

## Briana Parra

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**From:** Ashley Werner  
**Sent:** Thursday, August 11, 2022 7:45 AM  
**To:** Briana Parra; Luis Chavez; Miguel Arias; Tyler Maxwell; Esmeralda Soria; gbredefeld@fresno.gov; mkarbassi@fresno.gov; nesparza@fresno.gov  
**Cc:** Talia Kolluri; Phoebe Seaton; Veronica Garibay; Ivanka Saunders; Isaac Serratos; Jennifer Clark; Scott Mozier  
**Subject:** Comments on Council Agenda Item I-Q (Orange/Central Ave Intersection Project)  
**Attachments:** Attachment 1. Katie Taylor Declaration.pdf; Attachment 2. 2021.6.8 LC ELJC Comments - E Central Avenue Widening Project Final.pdf; 2022.8.10 LC Letter to COF - Orange Central Ave Intersection Project FINAL.pdf

**External Email: Use caution with links and attachments**

Councilmembers and Ms. Parra,

I am writing to submit Leadership Counsel for Justice and Accountability's comments and related attachments regarding Council Agenda Item I-Q, "Actions pertaining to Orange Avenue and Central Avenue Intersection Improvement Project."

Please contact us if you would like to discuss them.

Thank you,

Ashley Werner



**DECLARATION OF KATIE TAYLOR IN SUPPORT OF  
SOUTH FRESNO COMMUNITY ALLIANCE'S COMMENTS ON THE CITY OF  
FRESNO'S GENERAL PLAN FINAL PROGRAMMATIC  
ENVIRONMENTAL IMPACT REPORT (SCH #2109050005)**

I, Ms. Katie Taylor, declare:

1. I am a resident of Fresno, California. For over fifty years, I have lived on Central Avenue near its intersection with Orange Avenue in unincorporated Fresno County, just South of Fresno City limits.

2. The Amazon Fulfillment Center was constructed across the street from my house in 2017. The Ulta Beauty distribution center was built less than half a mile from my house in 2017 as well. There are other large facilities near my house, including the FedEx terminal, that attract traffic. Several other truck terminals and truck stops have been built around my neighborhood in the last few years as well. It seems like there are always new facilities being built nearby.

3. I was never notified that large warehouses were going to be built so close to me. When I saw the orchard trees being plowed down across the street, I did not know why. I thought the property owners were just going to plant more fruit trees. My neighbors thought the same thing. The next thing we knew there were big buildings being constructed. We were not given an opportunity to provide input on whether these projects went forward, the types of impacts they might have on the community, and what types of mitigation to avoid and reduce the projects' impacts might be appropriate. We were not given the opportunity for our voices to be heard.

4. I am not aware of the City ever contacting me or my family to inform us of the City's development of its current General Plan ("2014 General Plan"), the 2014 General Plan Master Environmental Impact Report, the Programmatic Environmental Impact Report for the 2014 General Plan, the Roosevelt Community Plan, or other action to zone or pre-zone land in my neighborhood for industrial land uses.

5. Three of my family members have passed away from cancer. My husband, daughter, and son all died of cancer. Some of my neighbors have died of cancer too. I have a heart condition and thyroid problems. I have allergies as well. My allergies have gotten worse since the warehouses were built. Some of my neighbors' children have asthma, which they say has gotten worse.

6. The construction of the Amazon facility had major impacts on me and my neighborhood. While construction was ongoing for months, the Amazon construction covered my house with dust. The construction occurred at night as well. The nighttime construction was loud and they used very bright lights. The truck traffic during the construction was also extremely loud,

and I could hear the noise from within my home with the windows shut. The construction caused vibrations that were so strong that my house shook on some occasions.

7. Since the Amazon and Ulta facilities began operating, the car and truck traffic in my neighborhood has increased significantly. People who come visit my house are shocked by how much traffic there is now. There is traffic traveling to the facilities 24 hours a day, seven days a week. A loud rumbling from the trucks passing can be heard all hours of the day and night. The vibration from the trucks shakes my house. The trucks are so loud sometimes that it sounds like someone is knocking at my door, and it can sometimes be hard to hear visitors talking in my house when trucks pass by.

8. The trucks going to and from the facilities create a lot of dust and fumes, which covers my house and car constantly. I have to clean the dust off the windows of my house and car almost every day. The dust also seeps into my house through cracks in my doors and windows. My neighbors complain about the dust getting inside their houses too.

9. Traffic lights were put up at the intersection of Central and Orange when the Amazon warehouse was constructed. The lights are very bright and blink continuously. They shine into my windows, which disrupts my sleep. My daughter has Down syndrome and autism. The constant flashing of the traffic lights is very disturbing for her because of her condition.

10. I have noticed that my neighborhood has become hotter since the warehouses were constructed, including during the night. I am forced to use my air conditioning more, which increases my energy bill. My neighbors have also noticed that it is hotter, that the neighborhood does not seem to cool down as much in the evening as it used to, and that they have to use their air conditioners more.

11. I have noticed that the traffic from the warehouses affects pedestrians. People I know that walk around the neighborhood have to be very careful because of the traffic. Some of the Amazon employees drive recklessly. I have noticed more accidents because of the traffic from the warehouses. There is frequently congestion from employee vehicles backed onto Orange Avenue near my house.


12. The water pressure at my house has dropped in the last four or five years. I have to pay for a water tank that comes every two weeks. My water is contaminated. One of my family members tested the water and found that it was not safe to drink. A person from UC Davis came and tested my water too and told me not to drink it because of the contamination.

13. I am worried that the value of my house has gone down because of the warehouses and other facilities. I believe that the value of my neighbors' houses has gone down too. This really hurts us because we do not have very much money, my home is my main source of wealth, and we are trying to pass our homes down to our kids to help support them economically.

14. Since about 2017, my neighbors and I have made many efforts to seek that the City stop approving new warehouses and industrial facilities in my neighborhood, that they notify us before studying and approving any new projects and allow us an opportunity to provide input, and that industrial developers and land owners respect these requests. When I and my neighbors have talked to the City and the developers, we tell them about the noise, dust, traffic, health problems, lowered property values, and other impacts from the warehouses and other projects. But they ignore us and keep building projects here without even notifying us first. It feels like we are not being heard. It feels like they are bullying us—like we are being targeted because of our race and because we do not have a lot of money.

15. The traffic, noise, dust, health, and other impacts from the facilities have caused me to suffer from a significant amount of stress and anxiety. For example, the abrupt loud noises and flashing lights are very unnerving and stressful. The heavy traffic from cars and trucks makes me constantly worry about my family's safety. My daughter has also said that she worries about the traffic, noise, and other impacts from the facilities.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration is executed on September 13, 2021, in Fresno, California.

  
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Ms. Katie Taylor





June 8, 2021

Fresno City Council President Luis Chavez  
Fresno City Councilmembers  
City of Fresno  
2100 Fresno Street  
Fresno, CA 93721

*Sent Via Email*

**RE: Agenda Item 1-L – Actions Pertaining to Central Avenue Improvements Project – Bid File 3796**

Councilmembers,

We are writing to urge you to deny approval of the actions before you today for the Central Avenue Improvements Project (Bid File 3796) (“Project”), including the finding of Categorical Exemptions pursuant to the California Environmental Quality Act Guidelines, the Inter-fund Loan Agreement for \$1,880,097, and the award of a construction contract.

According to the staff report, the Project includes demolition and reconstruction of approximately 2,000 feet of the North side of East Central Avenue and 400 feet along East Avenue to widen the roadway to increase vehicular capacity and add a two-way left turn lane; add parking spaces; install storm water drainage facilities, a 16” water main, sidewalks, street lighting, and signage. By completing frontage improvements on properties, the Project would “simplify[y] and expedit[e] future development in the area.”

Unfortunately, the City failed to consult South Central Fresno residents regarding the Project, continuing a long legacy of excluding South Fresno residents from land use and investment decisions which will direct impact their quality of life. In fact, the Project’s proposed road widening with the purpose of facilitating vehicle traffic and expediting development in the South Central area directly conflicts with input provided by residents over years during multiple planning processes aimed at reducing environmental impacts and pollution burdens on communities in South Central Fresno. Further, the City’s use of CEQA Guidelines Class 1, 2, and 4 Categorical Exemptions to evade environmental review of the Project blatantly violates CEQA, leaves South Central residents’ vulnerable to further environmental degradation as a result of the Project, and conflicts with fair housing and civil rights laws. The City must not approve this Project as proposed.

**I. The City’s Failure to Seek Public Input Continues a Long Legacy of Exclusion of South Central Residents in Land Use Decisions**

The City’s development of this Project continues a long pattern of exclusion of South Central Fresno residents who are directly and severely burdened by the City’s planning and support for extensive industrial development in and surrounding South Central Fresno communities. According to the staff report, the Central Avenue Improvements Project was initiated in Fiscal Year 2019, “when the project was budgeted using local funds from Cash-in-Lieu loan funds, Department of Public Utilities local funds, and Fresno Metropolitan Flood Control District [funds].” Report to Council, File ID: 21-22606, June 10, 2021, p. 2<sup>1</sup>. Further, the City spent three years completing preliminary engineering design, project management, utility coordination and right-of-way acquisition. *Id.* Yet to our knowledge, the City never engaged residents of the neighborhoods surrounding this Project, including residents who live on East Central Avenue or in the community of Daleville, to seek their views and input on the Project during that time.

Similarly, the City has approved millions of square feet of warehouse development next to South Central neighborhoods in recent years with no public notice or public input whatsoever, pursuant to Citywide Development Code provisions authorizing unilateral approval of discretionary permits by the Development Director. Fresno Municipal Code (FMC) § 15-4907, Table 15-4907. These facilities include but are not limited to Amazon and Ulta Beauty distribution centers abutting East Central Avenue between Orange and Mary Avenues in the immediate vicinity of this Project. As we have documented in other correspondence to the City, multi-story warehouse developments approved by the City have introduced thousands of daily truck and car trips into South Central neighborhoods along roads shared by residences and impose serious air quality, traffic, noise, vibration, light, health and other impacts on South Central neighborhoods. With its express purpose to facilitating increased vehicular traffic and expedite build out of parcels zoned for industrial and warehouse development near homes on East Central Avenue, this Project would deepen and entrench the environmental impacts of warehouse development and truck traffic on South Central Fresno residents while denying South Central residents a meaningful opportunity to provide input and disregarding input provided by residents in other planning processes.

**II. Approval of the Project Would Exacerbate Already Severe Environmental Burdens on South Central Fresno Residents, Disregard Ongoing Planning Processes, and Conflict with the City-SFCA Settlement**

The City’s preparation of a road widening project for East Central Avenue without the input of residents is particularly egregious in light of the extreme environmental burdens already impacting South Central Fresno as well as multiple other ongoing community-based planning processes aimed at reducing environmental impacts in the area, including by reducing air quality and traffic impacts on residents. The census tract in which the Project is located – Census Tract 6019001800 – ranks in the 98th percentile for pollution burden compared to all other census tracts in the state according to the California EPA’s CalEnviroScreen 3.0 tool. See Attachment 1, CalEnviroScreen 3.0 Excel Results. In addition, the neighborhood respectively ranks 98th, 97th,

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<sup>1</sup> Available at <https://fresno.primegov.com/Portal/viewer?id=494&type=0>.

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and 95th percentile for ozone, PM2.5 emissions, and asthma – each of which are associated with and exacerbated by vehicular traffic.

In recognition of South Central Fresno’s high cumulative air pollution exposure burden, the California Air Resources Board selected South Central Fresno for the development of a Community Air Monitoring Plan and Community Emissions Reduction Plan in 2018. After substantial work to develop the CERP by community residents, CARB approved the South Central Fresno CERP in 2019. The CERP identifies mobile and industrial sources as primary contributors to air pollution in South Central Fresno and aims to reduce air pollution through various policies and programs, including policy HD.11, Heavy Duty Truck Rerouting; LU.3, Provide Education and Outreach on Available Tools for Public Information Regarding Land Use Projects, and LU.4, Collaborating to Enhance Community Participation in Land Use Processes. While the San Joaquin Valley Air Pollution Control District (“Air District”) leads CERP implementation, the City has a critical role in supporting these and other CERP policies and programs.

In 2020, the San Joaquin Valley Air Pollution Control District initiated the truck rerouting study called for by CERP policy HD.11 in order to reduce exposure of community residents to harmful diesel particulate matter and other heavy-duty truck emissions. The City has accepted responsibility for leading and managing the City in close coordination with the Air District and has contributed more than \$60,000 in funding to support the study.<sup>2</sup> In addition, the settlement agreement entered into between the City of Fresno and South Fresno Community Alliance in March 2021 requires the City to “consider alternate truck routes with adequate roadway infrastructure to accommodate additional traffic, including considering redirecting truck routes away from East Central Avenue” and to “diligently pursue the adoption, implementation and enforcement of the recommendations of the truck routing study, including but not limited to new traffic routes that minimize the exposure of sensitive receptors . . . .” Attachment 2, Settlement Agreement and Release of All Claims, City of Fresno and SFCA, p. 6, ¶ 10. By approving a nearly \$2 million investment in widening Central Avenue while the truck rerouting study is ongoing, the City would entrench existing truck routes along Central and undermine the integrity of its own planning process. Such action would also constitute a dismissal of community input provided to date and any future input provided during the truck rerouting study’s development regarding East Central Avenue. Further, it reflects bad faith by the City with respect to its commitment to implementing its agreement with SFCA, an agreement which aims to mitigate the impacts of the Amazon warehouse expansion due to the City’s failure to do so through project-level environmental review pursuant to CEQA.

Finally, the Project conflicts with extensive community input provided over the past two years during the South Central Specific Plan’s development. As Leadership Counsel recently reminded the City in comments it and other community-based organizations submitted in response to Notice of Preparation of an EIR for the SCSP, residents have repeatedly asked the City to revise land use designations applicable to the SCSP area to provide buffers between

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<sup>2</sup> See “Authorize Executive Director/APCO to Enter Into Agreements Necessary to Conduct a Truck Rerouting Study in the South-Central Fresno BA 617 Community”, SJVAPCD Governing Board Meeting, October 15, 2020, available at [https://www.valleyair.org/Board\\_meetings/GB/agenda\\_minutes/Agenda/2020/October/presentations/10.pdf](https://www.valleyair.org/Board_meetings/GB/agenda_minutes/Agenda/2020/October/presentations/10.pdf)



industrial and residential and other sensitive land uses. This road widening flies in the face of those requests, given the City's express purpose to "expedite" future development in the area based on existing land use planning.

### **III. CEQA Categorical Exemptions Are Narrowly Construed**

CEQA is a comprehensive legislative scheme designed to provide long-term protection to the environment." *Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 112. In enacting CEQA, the Legislature declared that all public agencies give prime consideration to preventing environmental damage when carrying out their duties. *Id.* A CEQA analysis must be "sufficient to allow informed decisionmaking." *Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 404-05.

CEQA specifies very narrow "categorical exemptions" from the statute for certain minor projects that do not have a significant effect on the environment—meaning no formal CEQA evaluation is required for such projects. Pub. Resources Code § 21084; 14 Cal. Code Reg. (Guidelines) § 15061(b). Each exemption class represents projects that are not likely to have a significant impact on the environment. *See* Guidelines §§ 15301-15333. A categorical exemption is proper only if the exemption is not barred by one of the exceptions in CEQA Guidelines § 15300.2. In particular, a "categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." *Id.* § 15300.2(c).

Categorical exemptions are narrowly construed. *Santa Monica Chamber of Commerce v. City of Santa Monica* (2002) 101 Cal.App.4th 786, 793. "Exemption categories are not to be expanded beyond the reasonable scope of their statutory language." *Mountain Lion Found.* 16 Cal.4th at 125. Courts use the fair argument test to decide whether an exception to a categorical exemption applies. The fair argument standard creates a "low threshold" for further environmental review and "reflects a preference for resolving doubts in favor of environmental review when the question is whether any such review is warranted." *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1316-17 (1992).

### **IV. The Class 1 Categorical Exemption Does Not Apply to the Project.**

The Project does not qualify for the Class 1 exemption because it is not a minor alteration that negligibly changes Central Avenue. On the contrary, the Project involves significantly expanding Central Avenue which, among other things, will substantially increase heavy-duty truck traffic and other vehicular impacts on the surrounding community.

The "existing facilities" exemption is only applicable when a project involves "the operation, repair, maintenance . . . or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination." Guidelines § 15301. The "key consideration" for applying this exemption is "whether the project involves negligible or no expansion of an existing use." *Id.* § 15301. The existing facilities exemption does not apply when the proposed project alters a facility in a manner that has the potential to increase negative

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impacts. *Cty. of Amador v. El Dorado Cty. Water Agency* (1999) 76 Cal. App. 4th 931, 967 (Class 1 exemption did not apply where hydroelectric project was modified to permit consumptive use of additional water); *Committee to Save the Hollywoodland Specific Plan v City of Los Angeles* (2008) 161 CA4th 1168, 1187 (Class 1 exemption invalid where no evidence supported use of exemption for construction of fence atop historic granite wall).

Here, the Project does not qualify for the narrow Class 1 exemption because it is not a minor or negligible alteration of Central Avenue. Rather, the Project includes substantially widening the roadway to “increase vehicular capacity,” constructing new sidewalks and streetlights, creating new parking and bike lanes, as well as constructing a new water main and fire hydrants. *See* Report to the City Council (June 10, 2021, File ID: 21-22606) at 2. The Project will cost millions of dollars and take substantial time to construct. The surrounding neighborhoods will be negatively impacted by, among other things, the noise and air emissions from increased vehicular traffic, as well as the construction of the Project. Thus, the City’s reliance on the Class 1 exemption to avoid CEQA review is unlawful.

#### **V. The Class 2 Categorical Exemption Does Not Apply to the Project.**

The Project does not qualify for a Class 2 exemption because it is not a replacement or reconstruction of existing structures and facilities. Rather, the Project is an expansion of a roadway, traffic and parking lanes, and new infrastructure including water lines and fire hydrants.

For a project to be exempt under the “replacement or reconstruction” exemption, the project must be located on the same site as the structure replaced and must have substantially the same purpose and capacity as the structure replaced. Guidelines § 15302; *see Dehne v. Cty. of Santa Clara* (1981) 115 Cal. App. 3d 827, 839 (Class 2 exemption was proper because the project site and capacity were not expanded).

Here, the Project does not qualify under the Class 2 exemption because the Project is substantially expanding rather than replacing or reconstructing the existing structure. In fact, the scope of the Project is to widen the roadway to its “ultimate width” to “increase vehicular capacity” as well as provide amenities for pedestrians and cyclists. Additionally, the Project requires new construction of approximately 1,950 feet of a master planned water main and fire hydrants, which did not exist previously.

These changes to Central Avenue are substantial expansions increasing traffic and constructing new infrastructure—not replacements nor reconstructions of any existing structure. Thus, the Class 2 exemption does not apply.

#### **VI. The Class 4 Categorical Exemption Does Not Apply to the Project.**

The Project does not qualify for a Class 4 exemption because it is not a minor public or private alteration. “[M]ost fundamentally, the Class 4 exemption applies to only ‘minor’ alterations.” *Cal. Farm Bureau Fed’n v. Cal. Wildlife Conservation Bd.* (2006) 143 Cal.App.4th 173, 183.

Here, the Project will require the destruction and paving over of existing structures as well as the construction of new lanes, sidewalks, water lines, fire hydrants, streetlights, and more.

The City does not indicate which subsection of the Class 4 exemption it is invoking. However, the Project fails to qualify under any of the subsections and will result in environmental impacts of a significantly greater scale and severity than project types listed in those sub-sections. Since the Project is more than minor grading alteration but rather the entirely new construction of lanes for vehicular traffic, it does not qualify for a Section 15304(a) exemption. It also cannot be considered new gardening or landscaping under § 15304(b) as the goal of the expansion as stated in the staff report is to increase vehicular traffic, not improve the City's greenery or landscape. The parcel in question has not been previously excavated and it will not be filled with material compatible with the natural features of the site. Therefore, Section 15304(c) does not apply.

Similarly, Section 15304(d) is not relevant because the Project does not pertain to managing wildlife. The Project is also not a temporary use under Section 15304(e), but rather a permanent expansion. The City cannot rely on Section 15304(f), because the Project will require more than minor trenching and backfilling. Instead of restoring the surface, the Project will create entirely new lanes that will require months of construction. Sections 15304(g) and 15304(i) are not relevant as the Project does not pertain to spoil or fuel management. Even Section 15304(h) is not applicable here because the Project's proposed bicycle lanes will not be added to existing rights-of-way, but instead will be newly constructed. Simply because the Project involves cycling improvements does not exempt it from scrutiny under environmental impact regulations. *Coalition v. City & County of San Francisco*, 2006 Cal. Super. LEXIS 1839, \*26-27.

Again, the Class 4 exemption applies to only minor alterations." *Cal. Farm Bureau*, 143 Cal.App.4th at 183. New constructions, installation of pipeline, changes to "existing drainage patterns and elevations of the land," and permanent or semi-permanent structures that "will require regular management and maintenance" cannot be considered minor physical alterations. *Id.* at 183-84. By widening the existing roadway, adding parking lanes, constructing drainage improvements, and installing a water main, and more, this Project involves multiple activities which will require ongoing maintenance. Courts have held that Class 4 exemptions cannot be utilized by such projects.

These changes to Central Avenue are not minor public or private alterations in the condition of land, water, and/or vegetation, but rather major alterations requiring construction. Thus, the City may not rely on the Class 4 exemption.

#### **VII. No Categorical Exemptions Apply Here Because There is a Reasonable Possibility That the Project Will Have a Significant Impact Due to Unusual Circumstances.**

The "unusual circumstances" exception to categorical exemptions is applicable here. *See* Guidelines § 15300.2(c). "A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." Guidelines § 15300.2(c). Here, the Project is not subject to any categorical exemptions due to the Project's proximity to neighborhoods that are already

overburdened by industrial projects that cause severe air pollution, heavy-duty truck traffic, noise and light pollution, and other negative impacts.

Unusual circumstances exist when a proposed project is located in close proximity to residences. See *Lewis v. Seventeenth District Agricultural Association* (1985) 165 Cal.App.3d 823, 836. For example, the a proposed racetrack nearby a residential area is an unusual circumstance requiring the public agency to determine whether significant impacts could result from the project. *Id.* Here, the Project is located near residences that are already negatively impacted by a large number of industrial projects.

In addition, there is a reasonable possibility that the Project will have a significant impact on surrounding neighborhoods. In particular, the City admits that the project will increase vehicular traffic, which significantly impacts air quality, traffic congestion, pedestrian safety. The traffic will likely include heavy-duty trucks, which cause even greater impacts than normal automobiles, given the proximity of the Project to major distribution warehouses operated by Amazon, Ulta and other large companies. The additional traffic will also likely cause noise and vibrations that disturb residents. Moreover, the construction of the Project itself will likely create noise, dust, and vibration that impacts residents. Thus, the unusual circumstances exception applies here, and the City's reliance on categorical exemptions is contravenes CEQA.

#### **VIII. The City Has Engaged in Improper Piecemeal Review of the Proposed Project and Has Failed to Study the Project's Cumulatively Significant Impacts**

The City fails to address the Project's impacts as one component of a larger road widening project anticipated by the Official Plan Lines for the East Central Avenue alignment from State Route 41 to South Cedar Avenue.<sup>3</sup> "CEQA forbids 'piecemeal' review of the significant environmental impacts of a project." *Berkeley Keep Jets Over the Bay Comm. v. Bd. of Port Comm'rs*, 91 Cal. App. 4th 1344, 1358 (2001). The City cannot allow "environmental considerations [to] become submerged by chopping a large project into many little ones—each with a minimal potential impact on the environment—which cumulatively may have disastrous consequences." *Bozung v. Local Agency Formation Com.*, 13 Cal. 3d 263, 283, 529 P.2d 1017 (1975). The City's failure to consider the proposed Project's contribution to the future environmental impacts, including but not limited to air quality, greenhouse gas emissions, traffic, noise, health, and housing impacts, in conjunction with the planned expansion for East Central Avenue from Highway 41 to East Avenue and Orange Avenue to Cedar violates CEQA.

Here, as noted above, the Project proposes to significantly expand approximately 2,000 feet of Central Avenue to buildout the roadway to its ultimate capacity, increasing vehicular capacity and providing amenities for pedestrians and cyclists. However, the Project represents only one comparatively small section of buildout anticipated by the OPL for Central Avenue from State

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<sup>3</sup> See Official Plan Lines, East Central Avenue, available at <https://fresno.legistar.com/View.ashx?M=F&ID=5785365&GUID=3A12887A-D303-41E6-AC26-C0A09D06C6A2> ; Vicinity Map, Official Plan Line For: From Cherry Avenue to Cedar Avenue, available at <https://fresno.legistar.com/View.ashx?M=F&ID=5785352&GUID=81F94ED7-80B3-47A2-9A33-E36058E20E55>; Aerial Photograph of Official Plan Lines, available at <https://fresno.legistar.com/View.ashx?M=F&ID=5785354&GUID=572B5C63-6E86-4BFB-997B-E2E4CA3B5959>.

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Route 41 to South Cedar Avenue, a 1.7 mile or roughly 9,000 foot segment of roadway. Completion of the expansion in its entirety will facilitate the circulation of thousands of truck and car trips per day along Central Avenue and other local roads that abut residences and other sensitive uses in the South Central area. The sharp surge in truck traffic and idling on Central Avenue emitting PM 2.5, NOx, diesel PM, and other pollutants will contribute to numerous cumulatively significant environmental effects, including impacts on air quality, greenhouse gas emissions, transportation, noise, aesthetics, and other factors, with substantial adverse effects on human beings.

Despite these future cumulative impacts of the roadway expansion contemplated by the OPL, the City has never determined or evaluated the cumulative levels of pollution from the increased vehicle traffic this Project will generate. By failing to assess the cumulative environmental impacts of full buildout anticipated by the OPL, the City engages in a piecemeal review of the Project in violation of CEQA. *Bakersfield Citizens for Local Control v. City of Bakersfield*, 124 Cal. App. 4th 1184, 1215 (2004).

#### **IX. The Project is Inconsistent with Fair Housing and Civil Rights Laws**

When considered individually and as part of future buildout of East Central Avenue and the City's broader efforts to locate industrial development in the South Central area, the Project will result in significant adverse impacts on environmental quality, housing quality and stability, public health, and the wellbeing of residents in the Project's vicinity and the South Central area. The census tract the Project is located in, tract 6019001500, is 79% Latino, Black, Asian, and Native residents, disproportionately higher than the City of Fresno (40%) and Fresno County (33%).<sup>4</sup> Therefore, the Project will result in a disparate adverse impact on the basis of race, ethnicity and other statutorily protected characteristics and threatens to violate state and federal fair housing and civil rights laws as codified in Cal. Gov. Code §§ 12900, et. seq., 11135, 65008, 8899.50; 42 U.S.C. § 2000d, et seq., 3601, et seq., 5304(b)(2)&(s)(7B), & 12075), and other applicable law. The City's failure to acknowledge, analyze, and mitigate impacts which uniquely, acutely, and / or disproportionately burden lower income communities of color and non-English speaking populations as required by law constitutes a pattern and practice of the City of Fresno, magnifies the severity of the Project's impacts on protected classes, and implicates violations of civil rights and fair housing laws on both intentional and disparate impact bases. *See e.g.*, 2 C.C.R. §§ 12161(a)&(b); 12060(b) (describing the standard for unlawful discriminatory effects under the Fair Housing and Employment Act); 12955.8(a) (intentional discrimination includes an act or failure to act and may be established by direct or circumstantial evidence). For these reasons, the Project not only violates CEQA but results in violations of state and federal fair housing and civil rights laws which require the City to both avoid discrimination and to affirmatively further fair housing.

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<sup>4</sup> CalEPA's Office of Environmental Health Hazard Assessment (OEHHA)'s webpage on CalEnviroScreen, 3.0 is accessible at this link: <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>.

For the foregoing reasons, the City Council must not adopt the actions pertaining to the East Central Avenue Improvements project on Thursday. Instead, the City must develop a plan for the future of East Central Avenue based on community input, including input provided through the South Central Specific Plan, AB 617 Community Emissions Reduction Plan, and Truck Re-Routing study development requesting that the City prohibit truck traffic on East Central Avenue, and must ensure that all significant environmental impacts are analyzed, avoided or mitigated to the greatest extent feasible consistent with CEQA and civil rights and fair housing laws.

Thank you for your attention to this matter. Please contact us if you would like to find a time to discuss this letter.

\* \* \* \* \*

Sincerely,



Ashley Werner  
Directing Attorney  
Leadership Counsel for  
Justice Accountability



Lucas Williams  
Visiting Associate Professor of Law /Staff Attorney  
Golden Gate University  
Environmental Law and Justice Clinic

- cc: Mayor Jerry Dyer  
Tommy Esqueda, City Manager  
Scott Mozier, Director, Public Works Department  
Douglas Sloan, City Attorney  
Terry Hirschfield, Principle, Orange Center Elementary School  
Samir Sheikh, Executive Director/APCO, San Joaquin Valley Air Pollution Control District  
Channel Fletcher, Deputy Executive Officer of Environmental Justice, California Air Resources Board  
Scott Lichtig, Deputy Attorney General, California Department of Justice  
Robert Swanson, Deputy Attorney General, California Department of Justice

**ATTACHMENTS**

**Attachment 1:** CalEnviroScreen 3.0 Excel Results.

**Attachment 2:** Settlement Agreement and Release of All Claims, City of Fresno and SFCA





August 10, 2022

Fresno City Council President Nelson Esparza  
Fresno City Councilmembers  
City of Fresno  
2100 Fresno Street  
Fresno, CA 93721

*Sent Via Email*

**Re: Agenda Item I-Q (ID 22-1182) – Actions pertaining to Orange Avenue and Central Avenue Intersection Improvement Project**

Councilmembers:

We are writing to strongly urge you not to adopt a finding of Categorical Exemption from the California Environmental Quality and not to award a construction contract for the above-referenced project. As proposed in the EA, the proposed project will result in significant harm to residents of East Central Avenue impacted by the intersection widening, exacerbating existing impacts of warehouse, industrial, and waste facilities which the City has allowed to locate in the area. The City's reliance upon a Class 1 exemption from CEQA to evade environmental review for the Project violates CEQA; its investment of millions of dollars to facilitate the traffic flow onto East Central Avenue, appears to conflict with its duty of good faith and fair dealing in its performance of its contract with South Fresno Community Alliance; and the proposed project fails to comply with federal guidance calling for the minimization of carbon emissions and advancement of environmental justice and climate resiliency in the use of surface transportation block grant funds.

We ask that the City fundamentally shift course in its treatment of South Central Fresno communities and its residents. As residents have called for for years, the City must stop its longstanding pattern and practice of imposing industrial development and infrastructure expansion projects to accomodate that development on neighborhoods which bear among the greatest environmental burdens in the state, while simultaneously attempting to deny those neighborhoods the protections they are due under state and local environmental, land use planning, and civil rights laws. Instead, the City must treat South Central residents with dignity and respect by fully engaging them in all land use decisions that impact their community; modifying and shaping plans to respond to residents' concerns and priorities; developing the South Central Specific Plan with buffer zones, enforceable and robust mitigation measures, and community investment strategies included; and pausing on the development of industrial, warehouse, and other locally unwanted land use projects in South Central Fresno as well as public infrastructure projects designed to support such development until such time.



**I. The City Failed to Notify Nearby Residents and Property Owners of the Proposed Project**

Based on our communications with residents and property owners in the vicinity of the project site, the City has provided no notice to residents who will be impacted by the proposed project, including to residents of the property which is the subject of planned tree removals to accommodate road widening. Nor has the City attempted to engage residents in soliciting their feedback on the project or incorporating the extensive past input provided to the City during the development of the South Central Specific Plan regarding residents' vision for South Central Fresno. The City's failure to meaningfully engage residents of South Central Fresno in land use planning decisions that impact their health, wellbeing, and access to opportunity, let alone engage residents at all in such decisions, allows for and perpetuates environmental injustice in South Central Fresno and other South Fresno neighborhoods and is inconsistent with the City's duties under civil rights laws. *See* Department of Housing and Community Development's Affirmatively Furthering Fair Housing Guidance, p. 18.

**II. The Proposed Project is Not Eligible for a Categorical Exemption From CEQA**

**A. CEQA Categorical Exemptions Are Narrowly Construed**

CEQA is a comprehensive legislative scheme designed to provide long-term protection to the environment." *Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4<sup>th</sup> 105, 112. In enacting CEQA, the Legislature declared that all public agencies give prime consideration to preventing environmental damage when carrying out their duties. *Id.* A CEQA analysis must be "sufficient to allow informed decisionmaking." *Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 404-05.

CEQA specifies very narrow "categorical exemptions" from the statute for certain minor projects that do not have a significant effect on the environment – meaning no formal CEQA evaluation is required for such projects. Pub. Resources Code § 21084; 14 Cal Code Reg. (CEQA Guidelines) § 15061(b). Each exemption class represents projects that are not likely to have a significant impact on the environment. *See* Guidelines §§ 15301-15333. A categorical exemption is proper only if the exemption is not barred by one of the exceptions in CEQA Guidelines section 15300.2. In particular, a "categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." *Id.* § 153002(c).

Categorical exemptions are narrowly construed. *Santa Monica Chamber of Commerce v. City of Santa Monica* (2002) 101 Cal.App.4<sup>th</sup> 786, 793. "Exemption categories are not to be expanded beyond the reasonable scope of their statutory language." *Mountain Lion Found.* 16 Cal.4<sup>th</sup> at 125. Whether an activity falls within the scope a categorical class of exemptions is a matter of law to which courts apply a de novo standard of review. *Holden v. City of San Diego* (2019) 43 Cal.5<sup>th</sup> 404, 410.

## B. The Project Does Not Meet the Criteria For a Class 1 Exemption

Environmental Assessment P18-02371 (“EA”) claims that the Project is exempt from CEQA pursuant to CEQA Guidelines Section 15301, which establishes “Class 1” categorical exemptions. The EA does not provide any analysis or reasoning at all in justification of its conclusion and merely copies a portion of the text of Section 15301 in the EA. Yet, this Project is not eligible for a Class 1 exemption, because the activities which comprise the Project fall clearly outside of the scope of the explicit terms and limitations of that exemption.

The Class 1 exemption “consists of the operation, repair, maintenance, permitting leasing, licensing, or minor alteration of public or private structures, facilities, mechanical equipment, or topographical features, *involving negligible or no expansion of existing or former use.*” CEQA Guidelines, § 15301 (italics added). “The key consideration is whether the project involves negligible or no expansion of use.” Section 15301 lists examples of activities which fall within the exemption, including:

“[e]xisting highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety, and other alterations such as the addition of bicycle facilities..., transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes.” (underline added)

The “existing facilities” exemption does not apply when the proposed project alters a facility in a manner that has the potential to increase negative impacts. *Cty. of Amador v. El Dorado Cty. Water Agency* (1999) 76 Cal.App.4<sup>th</sup> 931, 967 (Class 1 exemption did not apply where hydroelectric project was modified to permit consumptive use of additional water); *Committee to Save the Hollywoodland Specific Plan v. City of Los Angeles* (2008) 161 Ca.4<sup>th</sup> 1168, 1187 (Class 1 exemption invalid where no evidence supported use of exemption for construction of fence atop historic granite wall).

The EA and Evaluation of Bid Proposals make it crystal clear that the primary purpose of the project is to materially expand the existing roadway and add turn lanes to expand the roadway’s capacity to accommodate traffic, which will induce traffic and result in negative impacts on nearby homes on and around East Central Avenue. According to the Evaluation of Bid Proposals for this Project, the purpose of this project is to:

“widen the intersection at South Orange Avenue and East Central Avenue to accommodate both left and right turn lanes for traffic traveling north on South Orange Avenue and traffic traveling west on East Central Avenue at South Orange Avenue...Signal modification will be made to account for the left turn lanes.” (p. 2)

The EA also states that the Project includes “widening the intersection approaches to construct left turn pockets” – traffic lanes for turning purposes – on South Orange Avenue northbound, East Central Avenue westbound, and East Central Avenue eastbound. In order to accomplish the widening, the EA states that the box culvert crossing through the Fresno Irrigation District Central Canal at the intersection would be widened and public works infrastructure would be relocated. As a result, the project is ineligible for a Class 1 Exemption, because it involves a material, not negligible, expansion to the roadway, including lane additions.

The Class 1 exemption is also inapplicable, because the the project will create and increase a range of negative impacts associated with truck and car traffic, construction, and inadequate green space in the area. The state has recognized that “[b]uilding new roadways, adding roadway capacity in congested areas, or adding roadway capacity in areas where congestion is expected in the future, typically induces additional vehicle travel.” Office of Planning and Research (“OPR”), Technical Advisory on Evaluation Transportation Impacts in CEQA, p. 24.<sup>1</sup> OPR states that “[f]or any project that increases vehicle travel, explicit assessment and quantitative reporting of the amount of additional vehicle travel should not be omitted from the [CEQA] document. *Id.* at p. 16. This VMT analysis is necessary to make a reasonably accurate estimate of the Project’s greenhouse gas emissions, air quality impact, noise impacts, and light pollution. *Id.* Intersection widening and turn lane additions are by their nature roadway capacity enhancement projects, which require environmental evaluation pursuant to CEQA. In addition, construction of the multi-million dollar project will result in dust, sound, and vibration impacts on the homes in the project vicinity and will add to the prolonged and severe environmental impacts on South Central neighborhoods from the construction of multiple Amazon distribution centers and facilities, the Ulta Beauty distribution center, and other warehouse facilities in the North Pointe Business Park over the past six years. *See* Attachment 1, par. 6. For your convenience, we have attached to this letter, and incorporate herein, a letter from our organization and Golden Gate Environmental Law and Justice Clinic dated June 15, 2021 (“Attachment 2”) concerning the City’s use of a categorical exemption for a lane addition project which discusses in further detail the air pollution, public health, noise, and light impacts which would result from a previously proposed and similar roadway capacity enhancement project on East Central Avenue near the site of the project now at issue. Similar impacts are likely to arise as a result of the proposed project and must be evaluated prior to this project’s approval.

**C. The Project is Not Eligible for a Categorical Exemption Because the Project Will Result in a Significant Effect on the Environment Due to Unusual Circumstances**

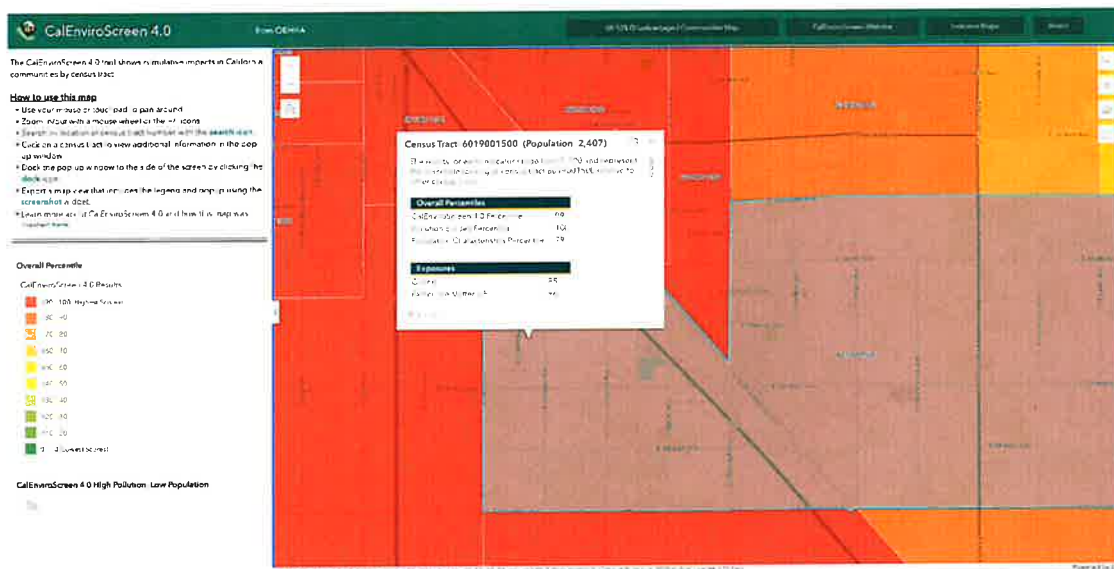
A categorical exemption “shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.” CEQA Guidelines § 15300.2(c). In determining whether the unusual circumstances exception applies, courts apply the non-deferential fair argument standard to determine if is a reasonable possibility the project will have a significant effect on the environment. “If there is substantial evidence of a reasonable possibility the project will have such an effect, the agency may not rely on the exemption even if there is evidence to the contrary.” *Protect Tustin Ranch v. City of Tustin* (2021) 70 Cal.App.5th 951.

As discussed above and further here, this project will have a significant effect on the homes located near the intersection of Orange Avenue and East Central Avenue, including especially the home located on the southeastern side of the intersection due to the proposed removal of several mature trees. The project would also likely result in significant adverse impacts on East Central Avenue to the East and West and nearby communities of Daleville and Britten Avenue, due to individually significant and cumulatively considerable impacts associated with increased VMT and construction in the area. And as the City is aware, the

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<sup>1</sup> Available at [https://opr.ca.gov/docs/20190122-743\\_Technical\\_Advisory.pdf](https://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf). Visited August 9, 2022.

area in which the project is located ranks among the most environmentally burdened in the State of California and has been designated by the State Air Resources Control Board as requiring special protections and investments as a result of the high level of air emissions to which the community is exposed. See CalEnviroScreen 4.0 map below (depicting the CalEnviroScreen 4.0, Pollution Burden, and Population Characteristics Percentiles for Census Tract 6019001500, where the proposed project site is located). As a result of these these poor existing environmental conditions, even environmental impacts which would be deemed less than significant in other locations are more likely to be significant in South Central Fresno. See *Kings Couty Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 718 (citing CEQA Guidelines § 15064(b)); see also 15300.2(a) (noting that availability of listed CEQA exceptions “are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant.”)



2

Since the Project is located next to and near residences that are already negatively impacted by a large number of industrial projects and extremely poor environmental and public health conditions, the project is not eligible for a categorical exemption. Guidelines § 15300.2(c); See *Lewis v. Seventeenth District Agricultural Association* (1985) 165 Cal.App.3d 823, 836 (project was not eligible for a CEQA exemption where presence of residential area in project vicinity created unusual circumstances).

With respect to the home located on the southeastern side of the intersection (“the property”), the proposed project would have devastating impacts, including as a result of the removal of the mature mulberry, palm, and ash trees would have devastating impacts. The attached declaration of Katie Taylor, the resident of the property, describes poor environmental and public health conditions that she and her family members have endured

<sup>2</sup> Map copied from California EPA’s CalEnviroScreen 4.0 map at <https://experience.arcgis.com/experience/11d2f52282a54cee6184203/> on August 9, 2022. CalEnviroScreen percentiles indicate combined and individual pollution burdens and population characteristic pollution vulnerability as compared to census tracts across California. Scores in the 100<sup>th</sup> and 99<sup>th</sup> percentile indicate pollution burdens and vulnerability greater than almost all other census tracts in the state.



while residing at the property and which have worsened as a result of the construction and operation of various warehouse distribution facilities and accompanying excessive truck traffic in the area in recent years. *See* Attachment 1, Declaration of Katie Taylor in Support of South Fresno Community Alliance’s Comments on the City of Fresno’s General Plan Final Programmatic Environmental Impact Report (SCH #2109050005) (incorporated herein by reference). By expanding roadway capacity, this Project would increase VMT by an undetermined and analyzed amount and magnify existing impacts on the community and especially on Ms. Taylor’s home, given the project’s adjacent location. Further, the removal of mature trees from the property, including the mature mulberry which shields the property along its northwestern perimeter, would expose Ms. Taylor’s property to increased safety risks from passing traffic travelling to and from warehouse distribution centers. (*See* Google Earth Image of the Project Site and the property copied below, depicting the mature mulberry tree on the northwest corner of the property). It would also eliminate a natural barrier to the dust, diesel emissions, noise, vibration, and light from truck and car traffic on Orange Avenue and Central Avenue on the property, thereby exacerbating impacts on Ms. Taylor and her family’s allergies, asthma, and cancer risk. *See* Attachment 1, par. 5-9. Further, removal of the trees would eliminate the primary sources of shade on her property’s exterior, which would result in higher ambient temperatures and exacerbate the impact of elevated and extreme heat on her home and in the surrounding area as a result of climate change and increased ambient temperatures due to radiant heat from warehouse development. *See* Attachment 1, par. 10.



Google earth image, downloaded on August 9, 2022

**III. The Notice of Exemption’s 2019 Signature Date Creates Uncertainty Regarding the City’s Compliance with CEQA Guidelines Sections 15061 and 15062**

The Notice of Exemption for the Project is dated January 31, 2019, more than two and a half years before the date which City Council is scheduled to consider approving the

Project. The CEQA guidelines are emphatic in requiring that lead agencies files NOEs only *after* project approval. Pursuant to CEQA Guidelines Section 15061, after determining that a project is exempt from CEQA, an agency may prepare a notice of exemption as provided in section 15062. CEQA Guidelines, § 15061(d). “Although the notice may be kept with the project application at this time, the notice shall not be filed with the Office of Planning and Research or the county clerk until the project has been approved.” *Id.* Guidelines section 15062 reiterates the requirement that filing of NOEs must occur after project approval. *See* CEQA Guidelines §§ 15062(a) (stating that a NOE shall be filed *after* approval of the project) & 15062(b) (stating that the NOE “shall not be filed with the county clerk or the OPR until the project has been approved); 15062(c) (authorizing filing of the NOE “[w]hen a public agency approves a project).

The 2019 signature date on the NOE creates ambiguity as to whether the City filed the NOE already, in advance of the Project’s approval by the City Council. The City should clarify whether it filed the NOE following its 2018 execution and confirm if it will file or refile the NOE after, and if, the Project is approved.

#### **IV. The Notice of Exemption Fails to Comply with CEQA’s NOE Content Requirements**

CEQA Guidelines section 15062(a) establishes the content requirements for NOEs, which include, among other things, a brief description of the project, a statement of reasons to support the NOE’s findings, and “the identity of the person undertaking the project which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies...”, among other things. § 15062(a)(1)(4)&(6). The NOE fails to meet these requirements.

First, in violation of section 15062(a)(1), the NOE fails to describe the project adequately. The NOE states that the project would include “widening would occur on the northern edge of E Central Avenue” and that “the project does not include any land acquisitions.” The narrow border between East Central Avenue and private property to the roadway’s north raise the question of how and where the City can widen the road at the northern edge of E Central Avenue without acquiring property. The City should revise the NOE to include a clear description of the land that will be used to effectuate the widening, including incorporating an annotated map. In addition, the NOE states that mature mulberry, ash and palm trees along the east side of Orange Avenue, south of East Central Avenue, “would need to be removed”. As these trees are located on private property and the NOE’s statement that the project does not include any land acquisitions, the NOE should clarify the basis for the City’s asserted authority to remove the trees and any approvals the City will need to secure or other actions the City will take, including notification to and compensation to the owner, to proceed with the removals.

Second, in violation of section 15062(a)(4), the City neglects to explain how it reached its findings that a Class 1 exemption applies. Instead, the NOE simply copies and pastes a portion of the text of the Class 1 exemption as included in the CEQA Guidelines, with no discussion connecting how the project’s features fall within the scope of the exemption. As discussed above, the Project clearly falls outside the bounds of the Class 1 exemption, because it expands existing facilities in a non-negligible manner.

Finally, agenda item I-Q for this project includes a recommendation for the award of a construction contract in the amount of \$2,582,991 to Avison Construction, Inc. to complete the roadway improvements. Yet, in violation of section 15062(a)(6), the NOE

City of Fresno Councilmembers

August 10, 2022

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fails to mention this fact or identify any contractors the City will award money to for the Project's completion.

Based on these shortcomings, the City's NOE is inadequate and unlawful under CEQA and must be revised to meet the requirements of section 15062.

**V. The Proposed Project is Inconsistent With the City's Settlement Agreement with South Fresno Community Alliance**

The proposed projects appears to conflict with the City's settlement agreement with South Fresno Community Alliance by investing millions of dollars into the expansion of the intersection located at East Central Avenue and Orange Avenue in order to accommodate traffic turning westbound and eastbound onto East Central Avenue.

Paragraph 10 of the City's 2021 settlement agreement with South Fresno Community Alliance, which requires the City to to diligently pursue the adoption, implementation and enforcement of recommendations from the San Joaquin Valley Air Pollution Control District's Fresno Truck Routing Study and to specifically consider redirecting truck routes away from East Central Avenue in order to protect sensitive receptors from the impacts of truck traffic. The City is subject to an implied covenant of good faith and fair dealing in its performance of its commitments under its agreement with SFCA, including paragraph 10. *See Gruenberg v. Aetna Ins. Co.* (1973) 9 Cal.3d 566, 573.

While none of the materials included with Agenda Item I-Q describe why the intersection project is needed in light of current or projected traffic patterns, it is clear that the project will facilitate both truck and car traffic entry from Orange Avenue onto Central Avenue. Before expending millions of dollars to construct public works improvements for this purpose, the City should evaluate and disclose the extent of the need for and projected use of the project upon the re-routing of truck traffic off of East Central Avenue. If the proposed project would no longer be warranted, the City should not proceed at this time, while the Truck Routing Study remains in development. To do otherwise implicates an apparent conflict between the City's actions with the City's duties under its agreement with SFCA. This is especially the case, given the City's repeated efforts over the past year to build and procure funding for projects that would expand the capacity of East Central Avenue to absorb truck traffic.<sup>3</sup>

**VI. The Project is Inconsistent with Surface Transportation Block Grant Climate Change and Environmental Justice Requirements**

The Evaluation of Bids document included with the materials for this agenda item states that funding for this project is provided in part through the Federal Regional Surface Transportation Block Grant (STB). Federal guidance explains that STB funds should be used for projects that reduce carbon dioxide emissions, improve climate resilience, and address environmental justice concerns. U.S. Department of Transportation, Federal Highway Administration, Memorandum, "Information: Implementation Guidance for the Surface Transportation Block Grant Program (STGB) as Revised by the Bipartisan

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<sup>3</sup> This includes the 2021 Development Permit and MND App./EA No. P21-03293, for the expansion of East Central Avenue to include a left turn lane directly into a proposed truck trailer parking lot to be utilized by Amazon, and the City's request that Fresno County Transportation Authority include approximately \$300 million in the Measure C Renewal Expenditure Plan for interchange improvements to enhance vehicle capacity on American and Central Avenues.

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Infrastructure Law.” p. 7.<sup>4</sup> Funds should “proactively address racial equity” and federal-aid recipients, including recipients of STGB funds “are responsible for involving the public, including traditionally underserved and underrepresented populations in transportation planning...” *Id.* at 6.

As discussed above, this Project would expand capacity for truck and car traffic to serve existing and planned industrial and warehouse development in environmentally burdened communities. The City has failed to conduct any environmental analysis of or identify mitigation measures for the proposed project to ensure that it avoids unnecessary carbon dioxide emissions and proactively improves climate resilience and addresses environmental justice concerns. Further the City has conducted no public outreach to neighborhoods located immediately next to the proposed project to address environmental justice concerns. As a result, the proposed project fails to comply with Federal guidance for the expenditure of STB funds for the project.

\* \* \* \* \*

Thank you for your attention to these comments. Please contact me if you would like to find a time to discuss them.

Sincerely,



Ashley Werner

cc: Mayor Jerry Dyer  
Georgeanne White, City Manager

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<sup>4</sup> Available at [https://www.fhwa.dot.gov/specialfunding/stp/bil\\_stbg\\_implementation\\_guidance-05\\_25\\_22.pdf](https://www.fhwa.dot.gov/specialfunding/stp/bil_stbg_implementation_guidance-05_25_22.pdf) and accessed on August 10, 2022.



## **Diane Longoria**

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**From:** Brandi Nuse-Villegas ·  
**Sent:** Thursday, August 11, 2022 8:27 AM  
**To:** Clerk  
**Subject:** Public comment, Proclamation, Muslim Appreciation and Awareness

**External Email: Use caution with links and attachments**

Dear council,  
I want to express my appreciation for this item. Thank you for doing this and showing our community members that they are appreciated in this community.

## Diane Longoria

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**From:** Nicole Goehring  
**Sent:** Thursday, August 11, 2022 9:49 AM  
**To:** Clerk; District1; District2; District3; District4; District5; District6; District7; Jerry Dyer; gbredefeld@aol.com  
**Subject:** Oppose - 1.-F. ID 22-1236 Approve the Second Amendment to the Project Labor Agreement (PLA) related to the Transformative Climate Communities (TCC) grant extending the agreement until July 3, 2024  
**Importance:** High

**External Email: Use caution with links and attachments**

Re: Oppose - 1.-F. ID 22-1236 Approve the Second Amendment to the Project Labor Agreement (PLA) related to the Transformative Climate Communities (TCC) grant extending the agreement until July 3, 2024. (Subject to Mayor's Veto)

Fresno Mayor Dyer, President Esparza and Fresno City Council:

ABC NorCal represents working Fresnans who build commercial, industrial and affordable housing projects and is a provider of state and federally approved apprenticeship programs in carpentry, construction craft laborer, electrical, painting and plumbing that connects students, women, those in underserved communities, reentering citizens, and veterans, among many others with rewarding careers in construction.

As you prepare to vote on extending the Transformative Climate Communities Project Labor Agreement and discuss the status of Project Labor Agreement for the Parking Garage and Terminal Expansion during your Fat Forward Workshop, let me remind you that \$10,156,941.00 or nearly 30% of the total \$31.6M Fresno Airport Parking Garage Project is being self-performed by the General Contractor from Richmond.

As stated in the City Manager's memo dated September 1, 2021, the purpose of the PLA is to provide employment and training opportunities for City of Fresno residents to build pathways into high-quality, sustainable construction careers, create a pool of skilled construction labor for future City construction projects, to develop the regional workforce and economy, and to combat unemployment and underemployment in the region. Why do the PLA Agreements in place require local contractors to displace their own City of Fresno residents in exchange for City of Fresno residents from the Union Hiring Halls or from outside of Fresno – a net-zero job creation benefit to the City?

While we applaud the intent of those proposing the agreements to employ local, economically disadvantaged, pre-apprentice and entry-level hires, veterans and women-owned businesses, we do not applaud that the majority of diverse workers who live in the city will continue to be denied the opportunity to earn prevailing wages by not being welcome to work on projects in their own city.

As a result, local skilled, trained and certified workers miss out on work in their backyard that they have spent their careers performing. The taxpayer, too, suffers when PLAs are put into place because the agreement shrinks the number of bidders for projects to just a few, and, often, to only one, thereby inflating the cost of every project.

[Academic studies](#) of public construction projects already subject to government-determined prevailing wage laws indicate PLAs increase the cost of construction by 12% to 20% when compared to similar projects not subject to government-mandated PLAs.

We trust the Fresno City Council will change their mind and ensure any agreement moving forward will remove existing barriers and create pathways and opportunities for all existing workers and apprentices in the region.

Nicole Goehring

*Founded on the merit shop philosophy, ABC helps members develop people, win work and deliver that work safely, ethically, profitably and for the betterment of the communities in which ABC and its members work*

**#Lovewhatyoudo #Lovewhatyoubuild**



**42<sup>ND</sup> ANNUAL ABC NORCAL GOLF CLASSIC**  
September 9th, 2022 | Poppy Ridge Golf Club, Livermore

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#lovewhatyoubuild #lovewhatyoudo [abcnorcal.org](http://abcnorcal.org)



**INSTRUCTORS NEEDED**

- ▶ Competitive Salary
- ▶ Make an impact in the future of construction
- ▶ FULL-TIME and PART-TIME instructors needed

**In the following TRADES:**

- Electrical
- Commercial & Industrial Painting
- Carpentry/Laborer

Contact Daniel for more information: [daniel@abcnorcal.org](mailto:daniel@abcnorcal.org)

## Briana Parra

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**From:** Brandi Nuse-Villegas  
**Sent:** Wednesday, August 10, 2022 9:11 AM  
**To:** Clerk  
**Subject:** Public Comment, 10am Item #2

**External Email: Use caution with links and attachments**

This a great asset to the community and the rezone would benefit many. I support the proposed plan for Marjoree Mason, which needs to expand and have greater capacity to provide resources. And I appreciate their work in the community they are going into. During previous meetings on this item, I noted the concern of the neighborhood regarding potential uses, including as affordable housing or shelter. I think it's very important that the city communicates with neighborhoods to address concerns early on, but we also need to address concerns regarding affordable housing, that it can be an asset not only to those who would live there, but the surrounding neighborhood, as can a well managed shelter. There is concerns everywhere that there would be a negative impact if they live near these and if the city doesn't address this, both through good communication of what to expect (and responding to myths and misinformation) and provide the resources to ensure it is a benefit to the neighborhood in planning, we will struggle to increase quality housing options for those who need it. It's important that we increase affordable housing and services in different, well resourced, high opportunity areas, with good manangement.

**Briana Parra**

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**From:** noreply@granicusideas.com  
**Sent:** Tuesday, August 9, 2022 8:42 PM  
**To:** Clerk; Amanda Martin; Briana Parra  
**Subject:** New eComment for City Council on 2022-08-11 9:00 AM - Regular Meeting

**External Email: Use caution with links and attachments**



## New eComment for City Council on 2022-08-11 9:00 AM - Regular Meeting

Teya Looney submitted a new eComment.

Meeting: City Council on 2022-08-11 9:00 AM - Regular Meeting

Item: ID 22-1283 Proclamation for "Muslim Appreciation and Awareness Month"

eComment: This is a way to show Muslim voters that you think of them and their community.  
Opposing this would indicate otherwise.

[View and Analyze eComments](#)

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**Briana Parra**

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**From:** noreply@granicusideas.com  
**Sent:** Wednesday, August 10, 2022 8:59 AM  
**To:** Clerk; Amanda Martin; Briana Parra  
**Subject:** New eComment for City Council on 2022-08-11 9:00 AM - Regular Meeting

**External Email: Use caution with links and attachments**



## New eComment for City Council on 2022-08-11 9:00 AM - Regular Meeting

Brandi Nuse-Villegas submitted a new eComment.

Meeting: City Council on 2022-08-11 9:00 AM - Regular Meeting

Item: 1.-M. ID 22-1295 Actions pertaining to the allocation of funding for the Violence Intervention and Prevention Initiative Grant Program: 1. Approve the recommendation of grant proposals allocating \$950,000 from American Rescue Plan Act (ARPA) and \$550,000 in General Fund to local Community Based Organizations totaling \$1,500,000 to the following organizations: Boys and Girls Clubs of Fresno County (\$180,000); Fresno Economic Opportunities Commission/Advance Peace (\$375,000); Hope Now for Youth (\$130,000); Live Again Fresno (\$150,000); The Resiliency Center (\$50,000); Take a Stand Committee (\$50,000); Trauma Research and Education Foundation of Fresno (\$130,000); and a combined total of \$435,000 to the following collaborative partners: West Fresno Health Care Coalition dba West Fresno Family Resource Center (\$150,000)/Brain Wise Solutions (\$25,000), Every Neighborhood Partnership (\$75,000)/Gidai Maaza (\$35,000), HandsOn Central California/Fresno Street Saints (\$75,000), and the Fresno Police Activities League (\$75,000). 2. \*\*\*\*RESOLUTION - Granting Authority to the Parks, After School, Recreation and Community Services (PARCS) Director or their Designee to Enter Into Agreements with Community Based Organizations For One Year With The Option of One, One-Year Extension and Amendment to Provide Programs and Services Funded by the American Rescue Plan Act (ARPA) and General Fund to Aid in the COVID-19 Recovery Effort. (Subject to Mayor's Veto) (Citywide)

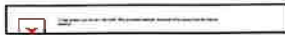
eComment: We need the resources that these groups provide. I want to ask that more money be allocated to Advance Peace, and potentially to other groups. The program has shown itself to be effective everywhere it's implemented in reducing crime. With the issues we have been having in our community, it should be a priority, back by greater investment, to fund these prevention programs. The city has invested millions into different programs in the police department. These prevention programs deserve much more funding that is being proposed.

## Briana Parra

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**From:** noreply@granicusideas.com  
**Sent:** Wednesday, August 10, 2022 8:54 AM  
**To:** Clerk; Amanda Martin; Briana Parra  
**Subject:** New eComment for City Council on 2022-08-11 9:00 AM - Regular Meeting

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## New eComment for City Council on 2022-08-11 9:00 AM - Regular Meeting

Brandi Nuse-Villegas submitted a new eComment.

Meeting: City Council on 2022-08-11 9:00 AM - Regular Meeting

Item: 3.-D. ID 22-1260 \*\*\*RESOLUTION - In support of the Measure C Renewal Expenditure Plan and implementation guidelines (Subject to Mayor's Veto).

eComment: I ask that you listen to the many constituents, as well as residents in other parts of Fresno County who are asking that the Measure C renewal be postponed to 2024 and not rushed through. Many have been saying that the plan does not reflect the transportation needs the community has. We need time to listen and get qualitative testimony and information from all areas of the county and all of our various community groups on what the specific needs are, as the most underserved will be paying for it, as will their children, for years, while not benefitting from millions of dollars. For instance, there is a huge need for more expansive and sufficient public transportation, both in rural communities and in the city of Fresno and other cities that isn't being addressed as well as other items. Those who are FCOG will say that they got extensive public input and support. Of course people support money toward transportation needs. We all agree on this. But the polls lack the substantive data information that only the community members themselves could accurately detail. Checking off boxes doesn't really inform decision makers of what is specifically needed and there is a question of what groups were left out of these surveys. Plus the community had little opportunity to respond to the last minute changes. There is no need to rush this. Please oppose and direct this item to be on the 2024 ballot. Thank you

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August 6, 2022

City Council  
City of Fresno  
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**Via Electronic Mail**  
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**Re: OPPOSITION to Plan Amendment & Rezone Application No. P20-04209,  
Development Permit Application No P20-04211, and related Environments Assessment  
No. P20-04209/P20-04211  
(File # ID No 22-806)**

To Hon. Mayor & City Councilmembers:

I am writing on behalf of the Central Valley Urban Institute in strong opposition to the Planning Commission's May 18, 2022, action to recommend adoption and approval of Plan Amendment and Rezone Application No. P20-4209, Development Permit Application No. P20-04211, and related Environmental Assessment No. P20-04209/P20-04211 pertaining to the 18.9 acres of property located on the southeast corner of Southwest and West Church Avenues (See File # ID 22-806). These proposed changes include the amendment of the Fresno General Plan to change the planned land use designation for this property from Residential – Medium Density to Employment – Light Industrial to allow developing a 2-story food production, warehousing, and distribution facility at the subject property. Downzoning to allow such operations directly conflicts with the community-created Southwest Fresno Specific Plan. These applications undermine community goals, harm public health, and allow industry to continue polluting an already impacted community.

These applications also cannot be separated from attempts by industrial businesses operating in Southwest Fresno to expand, undermining the Southwest Fresno Specific Plan. The Specific Plan is being subjected to death by a thousand cuts via applications to revert zoning to be as it was before the plan. The community opposes the rezone and a related proposal for an industrial “overlay district,” as they both undermine the vision for a healthier Southwest Fresno.

Central Valley Urban Institute urges the City Council to **reject** the Planning Commission recommendations on the Plan Amendment and Rezone Application. This letter outlines the legal obligations that are implicated by the Plan Amendment and Rezone Application and explains why the City Council should reject the proposals to avoid violating multiple federal and state laws.





**I. The Plan Amendment and Rezone would make Southwest Fresno more toxic and polluted**

The Plan Amendment and Rezone would expand industrial development where the City must be focused on facilitating development of housing and community-friendly businesses. The applicant and the Planning Commission do not address the broad range of harms that result from industrial development. Approval of the applications would lower the standard than is required by the Southwest Specific plan, which mandates that industry be phased out altogether.

**II. The Plan Amendment and Rezone must be rejected because they are inconsistent with the City's General Plan**

California's Planning and Zoning law (§ 65000 *et seq.*) requires all cities and counties to adopt a comprehensive long term "general plan" for the physical development of land. The general plan is the constitution with which all local land-use decisions must be consistent. The City's general plan incorporates the Southwest Fresno Specific Plan, which reflects the community's serious concerns with toxic pollution and adverse health impacts caused by industrial development adjacent to a residential area. As described further below, the Specific Plan details the adverse health impacts that the existing industrial development and highway in Southwest Fresno have had on the community. Allowing more industrial development in this sensitive area through the Plan Amendment and Rezone would harm rather than protect the public health; it is inconsistent with the general plan.

**III. The Plan Amendment and Rezone violates the City's duty to facilitate housing development**

The subject property is designated for Residential-Medium Density and is estimated to accommodate 94 – 227 dwelling units.

The City of Fresno is prohibited from taking any zoning action that would reduce the ability to develop housing on a given parcel. Gov't Code § 66300(b)(1)(A). Specifically, Government Code section 66300(b)(1) provides that "with respect to land where housing is an allowable use, an affected county or an affected city shall not enact a development policy, standard, or condition that would have any of the following effects:... lessen the intensity of housing." The City is bound by this provision pursuant to its designation as an "affected city" by the state Department of Housing and Urban Development.<sup>1</sup> By creating an Overlay District that promotes the use of parcels zoned for mixed use for industrial and other business purposes instead of housing, the Overlay proposal blatantly violates the City's duty under section 66300(b)(1)(A) and the stated intent of the law to "maximize the development of housing within this state." *Id.* at §63300(f)(2). For the same reasons, the rezone proposal also violates Gov't Code § 66300(b)(1)(A).

As acknowledged in the May 18, 2022, Report to the Planning Commission regarding File # ID 22-

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<sup>1</sup> List of Affected Cities as Designated by HCD, available at: <https://www.hcd.ca.gov/community-development/docs/affected-cities.pdf>



806, the City cannot move forward with this proposal because there is no concurrent proposal to address the net loss in residential capacity.

Under the existing zoning designation, the subject property could accommodate emergency shelter, as well as supportive and affordable housing. A downzoning to light industrial, where such uses are prohibited, removes these opportunities, and among other things may violate the City's duty under SB 2 (2007-2008), codified at Government Code § 65582 *et seq.* Overall, the Southwest Fresno Specific Plan describes a goal of developing high quality housing close to amenities such as parks, schools, and transit. *Id.* at 2-2. This Plan Amendment and Rezone proposal's allowance for additional industrial development on the 18.9-acre subject property would be inconsistent with the general plan because it forecloses the possibility of high quality housing development.

#### **IV. The Plan Amendment and Rezone conflict with the Southwest Specific Plan**

The City of Fresno's General Plan incorporates the Southwest Fresno Specific Plan, which "implements the goals and policies set forth in the General Plan by building upon its concepts for the Southwest Development Area." The Plan also includes ideas and measures that have been "extensively tailored and reviewed by the Southwest Fresno Community and stakeholders." Southwest Specific Plan (October 26, 2017) at p. 1-1. This careful planning process should be honored, instead of undermined by the Plan Amendment and Rezone that opens the door for more industrial development and associated pollution. The Specific Plan resulted from a multiyear community-involved process and was designed to right the institutional wrongs that the community has been burdened with. These proposals would undo the important progress that has been made and break the City's promises to the community.

The Specific Plan notes that Southwest Fresno is an area of strong community identity and character but is "disproportionately burdened by multiple sources of pollution" and that this burden stems from historical racially discriminatory policies that segregated people of color to this part of Fresno. *Id.* at 1-6. The Plan area ranks in the 90<sup>th</sup>-99<sup>th</sup> percentile statewide for communities disproportionately burdened by multiple sources of pollution and populations more sensitive to pollution. *Id.* at 1-12. Encouraging further development of industry in this already burdened community would not only directly contradict the Specific Plan, it would also exacerbate the harms of past racially discriminatory policies and constitute a new discriminatory act by the City.

**The Specific Plan discusses using zoning to promote its goals and says that it will "prohibit new industrial development in the Specific Plan Area through the adoption of proposed Specific Plan land use and zoning provisions" and "locate new industrial development away from Southwest Fresno residential neighborhoods."** These proposals violate these goals and reverse the zoning decisions made to further the programs in the Specific Plan. *Id.* at 2-4. Approving the proposals would therefore violate the City's obligations under Planning and Zoning Law. Gov't Code § 65300.5.



## II. The Plan Amendment and Rezone would violate Fresno's fair housing obligations

In addition to being inconsistent with the City's own planning goals as set out in the Southwest Fresno Specific Plan, the Plan Amendment and Rezone would also discriminate against the people of color that reside in Southwest Fresno, undermining the goals of the plan and the City's fair housing obligations. In making zoning decisions, Fresno is bound by multiple layers of anti-discrimination laws, including the federal and state requirements to "affirmatively further fair housing." 42 U.S.C. § 3608(e)(5); Gov't Code §§ 65583, 8899.50. Discriminatory siting of industrial zoning also constitutes both intentional discrimination and disparate impact discrimination under the Fair Employment and Housing Act (Gov't Code § 12900 *et seq*) and the federal Fair Housing Act. 42 U.S.C. § 3601 *et seq*.

The Plan Amendment and Rezone, if approved and adopted, would represent a violation of the City's duty to affirmatively further fair housing under state and federal law, because the toxic impacts of further industrial development will harm the majority non-white neighbors near the targeted site in Southwest Fresno. Specifically, the Fair Housing Act requires local governments that receive federal funds to certify that they will take affirmative actions to address discrimination and segregation. 42 U.S.C. § 3608(e)(5). The failure to affirmatively further fair housing may result in HUD suspending or withdrawing federal funding. *US ex rel Anti-Discrimination Center of Metro New York, Inc., v. Westchester County*, 668 F.Supp.3d 548, 569 (2009).

"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 ethnically 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 public agency's<sup>2</sup> activities and programs relating to housing and community development." Gov't Code § 8899.50(a)(1)). Facilitating more industrial development and freight terminals immediately adjacent to a community of color which is already subjected to extremely high levels of pollution would harm the existing community, further segregate the area, and reduce opportunities for development of high quality housing and retail.

California law specifically acknowledges the discriminatory aspects of land use decisions such as the rezone proposal currently before the Project Review Committee. Zoning decisions have fundamental impacts on surrounding communities and allowing increased industrial activity in an area adjacent to a neighborhood populated by low-income people of color could be determined to constitute both intentional and disparate impact discrimination. Specifically, state law prohibits the City from making any kind of land use decision, including zoning decision, in a manner that intentionally discriminates against a protected class or has a discriminatory effect on members of a protected class. Gov't. Code, § 12955.8; 2 C.C.R. §12161(a). Because Southwest Fresno is occupied primarily

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<sup>2</sup> "Public Agencies" include "a city, including a charter city." Government Code § 8899.5(a)(2).



by people of color, approving the requested rezone and allowing additional industrial development and pollution on this parcel would subject this community of color to environmental hazards, thereby having a disparate impact on protected class based on race, regardless of the City's intent.

Where the City's Specific Plan acknowledges the history of redlining and discrimination, and public comment from community members has highlighted the discriminatory nature of the industrial siting, approval of this proposal could also constitute intentional discrimination on the basis of race. *Avenue 6E Investments, LLC v. City of Yuma, Ariz.*, 818 F.3d 493, 504-5-5 (9th Cir. 2016).

In addition, approving the proposed Plan Amendment and Rezone would violate the Fair Employment and Housing Act, which defines land use discrimination to include conduct which "[r]esults in the location of toxic, polluting, and/or hazardous land uses in a manner that denies, restricts, conditions, adversely impacts, or renders infeasible the enjoyment of residence, land ownership, tenancy, or any other land use benefit related to residential use, or in connection with housing opportunities or existing or proposed dwellings." Gov't. Code, § 12955.8; 2 C.C.R. § 12161(b)(10). In this case, Southwest Fresno is already subjected to extremely high levels of pollution, and the Southwest Specific Plan is a carefully thought out plan that represents years of community effort to move towards lower levels of industry and bring in more opportunity for housing and small businesses. The Neighborhood Mixed Use designation for this land was intentional and the result of a carefully planned strategy to move the community in that direction. The proposals open the door for industrial development that would directly contradict the clear stated goals of the Specific Plan. By inviting more industrial development in this community of color, the City of Fresno would be engaging in land use discrimination under the Fair Housing Act and FEHA.

### **III. The proposals violate CEQA**

CEQA requires that a local agency prepare an Environmental Impact Report whenever it intends to approve a proposed project that may have significant impacts on the environment. Pub. Res. Code § 21151. The purpose of the EIR is to "inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made, thereby protecting not only the environment but also informed self-government." *Friends of the College of San Mateo Gardens v. San Mateo Cty. Cmty. Coll. Dist.*, 1 Cal. 5th 937, 944 (2016). CEQA requires a lead agency to consider *all* of a project's potentially significant impacts on the environment. This includes "[i]ndirect or secondary effects which are caused by the project and are later in time..., but are still reasonably foreseeable." CEQA Guidelines, 14 Cal. Code Regs. § 15358.

The City has not complied with CEQA. The Initial Study and Negative Declaration (IS/ND) does not fully analyze or disclose the environmental impacts of the proposed industrial uses at the subject property if the project is allowed to proceed. The May 18 Report claims there is "no substantial evidence that this project may have additional significant, direct, indirect, or cumulative effects on the environment that are significant and that were not identified and analyzed in the Southwest Fresno Specific Plan EIR. This strains credulity, as the Southwest Specific Plan contemplates that



residential zoning uses and not industrial uses at the subject property. These applications would add additional industry, including processing, warehousing, and distribution through freight trucking, the impacts of which must be addressed in an EIR. Notably, the May 18 Report does not address the environmental concerns raised in the April 4, 2022, letter to the planning staff from Laborers International Union of North America, Local Union No. 294 (“LIUNA”), or those raised in the April 14, 2022, letter to the Department of Public Works from the San Joaquin Valley Air Pollution Control District.<sup>3</sup>

#### IV. Conclusion

For all of the reasons explained above, the City of Fresno should reject the recommendations made in this matter by the Planning Commission and reject the proposed Plan Amendment and Zone Change. Central Valley Urban Institute will be forced to consider all legal actions available if the City moves forward with these proposals. I can be reached at [nvyas@wclp.org](mailto:nvyas@wclp.org) regarding any questions about the issues raised in this letter.

Sincerely,

Nisha N. Vyas  
Western Center on Law & Poverty

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<sup>3</sup> The District’s letter notes, at page 3, “There are sensitive receptors (e.g. single family residence) located southeast and west of the Project. Truck routing involves the path/roads heavy-duty trucks take to and from their destination. The air emissions from heavy-duty trucks can impact residential communities and sensitive receptors.”