigation measures.
2. Appropriate specialists will perform or monitor specific mitigation activities.
3. Mitigation issues will be described as appropriate in applicable construction bid packages.
4. The MMRP Reporting Forms will be distributed to the appropriate parties so that specific actions can be developed to carry out the necessary mitigation. These will be listed in the implementation action items section of the form.
5. Mitigation measures that continue into the operational phase will be incorporated into the Operational Procedures for the facility, which will be reviewed annually for compliance.
6. The designee, CE, and/or an assignee will approve by signature and date the completion of each item identified on the MMRP Reporting Form.
7. All MMRP Reporting Forms for an impact issue requiring no further monitoring will be signed off as completed by the designee, CE, and/or an assignee, at the bottom of the MMRP Reporting Form.
8. The designee and/or CE will provide periodic reports to management regarding scheduling and completion of all activities pertinent to the MMRP, if needed.

9. Unanticipated circumstances requiring the modification or addition of mitigation measures may arise. The designee or CE will be responsible for approving any such modifications or additions. An MMRP Reporting Form will be completed by the designee, CE, and/or an assignee. The completed form will be provided to the appropriate design, construction, or operations personnel.
10. The designee has the authority to stop the work of construction contractors if compliance with any aspects of the MMRP is not occurring after appropriate notifications have been issued.

All active and completed MMRP Reporting Forms will be kept on file at the office of the CPR, unless so delegated to CDCR. Forms will be available upon request at the following address:

California Prison Health Care Receivership Corporation
501 J Street, Suite 100
Sacramento, California 95814

If delegated to CDCR, the address will be found in files at the address above.

SECTION 3

MITIGATION MONITORING PROGRAM PHASES

The MMRP described herein is intended to provide focused yet flexible guidelines for monitoring the implementation of the mitigation measures discussed in the EIR and adopted by the Receiver. Appendix A lists by number each mitigation measure adopted for the project. Table 1 correlates each measure by its assigned number to the specific phase of the project (i.e. design construction and/or operation) to which the measure applies. An MMRP Reporting Form (see Appendix B) will be filled out by the designee, CE, and/or an assignee for each mitigation measure identified in Appendix A.

3.1 DESIGN PHASE

The design phase includes preparation of engineering design, architectural design, and construction drawings by project design engineers and architects. Bid packages are also compiled for release to prospective construction contractors. Prior to initiation of design phase activities, the measure(s) applicable to each design phase activity are identified by the designee and reviewed with the design engineer, architect or other responsible parties. If the designee determines that there is noncompliance with any of the mitigation measures to be implemented during the design phase, corrective actions are required and a follow-up review is conducted after the design documents are modified in response to the designee's comments. Reporting Forms are completed after each activity is performed.

During the design phase, any subsequent environmental permits and clearances (such as those related to air quality and water quality) are identified by the designee. The designee serves as the liaison with regulatory agencies and coordinates the preparation of permit applications and technical information for securing permits and subsequent environmental clearances. Depending on the permit, the permit applicant may be CPR through the designee or the construction contractor.

3.2 CONSTRUCTION PHASE

A pre-construction meeting is held with each contractor prior to the initiation of any construction activity for which a mitigation measure is relevant. The designee or assignee attends the meeting to explain the MMRP, roles and responsibilities, and the approach for construction site visits. Construction activities are monitored as often as conditions dictate to ensure that required mitigation measures are implemented. Applicable measures are discussed with construction contractors periodically as needed to facilitate their implementation.

3.3 OPERATIONAL PHASE

Once the project is implemented, the authority of the designee is transferred to the CE. The operational aspects of the MMRP at this point become part of the Operational Procedures for the facility. The manual is reviewed annually for compliance, and the CE is bound to the procedures expressed in the manual.

Table 1 - Applicable Project Phases for Implementation of Project Mitigation

Table 1 Applicable Project Phases for Implementation of Project Mitigation			
Mitigation measure	Applicable phase		
	Design/Pre- construction	Construction/Pre- operation	Operation
1 – Agricultural Resources	X		
2 – Traffic and Circulation	X	X	
3 - Traffic and Circulation			X
4 – Air Quality	X	X	
5 – Air Quality	X		X
6 - Noise		X	
7 – Noise		X	
8 – Noise	X		X
9 - Hydrology and Water Quality	X	X	
10 – Biological Resources	X	X	
11 - Biological Resources	X	X	
12 – Biological Resources	X		X
13 – Cultural Resources	X	X	
14 – Cultural Resources		X	
15 – Geology and Paleontology	X	X	
16 - Geology and Paleontology	X	X	
17 - Geology and Paleontology	X	X	
18 – Hazards and Hazardous Materials	X	X	
19 – Visual Resources	X	X	
20 – Cumulative Traffic	X		
21 – Cumulative Climate Change	X	X	X

APPENDIX A
INVENTORY OF MITIGATION MEASURES

The mitigation measures included in the DEIR that were adopted as conditions of project approval are listed below. Measures are listed by topical issue in the order in which they appear in the Findings of Fact adopted for the proposed project.

Agricultural Resources

1. At the time that final design is completed, CPR will complete the following:

- Calculate and document the number of acres of Important Farmland that will be converted for CHCF Stockton improvements, including all facilities, roads, and other rights-of-way.
- Coordinate with the San Joaquin Agricultural Commissioner to locate Important Farmland (as determined by the Land Evaluation and Site Assessment [LESA] Model) where an agricultural conservation easement could be recorded.

Before operation of CHCF Stockton, a perpetual agricultural conservation easement or deed shall be recorded on land that meets the LESA Model score for Important Farmland equal in acreage to the number of Important Farmland converted by the proposed project at a minimum 1:1 ratio.

Traffic and Circulation

2. CPR will hire a qualified traffic consultant to prepare a Construction Traffic Mitigation Plan (CTMP) for the proposed project.

The CTMP will eliminate construction traffic in each peak traffic hour during which construction would occur. The CTMP shall require all construction workers to be on the site prior to 6 a.m. or after 10 a.m. and they shall not leave the site between the hours of 4 p.m. and 6 p.m. In addition, to reduce construction traffic in the off-peak hours, the CTMP shall include a combination of the following measures, so there are no more than 333 vehicles that access/exit the site in any single hour:

- ▶ Encourage construction workers to carpool with a goal of 3.40 average vehicle occupancy at all times during the construction period.
- ▶ Instruct construction employees to (equally) utilize three separate east-west routes to the project site: 1) Mariposa Road; 2) Arch Road; and 3) French Camp Road. This would disperse construction trips from Arch Road and SR 99 north and south of Arch Road.
- ▶ Provide shuttle buses (seating capacity = 40) to pick up construction workers from four remote locations. These four pick up locations would ideally be located in north Stockton, two in central Stockton and one in the south towards the City of Modesto.

In addition to these measures, the CPR will include the following to improve operations near the site:

- ▶ A flagman or other traffic control will be placed at the intersection of Arch Road/Austin Road and the project access driveway during peak arrival/departure whenever there is significant congestion at this intersection.
3. The Receiver shall schedule staff shift changes to occur outside of the weekday peak commute periods (7:00 a.m. to 9:00 a.m., and 4:00 p.m. to 6:00 p.m.). Deliveries and visitors to the site shall also be restricted through purchasing contracts or other binding agreements to the hours of 9 a.m. to 3 p.m. and after 6:00 p.m. to minimize project-generated traffic during the a.m. peak hour. Some examples of the off-peak hour staff shift changes could be as follows:
- ▶ *8-hour shift:* 5:00 a.m. to 2:00 p.m. and/or 9:00 a.m. to 6:00 p.m.; and late evening/early morning shifts
 - ▶ *12-hour shift:* 6:00 a.m. to 6:00 p.m.

Table 4.3-17 presents the revised project trip generation with the implementation of this measure.

Variable	Daily Trips	A.M. Peak-Hour Trips			P.M. Peak-Hour Trips		
		In	Out	Total	In	Out	Total
Staff	3,292	0	0	0	0	0	0
Deliveries	42	0	0	0	0	0	0
Visitors	232	0	0	0	0	0	0
Total Trip Generation	3,566	0	0	0	0	0	0

Source: Data compiled by DKS Associates in 2009

Air Quality

4. **Reduction of Emissions of Ozone Precursors during Construction.** CPR will comply with SJVAPCD's Rule 9510, "Indirect Source Review," as required by SJVAPCD based on the project's specifications. Rule 9510 applies to any applicant that seeks to gain a final discretionary approval for a development project, or any portion thereof, that upon full buildout would include 50 residential units, 2,000 square feet of commercial space, 25,000 square feet of light-industrial space, or 9,000 square feet of any space, as well as similar minima for other land use types.

CPR will submit an air impact assessment (AIA) application to SJVAPCD prior to initiating construction. Nothing in Rule 9510 precludes CPR from submitting an AIA application before final discretionary approval of the project. CPR will submit the AIA application as early as

possible in the process. The AIA application will be submitted on a form provided by SJVAPCD and will contain, at a minimum, the contact name and address for CPR, a detailed project description, an on-site emission reduction checklist, a monitoring and reporting schedule, and an AIA. The AIA will quantify NO_x and PM₁₀ emissions associated with project construction. This assessment will include the estimated construction baseline emissions, and the mitigated emissions for each applicable pollutant for project construction, or each phase thereof, and will quantify the off-site fee, if applicable. CPR will comply with the following general mitigation requirements for construction emissions, as contained in the ISR rule:

- ▶ Exhaust emissions for construction equipment greater than 50 horsepower used or associated with the development project shall be reduced by 20% of the total NO_x and by 45% of the total PM₁₀ exhaust emissions from the statewide average as estimated by ARB.
- ▶ An applicant may reduce construction emissions on-site by using less polluting construction equipment, which can be achieved by utilizing add-on controls, cleaner fuels, or newer lower emitting equipment.
- ▶ Additional strategies for reducing construction emissions may include, but are not limited to:
 - providing commercial electric power to the project site in adequate capacity to avoid or minimize the use of portable electric generators and the equipment;
 - substitution of electric-powered equipment for diesel engine-driven equipment; and
 - limiting the hours of operation of heavy duty equipment and/or the amount of equipment in use at any one time.
- ▶ The requirements listed above can be met through any combination of on-site emission reduction measures or off-site fees. The ISR rule provides a method of calculating fees to be paid to offset any NO_x and PM₁₀ emission reductions that would not be achieved by selection of construction equipment and fuels.

CPR will implement the following SJVAPCD-recommended additional control measures to further reduce exhaust emissions:

- ▶ Minimize idling time (e.g., 10-minute maximum).
- ▶ Replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set).

Reduction of Particulate Emissions during Construction. CPR will comply with SJVAPCD's Regulation VIII, "Fugitive Dust PM₁₀ Prohibitions," and will implement all applicable control measures. Regulation VIII contains the following required control measures, among others:

- ▶ Pre-water site sufficient to limit visible dust emissions (VDE) to 20% opacity.
- ▶ Phase work to reduce the amount of disturbed surface area at any one time.
- ▶ During active operations, apply water or chemical/organic stabilizers/suppressants sufficient to limit VDE to 20% opacity.
- ▶ During active operations, construct and maintain wind barriers sufficient to limit VDE to 20% opacity.
- ▶ During active operations, apply water or chemical/organic stabilizers/suppressants to unpaved haul/access roads and unpaved vehicle/equipment traffic areas sufficient to limit VDE to 20% opacity and meet the conditions of a stabilized unpaved road surface.
- ▶ Limit the speed of vehicles traveling on uncontrolled unpaved access/haul roads within construction sites to a maximum of 15 miles per hour.
- ▶ Post speed limit signs that meet state and federal Department of Transportation standards at each construction site's uncontrolled unpaved access/haul road entrance. At a minimum, speed limit signs shall also be posted at least every 500 feet and shall be readable in both directions of travel along uncontrolled unpaved access/haul roads.
- ▶ When handling bulk materials, apply water or chemical/organic stabilizers/suppressants sufficient to limit VDE to 20% opacity.
- ▶ When handling bulk material, construct and maintain wind barriers sufficient to limit VDE to 20% opacity and with less than 50% porosity.
- ▶ When storing bulk materials, comply with the conditions for a stabilized surface as listed above.
- ▶ When storing bulk materials, cover bulk materials stored outdoors with tarps, plastic, or other suitable material and anchor in such a manner that prevents the cover from being removed by wind action.
- ▶ When storing bulk materials, construct and maintain wind barriers sufficient to limit VDE to 20% opacity and with less than 50% porosity. If utilizing fences or wind barriers, apply water or chemical/organic stabilizers/suppressants to limit VDE to 20% opacity or utilize a three-sided structure with a height at least equal to the height of the storage pile and with less than 50% porosity.
- ▶ Load all haul trucks such that the freeboard is not less than 6 inches when material is transported across any paved public access road sufficient to limit VDE to 20% opacity.
- ▶ Apply water to the top of the load sufficient to limit VDE to 20% opacity.
- ▶ Cover haul trucks with a tarp or other suitable cover.
- ▶ Clean the interior of the cargo compartment or cover the cargo compartment before the empty truck leaves the site.

- ▶ Prevent carryout and trackout, or immediately remove carryout and trackout when it extends 50 feet or more from the nearest unpaved surface exit point of a site.
- ▶ Cleanup of carryout and trackout shall be accomplished by manually sweeping and picking up; or operating a rotary brush or broom accompanied or preceded by sufficient wetting to limit VDE to 20% opacity; or operating a PM₁₀-efficient street sweeper that has a pickup efficiency of at least 80%; or flushing with water, if curbs or gutters are not present and where the use of water would not result as a source of trackout material or result in adverse impacts on storm water drainage systems or violate any National Pollutant Discharge Elimination System permit program.
- ▶ Submit a dust control plan to the air pollution control officer (APCO) prior to the start of any construction activity on any site that will include 5 acres or more of disturbed surface area, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials on at least 3 days. Construction activities shall not commence until the APCO has approved or conditionally approved the dust control plan. Provide written notification to the APCO within 10 days prior to the commencement of earthmoving activities via fax or mail.

CPR will implement the following SJVAPCD-recommended enhanced and additional control measures for all construction phases to further reduce fugitive PM₁₀ dust emissions:

- ▶ Install sandbags or other erosion control measures to prevent silt runoff to public roadways from adjacent project areas with a slope greater than 1%.
- ▶ Suspend excavation and grading activity when winds exceed 20 mph.

5. CPR will comply with SJVAPCD's Rule 9510, "Indirect Source Review." Although NO_x emissions would be below the 10-TPY threshold for 2012 and beyond, compliance with Rule 9510 is required for projects where NO_x emissions would exceed 2 TPY. CPR will submit an AIA application to SJVAPCD prior to initiating construction, as described in the mitigation measure "Reduction of Emissions of Ozone Precursors during Construction" for Impact AIR-1. The AIA will quantify operational emissions of NO_x and PM₁₀ exhaust associated with the project. The AIA will include the estimated operational baseline emissions and the mitigated emissions for each applicable pollutant for the project and will quantify the off-site fee, if applicable. CPR will comply with the following general mitigation requirements for operations emissions, as contained in SJVAPCD Rule 9510:

- ▶ Applicants shall reduce 50% of the project's operational baseline PM₁₀ emissions over a period of 10 years as quantified in the approved AIA.
- ▶ Applicants shall reduce 33.3% of the project's operational baseline NO_x emissions over a period of 10 years as quantified in the approved AIA.

The requirements listed above can be met by implementing any combination of on-site emission reduction measures or payment of off-site fees. SJVAPCD Rule 9510 provides a method of

calculating fees to be paid to offset any NO_x and PM₁₀ emission reductions that would not be achieved by selection of construction equipment and fuels.

Mitigation of potential impacts, especially emissions of ozone precursors and PM₁₀, is best achieved in the project design stage. CPR will implement, at a minimum, the following SJVAPCD-recommended mitigation measures to further reduce operational emissions from mobile sources:

- ▶ Rideshare Operational: Implement carpool/vanpool program such as carpool ride matching for employees, assistance with vanpool formation, provisions of vanpool vehicles, and others.
- ▶ Parking Operational: Provide preferential parking for carpool and vanpool vehicles, implement parking fees for single occupancy vehicle commuters, implement parking cash-out program for employees.
- ▶ Include as many clean alternative energy features as possible to promote energy self-sufficiency (e.g., photovoltaic cells, solar thermal electricity systems, small wind turbines).

CPR will implement the following SJVAPCD-recommended mitigation measures, as feasible, to further reduce operational emissions from area sources:

- ▶ Provide electrical outlets at building exterior areas and electric powered landscape maintenance equipment.
- ▶ Increase wall and attic insulation beyond Title 24 requirements (residential and commercial).
- ▶ Orient buildings to take advantage of solar heating and natural cooling and use passive solar designs.
- ▶ Provide highly reflective roofing materials and radiant heat barriers.
- ▶ Utilize day lighting systems such as skylights, light shelves, and interior transom windows.

Noise

6. CPR will implement the following mitigation measures to reduce noise levels generated by on-site construction-equipment:

- ▶ Construction equipment will be properly maintained per manufacturers' specifications and fitted with the best available noise suppression devices (e.g., mufflers, silencers, wraps). All impact tools will be shrouded or shielded and all intake and exhaust ports on power equipment will be muffled or shielded.
- ▶ Construction equipment will not be idled for extended periods of time in the vicinity of noise-sensitive receptors.
- ▶ Fixed/stationary equipment (such as generators, compressors, rock crushers, and cement mixers) will be located as far as possible from noise-sensitive receptors.

- ▶ A disturbance coordinator will be designated by CPR, which will post contact information in a conspicuous location near the entrance so that it is clearly visible to nearby receivers most likely to be disturbed. The coordinator will manage complaints resulting from the construction noise. Reoccurring disturbances will be evaluated by a qualified acoustical consultant retained by CPR to ensure compliance with applicable standards. The disturbance coordinator will contact nearby noise-sensitive receptors, advising them of the construction schedule.
- ▶ Where feasible, project construction and related activities will occur between 6 a.m. and 9 p.m., the operational hours outlined in the San Joaquin County Development Code's Noise Ordinance.
- ▶ Where construction operations and related activities occur during more sensitive evening and nighttime hours (9 p.m. to 6 a.m.), CPR will notify the three residences along Austin Road 24 hours in advance of nighttime construction activities, and temporary noise barriers will be erected to minimize noise disturbances at nearby noise-sensitive land uses. Temporary barriers will be placed as close to the noise source or as close to the receptor as possible and break the line of sight between the source and receptor. Acoustical barriers will be constructed of material with a minimum surface weight of 2 pounds per square foot or greater, and a demonstrated Sound Transmission Class (STC) rating of 25 or greater as defined by American Society for Testing and Materials (ASTM) Test Method E90. Placement, orientation, size, and density of acoustical barriers will be specified by a qualified acoustical consultant (when specific equipment configurations, locations, and operational details become available) such that noise generated by construction activities occurring after 9 p.m. would not exceed applicable County standards at the single-family residences. Alternatively, contingent upon agreement by the occupants, CPR may pay to temporarily relocate occupants of the residences during periods of nighttime construction.
- ▶ Pile holes shall be pre-drilled to the maximum feasible depth. Pre-drilling pile holes shall reduce the number of blows required to completely seat the pile, and shall concentrate the pile driving activity closer to the ground where pile driving noise can be shielded more effectively by a noise barrier/curtain.

7. CPR will ensure that the mitigation measures described below are implemented to reduce exposure of noise-sensitive receptors to excessive off-site construction-generated traffic noise levels:

- ▶ All heavy trucks will be equipped with noise control (e.g., muffler) devices in accordance with manufacturers' specifications.
- ▶ All haul trucks will be inspected before use and a minimum of once per year to ensure proper maintenance and presence of noise-control devices (e.g., lubrication, nonleaking mufflers, and shrouding).
- ▶ Construction entrances and heavy truck haul routes will be located as far as possible from nearby noise-sensitive receptors.
- ▶ Reduced heavy-truck speed limits will be established and enforced within 600 feet of noise-sensitive receptors.

8. For the proposed project, CPR will implement one of the following two mitigation measures to reduce the effect of noise levels generated by on-site stationary noise sources located within 1,200 feet from a sensitive receptor:
- ▶ Routine testing and preventive maintenance will be conducted during the less sensitive daytime hours (i.e., 7:00 a.m. to 6:00 p.m.). All electrical generators will be equipped with noise control (e.g., muffler) devices in accordance with manufacturers' specifications. OR
 - ▶ Electrical generators will be located within equipment rooms or enclosures that incorporate noise-reduction features, such as acoustical louvers, and exhaust and intake silencers. Equipment enclosures will be oriented so that major openings (i.e., intake louvers, exhaust) are directed away from nearby noise-sensitive receptors.

Hydrology and Water Quality

9. Before any construction-related ground disturbance, CPR will consult with County Public Works staff members to ensure that project construction procedures are consistent with County stormwater requirements. CPR will also contact the State Water Resources Control Board (SWRCB) and the Central Valley RWQCB to obtain Section 401 water quality certification, a statewide National Pollutant discharge Elimination System (NPDES) stormwater permit for general construction activity, and any other necessary site-specific waste discharge requirements (WDRs) or waivers under the Porter-Cologne Act. CPR will prepare and submit the appropriate notices of intent and prepare the Storm Water Pollution Prevention Plan (SWPPP) and any other necessary engineering plans and specifications for pollution prevention and control. The SWPPP and other appropriate plans will identify and specify:
- ▶ BMPs to be used for erosion and sediment control, including construction techniques to reduce the potential for runoff as well as other measures to be implemented during construction (e.g., sedimentation ponds, inlet protection, perforated riser pipes, check dams, and silt fences);
 - ▶ approved local plans and non-stormwater-management controls to be implemented, permanent post-construction BMPs to be followed, and responsibilities associated with inspection and maintenance;
 - ▶ the pollutants that are likely to be used during construction that could be present in stormwater drainage and non-stormwater discharges, and other types of materials used to operate equipment;
 - ▶ spill prevention and contingency measures, including measures to prevent or clean up spills of hazardous waste and of hazardous materials used to operate equipment, and emergency procedures for responding to spills;

- ▶ personnel training requirements and procedures that will be used to ensure that workers are aware of permit requirements and proper installation methods for BMPs specified in the SWPPP; and
- ▶ the appropriate personnel responsible for supervising implementation of the SWPPP.

Where applicable, BMPs identified in the SWPPP will be in place throughout all site work and construction/demolition and will be used in all subsequent site development activities. BMPs may include such measures as the following:

- ▶ Implementing temporary erosion-control measures in disturbed areas to minimize discharge of sediment into nearby drainage conveyances. These measures may include silt fences, staked straw bales or wattles, sediment/silt basins and traps, geofabric, sandbag dikes, and temporary vegetation.
- ▶ Establishing permanent vegetative cover to reduce erosion in areas disturbed by construction by slowing runoff velocities, trapping sediment, and enhancing filtration and transpiration.
- ▶ Using drainage swales, ditches, and earth dikes to control erosion and runoff by conveying surface runoff down sloping land, intercepting and diverting runoff to a watercourse or channel, preventing sheet flow over sloped surfaces, preventing runoff from accumulating at the base of a grade, and avoiding flood damage along roadways and facility infrastructure.

All construction contractors will retain a copy of the approved SWPPP on the construction site.

Biological Resources

10. Prior to the site excavation and grading of habitat land, CPR will, as encouraged in the letter dated August 15, 2008 from San Joaquin Council of Governments (SJCOG), request from the SJMSCP Joint Powers Authority (under SJCOG) concurrence that the proposed project qualifies for third-party participation in the SJMSCP because the project is consistent with permitted activities as defined in SJMSCP Section 8.2.2.c, "Major Impact Projects." Upon receipt of the concurrence letter, CPR will pay the Natural Lands and Agricultural Habitat Lands Fee (adjusted for inflation annually by the Joint Powers Authority) as defined in SJMSCP Section 7.4.1.2, "Agricultural Habitat Lands, Non-Vernal Pool Natural Lands, and Multipurpose Open Space Lands." Site grading and excavation may commence upon payment of the fees. The SJMSCP Joint Powers Authority will determine the fee amount to be paid based on the acreage of disturbance. The total amount could be up to 144.2 acres (up to: 70 acres of farmland raptor foraging habitat and the 74.2 acres of raptor nesting habitat at the existing Karl Holton Youth Correctional Facility).

In addition, the following avoidance and minimization measures for Swainson's hawk and other tree-nesting raptors and burrowing owl will be implemented.

Swainson's Hawk and Other Tree-Nesting Raptors. Consistent with the avoidance and minimization measures in the SJMSCP, CPR will implement the following measures to reduce impacts on Swainson's hawk and other tree-nesting raptors:

- ▶ If trees and floodlights are removed between September 1 and February 15, then no further mitigation will be required.
- ▶ If trees and floodlights are removed between February 16 and August 31, then a qualified biologist will be retained to conduct preconstruction surveys for active raptor nests on and within 0.5 mile of the project site no more than 14 days and no less than 7 days before tree and floodlight removal. Surveys for Swainson's hawks will follow the guidelines provided in the *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in the Central Valley* (DFG 2000). If no active nests are found, then no further mitigation will be required.
- ▶ If active nests are found, the qualified biologist will establish a buffer around the tree or floodlight where the active nest is located. No project activity will commence within the buffer area until the qualified biologist confirms that the nest is no longer active or that the young have fully fledged. For Swainson's hawk nests, DFG guidelines recommend implementation of 0.25- or 0.5-mile buffers, but the size of the buffer may be adjusted if a qualified biologist and DFG determine that it would not be likely to adversely affect the nest. Monitoring of the nest by a qualified biologist may be required if the activity has potential to adversely affect the nest.

Burrowing Owl. Consistent with the avoidance and minimization measures in the SJMSCP, CPR will implement the following measures to reduce impacts on burrowing owl:

- ▶ Retain a qualified biologist to conduct focused surveys for burrowing owls in areas of suitable habitat on and within 250 feet of the project site. Surveys will be conducted before project activity and in accordance with DFG protocol (DFG 1995).
- ▶ If no occupied burrows are found in the survey area, a letter report documenting survey methods and findings will be submitted to DFG, and no further mitigation is necessary. If occupied burrows are found, to the extent feasible, establish a buffer of 165 feet around the occupied burrow during the nonbreeding season (September 1–January 31) or 250 feet during the breeding season (February 1–August 31). The size of the buffer area may be adjusted if a qualified biologist and DFG determine that adjusting the buffer size would not be likely to have adverse effects. No project activity will commence within the buffer area until a qualified biologist confirms that the burrow is no longer occupied. If the burrow is occupied by a nesting pair, a minimum of 6.5 acres of foraging habitat contiguous to the burrow will be preserved until the breeding season is over.
- ▶ If occupied burrows cannot be avoided, during the nonbreeding season conduct on-site passive relocation techniques, approved by DFG, to encourage owls to move to alternative burrows outside of the impact area. No burrows found by the survey to be occupied will be disturbed during the breeding season.

- ▶ After burrowing owls have been confirmed absent or removed from the site, the burrows may be destroyed.

11. Surveys for roosting bats on the project site will be conducted by a qualified biologist. Surveys will consist of a daytime pedestrian survey looking for evidence of bat use (e.g., guano) and/or an evening emergence survey to note the presence or absence of bats. The type of survey will depend on the condition of the buildings. If no bat roosts are found, then no further study is required. If evidence of bat use is observed, the number and species of bats using the roost will be determined. Bat detectors may be used to supplement survey efforts, but are not required.

If roosts of pallid bats are determined to be present and must be removed, the bats will be excluded from the roosting site before the facility is removed. A mitigation program addressing compensation, exclusion methods, and roost removal procedures will be developed in consultation with DFG before implementation. Exclusion methods may include use of one-way doors at roost entrances (bats may leave but not reenter), or sealing roost entrances when the site can be confirmed to contain no bats. Exclusion efforts may be restricted during periods of sensitive activity (e.g., during hibernation or while females in maternity colonies are nursing young). The loss of each roost (if any) will be replaced in consultation with DFG and may include construction and installation of bat boxes suitable to the bat species and colony size excluded from the original roosting site. Roost replacement will be implemented before bats are excluded from the original roost sites. Once the replacement roosts are constructed and it is confirmed that bats are not present in the original roost site, the building may be removed.

12. CPR will consult with USFWS and DFG regarding the proposed project and anticipated wildlife mortality and will take appropriate actions to minimize wildlife electrocutions to the extent feasible and compensate for impacts on native wildlife species. It is anticipated that this will be accomplished by seeking coverage under the Statewide Electrified Fence HCP in agreement with USFWS and DFG, with concurrence from CDCR. The proposed project will replace the NCWF site in the HCP. The tiered mitigation approach used by the HCP to offset potential adverse effects on birds protected under MBTA and the California Fish and Game Code is outlined below. If coverage under the Statewide Electrified Fence HCP is not authorized, then avoidance and minimization measures in Tier 1 and Tier 2 will be implemented as described below and habitat compensation commensurate with Tier 3 mitigation will be developed in consultation with USFWS and DFG.

- ▶ *Tier 1:* These mitigation measures are designed to eliminate or reduce wildlife attractants near the prison perimeter by implementing specific maintenance and operation procedures. By making the perimeter less hospitable, wildlife will frequent this area less often, thus

reducing their exposure to accidental electrocution. Tier 1 maintenance and operation procedures will include:

- *Minimization of vegetation in the vicinity of the electrified fence perimeter.* This will include removal of vegetation growing between and adjacent to chain link fences that surround electrified fences and keeping the first 100 feet of vacant land outside the perimeter and patrol road free of vegetation. Landscaping vegetation near the electrified fence will be minimized and will be trimmed or mowed to reduce its attractiveness to wildlife. Facility landscaping will be designed to provide as little cover and as few foraging and nesting opportunities as possible. Detailed information, including recommended landscape plantings that are less attractive to wildlife, can be found in the *Handbook to Reduce Wildlife Use* (MBA 1996).
 - *Minimization of standing water near the fence perimeter.* Rainwater will not be allowed to stand in or near the perimeter for more than 24 hours after a storm. Localized recontouring, excavation of ditches, and placement of gravel will occur to prevent ponding. Weeds, grasses, or emergent vegetation will be removed from ditches regularly.
 - *Timely correction of erosion gaps and spaces under fencing.* Inner and outer chain link fences will be inspected weekly to ensure that no gaps or spaces have formed. All eroded areas will be filled with soil or gravel as soon as feasible to prevent animals from entering electrified-fence areas.
 - *Proper storage of materials and waste.* To the extent feasible, equipment, supplies, rubble, or pallets will not be stored (temporarily or permanently) within 200 feet of either side of the fence perimeter. Garbage cans and dumpsters will be covered at all times and emptied as often as required to prevent overflow. The area within 200 feet of the fence perimeter will be kept free of all trash, litter, and loose food waste.
- ▶ *Tier 2:* These mitigation measures consist of both exclusion and deterrent devices. Tier 2 measures to be installed on the proposed electrified fence are listed below.
- *Vertical netting.* Past analysis of the locations of carcasses has shown that wildlife kills were typically the result of animals contacting the lowest nine wires, because wires are vertically closer together, resulting in more opportunities for birds to contact two lethal wires or a wire and a ground. Install three-quarter-inch mesh vertical netting enveloping both sides of the lower section of the electrified fence, which will prevent most birds from contacting the fence.
 - *Anti-perching wire.* Several birds have been electrocuted as a result of contacting electrified wires while perching, or attempting to perch, on the grounding brackets and fence posts of the electrified fence. Anti-perching wires, which consist of 2- to 4- inch pieces of stiff wire connected to an aluminum base, will be strategically attached to the tops of perching sites in and near the perimeter. Once installed, this wire will reduce the ability of birds to perch near the electrified fence, thus reducing exposure to accidental electrocutions.
- ▶ *Tier 3:* These mitigation measures compensate for residual wildlife mortality impacts. Habitat compensation for residual wildlife impacts associated with operation of the electrified fence at this site was provided in the HCP for the Statewide Electrified Fence Project. Collectively, the HCP is providing 2,565 acres of mitigation at 10 sites to offset

the loss of individuals from electrified-fence mortality by improving reproductive success elsewhere in the state. The compensatory mitigation for the Statewide Electrified Fence Project's HCP includes habitat acquisition, restoration, management, and creation of 71 acres of riparian woodland, 1,162 acres of scrub/savanna, 700 acres of grassland/agriculture, 250 acres of mixed oak/pine woodland, 202 acres of emergent wetland/open water, and 180 acres of montane/coastal forest. Therefore, if USFWS and DFG agree to use the Statewide Electrified Fence Project's HCP for this project, no additional compensatory mitigation is required.

Alternatively, if the project does not receive coverage under the HCP, CPR will contribute funds to an existing non-profit organization that creates and manages habitat enhancement areas that would improve opportunities for reproductive success of birds likely to be adversely affected by the project. Birds likely to be adversely affected will be predicted based on the results of mortality monitoring at comparable CDCR facilities and based on birds expected to occur in the project vicinity based on surrounding habitat. Mechanisms for implementing the mitigation will be similar to those previously utilized by CDCR for the Statewide and Six Prison Electrified Fence Projects and may include additional funding for a project to which CDCR has already contributed as part of these existing projects. The San Joaquin Valley will be targeted, but mitigation could be implemented at federal, state, or private lands located anywhere in California if the lands support a large percentage of the species at risk of electrocution at the project site. The amount of funding contributed would depend on the acreage of habitat that would benefit from the mitigation. The mitigation acreage required would be determined based on the anticipated annual mortality of native birds and the area required to support an equivalent number of individuals of the species at greatest risk of electrocution.

Cultural Resources

13. A qualified professional archaeologist will train construction personnel who will perform ground-disturbing activities, such as grading and excavation, on how to identify cultural materials. The archaeologist will train construction personnel on the nature of subsurface cultural resources that may be present, based on his or her knowledge of the relevant prehistoric and historic archaeology of the region. If cultural materials are inadvertently discovered during project-related construction activities, ground disturbances in the area of the find will cease immediately and the archaeologist will be notified of the discovery. The archaeologist will evaluate the find to determine whether it constitutes a unique archaeological resource or a historical resource within the meaning of CEQA (Sections 15064.5[a][1] through 15064.5[a][4] of the State CEQA Guidelines). If the archaeologist determines that the find is not a unique archaeological resource or historical resource as defined in the State CEQA Guidelines, construction may commence, and

a memorandum shall be prepared documenting the factual basis for this decision. No public circulation or notice is required.

If the archaeologist determines that the discovery is a unique archaeological resource or historical resource, then one of the following actions will occur, in order of priority as described below:

- ▶ If possible, the resource will be avoided and preserved in place. This is the preferred treatment under CEQA (California Public Resources Code, Section 21083.2[b][3]).
- ▶ If preservation in place is not feasible, CPR shall retain a qualified archaeologist (with qualifications determined by training and experience in the region and relevant research domains) to prepare and implement an excavation plan. This plan will involve retrieving a suitable sample of the physical materials that make the resource significant and qualify the site as a unique archaeological resource or a historical resource under CEQA. The excavation plan will also specify a program of analysis to retrieve and convey the information that makes the resource significant. This plan will specifically refer to the relevant eligibility criteria for listing on the California Register of Historical Resources (CRHR) or the criteria for a unique archaeological site in the State CEQA Guidelines. The plan will summarize the findings of this program of research in an excavation report, which shall be filed at the local information center for the California Historical Resources Information System upon completion, so that the findings inform future archaeological and historical research. This plan will specify how the program of excavation and analysis will recover and convey the portions of the site that convey its significance before project implementation may materially alter or demolish those physical characteristics, as provided in Section 15064.5(b)(2) of the State CEQA Guidelines.

Ground-disturbing activities may commence again after the excavation required to implement the plan has occurred. Ground-disturbing work may commence before the completion of the analysis and preparation of a report documenting the findings of the excavation plan.

14. In accordance with the California Health and Safety Code, if human remains are uncovered during ground-disturbing activities, all such activities in the vicinity of the find will be halted immediately and CPR or its designated representative will be notified. CPR will immediately notify the county coroner and a qualified professional archaeologist. The coroner will examine all discoveries of human remains within 48 hours of receiving notice of the discovery. If the coroner determines that the remains are those of a Native American, he or she will contact the NAHC by phone within 24 hours of making that determination. CPR or its appointed representative and the professional archaeologist will consult with a Most Likely Descendant (MLD) designated by the NAHC regarding the removal or preservation and avoidance of the remains and determine whether additional burials could be present in the vicinity.

Geology and Paleontology

15. CPR will retain a licensed geotechnical or soils engineer to prepare a soils report for each area of proposed development. The report will identify the site-specific engineering limitations of soils and provide engineering recommendations to reduce potential damage to planned improvements from shrink-swell potential. Recommendations may include actions such as structural enforcement, soil treatment, or replacement of existing soil with engineered fill. CPR will implement all feasible engineering and design recommendations contained in the report consistent with the standards identified in the California Building Code.

All earthwork in each phase of project development will be monitored by a geotechnical or soils engineer retained by CPR. The geotechnical or soils engineer will provide oversight during all excavation, placement of fill, and disposal of materials removed from and deposited on the project site.

16. CPR will implement the mitigation measure for Impact HYDRO-1, "Implementation of the project could result in short-term, construction-related impacts on water quality," as described in Section 4.6, "Hydrology and Water Quality."
17. CPR will implement the following measures to minimize potential adverse impacts on unique, scientifically important paleontological resources:
 - ▶ Before the start of grading, excavation, or demolition, CPR will retain a qualified paleontologist or archaeologist to train all construction personnel involved with earthmoving activities, including the site superintendent, regarding the possibility of encountering fossils, the appearance and types of fossils likely to be seen during construction, and proper notification procedures should fossils be encountered.
 - ▶ If paleontological resources are discovered during earthmoving activities, the construction crew will be directed to immediately cease work in the vicinity of the find and notify CPR. CPR will retain a qualified paleontologist to evaluate the resource and prepare a mitigation plan in accordance with SVP guidelines (1996). The mitigation plan may include a field survey, construction monitoring, sampling and data recovery procedures, museum storage coordination for any specimen recovered, and a report of findings. Recommendations determined by CPR to be necessary and feasible will be implemented before construction or demolition activities can resume at the site where the paleontological resources were discovered.

Hazards and Hazardous Materials

18. **Additional Investigation of Soil Contamination and Preliminary Soil Excavation Plan.** CPR will implement the following measures to remediate existing soil contamination on the project site:

- ▶ CPR will complete the additional investigation of contaminated soil before excavation to further define the extent of contaminated soil near borings E-4 and E-5. The scope of that work will include soil sampling at 8–16 “step-out” borings in the vicinity of the affected areas. Those borings will be placed approximately 20 feet from borings E-4 and E-5 to assess the lateral extent of contaminated soil. Selected soil samples will be analyzed for TPHd, TPHmo, SVOCs, and chlorinated pesticides.
- ▶ Based on the results of the additional investigation, CPR will hire a qualified technician to create a preliminary plan of soil excavation and disposal that includes the entire area of contamination (an area approximately 70 feet by 100 feet and 8 feet deep, encompassing the locations of both borings E-4 and E-5, with a preliminary in-place soil volume of approximately 2,100 cubic yards). The goal of the soil excavation plan and disposal plan will be to remove all the soils containing chemical concentrations in excess of the California human health screening levels and render excavated soil suitable for disposal as a nonhazardous waste, subject to additional testing as required by the appropriate landfill.
- ▶ Soil removal activities will be completed in accordance with state and local regulatory requirements. As recommended in the final hazardous materials investigation report, CPR will contact DTSC to discuss the findings and approach for remediation discussed herein. Typically, DTSC will require a contractual arrangement (voluntary cleanup agreement) to fund their oversight costs during the removal action. If required by DTSC, CPR will prepare a work plan for conducting additional investigations and will prepare a remedial action work plan before affected soil is excavated.

Abatement of Lead Paint Hazards Related to Existing Buildings. If loose and peeling paint is encountered during demolition, CPR will conduct sampling and analysis for leachable lead content to characterize the waste. Because most paints at the on-site buildings were found to contain lead, and for the purpose of complying with the California Occupational Safety and Health Administration’s (Cal/OSHA’s) lead in construction regulation (Title 8, Section 1532.1 of the California Code of Regulations [8 CCR 1532.1]), all coated surfaces will be considered to contain some lead. As required by 8 CCR 1532.1, CPR will provide monitoring of lead in the air monitoring, adaptive work practices, and respiratory protection to avoid exposure to the presence of even very low levels of lead where the lead is loose and peeling.

Asbestos Abatement. Before demolition, materials to be removed will be tested for the presence of asbestos. Also, CPR will perform a survey of building materials at the portable trailers near the educational buildings to assess the presence of paint containing lead and ACM; any lead-containing paint and ACM encountered in the trailers will be removed according to federal, state, and local regulations, including appropriate notification, equipment, handling, and disposal. Consistent with the requirements of the San Joaquin Air Quality Management District, friable ACM with greater than 1% asbestos will be properly disposed of as asbestos waste in accordance with National Emissions Standards for Hazardous Air Pollutants (NESHAP) regulations.

Visual Resources

19. **Minimizing of Construction Lighting Impacts.** To minimize the construction light that could spill onto the residential properties immediately east of the project site, the flood or area lighting needed for construction activities will be directed downward toward work activities and shielded from adjacent residences. Portable construction lights will be operated at the lowest allowable height and in the smallest number feasible to maintain adequate night lighting.

Redirecting Lighting from Project Operations Downward and Away from Residences to the East. To minimize the light from operation of the proposed project that could spill and glare onto residential properties immediately east of the project site, lights will be shielded such that direct lighting does not spill onto the residences. Further, light fixtures will not use reflective surfaces.

Cumulative Traffic

20. Prior to initiating construction, CPR shall coordinate, as appropriate, with the County of San Joaquin's and City of Stockton's departments of public works and Caltrans for implementation of the following measures:

- ▶ **Intersection of Arch Road and SR 99 Northbound Access:** The CPR shall fully fund the installation of a traffic signal at the intersection of Arch Road and the northbound SR 99 SPUI off-ramp. (Caltrans and City of Stockton jurisdictions)
- ▶ **Southbound SR 99 Off-ramp:** The CPR shall fully fund the expansion of the northbound SR 99 off-ramp to add 131 feet of capacity by widening the two-lane segment of the off-ramp to three lanes prior to where the off-ramp splits into two lefts and one right turn lane.(Caltrans jurisdiction)
- ▶ **Intersection of Arch Road and Austin Road:** The addition of an additional eastbound left-turn lane (to create triple eastbound left-turn lanes) would offset the project's impact in the year 2035. Because of right-of-way constraints and the City's design standards, these improvements would not be feasible. The project would contribute 10.0% of the new (cumulative) traffic that affects this intersection. CPR shall pay its fair share, based on the estimated (10 %) contribution into the City's Regional Transportation Improvement Program (RTIP). (City of Stockton jurisdiction)
- ▶ **Intersection of the Proposed Project Driveway and Austin Road:** CPR will install a traffic signal on Austin Road at the proposed project driveway to offset the project's impact. The project results in this impact and is fully responsible for mitigation. (County of San Joaquin jurisdiction)

Cumulative Climate Change

21. Implementation of the mitigation measure for Impact AIR-2, which would reduce operational emissions of criteria air pollutants and precursors, would also act to reduce GHG emissions associated with project operation. This mitigation measure is relevant to Impact AIR-2 because

emissions of both criteria air pollutants and GHGs are frequently associated with combustion byproducts. In addition, CPR will implement where feasible the following measures to reduce direct and indirect GHG emissions associated with the proposed project. Certain measures could already be considered components of the project, but are provided here for purposes of completeness.

A. Energy Efficiency

- ▶ Design buildings to be energy efficient. Site buildings to take advantage of shade, prevailing winds, landscaping and sun screens to reduce energy use.
- ▶ Install efficient lighting and lighting control systems. Use daylight as an integral part of lighting systems in buildings. LED lights, or a similar low energy use alternative, shall be used for outdoor lighting except in places where use of such lights is not consistent with applicable security lighting standards.
- ▶ Install light-colored “cool” roofs, cool pavements, and strategically placed shade trees (consistent with mitigation requirements for biological resources in connection with operation of the electrified fences).
- ▶ Install energy-efficient heating and cooling systems, appliances and equipment, and control systems.

B. Renewable Energy

- ▶ Install solar and wind power systems, solar and tankless hot water heaters, and energy-efficient heating ventilation and air conditioning.
- ▶ Improve the thermal integrity of buildings, and reduce the thermal load with automated time clocks or occupant sensors.
- ▶ Install solar panels over parking areas.

C. Water Conservation and Efficiency

- ▶ Create water-efficient landscapes with native, drought-resistant species.
- ▶ Install water-efficient irrigation systems and devices, such as soil moisture-based irrigation controls.
- ▶ Design buildings to be water-efficient. Install water-efficient fixtures and appliances.
- ▶ Restrict watering methods (e.g., prohibit systems that apply water to nonvegetated surfaces) and control runoff.
- ▶ Restrict the use of water for cleaning outdoor surfaces and vehicles.
- ▶ Provide education about water conservation and available programs and incentives.

D. Solid Waste Measures

- ▶ Reuse and recycle construction and demolition waste (including but not limited to soil, vegetation, concrete, lumber, metal, and cardboard).

- ▶ Provide interior and exterior storage areas for recyclables and green waste and adequate recycling containers located in public areas.

E. Transportation and Motor Vehicles

- ▶ Limit idling time for commercial vehicles to five minutes, including delivery and construction vehicles.
- ▶ Promote ridesharing programs, e.g., by designating a certain percentage of parking spaces for ridesharing vehicles, designating adequate passenger loading and unloading and waiting areas for ridesharing vehicles, and providing a Web site or message board for coordinating rides.
- ▶ Create car-sharing programs. Accommodations for such programs include providing parking spaces for the car-share vehicles at convenient locations.
- ▶ Implement a low carbon emission vehicle incentive program and provide the necessary facilities and infrastructure to encourage the use of low- or zero-emission vehicles (e.g., electric-vehicle charging facilities).
- ▶ Use low or zero emission construction vehicles to the extent practicable.
- ▶ Provide shuttle service to public transit.
- ▶ Provide public transit incentives such as free or low-cost monthly transit passes.
- ▶ Join a local transportation management association and prepare employer-based trip reduction plans.

APPENDIX B
MITIGATION MONITORING PROGRAM REPORTING FORM

Specialist: _____
 Name Discipline Firm

Implementation Action Items:	Scheduled for Completion	Completion Date	Approved by

Disposition:

- Mitigation measure(s) implemented. No further action required.
- Mitigation measure(s) partially implemented. Further action required.
Explain below; attach additional sheets if necessary.
- Mitigation measure(s) partially implemented. No further action required.
Explain below; attach additional sheets if necessary.
- Noncompliance with mitigation measures. Further action required.
Explain below; attach additional sheets if necessary.
- Mitigation unnecessary. No further action required.
Explain below; attach additional sheets if necessary.
- Verification of environmental compliance for project.

Comments/Revisions:

Completed by:	Approved by:
Name _____	Name _____
Title _____	Title _____
Date _____	Date _____

**Exhibit 3 to Attachment B
Local Labor Hire & Purchasing Policies**

LOCAL OUTREACH POLICY – Statement of Intent

Overview: The California Prison Healthcare Receivership Corporation ("CPR") has determined that, when constructing proposed new correctional health care facilities ("CHCF"), it is in the best interest of CPR, the State of California, and the communities in which CHCF are located, to maximize economic opportunities for local residents and businesses. CPR intends to achieve this objective through the following Local Outreach Policy, which generally promotes hiring local labor, contracting with local business, purchasing goods and services locally, and the assignment of sales tax revenue to the local jurisdiction in effort to leverage public resources and establish successful, long-term partnerships between CPR, the State and project facility communities.

The following Local Outreach Policy focuses on construction of the CHCF, but where consistent with applicable law, CPR will use reasonable efforts to hire locally for the ongoing staffing and operations of CHCF. CPR will use reasonable efforts to notify local residents of potential job opportunities, including outreach to local colleges and any other appropriate educational institutions, hosting and attending job fairs, consultation with employment organizations, issuance of local media announcements, and inquiries of governmental entities.

Background: This local outreach policy is intended to support local economies and increase economic benefits to communities that will host CHCF facilities. For both construction and operation of the CHCF, employing local residents helps reduce local unemployment, supports local businesses, improves the jobs/housing balance for local communities and improves the environment by reducing and/or shortening commutes to minimize greenhouse gas emissions. A local purchase policy supports local business, generates sales tax revenues for local jurisdictions, and promotes partnerships that leverage public resources.

Implementation: In order to implement this Local Outreach Policy, CPR will require contractors under direct contract with CPR to engage in good faith efforts to comply with the Local Outreach Program in effect at the time of contract award. The following details the efforts that contractors are expected to undertake. This Local Outreach Program provides contractors guidance on what constitutes a good faith effort to hire and purchase locally and requires them to monitor and report their compliance efforts.

LOCAL OUTREACH PROGRAM

Where consistent with other applicable laws, this Local Outreach Program applies to all contractors ("CPR Prime Contractors") in direct contract with CPR for construction of the proposed new correctional health care facilities ("CHCF"). It applies to CPR Prime Contractors when selecting subcontractors when hiring its own workers and when contracting for labor for the project. CPR Prime Contractors are required to inform their subcontractors about this Local Outreach Program and ensure their compliance.

1. **Proposal Process.** All general contractors proposing to contract with the CPR for construction of a CHCF are required to abide by this Local Outreach Program. Prior to authorization to proceed with construction, contractors must summarize the good faith efforts they have taken and will comply with this Local Outreach Program with respect to the scope of work covered by that authorization. CPR Prime Contractors are expected to undertake meaningful efforts to promote hiring local labor, to encourage local contractors to participate in the project, and to promote local purchasing of goods not

subject to CPR's program-wide buying programs. The efforts expected are further explained in sections 4 and 5, below.

2. **Local Construction Labor.** CPR Prime Contractors will undertake good faith efforts to notify the local construction industry and residents of potential construction-related job opportunities for the CHCF construction project. The obligation to engage in "good faith efforts" is explained further in section 4, below.
3. **Definition of "local community"**. For purposes of this program, "local community" is defined as the city and county in which the project is located and the surrounding geographic area which comprises a reasonable commuting distance from the project.
4. **Good Faith Efforts.** CPR Prime Contractor, if it will employ its own workforce on the project, is required to make a meaningful, good-faith effort to hire qualified individuals who are residents of the local community in which the project is located. CPR Prime Contractors, if subcontracting with other entities to provide labor on the project, shall inform subcontractors of this Local Outreach Program and require that the subcontractor engage in a meaningful, good-faith effort to hire local labor. If CPR Prime Contractor is contracting with other entities, then CPR Prime Contractor shall engage in a good faith effort to contract with local businesses from the local community.
 - a. **Definition of "good faith efforts"** For purposes of evaluating "good faith efforts," the following is a list of types of actions which CPR Prime Contractors, and their subcontractors, should consider as part of a good faith effort to obtain local participation. This list is not intended to be mandatory or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.
 - (1) Coordinating with local or regional contractor and employer associations to improve the likelihood of receiving proposals from qualified local trade contractors. Requesting the assistance of these organizations to notify qualified local businesses and encourage their involvement in the project.
 - (2) Assessing and effectively using any available resources provided by local governments or related public agencies, community organizations or groups, local business assistance offices, and any other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of local businesses.
 - (3) Soliciting through all reasonable and available means (e.g., attending pre-bid meetings, advertising in alternate forums, and/or providing written notices) the interest of all local businesses with the capability of performing work on the project. The contractor must solicit this interest early enough in the process to allow time for local businesses to evaluate and respond to the solicitation.
 - (4) Providing interested local businesses with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

- (5) Negotiating in good faith with local businesses, taking into account all relevant factors, including price, capabilities, project delivery model, and contract goals.
5. **Local Purchases.** In order to minimize the overall construction and operating cost of the CHCF to California taxpayers while maximizing economic benefit to local communities , CPR Prime Contractors and their subcontractors are required to adhere to the following:
- a. For all purchases not subject to CPR's statewide supply chain logistics and procurement program, contractors are required to use a "best-value" approach in all supplier selections by considering:
 - i. Bidder's price;
 - ii. Bidder's quality of product/service provided;
 - iii. Bidder's local delivery service and stock availability/capacity;
 - iv. Bidder's overall capability to support the program objectives; and
 - v. Bidder's ability to positively impact the local economy.
 - b. Where doing so is consistent with project goals, CPR encourages contractors to purchase goods and services from local businesses and suppliers. Contractors are required to keep records evaluating their analysis of the above criteria for all procurement scopes.
6. **Sales Tax/Direct Payment Process for Delivered Construction Materials.** CPR Prime Contractors and their direct subcontractors providing materials or equipment for a CHCF are required to review the Direct Payment Permit Process established under California Revenue and Taxation Code section 7051.3. If eligible, all CPR Prime Contractors and their direct subcontractors are required to exercise the option to obtain a Board of Equalization sub-permit for the job site and allocate all eligible use tax payments to the local jurisdiction in which the CHCF is located (pursuant to the Direct Payment Process established under State Revenue and Taxation code 7051.3). Prior to beginning the project and thereafter as appropriate, all contractors in direct contract with CPR shall provide CPR with a copy of the Direct Payment Permit or a statement certifying ineligibility to qualify for the Direct Payment Permit. As needed, CPR and/or CPR Prime Contractors and their direct subcontractors will request the local agency to provide the information and materials necessary to exercise the above use tax option.

October 7, 2009

**Attachment C
Errata to the FEIR**

Errata to the California Health Care Facility (Stockton) Final Environmental Impact Report

Since the issuance of the Final Environmental Impact Report (EIR) for the California Health Care Facility (CHCF) Stockton project, the Receiver has noted minor textual errors in the document. This errata has been prepared to correct these small errors in the FEIR. The changes included herein are not substantial and do not alter any of the FEIR's conclusions.

It has come to the Receiver's attention that a small piece of text was unintentionally left out of the FEIR's revisions to Mitigation Measure for Impact TRAF-1. The FEIR states in Response to Comment 13-54, "the revised measure also requires limiting construction trips to 333 during any given hour." However, as stated in the FEIR, revised Mitigation Measure for TRAF-1 does not include this intended statement. Therefore, pages 3-46 and 4-2 of the FEIR are hereby revised as follows (**bold** = revision to the FEIR text):

Mitigation Measure(s) for Impact TRAF-1

CPR will hire a qualified traffic consultant to prepare a Construction Traffic Mitigation Plan (CTMP) for the proposed project.

The CTMP will ~~establish a target of reducing~~ eliminate construction traffic ~~by 40% in each peak traffic hour during which construction would occur, based on the total number of trips calculated to occur during the peak construction period. As shown in Table 4.3-7, peak traffic is 933 vehicles, so the maximum peak hour target number of vehicles that could enter or exit the site during any single peak hour would be 570.~~ The CTMP shall require all construction workers to be on the site prior to 6 a.m. or after 10 a.m. and they shall not leave the site between the hours of 4 p.m. and 6 p.m. In addition, to reduce construction traffic in the off-peak hours, This will be accomplished by one or the CTMP shall include a combination of the following measures, **so there are no more than 333 vehicles that access/exit the site in any single hour:**

- ▶ Encourage construction workers to carpool with a goal of ~~1.75~~ 3.40 average vehicle occupancy at all times during the construction period.
- ▶ ~~Stage construction hours to offset traffic during peak traffic hours.~~
- ▶ Instruct construction employees to (equally) utilize three separate east-west routes to the project site: 1) Mariposa Road; 2) Arch Road; and 3) French Camp Road. This would disperse construction trips from Arch Road and SR 99 north and south of Arch Road.
- ▶ Provide shuttle buses (seating capacity = 40) to pick up construction workers from four remote locations. These four pick up locations would ideally be located in north Stockton, two in central Stockton and one in the south towards the City of Modesto.

In addition to these measures, the CPR will include the following to improve operations near the site:

- ▶ A flagman or other traffic control will be placed at the intersection of Arch Road/Austin Road and the project access driveway during peak arrival/departure whenever there is significant congestion at this intersection.

The Receiver also notes that the second full paragraph on page 3-41 of the FEIR should be clarified to indicate that the funding for the traffic signal timing coordination is not a separate mitigation measure, but is understood to be a part of installing a traffic signal (and is therefore not stated in Mitigation Measure TRAF-6). To provide clarification the text in the FEIR is hereby revised as follows:

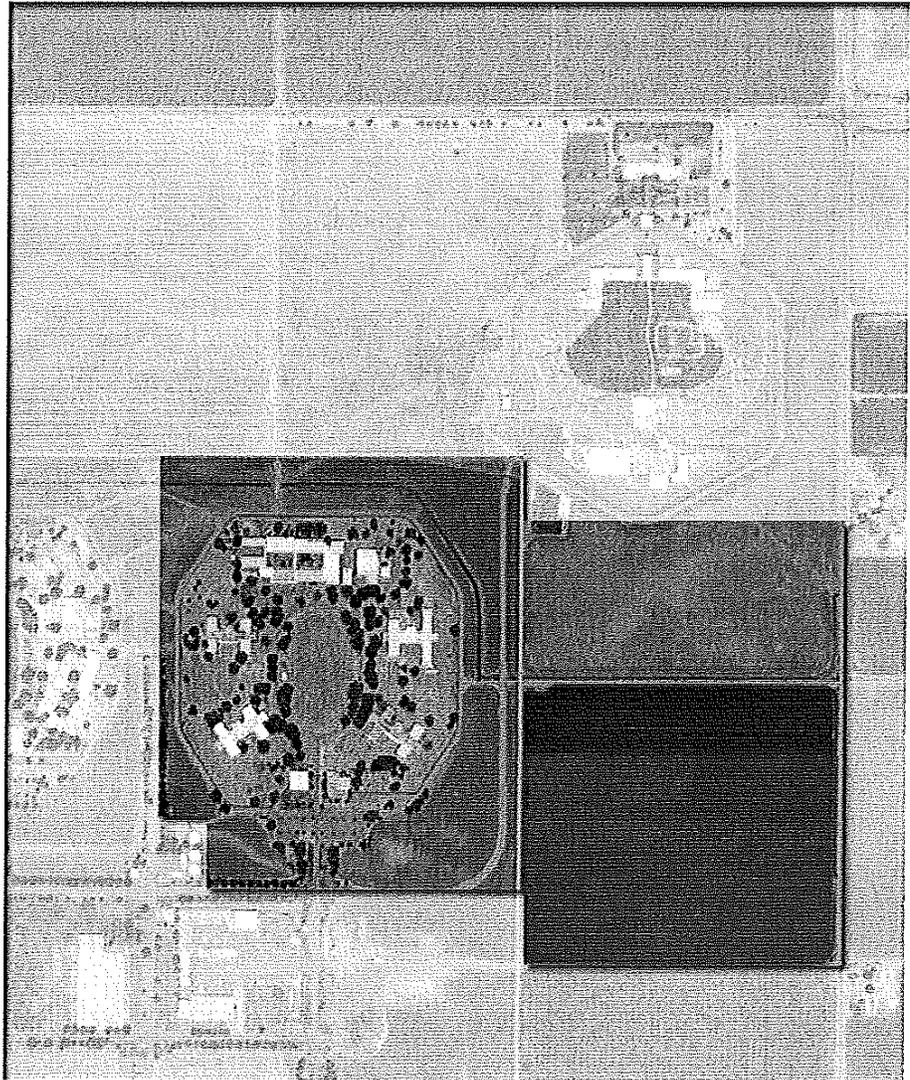
At the SR 99 northbound off-ramp/Arch Road intersection, the impact would be significant and unavoidable under a peak hour traffic analysis, even with a traffic signal and **(which would include** signal timing coordination with nearby intersections) as a mitigation measure. By shifting the traffic to off-peak hours (required by revised mitigation TRAF-4, see above), the impact would be reduced to a less than significant level with installation of a traffic signal and **(including** signal timing coordination) included in revised Mitigation Measure to TRAF-6. **(It should be noted that although Mitigation Measure TRAF-6 does not specifically state that signal timing coordination as a requirement, all traffic signals require preparation of a signal timing plan; therefore the signal timing is included in the installation.)**

Furthermore, the Receiver notes that, on page 2 of the March 13, 2009 Memo from DKS included in Appendix D of the FEIR, a bracketed note “[NUMBER]” was inadvertently left in the text where an actual number of months should have been provided. Therefore, page 2 of the March 13th memo from DKS is hereby revised as follows (strikethrough = deletion; **bold** = addition):

We anticipate that this improvement would take roughly ~~[NUMBER]~~ **12** months to complete.

Attachment D
Technical Memorandum: Environmental Review
Of Changes to Proposed Project
California Health Care Facility (Stockton)

Technical Memorandum
Environmental Review of Minor Changes to Proposed Project
California Health Care Facility (Stockton)

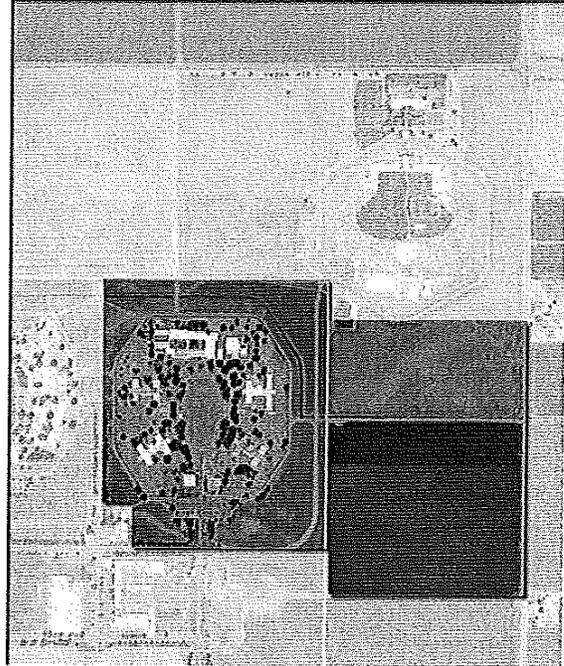


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October 2009

Technical Memorandum
Environmental Review of Minor Changes to Proposed Project

California Health Care Facility (Stockton)



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October 2009

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TECHNICAL MEMORANDUM

INTRODUCTION

In April 2001, a class action lawsuit, *Plata v. Schwarzenegger (Plata)* was filed by prison inmates against the State of California, contending that the California Department of Corrections and Rehabilitation (CDCR) was violating the Eighth Amendment (prohibiting cruel and unusual punishment) and 14th Amendment (providing the right to due process and equal protection) to the U.S. Constitution by providing inadequate medical care to prison inmates. In the *Plata* case, the federal court found that the current state of prison infrastructure does not support a constitutionally adequate level of health care. Similar findings have been made in several other cases since 2001, including in *Coleman v. Schwarzenegger (Coleman)* (mental health care), and *Perez v. Tilton* (dental care). As a result of the *Plata* suit, the federal court established a Receivership to bring California's prison health care system up to constitutional standards.

The California Prison Health Care Receivership Corporation (CPR) was established to house the activities of the federally appointed Receiver. Following numerous studies on the existing inmate population and research regarding best practices, the CPR identified the need for 10,000 new medical and mental health care beds. In an effort to provide those beds, the CPR determined the need to build new health care facilities. On February 26, 2008, the *Plata, Coleman, Perez, and Armstrong v. Schwarzenegger (Armstrong)* (disabled inmates) courts issued a joint order which ordered, among other things, the Receiver to be "the project lead" for the construction of health care facilities for up to 10,000 beds. Planning details for the health care facilities are continually being reviewed. Proposed prison population reductions, the State of California's financial capacity, and efficiency opportunities with CDCR continue to inform CPR's decisions on how to implement the program.

The primary and fundamental objective of the new health care facilities remains: to provide, in an expeditious manner, constitutionally adequate medical and mental health care for California prison inmates, consistent with federal district court orders. Other objectives, as they apply to each potential facility, include:

- ▶ Locate the medical and mental health facility in a geographic area which effectively serves state prisons.
- ▶ Locate the medical and mental health care facility in proximity to a metropolitan area where there is access to a large employment base to serve the facility, including areas with potential training facilities.
- ▶ Locate the medical and mental health care facility on state-owned property with priority given to existing California Department of Corrections and Rehabilitation (CDCR) facilities.
- ▶ Size the facility to provide between 1,300 and 1,800 beds to achieve the most efficient and optimal patient care while ensuring a secure facility.
- ▶ Design the facility in a manner that is conducive to optimal care, including patient access to the diagnostic and treatment center, patient support areas, and outdoor areas.

California Health Care Facility Stockton
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Technical Memorandum

- ▶ Provide a high level of security to protect the safety of the patients, correctional and medical staff, and the surrounding community.

ENVIRONMENTAL REVIEW CONSIDERATIONS AND PROCESS

On October 24, 2008, the CPR distributed to public agencies and the general public a draft environmental impact report (DEIR) for the proposed California Health Care Facility, Stockton (CHCF Stockton) Project (proposed project). The proposed project would include up to 1,734 beds. On March 16, 2009, the CPR distributed to public agencies a final environmental impact report (FEIR) for the proposed project. The FEIR was not certified, and the proposed project was not approved, pending additional considerations, including funding.

Minor changes to the proposed project have been proposed since distribution of the FEIR. This technical memorandum is an environmental review of these changes. As described in greater detail later in this document, these minor changes do not constitute “substantial new information” as defined by CEQA (State *CEQA Guidelines* Section 15088.5), as the changes would not result in any new direct or cumulative significant adverse impact or result in a substantial increase in the severity of an impact previously identified in the DEIR and FEIR. Therefore, re-circulation of the EIR for additional public comment is not required under CEQA. This document is being provided to those agencies that previously commented on the DEIR, and adds to the information contained in the FEIR. The CPR is providing the same review on this document as it did on the FEIR; consistent with CEQA Guidelines Section 15088(b), this document is being provided to previously commenting public agencies at least 10 days prior to the CPR’s consideration of EIR certification and project approval.

CHANGES TO THE PROJECT DESCRIPTION

Since preparation and distribution of the DEIR and FEIR for the California Health Care Facility, Stockton (CHCF Stockton), minor modifications to the proposed project have occurred that result in changes to the project description. The changes reflect a refinement in the plan for delivery of patient services in order to: 1) focus the services on patients with the greatest needs; 2) consolidate specialty services to increase efficiency; 3) consolidate the “like-type” patients to increase the cost effectiveness, and 4) modify security features to conform to standard CDCR design guidelines. These refinements in the plan result in minor modifications to the overall gross floor area of the proposed project and a consolidation of facilities on the west side of the project site, which results in more compact development and moves proposed structures further away from existing residences along Austin Road (See Exhibit 1). Security enhancements include ten additional guard towers, which would replace the parking pads described in the DEIR’s project description. A central kitchen, serving only the proposed CHCF Stockton facility, instead of a Regional Food Service Facility, serving additional facilities, is now proposed. These changes are described in detail below.

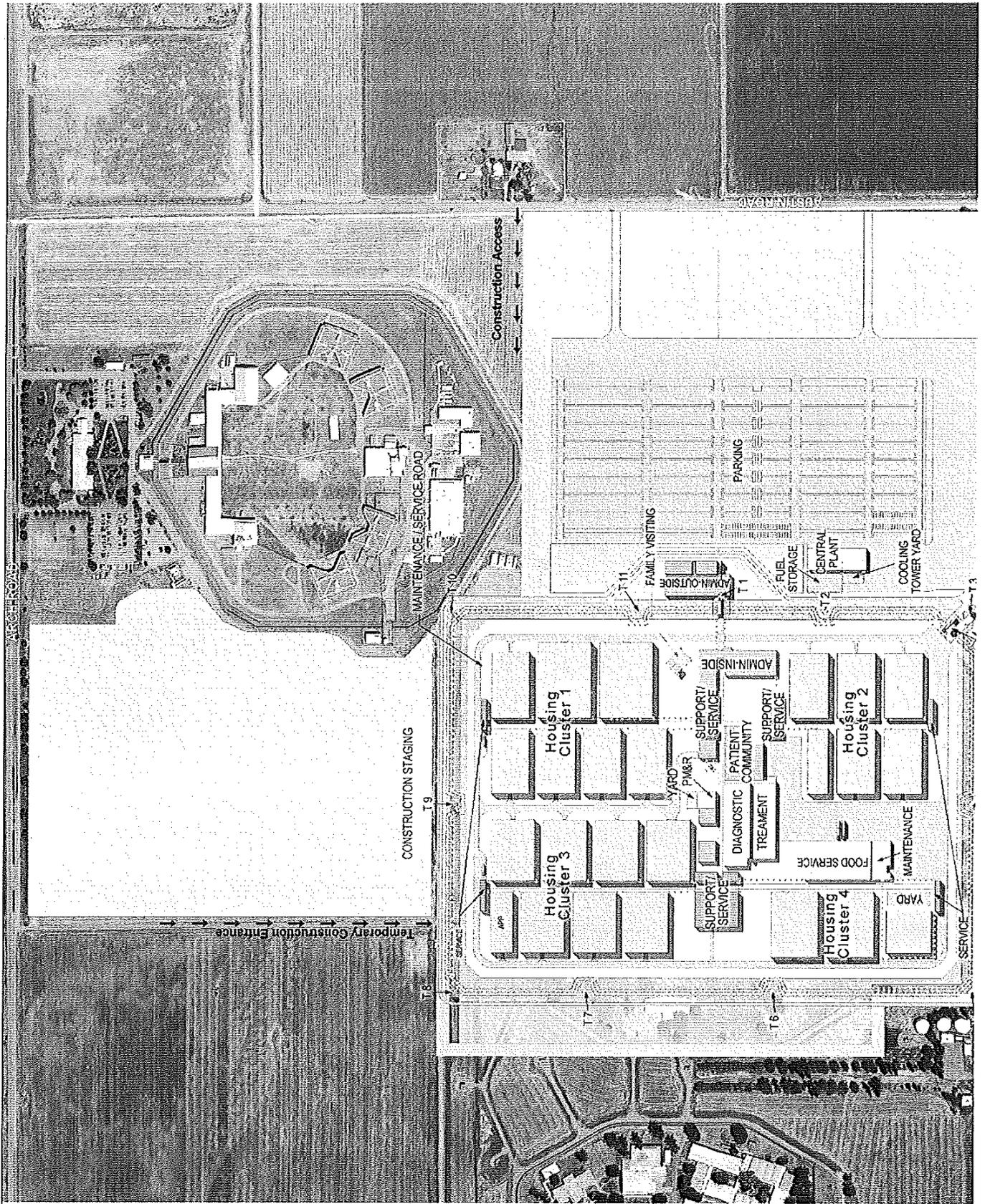
Treatment Plan and Housing

Refinement of the treatment plan has resulted in a change in the composition of patient medical and mental health acuity levels, which results in changes to the types of facilities provided to address patient needs. Although the total number of patients has not changed since the distribution of the FEIR, there would generally be an increased number of patients with higher levels of medical and mental health acuity. For example, a larger component of the population will require 24-hour nursing care and be unable to leave their housing units for medical treatment, dining, and therapy. The physical result is that the size of the Diagnostic and Treatment Center and the Patient Community Space (for dining, exercise and therapy) will decrease, whereas the size of housing clusters will increase. Specific floor areas are described below under "Building Floor Area."

The proposed project also now includes on-site housing of a 100-person inmate worker crew, which is included in the proposed 1,734 beds. Inmate workers perform duties on site such as landscaping, facility maintenance and food preparation. The inmate workers would be housed in a cluster that is separate from the medical and mental health care housing clusters.

Security

The DEIR indicates that the project would include one 54-foot guard tower located on the west side of the site. In order for the project to be consistent with CDCR policy guides, the number of guard towers has increased to 11 total, with one 45-foot tall guard tower placed every 700 feet along the secure perimeter, allowing correctional officers to survey the property boundaries from the guard towers, if necessary, especially during maintenance of



the lethal electrified fences, consistent with current CDCR facility design and operations. Each tower would include an internal light and heating/air conditioning; no additional security lighting would be needed. With the increase in the number of towers, the previously proposed “parking pads” described in the DEIR’s project description are not necessary and are no longer part of the proposed project.

The proposed location for the secure perimeter has also changed from the description in the DEIR. The perimeter is now located primarily on the western portion of the project site; therefore, the guard towers, along with many of the originally proposed buildings, have been shifted to the west side of the site. The secure perimeter is now located approximately 1,100 feet farther away from residences along Austin Road than originally proposed.

Food Service

The Regional Food Service Facility described in the Draft EIR is no longer included in the project description. The Regional Food Service Facility was intended to prepare food for distribution to all CPR facilities located within northern California. Instead of a regional facility, a central kitchen, located within the facility’s secure perimeter, would prepare food only for CHCF Stockton. The central kitchen would be approximately 80% smaller than the Regional Food Service Facility. Elimination of the Regional Food Service Facility results in decreased water and electrical consumption and waste generation and also reduces the number of trucks entering and departing from the facility.

Site Plan and Building Floor Area

All of the changes described in this document would occur within the “Potential On-site Disturbance Area” identified on the site plan analyzed in the DEIR (See DEIR Exhibit 3-4). No changes to the size of the project disturbance area are proposed. As shown in the revised site plan provided in Exhibit 1, the site plan has been modified since the circulation of the DEIR and distribution of the FEIR. The primary change to the layout is the shifting of the secured perimeter, including the majority of structures, to mostly the western half of the project site closer to the existing Northern California Youth Correctional (NCYCC) facilities. Specifically, the secured perimeter (within which nearly all the structures are located) has been shifted approximately 1,100 feet to the west on the updated site plan and would now be located approximately 1,500 feet from the nearest residence on Austin Road, as opposed to approximately 400 feet as indicated on the original site plan. The parking lot, which was originally adjacent to Austin Road, is moved approximately 500 feet to the west away from Austin Road. The increased setback occurred as a result of reconfiguration of the facility and consequent movement away from Austin Road.

In addition to the site plan layout, the floor areas of many of the proposed facilities have changed. The specific changes in building floor area are outlined below in Table 1. It should be noted, however, that the proposed number of beds and employees has not changed since the distribution of the FEIR (1,734 beds and 3,000 staff).

Table 1 Proposed Floor Area		
Facility	Floor Area (square feet)	
	DEIR/FEIR	Currently Proposed
Housing and Related Support Buildings	770,000	904,000
Diagnostic and Treatment Center	105,000	63,000
Patient Community Space	100,000	55,500
Administrative Buildings	70,000	42,000
Support Structures (Central Kitchen, Support Buildings Central Plant, and ancillary support buildings)	150,000	104,000
Perimeter (Guard Towers, Armory and Sally Port)	5,000	9,600
Total	1,200,000	1,178,100
Source: URS/BLL 2009		
Note: Floor areas identified are approximate and may be redistributed.		

CHANGES TO MITIGATION MEASURES

After distribution of the FEIR, CPR staff noted that a few of the mitigation measures required clarification, especially with regard to timing. (See Appendix A) Other than a few instances of spelling out acronyms for clarification, revisions were made to two mitigation measures. The first change is to the mitigation measure for impacts to agricultural resources, which provides better timing consistency between calculation and documentation of converted farmland and coordination with the San Joaquin County Agricultural Commissioner. This change is minor and does not affect the feasibility of the mitigation measure or its effectiveness in reducing impacts related to conversion of farmland.

The second change is to the mitigation measure requiring participation in the San Joaquin Multi-Species Conservation Plan (SJMSCP). For this mitigation measure, "site preparation activities" has been clarified as "site excavation and grading of habitat land," which is consistent with SJMSCP requirements. Furthermore, the "9 acres of raptor foraging habitat at the existing detention basin" has been removed from the total acreage for fee payment, because, as indicated in the FEIR, expansion of the detention basin was found to be unnecessary and is no longer included as part of the proposed project. This change is minor and does not affect the feasibility of the mitigation measure or its effectiveness in reducing impacts to biological resources.

The specific changes are indicated in strikethrough (for deleted text) and underline (for added text) in Appendix A of this Technical Memorandum.

ENVIRONMENTAL ANALYSIS

The purpose of this section is to review each environmental issue area covered in the DEIR and FEIR in order to evaluate whether the changes to the proposed project would result in any new impacts that were not previously described in the DEIR and FEIR or increase the severity of any impacts already identified in the DEIR and FEIR. Note that the changes to mitigation measures described above will not be discussed in this section, since they have already been determined to be minor and would not change the feasibility or effectiveness of the measures.

Land Use and Planning

The changes to the project result in a more compact development placed closer to similar institutional facilities at the existing NCYCC. In addition, the secured perimeter and the majority of the proposed structures would be moved further away from existing residences along Austin Road. The changes would not alter the proposed use of the site, and the proposed project remains consistent with the land use designation and zoning of the site. The DEIR concludes that the proposed project would result in a less-than-significant impact with respect to its potential to physically divide an established community, conflict with an applicable land use plan or regulation, or conflict with any applicable habitat or natural community conservation plan. The changes to the proposed project would not alter these conclusions.

Agricultural Resources

The changes to the project would not alter the project disturbance area; therefore, the changes to the proposed project would not alter the DEIR's conclusion that the proposed project would result in a significant and unavoidable impact related to conversion of significant farmland to a non-agricultural use; neither would the changes increase the severity of this impact. The changes to the proposed project would not alter the proposed use, and the project remains consistent with land use designation and zoning. In addition, the changes to the project layout would place the proposed housing clusters farther away from agricultural zoned land to the east, further reducing the potential for agricultural-related nuisance on the proposed housing clusters; therefore, the DEIR's conclusion that the proposed project would result in less-than-significant impacts related to conflicts with existing agricultural zoning would not be altered by the project changes. Because the proposed project disturbance area would remain the same, the project changes would also not alter the DEIR's conclusion that the proposed project would result in a less-than-significant impact related to conversion of off-site farmland.

Traffic and Circulation

The changes to the proposed project do not include changes to the number of beds and employees as proposed in the DEIR (1,734 beds and 3,000 employees). Therefore, the trip generation and traffic patterns would remain the

same as analyzed in the DEIR and FEIR. (Trip generation may be slightly reduced due to the elimination of truck trips from the Regional Kitchen). The traffic analysis was reevaluated with a different traffic model in the FEIR, in response to comments. Because the trip generation and traffic patterns would remain the same as analyzed in the FEIR (as modified by mitigation measure TRAF-4), the changes to the proposed project would not affect the FEIR's conclusions or increase the severity of impacts related to substantial increases in traffic in relation to the existing traffic load and capacity of the street system or exceedance, either individually or cumulatively, of a level of service standard established for designated roads or highways; or changes. As stated in mitigation measure TRAF-4, CPR is committed to shift schedules that eliminate any trips during peak travel hours (7:00 a.m. to 9:00 a.m.; 4:00 p.m. to 6:00 p.m.). Examples of existing CDCR facilities that operate with different shifts schedules to avoid peak hours include Kern Valley State Prison, California Correctional Center (Susanville), and several other facilities.

Although the proposed project includes ten additional guard towers, these towers would be 9 feet shorter than the originally proposed single 54-foot guard tower. Therefore, no impacts related to air traffic patterns would result from the changes.

The access points remain the same as those analyzed in the DEIR and FEIR; therefore, the changes would not substantially increase hazards from a design feature or result in inadequate emergency access. And, although the parking lot has been moved, adequate parking would be provided to serve the project. The modifications to the site plan would not result in any impacts related to conflicts with policies, plans, or programs supporting alternative transportation. No new impacts related to circulation design, parking, or alternative transportation programs/policies would result from the changes to the proposed project.

Finally, the FEIR assumed the project would begin construction in March 2009, and construction now would not begin until 2010. This shift in the construction schedule would not affect any of the traffic impacts. The economy of the region continues to be sluggish, and projects that substantially increase traffic on local roadways have not been completed and placed in operation since completion of the FEIR.

Air Quality

The project disturbance area remains the same as indicated in the FEIR, with minor modifications to the proposed structures floor area. The changes to the proposed project would not require additional construction area, intensity, duration, equipment, or activities beyond what was analyzed in the DEIR and FEIR. Therefore, the DEIR and FEIR conclusions related to short-term construction-related emissions of criteria air pollutants or precursors, as well as localized effects to sensitive receptors related to emissions of toxic air contaminants (TACs), would not change as a result of the changes to the proposed project, and the changes would not increase the severity of the significant and unavoidable impact.

No changes to the number of beds and employees proposed in the DEIR (1,734 beds and 3,000 employees) are included in the changes to the proposed project. Consequently, the trip generation and traffic patterns would remain the same as analyzed in the DEIR and FEIR. (Trip generation may be slightly reduced due to the elimination of truck trips from the Regional Kitchen). Furthermore, the changes to the proposed project do not include any additional or increased output of stationary sources. Therefore, the conclusions of the DEIR and FEIR related to mobile- and stationary-source long-term operational emissions of criteria air pollutants, including Carbon Monoxide and TAC emissions would not be affected by the changes to the proposed project.

Noise

Although there are minor modifications to the floor area of proposed structures, the project disturbance area remains the same. The changes to the proposed project would not require additional construction area, intensity, duration, equipment, or activities beyond what was analyzed in the DEIR and FEIR. Therefore, the DEIR and FEIR conclusions related to the generation of short-term construction-related noise and vibration levels would not change. Furthermore, because the number of construction-related worker and truck trips would not change, the DEIR's conclusion that the proposed project would result in a significant and unavoidable impact related to increases in off-site construction-related traffic noise would not change, and the severity of the impact would not increase, due to the changes to the proposed project.

No changes to the number of beds and employees proposed in the DEIR (1,734 beds and 3,000 employees) are included in the changes to the proposed project. Consequently, the trip generation and traffic patterns would remain the same as analyzed in the DEIR and FEIR. (Trip generation may be slightly reduced due to the elimination of truck trips from the Regional Kitchen). Therefore, the conclusions of the DEIR and FEIR related to long-term operational noise with respect to exposure of sensitive receptors would remain significant and unavoidable and the proposed changes would not increase the severity of the impact.

The changes to the proposed project, including the addition of ten new guard towers, do not include any additional or increased output of stationary noise sources, and the conclusion of the DEIR would remain less-than-significant with the project changes.

The changes to the proposed project would not result in any impacts related to noise generated by an airport or air strip.

Hydrology and Water Quality

The project disturbance area remains the same as indicated in the FEIR. The floor area of proposed structures is slightly modified, but the changes to the proposed project would not require additional construction area,

intensity, duration, equipment, or activities beyond what was analyzed in the DEIR and FEIR. Therefore, the DEIR and FEIR analysis of construction-related water quality impacts would remain the same. In addition, the proposed project would have similar or decreased impervious surface area; therefore, no increases in impacts associated with creation or contribution of stormwater runoff that would exceed capacity of existing or planned stormwater drainage systems would result. The project changes would also not affect the DEIR's conclusion related to placement of housing or structures within a flood hazard area or exposure of people to flood risk.

Biological Resources

The changes to the proposed project would not change the area of disturbance analyzed in the DEIR and FEIR (as mentioned above, the FEIR discusses the elimination of a detention basin expansion that was previously proposed and analyzed in the DEIR, but later found to be unnecessary after completion of additional engineering studies on the existing volume of the basin); therefore, the changes would not alter the conclusions in the DEIR related to substantial adverse effects on special-status species or their habitat, waters of the United States, or movement of wildlife species. The project changes would also not change the DEIR's conclusions regarding potential conflict with an HCP or local biological resource protection policies. In addition, the lethal electrified fence would remain substantially unchanged (except for the specific placement on the project site, which still lies within the overall area of disturbance as described in the DEIR); therefore, the conclusions in the DEIR and FEIR related to impacts to species resulting from the electrified fence would not change.

Cultural Resources

The changes to the project would not alter the project disturbance area; therefore, the changes to the project would not alter the DEIR's conclusion regarding substantial adverse changes in the significance of a unique archaeological resource or a historical resource as defined in Section 21083.2 of CEQA and Section 15064.5 of the State *CEQA Guidelines*, respectively, or the DEIR's conclusion regarding disturbance of human remains, including those interred outside formal cemeteries.

Geology and Paleontology

No changes are proposed to the project disturbance area; therefore, the project changes would not result in changes to the DEIR's conclusion regarding direct or indirect effects to a unique paleontological resource or site. Furthermore, the placement of structures on the site, although somewhat different from the original site plan in the DEIR, would remain on the same types of soils (See DEIR Exhibit 4.9-1) and general construction activities would not change; therefore, the DEIR's conclusions and mitigation regarding expansive soil and soil erosion would remain the same with the changes to the proposed project. Because the proposed project would be located on the same site relative to the existing fault system, and because the size and type of proposed structures would

remain substantially the same, the changes to the proposed project would not alter the DEIR's conclusion regarding increased exposure to people or structures to potential substantial adverse effects from seismic hazards. Mineral resources would not be affected as a result of the project changes.

Hazards and Hazardous Materials

The changes to the proposed project do not include alteration to the proposed land uses, and no new use that would routinely transport, use, or dispose of hazardous materials is proposed. It is anticipated that the type of treatment to patients will remain the same, but the patients will be less mobile, requiring modifications to their housing. Therefore, the DEIR's conclusion related to impacts associated with creation of a hazard due to hazardous materials emission or handling in proximity to a school would not change as a result of the project changes. Because the project disturbance area would remain the same and the same structures would be proposed for demolition, the changes to the proposed project would not require additional construction area, intensity, duration, equipment, or activities beyond what was analyzed in the DEIR and FEIR. Therefore, the DEIR's conclusions regarding exposure of construction workers to hazardous materials and contaminated groundwater would not change. Furthermore, the proposed changes would not affect the proposed project's participation in NCYCC's disaster emergency plan or the coordination with the County's Office of Emergency Services (OES); therefore, the DEIR's conclusions regarding interference with an adopted emergency response plan would not change.

Although the proposed project includes 10 additional guard towers, these towers would be 9 feet shorter than the originally proposed single 54-foot guard tower. Therefore, no impacts related to proximity to a public or private airport or air strip would result from the changes. No impacts related to wildland fires would result from the project changes.

Population and Housing

The proposed project site location, the proposed disturbance area, and the proposed number of employees identified in the DEIR and FEIR (3,000) would not change. Consequently, the DEIR and FEIR conclusions related to direct or indirect population growth and displacement of people or housing would not change as a result of the project changes. Furthermore, the proposed land use remains the same since the release of the DEIR and distribution of the FEIR; therefore, the DEIR's conclusion that impacts associated with physical deterioration of the community as a result of the project's patient population would remain less than significant.

Public Services

No changes to the number of beds and employees proposed in the DEIR (1,734 beds and 3,000 employees) are included in the changes to the proposed project. The changes to the proposed site plan layout and addition of 10 guard towers would not alter the conclusions of the DEIR and FEIR regarding the potential for the project to result in environmental impacts associated with a project-driven need for new or expanded police protection facilities, fire protection facilities, or school facilities.

Water Supply

The changes to the proposed project do not include changes to the number of beds and employees proposed in the DEIR (1,734 beds and 3,000 employees). Changes in the type of care at the proposed facility do not alter the DEIR's assumption of using an average day demand factor of 227 gallons per day per bed. Therefore, the proposed project's water demand would not be increased. The elimination of the Regional Food Service Facility would reduce the project's water demand. The changes to the proposed project would not alter the DEIR and FEIR conclusions regarding impacts associated with a lack of sufficient water supplies available to serve the project from existing entitlements or resources.

Public Utilities

The number of beds and employees proposed in the DEIR (1,734 beds and 3,000 employees) would not change and modifications to the type of care will not result in a greater demand for services. Therefore, wastewater treatment demand would be the same as described in the DEIR, and the project changes would not result in alterations to the DEIR's conclusions related to wastewater treatment impacts (including capacity, RWQCB treatment requirements, and the need for expansion of wastewater treatment facilities). Furthermore, impervious surfaces would not increase (and would likely decrease) as a result of the changes to the site plan; therefore, no changes to the DEIR's conclusions related to impacts to stormwater drainage facilities would occur. No increased solid waste would be generated above and beyond the level analyzed in the DEIR. The elimination of Regional Food Service Facility would reduce the project's energy demand and more than offset energy demands associated with the increase of ten additional guard towers, which demand very little energy, as electricity for each tower is needed primarily to power interior lights and a small air conditioner.

Visual Resources

Because ten additional guard towers are proposed and would be visible, the evaluation of visual resources is more detailed than other analyses. The following discussion includes a separate discussion for each threshold of significance used in the DEIR to analyze impacts to visual resources. Each threshold is stated as a bullet point followed by a discussion of whether the changes to the proposed project would result in any new significant

impacts or any changes in the severity of a significant impact already identified in the DEIR and FEIR (note that two of the DEIR's thresholds are combined in the second bullet point).

- ▶ **Substantially damage scenic resources, including but not limited to trees (particularly heritage oaks or unusually large trees), rock outcroppings, and historic buildings within a state scenic highway;**

As stated in the DEIR (p. 4.15-9), because no state scenic highways are within view in the project area and no scenic resources would be affected by the proposed project, the proposed project would not substantially damage scenic resources, including but not limited to unusual trees or oaks, rock outcroppings, and historic buildings within a state scenic highway. For this reason there would be no impact. The shift in site plan layout and the additional guard towers would not result in any changes to the DEIR's conclusion.

- ▶ **Have a substantial adverse effect on a scenic vista or substantially degrade the existing visual character or quality of the site and its surroundings; or**

As stated in the DEIR (p. 4.15-9), state and locally designated scenic corridors or scenic vistas are not located within the project area and that the existing institutional structures on and generally surrounding the project site are unremarkable and detract from the overall visual character of the area. As further described in the DEIR, agricultural land on the project site and the surrounding area is unremarkable, in that the farmland is not expansive and is surrounded substantially by institutional development and a landfill and therefore does not constitute a scenic vista. A small number of people may consider agricultural land on the project site to be scenic, and this group could be affected by visual changes on the project site; however, this would be a limited number of people, and the limited effects of a new facility are consistent with the surrounding context (the current view includes a number of multi-story institutional facilities). The DEIR concludes that, for these reasons, construction-related and operational impacts on scenic vistas and the existing visual character of the site and its surroundings would be less than significant.

From an aesthetics perspective, the most notable changes to the proposed project since release of the DEIR and distribution of the FEIR include the changes to the layout of the site plan and the 10 additional guard towers (one guard tower was proposed previously and analyzed in the EIR). It is important to note that the DEIR indicates the residents east of the project site (those along Austin Road) would be the most visually sensitive (moderately sensitive) in the project area. The changes to the site plan layout place nearly all development further from these residents than the site plan analyzed in the DEIR. In fact, the changes to the site plan shift the majority of the structures to the western half of the site, closer to the existing NCYCC facilities and away from existing residents along Austin Road. Specifically, the secured perimeter (within which nearly all the structures are located) has been shifted approximately 1,100 feet to the west on the updated site plan and would now be located approximately 1,500 feet from the nearest residence on Austin

Road, as opposed to approximately 400 feet as indicated on the original site plan. The only major structure remaining on the east side of the project site would be the warehouse facility.

Although the project now includes 10 additional guard towers, because the secured perimeter (and therefore nearly all the proposed structures) would be moved 1,100 feet (nearly 4 football fields) further from the existing residences along Austin Road, the changes to the site plan layout and the additional guard towers would not substantially affect the views from these residences, as described in the DEIR. Furthermore, the proposed project remains consistent with the surrounding context, as described in the DEIR. Therefore, the changes to the project would not alter the conclusion of the DEIR and FEIR.

► **Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area.**

The DEIR concludes (p. 4.5-11) that because of the proximity and extent of proposed lighting and potential glare near visually sensitive residents east of the project site, light and glare impacts on residents east of the project site would be significant. The DEIR includes mitigation measures to reduce this impact, including downward-facing construction lighting and shielded operational lighting; however, the DEIR concluded that the mitigation measures would not reduce impacts below the threshold of significance and impacts associated with light and glare would remain significant and unavoidable.

Whereas the DEIR's site plan indicated a parking lot immediately across Austin Road from the existing residences, the changes to the site plan now indicate over 500 feet between the closest residence and the edge of the parking lot. This increased distance would substantially reduce the amount of project-generated light and glare experienced at these residences. Because a lighting plan is not available, it is not known whether the distance of 500 feet, in combination with the DEIR's mitigation measures, would reduce impacts to a less-than-significant level; consequently, the impact remains significant and unavoidable. However, although the light and glare generated by the project cannot be demonstrated to be below the threshold of significance with implementation of mitigation measures, it is certain that the severity of the impact would be reduced with the increased distance from the residences along Austin Road.

Cumulative Impacts

The changes to the proposed project would not alter the number of beds or the number of staff proposed and analyzed in the DEIR and FEIR; therefore, no changes in project trip generation or trip distribution would occur (a slight decrease in trip generation would occur with the elimination of the Regional Food Service Facility).

Since completion of the FEIR, a Notice of Preparation for an EIR for the 500-bed Northern California Re-entry Facility (NCRF) adjacent to the site has been released. This is the same 500-bed facility included in the cumulative impact analysis in the CHCF DEIR. There are no changes to the NCRF, including the timing of shifts

that would combine with project impacts to alter the conclusion of the CHCF EIR. CPR remains committed to shift schedules that eliminate any trips during peak travel hours as describe in the Traffic and Circulation section discussed earlier in this document. The changes to the CHCF also do not include any alteration to the project disturbance area; therefore, no increased construction area, activities, intensity, or duration would occur due to project changes, and the project changes would not result in any additional conversion of vacant land, and associated resources, than analyzed in the DEIR and FEIR. The changes to the project would result in a similar amount of impervious surface area. It should also be noted that elimination of the Regional Food Service Facility also reduced the project's water demand and energy demand.

As described above for each individual issue area, the changes to the proposed project would not alter any of the conclusions in the EIR's environmental analysis and would not increase the severity of any project-related significant impact. Likewise, because the changes do not increase the operational intensity of the proposed project (and in fact decrease the energy and water demand) and do not consume any additional resources associated with the project site (i.e., important farmland, special-status species habitat, etc.) the changes would also not result in considerable increased contribution to an existing cumulative impact, such as global climate change or conversion of important farmland, above and beyond the project-related contributions described in the DEIR and FEIR.

Other CEQA Sections

The project changes would not result in any additional significant and unavoidable impacts to the environment; neither would the project increase the severity of any significant and unavoidable impacts to the environment (conversely, the project changes would decrease the severity of the significant impact related to light and glare). In addition, because the project changes would not require any additional construction materials, no changes would result to the DEIR's conclusion that the proposed project would not result in the irreversible and irretrievable commitment of resources or the permanent loss of resources for future or alternative purposes. Finally, because the project changes include no additional beds or employees and also does not include any upsizing or extension of utilities or services beyond what was analyzed in the DEIR and FEIR, the project changes would not alter the DEIR's conclusion regarding growth inducement.

APPENDIX A

Revisions to Mitigation Measures

Agricultural Resources

1. At the time that final design is completed, CPR will complete the following:

- eCalculate and document the number of acres of Important Farmland that will be converted for CHCF Stockton improvements, including all facilities, roads, and other rights-of-way.
- ~~Before initial ground-disturbing activities, CPR will e~~Coordinate with the San Joaquin Agricultural Commissioner to locate Important Farmland (as determined by the Land Evaluation and Site Assessment [LESA] Model) where an agricultural conservation easement could be recorded.

Before operation of CHCF Stockton, a perpetual agricultural conservation easement or deed shall be recorded on land that meets the LESA Model score for Important Farmland equal in acreage to the number of Important Farmland converted by the proposed project at a minimum 1:1 ratio.

Traffic and Circulation

2. CPR will hire a qualified traffic consultant to prepare a Construction Traffic Mitigation Plan (CTMP) for the proposed project.

The CTMP will eliminate construction traffic in each peak traffic hour during which construction would occur. The CTMP shall require all construction workers to be on the site prior to 6 a.m. or after 10 a.m. and they shall not leave the site between the hours of 4 p.m. and 6 p.m. In addition, to reduce construction traffic in the off-peak hours, the CTMP shall include a combination of the following measures, so there are no more than 333 vehicles that access/exit the site in any single hour:

- ▶ Encourage construction workers to carpool with a goal of 3.40 average vehicle occupancy at all times during the construction period.
- ▶ Instruct construction employees to (equally) utilize three separate east-west routes to the project site: 1) Mariposa Road; 2) Arch Road; and 3) French Camp Road. This would disperse construction trips from Arch Road and SR 99 north and south of Arch Road.
- ▶ Provide shuttle buses (seating capacity = 40) to pick up construction workers from four remote locations. These four pick up locations would ideally be located in north Stockton, two in central Stockton and one in the south towards the City of Modesto.

In addition to these measures, the CPR will include the following to improve operations near the site:

- ▶ A flagman or other traffic control will be placed at the intersection of Arch Road/Austin Road and the project access driveway during peak arrival/departure whenever there is significant congestion at this intersection.

3. The Receiver shall schedule staff shift changes to occur outside of the weekday peak commute periods (7:00 a.m. to 9:00 a.m., and 4:00 p.m. to 6:00 p.m.). Deliveries and visitors to the site shall also be restricted through purchasing contracts or other binding agreements to the hours of 9 a.m. to 3 p.m. and

after 6:00 p.m. to minimize project-generated traffic during the a.m. peak hour. Some examples of the off-peak hour staff shift changes could be as follows:

- ▶ 8-hour shift: 5:00 a.m. to 2:00 p.m. and/or 9:00 a.m. to 6:00 p.m.; and late evening/early morning shifts
- ▶ 12-hour shift: 6:00 a.m. to 6:00 p.m.

Table 4.3-17 presents the revised project trip generation with the implementation of this measure.

Variable	Daily Trips	A.M. Peak-Hour Trips			P.M. Peak-Hour Trips		
		In	Out	Total	In	Out	Total
Staff	3,292	0	0	0	0	0	0
Deliveries	42	0	0	0	0	0	0
Visitors	232	0	0	0	0	0	0
Total Trip Generation	3,566	0	0	0	0	0	0

Source: Data compiled by DKS Associates in 2009

Air Quality

4. **Reduction of Emissions of Ozone Precursors during Construction.** CPR will comply with San Joaquin Valley Air Pollution Control District's (SJVAPCD's) Rule 9510, "Indirect Source Review," as required by SJVAPCD based on the project's specifications. Rule 9510 applies to any applicant that seeks to gain a final discretionary approval for a development project, or any portion thereof, that upon full buildout would include 50 residential units, 2,000 square feet of commercial space, 25,000 square feet of light-industrial space, or 9,000 square feet of any space, as well as similar minima for other land use types.

CPR will submit an air impact assessment (AIA) application to SJVAPCD prior to initiating construction. Nothing in Rule 9510 precludes CPR from submitting an AIA application before final discretionary approval of the project. CPR will submit the AIA application as early as possible in the process. The AIA application will be submitted on a form provided by SJVAPCD and will contain, at a minimum, the contact name and address for CPR, a detailed project description, an on-site emission reduction checklist, a monitoring and reporting schedule, and an AIA. The AIA will quantify NO_x and PM₁₀ emissions associated with project construction. This assessment will include the estimated construction baseline emissions, and the mitigated emissions for each applicable pollutant for project construction, or each phase thereof, and will quantify the off-site fee, if applicable. CPR will comply with the following general

mitigation requirements for construction emissions, as contained in the Indirect Source Review (ISR) rule:

- ▶ Exhaust emissions for construction equipment greater than 50 horsepower used or associated with the development project shall be reduced by 20% of the total NO_x and by 45% of the total PM₁₀ exhaust emissions from the statewide average as estimated by ARB.
- ▶ An applicant may reduce construction emissions on-site by using less polluting construction equipment, which can be achieved by utilizing add-on controls, cleaner fuels, or newer lower emitting equipment.
- ▶ Additional strategies for reducing construction emissions may include, but are not limited to:
 - providing commercial electric power to the project site in adequate capacity to avoid or minimize the use of portable electric generators and the equipment;
 - substitution of electric-powered equipment for diesel engine-driven equipment; and
 - limiting the hours of operation of heavy duty equipment and/or the amount of equipment in use at any one time.
- ▶ The requirements listed above can be met through any combination of on-site emission reduction measures or off-site fees. The ISR rule provides a method of calculating fees to be paid to offset any NO_x and PM₁₀ emission reductions that would not be achieved by selection of construction equipment and fuels.

CPR will implement the following SJVAPCD-recommended additional control measures to further reduce exhaust emissions:

- ▶ Minimize idling time (e.g., 10-minute maximum).
- ▶ Replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set).

Reduction of Particulate Emissions during Construction. CPR will comply with SJVAPCD's Regulation VIII, "Fugitive Dust PM₁₀ Prohibitions," and will implement all applicable control measures. Regulation VIII contains the following required control measures, among others:

- ▶ Pre-water site sufficient to limit visible dust emissions (VDE) to 20% opacity.
- ▶ Phase work to reduce the amount of disturbed surface area at any one time.
- ▶ During active operations, apply water or chemical/organic stabilizers/suppressants sufficient to limit VDE to 20% opacity.
- ▶ During active operations, construct and maintain wind barriers sufficient to limit VDE to 20% opacity.

- ▶ During active operations, apply water or chemical/organic stabilizers/suppressants to unpaved haul/access roads and unpaved vehicle/equipment traffic areas sufficient to limit VDE to 20% opacity and meet the conditions of a stabilized unpaved road surface.
- ▶ Limit the speed of vehicles traveling on uncontrolled unpaved access/haul roads within construction sites to a maximum of 15 miles per hour.
- ▶ Post speed limit signs that meet state and federal Department of Transportation standards at each construction site's uncontrolled unpaved access/haul road entrance. At a minimum, speed limit signs shall also be posted at least every 500 feet and shall be readable in both directions of travel along uncontrolled unpaved access/haul roads.
- ▶ When handling bulk materials, apply water or chemical/organic stabilizers/suppressants sufficient to limit VDE to 20% opacity.
- ▶ When handling bulk material, construct and maintain wind barriers sufficient to limit VDE to 20% opacity and with less than 50% porosity.
- ▶ When storing bulk materials, comply with the conditions for a stabilized surface as listed above.
- ▶ When storing bulk materials, cover bulk materials stored outdoors with tarps, plastic, or other suitable material and anchor in such a manner that prevents the cover from being removed by wind action.
- ▶ When storing bulk materials, construct and maintain wind barriers sufficient to limit VDE to 20% opacity and with less than 50% porosity. If utilizing fences or wind barriers, apply water or chemical/organic stabilizers/suppressants to limit VDE to 20% opacity or utilize a three-sided structure with a height at least equal to the height of the storage pile and with less than 50% porosity.
- ▶ Load all haul trucks such that the freeboard is not less than 6 inches when material is transported across any paved public access road sufficient to limit VDE to 20% opacity.
- ▶ Apply water to the top of the load sufficient to limit VDE to 20% opacity.
- ▶ Cover haul trucks with a tarp or other suitable cover.
- ▶ Clean the interior of the cargo compartment or cover the cargo compartment before the empty truck leaves the site.
- ▶ Prevent carryout and trackout, or immediately remove carryout and trackout when it extends 50 feet or more from the nearest unpaved surface exit point of a site.
- ▶ Cleanup of carryout and trackout shall be accomplished by manually sweeping and picking up; or operating a rotary brush or broom accompanied or preceded by sufficient wetting to limit VDE to 20% opacity; or operating a PM₁₀-efficient street sweeper that has a pickup efficiency of at least 80%; or flushing with water, if curbs or gutters are not present and where the use of water would not result as a source of trackout material or result in adverse impacts on storm water drainage systems or violate any National Pollutant Discharge Elimination System permit program.
- ▶ Submit a dust control plan to the air pollution control officer (APCO) prior to the start of any construction activity on any site that will include 5 acres or more of disturbed surface area, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials on at least 3 days. Construction activities shall not commence until the APCO has approved or

conditionally approved the dust control plan. Provide written notification to the APCO within 10 days prior to the commencement of earthmoving activities via fax or mail.

CPR will implement the following SJVAPCD-recommended enhanced and additional control measures for all construction phases to further reduce fugitive PM₁₀ dust emissions:

- ▶ Install sandbags or other erosion control measures to prevent silt runoff to public roadways from adjacent project areas with a slope greater than 1%.
- ▶ Suspend excavation and grading activity when winds exceed 20 mph.

5. CPR will comply with SJVAPCD's Rule 9510, "Indirect Source Review." Although NO_x emissions would be below the 10-tons per year (TPY) threshold for 2012 and beyond, compliance with Rule 9510 is required for projects where NO_x emissions would exceed 2 TPY. CPR will submit an AIA application to SJVAPCD prior to initiating construction, as described in the mitigation measure "Reduction of Emissions of Ozone Precursors during Construction" for Impact AIR-1. The AIA will quantify operational emissions of NO_x and PM₁₀ exhaust associated with the project. The AIA will include the estimated operational baseline emissions and the mitigated emissions for each applicable pollutant for the project and will quantify the off-site fee, if applicable. CPR will comply with the following general mitigation requirements for operations emissions, as contained in SJVAPCD Rule 9510:

- ▶ Applicants shall reduce 50% of the project's operational baseline PM₁₀ emissions over a period of 10 years as quantified in the approved AIA.
- ▶ Applicants shall reduce 33.3% of the project's operational baseline NO_x emissions over a period of 10 years as quantified in the approved AIA.

The requirements listed above can be met by implementing any combination of on-site emission reduction measures or payment of off-site fees. SJVAPCD Rule 9510 provides a method of calculating fees to be paid to offset any NO_x and PM₁₀ emission reductions that would not be achieved by selection of construction equipment and fuels.

Mitigation of potential impacts, especially emissions of ozone precursors and PM₁₀, is best achieved in the project design stage. CPR will implement, at a minimum, the following SJVAPCD-recommended mitigation measures to further reduce operational emissions from mobile sources:

- ▶ Rideshare Operational: Implement carpool/vanpool program such as carpool ride matching for employees, assistance with vanpool formation, provisions of vanpool vehicles, and others.
- ▶ Parking Operational: Provide preferential parking for carpool and vanpool vehicles, implement parking fees for single occupancy vehicle commuters, implement parking cash-out program for employees.

- ▶ Include as many clean alternative energy features as possible to promote energy self-sufficiency (e.g., photovoltaic cells, solar thermal electricity systems, small wind turbines).

CPR will implement the following SJVAPCD-recommended mitigation measures, as feasible; to further reduce operational emissions from area sources:

- ▶ Provide electrical outlets at building exterior areas and electric powered landscape maintenance equipment.
- ▶ Increase wall and attic insulation beyond Title 24 requirements (residential and commercial).
- ▶ Orient buildings to take advantage of solar heating and natural cooling and use passive solar designs.
- ▶ Provide highly reflective roofing materials and radiant heat barriers.
- ▶ Utilize day lighting systems such as skylights, light shelves, and interior transom windows.

Noise

6. CPR will implement the following mitigation measures to reduce noise levels generated by on-site construction-equipment:

- ▶ Construction equipment will be properly maintained per manufacturers' specifications and fitted with the best available noise suppression devices (e.g., mufflers, silencers, wraps). All impact tools will be shrouded or shielded and all intake and exhaust ports on power equipment will be muffled or shielded.
- ▶ Construction equipment will not be idled for extended periods of time in the vicinity of noise-sensitive receptors.
- ▶ Fixed/stationary equipment (such as generators, compressors, rock crushers, and cement mixers) will be located as far as possible from noise-sensitive receptors.
- ▶ A disturbance coordinator will be designated by CPR, which will post contact information in a conspicuous location near the entrance so that it is clearly visible to nearby receivers most likely to be disturbed. The coordinator will manage complaints resulting from the construction noise. Reoccurring disturbances will be evaluated by a qualified acoustical consultant retained by CPR to ensure compliance with applicable standards. The disturbance coordinator will contact nearby noise-sensitive receptors, advising them of the construction schedule.
- ▶ Where feasible, project construction and related activities will occur between 6 a.m. and 9 p.m., the operational hours outlined in the San Joaquin County Development Code's Noise Ordinance.
- ▶ Where construction operations and related activities occur during more sensitive evening and nighttime hours (9 p.m. to 6 a.m.), CPR will notify the three residences along Austin Road 24 hours in advance of nighttime construction activities, and temporary noise barriers will be erected to minimize noise disturbances at nearby noise-sensitive land uses. Temporary barriers will be placed as close to the noise source or as close to the receptor as possible and break the line of sight between the source and receptor. Acoustical barriers will be constructed of material with a minimum surface weight of 2 pounds per square foot or greater, and a demonstrated Sound Transmission Class (STC) rating of 25 or greater as defined by American Society for Testing and Materials (ASTM) Test Method E90. Placement, orientation, size, and density of acoustical barriers will be specified by a

qualified acoustical consultant (when specific equipment configurations, locations, and operational details become available) such that noise generated by construction activities occurring after 9 p.m. would not exceed applicable County standards at the single-family residences. Alternatively, contingent upon agreement by the occupants, CPR may pay to temporarily relocate occupants of the residences during periods of nighttime construction.

- ▶ Pile holes shall be pre-drilled to the maximum feasible depth. Pre-drilling pile holes shall reduce the number of blows required to completely seat the pile, and shall concentrate the pile driving activity closer to the ground where pile driving noise can be shielded more effectively by a noise barrier/curtain.
7. CPR will ensure that the mitigation measures described below are implemented to reduce exposure of noise-sensitive receptors to excessive off-site construction-generated traffic noise levels:
- ▶ All heavy trucks will be equipped with noise control (e.g., muffler) devices in accordance with manufacturers' specifications.
 - ▶ All haul trucks will be inspected before use and a minimum of once per year to ensure proper maintenance and presence of noise-control devices (e.g., lubrication, nonleaking mufflers, and shrouding).
 - ▶ Construction entrances and heavy truck haul routes will be located as far as possible from nearby noise-sensitive receptors.
 - ▶ Reduced heavy-truck speed limits will be established and enforced within 600 feet of noise-sensitive receptors.
8. For the proposed project, CPR will implement one of the following two mitigation measures to reduce the effect of noise levels generated by on-site stationary noise sources located within 1,200 feet from a sensitive receptor:
- ▶ Routine testing and preventive maintenance will be conducted during the less sensitive daytime hours (i.e., 7:00 a.m. to 6:00 p.m.). All electrical generators will be equipped with noise control (e.g., muffler) devices in accordance with manufacturers' specifications.

OR

- ▶ Electrical generators will be located within equipment rooms or enclosures that incorporate noise-reduction features, such as acoustical louvers, and exhaust and intake silencers. Equipment enclosures will be oriented so that major openings (i.e., intake louvers, exhaust) are directed away from nearby noise-sensitive receptors.

Hydrology and Water Quality

9. Before any construction-related ground disturbance, CPR will consult with County Public Works staff members to ensure that project construction procedures are consistent with County stormwater requirements. CPR will also contact the State Water Resources Control Board (SWRCB) and the Central Valley RWQCB to obtain Section 401 water quality certification, a statewide National Pollutant discharge Elimination System (NPDES) stormwater permit for general construction activity, and any other

necessary site-specific waste discharge requirements (WDRs) or waivers under the Porter-Cologne Act. CPR will prepare and submit the appropriate notices of intent and prepare the Storm Water Pollution Prevention Plan (SWPPP) and any other necessary engineering plans and specifications for pollution prevention and control. The SWPPP and other appropriate plans will identify and specify:

- ▶ BMPs to be used for erosion and sediment control, including construction techniques to reduce the potential for runoff as well as other measures to be implemented during construction (e.g., sedimentation ponds, inlet protection, perforated riser pipes, check dams, and silt fences);
- ▶ approved local plans and nonstormwater-management controls to be implemented, permanent postconstruction BMPs to be followed, and responsibilities associated with inspection and maintenance;
- ▶ the pollutants that are likely to be used during construction that could be present in stormwater drainage and nonstormwater discharges, and other types of materials used to operate equipment;
- ▶ spill prevention and contingency measures, including measures to prevent or clean up spills of hazardous waste and of hazardous materials used to operate equipment, and emergency procedures for responding to spills;
- ▶ personnel training requirements and procedures that will be used to ensure that workers are aware of permit requirements and proper installation methods for BMPs specified in the SWPPP; and
- ▶ the appropriate personnel responsible for supervising implementation of the SWPPP.

Where applicable, BMPs identified in the SWPPP will be in place throughout all site work and construction/demolition and will be used in all subsequent site development activities. BMPs may include such measures as the following:

- ▶ Implementing temporary erosion-control measures in disturbed areas to minimize discharge of sediment into nearby drainage conveyances. These measures may include silt fences, staked straw bales or wattles, sediment/silt basins and traps, geofabric, sandbag dikes, and temporary vegetation.
- ▶ Establishing permanent vegetative cover to reduce erosion in areas disturbed by construction by slowing runoff velocities, trapping sediment, and enhancing filtration and transpiration.
- ▶ Using drainage swales, ditches, and earth dikes to control erosion and runoff by conveying surface runoff down sloping land, intercepting and diverting runoff to a watercourse or channel, preventing sheet flow over sloped surfaces, preventing runoff from accumulating at the base of a grade, and avoiding flood damage along roadways and facility infrastructure.

All construction contractors will retain a copy of the approved SWPPP on the construction site.

Biological Resources

10. Prior to the site preparation activities excavation and grading of habitat land, CPR will, as encouraged in the letter dated August 15, 2008 from San Joaquin Council of Governments (SJCOG), request from the SJMSCP Joint Powers Authority (under SJCOG) concurrence that the proposed project qualifies for third-

party participation in the SJMSCP because the project is consistent with permitted activities as defined in SJMSCP Section 8.2.2.c, "Major Impact Projects." Upon receipt of the concurrence letter, CPR will pay the Natural Lands and Agricultural Habitat Lands Fee (adjusted for inflation annually by the Joint Powers Authority) as defined in SJMSCP Section 7.4.1.2, "Agricultural Habitat Lands, Non-Vernal Pool Natural Lands, and Multipurpose Open Space Lands." Site ~~grading and excavation preparation activities may~~ commence upon payment of the fees. The SJMSCP Joint Powers Authority will determine the fee amount to be paid based on the acreage of disturbance. The total amount could be up to ~~153,2144.2~~ acres (up to: 70 acres of farmland raptor foraging habitat ~~and the~~; 74.2 acres of raptor nesting habitat at the existing Karl Holton Youth Correctional Facility; ~~and 9 acres of raptor foraging habitat at the existing detention basin~~).

In addition, the following avoidance and minimization measures for Swainson's hawk and other tree-nesting raptors and burrowing owl will be implemented.

Swainson's Hawk and Other Tree-Nesting Raptors. Consistent with the avoidance and minimization measures in the SJMSCP, CPR will implement the following measures to reduce impacts on Swainson's hawk and other tree-nesting raptors:

- ▶ If trees and floodlights are removed between September 1 and February 15, then no further mitigation will be required.
- ▶ If trees and floodlights are removed between February 16 and August 31, then a qualified biologist will be retained to conduct preconstruction surveys for active raptor nests on and within 0.5 mile of the project site no more than 14 days and no less than 7 days before tree and floodlight removal. Surveys for Swainson's hawks will follow the guidelines provided in the *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in the Central Valley* (DFG 2000). If no active nests are found, then no further mitigation will be required.
- ▶ If active nests are found, the qualified biologist will establish a buffer around the tree or floodlight where the active nest is located. No project activity will commence within the buffer area until the qualified biologist confirms that the nest is no longer active or that the young have fully fledged. For Swainson's hawk nests, DFG guidelines recommend implementation of 0.25- or 0.5-mile buffers, but the size of the buffer may be adjusted if a qualified biologist and DFG determine that it would not be likely to adversely affect the nest. Monitoring of the nest by a qualified biologist may be required if the activity has potential to adversely affect the nest.

Burrowing Owl. Consistent with the avoidance and minimization measures in the SJMSCP, CPR will implement the following measures to reduce impacts on burrowing owl:

- ▶ Retain a qualified biologist to conduct focused surveys for burrowing owls in areas of suitable habitat on and within 250 feet of the project site. Surveys will be conducted before project activity and in accordance with DFG protocol (DFG 1995).

- ▶ If no occupied burrows are found in the survey area, a letter report documenting survey methods and findings will be submitted to DFG, and no further mitigation is necessary. If occupied burrows are found, to the extent feasible, establish a buffer of 165 feet around the occupied burrow during the nonbreeding season (September 1–January 31) or 250 feet during the breeding season (February 1–August 31). The size of the buffer area may be adjusted if a qualified biologist and DFG determine that adjusting the buffer size would not be likely to have adverse effects. No project activity will commence within the buffer area until a qualified biologist confirms that the burrow is no longer occupied. If the burrow is occupied by a nesting pair, a minimum of 6.5 acres of foraging habitat contiguous to the burrow will be preserved until the breeding season is over.
- ▶ If occupied burrows cannot be avoided, during the nonbreeding season conduct on-site passive relocation techniques, approved by DFG, to encourage owls to move to alternative burrows outside of the impact area. No burrows found by the survey to be occupied will be disturbed during the breeding season.
- ▶ After burrowing owls have been confirmed absent or removed from the site, the burrows may be destroyed.

12. Surveys for roosting bats on the project site will be conducted by a qualified biologist. Surveys will consist of a daytime pedestrian survey looking for evidence of bat use (e.g., guano) and/or an evening emergence survey to note the presence or absence of bats. The type of survey will depend on the condition of the buildings. If no bat roosts are found, then no further study is required. If evidence of bat use is observed, the number and species of bats using the roost will be determined. Bat detectors may be used to supplement survey efforts, but are not required.

If roosts of pallid bats are determined to be present and must be removed, the bats will be excluded from the roosting site before the facility is removed. A mitigation program addressing compensation, exclusion methods, and roost removal procedures will be developed in consultation with DFG before implementation. Exclusion methods may include use of one-way doors at roost entrances (bats may leave but not reenter), or sealing roost entrances when the site can be confirmed to contain no bats. Exclusion efforts may be restricted during periods of sensitive activity (e.g., during hibernation or while females in maternity colonies are nursing young). The loss of each roost (if any) will be replaced in consultation with DFG and may include construction and installation of bat boxes suitable to the bat species and colony size excluded from the original roosting site. Roost replacement will be implemented before bats are excluded from the original roost sites. Once the replacement roosts are constructed and it is confirmed that bats are not present in the original roost site, the building may be removed.

12. CPR will consult with USFWS and DFG regarding the proposed project and anticipated wildlife mortality and will take appropriate actions to minimize wildlife electrocutions to the extent feasible and compensate for impacts on native wildlife species. It is anticipated that this will be accomplished by seeking coverage under the Statewide Electrified Fence HCP in agreement with USFWS and DFG, with concurrence from CDCR. The proposed project will replace the Northern California Women's Facility (NCWF) site which is currently covered under the HCP. The tiered mitigation approach used by the HCP to offset potential

adverse effects on birds protected under the Migratory Bird Treaty Act (MBTA) and the California Fish and Game Code is outlined below. If coverage under the Statewide Electrified Fence HCP is not authorized, then avoidance and minimization measures in Tier 1 and Tier 2 will be implemented as described below and habitat compensation commensurate with Tier 3 mitigation will be developed in consultation with USFWS and DFG.

- ▶ *Tier 1:* These mitigation measures are designed to eliminate or reduce wildlife attractants near the prison perimeter by implementing specific maintenance and operation procedures. By making the perimeter less hospitable, wildlife will frequent this area less often, thus reducing their exposure to accidental electrocution. Tier 1 maintenance and operation procedures will include:
 - *Minimization of vegetation in the vicinity of the electrified fence perimeter.* This will include removal of vegetation growing between and adjacent to chain link fences that surround electrified fences and keeping the first 100 feet of vacant land outside the perimeter and patrol road free of vegetation. Landscaping vegetation near the electrified fence will be minimized and will be trimmed or mowed to reduce its attractiveness to wildlife. Facility landscaping will be designed to provide as little cover and as few foraging and nesting opportunities as possible. Detailed information, including recommended landscape plantings that are less attractive to wildlife, can be found in the *Handbook to Reduce Wildlife Use* (MBA 1996).
 - *Minimization of standing water near the fence perimeter.* Rainwater will not be allowed to stand in or near the perimeter for more than 24 hours after a storm. Localized recontouring, excavation of ditches, and placement of gravel will occur to prevent ponding. Weeds, grasses, or emergent vegetation will be removed from ditches regularly.
 - *Timely correction of erosion gaps and spaces under fencing.* Inner and outer chain link fences will be inspected weekly to ensure that no gaps or spaces have formed. All eroded areas will be filled with soil or gravel as soon as feasible to prevent animals from entering electrified-fence areas.
 - *Proper storage of materials and waste.* To the extent feasible, equipment, supplies, rubble, or pallets will not be stored (temporarily or permanently) within 200 feet of either side of the fence perimeter. Garbage cans and dumpsters will be covered at all times and emptied as often as required to prevent overflow. The area within 200 feet of the fence perimeter will be kept free of all trash, litter, and loose food waste.
- ▶ *Tier 2:* These mitigation measures consist of both exclusion and deterrent devices. Tier 2 measures to be installed on the proposed electrified fence are listed below.
 - *Vertical netting.* Past analysis of the locations of carcasses has shown that wildlife kills were typically the result of animals contacting the lowest nine wires, because wires are vertically closer together, resulting in more opportunities for birds to contact two lethal wires or a wire and a ground. Install three-quarter-inch mesh vertical netting enveloping both sides of the lower section of the electrified fence, which will prevent most birds from contacting the fence.
 - *Anti-perching wire.* Several birds have been electrocuted as a result of contacting electrified wires while perching, or attempting to perch, on the grounding brackets and fence posts of the electrified fence. Anti-perching wires, which consist of 2- to 4- inch pieces of stiff wire connected to an aluminum base, will be strategically attached to the tops of perching sites in and near the

perimeter. Once installed, this wire will reduce the ability of birds to perch near the electrified fence, thus reducing exposure to accidental electrocutions.

- ▶ *Tier 3:* These mitigation measures compensate for residual wildlife mortality impacts. Habitat compensation for residual wildlife impacts associated with operation of the electrified fence at this site was provided in the HCP for the Statewide Electrified Fence Project. Collectively, the HCP is providing 2,565 acres of mitigation at 10 sites to offset the loss of individuals from electrified-fence mortality by improving reproductive success elsewhere in the state. The compensatory mitigation for the Statewide Electrified Fence Project's HCP includes habitat acquisition, restoration, management, and creation of 71 acres of riparian woodland, 1,162 acres of scrub/savanna, 700 acres of grassland/agriculture, 250 acres of mixed oak/pine woodland, 202 acres of emergent wetland/open water, and 180 acres of montane/coastal forest. Therefore, if USFWS and DFG agree to use the Statewide Electrified Fence Project's HCP for this project, no additional compensatory mitigation is required.

Alternatively, if the project does not receive coverage under the HCP, CPR will contribute funds to an existing non-profit organization that creates and manages habitat enhancement areas that would improve opportunities for reproductive success of birds likely to be adversely affected by the project. Birds likely to be adversely affected will be predicted based on the results of mortality monitoring at comparable CDCR facilities and based on birds expected to occur in the project vicinity based on surrounding habitat. Mechanisms for implementing the mitigation will be similar to those previously utilized by CDCR for the Statewide and Six Prison Electrified Fence Projects and may include additional funding for a project to which CDCR has already contributed as part of these existing projects. The San Joaquin Valley will be targeted, but mitigation could be implemented at federal, state, or private lands located anywhere in California if the lands support a large percentage of the species at risk of electrocution at the project site. The amount of funding contributed would depend on the acreage of habitat that would benefit from the mitigation. The mitigation acreage required would be determined based on the anticipated annual mortality of native birds and the area required to support an equivalent number of individuals of the species at greatest risk of electrocution.

Cultural Resources

13. A qualified professional archaeologist will train construction personnel who will perform ground-disturbing activities, such as grading and excavation, on how to identify cultural materials. The archaeologist will train construction personnel on the nature of subsurface cultural resources that may be present, based on his or her knowledge of the relevant prehistoric and historic archaeology of the region. If cultural materials are inadvertently discovered during project-related construction activities, ground disturbances in the area of the find will cease immediately and the archaeologist will be notified of the discovery. The archaeologist will evaluate the find to determine whether it constitutes a unique archaeological resource or a historical resource within the meaning of CEQA (Sections 15064.5[a][1] through 15064.5[a][4] of the State CEQA Guidelines). If the archaeologist determines that the find is not

a unique archaeological resource or historical resource as defined in the State CEQA Guidelines, construction may commence, and a memorandum shall be prepared documenting the factual basis for this decision. No public circulation or notice is required.

If the archaeologist determines that the discovery is a unique archaeological resource or historical resource, then one of the following actions will occur, in order of priority as described below:

- ▶ If possible, the resource will be avoided and preserved in place. This is the preferred treatment under CEQA (California Public Resources Code, Section 21083.2[b][3]).
- ▶ If preservation in place is not feasible, CPR shall retain a qualified archaeologist (with qualifications determined by training and experience in the region and relevant research domains) to prepare and implement an excavation plan. This plan will involve retrieving a suitable sample of the physical materials that make the resource significant and qualify the site as a unique archaeological resource or a historical resource under CEQA. The excavation plan will also specify a program of analysis to retrieve and convey the information that makes the resource significant. This plan will specifically refer to the relevant eligibility criteria for listing on the California Register of Historical Resources (CRHR) or the criteria for a unique archaeological site in the State CEQA Guidelines. The plan will summarize the findings of this program of research in an excavation report, which shall be filed at the local information center for the California Historical Resources Information System upon completion, so that the findings inform future archaeological and historical research. This plan will specify how the program of excavation and analysis will recover and convey the portions of the site that convey its significance before project implementation may materially alter or demolish those physical characteristics, as provided in Section 15064.5(b)(2) of the State CEQA Guidelines.

Ground-disturbing activities may commence again after the excavation required to implement the plan has occurred. Ground-disturbing work may commence before the completion of the analysis and preparation of a report documenting the findings of the excavation plan.

14. In accordance with the California Health and Safety Code, if human remains are uncovered during ground-disturbing activities, all such activities in the vicinity of the find will be halted immediately and CPR or its designated representative will be notified. CPR will immediately notify the county coroner and a qualified professional archaeologist. The coroner will examine all discoveries of human remains within 48 hours of receiving notice of the discovery. If the coroner determines that the remains are those of a Native American, he or she will contact the NAHC by phone within 24 hours of making that determination. CPR or its appointed representative and the professional archaeologist will consult with a Most Likely Descendant (MLD) designated by the NAHC regarding the removal or preservation and avoidance of the remains and determine whether additional burials could be present in the vicinity.

Geology and Paleontology

15. CPR will retain a licensed geotechnical or soils engineer to prepare a soils report for each area of proposed development. The report will identify the site-specific engineering limitations of soils and provide engineering recommendations to reduce potential damage to planned improvements from shrink-

swell potential. Recommendations may include actions such as structural enforcement, soil treatment, or replacement of existing soil with engineered fill. CPR will implement all feasible engineering and design recommendations contained in the report consistent with the standards identified in the California Building Code.

All earthwork in each phase of project development will be monitored by a geotechnical or soils engineer retained by CPR. The geotechnical or soils engineer will provide oversight during all excavation, placement of fill, and disposal of materials removed from and deposited on the project site.

16. CPR will implement the mitigation measure for Impact HYDRO-1, "Implementation of the project could result in short-term, construction-related impacts on water quality," as described in Section 4.6, "Hydrology and Water Quality."
17. CPR will implement the following measures to minimize potential adverse impacts on unique, scientifically important paleontological resources:
 - ▶ Before the start of grading, excavation, or demolition, CPR will retain a qualified paleontologist or archaeologist to train all construction personnel involved with earthmoving activities, including the site superintendent, regarding the possibility of encountering fossils, the appearance and types of fossils likely to be seen during construction, and proper notification procedures should fossils be encountered.
 - ▶ If paleontological resources are discovered during earthmoving activities, the construction crew will be directed to immediately cease work in the vicinity of the find and notify CPR. CPR will retain a qualified paleontologist to evaluate the resource and prepare a mitigation plan in accordance with SVP guidelines (1996). The mitigation plan may include a field survey, construction monitoring, sampling and data recovery procedures, museum storage coordination for any specimen recovered, and a report of findings. Recommendations determined by CPR to be necessary and feasible will be implemented before construction or demolition activities can resume at the site where the paleontological resources were discovered.

Hazards and Hazardous Materials

18. **Additional Investigation of Soil Contamination and Preliminary Soil Excavation Plan.** CPR will implement the following measures to remediate existing soil contamination on the project site:

- ▶ CPR will complete the additional investigation of contaminated soil before excavation to further define the extent of contaminated soil near borings E-4 and E-5. The scope of that work will include soil sampling at 8–16 "step-out" borings in the vicinity of the affected areas. Those borings will be placed approximately 20 feet from borings E-4 and E-5 to assess the lateral extent of contaminated soil. Selected soil samples will be analyzed for TPHd, TPHmo, SVOCs, and chlorinated pesticides.
- ▶ Based on the results of the additional investigation, CPR will hire a qualified technician to create a preliminary plan of soil excavation and disposal that includes the entire area of contamination (an area approximately 70 feet by 100 feet and 8 feet deep, encompassing the locations of both borings E-4 and E-5, with a preliminary in-place soil volume of approximately 2,100 cubic yards). The goal of

the soil excavation plan and disposal plan will be to remove all the soils containing chemical concentrations in excess of the California human health screening levels and render excavated soil suitable for disposal as a nonhazardous waste, subject to additional testing as required by the appropriate landfill.

- ▶ Soil removal activities will be completed in accordance with state and local regulatory requirements. As recommended in the final hazardous materials investigation report, CPR will contact DTSC to discuss the findings and approach for remediation discussed herein. Typically, DTSC will require a contractual arrangement (voluntary cleanup agreement) to fund their oversight costs during the removal action. If required by DTSC, CPR will prepare a work plan for conducting additional investigations and will prepare a remedial action work plan before affected soil is excavated.

Abatement of Lead Paint Hazards Related to Existing Buildings. If loose and peeling paint is encountered during demolition, CPR will conduct sampling and analysis for leachable lead content to characterize the waste. Because most paints at the on-site buildings were found to contain lead, and for the purpose of complying with the California Occupational Safety and Health Administration's (Cal/OSHA's) lead in construction regulation (Title 8, Section 1532.1 of the California Code of Regulations [8 CCR 1532.1]), all coated surfaces will be considered to contain some lead. As required by 8 CCR 1532.1, CPR will provide monitoring of lead in the air, adaptive work practices, and respiratory protection to avoid exposure to the presence of even very low levels of lead where the lead is loose and peeling.

Asbestos Abatement. Before demolition, materials to be removed will be tested for the presence of asbestos. Also, CPR will perform a survey of building materials at the portable trailers near the educational buildings to assess the presence of paint containing lead and ACM; any lead-containing paint and ACM encountered in the trailers will be removed according to federal, state, and local regulations, including appropriate notification, equipment, handling, and disposal. Consistent with the requirements of the San Joaquin Air Quality Management District, friable ACM with greater than 1% asbestos will be properly disposed of as asbestos waste in accordance with National Emissions Standards for Hazardous Air Pollutants (NESHAP) regulations.

Visual Resources

19. **Minimizing of Construction Lighting Impacts.** To minimize the construction light that could spill onto the residential properties immediately east of the project site, the flood or area lighting needed for construction activities will be directed downward toward work activities and shielded from adjacent residences. Portable construction lights will be operated at the lowest allowable height and in the smallest number feasible to maintain adequate night lighting.

Redirecting Lighting from Project Operations Downward and Away from Residences to the East.

To minimize the light from operation of the proposed project that could spill and glare onto residential

properties immediately east of the project site, lights will be shielded such that direct lighting does not spill onto the residences. Further, light fixtures will not use reflective surfaces.

Cumulative Traffic

20. Prior to initiating construction, CPR shall coordinate, as appropriate, with the County of San Joaquin's and City of Stockton's departments of public works and Caltrans for implementation of the following measures:

- ▶ **Intersection of Arch Road and SR 99 Northbound Access:** The CPR shall fully fund the installation of a traffic signal at the intersection of Arch Road and the northbound SR 99 SPUI off-ramp. (Caltrans and City of Stockton jurisdictions)
- ▶ **Southbound SR 99 Off-ramp:** The CPR shall fully fund the expansion of the northbound SR 99 off-ramp to add 131 feet of capacity by widening the two-lane segment of the off-ramp to three lanes prior to where the off-ramp splits into two lefts and one right turn lane.(Caltrans jurisdiction)
- ▶ **Intersection of Arch Road and Austin Road:** The addition of an additional eastbound left-turn lane (to create triple eastbound left-turn lanes) would offset the project's impact in the year 2035. Because of right-of-way constraints and the City's design standards, these improvements would not be feasible. The project would contribute 10.0% of the new (cumulative) traffic that affects this intersection. CPR shall pay its fair share, based on the estimated (10 %) contribution into the City's Regional Transportation Improvement Program (RTIP). (City of Stockton jurisdiction)
- ▶ **Intersection of the Proposed Project Driveway and Austin Road:** CPR will install a traffic signal on Austin Road at the proposed project driveway to offset the project's impact. The project results in this impact and is fully responsible for mitigation. (County of San Joaquin jurisdiction)

Cumulative Climate Change

21. Implementation of the mitigation measure for Impact AIR-2, which would reduce operational emissions of criteria air pollutants and precursors, would also act to reduce GHG emissions associated with project operation. This mitigation measure is relevant to Impact AIR-2 because emissions of both criteria air pollutants and GHGs are frequently associated with combustion byproducts. In addition, CPR will implement where feasible the following measures to reduce direct and indirect GHG emissions associated with the proposed project. Certain measures could already be considered components of the project, but are provided here for purposes of completeness.

A. Energy Efficiency

- ▶ Design buildings to be energy efficient. Site buildings to take advantage of shade, prevailing winds, landscaping and sun screens to reduce energy use.
- ▶ Install efficient lighting and lighting control systems. Use daylight as an integral part of lighting systems in buildings. LED lights, or a similar low energy use alternative, shall be used for outdoor lighting except in places where use of such lights is not consistent with applicable security lighting standards.

- ▶ Install light-colored “cool” roofs, cool pavements, and strategically placed shade trees (consistent with mitigation requirements for biological resources in connection with operation of the electrified fences).
- ▶ Install energy-efficient heating and cooling systems, appliances and equipment, and control systems.

B. Renewable Energy

- ▶ Install solar and wind power systems, solar and tankless hot water heaters, and energy-efficient heating ventilation and air conditioning.
- ▶ Improve the thermal integrity of buildings, and reduce the thermal load with automated time clocks or occupant sensors.
- ▶ Install solar panels over parking areas.

C. Water Conservation and Efficiency

- ▶ Create water-efficient landscapes with native, drought-resistant species.
- ▶ Install water-efficient irrigation systems and devices, such as soil moisture-based irrigation controls.
- ▶ Design buildings to be water-efficient. Install water-efficient fixtures and appliances.
- ▶ Restrict watering methods (e.g., prohibit systems that apply water to nonvegetated surfaces) and control runoff.
- ▶ Restrict the use of water for cleaning outdoor surfaces and vehicles.
- ▶ Provide education about water conservation and available programs and incentives.

D. Solid Waste Measures

- ▶ Reuse and recycle construction and demolition waste (including but not limited to soil, vegetation, concrete, lumber, metal, and cardboard).
- ▶ Provide interior and exterior storage areas for recyclables and green waste and adequate recycling containers located in public areas.

E. Transportation and Motor Vehicles

- ▶ Limit idling time for commercial vehicles to five minutes, including delivery and construction vehicles.
- ▶ Promote ridesharing programs, e.g., by designating a certain percentage of parking spaces for ridesharing vehicles, designating adequate passenger loading and unloading and waiting areas for ridesharing vehicles, and providing a Web site or message board for coordinating rides.
- ▶ Create car-sharing programs. Accommodations for such programs include providing parking spaces for the car-share vehicles at convenient locations.

- ▶ Implement a low carbon emission vehicle incentive program and provide the necessary facilities and infrastructure to encourage the use of low- or zero-emission vehicles (e.g., electric-vehicle charging facilities).
- ▶ Use low or zero emission construction vehicles to the extent practicable.
- ▶ Provide shuttle service to public transit.
- ▶ Provide public transit incentives such as free or low-cost monthly transit passes.
- ▶ Join a local transportation management association and prepare employer-based trip reduction plans.