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Agenda Item: ID16-404 (5:00 P.M.)

Date: 4/21/16



Supplemental Information Packet

Agenda Related Item(s) – ID16-404 (5:00 P.M.)

Contents of Supplement: Three (3) Letters from Leadership Counsel

Item(s)

Attached please find a Supplement to File ID16-404 (5:00 P.M.). The title of the item is as follows:

CONTINUED HEARING to Consider Plan Amendment Application No. A-16-001, filed by the Development and Resources Management Department Director, to amend the text of Chapter 11 of the Fresno General Plan, the Housing Element Consistency Chapter, with an updated Housing Element that would be valid until 2023

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

Americans with Disabilities Act (ADA):

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.



February 5, 2016

CITY CLERK, FRESNO CA

Mayor Ashley Swearingin
Fresno City Council
Jennifer K. Clark, Director, DARM
Sophia Pagoulatos, Planning Manager, DARM
Fresno City Hall
2600 Fresno Street
Fresno, CA 93721

Sent via Email

Re: City of Fresno Public Review Draft 2015-2023 Housing Element

Dear Mayor and City Council Members:

We are writing on behalf of our clients, Familias Addams por un Mejor Futuro, Rosalina Carson, and Rosalba Cardenás (collectively, “Familias Addams”), to provide comments on the City of Fresno’s Public Review Draft 2015-2023 Housing Element (“Draft”) submitted to the California Department of Housing and Community Development (“HCD”) on January 7, 2016. As you know, Familias Addams is an unincorporated association of residents whose mission it is to struggle for improved quality of life and a better future for the residents of the neighborhood surrounding the Jane Addams Elementary School and for the Fresno community in general.

State law requires jurisdictions to adopt a valid housing element to ensure that every community plans for the housing needs of all community members in a timely and efficient manner. This letter addresses certain areas of major concern regarding the City’s obligations to re-zone sites in its last planning period and the effect of that failure in the current Draft. We will provide further comprehensive comments regarding the Draft in the very near future.

I. Required Carry-Over Analysis

The Draft does not contain the required carry-over analysis required under Government Code Section 65584.09, which provides that jurisdictions must re-zone any remaining unmet need from the previous planning period within the first year of the new planning period. The City’s 2008-2015, as extended, Housing Element (“Housing Element”) had a severe shortfall of sites identified to meet the City’s Regional Housing Need Allocation (“RHNA”). To remedy that deficiency, the Housing Element includes a program to re-zone 700 acres of vacant land to allow exclusively for multi-family development “by right”, including 500 acres of land at a minimum of 20 dwelling units per acre (d/u/a) and 200 acres of land at a minimum of 38 d/u/a by June 30, 2010. The City never implemented Program 2.1.6A and never re-zoned the required 700 acres. Therefore the City did not have an adequate supply of land available and suitable for residential

development for all income groups during the 2008-2015 planning period and now is required under Section 65584.09 to re-zone that remaining need within the first year of this planning period.

The Draft asserts that the City adopted a new development code in the previous planning period and therefore is no longer required to implement Program 2.1.6A. The actions taken by the City in the last weeks of the period, however, did not result in the re-zoning of any of the required 700 acres within the last planning period (2008-2015). Draft p.5-6. First, under the best reading of **the City's assertion**, the sites were not rezoned for multi-family residential land use and made available for development during the last period. Second, the City's new Development Code did not in fact apply the newly identified zoning designations to any City parcels. That requires subsequent action by the City Council to adopt a zoning map that applies the zoning designation to parcels, and that did not occur during the applicable planning period.¹ See Report to City Council dated November 19, 2015, attached. Third, even assuming adopting a new Development Code did in fact re-zone any land, which it does not, the new Development Code did not take effect until January 2016, one month into the new planning period. Government Code Section 65588(f) unequivocally states that the new planning period begins when the new housing element is due - in this case the new planning period began December 31, 2015. Govt. Code Section 65588(f) (1). As such the City's Draft Housing Element does not comply with state law because it does not contain a program to evaluate the City's carry-over obligation despite failing to re-zone sites as required in its 2008-2015 Housing Element.

II. Adequacy of Sites

1. Applicable Zoning

The Draft includes an inventory of available sites that as of yet have not been zoned to permit the residential densities identified to meet the City's RHNA. Although the City may anticipate zoning these parcels, until the zoning is actually completed, many of the sites identified are not actually available at the densities stated in the Appendix B. It is therefore premature to assess whether or not the City actually has identified an adequate inventory of sites available for residential development.

2. Realistic Development Potential of Non-Vacant Sites

If the City does re-zone the identified parcels the City must still engage in several levels of analysis before it can be determined whether the sites fulfill the obligations under Government Code Section 65583.1. For instance, Government Code Section 65583.2(g) requires the City to

¹ "The staff recommendation is limited to the text of the Code, and does not include a new Zoning Map, which will be brought before the Council for consideration at a later date. This is due to Code text not taking effect until 30 days after adoption by the Council. The authority to adopt the new Zoning Map therefore will not be in place until 30 days after adoption. When the new Zoning Map is adopted, the Translation Table in Exhibit F will be used to apply the standards in the Code to properties based on their current zoning designation." Report to City Council dated November 19, 2015, p. 4.

analyze whether the non-vacant parcels included in its site inventory have a realistic development potential during this planning period. This required analysis is missing from the Draft.

Any sites re-zoned to meet the shortfall resulting from the City's failure to implement Program 2.1.6A must meet the requirements of Government Code section 65583.2(h) and allow by right development on the sites identified and have a minimum density that will permit at least 16 d/u/a.

3. Development Capacity

The Draft calculates the realistic development capacity on most sites in the land inventory based on the minimum density allowed by the applicable zoning designation, but the land inventory also includes commercial sites which have no minimum density for residential development. pp. 3-4. The Draft states that the realistic development capacity of these sites is 75% of the allowable maximum density but does not provide any analysis to support this calculation, such as recent development patterns on these types of sites.

III. Compliance with Fair Housing and Civil Rights Statutes

The Draft asserts that it will provide funding to assist in the enforcement of fair housing laws, but provides no analysis demonstrating its compliance with its obligation under state and federal civil rights laws to affirmatively further fair housing. Gov. Code §§ 12900, et seq. 65008, et seq.; In order to fulfill this obligation, the City must assess whether its planning and zoning decisions, including its selection of sites identified in its sites inventory, perpetuate racial segregation or creates housing choice for Fresno residents by zoning for multiple housing options in each area of the City.

This is especially critical in Fresno, which has among the highest rates of racially and ethnically concentrated poverty in the region. See San Joaquin Valley Fair Housing & Equity Assessment, p. 29 (Finding that approximately 20% of the City's Hispanic population, 16% of the City's Black population, and 15% of the Asian population live in neighborhoods characterized by racially and ethnically concentrated poverty, compared with 4.5% of the white population). The City's own 2035 General Plan acknowledges that growth patterns favoring higher end housing catering to upper income families in the northern part of the City **has exacerbated Fresno's** concentrated poverty. pp. 10:11.² The 2015-2023 Housing Element must include analysis, policies, and program actions demonstrating that the Housing Element, including its sites inventory, will reduce – and not fortify – barriers to fair housing for protected classes in Fresno.

IV. Compliance with Public Participation Requirements

State law requires that each jurisdiction must make a diligent effort to achieve public participation of all economic segments of the community in developing its housing element.

² "Growth patterns have...exacerbated the concentration of poverty [in South and West Fresno neighborhoods.] Housing in the northern part of the city caters to upper income families while affordable housing investment has occurred in more distressed neighborhoods."

Govt. Code section 65583(c)(8). Here, the City has submitted the Draft to HCD for review during the same time period the City is receiving public comment on the Draft, thereby rendering the public's comment without any impact on the development of the element in direct violation of what the law requires. In our supplemental letter we will further address deficiencies in the City's public participation process and provide recommendations to help the City make the public process meaningful as the law intends.

* * * * *

We hope that our input will assist the City's efforts to develop a 2015-2023 Housing Element that expands housing opportunity for all resident in compliance with applicable state and federal law. As indicated in this letter above, we will be submitting additional detailed comments, **including input regarding the Draft Housing Element's programs and fair housing analysis in a subsequent letter.**

Sincerely,



Ashley Werner, Esq.
Leadership Counsel for Justice and Accountability

cc: Doug Sloan, City Attorney
Paul McDougall, California Department of Housing & Community Development

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A Tides Center Project

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CITY CLERK, FRESNO CA

February 26, 2016

Mayor Ashley Swearingin
Fresno City Council
Fresno City Hall
2600 Fresno Street, Rm 2097
Fresno, CA 93721

Sent via Email

**Re: City of Fresno Public Review Draft 2015-2023 Housing Element
Supplemental Comments Submitted on Behalf of *Familias Addams por un
Mejor Futuro***

Dear Mayor and City Council Members:

We are writing on behalf of our clients, Familias Addams por un Mejor Futuro, Rosalina Carson, and Rosalba Cardenás (collectively, “Familias Addams”), to provide comments on the City of Fresno’s (“City”) Public Review Draft 2015-2023 Housing Element (“Draft”) submitted to the California Department of Housing and Community Development (“HCD”) on January 7, 2016. These comments supplement the comments we previously submitted on behalf of Familias Addams with respect to the Draft on February 4, 2016 and will assist the City in developing a Final Housing Element that expands housing opportunities for all Fresno residents in accordance with the aims and requirements of State Housing Element Law.

Familias Addams is comprised of residents of the Jane Addams neighborhood in the City and/or County of Fresno who are impacted by the lack of affordable housing in Fresno. Leadership Counsel for Justice and Accountability works collaboratively with Familias Addams as well as other residents from other low-income neighborhoods in Southeast and Southwest Fresno to identify and seek solutions to their housing and community development needs. We are thus uniquely positioned to provide comments to the City on its Draft Housing element.

1. Adequacy of Sites Identified in the Sites Inventory

The housing element shall contain an “inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.”
Gov. Code § 65583(a)(3).

Mayor Ashley Swearingin, City Council, & DARM

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In addition to the comments provided in our February 5th letter, we provide the comments below regarding the failure of the sites inventory and associated analysis included in the Draft to satisfy the standard set by Government Code Section 65583(a)(3).

a. Failure to Demonstrate Feasibility of Development of Sites

HCD's Building Blocks states that the identification of the size of parcels included in the inventory is **"important as parcel size can be a key factor in determining development viability, capacity, and affordability."** It further states that, **"The element should include an analysis demonstrating that the estimate of the number of units projected on small sites, is realistic or feasible. The analysis should consider development trends on small sites as well as policies or incentives to facilitate such development."** **"To utilize small sites to accommodate the jurisdiction's share of the regional housing need for lower-income households, the element must consider the impact of constraints associated with small lots development on the ability of a developer to produce housing affordable to lower-income households."**

Here, the Draft's Sites Inventory contained in Table B-1 contains hundreds of small sites, many less than one acre in size, which it indicates are suitable for lower-income housing with no analysis or explanation demonstrating the feasibility of such development. The Final Housing Element must include an analysis demonstrating that lower-income housing development is in fact feasible on the small sites contained in the inventory, including if appropriate through the incorporation of a parcel assemblage program. If the City cannot so demonstrate, the City must remove those sites from the inventory.

The City must also assess the feasibility of housing development on large sites identified in the Draft. While the Draft identifies several parcels that are 20 acres or more, there are no corresponding programs to facilitate site development, including, but not limited to the programs to secure adequate infrastructure and services at the sites and ensuring access to amenities and transit consistent with affordable housing funding programs. Similarly, the City must analyze the availability of funding programs for all site development but in particular large developments for which 9% tax credits may not be available.

In summary, the City must assess the feasibility of developing sites identified in the Housing Element holistically, in the context of governmental, environmental, infrastructure related, and financial constraints. **The Draft's analysis is incomplete.**

b. Failure to Account for Substantial Residential Downzoning in 2008 Housing Element Planning Period

The Draft includes no reference to or analysis of the substantial rezoning of residential-zoned properties to lower density residential and non-residential zone districts throughout the 2008 Housing Element Planning Period – including sites contained in the 2008 Housing Element Sites Inventory -- in order to facilitate approval of single-family residential subdivision and commercial development projects. The Final Housing Element must identify these down-zonings and their impact on the availability of the sites **contained in the City's 2008 Housing Element Sites Inventory for development at the specified densities.** The City must incorporate the reduced densities into a carry-over analysis in the Final Housing Element which calculates the acreage of sites the City must make available at appropriate densities following adoption of the 2015 Housing Element **as a result of the City's failure to make** those sites available during the 2008 Housing Element planning period. This increased carry-over – due to the downzoning of sites – **must be added to the City's** total mandated carry-over sites due to its failure to rezone 700 acres as discussed in our correspondence of February 4, 1016.

c. Failure to Demonstrate Compliance with Fair Housing and Civil Rights Laws With Respect to Site Location

Fair Housing and Civil Rights laws prohibit the City from taking actions that result in or contribute to the concentration of housing affordable to low-income populations in areas characterized by racially and/or ethnically concentrated poverty (RCAP/ECAP areas) or the imposition of a disproportionate adverse impact on protected classes. Gov. Code §§ 11135, 12900, et seq. 65008, et seq; 42 U.S.C. §§ 2000d, 3601, et seq. As discussed in our February 4th Letter, the Draft provides no analysis demonstrating distribution of sites by income category in a manner that complies with fair housing and civil rights laws or even **any information that would allow the public to assess the City's compliance in this regard.** **The Draft's Sites Inventory Map does not identify the density or income category associated with the sites included therein.** 3-11. The documented existence and persistence of RCAP/ECAP neighborhoods in Fresno, predominately located in Southeast, Southwest, and Central Fresno, **reinforces the City's duty to provide** information and analysis demonstrating the its compliance with fair housing and civil rights laws in the selection of sites for affordable housing.

In addition, as we have advised the City in previous written and oral comments, industrial zoned sites in Fresno are disproportionately concentrated in and around low-income neighborhoods of color in South Fresno, including but not limited to West Fresno, Calwa, the Jane Addams Elementary School neighborhood, and areas in Southeast Fresno. The

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siting of industrial sites in residential communities results in negative impacts on neighborhood quality and resident health and, accordingly, results in disproportionate impacts on protected classes. Negative impacts include but are not limited to the release of toxic air contaminants, diesel emissions, pedestrian and cyclist safety hazards, and sound associated with truck traffic generated by industrial facilities and warehouses, noxious odors, aesthetic incongruities, and the reduction in available land for housing and needed amenities such as parks, open space, grocery stores, and retail outlets.

The City should include a program in the Final Housing Element to rezone industrial land located in proximity to and in conflict with residential neighborhoods to residential and **mixed use zone districts at appropriate densities to meet the City's need for affordable housing** for all economic segments of the population as well as other zone districts that create opportunity to allow development of needed services and amenities.

2. The City Has Not Satisfied its Duty to Make a Diligent Effort to Achieve the Participation of All Economic Segments of the Community

Government Code § 65583(c)(8) requires local governments to make a diligent efforts to achieve public participation of all economic segments of the community in the development of the housing element and to describe these efforts in the housing element. **The California Department of Housing and Community Development (HCD)'s "Building Blocks for Effective Housing Elements"**¹ ("Building Blocks") elaborates on this requirement. As explained below, the City has yet to satisfy the public participation requirement established by Government Code Section 65583.

a. The City Failed to Make a Diligent Effort to Achieve Participation of Low-Income Residents and Other Stakeholders

As demonstrated in "Table 2: Workshop Summary" of the Draft, few individuals participated in the housing element workshops conducted by the City for this housing element update. The minimal public participation in the City's 5th Cycle Housing Element Update to date is consistent with a pattern of limited civic engagement in significant land use and housing planning and decision-making processes in the City, including those associated with the Development Code Update (adopted in December 2015), 2015-2019 Consolidated Plan Update, and the pending update of the City's Analysis of Impediments to Fair Housing, and evidences a need for serious rethinking and change in approach by the City with respect to its public outreach strategy in order to effectively reach and engage all economic segments of the population.

¹ Available online at <http://www.hcd.ca.gov/housing-policy-development/housing-element/>
764 P Street, Suite 012, Fresno, California 93721
Telephone: (559) 369-2790

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We applaud staff for ensuring translation of workshop flyers into Spanish, Hmong, and English and the presence of on-site translation at the workshops and for providing flyers to schools that served as workshop sites for distribution to students. These steps alone, **however, do not satisfy the City's obligation to make a "diligent effort" to obtain public participation of all economic segments of the population as required by Government Code Section 65583(c)(8).** Advertisements for the workshops placed by the City in the Fresno Bee, usually in small font in the middle or end of the newspaper, are unlikely to reach low-income residents, non-English speakers, and other populations most impacted by housing and quality of life problems in Fresno.

As advised in Building Blocks, the City should use culturally-sensitive and language-appropriate communication tools to reach its target audience. Such approaches may include visiting neighborhoods and participating in local events; use of direct mail, radio spots, and local print and electronic media such as neighborhood newsletters to advertise opportunities for participation. For example, the City could include information about the housing element update and how to participate in monthly utility bills mailed to customers. Free advertising for public workshops and community events is also often available through the Fresno Bee and local foreign language media outlets, including Radio Bilingue, Univision, Hmong TV, and others. In addition, the City can and should reach out directly to impacted and special needs populations to obtain input, including for example residents of Fresno Housing Authority developments, through in-person meetings and stakeholder interviews.

Most importantly, we believe that the lack of resident participation in this process highlights the need for City staff and elected officials to develop and sustain long-term relationships with community leaders **throughout Fresno and from Fresno's low-income neighborhoods of color and immigrant population in particular** who can convey information about City planning and decision-making processes and public participation opportunities to their networks. These community leaders are engaged in numerous volunteer efforts and community forums where residents share information about opportunities to address individual and community concerns such as those addressed by the housing element. Additionally, we recommend that the City of Fresno partner with local **Community-Based Organizations (CBO's)** which work directly with residents from disadvantaged communities to develop an inclusive and equitable outreaching strategy for community engagement to reach diverse income groups and residents with limited English language capacity.

We would be happy to meet with you in person to discuss these recommendations in greater detail in order to identify specific steps the City can take to satisfy its obligations under Code Section 65583(c)(8) for the 5th Cycle Housing Element Update and to lay the foundation for effective community engagement going forward.

b. The Draft Fails to Incorporate Public Comments

Building Blocks states that, as part of the requisite analysis pursuant to Government Code **Section 65583, the housing element must “[d]escribe who was invited to participate, which groups actually participated, general comments received and how comments were incorporated into the housing element.”**

The Draft states that approximately 140 comments and questions were received at the workshops, summarizes those comments into five major concerns, and identifies three solutions offered by workshop participants. The Draft does not indicate whether the five major concerns identified encapsulate the content of all 140 comments or whether the comments and concerns raised by workshop participants address additional topics. Significantly, the Draft does not indicate whether or how any of the comments, concerns, or solutions raised by participants were incorporated into the Draft.

The Final Housing Element must meaningfully incorporate public comments received as called for by the Building Blocks, including by adopting policies and programs as appropriate to address concerns and solutions identified by the public.

c. The Final Housing Element Must Commit to Actions that the City will Take to Expand Stakeholder Participation in Implementation

Building Blocks states that the Housing Element must “[d]escribe any ongoing efforts to engage the public and stakeholders in the implementation of the housing element.”

Building Blocks states that jurisdictions should invite a wide array of groups to participate in the housing element implementation process and recommends that jurisdictions establish an ongoing housing element update and implementation committee to oversee the update and implementation.

The Draft fails to describe any actions the City will take to engage residents and stakeholders in implementation of the Housing Element. In fact, the Draft mentions that the City eliminated its 10 x 10 Affordable Housing Committee in 2009 but does not explain why or describe any efforts the City has taken or will take to ensure public participation in housing element implementation in its absence.

As discussed in Section 2(a) above, the City must enhance its efforts going forward to obtain and incorporate public input in land use and housing planning and decision-making processes, including housing element implementation. To that end, we recommend that the City establish a committee charged with overseeing and providing recommendations to the City regarding the timely implementation of crucial housing element programs as well as implementation and development of other City policies and practices relating to affordable housing and quality of life in existing neighborhoods. The

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committee should include representation by low-income residents, non-English speakers, residents from block-grant eligible neighborhoods, special needs populations and other protected classes. The Committee should also include representation by local affordable housing and market-rate developers, affordable housing advocates, community development specialists, finance professionals and other stakeholders.

Leadership Counsel proposed a similar concept during the General Plan Update process (an “Infill Opportunity Working Group”) which the Mayor indicated she intended to implement but which to our knowledge has not materialized. The City must not delay further its work to lay the foundation for inclusive and effective implementation and development of City housing and land use policy.

3. Failure to Adequately Analyze and Respond to Effectiveness of Past Performance

As explained in HCD’s Building Blocks, Government Code Section 65588’s requirement that jurisdictions review their progress in implementing their housing element is “an important feature of the housing element update” which, if completed thoroughly, “facilitates a comprehensive update and ensures the element can be effectively implemented in the next planning period.” The Draft fails to adequately analyze the City’s past performance in implementing the programs contained in its 2008 Housing Element and respond appropriately through the re-incorporation, modification or deletion of programs as mandated by the Government Code and reinforced in Building Blocks.

Specifically, Table 5-1: Previous Program Accomplishments (2008-2013 Housing Element), which constitutes the Draft’s assessment of the City’s past performance, omits reference to or analysis of the City’s implementation of significant components of various programs contained in the 2008 Housing Element. For its assessment of several programs, some of which require action by the City on an annual basis, the Draft references its adoption of an updated Development Code in December 2015 but provides no information about any action by the City to implement the program during the plan period between 2008 and December 2015. The Draft’s assessment also indicates that the City failed entirely to implement aspects of various programs and/or fell dramatically short of established targets yet provides no meaningful analysis of the reasons for the City’s failure. The Draft repeatedly references the dissolution of RDA without further analysis for its assessment of its implementation of programs which the City failed to implement in full or in part, despite the fact that dissolution occurred only in 2012, four years into the planning period, and thus cannot explain the City’s failure to implement its programs. The Final Housing Element must include a revised assessment of past performance that corrects these deficiencies.

A few examples of the Draft's inadequate analysis and response include the following:

- Program 1.1.2 - One Stop Processing. Program 1.1.2 commits the City to **expediting processing of affordable housing projects. The Draft's assessment of the City's implementation of the program describes the Business-Friendly Fresno** but does not actually explain what the City has done - or not done - to expedite processing of affordable housing projects specifically, the effectiveness of those efforts, and whether the City should modify its efforts going forward.
- Program 1.1.4 - Institutional Barriers. Program 1.1.4 requires the City to **"identify land use policies, ordinances and procedures, and other potential local, state, and federal regulations" that may bar the development and maintenance of affordable housing and development at maximum densities. The City's assessment focuses entirely on the City's 2015 adoption of an updated** Development Code but does not any specific identify policies or procedures that limit affordable housing in Fresno, other than maximum densities, that were addressed through the Development Code Update or describe any efforts by the City to identify state or federal regulations.
- Program 1.1.7 - Fresno Green. **The Draft's assessment of the City's performance in implementing Program 1.1.7 does not address the City's efforts or achievements with respect to the specific components of the Fresno Green Strategy which are incorporated into the program, including the requirement that 20% of City-sponsored affordable housing projects shall meet City-adopted green standards.**
- Program 2.1.1 - Land Demand. **Program 2.1.1 states that the "City will annually monitor the supply of vacant zoned and residential planned land" to ensure a continual supply of planned residential land. The Draft's assessment of this program references the City's Development Code Update, adopted in December 2015. The assessment does not identify any actions taken by the City to implement the program during the planning period prior to 2015. The assessment also does not indicate, as it must, that the standards adopted in the Development Code Update do nothing to increase residential development capacity in the City without adoption of a new city-wide zoning map to apply the Development Code standards to specific parcels, an action which did not occur during the planning period.**
- Program 2.1.4 - Inner City Residential Development. Program 2.1.4 states that the City would continue to implement the Inner City Fee Program to create approximately 700 housing units. The assessment indicates that only 240 units

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were approved between 2008 and 2014 but provides no explanation for the City's failure to achieve the target set by Program 2.1.4 by 460 housing units.

- Program 2.1.5 - Other Infill Housing. The program provides that the City and RDA shall acquire sites to accommodate the construction of up to 300 units for low-income affordable housing. The assessment indicates that the RDA completed rehabilitation and sale of 13 affordable units but does not indicate that any units were constructed pursuant to the program or explain why the City did not achieve its goal of the construction of 300 units other than to note that the RDA was dissolved in 2012, four years into the planning period.
- Program 2.1.7 - Multi-family Land Supply. This program requires that the City annually review applicable state legislation to ensure consistency of its plans and zoning ordinance and that wherever possible, the City shall act to increase housing yield per acre. **The assessment of the City's implementation of this program references the City's adoption of the 2015 Development Code Update** but does not describe any efforts by the City to annually review applicable state legislation to ensure consistency with local plans and regulations. Nor does any actions by the City to increase housing yield per acre from 2008 to adoption of the Development Code in December 2015. During the planning period, the City in fact approved rezoning of numerous parcels to lower residential densities at the request of developers, **a fact which should be included in the City's assessment of its progress in implementing Program 2.1.7.**
- Programs 2.1.13, 2.1.15, & 2.1.16 - Programs 2.1.14, 2.1.15, and 2.1.16 all commit the City to using available funds in order to produce hundreds of transitional, large family, and low-income senior housing units. The assessments **of the City's performance of Programs 2.1.15 and 2.1.15 do not indicate whether** any units were constructed pursuant to the programs, while the assessment pertaining to Program 2.1.16 indicates that six senior housing developments. **The Draft does not provide any explanation for the City's failure to construct the** affordable housing units, other than to reference the loss of redevelopment funding in 2012. The Final Housing Element must examine why the City failed to achieve targets for affordable housing construction set by Programs 2.1.13, 2.1.15, and 2.1.16, despite the continued existence of the RDA from 2008 to 2012. The Final Housing Element should also consider whether it is desirable to maintain the programs in a modified format in light of other funding sources for affordable housing now available.
- Program 4.1.2 - **Preventing and Alleviating Foreclosure.** The Draft's description of Program 4.1.2 omits information contained in that program regarding the

substantive changes that the update to the City's Vacant Building Ordinance would include, including reduction in time between citation issuance and **increased fee scales and citations. The assessment of the City's implementation** of this program states that the City adopted two ordinances related to foreclosed properties but does not describe whether those ordinances contain the content promised by Program 4.1.2 or whether further policy change may be merited to address ongoing issues associated with vacant housing.

The Final Housing Element must include improved analysis of past performance which contains a thorough review of actions taken by the City to implement the programs in its **2008 Housing Element, the City's successes** and failures in accomplishing the goals established by the programs, and incorporation, deletion or modification of policies and programs into the Final Housing that respond to this analysis.

4. The Draft Fails to Adopt Satisfactory Program Actions

Government Code Section 65583(c) provides that each housing element shall contain:

"A program which sets forth a schedule of actions during the planning period, each with a timeline for implementation,...such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element."

Building Blocks further explains that:

"Programs are the specific action steps the locality will take to implement its policies and achieve goals and objectives. Programs must include a specific time frame for implementation, identify the agencies or officials responsible for implementation and describe the jurisdiction's specific role in implementation."
(underline added)

Several programs contained in the Draft lack sufficient clarity with respect to the specific action steps which the City will take which will result in a beneficial impact within the planning period. The Draft further fails to identify a *specific* time frame for **implementation of various programs but instead commits ambiguously to "ongoing implementation"**. See e.g., Programs 1-4, 8, 9, 12.

The following programs must be modified in order to satisfy Government Code Section 65583(c):

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- **Program 5 - Special Needs Housing.** The **“Timeframe/Objective”** identified for the program reads, **“500 units during the planning period (62.5 units per year)”**. It is unclear whether the statement constitutes a commitment to the construction of 500 units or something else. The Final Housing Element must specify in clear terms the goal established by Program 5.
- **Program 8 - Fresno Green.** The Program states that the **“City will also monitor grant funds for applicable housing related energy-efficient items”**. In order to achieve beneficial results in the planning period, the program must commit the City not only to monitoring grant funds but also pursuing them in accordance with quantifiable objectives. In addition, the Final Housing Element must clarify whether Program 8 includes a commitment to implementing the entire Fresno Green strategy or only the specific development incentives listed under the program as described in the Draft.
- **Program 9 - Expedited Processing.** Program 9 states, **“As needed, the City will assess the incentives needed to facilitate the development of affordable housing.”** The Program provides no information about how the City will determine whether such assessment is needed. The Final Housing Element must include a clear timeline or trigger for the assessment of incentives needed to facilitate affordable housing development and should ensure the participation of diverse stakeholders in the assessment process, including but not limited to City staff, low-income and special needs residents, affordable housing advocates, and developers.
- **Program 10 - Development Incentives.** Program 10 states, **“As funding is available, the city will reduce, or subsidize development and impact fees for affordable housing.”** The Program does not identify how the City will determine whether **“funding is available”** to implement this component of Program 10. Implemented city-wide, such a program could support development of affordable housing in existing neighborhoods outside of Downtown which lack affordable housing and in growth areas contemplated for development under the City’s General Plan. The Final Housing Element must establish a timeline with specific actions identifying when and how the City will assess the availability of funding to reduce costs associated with the development of affordable housing and appropriately allocate available funding for that purpose.
- **Program 11 - Agricultural Employees (Farmworker) Housing.** The **“Timeframe/Objective”** included for this program commits the City to **“Review Development Code by January 2017”**. The **Timeframe/Objective** must specify that the City will also revise the Development Code by January 2017 in order to ensure compliance with the California Employee Housing Act and other laws pertaining to farmworker housing.
- **Program 14 - Comprehensive Code Enforcement.** The **Timeframe/Objective** included for this program indicates that the City will **“Complete 8,000 inspections annually and develop Task Force recommendations by the end of 2016”**. The

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program must commit the City not only to inspection of units but also the resolution of cases identified through the inspection process, including through enforcement actions against landlords if necessary. Inspection without further action does nothing to ensure the resolution of code violations identified or associated health and safety issues.

The Final Housing Element must include revised program actions that identify “specific action steps” that the City will take and the “specific timeframe” for the actions such that the program will achieve beneficial results within the planning period. Gov. Code § 65583(c); Building Blocks.

5. Failure to Adequately Identify or Mitigate Drought-Related Barriers to Housing Opportunity

The Draft fails to consider the impact of the ongoing drought, climate change, and changing paradigms for water availability and management practices on housing opportunity in Fresno. The Final Housing Element must include analysis, policies, and programs that address current and future water scarcity, diminished capacity, increased demand and water costs, and changing mandates, including the Sustainable Groundwater Management Act, as they pertain to the City’s ability to satisfy the need for affordable housing for all economic segments of the community in Fresno.

The Final Housing Element should include a program committing the City to review and revise City regulations, including the 2015 Development Code, to ensure appropriate **management of the City’s water resources to ensure that housing needs are met for all income groups.** While the Development Code requires applicants for development projects consisting of at least 500 subdivision units to demonstrate the availability of adequate water supplies, the Code does nothing to ensure the availability of sufficient water for subdivision projects consisting of fewer units (which constitute the majority of subdivision projects) or the availability of water for multifamily and affordable housing units.

6. Failure to Adequately Identify or Adopt Programs to Address Habitability Barriers to Housing Opportunity

Every jurisdiction’s housing element must include programs which will “conserve and improve the condition of the existing affordable housing stock.” Gov. Code § 65583(c)(4). As explained further in Building Blocks:

“The existing affordable housing stock is a valuable resource and the element must include programs to conserve and improve the existing affordable housing stock...”

The Draft fails to contain adequate programs that will serve to **“conserve and improve”** the condition of existing affordable housing in Fresno, including extensive substandard housing conditions that plague residents of low-income rental housing. Program 14 **commits the City only to completing “inspections” without any** promise of enforcement or resolution of code violations and to the development of recommendations by a Code Enforcement Task Force without any promise of adoption of those recommendations. The Final Housing Element must commit the City to resolving substandard housing conditions through code enforcement action and other means and to adopt and implement **policies and procedures in order to “conserve and improve” the City’s affordable housing stock.**

In addition, in order to ensure the ability of the City’s Code Enforcement Task Force in identifying appropriate solutions to substandard property conditions in the City’s rental housing stock, the Task Force must include current and/or past rental housing tenants impacted by such conditions. The City must provide the public with notice of and the opportunity to participate in Code Enforcement Task Force meetings, so that Task Force members may hear and discuss public input at its meetings and to ensure transparency and accountability in the process. As a way to ensure that residents from low-income communities and communities of color are designated seats in the Task Force, the City **must work with local CBO’s to identify resident leaders interested in serving and provide** the technical support and/or translation services for non-English speakers to meaningfully participate in the decision-making processes.

The Draft should also include a program to revise the City’s municipal code to allow the public to enforce habitability provisions. This would expand available opportunities and resources to ensure that landlords comply with law adopted to ensure healthy and safe living conditions for tenants. Revisions to the City municipal code should include the creation of an effective outreach program to better inform tenants about the process of anonymously reporting landlord and management violations of habitability laws. In our experience, non-English residents from low-income communities and communities of color frequently do not report unhealthy living conditions and landlord abuses, because they are not aware of the process to do so or the City has failed to ensure that previous complaints submitted were addressed, including though enforcement action. Undocumented residents face the fear of both retaliatory eviction and even deportation, and therefore, endure ongoing and un-remediated abuses.

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Like Draft Program 14, Draft Housing Element Program 17 does not include any commitment to specific actions by the City that will result in a beneficial impact in the planning period. **Rather, Program 17 commits the City only to “investigate participation”** in the Franchise Tax Board Building Code Program as a tool to reduce the number of substandard units in the City of Fresno. The Final Housing Element must modify this program to establish a date by which the City will make a formal determination as to whether it will participate in the program. The City must also commit to proactive code enforcement as opposed to a complaint based system in order to ensure the needs of residents are met for safe and healthy housing.

7. Inadequate Analysis and Mitigation of Special Needs Populations Housing Needs

The Draft fails to adequately analyze and mitigate the housing needs of the special needs populations identified under Government Code Section 65583(a)(7). Government Code 65583(a)(7) requires that housing elements include an analysis of special housing needs in the jurisdiction, including but not limited to those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter.

Building Blocks states that the analysis of each special needs group should include the quantification of the number of persons or households in the special needs group; a quantitative and qualitative description of the need; and identification of potential program or policies options and resources to address the need. Building Blocks further specifies additional recommended analysis for each special needs population.

a. The Draft Does Not Adequately Identify and Respond to the Housing Needs of Large Households

The Draft indicates that the share of large households (defined as households with five or more members) in the City’s population constitutes 20% of total households in Fresno and is increasing. 2-17. The Draft Housing Element identifies overcrowding and substandard housing conditions as potential problems faced by large households, though the Draft contains no data or specific information about the actual extent to which these issues impact large households in Fresno.

The Draft’s analysis of resources available to address the needs of large households states that the City “encourages the development of subsidized and private multi-family rental units citywide that incorporate services and facilities to assist large families...” 2-17. The Draft does not provide any information about specific activities the City performs to “encourage” the development of such housing. **In addition, the Draft does not indicate**

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that the City currently does or could undertake any actions to facilitate the development of units sufficient bedrooms to accommodate large households. The Final Housing Element must include supplemental analysis to address these deficiencies.

Draft Chapter 6, “Housing Plan”, includes one program, Program 5, which addresses the housing needs of special needs populations, including large households, in Fresno. That program states only that the City and Housing Authority will investigate and apply for funding to assist in the production of large family units. The Draft contains no commitment by the City to apply for funds for or ensure production of any specific number of units suitable for large families in particular and further contains no program actions for the identification and mitigation of barriers to housing opportunity.

The Draft’s assessment of past performance with respect to 2008 Housing Element Program 2.1.15, which established a goal of application of funds to assist in the development of 400 large family units, indicates that *no* large family units were in fact constructed as a result of implementation of the program. The City must justify the feasibility of effective implementation of an equivalent program in the 2015-2023 Housing Element or modify the program appropriately to ensure that it will result in a beneficial impact in the planning period.

b. The Draft Fails to Respond to the Needs of Female-Headed Households

The Draft states that female-headed households make up approximately 19.2% of all households in Fresno and face significant challenges in meeting the daily needs of their families, including paying for basic living expenses such as safe and affordable housing, food, and medicine as well as securing child care, medical insurance, and well-paying jobs. Despite this recognition, the Draft contains no programs designed to address the particular needs of female-headed households. The Final Housing Element must incorporate additional analysis of resource and program options available and adopt programs to assist this segment of the population in obtaining safe and affordable housing and a suitable living environment.

c. Failure to Provide Housing Assistance Opportunities for Undocumented Families

The Draft fails to consider the unique housing needs of undocumented residents, including obstacles to accessing financing for housing and subsidized housing opportunities. The Final Housing Element must include programs and policies to address these unique needs including, but not limited to developing partnerships with small, immigrant-friendly community based-credit union banks that offer low-interest mortgage loans and down payment assistant programs to undocumented residents.

d. Failure of Draft to Identify or Respond to Linguistic, Cultural, and Residency Status Barriers to Affordable Housing

Low-income households in Fresno are disproportionately comprised of Limited English Proficient (“LEP”) and Non-English Language speakers, immigrants and refugees, and undocumented residents compared to the population as whole. These households face special barriers to the attainment of safe and affordable housing which the Draft does not identify or respond to through its policies and programs.

In particular, LEP speakers may face barriers to learning about and accessing opportunities for housing assistance offered by the City, the Housing Authority, or other entities as well as their rights to safe and healthy housing under local and state laws. They also face barriers to participating in public processes for the development of policies and programs impacting housing opportunity due to absent or inadequate translation. Immigrants and refugees often face barriers to accessing opportunities and assistance due to lack of contact between themselves and City staff and decision-makers and a corresponding lack of information about available resources. In addition, undocumented residents are ineligible for most housing assistance programs offered by the City and Housing Authority, though they suffer from various housing issues associated with their low-income, LEP, and farmworker status and membership in large households. LEP speakers, immigrants, and undocumented residents all face challenges to access to affordable credit which drastically limits their opportunities to purchase and own safe and affordable housing and results in their reliance on predatory loan terms as well as risky cash payment.

The Final Housing Element must examine and respond to the housing issues impacting low-income residents and special needs populations in Fresno on the basis of language, country of origin, and immigration status.

8. Failure to Examine or Address the Housing Needs of Residents of Mobile Homes

The Draft contains no information, analysis, policy or program actions addressing the various housing issues associated with residency in a mobile home in Fresno.

Residents of mobile homes in Fresno are often subject to extremely high utilities charges in the hundreds of dollars per month by mobile home park owners. These charges in addition to the monthly cost of renting a space in a mobile home park often result in mobile home owners paying in excess of 50% of their income on housing costs. Many residents of mobile homes own their mobile homes and would like opportunities to

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purchase a space in the mobile home park or elsewhere to avoid paying perpetual rental charges. Many residents of mobile home parks in Fresno are low, very-low, and extremely-low income residents and members of special needs populations (including farmworkers) and protected classes whose particular housing problems must be thoroughly analyzed and address in the Final Housing Element.

The Final Housing Element must include information regarding barriers to the attainment of safe and affordable housing facing residents of mobile homes in Fresno, existing resources and opportunities to address those needs, and program actions to mitigate unmet needs.

9. The City Must Evaluate Barriers to Affordable Housing and Fair Housing Associated with the 2015 Development Code

The City relies on its December 2015 adoption of an updated Development Code as among the only actions taken by the City to implement various programs contained in the **City's 2008 Housing Element to further affordable housing opportunities. Given the City's reliance on the Development Code Update as a mechanism to expand affordable housing opportunity in Fresno, the Final Housing Element should include a program to comprehensively evaluate barriers to housing opportunity, including to the maintenance and preservation of housing affordable to low-income populations in neighborhoods throughout the City, associated with the Development Code Update. This analysis would address Article 15-2201(D) in the Code, providing that:**

“Nothing in this Article shall be construed as a provision for inclusionary zoning where an applicant is required to provide housing affordable to moderate, low, and very low income households as a condition of approval for a residential development. Furthermore, the Council shall not adopt a provision for inclusionary zoning, as described above, unless and until the Fresno General Plan adopted in December 2014 is updated and superseded by a new General Plan.”

The analysis must also address loopholes in provisions calling for the inclusion of multi-family housing in growth areas in the City. These loopholes, if allowed to remain, promise to ensure the repetition of exclusionary growth patterns favoring single-family housing development to the exclusion of other types of housing, including but not limited to townhomes, duplexes, fourplexes, and multi-family housing.

These provisions and others in the Development Code impair the City's ability to ensure it can achieve its RHNA and maintain an adequate supply of residential land to meet the need for affordable housing for all economic segments of the population in Fresno and

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therefore must be appropriately addressed in the housing element through policies and programs.

10. Failure to Affirmatively Further Fair Housing

Government Code Section 65583(c)(5) requires that local governments commit to “[p]romote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.” As explained above in Section 1(b), local governments are bound to comply with civil rights and fair housing laws requiring them to affirmatively further fair housing opportunities in their development and implementation of their housing elements as well as other land use policies, programs, and actions. 42 U.S.C. § 2000d; 42 U.S.C. § 3601, et seq.; 24 C.F.R. § 91.225(a)(1), 91.325, 570.303, 570.304(a); Cal. Gov. Code §§ 11135.

HUD defines “affirmatively furthering fair housing” (“AFFH”) as:

“...taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and technically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a program participant’s activities and programs relating to housing and urban development.”² (underline added)

The Draft fails to analyze or adopt programs to address barriers to fair housing in accordance with fair housing and civil rights laws and regulations, including documented patterns of racially and ethnically concentrated poverty, poor health outcomes, and disparities in access to opportunity based on geographic location, race, and income in Fresno.³ The Draft also fails to incorporate information or policies or programs contained in the San Joaquin Valley Fair Housing and Equity Assessment (FHEA), which

² See HUD’s Final Affirmatively Furthering Fair Housing rule, available online at http://www.huduser.org/portal/sites/default/files/pdf/AFFH_Final_Rule.pdf

³ We have previously provided information to the City regarding these disparities through written and oral comments on various occasions, including but not limited to in comments attached to Petitioner’s complaint in *Familias Addams por un Mejor Futuro v. City of Fresno*.

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HCD encourages local governments in the Central Valley to use in the preparation of their housing elements.⁴

The Final Housing Element must include an analysis of patterns of racial and ethnic segregation, concentrated poverty, disparities in access to resources and amenities across the City and adopt policies and programs to promote housing opportunities and access to opportunity broadly for residents regardless of protected status. The City is currently updating its 1996 Analysis of Impediments to Fair Housing; the analysis, findings, and program recommendations from the update should be incorporated into the Final Housing Element.

Policies and programs to this end that the City should consider incorporating into the Final Housing Element include those set forth in the FHEA as well as other measures to AFFH applicable to Fresno. Key programs that the Final Housing Element should consider include but are not limited to (1) programs requiring the examination and/or adoption of possible inclusionary housing policies requiring that new development reserve a set percentage of units for housing affordable to low-income populations; (2) a program for the location of development including affordable housing subsidized by state and federal funds received by the City in higher-income areas in North Fresno and in growth areas, (3) the creation of a local or regional source of funding for affordable housing through mechanisms such as a commercial linkage fee, (4) assessment of City land use policies and practices, including its 2015 Development Code, as they pertain to **the City's duty to AFFH**, and (5) policies and programs to address disparities in access to essential infrastructure, services, amenities, and opportunities between low-income and higher-income neighborhoods in Fresno.

11. Failure to Complete Required SB 244 Analysis and General Plan Revisions

As we have advised the City previously, Gov. Code. § 65302.10 requires all jurisdictions in California to, upon the next revision of their housing element, adopt revisions to the land use element of their General Plan that identify Disadvantaged Unincorporated Communities (DUCs) within their sphere of influence, inventory the basic infrastructure and service needs of those communities, and identify possible funding sources that could support the resolution of these deficiencies. Gov. Code. § 65302.10. Accordingly, the City must complete this analysis concurrent with or prior to the date on which its housing element is due.

⁴ Memorandum to Planning Directors and Interested Parties from Paul McDougall, HCD, regarding "Housing Element Updates and the 2014 San Joaquin Valley Fair Housing and Equity Assessment," dated February 9, 2015.

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The City has not completed or, to our knowledge, initiated this analysis to date. The Final Housing Element must contain policies and programs consistent with a analysis completed pursuant to Gov. Code. § 65302.10.

* * * * *

Thank you for your consideration of our comments. Please contact me at my office in order to set up a time to discuss these comments in person.

Sincerely,



Ashley Werner, Esq.

Leadership Counsel for Justice and Accountability

cc: Jennifer Clark, Director, DARM, City of Fresno
Sophia Pagoulatos, DARM, City of Fresno
Doug Sloan, City Attorney
Paul McDougall, California Department of Housing & Community Development
Tom Brinkhuis, California Department of Housing & Community Development



LEADERSHIP COUNSEL
FOR
JUSTICE & ACCOUNTABILITY

A Tides Center Project

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March 30, 2016

Sophia Pagoulatos, Planning Manager, DARM
Jennifer Clark, Director, DARM
Fresno City Hall
2600 Fresno St., Rm. 2031
Fresno, CA 93721

Sent via Email

RE: City of Fresno's Revised Public Review Draft 2015-2023 Housing Element

Dear Ms. Pagoulatos and Ms. Clark:

We are writing to you on behalf of our clients, Familias Addams por un Mejor Futuro, Rosalina Carson and Rosalba Cardenás (collectively, "Familias Addams"), to provide comments on the City of Fresno's ("City") Revised Public Review Draft 2015-2023 Housing Element ("Revised Draft Housing Element" or "Revised Draft"). These comments supplement comments we previously submitted on behalf of Familias Addams and other residents of Fresno's Jane Addams neighborhood regarding the City's original Draft Housing Element released in January 2016 on February 5, 26, and 29, 2016 respectively ("February 5th", "February 26th", and "February 29th" Letters or collectively, "previous comment letters").

Thank you for your consideration of our comments. We look forward to the opportunity to discuss them with you in person.

1. Inadequate Efforts to Achieve Participation of All Economic Segments of the Community

Despite a documented history of excluding public input on the prior draft, the City has again submitted a revised draft housing element to the State Department of Housing and Community Development ("HCD") for approval prior to releasing that revised draft to the public, thus continuing to deprive the public of opportunity for input in express contradiction of HCD's directive to the City.

Our previous comment letters notified the City that it had failed to make a diligent effort to achieve the public participation of all economic segments of the community in developing the Draft Housing Element as required by Government Code section 65583(c)(8) and provided several recommendations regarding actions the City could take

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in order to satisfy that requirement. The HCD also notified the City through written correspondence dated March 7, 2016 (“HCD’s Letter), that the City’s failure to make the Draft available for public review prior to submittal to HCD “deprived the public an important opportunity for public input” and that the City must make further efforts to achieve public participation, including by low- and moderate-income households and/or representation organizations, prior to its adoption of the final housing element.

After submitting the draft to HCD without public input, the City further scheduled a hearing by the Housing and Community Development Commission (HCDC) just four working days after public release of the revision. As we and several residents stated during public comment at the HCDC hearing on March 23, 2016, that timeline denied the public a meaningful opportunity to learn of, review, understand, and form opinions regarding the revised draft housing element and provide that input to the City prior to the public hearing. It further disproportionately adversely impacts the City’s significant population of residents who speak only limited or no English, who are disproportionately low-income compared to City’s population as a whole and who must learn of the contents of the multiple housing element drafts through bilingual English-speakers due to the lack of translated drafts.

HCDC agreed that the City’s process did not allow adequate opportunity for public input and on that basis, voted unanimously (5-0) to recommend denial of the revised draft housing element and to direct staff to create additional opportunities for public participation. Nevertheless, staff present at the HCDC hearing told the commissioners that its vote would not affect the City’s timeline for approval of the document.

The City must comply with Government Code section 65583(c)(8) by making a diligent effort to obtain the participation of all economic segments of the community, especially low and moderate income populations, prior to the adoption. To do so, the City must take additional steps obtain the input of low- and moderate-income and special needs populations as outlined in our previous comment letters and must establish a public hearing schedule that allows for sufficient time to review the revised draft housing element, including translation for non-English speaking residents. The City must be prepared to make substantial amendments to the draft housing element, which continues to ignore the needs of low income communities, as documented in previous comment letters and herein.

2. Provide for Ongoing Public Participation to Facilitate Implementation of Housing-Related Policies

We appreciate the City’s addition of Program 3: Annual Reporting Program to the revised draft. This program should be modified to clarify that it entails not only the distribution of information by the City to residents and other stakeholders but also allow residents and stakeholders the opportunity to discuss and provide information and

feedback to the City. As stated in our previous comment letters and oral comments, the City must prioritize developing direct relationships with community leaders, with focus on leaders in low-income neighborhoods and neighborhoods of color which are most impacted by affordable and fair housing issues. The City should incorporate the prioritization of such efforts into its Final Housing Element and specify that it will seek to draw upon its relationships with community leaders in order to achieve robust resident participation and meaningful dialogue pursuant to this program. We recommend that the City convene a meeting at HCDC to do so not once but at least twice per year in order to foster participation and obtain feedback throughout the year.

In addition, we recommend that topics covered pursuant to Program 3 specifically **include implementation of the housing element's policies and programs, as well as other housing and fair housing-related programs and policies maintained by the City, including but not limited to those contained in the Analysis of Impediments to Fair Housing Choice (or Assessment of Fair Housing) and relevant General Plan policies and Development Code provisions.**

3. Inadequate Information & Analysis in Support of Carry-Over Calculations and Sites Inventory

a. Inadequate Carry-Over Analysis

The City's last housing element included a program to re-zone 700 acres of land to provide an adequate supply of land at densities that could facilitate the development of housing affordable to lower income households. This program was necessary because of the dearth of sites zoned for high density residential development in the City limits. The City failed to implement that program prior to the end of the 2008-2013 planning period and therefore is required in its 2015-2021 Housing Element to provide an adequate inventory of sites for the housing the City refused to accommodate in the last planning period - the carry-over - and the 2013-2021 Regional Housing Need Allocation (RHNA).

There are multiple steps to analyzing how many sites the City needs to make available to meet its carry-over. The first step is to determine the Regional Housing Need Allocation (RHNA) for the **last planning period. In the City's Revised Draft Housing Element ("Revised Draft"), the first step is flawed. The City's 2008 Housing Element and its 2009 Housing Element Amendment** identify the RHNA for lower income households at 8,534 units.¹ Yet, in the recently submitted 2016 Revised Draft, the calculation for the un-accommodated need states the 2008 RHNA for lower income units is 8, 216 units, several hundred units less than then RHNA assigned in 2008. See 2016 Revised Draft Housing Element, Table 3-3. There is no explanation or analysis to account for the reduced RHNA and thus the 2008 RHNA of 8,534 units should be the starting point of the carry-over analysis.

¹ This number may also be too low as the 2008 Housing Element refers to a previous unmet need of 273 units which should be added to the 2008-2013 RHNA assigned to the City. See 2008 Housing Element, p. 3-3. There is no indication of what income category these 273 units represent.

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The second step of the carry-over analysis is to determine how much land was available and suitable to meet the 2008 RHNA for 8,534 units. A review of the 2008 housing element and the 2009 Housing Element Amendment reveals that the City identified 44 acres of land to accommodate 747 lower income units, of the 8,534 needed, at densities of 29 du/ac (R-3) and 43 du/ac (R-4). **The City's Revised Draft asserts that in 2008 City actually had land to support 1, 211 additional lower income units by right at 29 units/acre and could also accommodate an additional 877 units that conditionally allowed residential development at 29 units/acre. The revisions lack any information to perform the required analysis to demonstrate the availability of these additional sites. There is no indication of where these sites are, how large or small they are, what their development capacity would be, whether they were included in the City's 2008 inventory, and if they were included in the City's inventory were they included in the City's original calculation of 747 units. The City cannot reduce the un-accommodated need by 2,088 units without this necessary information and analysis.**

The Revised Draft also reduces the number of un-accommodated units by 903 units on the basis of its identification of increased development potential at high densities in the Central Area and 137 units of affordable housing in the South Stadium development. Again, more information and analysis is required before it can be determined whether these sites can be relied on to reduce the City's carry-over obligation. For instance, the 137 South Stadium units were based on the expected development of affordable units because of requirements under the state Community Redevelopment Law ("CRL"), but there is no evidence that the project complied with the CRL requirements to include affordable units or what level of affordability the units, if constructed, obtained.

And lastly, the City's Revised Draft reduces the carry-over obligation by taking a credit for the affordable housing constructed during the last planning period without providing any information about the levels of affordability of those units or how their affordability was provided.

In summary, the City's rush to submit the Revised Draft without any input from the public **resulted in a failure to supply any of the necessary information required to determine the City's accurate carry-over obligation and thus the City's carry-over obligation remains unchanged by the City's Revised Draft.**

b. Inadequate Support for Sites Contained in Sites Inventory

The City's Revised Draft also fails to address some of the issues highlighted in our comment February 5th Letter regarding the Sites Inventory. For example, the inventory of sites includes parcels with proposed projects. The City responds that it has only included these sites at their minimum allowed density as opposed to the proposed project density in case the proposed projects fail to come to fruition. This is inadequate. Parcels with proposed projects -- projects that have already received entitlements for market rate (moderate affordability) development -- cannot be included in an inventory of sites to meet the needs of low- and very low-income residents. A parcel entitled for a moderate income development, by its very definition, cannot be available for affordable housing development. And while the entitlements are in place, the site is not available for any other development. If the project proposals change and the owners seek funding to make the units affordable, then the City can credit their RHNA in its next housing element but as of now these sites, despite their density, cannot be included in the inventory to meet the needs of lower income households.

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The Revised Draft does not include a site specific analysis explaining why the underutilized sites identified in the inventory have redevelopment potential in this planning period. A generic paragraph stating that there is redevelopment potential without further analysis is not adequate to meet the requirements of Government Code section 65583.2(g).

As the Revised Draft indicates, one of the primary sources of funding for affordable housing is the Tax Credit Program. The Tax Credit Program is one of the only financing mechanisms that can effectively support the development of housing affordable for very low and extremely low-income households. Yet, the City continues to rely on sites in the inventory that cannot compete for this scarce and competitive funding source, because the sites in the inventory are too small to meet the minimum threshold of 50 units or are too large to meet the maximum size of 150 units. Including these very small and very large parcels in the inventory constrains the production of affordable housing. The Final Housing Element should contain additional moderately-sized sites that are suitable for development in order to reduce reliance in the Sites Inventory on small and large lots which are not feasible for development.

Finally, while the Sites Inventory indicates that no sites identified therein have any infrastructure constraints, the City has failed to demonstrate that sites contained in the inventory are served by infrastructure and services that can support development at the densities identified. This includes high density sites located in the City center and along major corridors which were not originally planned for high density development as well as sites located West of Highway 99, including between Shaw Avenue and Barstow Avenue adjacent to Highway 99 and by Shaw Avenue between Grantland Avenue and Bryan Avenue which, to our knowledge, are not served by or located in proximity to sewer, water, or other infrastructure and services necessary to support development at all. The Final Housing Element must show how infrastructure and services may be provided on these and other sites so as to make development of affordable housing at the identified densities feasible in the planning period. Alternatively, the City may include additional sites that it can demonstrate are currently served by necessary infrastructure.

These issues must be addressed before the City's element can be found in compliance with the state's Housing Element Law.

4. Inadequate Analysis of the City's Past Performance in Implementing Program 2.1.6a

The Revised Draft analysis of the City's performance with respect to its implementation of 2008-2013 Housing Element Program 2.1.6a erroneously claims that the program "is no longer needed" and is therefore removed from the 2015 Housing Element. As demonstrated in section three of this letter above, the Revised Draft's analysis of the City's ability to satisfy its 2015 RHNA and 2008-2013 carry-over requirement is wholly inadequate.

In addition, the Revised Draft's analysis of the City's performance in implementing Program 2.1.6a, without providing sufficient supporting information, relies on the City's adoption of the Development Code in December 2015 as a primary basis for its conclusion that Program 2.1.6a is no longer necessary. The analysis claims that the City's adoption of the Development Code Update resulted in a city-wide vacant land

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inventory capacity of 33,000 units in appropriate income categories and additional capacity on underutilized sites **and that “These figures meet both the City’s 2008 unaccommodated need and the current RHNA”**. Yet nowhere does the Revised Draft provide support for this figure.

Program 2.1.6a’s commitment to rezone 700 acres of land for development of multi-family residential units by right is far superior to the ambiguous and unsubstantiated approach proposed by the Revised Draft to make sites available to meet its RHNA and Carry-Over.

In addition, as explained in Section 9 below, the Revised Draft fails to show that the sites inventory satisfies the City’s duty to affirmatively further fair housing by making sites available for affordable housing development outside of areas of racially and ethnically concentrated poverty.

5. The Final Housing Element Must Include Programs with Definitive Timelines That Will Remove Identified Constraints on Affordable Housing Production

a. Program 1: Adequate Sites

As explained in Sections 3 and 4 above, the Revised Draft provides insufficient documentation to show that the increased densities on sites through the **Development Code Update and Rezone Map satisfy the City’s carry over requirement to rezone sites in the first year.**

In addition, the statement contained in **Revised Draft Program 1 that “the rezoning was completed at the end of the previous planning period” is inaccurate.** As mentioned in our previous comment letters, the Development Code Update itself did not rezone any parcels and the City took no action during the 4th Cycle Planning Period to complete the required rezoning. The Revised Draft contains no programmatic commitment to do so. Even if the program is under way, it is not complete as neither the Development Code nor the Rezone Map addresses the downtown area capacity. That will only be addressed through the adoption of a subsequent Downtown Specific Development Code and rezoning which has yet to occur.

The Final Draft Housing Element must provide sufficient information to demonstrate that the City has sufficient land available now that is suitable for the development of affordable housing to meet its carry-over requirement and 5th Cycle RHNA or it must include a program to rezone sites within one year.

b. Program 5: Housing Funding Sources

Revised Draft Program 5 includes commitments to “assess and explore” “new funding programs” and certain specified funding sources for affordable housing and mixed-income development. The Revised Draft omits reference to several funding sources, identified in our previous comments letters which we recommended that the City consider adopting. These sources which are omitted from the Revised Draft include but are not limited to commercial linkage fees and inclusionary zoning program. The Revised Draft also indicates that the City will “support” legislation that increases support for and reduces regulatory barriers for affordable housing but provides no information about specific actions the City will take to do so.

The Final Housing Element should expand the local housing funding programs assessed as part of the annual reporting process and shall include commercial linkage fee and inclusionary zoning programs and must commit the City to take specific actions to support the legislative and regulatory efforts to expand affordable housing options and to achieve beneficial outcomes in the planning period.

c. Program 16: Farmworker Housing

The Revised Draft provides that the City shall “Review Development Code by January 2017 and amend or revised the Development Code if needed to comply with the Employee Housing Act following the review.” The Final Housing Element must state a date certain by which the City will revise the Development Code if needed pursuant to the Employee Housing Act following review.

d. Program 19: Comprehensive Code Enforcement

In response to comments contained in our February 26th Letter, the City revised the narrative for Program 19, Comprehensive Code Enforcement, to state that the City will pursue resolution of cases identified through the inspection process, including enforcement actions against landlords if necessary. In order to avoid ambiguity and to ensure that the program results in beneficial impacts within the planning period, the Final Housing Element must revise the commitment identified following “Timeframe/Objective” under Program 19 accordingly to specify that the City will “Complete 8,000 inspections annually, *pursue resolution of cases identified through the inspection process, and develop Task Force recommendations by the end of 2016.*” (italics indicate proposed additional text).

In addition, our February 26th Letter discussed the importance of ensuring that the Mayor’s Code Enforcement Task Force is inclusive in its membership, with seats in particular for low-income, non-English speaking, and undocumented residents, and that its meetings are open to the public in order to allow input from interested stakeholders in

the development of the Task Force’s recommendations. The City declined to incorporate these recommendations into the Revised Draft. We continue to assert that their incorporation is critical to ensuring adequate and representative public process with respect to the Task Force’s activities and to the development of recommendations that address the substandard housing issues impacting Fresno residents.

6. Inadequate Analysis and Programs to Address the Housing Needs of Special Needs Households

Our February 26th and February 29th Letters advised the City that the draft housing element failed to include adequate analysis of and policies and programs to address the housing needs of special needs households, including but not limited to large households, female-headed households and undocumented families as well as households that face barriers to housing based on language or cultural factors. The Revised Draft also fails to include further analysis or contain policies or programs that address the specific needs of special needs households.

With respect to undocumented households, the “City of Fresno Housing Element Comment Matrix” (“Comment Matrix”), dated March 16, 2016, states the City’s opinion that, “Pending further state or federal legislation, the Housing Element is not required to contain programs addressing this issue.” p. 6. On the contrary, state housing element law requires jurisdictions to analyze “any special housing needs” of the population and provides non-exclusive examples of populations with special housing needs. Gov. Code § 65583(a)(7). State housing element law does not exempt jurisdictions from considering the special housing needs that specifically effect undocumented residents.

The Revised Draft, census data, and other sources of information indicate that special needs populations, including large households, female-headed households, immigrant households, undocumented families, farmworker families, non-English speaking and Limited English Proficient (LEP) households, constitute significant portions of Fresno’s population and are disproportionately compromised of low-income people and people of color.² **The Revised Draft’s failure to adequately analyze and include programs to**

². As mentioned in our February 26th Letter, the Draft indicates that 20% of households in Fresno are large households with more than five people and 19.2% of households are female-headed households. 2015 ACS data indicates that 61% of single-parent households in Fresno County that are headed by females are under the poverty line and that the unwed birth rate for Native Hawaiian, Black, and Latino mothers in Fresno respectively was 100%, 71% and 42% compared to 31% for whites. 2012 ACS data indicates that 22.8% of Fresno residents are LEP. See Jill Wilson, Investing in English Skills: The Limited English Proficient Workforce in U.S. Metropolitan Areas, Sept. 2014, available at <http://www.brookings.edu/research/reports2/2014/09/english-skills#/M10580>. Approximately 86,000 undocumented persons reside in Fresno County, according to the Migration Policy Institute. See data available at <http://www.migrationpolicy.org/programs/data-hub/charts/authorized-immigrant-populations-country-and-region-top-state-and-county>. The Revised Draft indicates that about 56,500

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address the housing needs of these and other special needs populations renders the Revised Draft inadequate and at odds with State Housing Element Law, including Government Code Sections 65583(a)(7) and 65565583(c)(5).

The Final Draft Housing Element must analyze and respond to the special needs of households in Fresno as discussed above and in our previous comment letters.

7. Failure to Address the Housing Needs of Residents of Mobile Homes

Like the initial draft housing element, the Revised Draft includes no analysis of the housing issues impacting residents of mobile homes. The Comment Matrix states that, **“No specific housing needs of mobile home residents have been brought forward in the Housing Element process aside from the cost of land and possible sewage issue”**. The Comment Matrix indicates both the **“cost of land”** and **possible sewage issues** are **“beyond the scope of local government control,”** and the Revised Housing Element includes no policies or programs to address these issues. We disagree that there are no actions the City can take to mitigate housing impacts associated with land costs for low-income mobile home residents and with the City’s **assertion** that malfunctioning sewage systems impacting residents of mobile home parks which landlords refuse to repair is **beyond the City’s control**

Our February 26th and 29th Letters describe specific housing needs faced by residents living mobile homes in Fresno and proposes policies and programs to address those needs, including the cost of utilities charged to renters of land at mobile home parks and the desire of residents to have the option to own the land on which the trailers are located as specific problems facing residents of mobile homes. The Housing Element fails to analyze these and other housing issues specifically impacting residents of mobile home parks or potential solutions to those issues. HCD in fact notified the City in its March 7th letter of the release of a Notice of Funding Availability for the Mobilehome Park Rehabilitation and Ownership Program (MPRROP), with applications accepted from March 2, 2016 through March 1, 2017, which would provide funds to directly address concerns raised in our comment letters.

The Final Housing Element must respond to and incorporate all public comments pertaining to housing issues effecting residents of mobile homes in Fresno, analyze the housing issues associated with mobile home residency, and identify and adopt appropriate policies and programs to address barriers to affordable housing and a suitable living environment for residents of mobile homes. Such policies and programs may include but are not limited to the following:

farmworkers resided in Fresno County as of approximately 2010. According to 2011 ACS data, over 80% of farmworkers in California are Latino

- establishment of a policy to conduct proactive and targeted code enforcement to address substandard housing conditions in rental mobile home units, including malfunctioning sewage systems;
- development of an inventory and needs assessment documenting and identifying solutions to the housing needs of residents of mobile homes;
- establishing a source of funding and fund to assist low-income mobile home owners with maintenance costs and utility payments; and
- establishment of a program to facilitate the conversion of mobilehome parks to ownership by residents, local non-profit housing sponsors, the Fresno Housing Authorities, and/or the City of Fresno, such as through funding provided by MPRROP;

8. Failure to Analyze Barriers to Affordable and Fair Housing Associated with the 2015 Development Code

Our February 26th Letter identifies two critical government-created barriers to affordable housing and fair housing associated with the City's 2015 Development Code: (1) Article 15-2201(D) which prohibits adoption of an inclusionary zoning policy without a comprehensive update of the 2014 General Plan, and (2) loopholes in provisions calling for a variety of housing types in the City's growth areas. Neither the Comment Matrix nor the Revised Draft analyzes these government-created barriers to affordable and fair housing nor identifies any policies or programs to remedy them³. The Final Housing Element must do so.

9. Inadequate Sites and Programs to Affirmatively Further Fair Housing

As explained in our comment letters, the initial draft housing element failed to satisfy the City's duty to affirmatively further fair housing in compliance with state and federal affordable and fair housing laws. HCD's Housing Element Review Letter to the City additionally included a directive to the City to use the San Joaquin Valley Fair Housing and Equity Assessment (SV FHEA) as part of the housing element update. In response, the Revised Draft provides additional information and analysis, including mapping, regarding the location of sites included in the sites inventory, including in areas of racially and ethnically concentrated poverty. We thank the City for including this additional information. However, the Revised Draft still fails to demonstrate that the sites contained in the sites inventory and the programs contained in the Housing Plan satisfactorily further fair housing and do not further entrench patterns of racially and ethnically concentrated poverty and disparate access to opportunity and resources based on protected class status in Fresno.

³ The Comment Matrix states the Development Code does not *include* an inclusionary zoning policy but does not acknowledge or analyze the effect of Article 15-2201(D)'s *prohibition* on the adoption of such a policy.

a. *Sites Inventory Fails to Affirmatively Furthers Fair Housing*

The map provided on Revised Draft page 3-25 shows that high density (30-45 du/ac) sites contained in the sites inventory are predominately located in Racially and Ethnically Concentrated Areas of Poverty (R/ECAPs), including Downtown, West Fresno, and Pinedale. Other high density sites are primarily located in and around Highway City, an economically disadvantaged “Inner City” area as designated by the City of Fresno located around the intersection of Shaw Avenue and Highway 99 which lacks various basic infrastructure and services.

Importantly, the map indicates that the Sites Inventory contains no high density sites north of Herndon Avenue – the Northern boundary of the “neighborhoods that are the most distressed in the City and among the most distressed in the nation” according to the City’s 2014 General Plan⁴ - which are not either located within or immediately adjacent to an R/ECAP. Yet, the map shows significant anticipated development of low density sites (0-16 du/ac) throughout the existing neighborhoods North of Herndon Avenue, including a large cluster of sites from Copper Avenue North. These areas include the wealthiest neighborhoods in Fresno, are disproportionately compromised of white residents and have disproportionately lower shares of Latinos, Blacks, Asians and other populations of color compared to Fresno as a whole, and almost entirely lacks affordable housing options for lower-income families, a fact recognized by the 2014 General Plan⁵.

The Revised Draft’s “Housing Site Distribution” discussion acknowledges – but immediately dismisses – the fact that higher density sites identified in the Sites Inventory are concentrated in R/ECAP neighborhoods in the City’s inner core, stating that the distribution is constituent with General Plan policy to encourage transit oriented development and revitalization in these areas. 3-24.⁶ The City’s revitalization goals do not constitute a justification for concentrating higher density sites for low-income housing in neighborhoods that are currently characterized by racially and ethnically concentrated poverty and for failing to provide opportunities for higher density affordable housing in more affluent and whiter neighborhoods.

In order to comply with state housing element and state and federal fair housing laws, the Final Housing Element Sites Inventory must include an equitable distribution of sites

⁴ p. 12-11.

⁵ “Growth patterns have also exacerbated the concentration of poverty. Housign in the northern part of the city caters to upper-income families, while affordable housing investment has occurred in more distressed neighborhoods.” pp. 10:11-12.

⁶ “For the most part, the R/ECAPs are in more centralized parts of the City with more public transportation options. The concentration of higher density sites in the City’s core aeras corresponds with General Plan policy to encourage transit oriented, compact development and revitalization efforts in older parts of the City. The City’s General Plan (2014) has established land use policies and programs to create a balanced city with an appropriate proportion of its growth and reinvestment focused in the central core, Downtown, established neighborhoods, and along Bus Rapid Transit (BRT) corridors.”

throughout the City, including additional high density sites in higher-income and higher opportunity North Fresno neighborhoods which lack opportunities for affordable housing. The Final Housing Element must include supportive information and analysis to demonstrate this.

b. Lack of Protection for Low-Income Residents of Neighborhoods Targeted for Revitalization

As the Revised Draft indicates, the City has targeted the Downtown and Blackstone Corridor for its neighborhood revitalization initiatives. Data indicates that **“gentrification” is occurring in certain core neighborhoods targeted for revitalization**, with measurable increases in property values and median education levels.⁷ While the Revised Draft Sites Inventory includes many high density sites indicated for very low-income housing development Downtown, as discussed in section immediately above, many higher density sites recently developed downtown are priced at levels affordable only to moderate and above-moderate income households.

The Final Housing Element must ensure that existing low-income residents in neighborhoods targeted for revitalization are able to reap the benefits of revitalization by including programs that prevent displacement due to rising housing costs and ensure that new development in these neighborhoods includes options for low-income residents. Programs that Final Housing Element could incorporate to this end include but are not limited to the following: (1) develop and implement a system to monitor and publically report on housing affordability for residents of all income levels in neighborhoods targeted for revitalization and displacement effects associated with rising rents and development activities; (2) examine rent control ordinance options to provide protections to existing low-income residents against excessive rent increases; and (3) study and adopt an inclusionary housing policy to require all new development of a certain size in areas targeted for revitalization include a minimum percentage of units affordable to low-income residents.

c. Inadequate Programs to Address Barriers to Opportunity Based on Protected Class Status

The Revised Draft fails to include programs that satisfy the City’s **obligation to** affirmatively further fair housing by taking steps to remedy the basic infrastructure, service, public investment, and quality of life deficiencies and inequities that impact Fresno’s low-income neighborhoods of color.

Low-income neighborhoods of color in Fresno disproportionately lack access to basic infrastructure improvements, including curbs, gutters, sidewalks, well-paved roads, and

⁷ Governing, Fresno Gentrification Maps and Data, available at <http://www.governing.com/gov-data/fresno-gentrification-maps-demographic-data.html>.

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street lights, as well as to other essential services and amenities, such as commercial retail and green space, compared to more affluent neighborhoods. The deficiencies constitute barriers to fair housing disparately impacting residents on the basis of protected class status. The Revised Draft does not adopt adequate programs to address these disparities and deficiencies. The City's duty to affirmatively further fair housing not only encompass its use of federal HOME and CDBG funds but also extend to all City land use planning decisions and provision of services.

In particular, Program 20: Neighborhood Infrastructure states the City Public Works Department will 'commit its best efforts to provide households' with basic neighborhood infrastructure and will complete 5 infrastructure projects annually. This program as written does not acknowledge or address disparate infrastructure conditions and access to services and amenities across **Fresno's neighborhoods on the basis of income and race** of the residents of those neighborhoods. The program further contains no real commitment **on the City's part, as it is a given that Public Works will "complete 5 infrastructure projects" and many more each year.** The Final Housing Element must include program commitments to specifically identify and address the infrastructure, service, and amenity deficiencies disproportionately impacting low-income neighborhoods of color in Fresno, including by implementing General Plan policies prioritizing the needs of neighborhoods with the greatest deficiencies and commitments to pursue available funding, such as State Active Transportation Program funds, to address those needs in partnership with residents and stakeholders.

While the Revised Draft briefly references the SJV FHEA in its Housing Site Distribution discussion, it does not incorporate the data contained therein into its analyses or consider or adopt any of the program proposals contained within the SJV FHEA. The SJV FHEA's program proposals (contained on pages 48 through 52) were developed collaboratively by planners from participating jurisdictions and affordable and fair housing advocates and are aimed at mitigating and eliminating identified barriers to fair housing in Central Valley jurisdictions, including the City of Fresno. In accordance with **the direction provided in HCD's March 7th Letter, the Final Draft Housing Element should consider and incorporate as appropriate the data and programs contained in the FHEA.**

Our previous comment letters identify several other actions the City could take to address fair housing issues impacting residents on the basis of protected class in Fresno but which are not addressed in the Revised Draft. These actions include the implementation of a policy or program for the use of state and federal for the development of affordable housing in higher income, higher opportunity, and growth areas as well as the examination of local funding sources that could allow for a broader distribution of affordable housing throughout the City. Barring an articulated and justifiable reason not to do so, the Final Housing Element should incorporate these actions as programs.

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Thank you for your consideration of our comments. We look forward to discussing them with you in person.

Sincerely,



Attorney
Leadership Counsel for Justice and Accountability



Attorney
Public Interest Law Project