

## Regular Council Meeting

December 18, 2025

# FRESNO CITY COUNCIL



## Public Comment Packet

ITEM(S)

9:20 A.M. (ID 25-1641)(TO BE HEARD AT 4:30 P.M.)

Actions pertaining to the Southeast Development Area (SEDA): HEARING to consider the adoption of the Southeast Development Area Specific Plan and related Final Environmental Impact Report, State Clearinghouse (SCH No. 2022020486). The following applications have been filed by the City of Fresno and pertain to approximately 9,000 acres in the Development Area-3 Southeast and Development Area-4 East:

[TITLE TRUNCATED FOR SUPPLEMENTAL PACKET COVER PAGE]

### Contents of Supplement: Public Comment Received

#### **Supplemental Information:**

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

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December 9, 2025

City of Fresno Planning and Development Department  
Sophia Pagoulatos, Planning Manager  
2600 Fresno Street, Room 3065, Fresno California 93721  
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Re: Objections to Final Environmental Impact Report for Fresno Southeast Development Area (SEDA) Specific Plan Project City of Fresno, Fresno County, California State Clearinghouse Number 2022020486 and SEDA Project Approval; Objection to Statement of Overriding Considerations In Support of SEDA

Dear Ms. Pagoulatos,

On behalf of the Sierra Club, Central Valley Partnership, and League of Women Voters we object to the approval of the Southeast Development Area (SEDA) project and to the certification of the final environmental impact report (FEIR) in support of the project. We previously submitted comments on the Draft EIR (DEIR) on August 28, 2023 and March 5, 2025 which we incorporate by reference.

We find upon review of the FEIR that the City has failed to adequately respond to our comments, failed to require sufficient mitigation of identified adverse impacts, and has continued to fail to conduct necessary analysis including but not limited to human health impacts from massive air pollution generated by the massive, sprawling Project.<sup>1</sup>

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<sup>1</sup> The SEDA project would be a massive development project with extensive impacts that must be carefully planned and mitigated. It has been accurately described as follows:

[the project will] transform nearly 9,000 acres southeast of Fresno into a new Clovis on Fancher Creek.

The project up for the city council's vote will be one of the biggest suburban sprawl projects in Fresno's history. The Dyer administration's plan includes 45,000 homes and up to 150,000 people, on a stretch of land that is currently a

The City must remedy these failures before continuing its review of the SEDA Project. The City cannot approve the SEDA Project, and cannot base its approval on a statement of overriding considerations because of the general plan inconsistencies, statutory violations, and failures to comply with CEQA identified in this letter, our prior letters, and the letters of other commenters in the SEDA process which we incorporate by reference.

We urge the City to either deny approval of SEDA altogether or to continue the December 18, 2025 hearing of the matter so that the legal deficiencies can be fixed.

**A. Previous Comments on the Draft EIR Were Not Adequately Addressed.**

We and other commenters submitted comments regarding, among other defects, farmland conservation, greenhouse gas mitigation, air quality impacts and mitigation, and the necessity for a health impact analysis. None of these previous comments were adequately addressed.

**1. Farmland Loss Must Be Effectively Mitigated.**

The FEIR fails to respond to suggestions for mitigation measures for farmland conservation.

The Project will convert a huge swath of land currently used for agriculture into urban areas where only vestiges of agriculture, such as community gardens, might remain. The Plan's proposed development will effectively eliminate approximately 6,741 acres in agricultural production, which are specified as 2,475 acres of Prime Farmland, and approximately 1,352 acres of Farmland of Statewide Importance, 1,189 acres of Farmland of local importance, and approximately 1,725 acres of Unique Farmland. (DEIR p. 3.2-16.) This land has value not only for its capacity to produce food and fiber, but also as a carbon sink to mitigate some GHG emissions and their effect on climate

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patchwork stretch of farmland, rural homesteads, two-lane country roads, and stop-signs.

Known as the Southeast Development Area (SEDA), the transformed community would rival the size of Clovis – 16 times the size of the Copper River project in northeast Fresno, and seven times as large as Riverstone and Tesoro Viejo, the major new communities across the San Joaquin River in Madera.

(Weaver, Fresnoland, August 25, 2023, “Another Clovis, but in southeast Fresno? City moves forward on mega-development plans”, available at <https://fresnoland.org/2023/08/25/city-of-fresno-eyes-seda/>. )

change by sequestering carbon (see Center for Biological Diversity letter at pp.10-11, pdf pp.192-183.)

Mitigation for impacts of the Project on agricultural land are profoundly inadequate, consisting of a single mitigation measure that allows individual projects within SEDA to preserve agricultural land (not explicitly required to be within the SEDA area) on an acre-for-acre basis (MM AG-1), and the mere possibility of complying with a Farmland Preservation Plan that has been promised by the City for over a decade but never adopted nor meaningfully implemented. (RDEIR, p. 3.2-16.)

Comment SC-CVP-LWV-3 raises the lack of funding for the SEDA plan. The FEIR claims that this is a non-CEQA issue. However, funding for mitigation measures is a central issue covered by CEQA. The City cannot properly rule out various measures as financially infeasible without a plan that addresses the financing that is available for the SEDA project. This issue of lack of information about SEDA funding relates to every mitigation measure in SEDA that requires funding so is not just limited to farmland mitigation.

Comment SC-CVP-LWV-6 raised the possibility of imposing urban growth boundaries as a mitigation measure for farmland impacts. The FEIR responds that this issue does not raise environmental issues. However, urban growth boundaries are a necessary mitigation measure for farmland impacts. The EIR improperly dismisses this suggestion as a non-environmental issue. An alternative that includes addressing an urban growth boundary should have been included in the EIR.

The California Council of Land Trusts has developed a handbook entitled [“Conserving California’s Harvest – A Model Mitigation Program and Ordinance for Local Governments.”](#) In order to provide the City with information about how the Farmland Conservation mitigation program should have been discussed and implemented in the SEDA EIR and Project approval, we present this link and incorporate the entire handbook by reference: <https://calandtrusts.org/wp-content/uploads/2014/03/conserving-californias-harvest-web-version-6.26.14.pdf>. This handbook presents various farmland mitigation techniques that should be implemented as part of the SEDA approval, not deferred to a future process of mitigation measure development. Measures such as the following can be implemented now at the plan level, with further measures implemented at the project level. Chapters 4-7 of the handbook provide information and case studies about Fee Acquisition and Project Mitigation Bank, Conservation Easement with Advanced Mitigation Credits, In-Lieu Fees, and Conservation Easements. There is no reason these feasible mitigation measures cannot be developed and adopted now as part of the SEDA process. CEQA requires adoption of enforceable mitigation measures that are feasible prior to adopting a statement of overriding considerations. The adoption of effective mitigation measures may not be deferred to a future process because there is no reason development of such measures at this point is infeasible.

Yolo County is one of many counties that have adopted an effective farmland conservation ordinance. (See <https://calandtrusts.org/resources/conserving-californias-harvest/fmp/>.) We incorporate this ordinance by reference as an example of a feasible mitigation measure that the City must adopt prior to accepting significant loss of farmland. See <https://calandtrusts.org/wp-content/uploads/2014/03/Yolo-County-Agricultural-Conservation-Easement-Program.pdf>.

The Transitional Rural Residential Anx Overlay does not protect landowners' current rights so is likely to lead to loss of agricultural land to agricultural use. Residents could potentially loose their private water wells and septic systems and be forced to hook to the City of Fresno's infrastructure potentially costing exorbitant amounts in the range of \$100,000 or more. Residents are only allowed to keep their private water wells for irrigation if their parcels are over two net acres. Many of their properties, while zoned rural residential, are under two net acres; many are over two net acres. The ANX overlay also limits the number of chickens residents can keep from 500 hens and roosters to 24 hens only under the overlay. Residents are currently allowed under Fresno County ordinances to keep nearly 5 cattle or horses per acre, but under the ANX overlay would be limited to two and a limit of 10 no matter the size of property. Sheep and goat herds will be limited in size due to the overlay. Thus, the various restrictions would have the effect of eliminating current viable agricultural land uses. The proposed annexation overlay contains numerous restrictions with a negative impact on continued agricultural uses; these restrictions must be eliminated or the effects of the restrictions must be identified and mitigated.

## **2. Greenhouse Gas Impacts Must Be Effectively Mitigated.**

The EIR fails to propose all feasible mitigation measures and the City fails to require such mitigation for greenhouse gas emissions impacts. The California Attorney General and Governor's Office of Planning and Research- now Land Use and Climate Innovation- have extensive guidance on mitigation of GHG impacts that must be incorporated in the approval of SEDA.

Sample mitigation measures are set forth in this document which we incorporate by reference: <https://lci.ca.gov/docs/june08-ceqa.pdf>?. See especially Attachment 3 and pages 18-20. For example, with regard to Land Use and Transportation, the following measures and others listed in Attachment 3 are recommended:

### **LAND USE AND TRANSPORTATION**

- Implement land use strategies to encourage jobs/housing proximity, promote transit-oriented development, and encourage high density development along transit corridors. Encourage compact, mixed-use

projects, forming urban villages designed to maximize affordable housing and encourage walking, bicycling and the use of public transit systems.

- Encourage infill, redevelopment, and higher density development, whether in incorporated or unincorporated settings
- Encourage new developments to integrate housing, civic and retail amenities (jobs, schools, parks, shopping opportunities) to help reduce VMT resulting from discretionary automobile trips.
- Apply advanced technology systems and management strategies to improve operational efficiency of transportation systems and movement of people, goods and services.
- Incorporate features into project design that would accommodate the supply of frequent, reliable and convenient public transit.
- Implement street improvements that are designed to relieve pressure on a region's most congested roadways and intersections.
- Limit idling time for commercial vehicles, including delivery and construction vehicles.

Each and every mitigation measure identified in this document for GHG emissions must be adopted or the City must explain why they are infeasible. The City cannot adopt a statement of overriding considerations without adopting these measures or explaining why the City determines them to be infeasible.

### **3. Nitrous Oxide Impacts Must Be Effectively Mitigated.**

Our comments and those of other commenters pointed out the massive amount of smog-forming Nitrous Oxides that would potentially be generated by the SEDA approval. (See CLC/RCI comment 31 including chart illustrating SEDA's huge and negative effect on Valley air quality.)

The Final EIR refers to the use of MM-AIR-1c to address industrial or warehouse projects and MM-AIR-1d to address future site-specific approvals. However, mitigation must occur at the regional planning level as well as at the local project planning level. The City fails to sufficiently plan for mitigation at the regional level.

The Attorney General provides guidance on mitigation measures for air pollution impacts. The AG's July 22, 2019 letter regarding the City of Fresno's South Industrial Priority Area (SIPA) provides relevant suggestions for mitigation measures. (See <https://oag.ca.gov/sites/all/files/agweb/pdfs/environment/comments-fresno-south-industrial-priority-area-specific-plan-08-02-2019.pdf>.) We incorporate that letter by reference and require that you respond to each mitigation measure suggested, as well as require compliance with AB 617 as discussed in that letter (pages 6-7).

By way of example, but without limiting, the following list is suggested:

- x. Requiring buffer zones between industrial uses, including warehouses, and sensitive receptors;
- x Ensuring that operations of diesel trucks or equipment on site are as far from sensitive receptors as possible;
- x Limiting the size of the [SEDA] away from City and County residents and sensitive receptors;
- x Limiting the maximum amount of industrial space, including warehouse space, that can be built in the [SEDA];
- x Limiting operation and construction days and times;
- x Establishing and enforcing truck routes that avoid sensitive receptors;
- x Requiring special consideration and mitigation for warehouses with cold storage capability, including requiring the use of zero-emission or all-electric, plug-in capable transport refrigeration units and electrical hookups at all loading docks;
- x Establishing fleet requirements for warehouse tenants and carriers serving tenants, such as requiring the exclusive use of zero-emission delivery trucks and vans and requiring any Class 8 trucks entering the site use zero-emissions technology or meet CARB's lowest optional NOx emissions standard;
- x Requiring installation of indoor air filtration at nearby schools and residences;
- x Requiring installation of indoor air filtration and climate control at new warehouses to reduce-impacts on workers;
- x Requiring electric vehicle charging infrastructure for both cars and trucks necessary to support zero-emission vehicles and equipment on site;
- x Requiring and enforcing no idling policies;
- x Requiring the use of electric-powered yard equipment onsite
- x Requiring that all construction equipment meet Tier 4 emission standards;
- x Constructing new or improved transit stops, sidewalks, bicycle lanes, crosswalks, and traffic control or traffic safety measures, such as speed bumps or speed limits;
- x Improving vegetation and tree canopy for communities in and around the [SEDA] to avoid the “heat island effect;”
- x Requiring methods to reduce employee vehicle traffic, such as van shuttles, transit and carpool incentives, and providing bicycle parking and facilities for employees;
- x Requiring installation of solar panels with backup energy storage on each building roof area with a capacity that matches the maximum allowed for distributed solar connections to the grid; and
- x Adhering to green building standards.

As stated in the Attorney General’s letter and applicable here, adoption of such measures cannot be deferred to a future date.

#### **4. Human Health Impacts Must Be Analyzed and Mitigated.**

The Final EIR claims that there are no means by which the human health impacts of the approval of SEDA can be analyzed and that human health impacts would be analyzed at the project proposal rather than programmatic EIR level, and therefore fails to analyze or sufficiently mitigate these impacts. (See Response SC-CVP-LWV 13 and CLC/RCI-30.) The EIR's non-responsive comment is particularly disturbing and legally inadequate because commenters noted ways in which other jurisdictions have been able to analyze such impacts.

The City's response to comments from multiple organizations that an analysis of the human health impacts of the air pollutant emissions as required by the California Supreme Court in *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, at pp. 517-520 (commonly referred to as *Friant Ranch*) is that such an areawide predictive air quality analysis is not possible. The record says otherwise.

In their comment letter, the Fresno Madera Tulare and Kings Counties Central Labor Council together with Regenerate California Innovation (RCI) presented a table with emissions data drawn from SJVAPCD and the Project DEIR showing the magnitude of the Project's expected nitrogen oxide (NOx) emissions compared to the NOx emissions of the entire San Joaquin Valley. (Resp. to Comments at p. 1-212, p.238-239 of pdf.) That table shows that the Project's NOx emissions in 2026, SEDA's emissions will increase the overall Valley emissions by 151%, in 2031 SEDA will increase overall Valley NOx emissions by 131%, and in 2036 it will increase overall Valley NOx emissions by just short of 200%. Given the serious human health impacts of NOx by itself (RDEIR, p. 3.3-12), let alone of NOx when combined with reactive organic gases (ROG) in sunlight to form ozone (*Id.*), it is imperative that the City do everything it possibly can to predict the consequences of approving this Project before doing so. That includes a *Friant Ranch* analysis.

Our client's comment letter referred to Cal State San Diego's ability to perform a *Friant Ranch* analysis, which we incorporated in the Project's record by reference.<sup>2</sup>

The RDEIR already performed an analysis showing that the Project would exceed the SJVAPCD's regional emissions significance threshold, stating:

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<sup>2</sup> For the City's convenience, we repeat the link at which the analysis may be found, and again incorporate this entire 45 page document into the record here: [Microsoft Word - SDSU Friant Ranch Evaluation 12.23.19.docx](https://missionvalley.sdsu.edu/pdfs/feir/appendices/4-2-3-sdsu-mv-health-effects-memo.pdf); <https://missionvalley.sdsu.edu/pdfs/feir/appendices/4-2-3-sdsu-mv-health-effects-memo.pdf>

Full build out of the proposed project would result in the generation of substantial long term criteria air pollutant emissions that would exceed the SJVAPCD regional significance thresholds and would therefore not be considered consistent with the existing AQPs.

(Rep. to Comments, p. 1-212; p. 239 of pdf.) Apparently, the SJVAPCD has sufficient information to determine inconsistency of the Project with regional significance thresholds and with the regional Air Quality Plans. The City must explain why it cannot perform some type of a *Friant Ranch* analysis. It clearly has data on Project emissions and on health impacts from the relevant air contaminants, it must prove, not just state, that these data are insufficient to perform the analysis.

Such an analysis of Project impacts on public health is especially crucial for this Project, given the enormity of its pollutant emissions.

Even where there are not standardized calculations to address an impact, the DEIR may not fail to conduct an analysis. In *Berkeley Keep Jets Over the Bay Committee v. Board of Port Com'rs* (2001) 91 Cal.App.4th 1344, an EIR was found deficient because, among other reasons, it professed an inability to analyze toxic air contaminant impacts. (Id. at pp. 1370-1371.) The Court of Appeal found this failed to meet the requirements of CEQA.

The fact that a single methodology does not currently exist that would provide the Port with a precise, or “universally accepted,” quantification of the human health risk from TAC [Toxic Air Contaminant] exposure does not excuse the preparation of any health risk assessment--it requires the Port to do the necessary work to educate itself about the different methodologies that are available. The Guidelines recognize that “[d]rafting an EIR ... involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can.” (Guidelines, § 15144, italics added.) “If, after thorough investigation, a lead agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact.” (Guidelines, § 15145, italics added.)

(*Berkeley Keep Jets Over the Bay Committee v. Board of Port Com'rs* (2001) 91 Cal.App.4th 1344, 1370-1371.)

A number of public agencies have performed a *Friant Ranch* analysis, demonstrating that it is technically feasible and can produce information that is useful and valid. A prime example of this application is the Sacramento Metropolitan Air Quality Management District (SMAQMD), which in 2020 produced Guidance to

Address The Friant Ranch Ruling For CEQA Projects in The Sacramento Metropolitan Air District (SMAQMD Guidance), available at <http://www.airquality.org/LandUseTransportation/Documents/SMAQMDFriantRanchFinalOct2020.pdf>; last visited 11/28/25. The SMAQMD Guidance states that, *inter alia*, it:

Provides insight on the health effects that may result from a project emitting at the maximum thresholds of significance (TOS) levels in the Five-Air-District Region for oxides of nitrogen (NO<sub>x</sub>), volatile organic compounds (VOCs), and PM, in addition to levels of CO and oxides of sulfur (SO<sub>x</sub>) calculated proportional to NO<sub>x</sub> (as described in Section 4.1). This information can be used in environmental documents to provide a conservative estimate of the health effects of criteria pollutant emissions at the significance thresholds or below.

(SMAQMD Guidance, p. 2.)

SMAQMD performed photochemical grid modeling, looking at over 40 locations in its jurisdiction where new projects could be sited (based on General Plan classification and zoning, among other factors), and then *estimated generic emissions from such new projects, and calculated the amount by which ambient air concentrations of pollutants would change when those emissions were added to the mix.*

The District then was able to run a health impacts model using those ambient concentrations predictions as inputs to a health benefits model (SMAQMD used the Benefits Mapping and Analysis Program [BenMAP] used by U.S. EPA [SMAQMD Guidance, pp. 4-5]), enabling it to predict what health hazards could result, e.g., predicting rates of increases in asthma attacks based on increased ozone concentrations when a new project's NO<sub>x</sub> or VOC emissions were added to the District's inventory, or increased incidences of myocardial infarctions when PM2.5 emissions rose. (SMAQMD Guidance, pp. 6-7.) Generic modeling was set up for new sources emitting at SMAQMD's significance threshold levels, and at higher levels. SMAQMD has made this modeling system available to the public, enabling a developer to choose a relevant location, input the emissions data for its own proposed project, and run the model, thereby getting reasonable estimates of health impacts for its particular project. (SMAQMD Guidance, Appdx. F).

The SJVAPCD could provide a similar service, using, for example, the Comprehensive Air Quality Model with Extensions (CAMx) to determine the effects of ozone precursor emissions changes on ozone formation. CARB and the APCD used this technique in the 2004 Extreme Ozone Attainment Demonstration Plan.

The CAMx modeling used data collected during the Central California Ozone Study (CCOS) in the summer of 2000, data which the APCD still has and which could be used (<https://www.valleyair.org/aqinfo/CCAQS/CCAQSidx.htm>), last visited 3/23/21). The current data could be updated based on data in the APCD's current emissions inventory, and supplemented where necessary by estimates developed through growth projection techniques commonly used by the APCD.

Alternatively, the City could arrange to run a comparable air quality and health effects model, as California State University at Dominguez Hills did for the EIR it performed on its recent Long Range Development Plan. The EIR described its modeling in this way:

An analysis of the potential health effects of the project's criteria pollutant emissions was prepared by Ramboll US Corporation. (See EIR Appdx. B.4, which contains detailed information regarding the methodology, input parameters, limitations and uncertainties associated with this analysis.) The analysis focuses on health effects attributable to ozone and particulate matter, as those are the criteria pollutants considered by the USEPA in its Benefits Mapping and Analysis Program (BenMAP), the analytical model it relies on and publicly distributes for use in estimating the health effects of air pollution. A photochemical grid model (CAMx) was used to estimate the incremental increase in ambient air quality concentrations as a result of project-related emissions.

California State University Dominguez Hills Campus Master Plan EIR, p. 3.2-25, available at <https://www.csudh.edu/Assets/csudh-sites/fpdc/docs/campus-master-plan/2019/final-environmental-impact-report-09-11-19.pdf>.) We incorporate this entire 758-page document by reference.

This process is very similar to the use of CAMx and BenMAP by SMAQMD. See also 2020 Mineta San Jose International Airport Master Plan Amendment Integrated EIR, Supplemental Air Quality Analysis, at Introduction, p. 2, available at <https://www.sanjoseca.gov/Home>ShowDocument?id=61650>; last visited 11/28/25. We incorporate this entire 45-page document by reference.

It is simply not the case that a *Friant Ranch* analysis, disclosing to the decision makers and the public the connection between increased air pollutant emissions from a project and resulting impacts on human health, cannot be done. It can be and it has been done. A *Friant Ranch* type of human health risk analysis must be done for this Project.

## **5. Water Supply Comments Are Not Sufficiently Addressed.**

Among other comments which were also insufficiently answered, we raised the point that the EIR only addresses water supplies out to 2035, not out to 2050. (March 24, 2025 Letter, p. 27.) The response refers to Master Response 8, which does little more than cite various sections of the Draft EIR, which were identified as deficient in our comment letter in the first place. The Draft EIR's analysis is deficient and the Final EIR's responses to comments about the deficiencies of this analysis is legally inadequate.

The EIR has failed to identify analysis to show certainty of water capacity to serve the proposed SEDA plan. During the Planning Commission hearing, Peter Vang asked how was water certainty to serve SEDA determined. Phil Ault stated analysis was collaborated with Fresno Flood Control District. We have been informed that Fresno Metropolitan Flood Control District (FMFCD) denied they analyzed capacity for water to serve SEDA. When questioned by FMFCD, Mr. Ault stated he mis- spoke and meant Fresno Irrigation District (FID). We further understand that FID also denied analyzing water capacity to serve SEDA.

## **6. Environmental Justice Groups' Comments are Improperly Dismissed.**

We specifically requested that the FEIR address the comments made by various environmental and social justice groups in connection with the Notice of Preparation. (March 24, 2025 Letter, p. 28-29.) The FEIR improperly dodges answering these questions as beyond the scope of the FEIR.

## **7. Affordability of Housing Must be Ensured.**

We commented that affordability of housing in the SEDA area must be ensured. (March 24, 2025 Letter, p. 29-30.) The FEIR dismisses this comment as a non-CEQA issue. (Response to SC-CVP-LWV-25). Ensuring affordability of housing is a high priority in California and must be viewed as an environmental as well as social, fiscal, and other type of issue.

When Los Angeles County Board of Supervisors approved the Tejon Ranch Centennial Development in northern Los Angeles County, they required an 18% inclusionary housing set aside. (<https://www.cbsnews.com/losangeles/news/la-county-approves-controversial-20k-home-development-in-antelope-valley/>.) There is no evidence showing that a similar or greater inclusionary housing requirement as part of the SEDA approval would be infeasible.

## **8. Vehicle Miles Traveled (VMT) Are Insufficiently Analyzed or Mitigated.**

First, we note that there is no substantial evidence supporting the future provision of high-quality transit to SEDA, therefore no substantial evidence supporting the facially incredible VMT numbers in the EIR. (See CBD letter at p. 11<sup>3</sup> observing that New York City, a remarkably transit-rich city, has a per capita VMT rate of 15.2.) The Response to Comments cites the City's thresholds of significance to justify its approach to reporting and analyzing VMT:

The City of Fresno CEQA standards for land use plans, such as SEDA, states that the project should compare the base year existing VMT per capita and/or VMT per employee with the horizon year with project VMT per capita and/or VMT per employee. If the horizon year with project VMT is higher than the base year, then there will be an impact.

(Resp. to Comments at p. 1-173, p. 199 of pdf.) However, the City's thresholds do not excuse it from CEQA's mandate that a lead agency "must use its best efforts to find out and disclose all that it reasonably can." (CEQA Guidelines sec. 15144.)

As to VMT, the RDEIR has not disclosed all that it reasonably can about SEDA VMT. The RDEIR does not provide the full environmental disclosure CEQA requires even of programmatic EIRs. Instead, it provides *selective* disclosure, focusing its analysis only on the per capita rate of VMT, and carefully declining to provide full disclosure as to the total, collective VMT that SEDA residents as a whole are projected to rack up. Further, it only analyzes VMT for the time period ending in 2035, and *not* for the build-out horizon for the Project of 2050. (Appdx. H<sup>4</sup>, pp. 8, 13.) The computer model used to predict Project VMT, the Fresno Council of Governments (FCOG)'s Activity Based Model (ABM) only forecasts VMT out to 2035. (Appdx. H, p. 13.) Hence, its VMT analysis does not even purport to encompass the full VMT impacts of the Project. The model predicts that:

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<sup>3</sup> The FEIR is not consecutively paginated, making page number citation impossible. This letter refers to individual comment letters by the name of the commenting entity and the internal page number of that comment, or by the number of the pdf page where the comment appears.

<sup>4</sup> Note that the RDEIR has both an Appendix H (Transportation) and an Exhibit H (Responses to Comments). Material in this letter from Exhibit H is identified as from "Resp.to Comments" to avoid confusion.

While total VMT is projected to increase due to population and employment growth, the VMT per Service Population is expected to decrease from 45.72 in the ‘No Project’ scenario to 5.07 in the ‘With Project’ scenario.

(Appdx. H, p. 26.) In fact, the model predicts that the total SEDA VMT for 2035 – fifteen years short of full build-out – will nearly triple over the baseline conditions, from 371,397 miles per year to 974,369 miles per year. (Appdx. H, pp. 23, 26, respectively.) Appendix H does not, and due to the limitations of the ABM cannot, make any prediction as to the total Project VMT at full build-out.

However, Appendix B, the technical Air Quality appendix, does. It predicts that maximum total Project VMT will reach 150,601,353 miles per year. (Appdx. B, p. 24, Trip Summary Information.) The RDEIR’s focus on per-person VMT at the 2035 build-out level obscures the full amount of driving that the vast increase in population predicted for SEDA will cause. It also obscures the resulting emissions of GHGs that this driving will cause. Appendix B predicts that the total emissions of GHGs due to mobile sources (i.e., vehicle emissions) will be a whopping 63,331.7086 metric tons *per year*, measured as carbon dioxide equivalent.<sup>5</sup> (Appdx. B, p. 9, Mitigated Operational.) The RDEIR does not analyze the significance of this level of GHG emissions, but its failure to present these data in the text of the RDEIR, rather than in a pair of technical appendices, is by itself a violation of CEQA’s full disclosure mandate. (*Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 442 [“[I]nformation ‘scattered here and there in EIR appendices’ or a report ‘buried in an appendix,’ is not a substitute for ‘a good faith reasoned analysis.’”] (internal quotation marks omitted.)

Additionally, with the SEDA plan revolving around walkable communities to reduce VMT, it is contrary to this purpose that the City has removed the trails map.

## **B. Other Comments Are Incorporated by Reference and We Object to the Failure to Adequately Address Them.**

We join the comments of other commenters to have identified various shortcomings and defects of the analysis and find that their comments have not been sufficiently addressed either. Specifically, we join the comments of the Center for Biological Diversity, the Southeast Property Owners’ Association, the Fresno Madera

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<sup>5</sup> Because the various greenhouse gases have vastly different global-warming capacity, they are often expressed as the amount of carbon dioxide that would have equal warming potency (CO<sub>2</sub> equivalence, or CO<sub>2</sub><sup>e</sup>).

Tulare and Kings Counties Central Labor Council, Regenerate California Innovation, and the County of Fresno and request legally adequate responses to their comment letters.

**C. General Plan Inconsistencies and Inadequacies Prevent Approval of the SEDA Project.**

We objected that, among other inconsistencies and failures to comply with the City of Fresno General Plan, the SEDA project would be inconsistent with general plan farm preservation policies, GHG reduction requirements, environmental justice requirements, and sustainable communities strategies. The Final EIR fails to adequately address these comments. SEDA cannot be approved because not only does it violate CEQA's requirements for certification of legally compliant environmental review, but it also violates Planning and Zoning Law requirements for vertical and horizontal consistency of a specific plan with policies of the general plan.

**D. A Statement of Overriding Considerations Cannot Be Approved Because it Would Be Insupportable.**

A statement of overriding considerations pursuant to Public Resources Code section 21081 and CEQA Guidelines section 15091 would be required to approve the Project. The Planning Commission staff report notes the need for such a statement of overriding considerations but none was provided to the Planning Commission to form recommendations. No such statement of overriding considerations is supportable.

The City, and any responsible agencies granting approvals, would have to find that all feasible mitigation measures have been adopted, that there are no feasible environmentally superior alternatives available, and that Project benefits outweigh the Project's significant impacts. Because the identified impacts are so extensive and funding has not been identified to pay for SEDA, neither the City nor any responsible agencies should override those impacts to approve the risky Project that does not carry sufficient benefits to local communities. The statement of overriding considerations cannot identify specific benefits of the project that override its impacts; there are no such overriding benefits.

The courts have unequivocally required a specific finding to ensure all feasible mitigation measures for significant impacts have been approved before adopting a statement of overriding considerations has been addressed. (See, e.g., *Uphold Our Heritage v. Town of Woodside*, *supra*, 147 Cal.App.4th at 603 [“A statement of overriding considerations is required, and offers a proper basis for approving a project despite the existence of unmitigated environmental effects, only when the measures necessary to mitigate or avoid those effects have properly been found to be infeasible,”]

quoting *City of Marina v. Board of Trustees of California State University* (2006) 39 Cal.4th 341, 368].)

The Supreme Court has emphasized that mitigation measures must be shown to be “truly infeasible” before adopting a statement of overriding considerations in the context of infrastructure improvements. (*City of Marina v. Board of Trustees of California State University* (2006) 39 Cal.4th 341, 368–369 [“CEQA does not authorize an agency to proceed with a project that will have significant, unmitigated effects on the environment, based simply on a weighing of those effects against the project's benefits, unless the measures necessary to mitigate those effects are truly infeasible.”])

#### **E. Procedural Violations and Irregularities Demand Recirculation of the EIR and a Longer Period for Public Review and Involvement.**

Because the City has apparently revised the proposed SEDA Project, the EIR should be recirculated for further public review and comment. While it is not possible to determine exactly, it appears that the Project recommended by the Planning Commission is different from the proposed Project. Therefore, the Project should be more precisely defined and the EIR recirculated with an accurate project description.

The City should extend the time to review the Final EIR and SEDA project by continuing the approval hearing from December 18, 2025 into 2026. The Final EIR was only released shortly before the November Planning Commission hearing and left insufficient time for the public and public agencies to comment on it prior to Planning Commission approval. With the intervening Thanksgiving Holiday between the Planning Commission and City Council consideration of the SEDA Project and the end of year holidays, the City should take up the SEDA project in the new year, not in December. A rushed process of approval fails to provide a fair chance for public understanding and participation in the monumental decision about the City’s future growth.

The City did not respond to earlier comments on earlier versions of the DEIR or any other letters submitted at that time. The Final EIR should disclose and respond to all previously submitted comment letters on the various versions of the DEIR.

#### **F. The RDEIR Cannot, By Itself, Support Approval of Individual Future Projects.**

The SEDA RDEIR is inadequate to support approval of future SEDA projects without further CEQA review. Perhaps its chief inadequacy in this regard is that it does not demonstrate that it has imposed all feasible mitigation on this major, health-damaging Project. Rather, it explicitly shifts the future burden both of analysis and of mitigation to each individual project, showing a pattern of abdicating responsibility at the City level for reducing pollutant emissions and other Project impacts. (See, e.g., pdf pp. 39,356,442.) Deferral of almost all mitigation to project level without including restrictions or

mandatory directives as to project design eliminates any claim of substantial evidence that adequate, effective mitigation will be imposed at the project level. Examples are lack of proof that transit service, let alone high-quality transit, will be provided, and lack of performance standards for mitigation measures. Approval of the Specific Plan for SEDA is the point at which comprehensive mitigation measures can and must be adopted. See Center for Biological Diversity (CBD) letter at pp.12-13 for mitigation measures that should be adopted at a program level. Further, there is no Checklist in the RDEIR upon which to claim the Government Code section 65457 exemption for individual project approvals based on the current RDEIR. The FEIR explicitly acknowledges this in Master Response 5 – Clarification of Programmatic Document, explaining:

[A] Program EIR is not expected to analyze site-specific or project-specific environmental impacts nor provide the level of detail found in a Project EIR.

(FEIR, p. 2-9, p. 15 of pdf.) Master Response 5 is relied upon throughout the Response to Comment document to explain the absence of project-specific analysis. (See, e.g., FEIR pp.1-13 [p.39 of pdf],1-43 [p. 69 of pdf, and FEIR p. 1-68 [p.94 of pdf.])

#### **G. The City's General Plan Failings Identified by the Court of Appeal Have Not Been Rectified or Would be Repeated in SEDA.**

In litigation brought by the South Fresno Community Alliance to challenge the City of Fresno's approval of a program EIR for the ongoing implementation of its General Plan in 2021, the Court of Appeal rendered a decision filed August 6, 2024 that stated:

As explained below, the City failed to properly describe the environmental setting, failed to substantiate its GHG analysis vis-à-vis state targets, improperly deferred air quality mitigation measures, unjustifiably found traffic mitigation infeasible, failed to analyze potential impacts on pedestrians, inadequately addressed groundwater decline, and failed to reasonably discuss project alternatives. We reverse the judgment and order appropriate relief in the disposition.

(*South Fresno Community Alliance v. City of Fresno* (Cal. Ct. App., Aug. 6, 2024, No. F086180) 2024 WL 3663122, at \*2 (Opinion).) The City is unfortunately repeating many of the mistakes, errors, and omissions it made in its approvals in that litigation with the present SEDA approval. We incorporate this entire opinion in this letter by reference. Among other comments we have made, the City must also identify every sensitive receptor in SEDA (Opinion, p. 14), must mandate measurable reductions in air pollution to achieve standards (Opinion, p. 20), cannot assume state goals for GHG reductions apply locally without supporting evidence (Opinion, p. 30), cannot allow non-land-use-conforming projects to move forward while emitting GHG at a level deemed significant

so long as they otherwise demonstrate consistency with various general plan policies (Opinion, p. 33), cannot fail to explain why VMT mitigation is infeasible at the general plan level and defer that discussion to future EIRs (Opinion, p. 38), must consider consideration of potential safety issues to pedestrians and bicyclists (Opinion, p. 40), and must ensure complete discussion of groundwater usage mitigation measures (Opinion, p. 43.)

**Conclusion.**

The RDEIR must be revised and recirculated with sufficient information about mitigation measures and feasible alternatives to the environmentally damaging and unfunded SEDA project.

Thank you for your consideration of these comments.

Sincerely,

A large black rectangular redaction box covering the signature area.

Douglas P. Carstens  
Michelle Black

Enclosure 1:

Court of Appeal decision filed in *South Fresno Community Alliance v. City of Fresno* (Cal. Ct. App., Aug. 6, 2024, No. F086180) 2024 WL 3663122.

ENCLOSURE 1

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT

SOUTH FRESNO COMMUNITY ALLIANCE,

Plaintiff and Appellant,

v.

CITY OF FRESNO, et al.,

Defendants and Respondents.

F086180

(Super. Ct. No. 21CECG03237)

**OPINION**

APPEAL from a judgment of the Superior Court of Fresno County. Jeffrey Y. Hamilton, Jr., Judge.

Shute, Mihaly & Weinberger, Ellison Folk, Marlene Dehlinger, Mindy K. Jian; Leadership Counsel for Justice and Accountability, Ashley Werner and Phoebe S. Seaton, for Plaintiff and Appellant.

Andrew Janz, City Attorney, Talia Kolluri, Assistant City Attorney; Aleshire & Wynder, Anthony R. Taylor, John W. Fox, and Michael C. Huston, for Defendants and Respondents.

-ooOoo-

In 2014, the City of Fresno (Fresno or the City) adopted its current general plan.<sup>1</sup> At the same time, it certified completing a Master Environmental Impact Report (MEIR), in compliance with the California Environmental Quality Act (CEQA; Pub. Resources Code,<sup>2</sup> § 21000 et seq.). Five years later, the City proposed amending its general plan to comply with state law<sup>3</sup> while also completing a new Program Environmental Impact Report (PEIR) to continue implementing that plan, i.e., the project in this case. The PEIR included a Greenhouse Gas Reduction Plan Update (Guidelines,<sup>4</sup> § 15183.5). The City indeed, in 2021, amended its general plan and certified completing the new PEIR.

South Fresno Community Alliance (Alliance) filed a petition for writ of mandate in the superior court, challenging the project approval and PEIR's compliance with CEQA. (§§ 21168 & 21168.5.) Alliance raised numerous arguments, generally alleging that Fresno failed “to complete a thorough analysis of the significant adverse impacts of

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<sup>1</sup> By law, “each city and county must ‘adopt a comprehensive, long-term general plan’ for its own ‘physical development’ as well as ‘any land outside its boundaries which in the planning agency’s judgment bears relation to its planning.’ ” (*Orange Citizens for Parks & Recreation v. Superior Court* (2016) 2 Cal.5th 141, 152.) The general plan essentially becomes “ ‘the “constitution for all future developments” within the city or county.’ ” (*Ibid.*)

<sup>2</sup> Undesignated statutory references are to the Public Resources Code.

<sup>3</sup> In 2013, the Legislature enacted Senate Bill No. 743 (Reg. Sess. 2013-2014), which essentially changed the metric for analyzing transportation related impacts from level of service to vehicle miles traveled. This change in law was a major force underlying the new EIR.

<sup>4</sup> Guidelines references are to California Code of Regulations, title 14, section 15000 et. seq. “The CEQA Guidelines ..., promulgated by the state Natural Resources Agency ..., are statutorily mandated to provide ‘criteria for public agencies to follow in determining whether or not a proposed project may have a ‘significant effect on the environment.’ ’ (§ 21083, subd. (b).) We give the Guidelines great weight in interpreting CEQA, except where they are clearly unauthorized or erroneous.’ ” (*Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal.4th 204, 217, fn. 4 (*Fish & Wildlife*).)

[the] General Plan,” and by including “vague, nonbinding policies … to reduce [greenhouse gas (GHG)] emissions ....” Fresno, for its part, resisted.

The superior court denied the petition and entered judgment in Fresno’s favor. It concluded Alliance “fail[ed] to challenge the substantive changes to the … General Plan[] and inappropriately challenge[d] the already approved project as a whole, after the time to raise the[] challenges ha[d] long expired.” It also found “there [were] no allegations … asserting that subsequent review of a previously certified EIR [was] required.”

Alliance raises numerous issues on appeal, in several of which we find merit. As explained below, the City failed to properly describe the environmental setting, failed to substantiate its GHG analysis vis-à-vis state targets, improperly deferred air quality mitigation measures, unjustifiably found traffic mitigation infeasible, failed to analyze potential impacts on pedestrians, inadequately addressed groundwater decline, and failed to reasonably discuss project alternatives. We reverse the judgment and order appropriate relief in the disposition.

## **BACKGROUND**

When Fresno implemented its current general plan in 2014, it concurrently adopted a MEIR. The general plan has a “horizon year of 2035.” The plan defines horizon as the “level of development predicted to occur by 2035 ....”

In 2019, Fresno proposed adopting a PEIR because a MEIR is legally valid for only five years (§ 21157.6). In connection with this proposal, the City publicly announced, and described the project as, “updating the existing [MEIR] and converting it to a [PEIR]” with an intention to conform to state law “related to Vehicle Miles Traveled [VMT]” and to update its “Greenhouse Gas Reduction Plan.” These changes would allow Fresno to “continue[] implement[ing]” its general plan and “to streamline [that] implementation … with updated environmental analysis, regulatory framework, and mitigation measures ....”

The PEIR analyzed numerous impacts including air quality, GHG emissions, hydrology, and transportation. During the environmental review process required by CEQA, several comments were submitted challenging various portions of the PEIR. Pertinent here, those comments raised concerns with air quality, GHG emissions, hydrology, and transportation.

In September 2021, the Fresno City Council passed resolution Nos. 2021-269 and 2021-270, certifying the City completed the PEIR in compliance with CEQA, and adopted a statement of overriding considerations, approving the general plan amendment. (See Guidelines §§ 15090(a)(1) [certification], 15092 [project approval], 15093 [statement of overriding considerations].) The PEIR and statement of overriding considerations, together, identified GHG emissions and decreased groundwater levels as potentially significant impacts mitigated to less than significant. It also found impacts to air quality and transportation were significant and unavoidable. Finally, it concluded “economic and social considerations outweigh[ed] the remaining environmental effects of approval and implementation of the project.”

After the City approved the project, Alliance filed a petition in the trial court seeking a writ of mandate. The petition alleged various CEQA violations: “Us[ing] an inaccurate, incomplete, conflicted and inconsistent project description,” “[f]ail[ing] to consider an adequate range of feasible alternatives,” “using” an improper “baseline,” “[f]ail[ing] to adequately disclose, analyze, or mitigate” impacts relating to “air quality and sensitive populations,” “climate change,” “cyclists, pedestrians, and transit riders,” “and groundwater.” Alliance sought to “vacate and set aside” “the PEIR and associated approvals,” order compliance with CEQA, declare the PEIR “inadequate,” and declare it and the “GHG Plan” insufficient to “streamline” future project analyses.

The City opposed the petition in its entirety, raising several procedural and substantive defenses. The trial court denied the writ petition. It concluded Alliance “fail[ed] to challenge the substantive changes to the project, the 2014 General Plan, and

inappropriately challenge[d] the already approved project as a whole, after the time to raise th[o]se challenges ha[d] long expired.”

## **DISCUSSION**

Alliance raises several issues on appeal.<sup>5</sup> Generally, it contends the PEIR 1) improperly described the project’s environmental setting, 2) failed to discuss specific health consequences, 3) inadequately mitigated construction-related dust, 4) unlawfully deferred air quality mitigation, 5) improperly analyzed GHG emissions, 6) failed to mitigate traffic-related impacts, 7) did not mitigate groundwater decline, and 9) inadequately discussed project alternatives. Fresno opposes each point, raising various procedural and substantive arguments. Each party’s positions are discussed in further detail below.

As mentioned, we find merit in Alliance’s arguments related to environmental setting, GHG analysis, air quality mitigation, traffic mitigation, groundwater mitigation, and project alternatives. Accordingly, we reverse the judgment.

### **I. CEQA Overview and Reviewing Standard**

“ ‘The foremost principle under CEQA is that the Legislature intended the act “to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” ’ [Citation.] ‘With narrow exceptions, CEQA requires an EIR whenever a public agency proposes to approve or to carry out a project that may have a significant effect on the environment. [Citations.]’ [Citations.] The basic purpose of an EIR is to ‘provide public agencies and the public in general with detailed information about the effect [that] a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.’ [Citations.]

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<sup>5</sup> After we address procedural points, the issues are discussed in the order presented in Alliance’s opening brief.

‘Because the EIR must be certified or rejected by public officials, it is a document of accountability. If CEQA is scrupulously followed, the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees.’ [Citation.] The EIR ‘protects not only the environment but also informed self-government.’” (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 511-512, fn. omitted (*Sierra Club*).) “The fundamental goal of an EIR is to inform decision makers and the public of any significant adverse effects a project is likely to have on the physical environment.” (*Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 447 (*Neighbors*).)

“The standard of review in a CEQA case, as provided in sections 21168.5 and 21005, is abuse of discretion.” (*Sierra Club, supra*, 6 Cal.5th at p. 512.) “While we determine *de novo* whether [a lead] agency has employed the correct procedures, “scrupulously enforc[ing] all legislatively mandated CEQA requirements” [citation], we accord greater deference to the agency’s substantive factual conclusions. In reviewing for substantial evidence, the reviewing court “may not set aside an agency’s approval of an EIR on the ground that an opposite conclusion would have been equally or more reasonable[.]’” (*Ibid.*)

“ ‘Substantial evidence challenges are resolved much as substantial evidence claims in any other setting: a reviewing court will resolve reasonable doubts in favor of the administrative decision, and will not set aside an agency’s determination on the ground that the opposite conclusion would have been equally or more reasonable. [Citations.] [¶] A claim that an agency failed to act in a manner required by law presents other considerations. Noncompliance with substantive requirements of CEQA or *noncompliance with information disclosure provisions* ‘which precludes relevant information from being presented to the public agency ... may constitute prejudicial abuse of discretion within the meaning of Sections 21168 and 21168.5, regardless of whether a

different outcome would have resulted if the public agency had complied with those provisions.” [Citation.] … [W]hen an agency fails to proceed [as CEQA requires], harmless error analysis is inapplicable. The failure to comply with the law subverts the purposes of CEQA if it omits material necessary to informed decisionmaking and informed public participation. Case law is clear that, in such cases, the error is prejudicial.” (*Sierra Club, supra*, 6 Cal.5th at p. 515.)

CEQA does “not require technical perfection or scientific certainty[.]” (*Sierra Club, supra*, 6 Cal.5th at p. 515.) Reviewing courts look “ ‘ ‘ ‘not for an exhaustive analysis but for adequacy, completeness[,] and a good-faith effort at full disclosure.’ ’ ’ ” (*Ibid.*)

## **II. Tiering and Program EIRs**

“CEQA … permits the environmental analysis for long-term, multipart projects to be ‘tiered[.]’ ” (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 429 (*Vineyard*).) A program EIR “is a type of EIR that agencies often use to examine a broad program or plan that will be followed by more narrow, related projects, which can be analyzed in more focused CEQA documents that ‘tier’ from the program EIR.” (*Save Berkeley’s Neighborhoods v. Regents of University of California* (2020) 51 Cal.App.5th 226, 236.) “A tiered EIR is required for a later project consistent with the larger program if the project may cause significant environmental effects that were not examined in the prior EIR.” (*Ibid.*)

“[T]he broad overall impacts analyzed in an EIR at the first-tier programmatic level need not be reassessed as each of the project’s subsequent, narrower phases is approved, but tiering ‘is not a device for deferring the identification of significant environmental impacts that the adoption of a specific plan can be expected to cause.’ ” (*Vineyard, supra*, 40 Cal.4th at p. 429, fn. omitted.) “Tiering is proper ‘when it helps a public agency to focus upon the issues ripe for decision at each level of environmental review and in order to exclude duplicative analysis of environmental effects examined in

previous environmental impact reports.’” (*In re Bay-Delta etc.* (2008) 43 Cal.4th 1143, 1170 (*Bay-Delta*)).

“While proper tiering of environmental review allows an agency to defer analysis of certain details of later phases of long-term linked or complex projects until those phases are up for approval, CEQA’s demand for meaningful information ‘is not satisfied by simply stating information will be provided in the future.’” (*Vineyard, supra*, 40 Cal.4th at p. 431.) “‘Tiering does not excuse the lead agency from adequately analyzing reasonably foreseeable significant environmental impacts of the project and does not justify deferring such analysis to a later tier EIR or negative declaration.’ [Citation.] Tiering is properly used to defer analysis of environmental impacts and mitigation measures to later phases when the impacts or mitigation measures are not determined by the first-tier approval decision but are specific to the later phases.” (*Ibid.*)

“[T]he sufficiency of a program EIR must be reviewed in light of what is reasonably feasible, given the nature and scope of the project.” (*Center for Biological Diversity v. California Department of Conservation, etc.* (2019) 36 Cal.App.5th 210, 230 (*Conservation*)). “The level of specificity required in an EIR is determined by the nature of the project and the rule of reason.” (*Fish & Wildlife, supra*, 234 Cal.App.4th at p. 233.)

### **III. Procedural Issues**

Preliminarily, we first consider Fresno’s arguments the PEIR is beyond challenge and that Alliance did not exhaust administrative remedies because it failed to raise certain points during the public review segment mandated by CEQA. We reject each argument.

#### **A. The PEIR is Subject to Challenge**

The City alleges Alliance “does not challenge the PEIR with respect to analysis of a project requiring … approval, but [instead challenges] analysis of [Fresno’s] already approved 2014 General Plan as a whole.” It concludes Alliance’s “challenges are time barred.” We disagree.

The City in this case opted to adopt a new EIR when amending its general plan, rather than seeking to extend the MEIR’s viability under section 21157.6. That section provides a MEIR “shall not be used” if it was certified “more than five years prior to the filing of an application for [a] subsequent project.” (§ 21157.6, subds. (a) & (a)(1).)

An exception exists, however, “if the lead agency reviews the adequacy of the [MEIR] and” either “finds [1] no substantial changes have occurred with respect to the circumstances under which the [MEIR] was certified or[, 2] that no new information ... has become available” or it “[p]repares an initial study and, pursuant to the” study’s findings, either 3) “[c]ertifies a subsequent or supplemental [EIR],” or 4) “[a]pproves a mitigated negative declaration” addressing “substantial changes that have occurred with respect to the circumstances under which the” MEIR was certified. (§ 21157.6, subds. (b) & (b)(1)-(2).) Fresno did not follow this statute in this case, instead opting to adopt a new EIR.

CEQA applies to “project[s] proposed to be carried out or approved ....” (§ 21080, subd. (a).) A project includes “amendment of local General Plans ....” (Guidelines, § 15378, subd. (a)(1).) Accordingly, the choice to instead adopt an entirely new PEIR when amending its general plan obligated the City to fully comply with CEQA, insofar as it related to the *amended* general plan.<sup>6</sup>

## **B. Exhaustion**

Fresno contends Alliance, during CEQA’s public review mandate, failed to properly challenge “GHG emissions calculation methodology,” mitigation measure “AIR-3.1,” and mitigation measure “HYD-2.1.” It concludes it “had no opportunity to consider and respond to these [points] at the administrative level and [Alliance] is barred from challenging the PEIR on these grounds” on appeal. We disagree the points were not properly raised below.

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<sup>6</sup> The amendment did not propose any land use changes.

### **i. Additional Background**

The PEIR contains several mitigation measures including AIR-3.1 and HYD-2.1. These are discussed in detail *post*. Generally, AIR-3.1 deals with air quality impacts related to certain large “industrial or warehousing land uses” “within a 1,000 feet of a sensitive land use ....” HYD-2.1 deals with groundwater depletion.

Throughout the public review process, Alliance submitted multiple, detailed letters objecting to the PEIR. Alliance’s various letters asserted the PEIR “fail[ed] to comprehensively address how it will ‘ensure conformity’ ” “with the mandates of [the] California Supreme Court in the Newhall Ranch case,’ ” inadequately mitigated air quality impacts because the mitigation measures were improper, and failed to discuss “current groundwater availability for residential communities and households which rely on domestic wells for their everyday water needs ....”

### **ii. Analysis**

“ “In order to attack a decision that is subject to CEQA, the alleged grounds for noncompliance must have been presented to the public agency, and the person attacking the decision must have raised some objection during the administrative proceedings. (§ 21177, subds. (a), (b).)” [Citation.] Although an issue must first have been raised during the administrative process to be preserved for judicial review, it may be argued in court by a different person. [Citation.]’ [Citation.] ‘ “[T]he objections must be sufficiently specific so that the agency has the opportunity to evaluate and respond to them.” [Citation.] This requirement is known as the exhaustion doctrine. [Citation.] The rationale behind this rule is that the public agency should have the opportunity to receive and respond to articulated factual issues and legal theories before its actions are subjected to judicial review.’ ” (*Save the Hill Group v. City of Livermore* (2022) 76 Cal.App.5th 1092, 1104-1105.)

Alliance sufficiently raised the GHG methodology, air quality mitigation, and groundwater depletion issues. The reference to “the Newhall Ranch case” is to the

California Supreme Court’s seminal decision on GHG methodology: *Center for Biological Diversity v. Department of Fish and Wildlife* (2015) 62 Cal.4th 204 (*Newhall Ranch*). It derives its short cite from the underlying “development called Newhall Ranch.”<sup>7</sup> (*Id.* at p. 213.)

Next, while it is true, as Fresno argues, Alliance did not specifically challenge AIR-3.1—instead challenging related air quality mitigation measures—we find it sufficiently preserved the challenge. Without a doubt, Fresno was aware its air quality mitigation measures were challenged as inadequate. The points raised by Alliance relative to the other air quality mitigation measures were identical and the City declined to make any changes to those challenged measures. Because we will also find fault in the related mitigation measures, *post*, there is no practical reason to impose a bar to challenging AIR-3.1. Put simply, the City was “‘fairly apprise[d]’” of the concerns relating to air quality mitigation. (*Preservation Action Council of San Jose v. City of San Jose* (2023) 91 Cal.App.5th 517, 542.)

Last, Fresno was clearly on notice its groundwater mitigation relative to present-day wells was at issue. In sum, there is no exhaustion bar to review any issue in this case.

#### **IV. Existing Environmental Setting**

“[A]n EIR must delineate environmental conditions prevailing absent the project, defining a ‘baseline’ against which predicted effects can be described and quantified.” (*Neighbors, supra*, 57 Cal.4th at p. 447.) Here, Alliance faults the PEIR’s environmental setting for “fail[ing] to identify the locations and numbers of sensitive receptors—including schools, day care facilities, and even entire neighborhoods—in and around the areas [] the General Plan targets for industrial expansion.” It similarly decries a failure to

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<sup>7</sup> CEQA litigators, including the parties in this case, and some case law, often refer to this Supreme Court decision as *Newhall Ranch*.

“disclose the localized existing pollution burdens and the disproportionate health impacts faced by residents in these parts of the city.”

Fresno suggests “[t]he PEIR accurately and sufficiently describes the environmental setting and baseline for air quality … including sensitive receptors ....” Alliance has the better argument.

#### **A. Additional Background**

The City’s general plan establishes policies about future growth for its “Planning Area” which encompasses about 106,000 acres. The Planning Area includes both land within the city’s limits and approximately 33,800 acres in unincorporated areas slated for future growth. Accordingly, the PEIR describes the existing environmental setting as follows: “The study area for project impact regarding air quality is the City of Fresno Planning Area and proximate sensitive receptors potentially impacted by a project within the Planning Area.” The PEIR notes the study area is within the San Joaquin Valley Air Basin and the regional agency with jurisdiction over air quality in the air basin is the San Joaquin Valley Air Pollution Control District (SJVAPCD). The baseline date for the existing environment was May 16, 2019.

The PEIR defines “sensitive receptors” as individuals who are sensitive to air pollution including children, the elderly, and persons with preexisting respiratory or cardiovascular illness. It also refers to the SJVAPCD characterizing sensitive receptors as locations housing or attracting children, the elderly, people with illnesses, or other who are especially sensitive to air pollutants. Examples given are residences, schools, hospitals, and convalescent facilities.

The PEIR also mentions the Air Quality Land Use Handbook’s statement describing sensitive land uses as homes, medical facilities, daycare centers, schools, and playgrounds. Finally, the PEIR states “[t]here are many sensitive receptors throughout the city ....”

Alliance, in a comment letter, pointed out the PEIR “include[d] no description about the location of existing sensitive receptors which may be exposed to air pollution ....” Specifically, it asked Fresno to “identify the location of sensitive receptors in relation to areas designated for industrial and warehouse development and other land uses which may be expected to generate substantial quantities of toxic air contaminants as well as to roadways expected to experience high volumes of diesel truck traffic and car traffic ....” Alliance’s letter also asserted the PEIR did not describe the existing, localized pollution to “vulnerable communities” in “South Fresno[.]”

In response, Fresno stated “[p]rogrammatic analysis [could not] include an identification of the location of all existing sensitive receptors ....” It added that the PEIR “include[d] a detailed discussion regarding the South Central [Community Emissions Reduction Plan (CERP)],” which itself contained an “analysis describing the sources of pollution impacting [South Fresno], as well as the location of sensitive receptors” in the area.

The PEIR does include a section about the “South Central Fresno CERP.” It explains the CERP was adopted by the California Air Resources Board and describes “the sources of pollution impacting” South Fresno, including the sensitive receptors in the area. Its purpose is “to focus on reducing” air pollution and emissions in South Central Fresno.

## **B. Analysis**

An EIR “must include a description of the physical environmental conditions in the vicinity of the project. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. The description of the environmental setting shall be no longer than is necessary to provide an understanding of the significant effects of the proposed project and its alternatives. The purpose of this requirement is to give the public and decision

makers the most accurate and understandable picture practically possible of the project’s likely near-term and long-term impacts.”<sup>8</sup> (Guidelines, § 15125(a).)

“If the description of the environmental setting ‘ ‘is inaccurate, incomplete or misleading, the EIR does not comply with CEQA. [Citation.] ‘Without accurate and complete information pertaining to the setting of the project and surrounding uses, it cannot be found that the [EIR] adequately investigated and discussed the environmental impacts of the development project.’ ’ ’ ’ (Cleveland National Forest Foundation v. San Diego Assn. of Governments (2017) 17 Cal.App.5th 413, 439-440 (San Diego).) “The fact more precise information may be available during the next tier of environmental review does not excuse [a lead agency] from providing what information it reasonably can now.” (Id. at p. 440.) “While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can.” (Guidelines, § 15144.)

Alliance here asked Fresno to include information in the PEIR regarding sensitive receptors in South Fresno. Fresno declined, claiming it could not identify “all existing sensitive receptors ....” The claim is not supported by substantial evidence, because Fresno simultaneously acknowledged sensitive receptors in South Fresno were identified in the CERP.<sup>9</sup> The CERP is not a substitute for information in the PEIR.<sup>10</sup> The error by

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<sup>8</sup> A future baseline is appropriate if “justified by unusual aspects of the project or the surrounding conditions.” (Neighbors, *supra*, 57 Cal.4th at p. 451.)

<sup>9</sup> The CERP is included in the record on appeal and indeed contains a map identifying sensitive receptors throughout Fresno.

<sup>10</sup> The PEIR discusses the CERP. It does not, however, meaningfully describe sensitive receptors or the pollution in South Fresno. In sum, it states the CERP “was adopted by [the California Air Resources Board]” in 2019 “and [was] now in the implementation phase. The CERP includes a technical analysis describing the sources of pollution impacting the community, as well as the location of sensitive receptors within the community. Sources of pollution that are of particular concern to South Central Fresno are highlighted, and possible strategies for reducing pollution impacts from these sources are evaluated.”

omission, however, is not prejudicial. Alliance has not articulated any prejudice relating to the omission, simply stating instead the omission “precluded ‘ informed decisionmaking ....’ ” We reject the blanket statement. Notably, we find no other error in the environmental setting description.

## **V. Air Quality Impacts**

An EIR must “make[] a reasonable effort to substantively connect a project’s air quality impacts to likely health consequences.” (*Sierra Club, supra*, 6 Cal.5th at p. 510.) Alliance asserts the PEIR “fails to meet this standard.”

Specifically, Alliance contends the PEIR unreasonably assumes greater analysis relative to air quality impacts was not possible. For example, it criticizes using an incorporated-by-reference brief from the San Joaquin Valley Air Pollution Control District (SJVAPCD) in 2015 to supply an explanation in the PEIR that “currently available modeling tools are not equipped to provide a meaningful analysis ....” Fresno responds by claiming the PEIR “expressly explains” its limited analysis and “supports [the] explanation with substantial evidence.” We agree for two reasons.

First, the SJVAPCD brief was properly incorporated by reference. (Guidelines, § 15150.) That brief indeed explains why a more meaningful analysis is not possible for “localized health impacts associated with” air quality impacts.<sup>11</sup>

Second, while it is true the SJVAPCD brief was authored—as Alliance points out—several years prior to the PEIR in this case, there is no evidence its analysis relative to analyzing air quality impacts is outdated. Alliance bears the burden to demonstrate otherwise, and it has failed to discharge that burden. (*Santa Rita Union School District v. City of Salinas* (2023) 94 Cal.App.5th 298, 332 [EIRs are presumed correct and

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<sup>11</sup> The SJVAPCD brief cites difficulties including “wind transport,” “[m]eteorology, the presence of sunlight, and other complex chemical factors,” and the simple fact current models are regional in nature, i.e., “not accurate when applied at the local level.”

challenger bears burden of proving error].) The PEIR conclusion no further analysis was possible is supported by substantial evidence.<sup>12</sup>

## **VI. Construction Related Dust Mitigation**

The PEIR concludes “fugitive dust impacts from construction are … less than significant” due to mandated compliance with SJVAPCD “Regulation VIII ....” Alliance suggests the conclusion “is based on flawed reasoning” because the regulation itself acknowledges it “ ‘may not be sufficient to reduce project specific emissions to less than significant levels’ ” in every instance.

Fresno argues the context in which the PEIR analyzes “construction-related fugitive dust impacts” is “implementation of the General Plan ....” In other words, it argues “[f]ugitive dust impacts are inherently variable, and analysis of such impacts will vary according to project.” We agree with Fresno that the PEIR properly concludes dust impacts are less than significant at the *program* level.

### **A. Additional Background**

A SJVAPCD document entitled “Guidance for Assessing and Mitigating Air Quality Impacts” describes Regulation VIII as “requiring actions to prevent, reduce or mitigate anthropogenic fugitive dust emissions.” It highlights “measures to control fugitive dust” and notes “compliance with … Regulation VIII substantially reduces project specific fugitive dust emissions, [but] may not be sufficient to reduce project specific emissions to less than significant levels.” It later restates this qualifier, stating certain projects may “warrant additional … reductions necessary to minimize dust emissions to less than significant levels.”

Rule 8021, part of Regulation VIII, lists the requirements for abating dust. These measures include utilizing water, “wind barriers,” controlling vehicles, and ceasing

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<sup>12</sup> Similarly, the PEIR explains toxic emissions are controlled by permits issued by SJVAPCD, rendering it impossible to forecast those emissions and associated risk.

activity when dust exceeds a certain threshold. The rule also requires a “Dust Control Plan” whenever construction “will include 10 acres or more of disturbed surface area for residential developments, or 5 acres or more of disturbed surface area for non-residential development, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials on at least three days.”

The PEIR also includes mitigation measure “AIR-2.1[.]” This mitigation measure requires “future discretionary project[s]” to “prepare and submit … a technical assessment evaluating potential project construction phase-related air quality impacts,” including dust. If the assessment reveals “the potential to exceed … SJVAPCD” thresholds, projects must incorporate additional mitigation measures to reduce emissions.

## **B. Analysis**

Regulation VIII and AIR-2.1 combine to support the PEIR’s conclusion “fugitive dust impacts from construction are … less than significant.” Fresno correctly points out the PEIR is focused on implementing the city’s general plan, and not a specific, concrete development. The conclusion dust impacts are less than significant is proper at the program level. (*Conservation, supra*, 36 Cal.App.5th at p. 230; *Fish & Wildlife, supra*, 234 Cal.App.4th at p. 233.)

Dust mitigation—Regulation VIII and AIR-2.1—will apply broadly to all future projects within the city.<sup>13</sup> To the extent some projects might demand additional mitigation, the mitigation measures sufficiently capture the outliers: additional mitigation is necessary to remain within the SJVAPCD threshold level.<sup>14</sup>

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<sup>13</sup> Alliance does not argue the dust mitigation measures are vague, nonbinding, or deferred.

<sup>14</sup> Alliance asserts no “threshold of significance specific to fugitive dust exists ....” Our review, however, reveals otherwise. Regulation VIII equates “fine particulate matter” to “fugitive dust emissions” and there is indeed a performance standard for fine particulate matter in the record.

## **VII. Air Quality Mitigation**

Next, Alliance believes the PEIR “improperly defer[s] mitigation of air quality impacts” and “fails to justify its rejection of feasible measures that would mitigate air quality impacts.” We address each in turn.

### **A. Deferring Specific Details of Mitigation**

“ ‘Formulation of mitigation measures shall not be deferred until some future time.’ [Citation.] ‘However, the specific details of a mitigation measure … may be developed after project approval when it is impractical or infeasible to include those details during the project’s environmental review provided that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard and that will [be] considered, analyzed, and potentially incorporated in the mitigation measure.’ [Citations.] Where an EIR improperly defers mitigation, the approving agency abuses its discretion by failing to proceed as required by law.” (*Golden Door Properties, LLC v. County of San Diego* (2020) 50 Cal.App.5th 467, 518-519 (*Golden Door*), quoting Guidelines, § 15126.4, subd. (a)(1)(B).)

Alliance suggests the PEIR’s three air quality mitigation measures—described below—“unlawfully defer[]” mitigation because “they [] lack objective performance standards[] and [] include a menu of ‘possible’ mitigating actions,” inviting discretion “without requiring” any particular reductions. Fresno argues the measures are compliant with the law; we disagree, as explained below.

#### **i. Additional Background**

The PEIR contains, as pertinent, three air quality mitigation measures—AIR-2.1, 2.2, and 3.1. Measure AIR-2.1 applies to future, proposed project “construction phase-related air quality impacts.” It states that “[i]f construction related air pollutants are determined to have the potential to exceed the SJVAPCD-adopted threshold of significance,” then project applicants are required to “incorporate mitigation measures

into construction plans to reduce air pollutant emissions during construction activities.” It then lists several possible measures, for example, “power supply meters … whenever feasible,” restricting equipment and vehicle idling, limiting vehicle routes, and removing vegetation only as necessary.

AIR-2.2 is modeled identically to AIR-2.1 but applies to “operation-related air quality impacts.” “If operation-related air pollutants are determined to have the potential to exceed the SJVACPD-adopted thresholds of significance,” then project applicants are required to “incorporate mitigation measures to reduce air pollutant emissions during operational activities.” It also includes possible mitigation measures, including “demonstrat[ing] an adequate number of electrical service connections,” “consider[ing] energy storage,” restricting equipment and vehicle idling, installing electric vehicle chargers, maximizing “solar panels,” optimizing paint colors to reflect heat, and maximizing tree planting.

AIR-3.1 applies to “new industrial or warehousing [projects] that[] have the potential to generate 100 or more truck trips per day or have 40 or more trucks with operating diesel-powered transport refrigeration units[] and [] are within 1,000 feet of a sensitive land use (e.g., residential, schools, hospitals, or nursing homes) ....” These projects are required to “submit a Health Risk Assessment [] to the City ....” If the assessment “shows that the incremental health risks exceed their respective thresholds, as established by the SJVAPCD at the time a project is considered,” then applicants must “identify and demonstrate best available control technologies … to reduce [those] risks to an acceptable level.” The measure includes such potential technologies.

## **ii. Analysis**

The air quality mitigation measures—AIR-2.1, 2.2, and 3.1—do not comply with Guidelines section 15126.4 because they fail to mandate reduction at a specific level. In general, we agree identifying specific details for air quality mitigation at the program level is appropriately deferred because there are no individual projects currently

proposed. We also agree the measures in this case commit to mitigation and identify performance standards. Where the air quality mitigation measures fall short, however, is in their consistent failure to demand measurable reductions to achieve those standards.

AIR-2.1 and 2.2 simply require “measures to reduce air pollutant emissions ....” AIR-3.1 requires reductions “to an acceptable level.” These “generalized goal[s]” violate CEQA as they do not “ensure the mitigation goal,” i.e., emissions below SJVAPCD thresholds, “will be achieved.” (See *Golden Door, supra*, 50 Cal.App.5th at pp. 519-520.)

While it is certainly likely the PEIR intended and meant to require reducing emissions below SJVAPCD thresholds, as presently worded it simply does not require that reduction. In other words, there is no standard “which could be corrected in a court mandamus proceeding.” (*Sierra Club, supra*, 6 Cal.5th at p. 526.) “Simply stating a generalized goal for mitigating an impact does not allow the measure to qualify” as a deferred mitigation measure. (*King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 856 (*King & Gardner*).) In sum, “reduc[ing] air pollutant emissions” and “reduc[ing] risks to an acceptable level” are not objectively enforceable standards.<sup>15</sup>

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<sup>15</sup> Relatedly, Alliance points out mandating mitigation measures only when “ ‘absolutely necessary’ ” or “ ‘feasible’ ” is not permissible. While true, because the issue in this case involves deferred mitigation, the measure need only identify “potential action(s) that can feasibly achieve” the performance standard. (Guidelines, § 15126.4, subd. (a)(1)(B).) The identified actions are not final and, because the relief granted in the disposition includes setting aside the project’s approval and accompanying certifications, Fresno may ensure its listed potential actions are not vague and do not invite discretion, e.g., failing to define “adequate” in “demonstrate an adequate number of electrical service connections ....” (See *Golden Door, supra*, 50 Cal.App.5th at pp. 520-521 [mitigation must contain “objective and measurable standard for what ‘feasible’ ” means]; *King & Gardiner, supra*, 45 Cal.App.5th at p. 862 [mitigation must be enforceable through objective standard]; *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 793-794 [lead agency’s satisfaction is not an objective standard].)

## **B. Rejecting Proposed Mitigation**

During relevant comment periods, both SJVAPCD and Alliance recommended additional air quality impact mitigation. Fresno declined to adopt any additional mitigation measures relative to air quality.

Alliance now asserts Fresno “fail[ed] to justify its rejection of feasible measures that would mitigate air quality impacts.” Fresno responds by claiming SJVAPCD merely offered suggestions—not actual mitigation measures—but does not explicitly address Alliance’s proposed mitigation. We conclude Fresno’s responses to the various comments at issue were adequate.

### **i. Additional Background**

Consistent with law, Fresno solicited public comment on the PEIR prior to its certification. (See, generally, § 21092.) Both SJVAPCD and Alliance commented on the PEIR’s air quality mitigation.

SJVAPCD made several suggestions regarding mitigation. Relevant here, it suggested adding “language” to the general plan to establish a “policy” to “reduce vehicle miles traveled [.]” Similarly, it recommended “guidance supported by policy requiring future development projects to evaluate heavy-duty truck routing patterns to help limit emission exposure to residential communities and sensitive receptors.” Further, it asked the City to “assess the emission reductions measures and strategies contained in the CERP, and address them … as appropriate.” It also offered specific changes to AIR-2.1 and 2.2, e.g., requiring “the cleanest reasonably available off-road construction fleets and practices” and implementing “zero and near-zero [emissions] technologies[.]”

Alliance pointed out several mitigation measures promulgated by the Attorney General in a “document [en]titled ‘Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act.’” It asked Fresno to “review the mitigation measures contained in the document and incorporate them as appropriate ....”

The City rejected every proposal. It declined to modify mitigation measures AIR-2.1 and 2.2 because “individual development projects” were “currently unknown” and the measures already required “applicants to prepare a technical assessment” analyzing air quality impacts “prior to approval[.]” In declining to add language to the general plan to combat VMT, Fresno replied the general plan already “include[d] several policies to reduce VMT ....” Responding to the suggestion that Fresno analyze and incorporate CERP strategies, the City stated “revisions to the ... General Plan ... [were] limited to specific changes related to VMT and compliance with legislative updates.” It also noted the general plan “include[d] several policies and objectives that direct coordination with the SJVAPCD to achieve compliance with State and federal air quality standards,” and the facts mitigation measures AIR-3.1 and 3.2 required projects to prepare “Health Risk Assessment” reports, and abide by “buffer” distances when “siting ... sensitive land uses to avoid incompatibilities with the [California Air Resources Board’s] recommended Air Quality and Land Use Handbook.”

Relating to a “policy for heavy-duty truck routing analysis,” Fresno reiterated it was simply amending the general plan to adopt new VMT standards, AIR-2.2 already captured “[t]ruck routing patterns and ... emissions,” and “updated guidance on VMT analysis,” i.e., the amendments to the general plan, would also apply. Finally, responding to Alliance’s suggestion to incorporate mitigation measures promulgated by the Attorney General, the City stated “[t]he measures suggested by [Alliance] may be appropriate at the project level when specific impacts are anticipated to occur as a direct result of ... future actions. ... However, because there [was] not enough information regarding future projects to quantify emissions at [the] time, it [could not] be determined whether potential impacts could be reduced to less-than-significant levels.”

## **ii. Analysis**

“CEQA provides that public agencies should not approve a project if there are feasible mitigation measures that would substantially lessen the significant environmental

effects of the project. [Citation.] An agency may reject a mitigation measure if it finds it to be infeasible. [Citation.] A feasible mitigation measure is one that is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors.” (*Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal.App.5th 867, 878 (*Covington*)).

“A lead agency must evaluate comments to a … EIR and prepare written responses that describe the disposition of any ‘significant environmental issue’ raised. [Citation.] Where a significant environmental issue is raised, the lead agency must address the concern ‘in detail giving reasons why specific comments and suggestions were not accepted. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice.’ [Citation.] The level of detail in the response may correspond to the level of detail in the comment, so that a general response is sufficient to a general comment, but a more detailed response is needed for a more detailed comment. [Citation.] The EIR ‘must respond to specific suggestions for mitigating a significant environmental impact unless the suggested mitigation is facially infeasible. [Citations.] While the response need not be exhaustive, it should evince good faith and a reasoned analysis.’ ” (*Covington, supra*, 43 Cal.App.5th at pp. 878-879.) “[A]n agency need not”, however, “ ‘adopt every nickel and dime mitigation scheme brought to its attention or proposed in the project EIR,’ but it must incorporate ‘feasible mitigation measures’ ‘when such measures would ‘substantially lessen’ a significant environmental effect.’ ” (*Id.* at p. 879.) Nor need it analyze “ “ ‘every *imaginable* alternative or mitigation measure.’ ” ” ” (*Gilroy Citizens for Responsible Planning v. City of Gilroy* (2006) 140 Cal.App.4th 911, 935.)

The responses to comments in this case were not unreasoned or in bad faith. While it is true Fresno declined every suggestion at issue, that itself does not evidence bad faith or unreasonableness.

The comments in this case were undoubtedly detailed and full. Fresno’s response to each suggestion fully considered the comment and fully responded to it. In general, Fresno explained the suggestions were duplicative or overlapped with already existing general plan policies or involved unwarranted speculation. “CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commentors.” (Guidelines, § 15204, subd. (a); *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 512 (*Cleveland*).)

For example, because it is unknown how exactly the city will develop, Fresno believed it was unclear whether the specific mitigation Alliance proposed—the Attorney General’s warehouse recommendations—would effectively reduce air quality impacts. (Cf. *Sierra Club*, *supra*, 6 Cal.5th at p. 515 [CEQA does not demand perfection or scientific certainty].) That response is reasonable and in good faith. As to specific modifications to AIR-2.1 and 2.2 suggested by SJVAPCD, Fresno noted final mitigation measures were yet to be determined. This is consistent with its decision to defer specific, detailed mitigation. (See **VII.**, **A.**, *ante*, Guidelines, § 15126.4.)

We find no error in Fresno’s responses. These challenges lack merit.

### **VIII. Greenhouse Gas (GHG) Issues**

A primary purpose underlying the PEIR was Fresno’s decision to update its GHG emissions reduction plan, permitting it to streamline GHG analysis for future projects. Alliance contends the GHG “analysis and proposed mitigation measure[s] do not comply with CEQA.” It raises five distinct points to support the contention.

First, Alliance believes the GHG analysis is fundamentally flawed because it assumes “statewide reduction target percentages can be directly used to calculate [Fresno] emission goals.” Second, it faults Fresno for failing “to analyze … GHG emissions over the lifetime of the [p]roject[.]” Third, it claims the GHG analysis is faulty because it is based on an improper method.

Fourth, Alliance asserts “[t]he GHG mitigation measures are vague and unenforceable.” Fifth, it argues the GHG plan is insufficient to allow “streamlining future development” pursuant to Guidelines section 15183.5, subdivision (b).

We find merit in Alliance’s challenge to the GHG plan’s faulty assumption regarding statewide reduction targets. That faulty assumption undermines the plan’s use in streamlining analysis. We reject the remaining contentions.

#### **A. Additional Background**

“In June 2005, Governor Schwarzenegger signed Executive Order No. S-3-05, which set overall greenhouse gas emissions reduction targets for California. [Citation.] The Executive Order established three general benchmarks: (1) reduce emissions to 2000 levels by 2010; (2) reduce emissions to 1990 levels by 2020; and (3) reduce emissions to 80 percent below 1990 levels by 2050.” (*Cleveland, supra*, 3 Cal.5th at p. 504.) “In 2006, shortly after the Executive Order was issued, the Legislature enacted the California Global Warming Solutions Act of 2006 (Stats. 2006, ch. 488, adding Health & Saf. Code, § 38500 et seq.), commonly known as Assembly Bill No. 32 (2005–2006 Reg. Sess.). Assembly Bill No. 32 partially adopted the Executive Order’s goals by directing [California Air Resources Board] to ‘determine what the statewide greenhouse gas emissions level was in 1990, and approve in a public hearing, a statewide greenhouse gas emissions limit that is equivalent to that level, to be achieved by 2020.’” (*Cleveland, supra*, at p. 505.)

“[T]he Legislature in 2016 enacted Senate Bill No. 32 (SB 32) (2015–2016 Reg. Sess.), adding Health and Safety Code section 38566, which adopts a goal of reducing greenhouse gas emissions by 40 percent below 1990 levels by the year 2030. This 40 percent reduction is widely acknowledged as a necessary interim target to ensure that California meets its longer-range goal of reducing greenhouse gas emissions to 80 percent below 1990 levels by the year 2050.” (*Cleveland, supra*, 3 Cal.5th at pp. 518-519.)

The PEIR explains the “GHG Reduction Plan” in this case “includes strategies to reduce greenhouse gas emissions that align with State targets.” It projects emissions for the years 2020, 2030, and 2035. To calculate projected emissions, the plan assumed “[b]usiness-as-usual” scenarios, i.e., “without any further action[s] to reduce” GHG emissions, and looks forward “using population, households, and employment growth rate[s] from” a previously calculated Fresno County growth projection.<sup>16</sup> Emissions are grouped by “[s]ector” as follows: transportation, commercial energy, residential energy, fugitive emissions, solid waste, industrial energy, and agriculture.

An adjusted business-as-usual reduction is next calculated by “appl[ying] emission reductions achieved by Statewide regulations, programs, and measures” and subtracting those reductions from the business-as-usual projections. A “[s]tate-aligned target” is then calculated for 2020, 2030, and 2035 by applying a rote percentage reduction for each year consistent with the state’s goal for each year.<sup>17</sup> Fresno then concludes additional reductions are necessary to meet the State’s goal-emission-reduction in 2030 and 2035. The PEIR then discusses additional reductions from “local measures,” including “the development of [a] land use pattern and transportation system envisioned by the ... General Plan, enforcement of City ordinances and design standards, and direct reductions from energy conservation projects, and alternative fuels use.” With these additional reductions, the PEIR concludes Fresno will meet and exceed the State’s goal-emission-reduction in 2030 and 2035.

The PEIR acknowledges the 2035 goal keeps the city on a path to achieve the 2050 goal. The GHG Reduction Plan notes “[t]he 2035 forecast year correspond[s] to

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<sup>16</sup> The growth projection is from the “Fresno Council of Governments” in 2017.

<sup>17</sup> The state does not have a 2035 goal; it instead has a 2050 goal established by executive order. (*Cleveland, supra*, 3 Cal.5th at p. 504.)

the ... General Plan horizon and will allow [Fresno] to develop long-term strategies to continue GHG reductions.”

The PEIR states “the General Plan growth rate would result in buildout by the year 2056, [but] given current methods and the State’s goals and targets, 2035 is a reasonable forecast for GHG [analysis] and is in-line with State emission reduction targets.” It then introduces mitigation measure “GHG-1.1.”

GHG-1.1 states, in full:

“Prior to the City’s approval of subsequent discretionary projects, the Director of the City Planning and Development Department, or designee, shall confirm that development projects are consistent with the ... GHG Reduction Plan ... and shall implement all measures deemed applicable to the project through the GHG Reduction Plan []-Project Consistency Checklist ....”

The PEIR concludes GHG mitigation will result in a “[l]ess [t]han [s]ignificant [i]mpact” on the environment from the city’s GHG emissions.

The checklist is included in the Plan, which is an appendix to the PEIR. It is intended “to help [Fresno] provide a streamlined review process for new development projects that are subject to discretionary review pursuant to ... Guidelines [s]ection 15183.5.” “Projects that meet the requirements of th[e] [c]hecklist will be deemed to be consistent with the Fresno GHG Reduction Plan ... and will be found to have a less than significant contribution to cumulative GHG” emissions. “Projects that do not meet the requirements in th[e] [c]hecklist will be deemed to be inconsistent with the Fresno GHG Reduction Plan ... and must prepare a project-specific analysis of GHG emissions, including quantification of existing and projected GHG emissions and incorporation of the measures in th[e] [c]hecklist to the extent feasible.” The checklist specifically “[n]ote[s] that not all the measures in the checklist are applicable to all projects” but “projects should comply with applicable measures ....”

The checklist itself is five pages long and separated into three categories: project information, land use consistency, and mitigation consistency. Project information generally seeks background information on the project—size, land use, and a brief description of the project. Land use consistency simply asks if the project is “consistent with the approved General Plan, Specific Plan, and Community Plan planned land use and zoning designations[.]” If a “proposed project is not consistent with the approved planned land use and zoning designation(s), then [applicants must] provide estimated GHG project emissions under both existing and proposed designation(s) for comparison.”

If the comparison reveals the proposed project’s estimated emissions are equivalent to or less than a conforming land use, “the project’s GHG impact is [deemed] less than significant.” If, instead, the comparison reveals greater emissions, “the project’s GHG impact is [deemed] significant.” The applicant must then demonstrate “consistency with applicable [general plan] objectives and policies … or provide analysis and measures to incorporate into the project to bring [estimated] GHG emissions to a level that is less than or equal to the estimated” emissions of a conforming use.

Finally, the checklist seeks consistency with applicable “Land Use and Transportation Demand Strategies,” “Electric Vehicle Strategies,” “Energy Conservation Strategies,” “Water Conservation Strategies,” and “Waste Diversion and Recycling Strategies[.]” These strategies cite directly to numerous policies found within the general plan.

## **B. Faulty Assumptions; *Newhall Ranch***

The California Supreme Court has held “consisten[cy] with meeting statewide [GHG] emission reduction goals” is an appropriate metric under CEQA. (*Newhall Ranch, supra*, 62 Cal.4th at p. 213.) Alliance contends the PEIR “here improperly assumes that statewide reduction target percentages can be directly used to calculate [Fresno’s] emission goals.” It also criticizes the PEIR for “assum[ing] that the generalized statewide reduction percentages from the implementation of statewide

measures”—used to calculate adjusted-business-as-usual emissions without additional local reductions—“would result in the same percentage reductions in local GHG emissions.”

The City argues “statewide reduction targets [are] proper.” It states “the *Newhall Ranch* case” sanctions using “statewide goals” and suggests “comparison to state-aligned reduction targets” is appropriate “at the [general] plan level ....” It also defends its decisions to categorize emissions by sector and assuming “reductions from statewide programs” “will be equally effective in Fresno as [in] the state as a whole ....”

We agree Fresno may categorize emissions by sector and fairly assume statewide reduction programs will *effectively* apply in the city—“a lead agency enjoys substantial discretion in its choice of methodology.” (*Newhall Ranch, supra*, 62 Cal.4th at p. 228.) However, we disagree the PEIR complies with the *Newhall Ranch* decision. Ultimately, Fresno failed to substantiate its analytical assumption the state’s GHG emission targets were appropriate for Fresno itself.

It is true *Newhall Ranch* explicitly sanctions, as proper under CEQA, using “statewide goal[s] for greenhouse gas reduction, rather than a numerical threshold” to evaluate a project’s GHG emissions. (*Newhall Ranch, supra*, 62 Cal.4th at p. 221.) The case further explains, however, that substantial evidence must support the conclusion the project-at-issue’s reduction target is equally effective “as [the target] for the entire state population and economy.” (*Id.* at pp. 225-226.)

The reason for an adequate, fuller analysis is because “a greater degree of reduction may be needed from new land use projects than from the [state] as a whole ... ‘given that past and current sources of emissions, which are substantially less efficient than [new developments], will continue to exist and emit’ ” GHG. (*Newhall Ranch, supra*, 62 Cal.4th at p. 226.) An EIR cannot “simply assume that the level of effort required in one context ... will suffice in the other ....” (*Id.* at p. 227.) An EIR must disclose *why* the same target reduction is appropriate because, for example, development

“density averages” in land use at the statewide level may differ from a specific location within the state. (*Id.* at pp. 226-227.)

Here, the PEIR does not explain why the “[s]tate-aligned target” metric is appropriate for the City’s general plan. Fresno attempts to distinguish *Newhall Ranch* as a case involving “a development with specific project characteristics” and not a general plan. The distinction is immaterial in our view as CEQA does not apply any less to a large city’s general plan.

For support, Fresno turns to *Tsakopoulos Investments, LLC v. County of Sacramento* (2023) 95 Cal.App.5th 280. There, the Court of Appeal recently upheld an EIR because it “*did not compare the project’s greenhouse gas emissions to the statewide business-as-usual goal ....*” (*Id.* at p. 307, emphasis in original.) Instead, the lead agency there “developed [local] thresholds of significance for different sectors and then compared the project’s emissions against those numeric thresholds of significance.” (*Ibid.*)

In contrast, Fresno here did compare its projected GHG emissions to the statewide goal. Although it properly calculated projected emissions by categorizing local sectors, it did not calculate any local significance threshold and simply applied the state’s reduction goal. Because this approach—assuming the state’s goal applies locally without supporting evidence—was rejected in *Newhall Ranch, supra*, the PEIR fails to comply with CEQA. The fact this case involves a program EIR does not alter the law.

### **C. Analyzing GHG Emissions Over the Project’s Lifetime**

Alliance faults the PEIR for “fail[ing] to analyze the General Plan’s GHG emissions over the lifetime of the [p]roject.” It argues the PEIR “admits that ‘General Plan growth rate would result in buildout by the year 2056’ ” but only analyzes emissions through 2035.

Fresno argues “[t]here is no law requiring [it] to project GHG emissions for General Plan buildout in 2050 or beyond.” It also suggests its “projections through

2035 ... correspond[] to the ... General Plan[, 2035] horizon” year. We agree Fresno was not *required* to analyze emissions through 2050 or beyond, and its decision not to do so is justifiable.

“In determining the significance of a project’s greenhouse gas emissions … [a lead] agency’s analysis should consider a timeframe that is appropriate for the project.” (Guidelines, § 15064.4, subd. (b).) Here, 2035 is an appropriate timeframe for two reasons. One, 2035 projections underlie the original general plan as they formed the basis for analysis under the MEIR. Two, the new PEIR does not eschew the 2050 target.

The PEIR explicitly acknowledges, multiple times, the state’s 2050 goal to reduce emissions to 80% below 1990 levels, and that “continued reduction goals should be implemented to keep the State on a path toward the 2050 goal.” As noted, the state has targeted emission reductions for 2030 and 2050. The City here selected reducing emissions in 2035, beyond those required in 2030, as an interim target and benchmark toward achieving the 2050 goal.

Because there is currently no specific statewide plan or law in place to achieve the 2050 emissions-reduction goal, and the City uses 2035 as an interim target year on its “path toward the 2050 goal,” analysis through 2035 is not improper. (Cf. *Cleveland, supra*, 3 Cal.5th at p. 517 [lead agency properly declined “to adopt the 2050 goal as a measure of significance”].) As stated in the PEIR, the interim 2035 target will allow Fresno “to develop long-term strategies to continue GHG reductions.”

In sum, Fresno has not ignored the state’s 2050 goal in reducing GHG emissions under the general plan. Rather, it explicitly selected an interim year by which to achieve advanced reductions and reassess strategies at that point. That interim year is an appropriate timeframe in this case. (Guidelines, § 15064.4, subd. (b).)

#### **D. Business-as-Usual Projections Do Not Lack Foundation**

Alliance argues the PEIR “violates CEQA by failing to include the full scope of emissions from development under the General Plan.” It contends the PEIR’s

“population-based metrics” to project growth fail to account for “industrial development” in the future and its attendant “ ‘thousands of [daily] … truck trips.’ ”

Fresno counters its “methodology” choice to project growth based on population is entitled to deference. It also asserts its methodology properly accounts for industrial development. We agree.

Again, “[a] lead agency enjoys substantial discretion in its choice of methodology.” (*Newhall Ranch, supra*, 62 Cal.4th at p. 228.) The City here chose to categorize emissions by sector, i.e., transportation, residential, industrial, etc. The PEIR adequately discloses sectors including transportation, industrial, commercial capture the projected emissions from future industrial development.

Alliance bears the burden to prove Fresno’s methodology does not account for future industrial development. It has failed to discharge that burden. Although the PEIR is not perfect in this regard, Fresno did not abuse its discretion in selecting this methodology and the PEIR contains enough information to perform its public-informing function—here, that its projections are based on population growth and account for growth in industry and attendant transportation. (*Sierra Club, supra*, 6 Cal.5th at p. 522 [courts do not demand “perfection” but look for “ ‘ ‘ ‘ adequacy, completeness, and a good faith effort at full disclosure.’ ”’ ”].)

#### **E. GHG Emission Mitigation Measures Are Ineffective**

As noted, the PEIR mitigates the general plan’s GHG emissions via its GHG Reduction Plan and checklist. Alliance suggests the plan and checklist “do not indicate that a future project proponent need do anything more than fill out the [c]hecklist.” In other words, Alliance believes the checklist “does not actually guarantee any mitigation.”

Fresno points out GHG-1.1—the GHG emissions mitigation measure in the PEIR—requires projects to implement all applicable measures in the checklist. It contends any inconsistency with the checklist will require “a project-specific GHG analysis, including quantification of existing and projected GHG emissions attributable to

that particular project.” It adds, “[t]o get below a level of significance, additional mitigation beyond the GHG Plan would be required as part of that future environmental review for that project, or project features would have to be incorporated to be below a level of significance.”

In our view, contrary to Fresno’s argument on appeal, the problem is neither GHG-1.1 nor the GHG Reduction Plan actually demand projects inconsistent with designated land uses achieve GHG emissions “below” a significant level. While inconsistent projects must generate their own GHG emissions analysis, it does not follow reducing emissions to a less-than-significant level is also required.

Put simply, the PEIR does not assure mitigation will occur because the checklist allows non-land-use-conforming projects to move forward while emitting GHG at a level deemed significant so long as they otherwise demonstrate consistency with various general plan policies. This approach violates CEQA as it demonstrates internal inconsistency with the PEIR’s finding GHG mitigation will result in a less than significant impact on the environment.<sup>18</sup> (§ 21081.6, subd. (b) [mitigation measures must be “fully enforceable”]; Guidelines, § 15126.4, subd. (a)(2) [same]; see *Sierra Club, supra*, 6 Cal.5th at p. 523 [“Mitigation measures need not include precise quantitative performance standards, but they must be at least partially effective, even if they cannot mitigate significant impacts to less than significant levels.”].)

## **F. GHG Reduction Plan and Future Streamlining**

CEQA specifically permits “[l]ead agencies [to] analyze and mitigate the significant effects of greenhouse gas emissions at a programmatic level, such as in a general plan, a long range development plan, or a separate plan to reduce greenhouse gas emissions. Later project-specific environmental documents may tier from and/or

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<sup>18</sup> The possibility the checklist allows approval of projects with GHG emissions significantly impacting the environment is the sole error we find on this point. We find no other error with GHG-1.1 and the checklist.

incorporate by reference that existing programmatic review.” (Guidelines, § 15183.5, subd. (a).)

The CEQA Guidelines provide, “A plan for the reduction of greenhouse gas emissions should:

“(A) Quantify greenhouse gas emissions, both existing and projected over a specified time period, resulting from activities within a defined geographic area;

“(B) Establish a level, based on substantial evidence, below which the contribution to greenhouse gas emissions from activities covered by the plan would not be cumulatively considerable;

“(C) Identify and analyze the greenhouse gas emissions resulting from specific actions or categories of actions anticipated within the geographic area;

“(D) Specify measures or a group of measures, including performance standards, that substantial evidence demonstrates, if implemented on a project-by-project basis, would collectively achieve the specified emissions level;

“(E) Establish a mechanism to monitor the plan’s progress toward achieving the level and to require amendment if the plan is not achieving specified levels;

“(F) Be adopted in a public process following environmental review.” (Guidelines, § 15138.5, subd. (b)(1).)

“Once an agency has adopted such a plan, it ‘may fulfill its duty under CEQA to consider the significance of an individual project’s greenhouse gas emissions by analyzing whether the project is consistent with the broader plan. If a project is found to be consistent with the broad plan, that finding provides sufficient evidence for the agency to conclude the project has no significant impact due to greenhouse gas emissions.’ ” (*IBC Business Owners for Sensible Development v. City of Irvine* (2023) 88 Cal.App.5th 100, 127.)

## **A. Additional Background**

The GHG Reduction Plan recognizes “[r]egular monitoring is important to ensure programs function as they were originally intended.” It states Fresno “would be responsible for developing a protocol for monitoring the effectiveness of emission reduction programs as well as for undertaking emission inventory updates.” It then identifies “key components of a GHG Plan monitoring program,” and notes Fresno “could compile data obtained from the checklist annually to monitor and track the progress on GHG reductions,” or transform an existing “permit tracking system … into a GHG reduction monitoring tool ....”

## **B. Analysis**

As noted, the GHG Reduction Plan in this case is intended to serve as a programmatic analysis from which to streamline future GHG analysis. Alliance contends the plan “fails to meet [the above] requirements.” It argues the plan “fails to adequately quantify the full scope of GHG emissions for the lifetime of the projected buildout of the General Plan,” “fails to set reduction targets through project buildout,” and “substantial evidence does not support the GHG Plan’s inventory of projected emissions, the adjusted statewide target for emissions in Fresno, nor the conclusion that the specified reduction measures will achieve the reduction targets.”

We have already analyzed these contentions. (See **VIII., B., C., D., & E., ante.**) We disagree the plan fails to analyze GHG emissions through the project’s lifetime, fails to set reduction targets through the project’s lifetime, and fails to support its selected inventory of projected emissions. We agree the plan improperly adopts a statewide target as appropriate for Fresno<sup>19</sup> and also that GHG emissions reduction measures will effectively achieve that improper target.

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<sup>19</sup> To reiterate, a statewide target *might* be appropriate for Fresno, but substantial evidence, i.e., analysis, must support that conclusion. The PEIR in this case does not demonstrate the required analysis.

Alliance also argues the plan “does not establish a mechanism to monitor progress” which would “require amendment [to] the plan [if it] is not achieving” its goal. (See Guidelines, § 15183.5, subd. (b)(1)(E).) Fresno counters the plan “provides for a mechanism to monitor … progress towards achieving reduction targets and … specifies the tracking tools used to monitor the plan’s progress.”

The GHG plan clearly does not establish a mechanism to monitor progress. Rather, it recognizes various components to a monitoring mechanism and suggests methods to track progress. It does not, however, establish an actual program. For all these reasons, the plan is not eligible to streamline GHG analysis.<sup>20</sup>

## **IX. Vehicle Miles Traveled (VMT)**

Relative to VMT, Alliance argues the PEIR fails to mitigate VMT and fails to analyze “impacts on pedestrians, cyclists, and transit riders.” We address each in turn.

### **A. Additional Background**

“In 2018, California adopted … Guidelines section 15064.3, which changed the measure of traffic impact from level of service (LOS) to vehicle miles traveled [].” (*Olen Properties Corp. v. City of Newport Beach* (2023) 93 Cal.App.5th 270, 275, fn. omitted.) VMT “refers to the amount and distance of automobile travel attributable to a project.” (Guidelines, § 15064.3, subd. (a).)

According to the PEIR, future projects creating “significant impacts under VMT would be required to address their impacts through … measures such as car sharing, improved transit, enhanced bicycle infrastructure, design modifications, or mitigation

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<sup>20</sup> Fresno also contends the GHG Reduction Plan is beyond challenge because such a plan is not mandatory under CEQA. The City also points out Guidelines section 15183.5 states such plans “should,” not must or shall, include the elements discussed above. The California Supreme Court has held such plans are viable to streamline future analysis only “if sufficiently detailed and adequately supported ....” (*Newhall Ranch, supra*, 62 Cal.4th at p. 230.) The GHG Plan in this case insufficiently supports its statewide reduction targets and fails to include a mechanism to monitor progress—these faults render it inadequate. (*Ibid.*)

fees ....” Fresno adopted local “VMT thresholds, allowing “project impacts [to] be evaluated to determine the significance and identify mitigation measures ....”

The PEIR concludes “continued implementation of the ... General Plan would result in a significant impact related to ... transportation impacts ....” It then “recommend[s] that when [Fresno] plans to update its General Plan Mobility and Transportation Element, it should strive to lower the General Plan (2035) VMT per capita compared to existing conditions.” Fresno’s “[g]uidelines for VMT [t]hresholds,” mentioned by the PEIR, “include[] a summary of the VMT mitigation measures and project alternatives that could be used to reduce VMT at a project-level.” “[B]ecause ... future projects [were] unknown ..., VMT impacts [were found] significant and unavoidable at a plan level.”

Elsewhere, the City officially found VMT impacts were “significant and unavoidable” due to infeasible mitigation and alternatives. In its statement of overriding considerations, it stated “[n]o feasible mitigation measures [were] available to mitigate [transportation impacts] to a less-than-significant level at the plan level.” “The City’s Guidelines for VMT Thresholds,” however, as noted in the statement, “include[d] a summary of ... VMT mitigation measures and project alternatives that could be used to reduce VMT at a project-level.”

## **B. VMT Mitigation**

Alliance points out the PEIR “does not propose that any VMT mitigation be adopted as part of the General Plan’s environmental review.” Fresno argues it found VMT impacts were “significant and unavoidable at the plan level.” It claims that “finding is supported by substantial evidence in the record, including that in 2020 [it] developed and adopted separate VMT CEQA significance thresholds ....” Ultimately, it concludes: “Because future development projects are unknown [], VMT impacts are better analyzed at the project level, which falls in line with the tiering approach established by CEQA.”

“[A]n EIR’s designation of a particular adverse environmental effect as ‘significant’ does not excuse [its] failure to reasonably describe the nature and magnitude of the adverse effect.” (*Cleveland, supra*, 3 Cal.5th at p. 514.) The PEIR here fails utterly to discuss any mitigation, instead leaving the discussion for another day. This approach violates CEQA—there is no substantial evidence in the record explaining why mitigation at the plan level is infeasible. For example, even if “future development projects are unknown,” there is no explanation why plan-level mitigation measure is infeasible.

Tiering is not an excuse to defer environmental analysis. (*Vineyard, supra*, 40 Cal.4th at p. 431.) “CEQA’s demand for meaningful information ‘is not satisfied by simply stating information will be provided in the future.’” (*Ibid.*) “[I]f known impacts are not analyzed and addressed in a program EIR, they may potentially escape analysis in a later tier EIR.” (*San Diego, supra*, 17 Cal.App.5th at p. 440.)

To be sure, increased VMT, as Fresno necessarily acknowledges, is a reasonably foreseeable effect of continuing to implement the general plan. (Guidelines, § 15152, subd. (b) [“Tiering does not excuse the lead agency from adequately analyzing reasonably foreseeable significant environmental effects of the project and does not justify deferring such analysis to a later tier EIR or negative declaration.”].) The dearth of information in the PEIR explaining *why* VMT mitigation is infeasible at the general plan level and instead deferring that discussion to future EIRs violates CEQA.<sup>21</sup> (See *Vineyard, supra*, 40 Cal.4th at p. 445 [EIR must “disclose ‘the ‘analytic route the ... agency traveled from evidence to action ....’”’”].) In other words, simply concluding

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<sup>21</sup> Neither does the discussion in the PEIR qualify as deferred mitigation under Guidelines section 15126.4. (See, e.g., *King & Gardiner, supra*, 45 Cal.App.5th at p. 856 [“generalized goal” of mitigation is not a “specific performance” standard].) We do not necessarily preclude Fresno from concluding VMT mitigation is infeasible at the general plan level, rather we hold only that the PEIR fails to justify that conclusion.

mitigation is infeasible, without adequate discussion supported by evidence, is insufficient to comply with CEQA.

### **C. Fully Analyzing Traffic-Related Impacts**

Separately, Alliance challenges the PEIR’s alleged failure to “analyze or mitigate significant impacts on pedestrians, cyclists, and transit riders.” It contends it presented evidence “show[ing] a sharp increase in pedestrian fatality rates in recent years, as well as increases in risks to cyclists,” risks it attributes to industrial development.

Fresno defends the PEIR by claiming CEQA does not require an EIR for a general plan to analyze impacts from increased traffic on pedestrians, cyclists, and transit riders. Specifically, it contends “CEQA does not require an agency to turn a program EIR for its existing general plan into a transportation policy document or infrastructure improvement program, requiring construction of sidewalks, street lights, storm drains, and bike lanes ....” We find otherwise.

#### **i. Additional Background**

Various individuals and groups commented on the fact the PEIR did not address pedestrian safety. For example, a local school district superintendent complained the “PEIR fails to analyze how the General Plan impacts pedestrian and bicyclist safety,” adding that “[t]his [was] a huge issue for neighborhoods burdened by truck traffic from new and existing warehouses and other industrial development.”

Another resident wrote a letter describing increased traffic and “truck terminals and truck stops” built over “the last few years ....” She mentioned “construction cover[ing] her house with dust,” complained “truck traffic during ... construction was ... extremely loud,” “construction caused vibrations” strong enough to shake her house, “pedestrians” in the “neighborhood” are fearful to walk, and “noticed more accidents because of the traffic from ... warehouses.”

Similarly, Alliance commented the PEIR “fails entirely to analyze how implementation of the General Plan would affect programs, plans, ordinances, and

policies pertaining to bicycles, pedestrians[,] and transit.” It noted “[t]he failure to address pedestrian safety is particularly concerning given recent trends in pedestrian fatalities.”

An apparent expert retained by Alliance authored a report as part of Alliance’s comment on the PEIR. The expert asserted “recent statistics reveal that pedestrians and bicyclists are increasingly in danger” on the road, but the PEIR “includes no consideration of potential safety issues for these individuals.”

Fresno did respond to these comments. In sum, it stated the PEIR “does not address potential project-level impacts resulting from future projects that would be developed under the approved General Plan.” In other words, Fresno did not believe pedestrian impacts were a program-level issue. It also stated the “proposed project … evaluates potential environmental impacts at a program level” and that “program-level analysis allows for future analysis of projects to use the PEIR as a starting point, but requires that specific impacts to pedestrians, cyclists, and transit riders be analyzed during review of future discretionary projects.”

## **ii. Analysis**

“An EIR must set forth in detail ‘[a]ll significant effects on the environment of the proposed project.’” (*Visalia Retail, LP v. City of Visalia* (2018) 20 Cal.App.5th 1, 13 (*Visalia*).) “[I]n preparing an EIR, the agency must consider and resolve *every fair argument* that can be made about the possible significant environmental effects of a project ....” (*Ibid.*)

Because Fresno did not consider and resolve whether traffic-related impacts to pedestrians, cyclists, and transit riders were significant effects of the project, the initial question for us is whether there is a fair argument, based on substantial evidence in the record as a whole, that there may be significant effects. (See *Visalia, supra*, 20 Cal.App.5th at pp. 13, 17.) We conclude the record discloses the requisite fair argument.

The record contains significant evidence industrial development under the general plan has resulted in increased traffic, impacting pedestrians, cyclists, and transit riders. Various individuals complained the city was unsafe for pedestrian travel. An alleged expert witness illuminated the dangers to pedestrians generally and highlighted the PEIR's failure to address those dangers.

Again, tiering is not an excuse to defer environmental analysis. (*Vineyard, supra*, 40 Cal.4th at p. 431.) “CEQA’s demand for meaningful information ‘is not satisfied by simply stating information will be provided in the future.’” (*Ibid.*) CEQA requires a “lead agency [to] adequately analyz[e] reasonably foreseeable significant environmental effects of the project ....” (Guidelines, § 15152, subd. (b).) The PEIR here does not justify its decision not to address pedestrian impacts at the program level.

The Second District Court of Appeal has found error in a lead agency’s failure to consider or address a project’s possible “significant impacts to pedestrian safety.” (*City of Maywood v. Los Angeles Unified School Dist.* (2012) 208 Cal.App.4th 362, 395.) Fresno attempts to distinguish the case by arguing it “cannot be extrapolated to apply [to] a program EIR analyzing a large city’s General Plan ....” It also points out “Appendix G of the Guidelines does not require specific analysis of General Plan implementation on bicycle and pedestrian facilities.” We disagree for two reasons.

First, there is no reason to believe CEQA does not require analyzing a project’s potential significant impacts on pedestrian safety. The Guidelines make no exception for program EIRs to forego analyzing reasonably foreseeable impacts. (See *San Diego, supra*, 17 Cal.App.5th at p. 440.) Second, Appendix G is simply a “a sample form that may be tailored to satisfy [an] individual agenc[y’s] needs and project circumstances.” The form explicitly notes “[s]ubstantial evidence of potential impacts that are not listed ... must also be considered.” (Guidelines, Appendix G.)

In sum, we hold the record contained sufficient evidence to support a fair argument traffic-related impacts to pedestrians were potentially significant, even at the

program level. Accordingly, Fresno must consider or address the potential impact in the PEIR.

## **X. Groundwater Mitigation**

The PEIR acknowledges impacts to groundwater are potentially significant. It states: “Implementation of the project would substantially decrease groundwater supplies or interfere substantially with groundwater recharge ....” To address the potential significant impact, the PEIR contains one mitigation measure related to groundwater—HYD-2.1. It states, in full, “The City shall continue to be an active participant in the North Kings Groundwater Sustainability Agency and the implementation of the North Kings Groundwater Sustainability Plan in order to ensure that the Kings Subbasin has balanced levels of pumping and recharge.”<sup>22</sup> It concludes this mitigation reduces impacts to groundwater to a less-than-significant level.

Alliance contends the mitigation measure “is vague, speculative, unenforceable, and ineffective.” It argues sustainable groundwater management by 2040, as discussed

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<sup>22</sup> The Legislature enacted the Sustainable Groundwater Management Act in 2014. (Wat. Code, § 10720 et seq.) “The Legislature’s stated intent in enacting the Sustainable Groundwater Management Act was ‘to do all of the following: [¶] (a) To provide for the sustainable management of groundwater basins. [¶] (b) To enhance local management of groundwater consistent with rights to use or store groundwater and Section 2 of Article X of the California Constitution. ... [T]o preserve the security of water rights in the state to the greatest extent possible consistent with the sustainable management of groundwater. [¶] (c) To establish minimum standards for sustainable groundwater management. [¶] (d) To provide local groundwater agencies with the authority and the technical and financial assistance necessary to sustainably manage groundwater. [¶] (e) To avoid or minimize subsidence. [¶] (f) To improve data collection and understanding about groundwater. [¶] (g) To increase groundwater storage and remove impediments to recharge. [¶] (h) To manage groundwater basins through the actions of local governmental agencies to the greatest extent feasible, while minimizing state intervention to only when necessary to ensure that local agencies manage groundwater in a sustainable manner.’ (Wat. Code, § 10720.1.)” (*Center for Biological Diversity v. County of San Bernardino* (2016) 247 Cal.App.4th 326, 335-336.)

below, “does not alleviate the significant impact that will have already deprived numerous households of access to groundwater supply in the interim.”

The City argues impacts to groundwater are addressable only “by ensuring” the subbasin “is managed in a sustainable fashion ....” It believes HYD-2.1 achieves exactly that, and “[c]ompliance with state law” designed to achieve groundwater sustainability is sufficient mitigation for implementing its general plan, justifying its chosen mitigation as compliant with CEQA. Fresno also contends, “to the extent” Alliance challenges the groundwater *plan* itself, such plans are exempt from “CEQA review.”

We conclude HYD-2.1 is an appropriate, enforceable mitigation measure. However, the PEIR fails to justify not discussing any specific groundwater mitigation in the interim, i.e., prior to 2040. No substantial evidence supports the implied conclusion impacts to groundwater in the interim are reduced to a less-than-significant level.

#### **A. Additional Background**

The PEIR states Fresno “is creating an overdraft of the Kings Groundwater Sub-basin aquifer as defined by the California State Department of Water Resources.” “In November 2019,” Fresno adopted the North Kings Groundwater Sustainability plan “with the sustainability goal to ensure that by 2040 the Kings Groundwater Subbasin ..., in which Fresno is located, is being managed in a sustainable manner to maintain a reliable water supply ....” “[C]ontinued implementation of the ... General Plan could result in significant impacts to groundwater levels within the Kings Sub-basin if the [projected] increase in water demand is met through an increase of water supply from increased groundwater pumping.”

During the environmental review process, Alliance submitted multiple comment letters related to groundwater sustainability. In the first, it provided a “[f]ocused [t]echnical [r]eview” of the North Kings Groundwater Sustainability Plan. It concluded the plan did “not include a thorough analysis of impacts to key beneficial users in the subbasin, particularly domestic well users and members of disadvantaged

communities ....” Alliance lamented the fact the plan did “ ‘not require ... maintain[ing] current water levels or prevent[ing] any wells from going dry[.]’ ”

In a second letter, Alliance described “numerous households and entire neighborhoods ... lost access to water in their homes as their wells ran dry” in the years leading up to the general plan amendment. It noted the Groundwater Sustainability Plan allowed for “a 107-foot decline in groundwater levels” “which can mean the difference between flowing and dry taps,” and the fact “[a] potentially balanced water demand in 20 years will not alleviate the significant impact that occurs should households lose access to water supply in the present.”

Others, too, commented on groundwater issues. For example, at a planning commission meeting during the certification process, an individual bemoaned he “recently had three residential wells go dry,” attributing the loss to “all this development,” e.g., “the Amazon facility ....” Fresno essentially responded to all groundwater mitigation issues by claiming “the underground movement of water within the aquifer is not anticipated to affect domestic wells” because groundwater “balance[]” will obtain by “the year 2040 ....”

### **C. Analysis**

“[A] condition requiring compliance with regulations is a common and reasonable mitigation measure, and may be proper where it is reasonable to expect compliance.”

(*Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 906.) The mitigation measure in this case properly commits Fresno to comply with state law and the regional groundwater sustainability plan. (See Water Code, § 10720 et seq.) There is no reason to believe Fresno will not comply with state law.

Where the PEIR comes up short, however, is in its failure to assess groundwater levels relative to domestic wells throughout the city prior to 2040. As described above, Fresno was aware people expressed concern about groundwater levels in the present—the record contains ample evidence regarding wells *today*. The record does not currently

justify concluding interim impacts to domestic wells are less than significant due to participation in the North Kings Groundwater Sustainability Agency and implementing its attendant Plan.

For example, the PEIR does not explain why no mitigation measures specifically addressing groundwater between the present and 2040 are considered. We recognize it is possible no such mitigation is feasible but, if so, then the PEIR must adequately explain why and support that conclusion with evidence.<sup>23</sup> At bottom, a conclusory statement that groundwater use will achieve balance in 2040 is insufficient to alleviate a present concern.

## **XI. Project Alternatives**

Alliance complains the PEIR “fails to analyze a reasonable range of alternatives. Fresno argues “CEQA does not require consideration of alternatives to an already approved project.” It otherwise contends the alternatives “considered were reasonable in the context of the project being analyzed.” We agree with Alliance.

### **A. Additional Background**

The PEIR considered two alternatives: a “No Project Alternative” and a “Net Zero Energy Consumption Alternative.” “Under the No Project Alternative, development within the Planning Area would continue to be implemented in accordance with the [existing] General Plan; however, changes to the Mobility and Transportation Element”—reflecting VMT analysis—“and updates to the Greenhouse Gas Reduction Plan would not be implemented.” “Under the No Project Alternative, similar to the proposed project, development would continue as allowed under the [existing] General Plan because no changes to land use designations would occur.” “Overall, impacts resulting from the No Project Alternative would be similar to the proposed project, as

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<sup>23</sup> It is also possible groundwater concerns are unfounded. That is a question for a lead agency to address. We hold only that the record contains enough evidence to warrant a deeper look.

significant unavoidable impacts related to aesthetics, agricultural resources, air quality, noise, transportation, and utility and service systems would continue to occur.”

“Under the Net Zero Energy Consumption Alternative, both residential and non-residential development would be required to achieve net zero energy consumption in 2020.” “By achieving net zero energy consumption for non-residential development in 2020, the city would reduce overall GHG emissions.” “Under this alternative, impacts associated with greenhouse gas emissions would be reduced by requiring that development achieve a net zero energy consumption. Although the proposed project would not result in potentially significant impacts related to energy, this alternative would require less energy consumption than continued implementation of the [existing] General Plan because, new non-residential development would be required to achieve net zero energy consumption ten years before the required compliance year of 2030.” (See Cal. Code Regs., tit. 24, pt. 11.) “As a result, potential impacts resulting from the Net Zero Energy Consumption Alternative would be less than the proposed project, potential impacts related to energy and greenhouse gases would be fewer.”

Fresno rejected both alternatives. It rejected the No Project Alternative because it achieved the project’s objectives at “a lesser level” and failed to implement “current ... law” regarding VMT. It rejected the Net Zero Energy Consumption Alternative because it was “not ... feasible to require next [sic] zero energy consumption in 2020.”

## **B. Analysis**

We first address Fresno’s argument CEQA did not require it to consider alternatives in this case. Because we disagree with that argument, we then analyze the alternatives Fresno did consider.

### **i. Requirement to Consider Alternatives**

Fresno claims “CEQA does not mandate consideration of feasible alternatives to [a] project” where that project is “not being considered for approval ....” It bases this claim on *Conservation, supra*, 36 Cal.App.5th 210. There, the appellate court rejected

several challenges because it concluded the lead agency did not carry out a program or project as defined under CEQA. (*Id.* at p. 227.) Instead, the lead agency simply “overs[aw] a regulatory program” and prepared a unique EIR “to provide the public with detailed information” “about the environmental effects of well stimulation treatments such as hydraulic fracturing and acid well stimulation” pursuant to a bill passed by the Legislature. (*Id.* at p. 227, 217.)

In contrast, the lead agency in this case—Fresno—clearly is carrying out its general plan. To carry out its general plan, it chose to adopt a new PEIR, instead of continuing to use its older MEIR. (See § 21157.6 [lead agency may utilize older MEIR if it makes specific findings under statute].) Accordingly, the decision to adopt a PEIR entails fully complying with CEQA and its alternatives sections. (See **III.**, *ante*.)

## **ii. Alternatives Analysis**

“CEQA requires an EIR to identify feasible alternatives that could avoid or substantially lessen the project’s significant environmental effects. (§§ 21002, 21100, subd. (b)(4).) ‘[I]t is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]’ (§ 21002.) [¶] The EIR must describe a range of reasonable alternatives to the project ‘which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project.’ (Guidelines, § 15126.6, subd. (a).) The EIR must evaluate the alternatives’ comparative merits. (Guidelines, § 15126.6, subd. (a).)’’ (*Save Our Capitol! v. Department of General Services* (2023) 87 Cal.App.5th 655, 702-703 (*Save*)).

“CEQA establishes no categorical legal imperative as to the scope of alternatives to be analyzed in an EIR. Each case must be evaluated on its facts ....” (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 566; *Tiburon Open Space Committee v. County of Marin* (2022) 78 Cal.App.5th 700, 741 (*Tiburon*).) “An EIR

need not consider every conceivable alternative to a project or alternatives that are infeasible.” (*Bay-Delta, supra*, 43 Cal.4th at p. 1163.) “‘There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.’” (*Ibid.*)

“The rule of reason ‘requires the EIR to set forth only those alternatives necessary to permit a reasoned choice’ and to ‘examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project.’ [Citation.] An EIR does not have to consider alternatives ‘whose effect cannot be reasonably ascertained and whose implementation is remote and speculative.’” (*Bay-Delta, supra*, 43 Cal.4th at p. 1163.) “[A]n EIR should not exclude an alternative from detailed consideration merely because it ‘would impede to some degree the attainment of the project objectives.’” (*Id.* at p. 1165; Guidelines, § 15126.6.)

A lead agency is not “required to consider specific alternatives proposed by members of the public or other outside agencies.” (*Save, supra*, 87 Cal.App.5th at p. 703.) “We will uphold an agency’s choice of alternatives unless they ‘are manifestly unreasonable and … do not contribute to a reasonable range of alternatives.’” (*Tiburon, supra*, 78 Cal.App.5th at p. 741.) “An agency’s finding of infeasibility for this purpose is ‘entitled to great deference’ and ‘presumed correct.’” (*Los Angeles Conservancy v. City of West Hollywood* (2017) 18 Cal.App.5th 1031, 1041.)

The alternatives discussion in the PEIR here does little to meaningfully “inform[] decisionmaking and public participation.” (Guidelines, § 15126.6, subd. (a).) Although the “No Project” alternative is necessary to evaluate, here it results in little change because the general plan already exists. The only difference between the amended general plan and the prior general plan was replacing level-of-service-traffic-analysis language with VMT standards. In sum, the “No Project” alternative does not contribute to “a range of reasonable alternatives” *in this case*.

The “Net Zero” alternative, on the other hand, is an “environmentally superior alternative” project. (Guidelines, § 15126.6, subd. (e)(2).) The City, however, rejected it as infeasible without any meaningful discussion. The PEIR does not explain why it is infeasible, or even why it could not implement the “Net Zero” mandate in a year interim to 2030. No evidence supports the City’s infeasibility conclusion.

Taken together, the two alternatives discussed in this matter do not comprise a reasonable range of alternatives. The alternatives discussion here is inadequate when judged against the rule of reason because it fails to inform the public regarding the proposed project, i.e., amended general plan with intent to streamline environmental analysis under new PEIR. To support its conclusion regarding alternatives, the City should explain why no alternatives are feasible, supporting the explanation with evidence, or it should discuss at least one potentially feasible alternative.

## **CONCLUSION**

The PEIR in this case contains several prejudicial errors: 1) air quality mitigation measures AIR-2.1, 2.2, and 3.1 violated Guidelines section 15126.4 because they do not contain objectively enforceable standards, 2) it inappropriately assumes statewide-GHG-reduction targets are appropriate for Fresno, undermining its ability to streamline GHG analysis for future projects, 3) the conclusion VMT mitigation is infeasible is not justified, 4) it failed to analyze traffic-related impacts on pedestrians, cyclists, and transit riders, notwithstanding evidence in the record indicating a potential significant impact, 5) it failed to address groundwater mitigation in the present, and 6) it failed to consider a reasonable range of alternatives. Under section 21168.9, subdivision (b), correcting these errors is “necessary to achieve compliance with” CEQA.

## **DISPOSITION**

The City's request for judicial notice is granted.<sup>24</sup>

The judgment is reversed and the matter remanded for further proceedings consistent with this opinion. The trial court is directed to vacate the order denying the petition for writ of mandate and enter a new order granting the petition.

The trial court shall issue a peremptory writ of mandate compelling the City to (1) set aside resolution Nos. 2021-269 and 2021-270 which certified the PEIR was completed in compliance with CEQA and adopted the general plan amendment, and (2) take corrective action consistent with this opinion prior to certifying a revised PEIR was completed. (§ 21168.9, subd. (b).)

The peremptory writ of mandate shall state the trial court retains jurisdiction over the proceedings by requiring the City to file a return to the writ. (§ 21168.9, subd. (b).) The trial court may, in its discretion, require or allow the City to file an initial return explaining the action it intends to undertake to satisfy the issued writ.

Costs are awarded to Alliance. (Cal. Rules of Court, rule 8.278.)

SNAUFFER, J.

WE CONCUR:

FRANSON, Acting P. J.

MEEHAN, J.

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<sup>24</sup> The City filed a request to judicially notice two exhibits from the trial court record and one exhibit relating to CEQA Guidelines. We grant the request.

**From:** [REDACTED]  
**To:** [Tyler Maxwell; District4](#); [Annalisa Perea; District1](#); [Mike Karbassi; District2](#); [Miguel Arias; District3](#); [Brandon Vang; District5](#); [Nick Richardson; District6](#); [Nelson Esparza; District7](#); [Jerry Dyer; CityManager](#); [LongRangePlanning](#)  
**Subject:** SEDA  
**Date:** Saturday, December 13, 2025 1:34:04 PM

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

Dear Tyler,

I write to urge you to vote “no” on SEDA when it comes before the City Council.

As the Council Member representing east central Fresno, you will have the opportunity to protect the integrity – and the future – of the older neighborhoods that your constituents call home.

I see the need for city investment as I walk in my part of District 4. There are the raised sidewalks on Rialto, east of First Street, uprooted by trees that the city planted in park strips. There is cracked asphalt on First Street south of Gettysburg that needs repaving. There are empty storefronts in corner shopping centers abandoned for many reasons, not the least of which is the draw of the next, shiny new development in Fresno.

SEDA will be such a development, magnified many times over, and it will drain badly-needed resources from the neighborhoods you represent. I read that opponents of SEDA assert there will be a \$3 billion shortfall in the cost of infrastructure for the project. Proponents say that is false. If you support SEDA, I ask you to show your constituents the numbers that prove your claim. You could do so at a district meeting where you explain your position on SEDA.

I believe you have been an effective representative for District 4. Please continue that representation in the face of what I assume is heavy lobbying from developers eager to cash in on SEDA. Those developers do not live in our part of Fresno. They have not made the commitment to our neighborhood – as my wife and I have for more than 30 years.

Developers may complain that infill development does not satisfy their bottom line. That – or any other political consideration – should not guide your vote. Leadership, in my view, is about voting the common good. Rejecting SEDA is your opportunity to do that good.

Sincerely,

Doug Hoagland  
[REDACTED]

December 10, 2025

**Via Email Transmission**

Adrienne Asadoorian, Planner  
City of Fresno, City Clerk  
Fresno City Council, Chairman and Council Members  
2600 Fresno Street, Third Floor  
Fresno, CA 93721

[REDACTED]  
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[district7@fresno.gov](mailto:district7@fresno.gov)

**OPPOSE LETTER – SEDA DEVELOPMENT (EIR AND EDA/PROPOSED LAND USE/ANNEXATION/ BY THE CITY OF FRESNO) DECEMBER 18, 2025**

Dear Chairman, Council Members, City Clerk, and Ms. Asadoorian:

Please accept this letter as our **opposition** to the City of Fresno's SEDA development specific plan, annexation, proposed land use and the alternate maps thereto, which is an item that was set to go before the City Council December 4, 2025 but was recently moved to December 18, 2025. We also oppose both Alternatives 2 and 3 that were recommended by the Planning Commission. We also requested that in light of the impact, opposition and size of this development, that this item be held in the evening (at 6 p.m.) instead of morning so that all voices can be heard before a vote is rendered. You in turn moved the item to 4:30 p.m.

PLEASE BE AWARE that Based on the original map created by the City for SEDA, our home is located within Research and Development. As stated on Page 11 of your specific plan, **no homes are allowed**. Therefore, what you are deciding is whether or not my home will be subject to eminent domain by the City of Fresno in order to move forward with SEDA development. Please take this decision seriously. I have no plans to move, this is it! We cannot just relocate and start over financially, most people cannot. Most families located within SEDA are retired and living on a budget, retirement, social security. To relocate, even to connect to utilities as this development and plan requires is a financial burden and is impossible with limited income or no income when the land you are taking belongs to farmers whose livelihood depend on what they grow. Most are generational farmers, not corporate farmers like your builder/developer friends (Assemi etc. ). You take our property - you take our small farm, you take our livelihood and ability to make ends meet.

Our specific property/land sits next to what is known as the Briggs Canal. Water in the Briggs comes from the Kings River. This water is what irrigates properties for the food that you and I eat and serves a greater purpose. It is serviced and maintained by Fresno Irrigation District (FID). The FID's web page,

under About Us, states as follows: The FID is a leader in California water, serving over 200,000 acres of prime agricultural farmland ... Farmland sitting next to or that abuts a water structure such as ours is rare in Fresno County and not easily attainable. With our property adjacent to Briggs, it is irrecoverable and we would suffer a great loss. Destroying prime ag land, 9,000 acres, for what you call affordable housing would impact the food supply not just locally but within the State, the world. I've included in my email pictures of the farm workers who were out this past week to pick the tangerines grown. The loss to the farmers, property owners, as well as the job loss to these workers who rely on farms would be major. Therefore, we oppose the redevelopment and conversion of prime farmland to serve a purpose for SEDA such as Flexible Research and Development, which by the City's definition means no residential uses will not be allowed. The housing you propose in the name of affordable would thus lower the pricing for those forced to sell. That would therefore leave eminent domain which the City has stated would not be used; and it was stated by Sophia at the Planning Commission meeting in November 2025 that eminent domain would not be used; however, if I am not leaving my home how would you remove my family whom resides in that home when your plan specifically states on Page 11 bottom corner, no houses allowed? Please answer that. Similar to the high speed rail there is no other recourse but for the city to use eminent domain. Most families within SEDA are retired, seniors and longtime generational farmers, this property is not a brand new toy as stated in the FresnoLand news article and it is extremely disrespect and insulting for you or anyone of your builders/developers to speak in said fashion. Your moral and ethical standard of how you view your constituents is clouded by greed. My previous letter to you all asked for an explanation of what "Flexible Research and Development" would entail to please explain with specificity what occurs to the property/land/farm. To date, you have failed to do so.

**HOWEVER, IT IS IMPORTANT TO NOTE THAT I WAS INFORMED AT THE PLANNING COMMISSION MEETING ON NOVEMBER 16, 2025 THAT A DATA CENTER WILL BE DEVELOPED IN THE FLEXIBLE RESEARCH & DEVELOPMENT.** Please explain with specificity to the public, community, and constituents you represent what a data center is and then proceed to explain the amount of water and energy that is used to prevent overheating/cooling ranging from hundreds of thousands to millions of gallons of water per day. Furthermore, a data center depending on size can use hundreds of kilowatts to hundreds of mega watts. This impacts not only those within SEDA but it affects the people of Fresno County, our rates, water, power grid, and taxes. It is not sustainable and you must explain this to the people, before approving SEDA. Why did FID purchase land near DeWolf and Jensen/Butler for a water basin, since SEDA is not for the farmers then please confirm that this basin is only for the mere fact to aid the data center you plan to develop within SEDA. **THIS IS IMPORTANT AND MUST BE ADDRESSED DURING THE 12/18 MEETING, IN AN OPEN FORUM AND SHARED WITH THE PUBLIC.**

The City's project and plan area consists of Prime Farmland. We own over 2 acres of farmland in the proposed SEDA plan area. We house two tractors, chickens, apricot trees, as well as house pets on our land. We fostered for the county animal shelter due to the land we have. We work our land like most, if not all of the residents in this project area. Removing farmers who grow their own food; and/or who commercially feed this Community, County and State is reckless and negligent so that the City can expand. The City's proposed land use map reflects for our parcel "Flexible Research & Development." You want to take irrecoverable prime farmland for Flexible Research & Development when you can place Flexible Research & Development in the vacant Orchard Supply building (vacant for more than 5 years). Does that mean a lab such as that most recently found in Reedley, CA will go here; a Data Center? What does "Mixed Residential" mean on the City's map? I specifically asked if that meant low income housing, please explain. Again, there are so many other vacant buildings within the City of Fresno that would allow you to do this that we do not need to remove, redevelop and destroy Prime Farmland or Farmland in general. Currently, you have housing approved in the northwest area of town, housing was just approved in Clovis, CA. These areas encompass Fresno County as a whole. Where is the City getting all this money? In addition, you have a lawsuit due to the problem with the water contamination but yet

your director at the planning commission meeting said the water is robust, its not robust if it is contaminated or unusable.

Mixed residential as an alternative installs medium and high density housing and additional dwelling units. Jennifer Clark stated during the planning commission meeting that our water systems are robust. As you know, once that water is gone meters, watering days, and other forms of monitoring will take place due to a drought. You are draining the well knowingly and instead of preserving if she is correct, you want to drain the well thus creating a deficit. Our parents taught us to save up for a rainy day, the City is doing the complete opposite by implementing SEDA.

In addition, at the Planning Commission's meeting they are submitting alternates with recommendations, we the public have not been afforded the opportunity to voice our opinions until now on the alternate maps and recommendations as public comment was closed. We have every right to opine on the newly received recommendations; it's not even posted on your website.

We have been told on numerous occasions that we would not be required to hook up to City services (water, sewage). We believe that to be incorrect. Director Jennifer at the Planning Commission confirmed now that there will be a 4 year loan plan to finance the \$100,000 (at a minimum) in order to convert water and sewer. Now the City is a banker, financing homeowners making more money off payments, interest etc. Bonds etc. are all taxpayer money. We were told that the City would not require us to; if not the City then who? If I am the only house that does not hook up, will I be forced to hook up? What will the cost be? Is there the potential for placement of a lien on my home due to the cost of these services? Please also confirm with past projects in this area or within the City (i.e. the area in and around north Jensen and Fowler to Kings Canyon etc.) how that land development was handled and if the landowners that were pre-existing were required to hook up to City of Fresno services (water/sewage). If so, what were the services, what was the process, the cost, who was responsible to pay those charges or for those services; how many complaints did you receive from the landowners verbal and in writing, what was the remedy of said complaints; and if any of these homes resulted in liens being placed on landowners property/homes. Please also provide on current and past projects when property owners choose to stay and not sell, the city is therefore developed around their property, how many wells have gone dry due to the new development? Does this map become the zoning map for this area? Will the zoning for my area change? Questions never answered.

Property owners were also told by the City representatives that eminent domain is not allowed or can or will not be used on property owners and their land located on the Land Use Map for this project, please confirm if this is an accurate statement? When I spoke to Jennifer Clark at the last in-person Drop In meeting she stated that should one homeowner decide not to sell or annex, they (property owner) will not be forced to annex; however, later she stated that they (City) cannot have one house one way while the rest of the area is annexed. Please clarify this statement by Ms. Clark. How will her stated change occur if one home cannot be different from the rest? Please explain who will impose and force the annexation of the land/property owners unwilling and opposing to said annexation? Please explain the process and the impacts to the landowners as well as the changes to zoning affecting the homeowner who did not willingly annex their land. Will I still be able to farm with all these houses around me?

If you can watch the planning commission meeting, I recommend you do so. City Staff and "hired" expert to mitigate were unprepared and lacked any proof/evidence of their statements. We were told that we must bring up concerns at Planning Commission otherwise we only have recourse on what we bring up. We had two minutes at the planning commission meeting. That's pretty crooked in that you made changes after public comment and yet we were unable to speak to that.

You have vacant land and buildings all throughout the City of Fresno and other cities within Fresno County and your plan is to destroy the Prime farmland of the SEPO (Fresno Southeast Property Owners). Destroy our farmland to build more homes, which thus creates more traffic, more congestion, more land and air pollution, more crime, and homelessness. With the Briggs Canal, if that waterway remains, with the increase in population and homelessness, our canals will turn into bathing facilities and used as restrooms. Please ask your homeless task force if that is a possibility that the homeless population uses waterways as bathing facilities and toilets? If this water is intended to feed the community, is it possible for fecal matter, urine and other forms of illness to be in said water. Furthermore, take a drive around the City of Fresno, look at their canals and waterways, you currently have homelessness on your canal banks, tents, littered with trash (e.g. McKinley and Chestnut; in front of the Social Services building Phillip and Kings Canyon, the canal located east of Clovis Avenue--north of Kings Canyon by Orchard Supply). The City is unable to handle the demands of the current crisis and you want to spread it out. Your intent is to make a 15 minute city. We have seen the destruction of Paradise, Maui, when you began to impact the rural areas which are not intended to be within the city limits. We have water issues, we were just in a drought and there is no guarantee that we will be blessed with rain in the future. How will you control air pollution? Where will you get water from? How will you get the needed money to build the infrastructure for this plan?

**The City of Fresno needs a boundary, do not grow it out here destroying the aesthetic rural southeast farmland.**

**Commissioner Bray kept trying to convince us that this was a good plan and she was right, it's a good plan for the builders and developers. The City of Fresno is making them (e.g. builders/developers) rich at the expense of the people, the taxpayers who pay your over \$100k salary as reported in the Statement of Economic Interest posted on the city website; but I guess you don't lose sleep over this because at least the Mayor's travel expenses were paid for by the Embassy of Qatar for his trip in November of last year; those expenses were paid for by the Embassy and the form states official business so the taxpayers pay your salary.** Understand that it's this type of secrets, things done in the night, we see videos from the City on everything else how about videos on everything, don't pick and choose what you will share. I saw or heard nothing about a business trip to Qatar. How does this help the City of Fresno? Share all the work-related travel you do including the controversial. One thing a Trump presidency has done is it made the people fed up and disgusted with their government and the lack of transparency and accountability—on both sides, yes you too!

While you try to say you are creating jobs, you are in turn putting hundreds if not thousands out of work from the farmers to the farm workers who pick; those who may not have degrees to get a similar paying job. After labor day, one way to know the season is changing in our area to fall/winter is we see all the workers picking the grapes and putting them down to dry, or work on the oranges and mandarins to prepare for the next step in the process as the cold weather begins to set in. Cars are all parked and lined up and the people are out and about working the land. This isn't a game your decision on this affects so many lives you do not know or see; real people not just your developer/builder friends. Where shall they move when the work is gone in this area?

Sophia at the Planning Commission brought up that this began in 1958 (before I was born). In 1958 we didn't have seatbelts either so yes things change we evolve. SEDA may have been a great idea in 1958. But I don't think in 1958 those who initiated this plan could foresee that today we would be struggling with substance abuse, mental health, homelessness, overfilled animal shelters, lack of money for food, and yes even housing. But there is housing, there are buildings the problem is the price is set so high no

one can afford them. Back in the 90s a 1300 sq. Ft. starter home was at most \$125k now you can't find that. Want to make a change, move to change the building processes and fees, then push your builder/developer friends to lower the price on their homes. Before SEDA and after SEDA, if every person in Fresno County raised their hand to get help (whether for substance abuse, mental health, or housing) there are no beds, no vacancy. You can't even afford or figure out how to keep the current doors open, you've got shelters closing. How does a shelter close if we have a housing problem? We need to also rely on churches, poverello, pantries not kicking people off their land to build boxes/apartments. The problem is not the land, and lack of homes, the problem is you are allowing developers to charge hundreds of thousands to people who are not making your salaries. If you are looking for low income housing, you have Downtown, you have the West Area, you have vacant buildings all within the City limits; this community and the people do not need SEDA, the builders/developers do that's who you are helping. Quit spending money you don't have. You don't have it and we don't have it to throw away and buy another house because SEDA is taking our land.home. We are in our 50s, 60s, 70s, 80s, we can't just start over.

If this type of development continues, the lack of farmland to our community as well as the substantial loss of prime farmland is irrecoverable and factor in good farmland with irrigation resources such as ours, it is irrecoverable. Therefore, **we strongly oppose** the EIR and the SEDA development and ask that you reject all in order to protect and preserve our homes and land.

Southeast Property Owner residents assert the following concerns:

**Major Loss:** Best farmland in the world eliminated, never to be restored when replaced with housing, crop reduction, loss of food production possibly resulting in National Security risk; loss of small farms including but not limited to Hmong Farmers; water shortages.

**Major Concern:** Increased population resulting in overdraft of ground water; difficulty meeting state mandates to maintain ground water level; restrictions with wells.

**Cost to residents:** Major cost absorbed by residents not the city or developers; mandatory sewer hookup beginning at \$50k depending on how far back homes sit; payment plans resulting in liens placed on property; cost of condemning wells/septic tanks as required by California State law; school bonds covering a minimum of K-12 schools in Sanger alone; increase in taxes to cover increase of police protection due to increased crime along with the fire department; increase in taxes to pay for infrastructure; increase taxes to pay for utilities, devaluation of property, loss of property rights (hunting and shooting), loss of rural lifestyle loss of property for trails, loss of property through eminent domain (trails, homes, road construction), farming forced out due to complaints of spraying etc.; traffic increase, livestock restrictions (my neighbor has cows); changes from rural residential zoning, county ordinances to city ordinances; change from sheriff protection to city; developers are dictating our future.

**Cost to Fresno:** Health concerns, reduced air quality, air pollution increase, noise and light pollution, climate change, increase in crime, litigation costs, increase in utilities and tax to pay for this. Their communities lacking the attention, upgrades and other needs/attention it deserves due to the financial burden of SEDA.

**The City of Fresno needs a boundary, do not grow it out here destroying the aesthetic rural southeast farmland. Developers/builders should not determine what is good for us southeast property owners, the property owners should. SEDA is only good for builder/developers not the city, county, or resident property owners.**

**The vote should be the will of the people especially those directly affected and we the people say no to SEDA, please vote NO TO SEDA!**

Thank you.

Respectfully,

David, Natalie & Elijah Ortiz

From: Jerry Dyer [REDACTED] >  
Date: 12/12/25 9:10 PM (GMT-08:00)  
To: Jennifer Clark [REDACTED]  
Cc: Kelli Furtado [REDACTED]  
Subject: Fwd: Southeast Development Area Specific Plan and related Final

**From:** Jeff Wabbit [REDACTED]  
**Date:** December 12, 2025 at 9:26:35 AM PST  
**To:** Jerry Dyer [REDACTED] >  
**Subject: Southeast Development Area Specific Plan and related Final Environmental Impact Report (SCH No.2022020486) for the December 18, 2025 Fresno City Council meeting**

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

December 12, 2025

From: Dr. David Ramming

To: Mayor Dyer

Subject: Southeast Development Area Specific Plan and related Final Environmental Impact Report (SCH No.2022020486) for the December 18, 2025 Fresno City Council meeting.

I am specifically addressing Trails and Parks in the SEDA plan and asking why it has been taken out of the Environmental Impact Report.

The SEDA plan states in Chapter 4, Page 9 under the heading:

**Parks, Open Spaces and Green Infrastructure** “The SEDA Plan features a well-coordinated system of natural and developed open spaces that serve many vital uses, from recreation to community farming and agriculture, to stormwater management. As part of the future Parks and Trails Master Plan, locations of multi-use trails and other open space networks within the Southeast Development Area will be contemplated.”

I cannot find a Parks and Trails Master Plan in Fresno City’s General plan. I can only find a Parks Master plan which has the following:

Under the **Bicycle / Pedestrian Trail** heading on Page 45 of the SEDA plan, it states:

*Trail systems connect regional and sub-regional destinations for bicyclists, pedestrians, and equestrians (where appropriate) and seek to provide safe, comfortable paths, which accommodate recreational activity and non- automobile travel for daily trips. In addition, multi-use trails will be located next to canals and other open space networks within the SEDA and will further help to direct storm water runoff into natural basins.*

This states that Trails are needed to reduce Vehicle Miles Traveled (VMT). It also implies that pollution will be reduced by reducing VMT. Since these two issues are a major consideration for the plan to be operational and environmentally safe, the plan should not go forward until the two issues are included in the Environmental Impact Report (EIR).

Sophia Pagoulatos stated at the Planning Commission Meeting November 19, 2025, that the trails had been taken out of the plan as they were too controversial at the outreach meetings. I think she meant that the Trails were taken out of the EIR, however, they are still in the SEDA plan. How can this be a viable plan without the proposed walk ways and open spaces they say are so vital for this plan. If Trails are so controversial, then the problems certainly needs to be worked out before any plan is accepted.

The plan also states the trails will be located next to canals.

**POLICY OS-1.1 JOINT USE OF OPEN SPACES.**

*• Establish joint-use agreements with the Fresno Irrigation District to provide public access to areas adjacent to canals and creeks. These agreements should address issues associated with the provision of canal side trails, where appropriate.” Page 54 SEDA plan.*

Irrigation canals operated by Fresno Irrigation District are usually on private property in the SEDA area and, therefore, would have to be obtained by Eminent Domain or other means. These canals are dangerous when filled with irrigation water and certainly are a safety hazard. These issues need to be worked out publicly before this plan can go forward.

In the Next Steps statement of the SEDA plan, page 13, they have placed **Complete a Parks and Trails Master Plan to Determine Locations for Parks and Trails after Amend the General Plan and Development Code to Implement the Land Use and Zoning Described in the Plan.**

*Under the section OBJECTIVE OS-4 PARKS AND TRAILS MASTER PLAN it states,*

***Prior to the design and construction of the SEDA trail system, a SEDA Parks and Trails Master Plan will need to be completed that would define the final location and alignment of trails that encompass the following open space opportunities below:***

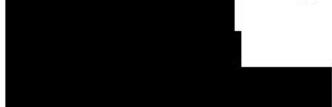
*Multi-Use Trails • Establish a planned network of multi-use greenway trails. These trails will serve bicyclists, pedestrians, and, where appropriate, equestrians. • Cross sections and width requirements will be provided for specific conditions—including canal side, open space, streetside, and farm side trails. Regional Trails • Coordinate regional trail planning with Fresno County, the City of Clovis, and other jurisdictions as appropriate. The City of Fresno Active Transportation Plan calls for Class I Bicycle Paths along each canal in the SEDA. A regional Rails to Trails Bicycle Path is planned to run parallel to California Avenue should existing railroad lines be vacated. Trail Standards • Trails shall be designed with features that encourage use, provide safety, and are resource efficient. Trail standards shall address shading, low-water landscaping, fencing, paving and surface materials, lighting, seating and furniture, ADA access requirements, signage, and intersection treatments.” Page 58.*

The SEDA Parks and Trails Master Plan need to be included in the EIR and the plan now. If the plan is calling for trails and open spaces to be a vital part of the plan, these areas need to be included in the zoning maps at the beginning, not some time later when they hope people have forgotten about it. Please put in the plan maps what the plan is calling for so the public can comment whether their ideas for trails and parks in the SEDA area would be acceptable or not.

The SEDA plan should not be accepted until the issues with the trails can be worked out and included in the EIR. I respectfully request you do not support the SEDA plan, its EIR report and the adoption of a text amendment to put it in the General Plan.

Sincerely yours,

Dr. David W. Ramming





December 17, 2025

*Sent via email*

City of Fresno  
Planning and Development Department  
Sophia Pagoulatos, Planning Manager  
2600 Fresno Street, Room 3065  
Fresno, CA 93721  
[longrangeplanning@fresno.gov](mailto:longrangeplanning@fresno.gov)

**Re: Final Environmental Impact Report for the Fresno Southeast Development Area Specific Plan (SCH # 2022020486)**

Dear Ms. Pagoulatos:

These comments are submitted on behalf of the Center for Biological Diversity (the “Center”) regarding the Final Environmental Impact Report for the Fresno Southeast Development Area Specific Plan (SCH # 2022020486) (the “Project”). The Center has reviewed the Final Environmental Impact Report (“FEIR”) closely and is concerned about the City’s inadequate response to the serious environmental issues raised by the Center and other commenters. The Center joins the concerns raised by the Sierra Club, Central Valley Partnership and League of Women Voters in their December 9, 2025 comment letter. The Center urges the City of Fresno to revise the EIR to fully disclose, analyze, and mitigate all impacts in compliance with CEQA.

The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 1.7 million members and online activists throughout California and the United States. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in Fresno County.

**I. THE EIR IGNORES EVIDENCE OF IMPACTS TO BURROWING OWL AND SWAINSON’S HAWK.**

Despite detailed comments from the Center and CDFW, (FEIR, CBD-2,3,4; CDFW-2), the FEIR fails to adequately analyze and mitigate impacts to burrowing owl and Swainson’s hawk. The Center’s comments point out that Swainson’s hawk in particular depends on agricultural land for foraging habitat, and that loss of habitat is one of the factors driving the species’ decline. (FEIR, CBD-2.) The destruction of possible foraging habitat by the Project must therefore be disclosed and analyzed. (*Ibid.*) In its response, the FEIR ignored this issue in favor of repeating the DEIR’s claim that direct take will be avoided “to the greatest extent

feasible” through the mitigation measures. (FEIR at 1-168.) But this again ignores the loss of foraging habitat. CDFW recommends that any project within a ten-mile radius of an active nest site mitigate for any loss of foraging habitat by protecting off-site Habitat Management lands. (CDFW, 1994) In order to do this, the applicant must conduct protocol surveys not just on the Project site, but also in the surrounding area to find active nest sites. The EIR does not require conservation of compensatory habitat, nor does it require the off-site surveys necessary to know if compensatory habitat would be necessary. The claim that the EIR’s mitigation measures address the impacts to foraging habitat raised by the Center is incorrect.

## **II. THE EIR’S ANALYSIS AND MITIGATION OF GHG EMISSIONS REMAINS INADEQUATE.**

The Center submitted detailed comments showing that the DEIR GHG emissions analysis and mitigation was inadequate as did other members of the public. For example, the DEIR significantly underestimates the Project’s GHG impacts by ignoring the carbon sequestration and storage that would be lost due to Project construction. (FEIR, CBD-11.) In response, the FEIR does nothing to engage with the issue or offer evidence to support its implicit claim that loss of carbon sequestration and storage cannot contribute to a significant environmental impact. (FEIR at 1-172-73.) Instead, the FEIR only reiterates that GHG emissions were calculated using CalEEMod, which is an “accepted, uniform model.” (FEIR at 1-173.)

CalEEMod is a generally accepted model, but this point only highlights the EIR’s inadequacy. CalEEMod was updated in 2022 to include GHG emissions from changes in soil and aboveground and belowground biomass. (CAPCOA, 2022) Precisely because CalEEMod is a well-respected model, the decision to incorporate carbon sequestration and storage represents the scientific consensus that this is an important aspect of GHG impacts from development. But instead of using the version of CalEEMod that represents the best available scientific knowledge—and which was the current version when the Recirculated DEIR was published in February 2025—the EIR instead uses CalEEMod Version 2020.4.0 to report construction and operational emissions. (DEIR at 3.3-37.) This is a violation of CEQA. (CEQA Guidelines §15064.4(b) [Lead agency’s analysis of GHG emissions must “reasonably reflect evolving scientific knowledge”].)

Further, the response notes that the GHG impact is significant, even when carbon storage and sequestration is ignored. Although that is certainly true, it does not diminish the importance of correctly describing the magnitude of that impact and disclosing every aspect of it. (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 514 [“[T]he adequacy of an EIR’s discussion of environmental impacts is an issue distinct from the extent to which the agency is correct in its determination whether the impacts are significant. An EIR’s designation of a particular adverse environmental effect as ‘significant’ does not excuse the EIR’s failure to reasonably describe the nature and magnitude of the adverse effect.”], citing *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 514.)

The FEIR also fails incorporate all feasible mitigation measures to address the Project’s substantial GHG emissions. (See Pub. Res. Code § 21002 [It is the “policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible

mitigation measures which will avoid or substantially lessen the significant environmental effects of such projects.”], CEQA Guidelines §§ 15092(b), 15043, 15126.4(a)(1).) “Even when a project’s benefits outweigh its unmitigated effects, agencies are still required to implement all mitigation measures unless those measures are truly infeasible.” (*Sierra Club, supra*, 6 Cal.5th at pp. 524–525.) The City has failed to demonstrate that it has considered all feasible GHG mitigation measures, including those recommended by expert state agencies. (See AGO 2021; CARB 2022.) This failure violates CEQA and must be rectified either through the adoption of all feasible mitigation measure or explanation from the County on why it is infeasible to mitigate the Project’s significant GHG emissions. Additionally, the County’s failure to take all feasible steps to reduce emissions from this proposed project undermines California’s ability to meet its GHG reduction target. Mitigation of a project’s environmental impacts is one of the “most important” functions of CEQA. (*Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30, 41.)

### **III. THE EIR IGNORES THE IMPACT OF CLIMATE CHANGE ON WATER SUPPLY.**

The Center submitted evidence showing that the climate crisis is already decreasing the availability of surface water and groundwater in California and that the problem will get worse in the coming decades. (FEIR, CBD-6.) Therefore, an analysis of available water supply that relies on historical long-term averages to estimate precipitation or groundwater recharge without accounting for climate-induced changes is not appropriate. (*Ibid.*) The response to this comment, like the original analysis of water supply, nowhere mentions climate change. (FEIR at 1-169-70.) Merely reexplaining the DEIR’s analysis without engaging with the substance of the comments cannot be considered a response to comments.

### **IV. THE FEIR FAILS TO ADEQUATELY RESPOND TO COMMENTS ON THE DRAFT EIR.**

Lead agencies must evaluate public comments on a draft EIR and prepare written responses to those comments for inclusion in the final EIR. (Pub. Res. Code § 21091(d); Guidelines §§ 15088(a), 15132.) The responses must provide “good faith, reasoned analysis” responding to comments raising significant environmental issues. (Guidelines § 15088(c).) Conclusory statements unsupported by specific references to empirical information, scientific authorities, or explanatory information are insufficient as responses to comments on a draft EIR. (Id.) Failure to provide an adequate response to these comments renders an EIR inadequate. (*Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal.App.5th 867, 878-79 [EIR’s response to comments was inadequate because it did not explain why commenters’ suggested mitigation was infeasible].)

For the reasons identified above, the FEIR’s responses to comments are wholly inadequate. The Center and other commentors identified omissions in the EIR’s analysis of environmental impacts and requested that the City include the missing analysis in its EIR for the Project. Instead of supplying the missing analysis, however, the Final EIR’s Responses to Comments sidesteps the issues or avoid responding.

For example, the Center contested the City’s choice to omit the loss of carbon storage and sequestration from its analysis of GHG emissions. In response, the FEIR repeats that the GHG calculations were done with CalEEMod but does not address why carbon storage or sequestration were not included. This response does not address the issue raised in the comment. Similarly, the Center pointed out that the DEIR’s analysis of water supply ignored the inevitable impacts of climate change on water availability, and, in response, the FEIR only lists the sources that informed the water supply analysis. It does not engage with the issue of climate change or explain how the listed sources provide any evidence that the water supply the Project relies on will remain stable as the climate changes. Neither of these responses actually address the significant environmental issue raised in the comment. These examples are just two among many.

Under California law, this EIR cannot properly be certified as a final EIR. CEQA and the CEQA Guidelines describe the circumstances that require recirculation of a draft EIR. Such circumstances include: (1) the addition of significant new information to the EIR after public notice is given of the availability of the DEIR but before certification, or (2) the EIR is so “fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.” (CEQA Guidelines, § 15088.5.)

Here, decisionmakers and the public cannot possibly assess the Project’s impacts through the present EIR, which is riddled with error and does not respond to comments. Among other fundamental deficiencies, the EIR rejects many feasible mitigation measures without evidence, fails to even consider many feasible and effective mitigation measures, fails to include an adequate range of alternatives and repeatedly underestimates the Project’s significant impacts. In order to resolve these issues, the City must prepare a revised EIR that would necessarily include substantial new information and recirculate it.

## V. CONCLUSION

Thank you for the opportunity to submit comments on the Final Environmental Impact Report for the Fresno Southeast Development Area Specific Plan. We urge the City to revise the EIR to address the issues detailed here and recirculate the FEIR after ensuring the environmental review complies with all applicable laws.

Given the possibility that the Center will be required to pursue legal remedies in order to ensure that the City complies with its legal obligations including those arising under CEQA, we would like to remind the City of its statutory duty to maintain and preserve all documents and communications that may constitute part of the “administrative record” of this proceeding. (§ 21167.6(e); *Golden Door Properties, LLC v. Superior Court* (2020) 53 Cal.App.5th 733, 762-65.) The administrative record encompasses any and all documents and communications that relate to any and all actions taken by the City with respect to the Project, and includes “pretty much everything that ever came near a proposed [project] or [] the agency’s compliance with CEQA...” (*County of Orange v. Superior Court* (2003) 113 Cal.App.4th 1, 8.) The administrative record further includes all correspondence, emails, and text messages sent to or received by the City’s representatives or employees, that relate to the Project, including any correspondence, emails, and text messages sent between the City’s representatives or employees and the Applicant’s representatives or employees. Maintenance and preservation of the

administrative record requires that, *inter alia*, the City (1) suspend all data destruction policies; and (2) preserve all relevant hardware unless an exact replica of each file is made.

Please add the Center to your notice list for all future updates to the Project and do not hesitate to contact the Center with any questions at the number or email listed below.

Sincerely,



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## **References**

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**CalEEMod**  
California Emissions Estimator Model

Appendix H  
Comparison to CalEEMod Version 2020.4.0

Prepared for:  
**California Air Pollution Control Officers Association  
(CAPCOA)**

Prepared by:  
**ICF**  
in collaboration with  
**Sacramento Metropolitan Air Quality Management  
District, Fehr & Peers, STI, and Ramboll**

**April 2022**  
**CalEEMod Version 2022.1**

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## 1 What key updates are included in CalEEMod Version 2022.1?

Table H-1 provides a general comparison of key functions and features between CalEEMod Version 2022.1 and the prior version of CalEEMod (Version 2020.4.0). Table H-2 provides a more detailed comparison of the individual data fields for these two versions. The table identifies the data field names for both versions of CalEEMod. It further notes if the data field itself or if the assumptions/ analytics underlying defaults (if any) are new, updated, not updated, or removed in CalEEMod Version 2022.1. Table H-3 compares the quantified emission reduction measures in CalEEMod Version 2022.1 to the prior version, noting if the measure is new, removed, updated, or not updated. All climate risk reduction and health and equity measures are new and are therefore not specifically identified in Table H-3.

## 2 What key updates are included in the User Guide for CalEEMod Version 2022.1?

The User Guide is comprised of the main document plus Appendices A through H. Table H-4 contains a list of the changes that were made to reflect the updates contained in CalEEMod version 2022.1, relative to the prior version of CalEEMod (version 2020.4.0). Please note that several of the appendices have been renumbered.

**Table H-1. General Comparison of CalEEMod 2022.1 with Previous CalEEMod (Version 2020.4.0)**

Function or Feature	CalEEMod 2022.1	CalEEMod Version 2020.4.0
Accessing the program	Web-based program accessed directly through a browser at <a href="http://www.caleemod.com">http://www.caleemod.com</a> .	Downloadable program that required user installation.
Navigating the interface (i.e., key features)	<ul style="list-style-type: none"> <li>Top Bar located in the top right-hand corner of the interface has options to create a new model run, open a saved model run, or delete a prior run.</li> <li>Next/back buttons are the same as CalEEMod 2020.4.0.</li> <li>Side Navigation Bar located on the left-hand side of the interface to navigate across non-sequential screens.</li> <li>Tabular View and Data List View display values for variables in two different viewing modes, depending on user preference.</li> </ul>	<ul style="list-style-type: none"> <li>“Home” on the Menu Bar has options to create a new model run, open a saved model run, save the model run, or exit the program.</li> <li>Next button in lower right corner of interface to move between sequential screens.</li> <li>Menu Bar located at the top of the interface to quickly navigate across non-sequential screens.</li> <li>Data Grid where values for variables defined across the top of the grid are to be filled in with data.</li> </ul>
Creating a model run	<ul style="list-style-type: none"> <li>Option 1: From the <b>Home</b> screen, click the “New Project” button.</li> <li>Option 2: Click the Top Bar and click the “New Project” button.</li> <li>Option 3: From the <b>Home</b> screen, click the <b>Map</b> component on the Side Navigation Bar.</li> </ul>	<ul style="list-style-type: none"> <li>Option 1: Each time the program is opened, the Project Characteristics screen defaulted to a new model run.</li> <li>Option 2: If the program was already open, users click “Home” on the Menu Bar, and then “New Project.”</li> </ul>
Saving a model run	Progress on a model run is automatically saved because projects are automatically cached.	To not lose progress on a model run before closing the program, users click “Home” on the Menu Bar, then “Save” or “Save as” to download an .xls input file of the model run.
Opening a saved model run (cached or local file)	Users click the Top Bar and then click the project’s name.	Users click “Home” on the Menu Bar, then “Open Project” to upload the previously saved .xls input file of the model run.
Downloading a model run	Users click the Top Bar, select the desired model run by checking the box to the left of the project name, and click the down arrow icon to download a .json input file of the model run.	Same as saving a model run (see above).

Function or Feature	CalEEMod 2022.1	CalEEMod Version 2020.4.0
Uploading a model run (i.e., accessing a non-cached or non-local model run)	<p>Provide the .json input file to the intended recipient. Recipient opens <a href="http://caleemod.com">caleemod.com</a> on their computer.</p> <ul style="list-style-type: none"> <li>Option 1: Click the Top Bar and click the up arrow icon to upload the .json input file of the model run.</li> </ul> <p>Option 2: From the <b>Home</b> screen, click the “Upload Project” button.</p>	Same as opening a saved model run (see above).
Deleting a model run	Click the Top Bar, select the desired model run by checking the box to the left of the project name, and click the trash can icon.	User clicks “Home” on the Menu Bar, then “New Project,” then “OK.”
Exiting the program	<ul style="list-style-type: none"> <li>Less applicable. Simply close the tab in your browser.</li> </ul>	<ul style="list-style-type: none"> <li>Option 1: Click “Home” on the Menu Bar, then “Exit.”</li> <li>Option 2: Click the “X” icon in the top-right corner of the program.</li> </ul>
Troubleshooting the program (i.e., technical issues associated with downloading, installing, and running the model).	Send an email to <a href="mailto:caleemod@airquality.org">caleemod@airquality.org</a>	<p>Sent an email to</p> <p>CalEEMod_TechSupport@trinityconsultants.com.</p>

**Table H-2. Comparison of Data Fields in CalEEMod 2022.1 with Previous CalEEMod (Version 2020.4.0)**

CalEEMod Version 2022.1 Data Field or Button	CalEEMod Version 2020.4.0 Data Field or Button	Comparison
<b>Home</b>		
New Project	New Project	Described above in Table H-1.
Upload Project	Open Project	Described above in Table H-1.
<b>Start a New Project</b>		
Project Name	Project Name	Not updated
Land Use Scale	-	New
Land Use Type	n/a (defined in the Land Use screen)	Updated
Land Use Subtype	n/a (defined in the Land Use screen)	Updated
<b>Define Project Center Point</b>		
All	-	All new.
<b>Map</b>	-	All new.
<b>Project Detail (formerly Project Characteristics)</b>		
Project Name	Project Name	Not updated
Automatic Updates to Default Values	Cascade Defaults and Default button	Updated
Lead Agency	-	New
Quantify emissions for [ ]	-	New
Locational Context	Land Use Setting from Mitigation screen	Updated
Analysis Level for Defaults	-	New
County	Project Location	Not updated

CalEEMod Version 2022.1 Data Field or Button	CalEEMod Version 2020.4.0 Data Field or Button	Comparison
Air District	Project Location	Updated
Air Basin	Project Location	Not updated
Windspeed	Windspeed	Updated
Precipitation days per year	Precipitation Frequency	Updated
CEC California Electricity Demand Forecast Zone	CEC Forecasting Climate Zone	Updated
TAZ	-	New
Start of Construction	Start of Construction	Not updated
Operational Year	Operational Year	Not updated
-	CEC Forecasting Climate Zone Look-up button	Removed (EDFZ automatically identified based on user identified location)
-	Apply EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFe Vehicle Rule	Removed (emission factors account for SAFe Rule)
<b>Utility Information</b>		
Electric Utility	Select Utility Company from Project Characteristics screen	Updated
Operations GHG Emission Factors (electricity)	-	New
Gas Utility	-	New
CO <sub>2</sub> Intensity Factor	CO <sub>2</sub> Intensity Factor from Project Characteristics screen	Updated
CH <sub>4</sub> Intensity Factor	CH <sub>4</sub> Intensity Factor from Project Characteristics screen	Updated

CalEEMod Version 2022.1 Data Field or Button	CalEEMod Version 2020.4.0 Data Field or Button	Comparison
N <sub>2</sub> O Intensity Factor	N <sub>2</sub> O Intensity Factor from Project	Updated
<b>Pollutants</b>		
Total Organic Gases (TOG)	-	New
Reactive Organic Gases (ROG)	Reactive Organic Gases (ROG) from Project Characteristics screen	Not updated
Carbon Monoxide (CO)	Carbon Monoxide (CO) from Project Characteristics screen	Not updated
Sulfur Dioxide (SO <sub>2</sub> )	Sulfur Dioxide (SO <sub>2</sub> ) from Project Characteristics screen	Not updated
Particulate Matter 10 Exhaust (PM10 Ex)	Particulate Matter 10um (PM10) from Project Characteristics screen	Not updated
Particulate Matter 2.5 Exhaust (PM2.5 Ex)	Particulate Matter 2.5um (PM2.5) from Project Characteristics screen	Not updated
Particulate Matter 10 Dust (PM10 Dust)	Fugitive 10 um (PM10) from Project Characteristics screen	Not updated
Particulate Matter 2.5 Dust (PM2.5 Dust)	Fugitive 2.5 um (PM2.5 Dust) from Project Characteristics screen	Not updated
Particulate Matter 10 Total (PM10 Total)	-	New
Particulate Matter 2.5 Total (PM2.5 Total)	-	New
Biogenic Carbon Dioxide (CO <sub>2</sub> )	Biogenic Carbon Dioxide (CO <sub>2</sub> ) from Project Characteristics screen	Not updated
Non-Biogenic Carbon Dioxide (CO <sub>2</sub> )	Non-Biogenic Carbon Dioxide (CO <sub>2</sub> ) from Project Characteristics screen	Not updated
Carbon Dioxide (CO <sub>2</sub> )	Carbon Dioxide (CO <sub>2</sub> ) from Project Characteristics screen	Not updated

CalEEMod Version 2022.1 Data Field or Button	CalEEMod Version 2020.4.0 Data Field or Button	Comparison
Methane (CH <sub>4</sub> )	Methane (CH <sub>4</sub> ) from Project Characteristics screen	Not updated
Nitrous Oxide (N <sub>2</sub> O)	Nitrous Oxide (N <sub>2</sub> O) from Project Characteristics screen	Not updated
Refrigerants (CO <sub>2</sub> e)	-	New
CO <sub>2</sub> Equivalent GHGs (CO <sub>2</sub> e)	CO <sub>2</sub> Equivalent GHGs (CO <sub>2</sub> e) from Project Characteristics screen	Not updated
Construction Thresholds - Daily	-	New
Construction Thresholds - Quarterly	-	New
Construction Thresholds - Annual	-	New
Operations Thresholds - Daily	-	New
Operations Thresholds - Quarterly	-	New
Operations Thresholds - Annual	-	New
<b>Land Use</b>		
Type	Land Use Type	Updated
Subtype	Land Use Subtype	Updated
Unit	Unit Amount	Updated
Size	Size Metric	Updated
Lot Acreage	Lot Acreage	Updated
Building Square Feet	Square Feet	Updated
Landscape Area	-	New
Special Landscape Area	-	New

CalEEMod Version 2022.1 Data Field or Button	CalEEMod Version 2020.4.0 Data Field or Button	Comparison
Recreational Building Area	Recreational Swimming Pool Building Square Feet	Not Updated
Population	Population	Updated
Description	-	New
Predominant Soil/Site Soil Type	-	New
<b>Construction Phases</b>		
Enable Auto-Scheduler	n/a (automatic)	Updated
Phase Name - Vertical Construction	Phase Name	Not updated
Phase Type - Vertical Construction	Phase Type	Not updated
Start Date - Vertical Construction	Start Date	Not updated
End Date - Vertical Construction	End Date	Not updated
Days/Week - Vertical Construction	Days/Week	Updated
Work Days per Phase - Vertical Construction	Total Days	Not updated
Phase Description - Vertical Construction	Phase Description	Not updated
Linear Land Use Type Construction Workdays	-	New
Phase Name - Linear Construction	-	New
Phase Type - Linear Construction	-	New
Start Date - Linear Construction	-	New
End Date - Linear Construction	-	New
Days/Week - Linear Construction	-	New

CalEEMod Version 2022.1 Data Field or Button	CalEEMod Version 2020.4.0 Data Field or Button	Comparison
Work Days per Phase - Linear Construction	-	New
Phase Description - Linear Construction	-	New
<b>Off-Road Equipment</b>		
Equipment Type	Equipment Type	Not updated
Fuel Type	-	New
Engine Tier	-	New
Number/Day	Unit Amount	Not updated
Hours/Day	Hours/Day	Not updated
Horsepower	HorsePower (HP)	Updated
Load Factor	Load Factor	Updated
<b>Off-Road Equipment Emission Factors</b>		
All fields	-	New
<b>Dust from Material Movement</b>		
Water Exposed Area	-	New
Frequency	-	New
PM10 % Reduction	-	New
PM2.5 % Reduction	-	New
Phase Type	Phase Name	Updated
Material Imported	Material Imported	Not updated
Material Exported	Material Exported	Not updated
Size Metric	Size Metric	Not updated

CalEEMod Version 2022.1 Data Field or Button	CalEEMod Version 2020.4.0 Data Field or Button	Comparison
Material Import/Export Phased?	Material Import/Export Phased?	Not updated
Mean Vehicle Speed	Mean Vehicle Speed	Not updated
Total Acres Graded	Total Acres Graded	Not updated
Material Moisture Content Bulldozing	Material Moisture Content Bulldozing	Not updated
Material Moisture Content Truck Loading	Material Moisture Content Truck Loading	Not updated
Material Silt Content	Material Silt Content	Not updated
<b>Demolition</b>		
Water Demolished Area	-	New
Frequency	-	New
PM10 % Reduction	-	New
PM2.5 % Reduction	-	New
Phase Name	Phase Name	Updated
Phase Type	-	New
Size Metric	Size Metric	Not updated
Unit Amount	Unit Amount	Not updated
<b>Trips and VMT</b>		
Worker and Vendor Trip Length Data Source	-	New
One-Way Trips/day - Worker	# Trips Worker	Not updated
Trip Length - Worker	Trip Length Worker	Updated
Vehicle Class - Worker	Vehicle Class Worker	Updated
One-Way Trips/day - Vendor	# Trips Vendor	Not updated

CalEEMod Version 2022.1 Data Field or Button	CalEEMod Version 2020.4.0 Data Field or Button	Comparison
Trip Length - Vendor	Trip Length Vendor	Updated
Vehicle Class - Vendor	Vehicle Class Vendor	Not updated
One-Way Trips/day - Hauling	# Trips Hauling	Not updated
Trip Length - Hauling	TripLength Hauling	Not updated
Vehicle Class - Hauling	Vehicle Class Hauling	Not updated
One-Way Trips/day - Onsite truck	-	New
Trip Length - Onsite truck	-	New
Vehicle Class - Onsite truck	-	New
<b>On-Road Fugitive Dust</b>		
Control Strategy	-	New
Strategy Active - Water unpaved roads twice daily	-	New
Strategy Active - Apply dust suppressants to unpaved roads	-	New
Strategy Active - Limit vehicle speeds on unpaved roads to 25 mph	-	New
Strategy Active - Sweep paved roads once per month	-	New
PM2.5 % Reduction	-	New
PM10 % Reduction	-	New
Phase Name	Phase Name	Not updated
% Pave Worker	% Pave Worker	Not updated

CalEEMod Version 2022.1 Data Field or Button	CalEEMod Version 2020.4.0 Data Field or Button	Comparison
% Pave Vendor	% Pave Vendor	Not updated
% Pave Hauling	% Pave Hauling	Not updated
% Pave Onsite Truck	-	New
Road Silt Loading	Road Silt Loading	Not updated
Material Silt Content	Material Silt Content	Not updated
Material Moisture Content	Material Moisture Content	Not updated
Average Vehicle Weight	Average Vehicle Weight	Not updated
Mean Vehicle Speed	Mean Vehicle Speed	Not updated
<b>Architectural Coatings</b>		
Phase Name	Phase Name	Updated
Phase Type	-	New
Residential Interior VOC	Residential Interior VOC	Updated
Non Residential Interior VOC	Non Residential Interior VOC	Updated
Residential Exterior VOC	Residential Exterior VOC	Updated
Non Residential Exterior VOC	Non Residential Exterior VOC	Updated
VOC for Parking Paint/Linear Paint	VOC for Parking Lot Paint	Updated
Residential Interior Area	Residential Interior Area	Not updated
Non Residential Interior Area	Non Residential Interior Area	Not updated
Residential Exterior Area	Residential Exterior Area	Not updated
Non Residential Exterior Area	Non Residential Exterior Area	Not updated

CalEEMod Version 2022.1 Data Field or Button	CalEEMod Version 2020.4.0 Data Field or Button	Comparison
Parking/Linear Area	Parking Area	Not updated
<b>Paved Area</b>		
All fields	-	New
<b>Electricity</b>		
All fields	-	New
<b>Vehicle Data – Default (formerly Vehicle Trips)</b>		
VMT Estimation Source	-	New
Land Use Subtype	Land Use SubType	n/a (defined in the Land Use screen)
Size	Size Metric	n/a (defined in the Land Use screen)
Weekday Trip Rate	WkDy Trip Rate	Not updated
Saturday Trip Rate	Sat Trip Rate	Not updated
Sunday Trip Rate	Sun Trip Rate	Not updated
Res H-W Trip Length	Res H-W Trip Length	Updated
Res H-S Trip Length	Res H-S Trip Length	Updated
Res H-O Trip Length	Res H-O Trip Length	Updated
Non Res H-W Trip Length	-	New
Non Res W-O Trip Length	-	New
Non Res O-O Trip Length	-	New
Weekday Primary Trip	Primary Trip	Updated
Weekday Divert Trip	Divert Trip	Updated
Weekday Pass-By Trip	Pass-By Trip	Updated

CalEEMod Version 2022.1 Data Field or Button	CalEEMod Version 2020.4.0 Data Field or Button	Comparison
Saturday Primary Trip	-	New
Saturday Divert Trip	-	New
Saturday Pass-By Trip	-	New
Sunday Primary Trip	-	New
Sunday Divert Trip	-	New
Sunday Pass-By Trip	-	New
Res H-W Trip	Res H-W Trip	Updated
Res H-S Trip	Res H-S Trip	Updated
Res H-O Trip	Res H-O Trip	Updated
Non Res H-W Trip	-	New
Non Res W-O Trip	-	New
Non Res O-O Trip	-	New
	Non Res C-C Trip Length	Removed
	Non Res C-W Trip Length	Removed
	Non Res C-NW Trip Length	Removed
	Non Res C-C Trip	Removed
	Non Res C-W Trip	Removed
	Non Res C-NW Trip	Removed
<b>Vehicle Data - Manual</b>		
All fields	-	New

CalEEMod Version 2022.1 Data Field or Button	CalEEMod Version 2020.4.0 Data Field or Button	Comparison
<b>Fleet Mix</b>		
Land Use Subtype	Land Use SubType	n/a (defined in the Land Use screen)
Season	-	New
LDA through MH	LDA through MH	Updated
<b>Vehicle Emission Factors (formerly Vehicle Emissions – Annual/Summer/Winter)</b>		
Operational Year	-	New
TOG through N <sub>2</sub> O	TOG through N <sub>2</sub> O	Updated
<b>Road Dust</b>		
CARB Unmitigated Unpaved Road Statewide Emission Inventory Method	CARB Unmitigated Unpaved Road Statewide Emission Inventory Method	Not updated
% Paved	% Pave	Not updated
Road Silt Loading	Road Silt Loading	Not updated
Material Silt Content	Material Silt Content	Not updated
Material Moisture Content	Material Moisture Content	Not updated
Average Vehicle Weight	Average Vehicle Weight	Not updated
Mean Vehicle Speed	Mean Vehicle Speed	Not updated
<b>Hearths</b>		
Land Use Subtype	Residential Land Use SubType	n/a (defined in the Land Use screen)
# Wood	# Wood	Updated
# Gas	# Gas	Updated
# Propane	# Propane	Updated

CalEEMod Version 2022.1 Data Field or Button	CalEEMod Version 2020.4.0 Data Field or Button	Comparison
# Electric	-	New
# Without Fireplace	# No Fireplace	Updated
Hours/Day	Hours/Day	Updated
Days/Year	Days/Year	Updated
Wood Mass	Wood Mass	Updated
# Conventional	# Conventional	Updated
# Catalytic	# Catalytic	Updated
# Non-Catalytic	# Non-Catalytic	Updated
# Pellet	# Pellet	Updated
Days/Year	Days/Year	Updated
Wood Mass	Wood Mass	Updated
<b>Consumer Products</b>		
General Category Emission Factor	General Category Emission Factor	Not updated
City Park/Golf Course, Pesticides/Fertilizers Emission Factor	City Park/Golf Course, Pesticides/Fertilizers Emission Factor	Updated
Parking Degreaser Emission Factor	Parking Degreaser Emission Factor	Updated
<b>Architectural Coatings</b>		
Reapplication Rate Per Year	Reapplication Rate	Not updated
Residential Interior VOC Content	Residential Interior VOC Emission Factor	Updated
Non Residential Interior VOC Content	Non Residential Interior VOC Emission Factor	Updated

CalEEMod Version 2022.1 Data Field or Button	CalEEMod Version 2020.4.0 Data Field or Button	Comparison
Residential Exterior VOC Content	Residential Exterior VOC Emission Factor	Updated
Non Residential Exterior VOC Content	Non Residential Exterior VOC Emission Factor	Updated
Parking Paint VOC Content	Parking VOC Emission Factor	Updated
Residential Interior Coated Area	Residential Interior Square Footage	Not updated
Non Residential Interior Coated Area	Non Residential Interior Square Footage	Not updated
Residential Exterior Coated Area	Residential Exterior Square Footage	Not updated
Non Residential Exterior Coated Area	Non Residential Exterior Square Footage	Not updated
Parking Coated Area	Parking Square Footage	Updated
<b>Landscape Equipment – Default</b>		
Snow Days	Snow Days	Updated
Summer Days	Summer Days	Updated
<b>Landscape Equipment – Manual</b>		
All fields	-	New
<b>Energy Use - Default and Manual</b>		
Land Use Subtype	Land Use SubType	n/a (defined in the Land Use screen)
Total Electricity	-	New
Total Natural Gas	-	New
Title 24 Electricity	-	New
Title 24 Natural Gas	-	New
Non Title 24 Electricity	-	New

CalEEMod Version 2022.1 Data Field or Button	CalEEMod Version 2020.4.0 Data Field or Button	Comparison
Non Title 24 Natural Gas	-	New
-	Title 24 Electricity Energy Intensity	Removed
-	Title 24 Natural Gas Energy Intensity	Removed
-	Lighting Energy Intensity	Removed
-	Non-Title 24 Electricity Energy Intensity	Removed
-	Non-Title 24 Natural Gas Energy Intensity	Removed
<b>Water and Wastewater</b>		
Land Use SubType	Land Use SubType	n/a (defined in the Land Use screen)
Indoor Water Use	Indoor Water Use	Updated
Include Precipitation	-	New
Outdoor Water use	Outdoor Water use	Updated
Electricity Intensity Factor to Supply	Electricity Intensity Factor to Supply	Updated
Electricity Intensity Factor to Treat	Electricity Intensity Factor to Treat	Updated
Electricity Intensity Factor to Distribute	Electricity Intensity Factor to Distribute	Updated
Electricity Intensity Factor for Wastewater Treatment	Electricity Intensity Factor for Wastewater Treatment	Updated
% of Wastewater Treated by Septic Tank	Septic Tank	Not updated
% of Wastewater Treated by Aerobic	Aerobic	Not updated
% of Wastewater Treated by Facultative Lagoons	Facultative Lagoons	Not updated

CalEEMod Version 2022.1 Data Field or Button	CalEEMod Version 2020.4.0 Data Field or Button	Comparison
% of Wastewater Solids Treated by Anaerobic Digester with Combustion of Digester Gas	Anaerobic Digester with Combustion of Digester Gas	Not updated
% of Wastewater Solids Treated by Anaerobic Digestion with Cogeneration from Combustion of Digester Gas	Anaerobic Digestion with Cogeneration from Combustion of Digester Gas	Not updated
-	Size Metric	Removed
<b>Solid Waste</b>		
Land Use Subtype	Land Use SubType	n/a (defined in the Land Use screen)
Unit	-	New
Size	Size Metric	Not updated
Solid Waste Generation Rate	Solid Waste Generation Rate	Updated
Landfill No Gas Capture	Landfill No Gas Capture	Not updated
Landfill Capture Gas Flare	Landfill Capture Gas Flare	Not updated
Landfill Capture Gas Energy Recovery	Landfill Capture Gas Energy Recovery	Not updated
<b>Refrigerants</b>		
All fields	-	New
<b>Off-Road Equipment</b>		
Equipment Type	Equipment Type	Not updated
Fuel Type	Fuel Type	Updated
Engine Tier	-	New
# per Day	Number of Equipment	Not updated

CalEEMod Version 2022.1 Data Field or Button	CalEEMod Version 2020.4.0 Data Field or Button	Comparison
Hours/Day	Hours/Day	Not updated
Days/Year	Days/Year	Not updated
Horsepower	HorsePower (HP)	Updated
Load Factor	Load Factor	Updated
-	Equipment Description	Removed
<b>Off-Road Equipment Emission Factors</b>		
All fields	-	New
<b>Emergency Generators and Fire Pumps</b>		
Equipment Type	Equipment Type	Not updated
Fuel Type	Fuel Type	Updated
# per Day	Number of Equipment	Not updated
Hours/Day	Hours/Day	Not updated
Hours/Year	Hours/Year	Not updated
Horsepower	HorsePower (HP)	Not updated
Load Factor	Load Factor	Not updated
Description	Equipment Description	Not updated
<b>Generators/Pump Emission Factors (formerly Generators / Fire Pumps EF)</b>		
TOG to N <sub>2</sub> O	TOG to CH <sub>4</sub>	Updated
<b>Process Boilers</b>		
Boiler	Equipment Type	Not updated
Count	Number of Equipment	Not updated

CalEEMod Version 2022.1 Data Field or Button	CalEEMod Version 2020.4.0 Data Field or Button	Comparison
Fuel Type	Fuel Type	Not updated
Boiler Rating	Boiler Rating	Not updated
Daily Heat Input	Daily Heat Input	Not updated
Annual Heat Input	Annual Heat Input	Not updated
<b>Boilers Emission Factors (formerly Boilers EF)</b>		
TOG to N <sub>2</sub> O	TOG to CH <sub>4</sub>	Updated
<b>User Defined</b>		
Equipment Type	Equipment Type	Not Updated
Fuel Type(s)	Fuel Type(s)	Not Updated
Emission Factor Pollutants (all)	TOG through CH <sub>4</sub>	Not Updated
<b>Land Use Change</b>		
Soil Carbon Accumulation - Vegetation Land Use Type	Vegetation Land use Type	Updated
Soil Carbon Accumulation - Vegetation Soil	Vegetation Land Use Subtype	Updated
Soil Carbon Accumulation - CO <sub>2</sub> Accumulation	-	New
Soil Carbon Accumulation - Initial Acres	Initial Acres	Not Updated
Soil Carbon Accumulation - Final Acres	Final Acres	Not Updated
Above and Belowground Biomass Carbon Accumulation - Cover Type	-	New
Above and Belowground Biomass Carbon Accumulation - CO <sub>2</sub> Accumulation	-	New

CalEEMod Version 2022.1 Data Field or Button	CalEEMod Version 2020.4.0 Data Field or Button	Comparison
Above and Belowground Biomass Carbon Accumulation - Initial Acres	Initial Acres	Not Updated
Above and Belowground Biomass Carbon Accumulation - Final Acres	Final Acres	Not Updated
-	Annual CO <sub>2</sub> accumulation per acre	Removed
<b>Sequestration</b>		
Operations Lifetime	-	New
Removed Trees - Species	Broad Species Class	Updated
Removed Trees - Number	Number of New Trees	Not Updated
Removed Trees - CO <sub>2</sub> Avoided through PM2.5 Removed	-	New
Added Trees - Species	Broad Species Class	Updated
Added Trees - Number	Number of New Trees	Not Updated
Added Trees - CO <sub>2</sub> Avoided through PM2.5 Removed	-	New
-	Annual CO <sub>2</sub> accumulation per tree	Removed
<b>Climate Risk</b>		
All fields	-	New
<b>Emission Reduction (formerly Mitigation)</b>		
Described below in Table H-3.	Described below in Table H-3.	Described below in Table H-3.
<b>Climate Risk Reduction</b>		
All fields	-	New

CalEEMod Version 2022.1 Data Field or Button	CalEEMod Version 2020.4.0 Data Field or Button	Comparison
<b>Health &amp; Equity</b>		
All fields	-	New
<b>Results</b>		
All fields	-	New
<b>Report (formerly Reporting)</b>		
Summary Report	Summary Report	Updated
Quarterly Report	Embedded in other reports	Updated
Detailed Report	Annual, Summer, and Winter	Updated
Custom Report	-	New
Download PDF	Export PDF	Updated
Download CSV	Export Excel	Updated
Downloaded Excel	Export Excel	Updated
-	Export Word	Removed
-	Recalculate All Emissions and Run Report	n/a (automatic)
<b>Help (from CalEEMod Version 2020.4.0)</b>		
-	Help on the Current Page button	Removed
-	About... button	Removed
- = N/A or not updated		

**Table H-3. Comparison of Emission Reduction Measures in CalEEMod 2022.1 with Previous CalEEMod (Version 2020.4.0)**

CalEEMod Version 2022.1 Measure	CalEEMod Version 2020.4.0 Measure	Comparison
<b>Construction</b>		
C-1-A	C-1	Updated
C-1-B	C-1	Not updated
C-3	-	New measure
C-5	C-1	Updated
C-6	C-1	Not updated
C-7	Unnumbered but named "Oxidation Catalyst (%Reduction)"	Not updated
C-8	-	New measure
C-9	Unnumbered but named "Soil Stabilizer for Unpaved Roads"	Not updated
C-10-A	Unnumbered but named "Water Exposed Surfaces"	Updated
C-10-B	-	New measure
C-10-C	-	New measure
C-11	Unnumbered but named "Unpaved Road Mitigation"	Updated
C-12	Unnumbered but named "Clean Paved Road"	Updated
C-13	-	New measure
-	Unnumbered but named "Replace Ground Cover of Area Disturbed"	Removed measure (wind erosion is not a quantified source)
<b>Transportation</b>		
T-1	LUT-1	Updated
T-2	LUT-3	Updated
T-3	-	New Measure
T-4	LUT-6	Updated
T-5	TRT-1, TRT-2	Updated
T-6	TRT-1, TRT-2	Updated
T-7	TRT-7	Updated

CalEEMod Version 2022.1 Measure	CalEEMod Version 2020.4.0 Measure	Comparison
T-8	TRT-3	Updated
T-9	TRT-4	Updated
T-10	-	New measure
T-12	TRT-14	Updated
T-13	TRT-15	Updated
T-15	PDT-1	Updated
T-16	PDT-2	Updated
T-17	LUT-9	Updated
T-18	SDT-1	Updated
T-19-A	-	New measure
T-19-B	-	New measure
T-20	-	New measure
T-21-A	-	New measure
T-21-B	SDT-3	Updated
T-22-A	-	New measure
T-22-B	-	New measure
T-22-C	-	New measure
T-23	-	New measure
T-24	PDT-3	Updated
T-25	TST-3	Updated
T-27	-	New measure
T-29	TRT-4	Updated
-	TRT-13	Removed (now qualitative or supporting)
-	TRT-6	Removed (now qualitative or supporting)
-	TRT-11	Removed (now qualitative or supporting)
-	LUT-4	Removed (now qualitative or supporting)
-	LUT-5	Removed (now qualitative or supporting)

CalEEMod Version 2022.1 Measure	CalEEMod Version 2020.4.0 Measure	Comparison
-	SDT-2	Removed (now qualitative or supporting)
-	TST-1	Removed (now qualitative or supporting)
-	TST-4	Removed (now qualitative or supporting)
<b>Energy</b>		
E-1	BE-1	Updated
E-2	BE-4	Updated
E-4	-	New measure
E-5	-	New measure
E-6	-	New measure
E-10-A	AE-1, AE-2, AE-3	Updated
E-10-B	AE-1, AE-2, AE-3	Updated
E-10-C	AE-1, AE-2, AE-3	Updated
E-11	-	New measure
E-12-A	-	New measure
E-12-B	-	New measure
E-13	-	New measure
E-15	-	New measure
E-16	-	New measure
E-17	-	New measure
-	LE-1	Removed (now qualitative or supporting)
<b>Water</b>		
W-1	WSW-1	Updated
W-2	WSW-2	Updated
W-3	-	New measure
W-4	WUW-1	Updated
W-5	WUW-3, WUW-4	Updated
W-6	WUW-5	Updated

CalEEMod Version 2022.1 Measure	CalEEMod Version 2020.4.0 Measure	Comparison
W-7	WUW-2	Updated
<b>Waste</b>		
S-1/S-2	SW-1	Not updated
<b>Refrigerants</b>		
R-1	-	New measure
R-2	-	New measure
R-3	-	New measure
R-4	-	New measure
R-5	-	New measure
R-6	-	New measure
<b>Natural Lands</b>		
N-1	-	New measure
N-2	-	New measure
<b>Area Source</b>		
AS-1	Unnumbered but named "Use Low VOC Cleaning Supplies."	Not updated
AS-2	Unnumbered but named "Use Low VOC Paint."	Not updated
E-14	Unnumbered but named "Only Natural Gas Hearth" and "No Hearth."	Updated
LL-1	A-1	Updated
<b>Miscellaneous</b>		
M-1	-	New measure
M-2	-	New measure
M-3	-	New measure

**Table H-4. Comparison of User Guides for CalEEMod 2022.1 and CalEEMod Version 2020.4.0**

Document	Changes Reflected in the User Guide for CalEEMod Version 2022.1
User Guide	<ol style="list-style-type: none"> <li>1. The organizational structure of the user's guide was revised to match and reflect the modules and screens of CalEEMod version 2022.1.</li> <li>2. Section 1, <i>Introduction</i>, was updated to reflect the expanded purpose and functionalities of CalEEMod. A figure was added to illustrate the architecture of CalEEMod and hierarchy among the sections, modules, screens, and sub-screens</li> <li>3. Section 2, <i>Accessing CalEEMod</i>, was condensed to explain that installation is no longer relevant to the web-based tool.</li> <li>4. Edits were made through Section 3, <i>Using CalEEMod</i>, and Section 4, <i>Detailed Program Components, Modules, Submodules, and Screens</i>, to reflect the new features, content, presentation, terminology, and quantification methods for CalEEMod Version 2022.1. This includes addition of the <b>Map</b> component, <b>Climate Risk</b> module, <b>Results</b> component.</li> <li>5. The section on mitigation measures was updated to provide guidance on using the new <b>Measures</b> module, which includes emission reduction, climate risk reduction, and health and equity measures.</li> <li>6. A complete references section was added to the user's guide (see Section 5, <i>References</i>).</li> </ol>
Appendix A – Glossary (previously Appendix B)	The appendix has been expanded to include additional terms and concepts relevant to CalEEMod Version 2022.1, including those related to climate change and health and equity.
Appendix B – Acronym List (previously Appendix C)	The appendix has been expanded to define additional acronyms relevant to CalEEMod Version 2022.1, including those related to climate change and health and equity.
Appendix C – Emission Calculation Details for CalEEMod (previously Appendix A)	<ol style="list-style-type: none"> <li>1. The organizational structure of the appendix was revised to match and reflect the modules and screens of CalEEMod Version 2022.1.</li> <li>2. Section 1, <i>Overview</i>, was updated to reference additional appendices users should consult for further information related to emission quantification. A figure was also added to illustrate the CalEEMod modules, screens, and sub-screens addressed by the appendix.</li> <li>3. Edits were made throughout the appendix to reflect the revised methods and data sources for CalEEMod Version 2022.1. Key methodological updates are described in the tables above.</li> <li>4. New sections were added to address new model content related to emissions quantification.</li> <li>5. An expanded description and example of how CalEEMod quantifies maximum daily and annual construction emissions has been added to the appendix.</li> <li>6. Additional information was added for emission reduction measures to describe the revised calculation approach and new feature (e.g., filtering by co-benefits).</li> </ol>

Document	Changes Reflected in the User Guide for CalEEMod Version 2022.1
	7. A complete references section was added to the appendix (see Section 8, <b>References</b> ).
Appendix D – Technical Source Documentation for Emissions Calculations (previously Appendix E)	Discrete sections of this appendix have been updated, specifically Appendix D4, <i>Degreaser, Fertilizer/Pesticide Use Analysis</i> , and Appendix D5, <i>Analysis of Building Energy Use Data</i> . Appendix D11, <i>Additional Construction Defaults</i> , was added.
Appendix E – Support Documentation for Climate Change Analyses	This is a new appendix that was added to describe the technical method underlying the <b>Climate Risk</b> module and associated risk reduction analyses.
Appendix F – Support Documentation for Health and Equity Association Scoring	This is a new appendix that was added to describe the technical method underlying the health and equity measure prioritization analysis and <b>Health and Equity Evaluation Scorecard</b> .
Appendix G – Default Data Tables (previously Appendix D)	This appendix has been updated to reflect the revised defaults and underlying model assumptions. Additional tables were added for the new climate and health and equity analyses.
Appendix H – Comparison to CalEEMod Version 2020.4.0	This is a new appendix that was added to highlight updates included in CalEEMod Version 2022.1 and the associated User Guide, relative to the prior version (Version 2020.4.0).

## Memorandum

To : Div. Chiefs - IFD, BDD, NHD, WMD  
Reg. Mgrs. - Regions 1, 2, 3, 4

Date : November 8, 1994

From : Department of Fish and Game

Subject: Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (*Buteo swainsoni*) in the Central Valley of California

I am hereby transmitting the Staff Report Regarding Mitigation for Impacts to Swainson's Hawks in the Central Valley of California for your use in reviewing projects (California Environmental Quality Act [CEQA] and others) and in developing 2081 Management Authorizations and 2090 Biological Opinions which may affect Swainson's hawk habitat in the Central Valley. The staff report has been developed during the last 18 months by the Environmental Services Division (ESD) in cooperation with the Wildlife Management Division (WMD) and Regions 1, 2, and 4. It has been sent out for public review on several occasions and redrafted as appropriate.

Either the mitigation measures in the staff report may be used or project specific measures may be developed. Alternative project specific mitigation measures proposed by the Department Divisions/Regions or by project sponsors will also be considered. However, such mitigation measures must be submitted to ESD for review. The review process will focus on the consistency of the proposed measure with Department, Fish and Game Commission, and legislative policy and with laws regarding raptors and listed species. ESD will coordinate project specific mitigation measure review with WMD.

If you have any questions regarding the report, please contact Mr. Ron Rempel, Program Supervisor, Habitat Conservation Planning and Endangered Species Permitting, Environmental Services Division at (916) 654-9980.

COPY Original signed by  
A. Petrovich, Jr.

For  
Boyd Gibbons  
Direction

Enclosure

cc: Mr. Ron Rempel  
Department of Fish and Game  
Sacramento

file; d, exfile, esd, chron  
Vouchilas/seh/pdl      SRPBUTEO.DS1

**Staff Report regarding Mitigation  
for Impacts to Swainson's Hawks (*Buteo swainsoni*)  
in the Central Valley of California**

**INTRODUCTION**

The Legislature and the Fish and Game Commission have developed the policies, standards and regulatory mandates which, if implemented, are intended to help stabilize and reverse dramatic population declines of threatened and endangered species. In order to determine how the Department of Fish and Game (Department) could judge the adequacy of mitigation measures designed to offset impacts to Swainson's hawks in the Central Valley, Staff (WMD, ESD and Regions) has prepared this report. To ensure compliance with legislative and Commission policy, mitigation requirements which are consistent with this report should be incorporated into: (1) Department comments to Lead Agencies and project sponsors pursuant to the California Environmental Quality Act (CEQA); (2) Fish and Game Code Section 2081 Management Authorizations (Management Authorizations); and (3) Fish and Game Code Section 2090 Consultations with State CEQA Lead Agencies.

The report is designed to provide the Department (including regional offices and divisions), CEQA Lead Agencies and project proponents the context in which the Environmental Services Division (ESD) will review proposed project specific mitigation measures. This report also includes "model" mitigation measures which have been judged to be consistent with policies, standards and legal mandates of the Legislature and Fish and Game Commission. Alternative mitigation measures, tailored to specific projects, may be developed if consistent with this report. Implementation of mitigation measures consistent with this report are intended to help achieve the conservation goals for the Swainson's hawk and should complement multi-species habitat conservation planning efforts currently underway.

The Department is preparing a recovery plan for the species and it is anticipated that this report will be revised to incorporate recovery plan goals. It is anticipated that the recovery plan will be completed by the end of 1995. The Swainson's hawk recovery plan will establish criteria for species recovery through preservation of existing habitat, population expansion into former habitat, recruitment of young into the population, and other specific recovery efforts.

During project review the Department should consider whether a proposed project will adversely affect suitable foraging habitat within a ten (10) mile radius of an active (used during one or more of the last 5 years) Swainson's hawk nest(s). Suitable Swainson's hawk foraging habitat will be those habitats and crops identified in Bechard (1983), Bloom (1980), and Estep (1989). The following vegetation types/agricultural crops are considered small mammal and insect foraging habitat for Swainson's hawks:

- alfalfa
- fallow fields
- beet, tomato, and other low-growing row or field crops
- dry-land and irrigated pasture

- rice land (when not flooded)
- cereal grain crops (including corn after harvest)

The ten mile radius standard is the flight distance between active (and successful) nest sites and suitable foraging habitats, as documented in telemetry studies (Estep 1989, Babcock 1993). Based on the ten mile radius, new development projects which adversely modify nesting and/or foraging habitat should mitigate the project's impacts to the species. The ten mile foraging radius recognizes a need to strike a balance between the biological needs of reproducing pairs (including eggs and nestlings) and the economic benefit of developments) consistent with Fish and Game Code Section 2053.

Since over 95% of Swainson's hawk nests occur on private land, the Department's mitigation program should include incentives that preserve agricultural lands used for the production of crops, which are compatible with Swainson's hawk foraging needs, while providing an opportunity for urban development and other changes in land use adjacent to existing urban areas.

## **LEGAL STATUS**

### **Federal**

The Swainson's hawk is a migratory bird species protected under the Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. 703-711). The MBTA makes it unlawful to take, possess, buy, sell, purchase, or barter any migratory bird listed in Section 50 of the Code of Federal Regulations (C.F.R.) Part 10, including feathers or other parts, nests, eggs or products, except as allowed by implementing regulations (50 C.F.R. 21).

### **State**

The Swainson's hawk has been listed as a threatened species by the California Fish and Game Commission pursuant to the California Endangered Species Act (CESA), see Title 14, California Code of Regulations, Section 670.5(b)(5)(A).

## **LEGISLATIVE AND COMMISSION POLICIES, LEGAL MANDATES AND STANDARDS**

The FGC policy for threatened species is, in part, to: "Protect and preserve all native species ... and their habitats...." This policy also directs the Department to work with all interested persons to protect and preserve sensitive resources and their habitats. Consistent with this policy and direction, the Department is enjoined to implement measures that assure protection for the Swainson's hawk.

The California State Legislature, when enacting the provisions of CESA, made the following findings and declarations in Fish and Game Code Section 2051:

- a) "Certain species of fish, wildlife, and plants have been rendered extinct as a consequence of man's activities, untempered by adequate concern and conservation";
- b) "Other species of fish, wildlife, and plants are in danger of, or threatened with, extinction because their habitats are threatened with destruction, adverse modification, or severe curtailment because of overexploitation, disease, predation, or other factors (emphasis added)"; and
- c) "These species of fish, wildlife, and plants are of ecological, educational, historical, recreational, esthetic, economic, and scientific value to the people of this state, and the conservation, protection, and enhancement of these species and their habitat is of statewide concern" (emphasis added).

The Legislature also proclaimed that it "is the policy of the state to conserve, protect, restore, and enhance any endangered or threatened species and its habitat and that it is the intent of the Legislature, consistent with conserving the species, to acquire lands for habitat for these species" (emphasis added).

Section 2053 of the Fish and Game Code states, in part, "it is the policy of the state that state agencies should not approve projects as proposed which would jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of habitat essential to the continued existence of those species, if there are reasonable and prudent alternatives available consistent with conserving the species and or its habitat which would prevent jeopardy" (emphasis added).

Section 2054 states "The Legislature further finds and declares that, in the event specific economic, social, and or other conditions make infeasible such alternatives, individual projects may be approved if appropriate mitigation and enhancement measures are provided" (emphasis added).

Loss or alteration of foraging habitat or nest site disturbance which results in:

(1) nest abandonment; (2) loss of young; (3) reduced health and vigor of eggs and/or nestlings (resulting in reduced survival rates), may ultimately result in the take (killing) of nestling or fledgling Swainson's hawks incidental to otherwise lawful activities. The taking of Swainson's hawks in this manner can be, a violation of Section 2080 of the Fish and Game Code. This interpretation of take has been judicially affirmed by the landmark appellate court decision pertaining to CESA (DFG v. ACID, 8 CA App.4, 41554). The essence of the decision emphasized that the intent and purpose of CESA applies to all activities that take or kill endangered or threatened species, even when the taking is incidental to otherwise legal activities. To avoid potential violations of Fish and Game Code Section 2080, the Department recommends and encourages project sponsors to obtain 2081 Management Authorizations for their projects.

Although this report has been prepared to assist the Department in working with the development community, the prohibition against take (Fish and Game Code Section 2080) applies to all persons, including those engaged in agricultural activities and routine maintenance of facilities. In addition, sections 3503, 3503.5, and 3800 of the Fish and Game Code prohibit the take, possession, or destruction of birds, their nests or eggs.

To avoid potential violation of Fish and Game Code Section 2080 (i.e. killing of a listed species), project-related disturbance at active Swainson's hawk nesting sites should be reduced or eliminated during critical phases of the nesting cycle (March 1 - September 15 annually). Delineation of specific activities which could cause nest abandonment (take) of Swainson's hawk during the nesting period should be done on a case-by-case basis.

CEQA requires a mandatory findings of significance if a project's impacts to threatened or endangered species are likely to occur (Sections 21001 (c), 21083, Guidelines Sections 15380, 15064, 15065). Impacts must be avoided or mitigated to less than significant levels unless the CEQA Lead Agency makes and supports findings of Overriding Consideration. The CEQA Lead Agency's Findings of Overriding Consideration does not eliminate the project sponsor's obligation to comply with Fish and Game Code Section 2080.

## **NATURAL HISTORY**

The Swainson's hawk (*Buteo swainsoni*) is a large, broad winged buteo which frequents open country. They are about the same size as a red-tailed hawk (*Buteo jamaicensis*), but trimmer, weighing approximately 800-1100 grams (1.75 - 2 lbs). They have about a 125 cm. (4+foot) wingspan. The basic body plumage may be highly variable and is characterized by several color morphs - light, dark, and rufous. In dark phase birds, the entire body of the bird may be sooty black. Adult birds generally have dark backs. The ventral or underneath sections may be light with a characteristic dark, wide "bib" from the lower throat down to the upper breast, light colored wing linings and pointed wing tips. The tail is gray ventrally with a subterminal dusky band, and narrow, less conspicuous barring proximally. The sexes are similar in appearance; females however, are slightly larger and heavier than males, as is the case in most sexually dimorphic raptors. There are no recognized subspecies (Palmer 1988).

The Swainson's hawk is a long distance migrator. The nesting grounds occur in northwestern Canada, the western U.S., and Mexico and most populations migrate to wintering grounds in the open pampas and agricultural areas of South America (Argentina, Uruguay, southern Brazil). The species is included among the group of birds known as "neotropical migrants". Some individuals or small groups (20-30 birds) may winter in the U.S., including California (Delta Islands). This round trip journey may exceed 14,000 miles. The birds return to the nesting grounds and establish nesting territories in early March.

Swainson's hawks are monogamous and remain so until the loss of a mate (Palmer 1988). Nest construction and courtship continues through April. The clutch (commonly 3-4 eggs) is generally laid in early April to early May, but may occur later. Incubation lasts 34-35 days, with both parents participating in the brooding of eggs and young. The young fledge (leave the nest) approximately 42-44 days after hatching and remain with their parents until they depart in the fall. Large groups (up to 100+ birds) may congregate in holding areas in the fall and may exhibit a delayed migration depending upon forage availability. The specific purpose of these congregation areas is as yet unknown, but is likely related to: increasing energy reserves for migration; the timing of migration; aggregation into larger migratory groups (including assisting the young in learning migration routes); and providing a pairing and courtship opportunity for unattached adults.

### **Foraging Requirements**

Swainson's hawk nests in the Central Valley of California are generally found in scattered trees or along riparian systems adjacent to agricultural fields or pastures. These open fields and pastures are the primary foraging areas. Major prey items for Central Valley birds include: California voles (*Microtus californicus*), valley pocket gophers (*Thomomys bottae*), deer mice (*Peromyscus maniculatus*), California ground squirrels (*Spermophilus beecheyi*), mourning doves (*Zenaida macroura*), ring-necked pheasants (*Phasianus colchicus*), meadowlarks (*Sturnella neglecta*), other passerines, grasshoppers (*Conocephalinae sp.*), crickets (*Gryllidae sp.*), and beetles (Estep 1989). Swainson's hawks generally search for prey by soaring in open country and agricultural fields similar to northern harriers (*Circus cyaneus*) and ferruginous hawks (*Buteo regalis*). Often several hawks may be seen foraging together following tractors or other farm equipment capturing prey escaping from farming operations. During the breeding season, Swainson's hawks eat mainly vertebrates (small rodents and reptiles), whereas during migration vast numbers of insects are consumed (Palmer 1988).

Department funded research has documented the importance of suitable foraging habitats (e.g., annual grasslands, pasture lands, alfalfa and other hay crops, and combinations of hay, grain and row crops) within an energetically efficient flight distance from active Swainson's hawk nests (Estep pers. comm.). Recent telemetry studies to determine foraging requirements have shown that birds may use in excess of 15,000 acres of habitat or range up to 18.0 miles from the nest in search of prey (Estep 1989, Babcock 1993). The prey base (availability and abundance) for the species is highly variable from year to year, with major prey population (small mammals and insects) fluctuations occurring based on rainfall patterns, natural cycles and agricultural cropping and harvesting patterns. Based on these variables, significant acreages of potential foraging habitat (primarily agricultural lands) should be preserved per nesting pair (or aggregation of

nesting pairs) to avoid jeopardizing existing populations. Preserved foraging areas should be adequate to allow additional Swainson's hawk nesting pairs to successfully breed and use the foraging habitat during good prey production years.

Suitable foraging habitat is necessary to provide an adequate energy source for breeding adults, including support of nestlings and fledglings. Adults must achieve an energy balance between the needs of themselves and the demands of nestlings and fledglings, or the health and survival of both may be jeopardized. If prey resources are not sufficient, or if adults must hunt long distances from the nest site, the energetics of the foraging effort may result in reduced nestling vigor with an increased likelihood of disease and/or starvation. In more extreme cases, the breeding pair, in an effort to assure their own existence, may even abandon the nest and young (Woodbridge 1985).

Prey abundance and availability is determined by land and farming patterns including crop types, agricultural practices and harvesting regimes. Estep (1989) found that 73.4% of observed prey captures were in fields being harvested, disced, mowed, or irrigated. Preferred foraging habitats for Swainson's hawks include:

- alfalfa;
- fallow fields;
- beet, tomato, and other low-growing row or field crops;
- dry-land and irrigated pasture;
- rice land (during the non-flooded period); and
- cereal grain crops (including corn after harvest).

Unsuitable foraging habitat types include crops where prey species (even if present) are not available due to vegetation characteristics (e.g. vineyards, mature orchards, and cotton fields, dense vegetation).

## **Nesting Requirements**

Although the Swainson's hawk's current nesting habitat is fragmented and unevenly distributed, Swainson's hawks nest throughout most of the Central Valley floor. More than 85% of the known nests in the Central Valley are within riparian systems in Sacramento, Sutter, Yolo, and San Joaquin counties. Much of the potential nesting habitat remaining in this area is in riparian forests, although isolated and roadside trees are also used. Nest sites are generally adjacent to or within easy flying distance to alfalfa or hay fields or other habitats or agricultural crops which provide an abundant and available prey source. Department research has shown that valley oaks (*Quercus lobata*), Fremont's cottonwood (*Populus fremontii*), willows (*Salix spp.*), sycamores (*Platanus spp.*), and walnuts (*Juglans spp.*) are the preferred nest trees for Swainson's hawks (Bloom 1980, Schlorff and Bloom 1983, Estep 1989).

## **Fall and Winter Migration Habitats**

During their annual fall and winter migration periods, Swainson's hawks may congregate in large groups (up to 100+ birds). Some of these sites may be used during delayed migration periods lasting up to three months. Such sites have been identified in Yolo, Tulare, Kern and San Joaquin counties and protection is needed for these critical foraging areas which support birds during their long migration.

## **Historical and Current Population Status**

The Swainson's hawk was historically regarded as one of the most common and numerous raptor species in the state, so much so that they were often not given special mention in field notes. The breeding population has declined by an estimated 91% in California since the turn of the century (Bloom 1980). The historical Swainson's hawk population estimates are based on current densities and extrapolated based on the historical amount of available habitat. The historical population estimate is 4,284-17,136 pairs (Bloom 1980). In 1979, approximately 375 ( $\pm 50$ ) breeding pairs of Swainson's hawks were estimated in California, and 280 (75%) of those pairs were estimated to be in the Central Valley (Bloom 1980). In 1988, 241 active breeding pairs were found in the Central Valley, with an additional 78 active pairs known in northeastern California. The 1989 population estimate was 430 pairs for the Central Valley and 550 pairs statewide (Estep, 1989). This difference in population estimates is probably a result of increased survey effort rather than an actual population increase.

## **Reasons for decline**

The dramatic Swainson's hawk population decline has been attributed to loss of native nesting and foraging habitat, and more recently to the loss of suitable nesting trees and the conversion of agricultural lands. Agricultural lands have been converted to urban land uses and incompatible crops. In addition, pesticides, shooting, disturbance at the nest site, and impacts on wintering areas may have contributed to their decline. Although losses on the wintering areas in South America may occur, they are not considered significant since breeding populations outside of California are stable. The loss of nesting habitat within riparian areas has been accelerated by flood control practices and bank stabilization programs. Smith (1977) estimated that in 1850

over 770,000 acres of riparian habitat were present in the Sacramento Valley. By the mid-1980s, Warner and Hendrix (1984) estimated that there was only 120,000 acres of riparian habitat remaining in the Central Valley (Sacramento and San Joaquin Valleys combined). Based on Warner and Hendrix's estimates approximately 93% of the San Joaquin Valley and 73% of the Sacramento Valley riparian habitat has been eliminated since 1850.

## **MANAGEMENT STRATEGIES**

Management and mitigation strategies for the Central Valley population of the Swainson's hawk should ensure that:

- suitable nesting habitat continues to be available (this can be accomplished by protecting existing nesting habitat from destruction or disturbance and by increasing the number of suitable nest trees); and
- foraging habitat is available during the period of the year when Swainson's hawks are present in the Central Valley (this should be accomplished by maintaining or creating adequate and suitable foraging habitat in areas of existing and potential nest sites and along migratory routes within the state).

A key to the ultimate success in meeting the Legislature's goal of maintaining habitat sufficient to preserve this species is the implementation of these management strategies in cooperation with project sponsors and local, state and federal agencies.

## **DEPARTMENT'S ROLES AND RESPONSIBILITIES IN PROJECT CONSULTATION AND ADMINISTRATION OF CEQA AND THE FISH AND GAME CODE**

The Department, through its administration of the Fish and Game Code and its trust responsibilities, should continue its efforts to minimize further habitat destruction and should seek mitigation to offset unavoidable losses by (1) including the mitigation measures in this document in CEQA comment letters and/or as management conditions in Department issued Management Authorizations or (2) by developing project specific mitigation measures (consistent with the Commission's and the Legislature's mandates) and including them in CEQA comment letters and/or as management conditions in Fish and Game Code Section 2081 Management Authorizations issued by the Department and/or in Fish and Game Code Section 2090 Biological Opinions.

The Department should submit comments to CEQA Lead Agencies on all projects which adversely affect Swainson's hawks. CEQA requires a mandatory findings of significance if a project's impacts to threatened or endangered species are likely to occur (Sections 21001 fc), 21083. Guidelines 15380, 15064, 15065). Impacts must be: (1) avoided; or (2) appropriate mitigation must be provided to reduce impacts to less than significant levels; or (3) the lead agency must make and support findings of overriding consideration. If the CEQA Lead Agency makes a Finding of Overriding Consideration, it does not eliminate the project sponsor's obligation to comply with the take prohibitions of Fish and Game Code Section 2080. Activities

which result in (1) nest abandonment; (2) starvation of young; and/or (3) reduced health and vigor of eggs and nestlings may result in the take (killing) of Swainson's hawks incidental to otherwise lawful activities (urban development, recreational activities, agricultural practices, levee maintenance and similar activities. The taking of Swainson's hawk in this manner may be a violation of Section 2080 of the Fish and Game Code. To avoid potential violations of Fish and Game Code Section 2080, the Department should recommend and encourage project sponsors to obtain 2081 Management Authorizations.

In aggregate, the mitigation measures incorporated into CEQA comment letters and/or 2081 Management Authorizations for a project should be consistent with Section 2053 and 2054 of the Fish and Game Code. Section 2053 states, in part, "it is the policy of the state that state agencies should not approve projects as proposed which would jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of habitat essential to the continued existence of those species, if there are reasonable and prudent alternatives available consistent with conserving the species and or its habitat which would prevent jeopardy" - Section 2054 states: "The Legislature further finds and declares that, in the event specific economic, social, and or other conditions make infeasible such alternatives, individual projects may be approved if appropriate mitigation and enhancement measures are provided."

State lead agencies are required to consult with the Department pursuant to Fish and Game Code Section 2090 to ensure that any action authorized, funded, or carried out by that state agency will not jeopardize the continued existence of any threatened or endangered species. Comment letters to State Lead Agencies should also include a reminder that the State Lead Agency has the responsibility to consult with the Department pursuant to Fish and Game Code Section 2090 and obtain a written findings (Biological Opinion). Mitigation measures included in Biological Opinions issued to State Lead Agencies must be consistent with Fish and Game Code Sections 2051-2054 and 2091-2092.

#### **NEST SITE AND HABITAT LOCATION INFORMATION SOURCES**

The Department's Natural Diversity Data Base (NDDB) is a continually updated, computerized inventory of location information on the State's rarest plants, animals, and natural communities. Department personnel should encourage project proponents and CEQA Lead Agencies, either directly or through CEQA comment letters, to purchase NDDB products for information on the locations of Swainson's hawk nesting areas as well as other sensitive species. The Department's Nongame Bird and Mammal Program also maintains information on Swainson's hawk nesting areas and may be contacted for additional information on the species.

Project applicants and CEQA Lead Agencies may also need to conduct site specific surveys (conducted by qualified biologists at the appropriate time of the year using approved protocols) to determine the status (location of nest sites, foraging areas, etc.) of listed species as part of the CEQA and 2081 Management Authorization process. Since these studies may require multiple years to complete, the Department shall identify any needed studies at the earliest possible time in the project review process. To facilitate project review and reduce the potential for costly

project delays, the Department should make it a standard practice to advise developers or others planning projects that may impact one or more Swainson's hawk nesting or foraging areas to initiate communication with the Department as early as possible .

## **MANAGEMENT CONDITIONS**

Staff believes the following mitigation measures (nos. 1-4) are adequate to meet the Commission's and Legislature's policy regarding listed species and are considered as preapproved for incorporation into any Management Authorizations for the Swainson's hawk issued by the Department. The incorporation of measures 1-4 into a CEQA document should reduce a project's impact to a Swainson's hawk(s) to less than significant levels. Since these measures are Staff recommendations, a project sponsor or CEQA Lead agency may choose to negotiate project specific mitigation measures which differ. In such cases, the negotiated Management Conditions must be consistent with Commission and Legislative policy and be submitted to the ESD for review and approval prior to reaching agreement with the project sponsor or CEQA Lead Agency.

Staff recommended Management Conditions are:

1. No intensive new disturbances (e.g. heavy equipment operation associated with construction, use of cranes or draglines, new rock crushing activities) or other project related activities which may cause nest abandonment or forced fledging, should be initiated within 1/4 mile (buffer zone) of an active nest between March 1 - September 15 or until August 15 if a Management Authorization or Biological Opinion is obtained for the project. The buffer zone should be increased to 1/2 mile in nesting areas away from urban development (i.e. in areas where disturbance [e.g. heavy equipment operation associated with construction, use of cranes or draglines, new rock crushing activities] is not a normal occurrence during the nesting season). Nest trees should not be removed unless there is no feasible way of avoiding it. If a nest tree must be removed, a Management Authorization (including conditions to off-set the loss of the nest tree) must be obtained with the tree removal period specified in the Management Authorization, generally between October 1- February 1. If construction or other project related activities which may cause nest abandonment or forced fledging are necessary within the buffer zone, monitoring of the nest site (funded by the project sponsor) by a qualified biologist (to determine if the nest is abandoned) should be required . If it is abandoned and if the nestlings are still alive, the project sponsor shall fund the recovery and hacking (controlled release of captive reared young) of the nestling(s). Routine disturbances such as agricultural activities, commuter traffic, and routine facility maintenance activities within 1/4 mile of an active nest should not be prohibited.
2. Hacking as a substitute for avoidance of impacts during the nesting period may be used in unusual circumstances after review and approval of a hacking plan by ESD and WMD. Proponents who propose using hacking will be required to fund the full costs of the effort, including any telemetry work specified by the

Department.

3. To mitigate for the loss of foraging habitat (as specified in this document), the Management Authorization holder/project sponsor shall provide Habitat Management (HM) lands to the Department based on the following ratios:
  - (a) Projects within 1 mile of an active nest tree shall provide:
    - one acre of HM land (at least 10% of the HM land requirements shall be met by fee title acquisition or a conservation easement allowing for the active management of the habitat, with the remaining 90% of the HM lands protected by a conservation easement [acceptable to the Department] on agricultural lands or other suitable habitats which provide foraging habitat for Swainson's hawk) for each acre of development authorized (1:1 ratio); or
    - One-half acre of HM land (all of the HM land requirements shall be met by fee title acquisition or a conservation easement [acceptable to the Department] which allows for the active management of the habitat for prey production on-the HM lands) for each acre of development authorized (0.5:1 ratio).
  - (b) Projects within 5 miles of an active nest tree but greater than 1 mile from the nest tree shall provide 0.75 acres of HM land for each acre of urban development authorized (0-75:1 ratio). All HM lands protected under this requirement may be protected through fee title acquisition or conservation easement (acceptable to the Department) on agricultural lands or other suitable habitats which provide foraging habitat for Swainson's hawk.
  - (c) Projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree shall provide 0.5 acres of HM land for each acre of urban development authorized (0.5:1 ratio). All HM lands- protected under this requirement may be protected through fee title acquisition or a conservation easement (acceptable to the Department) on agricultural lands or other suitable habitats which provide foraging habitat for Swainson's hawk.
4. Management Authorization holders/project sponsors shall provide for the long-term management of the HM lands by funding a management endowment (the interest on which shall be used for managing the HM lands) at the rate of \$400 per HM land acre (adjusted annually for inflation and varying interest rates).

Some project sponsors may desire to provide funds to the Department for HM land protection. This option is acceptable to the extent the proposal is consistent with Department policy regarding acceptance of funds for land acquisition. All HM lands should be located in areas which are consistent with a multi-species habitat conservation focus. Management

Authorization holders/project sponsors who are willing to establish a significant mitigation bank (> 900 acres) should be given special consideration such as 1.1 acres of mitigation credit for each acre preserved.

## **PROJECT SPECIFIC MITIGATION MEASURES**

Although this report includes recommended Management Measures, the Department should encourage project proponents to propose alternative mitigation strategies that provide equal or greater protection of the species and which also expedite project environmental review or issuance of a CESA Management Authorization. The Department and sponsor may choose to conduct cooperative, multi-year field studies to assess the site's habitat value and determine its use by nesting and foraging Swainson's hawk. Study plans should include clearly defined criteria for judging the project's impacts on Swainson's hawks and the methodologies (days of monitoring, foraging effort/efficiency, etc.) that will be used.

The study plans should be submitted to the Wildlife Management Division and ESD for review. Mitigation measures developed as a result of the study must be reviewed by ESD (for consistency with the policies of the Legislature and Fish and Game Commission) and approved by the Director.

## **EXCEPTIONS**

Cities, counties and project sponsors should be encouraged to focus development on open lands within already urbanized areas. Since small disjunct parcels of habitat seldom provide foraging habitat needed to sustain the reproductive effort of a Swainson's hawk pair, Staff does not recommend requiring mitigation pursuant to CEQA nor a Management Authorization by the Department for infill (within an already urbanized area) projects in areas which have less than 5 acres of foraging habitat and are surrounded by existing urban development, unless the project area is within 1/4 mile of an active nest tree.

## **REVIEW**

Staff should revise this report at least annually to determine if the proposed mitigation strategies should be retained, modified or if additional mitigation strategies should be included as a result of new scientific information.

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## **Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act**

In carrying out its duty to enforce laws across California, the California Attorney General's Bureau of Environmental Justice (Bureau)<sup>1</sup> regularly reviews proposed warehouse projects for compliance with the California Environmental Quality Act (CEQA) and other laws. When necessary, the Bureau submits comment letters to lead agencies, and in rare cases the Bureau has filed litigation to enforce CEQA.<sup>2</sup> This document builds upon the Bureau's comment letters, collecting knowledge gained from the Bureau's review of hundreds of warehouse projects across the state. It is meant to help lead agencies pursue CEQA compliance and promote environmentally-just development as they confront warehouse project proposals.<sup>3</sup> While CEQA analysis is necessarily project-specific, this document provides information on feasible best practices and mitigation measures, the overwhelming majority of which have been adapted from actual warehouse projects in California.

### **I. Background**

In recent years, the proliferation of e-commerce and rising consumer expectations of rapid shipping have contributed to a boom in warehouse development.<sup>4</sup> California, with its ports, population centers, and transportation network, has found itself at the center of this trend. For example, in 2014, 40 percent of national container cargo flowed through Southern California, which was home to nearly 1.2 billion square feet of warehouse facilities.<sup>5</sup> In the Inland Empire alone, 150 million square feet of new industrial space was built over the last decade,<sup>6</sup> and 21 of the largest 100 logistics leases signed in 2019 nationwide were in the Inland

<sup>1</sup> <https://oag.ca.gov/environment/justice>.

<sup>2</sup> <https://oag.ca.gov/environment/ceqa/letters>; *South Central Neighbors United et al. v. City of Fresno et al.* (Super. Ct. Fresno County, No. 18CECG00690).

<sup>3</sup> Anyone reviewing this document to determine CEQA compliance responsibilities should consult their own attorney for legal advice.

<sup>4</sup> As used in this document, “warehouse” or “logistics facility” is defined as a facility consisting of one or more buildings that stores cargo, goods, or products on a short or long term basis for later distribution to businesses and/or retail customers.

<sup>5</sup> Industrial Warehousing in the SCAG Region, Task 2. Inventory of Warehousing Facilities (April 2018), [http://www.scag.ca.gov/Documents/Task2\\_FacilityInventory.pdf](http://www.scag.ca.gov/Documents/Task2_FacilityInventory.pdf) at 1-1, 2-11.

<sup>6</sup> Los Angeles Times, *When your house is surrounded by massive warehouses*, October 27, 2019, <https://www.latimes.com/california/story/2019-10-27/fontana-california-warehouses-inland-empire-pollution>.

Empire, comprising 17.5 million square feet.<sup>7</sup> This trend has not slowed, even with the economic downturn caused by COVID-19, as e-commerce has continued to grow.<sup>8</sup> Forecasts predict that the Central Valley is where a new wave of warehouse development will go.<sup>9</sup>

When done properly, these activities can contribute to the economy and consumer welfare. However, imprudent warehouse development can harm local communities and the environment. Among other pollutants, diesel trucks visiting warehouses emit nitrogen oxide (NO<sub>x</sub>)—a primary precursor to smog formation and a significant factor in the development of respiratory problems like asthma, bronchitis, and lung irritation—and diesel particulate matter (a subset of fine particulate matter that is smaller than 2.5 micrometers)—a contributor to cancer, heart disease, respiratory illnesses, and premature death.<sup>10</sup> Trucks and on-site loading activities can also be loud, bringing disruptive noise levels during 24/7 operation that can cause hearing damage after prolonged exposure.<sup>11</sup> The hundreds, and sometimes thousands, of daily truck and passenger car trips that warehouses generate contribute to traffic jams, deterioration of road surfaces, and traffic accidents. These environmental impacts also tend to be concentrated in neighborhoods already suffering from disproportionate health impacts.

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<sup>7</sup> CBRE, *Dealmakers: E-Commerce & Logistics Firms Drive Demand for Large Warehouses in 2019* (January 23, 2020), <https://www.cbre.us/research-and-reports/US-MarketFlash-Dealmakers-E-Commerce-Logistics-Firms-Drive-Demand-for-Large-Warehouses-in-2019>; see also CBRE, *E-Commerce and Logistics Companies Expand Share Of Largest US Warehouse Leases, CBRE Analysis Finds* (Feb. 25, 2019), <https://www.cbre.us/about/media-center/inland-empire-largest-us-warehouse-leases> (20 of the largest 100 warehousing leases in 2018 were in the Inland Empire, comprising nearly 20 million square feet).

<sup>8</sup> CBRE, 2021 U.S. Real Estate Market Outlook, Industrial & Logistics, <https://www.cbre.us/research-and-reports/2021-US-Real-Estate-Market-Outlook-Industrial-Logistics>; Kaleigh Moore, *As Online Sales Grow During COVID-19, Retailers Like Montce Swim Adapt And Find Success*, FORBES (June 24, 2020), available at <https://www.forbes.com/sites/kaleighmoore/2020/06/24/as-online-sales-grow-during-covid-19-retailers-like-montce-swim-adapt-and-find-success/>.

<sup>9</sup> New York Times, *Warehouses Are Headed to the Central Valley, Too* (Jul. 22, 2020), available at <https://www.nytimes.com/2020/07/22/us/coronavirus-ca-warehouse-workers.html>.

<sup>10</sup> California Air Resources Board, Nitrogen Dioxide & Health, <https://ww2.arb.ca.gov/resources/nitrogen-dioxide-and-health> (NO<sub>x</sub>); California Air Resources Board, Summary: Diesel Particulate Matter Health Impacts, <https://ww2.arb.ca.gov/resources/summary-diesel-particulate-matter-health-impacts>; Office of Environmental Health Hazard Assessment and American Lung Association of California, Health Effects of Diesel Exhaust, <https://oehha.ca.gov/media/downloads/calenviroscreen/indicators/diesel4-02.pdf> (DPM).

<sup>11</sup> Noise Sources and Their Effects, <https://www.chem.psu.edu/chemsafety/Training/PPETrain/dblevels.htm> (a diesel truck moving 40 miles per hour, 50 feet away, produces 84 decibels of sound).

## II. Proactive Planning: General Plans, Local Ordinances, and Good Neighbor Policies

To systematically address warehouse development, we encourage governing bodies to proactively plan for logistics projects in their jurisdictions. Proactive planning allows jurisdictions to prevent land use conflicts before they materialize and guide sustainable development. Benefits also include providing a predictable business environment, protecting residents from environmental harm, and setting consistent expectations jurisdiction-wide.

Proactive planning can take any number of forms. Land use designation and zoning decisions should channel development into appropriate areas. For example, establishing industrial districts near major highway and rail corridors but away from sensitive receptors can help avoid conflicts between warehouse facilities and residential communities.

In addition, general plan policies, local ordinances, and good neighbor policies should set minimum standards for logistics projects. General plan policies can be incorporated into existing economic development, land use, circulation, or other related elements. Many jurisdictions alternatively choose to consolidate policies in a separate environmental justice element. Adopting general plan policies to guide warehouse development may also help jurisdictions comply with their obligations under SB 1000, which requires local government general plans to identify objectives and policies to reduce health risks in disadvantaged communities, promote civil engagement in the public decision making process, and prioritize improvements and programs that address the needs of disadvantaged communities.<sup>12</sup>

The Bureau is aware of four good neighbor policies in California: Riverside County, the City of Riverside, the City of Moreno Valley, and the Western Riverside Council of Governments.<sup>13</sup> These policies provide minimum standards that all warehouses in the jurisdiction must meet. For example, the Western Riverside Council of Governments policy sets a minimum buffer zone of 300 meters between warehouses and sensitive receptors, and it requires a number of design features to reduce truck impacts on nearby sensitive receptors. The Riverside County policy requires vehicles entering sites during both construction and operation to meet certain California Air Resources Board (CARB) guidelines, and it requires community benefits agreements and supplemental funding contributions toward additional pollution offsets.

The Bureau encourages jurisdictions to adopt their own local ordinances and/or good neighbor policies that combine the most robust policies from those models with measures discussed in the remainder of this document.

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<sup>12</sup> For more information about SB 1000, see <https://oag.ca.gov/environment/sb1000>.

<sup>13</sup> <https://www.rivcocab.org/wp-content/uploads/2020/01/Good-Neighbor-Policy-F-3-Final-Adopted.pdf> (Riverside County); <https://riversideca.gov/planning/pdf/good-neighbor-guidelines.pdf> (City of Riverside); [http://qcode.us/codes/morenovalley/view.php?topic=9-9\\_05-9\\_05\\_050&frames=on](http://qcode.us/codes/morenovalley/view.php?topic=9-9_05-9_05_050&frames=on) (City of Moreno Valley); <http://www.wrcog.cog.ca.us/DocumentCenter/View/318/Good-Neighbor-Guidelines-for-Siting-Warehouse-Distribution-Facilities-PDF?bId=> (Western Riverside Council of Governments).

### **III. Community Engagement**

Early and consistent community engagement is central to establishing good relationships between communities, lead agencies, and warehouse developers and tenants. Robust community engagement can give lead agencies access to community residents' on-the-ground knowledge and information about their concerns, build community support for projects, and develop creative solutions to ensure new logistics facilities are mutually beneficial. Examples of best practices for community engagement include:

- Holding a series of community meetings at times and locations convenient to members of the affected community and incorporating suggestions into the project design.
- Posting information in hard copy in public gathering spaces and on a website about the project. The information should include a complete, accurate project description, maps and drawings of the project design, and information about how the public can provide input and be involved in the project approval process. The information should be in a format that is easy to navigate and understand for members of the affected community.
- Providing notice by mail to residents and schools within a certain radius of the project and along transportation corridors to be used by vehicles visiting the project, and by posting a prominent sign on the project site. The notice should include a brief project description and directions for accessing complete information about the project and for providing input on the project.
- Providing translation or interpretation in residents' native language, where appropriate.
- For public meetings broadcast online or otherwise held remotely, providing for access and public comment by telephone and supplying instructions for access and public comment with ample lead time prior to the meeting.
- Partnering with local community-based organizations to solicit feedback, leverage local networks, co-host meetings, and build support.
- Considering adoption of a community benefits agreement, negotiated with input from affected residents and businesses, by which the developer provides benefits to the community.
- Creating a community advisory board made up of local residents to review and provide feedback on project proposals in early planning stages.
- Identifying a person to act as a community liaison concerning on-site construction activity and operations, and providing contact information for the community relations officer to the surrounding community.

### **IV. Warehouse Siting and Design Considerations**

The most important consideration when planning a logistics facility is its location. Warehouses located in residential neighborhoods or near other sensitive receptors expose community residents and those using or visiting sensitive receptor sites to the air pollution, noise, traffic, and other environmental impacts they generate. Therefore, placing facilities away from sensitive receptors significantly reduces their environmental and quality of life harms on local

communities. The suggested best practices for siting and design of warehouse facilities does not relieve lead agencies' responsibility under CEQA to conduct a project-specific analysis of the project's impacts and evaluation of feasible mitigation measures and alternatives; lead agencies' incorporation of the best practices must be part of the impact, mitigation and alternatives analyses to meet the requirements of CEQA. Examples of best practices when siting and designing warehouse facilities include:

- Per CARB guidance, siting warehouse facilities so that their property lines are at least 1,000 feet from the property lines of the nearest sensitive receptors.<sup>14</sup>
- Creating physical, structural, and/or vegetative buffers that adequately prevent or substantially reduce pollutant dispersal between warehouses and any areas where sensitive receptors are likely to be present, such as homes, schools, daycare centers, hospitals, community centers, and parks.
- Providing adequate areas for on-site parking, on-site queuing, and truck check-in that prevent trucks and other vehicles from parking or idling on public streets.
- Placing facility entry and exit points from the public street away from sensitive receptors, e.g., placing these points on the north side of the facility if sensitive receptors are adjacent to the south side of the facility.
- Locating warehouse dock doors and other onsite areas with significant truck traffic and noise away from sensitive receptors, e.g., placing these dock doors on the north side of the facility if sensitive receptors are adjacent to the south side of the facility.
- Screening dock doors and onsite areas with significant truck traffic with physical, structural, and/or vegetative barriers that adequately prevent or substantially reduce pollutant dispersal from the facility towards sensitive receptors.
- Posting signs clearly showing the designated entry and exit points from the public street for trucks and service vehicles.
- Posting signs indicating that all parking and maintenance of trucks must be conducted within designated on-site areas and not within the surrounding community or public streets.

## **V. Air Quality and Greenhouse Gas Emissions Analysis and Mitigation**

Emissions of air pollutants and greenhouse gases are often among the most substantial environmental impacts from new warehouse facilities. CEQA compliance demands a proper accounting of the full air quality and greenhouse gas impacts of logistics facilities and adoption of all feasible mitigation of significant impacts. Although efforts by CARB and other authorities to regulate the heavy-duty truck and off-road diesel fleets have made excellent progress in reducing the air quality impacts of logistics facilities, the opportunity remains for local jurisdictions to further mitigate these impacts at the project level. Lead agencies and developers

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<sup>14</sup> California Air Resources Board (CARB), Air Quality and Land Use Handbook: A Community Health Perspective (April 2005), at ES-1. CARB staff has released draft updates to this siting and design guidance which suggests a greater distance may be warranted under varying scenarios; this document may be found on CARB's website and is entitled: "California Sustainable Freight Initiative: Concept Paper for the Freight Handbook" (December 2019).

should also consider designing projects with their long-term viability in mind. Constructing the necessary infrastructure to prepare for the zero-emission future of goods movement not only reduces a facility's emissions and local impact now, but it can also save money as regulations tighten and demand for zero-emission infrastructure grows. In planning new logistics facilities, the Bureau strongly encourages developers to consider the local, statewide, and global impacts of their projects' emissions.

Examples of best practices when studying air quality and greenhouse gas impacts include:

- Fully analyzing all reasonably foreseeable project impacts, including cumulative impacts. In general, new warehouse developments are not ministerial under CEQA because they involve public officials' personal judgment as to the wisdom or manner of carrying out the project, even when warehouses are permitted by a site's applicable zoning and/or general plan land use designation. CEQA Guidelines § 15369.
- When analyzing cumulative impacts, thoroughly considering the project's incremental impact in combination with past, present, and reasonably foreseeable future projects, even if the project's individual impacts alone do not exceed the applicable significance thresholds.
- Preparing a quantitative air quality study in accordance with local air district guidelines.
- Preparing a quantitative health risk assessment in accordance with California Office of Environmental Health Hazard Assessment and local air district guidelines.
- Refraining from labeling compliance with CARB or air district regulations as a mitigation measure—compliance with applicable regulations is a baseline expectation.
- Fully analyzing impacts from truck trips. CEQA requires full public disclosure of a project's anticipated truck trips, which entails calculating truck trip length based on likely truck trip destinations, rather than the distance from the facility to the edge of the air basin. Emissions beyond the air basin are not speculative, and, because air pollution is not static, may contribute to air basin pollution. Moreover, any contributions to air pollution outside the local air basin should be quantified and their significance should be considered.
- Accounting for all reasonably foreseeable greenhouse gas emissions from the project, without discounting projected emissions based on participation in California's Cap-and-Trade Program.

Examples of measures to mitigate air quality and greenhouse gas impacts from construction are below. To ensure mitigation measures are enforceable and effective, they should be imposed as permit conditions on the project where applicable.

- Requiring off-road construction equipment to be zero-emission, where available, and all diesel-fueled off-road construction equipment, to be equipped with CARB Tier IV-compliant engines or better, and including this requirement in applicable

bid documents, purchase orders, and contracts, with successful contractors demonstrating the ability to supply the compliant construction equipment for use prior to any ground-disturbing and construction activities.

- Prohibiting off-road diesel-powered equipment from being in the “on” position for more than 10 hours per day.
- Requiring on-road heavy-duty haul trucks to be model year 2010 or newer if diesel-fueled.
- Providing electrical hook ups to the power grid, rather than use of diesel-fueled generators, for electric construction tools, such as saws, drills and compressors, and using electric tools whenever feasible.
- Limiting the amount of daily grading disturbance area.
- Prohibiting grading on days with an Air Quality Index forecast of greater than 100 for particulates or ozone for the project area.
- Forbidding idling of heavy equipment for more than two minutes.
- Keeping onsite and furnishing to the lead agency or other regulators upon request, all equipment maintenance records and data sheets, including design specifications and emission control tier classifications.
- Conducting an on-site inspection to verify compliance with construction mitigation and to identify other opportunities to further reduce construction impacts.
- Using paints, architectural coatings, and industrial maintenance coatings that have volatile organic compound levels of less than 10 g/L.
- Providing information on transit and ridesharing programs and services to construction employees.
- Providing meal options onsite or shuttles between the facility and nearby meal destinations for construction employees.

Examples of measures to mitigate air quality and greenhouse gas impacts from operation include:

- Requiring that all facility-owned and operated fleet equipment with a gross vehicle weight rating greater than 14,000 pounds accessing the site meet or exceed 2010 model-year emissions equivalent engine standards as currently defined in California Code of Regulations Title 13, Division 3, Chapter 1, Article 4.5, Section 2025. Facility operators shall maintain records on-site demonstrating compliance with this requirement and shall make records available for inspection by the local jurisdiction, air district, and state upon request.
- Requiring all heavy-duty vehicles entering or operated on the project site to be zero-emission beginning in 2030.
- Requiring on-site equipment, such as forklifts and yard trucks, to be electric with the necessary electrical charging stations provided.
- Requiring tenants to use zero-emission light- and medium-duty vehicles as part of business operations.
- Forbidding trucks from idling for more than two minutes and requiring operators to turn off engines when not in use.
- Posting both interior- and exterior-facing signs, including signs directed at all

dock and delivery areas, identifying idling restrictions and contact information to report violations to CARB, the air district, and the building manager.

- Installing and maintaining, at the manufacturer's recommended maintenance intervals, air filtration systems at sensitive receptors within a certain radius of facility for the life of the project.
- Installing and maintaining, at the manufacturer's recommended maintenance intervals, an air monitoring station proximate to sensitive receptors and the facility for the life of the project, and making the resulting data publicly available in real time. While air monitoring does not mitigate the air quality or greenhouse gas impacts of a facility, it nonetheless benefits the affected community by providing information that can be used to improve air quality or avoid exposure to unhealthy air.
- Constructing electric truck charging stations proportional to the number of dock doors at the project.
- Constructing electric plugs for electric transport refrigeration units at every dock door, if the warehouse use could include refrigeration.
- Constructing electric light-duty vehicle charging stations proportional to the number of parking spaces at the project.
- Installing solar photovoltaic systems on the project site of a specified electrical generation capacity, such as equal to the building's projected energy needs.
- Requiring all stand-by emergency generators to be powered by a non-diesel fuel.
- Requiring facility operators to train managers and employees on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks.
- Requiring operators to establish and promote a rideshare program that discourages single-occupancy vehicle trips and provides financial incentives for alternate modes of transportation, including carpooling, public transit, and biking.
- Meeting CalGreen Tier 2 green building standards, including all provisions related to designated parking for clean air vehicles, electric vehicle charging, and bicycle parking.
- Achieving certification of compliance with LEED green building standards.
- Providing meal options onsite or shuttles between the facility and nearby meal destinations.
- Posting signs at every truck exit driveway providing directional information to the truck route.
- Improving and maintaining vegetation and tree canopy for residents in and around the project area.
- Requiring that every tenant train its staff in charge of keeping vehicle records in diesel technologies and compliance with CARB regulations, by attending CARB-approved courses. Also require facility operators to maintain records on-site demonstrating compliance and make records available for inspection by the local jurisdiction, air district, and state upon request.
- Requiring tenants to enroll in the United States Environmental Protection Agency's SmartWay program, and requiring tenants to use carriers that are SmartWay carriers.

- Providing tenants with information on incentive programs, such as the Carl Moyer Program and Voucher Incentive Program, to upgrade their fleets.

## VI. Noise Impacts Analysis and Mitigation

The noise associated with logistics facilities can be among their most intrusive impacts to nearby sensitive receptors. Various sources, such as unloading activity, diesel truck movement, and rooftop air conditioning units, can contribute substantial noise pollution. These impacts are exacerbated by logistics facilities' typical 24-hour, seven-days-per-week operation. Construction noise is often even greater than operational noise, so if a project site is near sensitive receptors, developers and lead agencies should adopt measures to reduce the noise generated by both construction and operation activities.

Examples of best practices when studying noise impacts include:

- Preparing a noise impact analysis that considers all reasonably foreseeable project noise impacts, including to nearby sensitive receptors. All reasonably foreseeable project noise impacts encompasses noise from both construction and operations, including stationary, on-site, and off-site noise sources.
- Adopting a lower significance threshold for incremental noise increases when baseline noise already exceeds total noise significance thresholds, to account for the cumulative impact of additional noise and the fact that, as noise moves up the decibel scale, each decibel increase is a progressively greater increase in sound pressure than the last. For example, 70 dBA is ten times more sound pressure than 60 dBA.

Examples of measures to mitigate noise impacts include:

- Constructing physical, structural, or vegetative noise barriers on and/or off the project site.
- Locating or parking all stationary construction equipment as far from sensitive receptors as possible, and directing emitted noise away from sensitive receptors.
- Verifying that construction equipment has properly operating and maintained mufflers.
- Requiring all combustion-powered construction equipment to be surrounded by a noise protection barrier
- Limiting operation hours to daytime hours on weekdays.
- Paving roads where truck traffic is anticipated with low noise asphalt.
- Orienting any public address systems onsite away from sensitive receptors and setting system volume at a level not readily audible past the property line.

## VII. Traffic Impacts Analysis and Mitigation

Warehouse facilities inevitably bring truck and passenger car traffic. Truck traffic can present substantial safety issues. Collisions with heavy-duty trucks are especially dangerous for passenger cars, motorcycles, bicycles, and pedestrians. These concerns can be even greater if

truck traffic passes through residential areas, school zones, or other places where pedestrians are common and extra caution is warranted.

Examples of measures to mitigate traffic impacts include:

- Designing, clearly marking, and enforcing truck routes that keep trucks out of residential neighborhoods and away from other sensitive receptors.
- Installing signs in residential areas noting that truck and employee parking is prohibited.
- Constructing new or improved transit stops, sidewalks, bicycle lanes, and crosswalks, with special attention to ensuring safe routes to schools.
- Consulting with the local public transit agency and securing increased public transit service to the project area.
- Designating areas for employee pickup and drop-off.
- Implementing traffic control and safety measures, such as speed bumps, speed limits, or new traffic signs or signals.
- Placing facility entry and exit points on major streets that do not have adjacent sensitive receptors.
- Restricting the turns trucks can make entering and exiting the facility to route trucks away from sensitive receptors.
- Constructing roadway improvements to improve traffic flow.
- Preparing a construction traffic control plan prior to grading, detailing the locations of equipment staging areas, material stockpiles, proposed road closures, and hours of construction operations, and designing the plan to minimize impacts to roads frequented by passenger cars, pedestrians, bicyclists, and other non-truck traffic.

## **VIII. Other Significant Environmental Impacts Analysis and Mitigation**

Warehouse projects may result in significant environmental impacts to other resources, such as to aesthetics, cultural resources, energy, geology, or hazardous materials. All significant adverse environmental impacts must be evaluated, disclosed and mitigated to the extent feasible under CEQA. Examples of best practices and mitigation measures to reduce environmental impacts that do not fall under any of the above categories include:

- Appointing a compliance officer who is responsible for implementing all mitigation measures, and providing contact information for the compliance officer to the lead agency, to be updated annually.
- Creating a fund to mitigate impacts on affected residents, schools, places of worship, and other community institutions by retrofitting their property. For example, retaining a contractor to retrofit/install HVAC and/or air filtration systems, doors, dual-paned windows, and sound- and vibration-deadening insulation and curtains.
- Sweeping surrounding streets on a daily basis during construction to remove any construction-related debris and dirt.
- Directing all lighting at the facility into the interior of the site.

- Using full cut-off light shields and/or anti-glare lighting.
- Using cool pavement to reduce heat island effects.
- Installing climate control in the warehouse facility to promote worker well-being.
- Installing air filtration in the warehouse facility to promote worker well-being.

## **IX. Conclusion**

California's world-class economy, ports, and transportation network position it at the center of the e-commerce and logistics industry boom. At the same time, California is a global leader in environmental protection and environmentally just development. The guidance in this document furthers these dual strengths, ensuring that all can access the benefits of economic development. The Bureau will continue to monitor proposed projects for compliance with CEQA and other laws. Lead agencies, developers, community advocates, and other interested parties should feel free to reach out to us as they consider how to guide warehouse development in their area.

Please do not hesitate to contact the Environmental Justice Bureau at [ej@doj.ca.gov](mailto:ej@doj.ca.gov) if you have any questions.

## APPENDIX D LOCAL ACTIONS

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## 1. Local Government Actions are Crucial for Supporting Attainment of the State's Climate Goals

Local government efforts to reduce greenhouse gas (GHG) emissions within their jurisdiction are critical to achieving the State's long-term climate goals, and can also provide important co-benefits, such as improved air quality, local economic benefits, healthier and more sustainable communities, and improved quality of life. Indeed, a substantial portion of California's GHG reduction potential comes from activities over which local governments have authority or influence.<sup>1</sup> Since the enactment of Assembly Bill (AB) 32 (Nuñez and Pavley, Chapter 488, Statutes of 2006), many local jurisdictions have sought to identify their role in implementing State-level decarbonization efforts. With increasing severity and occurrence of droughts, wildfires, extreme heat, and other conditions, the need for action is urgent.

Local governments have responsibility and authority over the built environment, transportation networks, and provision of local services. For example, local governments have primary authority to plan, zone, approve, and permit how and where land is developed to accommodate population and employment growth and the changing needs of their jurisdictions. They make decisions on how and when to deploy transportation infrastructure and can promote residential and commercial development that supports transit, bicycling, and walking. Local governments have the authority to adopt building ordinances that exceed statewide building code requirements and facilitate the implementation of zero-emission vehicle (ZEV) infrastructure.

Many jurisdictions have demonstrated bold climate leadership, yet meeting the challenge of climate change requires bolder actions from local governments across the state. For example, the City of Oakland requires all new construction to be all-electric and is currently working on electrifying existing buildings.<sup>2</sup> Starting in 2023, the City of Sacramento will require all new buildings under three stories to be all-electric. By 2026 the city will extend this requirement to all new construction, regardless of height, with some limited exemptions. The City of Sacramento also provides parking incentives for zero-emission carsharing and electric vehicle (EV) charging and will require higher than minimum State-required levels of EV charging infrastructure in new construction starting in 2023.<sup>3</sup> This type of leadership by local governments is critical to implementing State-level measures to address GHG emissions associated with transportation and the built environment.

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<sup>1</sup> Wheeler, S. M., Jones, C. M., & Kammen, D. M. 2018. Carbon Footprint Planning: Quantifying Local and State Mitigation Opportunities for 700 California Cities. *Urban Planning*, 3(2), 35-51. Available at: <https://www.cogitatiopress.com/urbanplanning/article/view/1218>.

<sup>2</sup> City of Oakland. *Building Electrification*. Available at: <https://www.oaklandca.gov/projects/building-electrification> .

<sup>3</sup> City of Sacramento. *Electrification of New Construction*. Available at: <http://www.cityofsacramento.org/SacElectrificationOrdinance>.

This appendix includes recommendations intended to build momentum for local government actions that align with the State's climate goals, with a focus on local GHG reduction strategies (commonly referred to as climate action planning) and approval of new land use development projects, including through environmental review under the California Environmental Quality Act (CEQA). This appendix is not regulatory but is instead intended to provide clarification on specific topics requested by planners, CEQA practitioners, and community groups in response to challenges local jurisdictions face when implementing GHG reduction strategies or approving much-needed housing projects. It is not exhaustive and does not include everything local governments can implement to support the State's climate goals. It focuses primarily on climate action plans (CAPs) and local authority over new residential development. It does not address other land use types (e.g., industrial) or air permitting.

Recommendations in this appendix are meant to be used in combination with other planning and CEQA guidance documents including Chapter 8 of the General Plan Guidelines published by the Governor's Office of Planning and Research (OPR),<sup>4</sup> the State CEQA Guidelines,<sup>5</sup> OPR's CEQA Technical Advisories,<sup>6</sup> as well as guidance from local air districts and the California Air Pollution Control Officers Association (CAPCOA).<sup>7</sup>

The following sections discuss the implications for sustainable development on equity and environmental justice as part of a strategy to combat climate change and provide recommendations to local governments for:

- Developing local CAPs and strategies consistent with the State's GHG emission reduction goals;
- Incorporating State-level GHG priorities into their processes for approving land use plans and individual projects;
- Implementing CEQA mitigation, as needed, to reduce GHG emissions associated with new land use development projects; and
- Leveraging opportunities for regional collaboration.

## 1.1 Centering Equity in Local Government Action is Key to Addressing the Climate Crisis

Local government action to reduce GHG emissions is not only essential for meeting the State's climate goals; it can build better places for everyone in ways that begin to address the

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<sup>4</sup> OPR. *General Plan Guidelines - Chapter 8 Climate Change*. Available at: <https://opr.ca.gov/planning/general-plan/guidelines.html>.

<sup>5</sup> Cal. Code Regs., tit. 14, §§ 15000 et seq.

<sup>6</sup> OPR. *Technical Advisories*. Available at: <https://opr.ca.gov/ceqa/technical-advisories.html>.

<sup>7</sup> CAPCOA. 2021. *Handbook for Analyzing Greenhouse Gas Emissions Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity: Designed for Local Governments, Communities, and Project Developers*. Available at: <https://caleemod.com/handbook/index.html>.

entrenched inequities experienced by the most overburdened Californians (e.g., Black, Indigenous, People of Color [BIPOC] and low-income communities). Local policies that make it easier for people to afford homes in places with good access to jobs, services, open space, and education, as well as a variety of transportation options that reduce the need to drive, advance equity and reduce GHG emissions.

Ensuring that vulnerable communities benefit from efforts to reduce GHG emissions is crucial to the State's climate strategy. For example, Senate Bill (SB) 32 (Pavley, Chapter 249, Statutes of 2016) recognized that efforts to meet the State's climate goals must be done in an equitable manner by directing CARB to achieve more stringent GHG emission reductions in a way that benefits disadvantaged communities, who often bear the burden of climate impacts. AB 32 also directs that CARB "ensure that the greenhouse gas emission reduction rules, regulations, programs, mechanisms, and incentives under its jurisdiction, where applicable and to the extent feasible, direct public and private investment toward the most disadvantaged communities in California and provide an opportunity for small businesses, schools, affordable housing associations, and other community institutions to participate in and benefit from statewide efforts to reduce greenhouse gas emissions."<sup>8</sup> To address the State goals for housing affordability, social equity, and climate simultaneously, local government institutions are well-positioned to take on a portfolio of integrated strategies such that housing policies are designed to address climate goals and climate policies are designed to meet the State's housing needs. In many cases, land use strategies that support more compact development in infill areas, particularly those already displaying efficient resident travel patterns, have the greatest potential to reduce emissions while also reducing combined housing and transportation costs for Californians and infrastructure costs for local governments due to avoided new roads, public schools, and other sprawl supporting infrastructure. Infill housing development alleviates pressure to develop on the urban periphery, preserving natural and working lands and areas often at risk of wildfire.

The issues that shape where development goes are complex, but the location and type of new housing that is developed matters for climate, health, and equity. Accelerating housing production to meet the extraordinary need for more homes can help reduce vehicle miles traveled (VMT) and GHG emissions and advance health and equity objectives when new housing is developed in types and locations that align with these goals, and particularly when accompanied by complementary policies and investments to create sustainable communities and prevent displacement of existing residents. See Appendix E, Sustainable and Equitable Communities, for strategies to foster sustainable development.

Fostering transportation-efficient, resource-rich, accessible, and inclusive communities is a key strategy for climate, equity, health, and affordability. Climate-smart locations include neighborhoods, commercial corridors, town centers, downtowns, and other areas where

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<sup>8</sup> Health & Saf. Code, § 38565.

residents have access to a broad range of mobility options in addition to private automobiles (such as transit, walking, and biking), as well as where residents have access to housing, jobs, and other key destinations. Such communities make it possible for residents to live, work, and recreate without dependence on a personal car. For trips where driving is required, car trips can be relatively short and public infrastructure should support the use of zero-emission vehicles. The predominant historical land use development paradigm that centers on mobility (how far you can go in a given amount of time) over accessibility (how many key destinations, including jobs, housing, and other services, you can reach in that time) has not resulted in equitable outcomes for BIPOC and low-income households, and, in fact, has exacerbated barriers to access and upward economic progress. Increasing housing opportunities in transportation-efficient locations is a necessary paradigm shift and is part of the State's GHG emission reduction strategy.

However, ensuring that the households that would benefit most from living in more accessible areas are not displaced by new investments requires that State, regional, and local governments proactively anticipate and avoid potential unintended equity and social consequences, including gentrification and displacement of historically underserved and disadvantaged communities. The most recent wave of displacement stems from a variety of factors and policies: exclusionary zoning, job growth and reinvestment, changing housing preferences among higher-income households, local policies and local opposition to new housing development proposals, lack of funding for new affordable housing, increased costs of building new housing, and a dearth of policies to preserve existing affordable housing and protect tenants.<sup>9</sup> These variables interact to drive up housing prices and rents for all households—particularly low-income and BIPOC households—increasing displacement pressures in established neighborhoods and forcing people to live in car-dependent neighborhoods away from community support systems and economic opportunities and increase households' combined housing and transportation costs.<sup>10</sup> Policies to facilitate both market rate and subsidized affordable housing production in infill neighborhoods should, over time, stabilize housing costs, minimize displacement, and create new housing opportunities in transportation-efficient locations.

Communities and local jurisdictions have a range of tools and strategies that they can utilize to proactively avoid displacement while facilitating much-needed new infill housing development. The State encourages local jurisdictions and communities to cooperatively develop strategic anti-displacement and neighborhood stabilization plans. Some California jurisdictions have developed these strategic plans (e.g., the City of Oakland's Roadmap to Promote Housing

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<sup>9</sup> See resources posted at the Urban Displacement Project: <https://www.urbandisplacement.org/about/what-are-gentrification-and-displacement/>.

<sup>10</sup> Ewing, R., & Hamidi, S. 2017. *Costs of Sprawl*. Taylor & Francis.

Equity<sup>11</sup> and the City of San Jose's Citywide Anti-Displacement Strategy<sup>12</sup>). Jurisdictions and communities that have not implemented localized anti-displacement strategies can review lessons from other jurisdictions and refer to a 2021 literature review funded by CARB that examines the real-world effectiveness of various strategies to curb displacement.<sup>13</sup> In addition to documenting the efficacy of different strategies, the literature review also examines the potential of each strategy to prevent displacement, the type of regional housing market where the strategy is most effective, the most appropriate scale to implement different strategies, and the timeframe for preventing displacement.

The Department of Housing and Community Development's (HCD) recently established Prohousing Designation Program also recognizes local jurisdictions that take actions to accelerate housing production while promoting holistic land use planning that reflects the State's climate goals and helps to reduce VMT.<sup>14</sup> Local governments that earn the prohousing designation are effective at simultaneously promoting multiple objectives, including: increasing housing supply, affirmatively furthering fair housing, preserving existing affordable housing, and supporting VMT reduction. Communities that earn the prohousing designation can receive additional points or preference in the scoring of competitive State housing, community development, and infrastructure funding programs.

## 2. The Role of Local Climate Action Planning in Supporting the State's Climate Goals

Local governments across the state have developed different types of plans to tackle climate change, including CAPs, sustainability plans, or GHG reduction plans incorporated into a general plan.<sup>15</sup> While CAPs have become an important avenue for climate action at the local level, 47 percent of California cities and counties have no known CAP.<sup>16</sup> Many jurisdictions find that performing or hiring consultants to perform a GHG inventory and developing a CAP is

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<sup>11</sup> City of Oakland. 2015. *A Roadmap Toward Equity: Housing Solutions for Oakland, California*. Available at: <https://www.policylink.org/sites/default/files/pl-report-oak-housing-070715.pdf>.

<sup>12</sup> City of San Jose. 2019. *Community Strategy to End Displacement*. Available at: <https://www.sanjoseca.gov/your-government/departments-offices/housing/resource-library/housing-policy-plans-and-reports/citywide-anti-displacement-strategy>.

<sup>13</sup> Karen Chapple & Anastasia Loukaitou-Sideris. 2021. White Paper on Anti-Displacement Strategy Effectiveness. CARB Research Contract Number 19RD018. Available at: [https://ww3.arb.ca.gov/research/single-project.php?row\\_id=68795](https://ww3.arb.ca.gov/research/single-project.php?row_id=68795).

<sup>14</sup> Department of Housing and Community Development. 2022. *Prohousing Designation Program*. Available at: <https://www.hcd.ca.gov/planning-and-community-development/prohousing-designation-program>.

<sup>15</sup> CARB's Climate Action Portal Map compiles information about local GHG reduction plans and strategies throughout the state. Available at: <https://webmaps.arb.ca.gov/capmap/>.

<sup>16</sup> Boswell et al. 2019. 2019 Report on the State of Climate Action Plans in California. CARB Research Contract Number 17RD033. Available at: <https://ww2.arb.ca.gov/sites/default/files/2020-03/17RD033.pdf>.

costly and time-consuming, regardless of their desire to take action on climate.<sup>17</sup> This section seeks to identify the most effective GHG reduction actions at the local level and other barriers to local climate action to help ensure that local climate efforts align with the State's climate goals.

For purposes of this appendix, a CAP that has been adopted through the CEQA review process and meets the criteria specified in CEQA Guidelines section 15183.5(b) for a "plan for the reduction of greenhouse gas emissions" will be referred to as a "CEQA-qualified CAP." These CEQA-qualified CAPs allow eligible projects to streamline their determination of significance for GHG emissions. Pursuant to CEQA Guidelines section 15183.5(b), CEQA-qualified plans must:

- (A) Quantify greenhouse gas emissions, both existing and projected over a specified period, resulting from activities within a defined geographic area;
- (B) Establish a level, based on substantial evidence, below which the contribution to greenhouse gas emissions from activities covered by the plan would not be cumulatively considerable;
- (C) Identify and analyze the greenhouse gas emissions resulting from specific actions or categories of actions anticipated within the geographic area;
- (D) Specify measures or a group of measures, including performance standards, that substantial evidence demonstrates, if implemented on a project-by-project basis, would collectively achieve the specified emissions level;
- (E) Establish a mechanism to monitor the plan's progress toward achieving the level and to require amendment if the plan is not achieving specified levels;
- (F) Be adopted in a public process following environmental review.

Once adopted, CEQA-qualified CAPs provide local governments with a valuable tool for 1) coordinated climate planning in their community and 2) streamlining the CEQA GHG analysis for projects consistent with a CEQA-qualified CAP. When jurisdictions have a CEQA-qualified CAP, an individual project that complies with the strategies and actions within a CEQA-qualified CAP can tier and streamline its project-specific CEQA GHG analysis to make a determination "that a project's incremental contribution to a cumulative [GHG] effect is not cumulatively considerable" (CEQA Guidelines Sections 15064.4 (b)(3) and 15183.5).<sup>18, 19</sup> Guidance for preparing a CEQA-qualified CAP and using it to tier and streamline CEQA GHG

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<sup>17</sup> Deborah Salon, Sinott Murphy & Gian-Claudia Sciara. 2014. Local climate action: motives, enabling factors and barriers. *Carbon Management*, 5:1, 67-79, DOI 10.4155/cmt.13.81. Available at: <https://www.tandfonline.com/doi/full/10.4155/cmt.13.81>.

<sup>18</sup> The guidelines implementing CEQA (or "CEQA Guidelines") were amended in 2009 to include criteria for the analysis and mitigation of GHG emissions. The CEQA Guidelines acknowledge the use of plans to reduce GHG emissions in a cumulative impacts analysis. (CEQA Guidelines Section 15183.5(b)).

<sup>19</sup> Cal. Code Regs., tit. 14, § 15183.5.

analysis for future projects can be found in Section 15183.5(b)(2) of the CEQA Guidelines, as well as Chapter 8 of OPR's General Plan Guidelines.<sup>20</sup> Typically, this tiering and streamlining evaluates whether the proposed project would demonstrate consistency with 1) the adopted plans, as well as the growth and land use assumptions that underlie the CEQA-qualified CAP, and 2) all applicable GHG reduction measures identified in the CAP. This includes determining whether the growth associated with the proposed project was accounted for in the CAP's projects and whether the project's GHG reduction measures were identified to help meet the CAP target.

To assist with using a CEQA-qualified CAP for future CEQA streamlining, some jurisdictions have prepared CAP compliance checklists that future projects may use to identify and document the CAP measures that are applicable to the proposed project and how the project is consistent with the CAP measures.<sup>21</sup> The CAP compliance checklists are then included as part of the proposed project's CEQA analysis documenting the project's consistency with the CEQA-qualified CAP. The use of the CEQA-qualified CAP also provides greater clarity in the environmental analysis and more consistent expectations for how GHG reduction measures are applied across projects in the jurisdiction.

Because CEQA-qualified CAPs are voluntary and not subject to any legislative criteria nor requirements, the CEQA Guidelines provide that a plan should include the measures or a group of measures that would collectively achieve the plan's emissions reduction target (Section 15183.5(b)(1)(D)). As the CEQA Guidelines are silent on what measures or groups of measures a CEQA-qualified CAP should contain, this appendix identifies three priority areas that address the State's largest sources of emissions that local governments have authority or influence over. Local jurisdictions should focus on these three priority areas when preparing a CEQA-qualified CAP:

1. Transportation electrification
2. VMT reduction
3. Building decarbonization

By prioritizing climate action in these three priority areas, local governments can address the largest sources of GHGs within their jurisdiction. Local governments that prepare CEQA-

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<sup>20</sup> OPR. *General Plan Guidelines - Chapter 8 Climate Change*. Available at: <https://opr.ca.gov/planning/general-plan/guidelines.html>.

<sup>21</sup> Examples of CEQA-qualified CAPs include San Francisco's GHG compliance checklists for private development and municipal projects. These checklists are available at: <https://sfplanning.org/permit/environmental-consultant-pools-guidelines-and-resources>.

qualified CAPs that include strategies in these areas are contributing to alignment between local climate action and the State's climate goals.

The State encourages local governments to follow this approach and adopt a CEQA-qualified CAP addressing the three priority areas. However, as not all jurisdictions have sufficient resources (e.g., political capital, staffing, funding) to do so, jurisdictions that wish to take meaningful climate action (such as preparing a non-CEQA-qualified CAP or as individual measures) aligned with the State's climate goals in the absence of a CEQA-qualified CAP should also look to the three priority areas when developing local climate plans, measures, policies, and actions.

To assist local jurisdictions with developing local climate plans, measures, policies, and actions aligned with the State's climate goals, Table 1 presents a non-exhaustive list of impactful GHG reduction strategies that can be implemented by local governments. The strategies in Table 1 are not applicable to all local jurisdictions, nor are they the only strategies that local governments can adopt, but they represent the core strategies that most jurisdictions in California can implement to reduce GHG emissions regardless of whether they have developed a CEQA-qualified CAP. Reaching the outcomes of these priority GHG reduction strategies requires a locally appropriate, comprehensive adoption of policies in support of these objectives. When developing local climate plans, measures, policies, and actions, local jurisdictions should incorporate the recommendations described in Table 1 to the extent appropriate to ensure alignment with State climate goals.

**Table 1 – Priority<sup>22</sup> GHG Reduction Strategies**

Priority Areas		Priority GHG Reduction Strategies
<b>Transportation Electrification</b>		<p>Convert local government fleets to ZEVs and provide EV charging at public sites</p> <p>Create a jurisdiction-specific ZEV ecosystem to support deployment of ZEVs statewide (such as building standards that exceed state building codes, permit streamlining, infrastructure siting, consumer education, preferential parking policies, and ZEV readiness plans)</p>
<b>VMT Reduction</b>		<p>Reduce or eliminate minimum parking standards<sup>23</sup></p> <p>Implement Complete Streets policies and investments, consistent with general plan circulation element requirements<sup>24,25</sup></p> <p>Increase access to public transit by increasing density of development near transit, improving transit service by increasing service frequency, creating bus priority lanes, reducing or eliminating fares, microtransit, etc.</p> <p>Increase public access to clean mobility options by planning for and investing in electric shuttles, bike share, car share, and walking</p> <p>Implement parking pricing or transportation demand management pricing strategies</p>

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<sup>22</sup> These areas and strategies are designated as “priority” because they are the GHG reduction opportunities over which local governments have the most authority and that have the highest GHG reduction potential.

<sup>23</sup> AB 2097, adopted by the Legislature and signed by the Governor in September 2022 eliminates parking requirements for residential and commercial development within a half-mile of transit. Government Code, § 65863.2. “Residential, commercial, or other development types: parking requirements.” Available at: [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB2097](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2097)

<sup>24</sup> U.S. Department of Transportation. *Complete Streets*. Available at: <https://www.transportation.gov/mission/health/complete-streets>.

<sup>25</sup> OPR. *General Plan Guidelines - Chapter 4 Circulation Element*. Available at: <https://opr.ca.gov/planning/general-plan/guidelines.html>.

Priority Areas	Priority GHG Reduction Strategies
Building Decarbonization	Amend zoning or development codes to enable mixed-use, walkable, transit-oriented, and compact infill development (such as increasing the allowable density of a neighborhood) <sup>26</sup>
	Preserve natural and working lands by implementing land use policies that guide development toward infill areas and do not convert “greenfield” land to urban uses (e.g., green belts, strategic conservation easements)
	Adopt all-electric new construction reach codes for residential and commercial uses <sup>27</sup>
	Adopt policies and incentive programs to implement energy efficiency retrofits for existing buildings, such as weatherization, lighting upgrades, and replacing energy-intensive appliances and equipment with more efficient systems (such as Energy Star-rated equipment and equipment controllers)
	Adopt policies and incentive programs to electrify all appliances and equipment in existing buildings such as appliance rebates, existing building reach codes, or time of sale electrification ordinances
Facilitate deployment of renewable energy production and distribution and energy storage on privately owned land uses (e.g., permit streamlining, information sharing)	
	Deploy renewable energy production and energy storage directly in new public projects and on existing public facilities (e.g., solar photovoltaic systems on rooftops of municipal buildings and on canopies in public parking lots, battery storage systems in municipal buildings)

<sup>26</sup> AB 2011, adopted by the Legislature and signed by the Governor in September 2022 streamlines multifamily housing development that meet affordability, labor, and other objective standards in parcels zoned for office, retail, or parking uses. Government Code, § 65912.100. “Affordable Housing and High Road Jobs Act of 2022.” Available at: [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB2011](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2011)

<sup>27</sup> California Energy Commission. Local Ordinance Exceeding the 2019 Energy Code. Available at: <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency-3>.

## 2.1 Setting Local GHG Targets

Historically, local climate action planning by California cities and counties has primarily focused on adopting supportive measures, such as replacing incandescent traffic lights with LED traffic lights, for reaching the State GHG emission reduction targets mandated by law. Initially, targets were based on consistency with meeting AB 32's 2020 GHG reduction target. More recently, local jurisdictions have looked to consistency with the longer-term targets in following the adoption of SB 32 and issuance of various executive orders (e.g., EO B-30-15 and EO B-55-18) to look beyond 2020 (e.g., 2030, 2045, 2050, etc.), when setting longer-term targets. In September 2022, Governor Newsom signed AB 1279 (Muratsuchi and Garcia, Chapter 337, Statutes of 2022), which codifies a statewide target to achieve carbon neutrality by no later than 2045. The State's climate strategy and the role of local governments continue to evolve as climate goals become more refined and ambitious, and as we advance our understanding of GHG emission sources. To be consistent with science-based statewide targets, local GHG reduction targets should evolve as well. In addition to being required for a local CAP to comply with CEQA, local targets have long been recommended as part of the process of developing, monitoring, and updating a CAP regardless of whether it is CEQA-qualified.<sup>28</sup>

The agency preparing a local GHG reduction target is responsible for determining the precise method for doing so. This appendix is not intended to limit or to provide an exhaustive list of options for setting a local GHG reduction target. Any target should be supported by substantial evidence and meet the criteria in CEQA Guidelines Section 15183.5. Ultimately, a jurisdiction's GHG reduction efforts and target(s) should help to better inform decision-makers and the public about the sources of GHG emissions under a jurisdiction's control (also known as a GHG emissions "inventory") that would be affected by a proposed project and provide a basis for identifying ways to avoid or reduce potentially significant GHG emission impacts. It can be challenging to localize and sub-allocate an individual jurisdiction's share of the GHG reductions needed to curb a global crisis. Developing a localized GHG reduction target requires an adequate local GHG inventory from which to calculate a target, which most jurisdictions have not developed. The 2017 Scoping Plan Update suggested some non-binding options for setting GHG reduction targets.<sup>29</sup> In recognition of different sources of, and opportunities to reduce, GHG emissions, this appendix recognizes the complexities involved in local GHG target-setting and, as a result, does not recommend a specific GHG target or target-setting method for local governments. However, the appendix presents some considerations for various target-setting approaches below.

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<sup>28</sup> Climate Smart Communities. 2014. Climate Action Planning Guide. Available at: [https://cdrpc.org/wp-content/uploads/2015/05/CAP-Guide\\_MAR-2014\\_FINAL.pdf](https://cdrpc.org/wp-content/uploads/2015/05/CAP-Guide_MAR-2014_FINAL.pdf).

<sup>29</sup> In the 2017 Scoping Plan, CARB recommended per capita, plan-level GHG targets of 6 MTCO2e per capita in 2030 and 2 MTCO2e per capita in 2050. Because the State is now pursuing carbon neutrality no later than 2045, CARB recommends that jurisdictions focus on developing locally appropriate, plan-level targets that align with the trajectory to carbon neutrality instead of focusing on a per capita 2050 target.

GHG reduction targets should typically be estimated for specific years aligned with the State's long-term climate targets established through existing laws or policy guidance. Various target years that are often, but not always, used in climate action planning include 2020 (for AB 32, SB 375, and EO S-3-05 consistency), 2030 (for SB 32 and EO B-30-15 consistency), 2035 (for SB 375 consistency), 2045 (for EO B-55-18 consistency, and there is now a statutory 2045 target in AB 1279), and 2050 (for EO S-3-05 and EO B-30-15 consistency),<sup>30</sup> as well as horizon years of local planning documents, such as general plans.

When establishing GHG reduction targets, jurisdictions should consider their respective share of the statewide reductions necessary to achieve the State's long-term climate target for each target year, and how they can best support those overall goals. Jurisdictions should also evaluate their specific inventory profile when establishing targets consistent with the State's long-term climate targets and should tailor their specific inventory profile to ensure the sectors included in the State's targets align with those included in the local jurisdiction's inventory and target, recognizing each region's distinctive sources and profile. For example, as the State's long-term climate targets address all emissions sectors within the state, a jurisdiction without an airport or port should "factor out" and remove these sectors from the State's long-term climate target when establishing local reduction targets. In essence, local governments should focus on sources and actions within their control, and set targets that support overall state goals.

Generally, a city or county that periodically examines their long-term GHG reduction trajectory is in a better position to determine whether GHG emission levels contemplated in their CAP are sustainable. This type of long-term approach benefits from interim reduction targets rather than a single target. Local governments that choose to adopt a single target year or opt to use a different method (e.g., project-by-project analysis, adopted significance thresholds, specific regional emissions targets, other State-related climate programs, etc.) should explain why their approach reflects sensible long-range planning horizons and should provide substantial evidence to support a conclusion that GHG emissions would decline along a trajectory consistent with the State's climate goals.

One approach to setting targets is to align local GHG-reducing strategies and actions with the respective State policies that will deliver GHG emission reductions, if successfully implemented and supported at the local level.<sup>31</sup> The CAP target-setting process should

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<sup>30</sup> AB 32 calls for California to reduce GHG emission to 1990 levels by 2020; SB 375 requires CARB to develop and set regional targets, indexed to years 2020 and 2035, for emission reductions from passenger vehicles; EO S-3-05 established a statewide interim target to reduce GHG emissions to 1990 levels by 2020 and 80 percent below 1990 levels by 2050; SB 32 requires the state to reduce statewide GHG emissions to 40% below 1990 levels by 2030; EO B-55-18 and AB 1279 call for carbon neutrality as soon as possible, but no later than 2045; and EO B-30-15 established a statewide interim GHG reduction target of 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050.

<sup>31</sup> OPR. *General Plan Guidelines - Chapter 8 Climate Change*. Available at: <https://opr.ca.gov/planning/general-plan/guidelines.html>.

account for projected GHG emission reductions from State policies, programs, and strategies implemented over time. However, when using statewide data, local governments should avoid double-counting GHG emission reductions that are achieved through State-level efforts and should ensure that their target focuses on GHG emission reductions within the scope of the CAP. Local jurisdictions should refer to Table 2-2 in Chapter 2 of the 2022 Scoping Plan Update, which summarizes the key State actions (as well as supportive statutes, executive orders, and outcomes) under the Scoping Plan Scenario and identifies approaches to help guide setting targets that align with the State's GHG-reducing strategies.<sup>32</sup>

A number of these key State actions are directly relevant to the priority strategies described in this appendix and should be accounted for in local target-setting, including zero-emission light-duty vehicles (relevant to transportation electrification); smart growth/VMT reduction (relevant to vehicle miles traveled reduction); and new and existing residential and commercial buildings (relevant to building decarbonization). Table 2 summarizes these actions with milestones and benchmarks.<sup>33</sup> Local jurisdictions should consider these recommendations as a starting point when contextualizing the State's climate goals, GHG emissions inventory sectors, and actions for a CAP target-setting process to help align local targets with the State's climate goals.

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<sup>32</sup> The Proposed Scenario is the Scoping Plan alternative that most closely aligns with existing statute and Executive Orders and assumes carbon neutrality by 2045 the deployment a broad portfolio of existing and emerging fossil fuel alternatives and clean technologies.

<sup>33</sup> The information in this table should be viewed as a general reference and may serve multiple uses, including providing resources that act as an aid to local governments when developing localized GHG targets for CAPs. The applicability of data, actions, and recommendations may vary across regions and should not be viewed or interpreted as official guidance, as thresholds of significance, or as dictating requirements for GHG target-setting processes. This is not considered an exhaustive list and does not represent the complete list of data resources and tools available. Not every recommendation provided will be relevant to, or appropriate for, a given area or plan.

**Table 2 –Summary of Priority Key Actions<sup>34</sup> and Recommendations for CAP Target-Setting Processes**

Priority Areas	Related Actions in the Proposed Scenario	Recommendations for Local CAP Target-Setting
Transportation Electrification	100 percent of light-duty vehicle sales are ZEVs by 2035	Potential data sources and tools to localize this for target-setting include EMFAC <i>Fleet Database</i> (by county) and <i>Scenario Analysis Tool</i> and <i>Department of Motor Vehicles Database</i> (by fuel type and registration)
VMT Reduction	VMT per capita reduced 25 percent below 2019 levels by 2030 and 30 percent below 2019 levels by 2045	Potential data sources to localize this for target-setting include VMT modeling outputs prepared for, or consistent with, the travel outcomes associated with the adopted SCS or other applicable regional plan
Building Decarbonization	All electric appliances in new construction beginning 2026 (residential) and 2029 (commercial)	Potential data sources to localize these for target-setting include: <i>Commercial Building Energy Consumption Survey</i>

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<sup>34</sup> These areas and strategies are designated as “priority” because they are the GHG reduction opportunities over which local governments have the most authority and that have the highest GHG reduction potential.

Priority Areas	Related Actions in the Proposed Scenario	Recommendations for Local CAP Target-Setting
	<p>For existing residential buildings, 80 percent of appliance sales are electric by 2030 and 100 percent of appliance sales are electric by 2035 (appliances replaced at end of life)</p> <p>For existing commercial buildings, 80 percent of appliance sales are electric by 2030 and 100 percent of appliance sales are electric by 2045 (appliances replaced at end of life)</p>	<p><i>California Commercial End Use Survey</i></p> <p><i>Residential Appliance Saturation Survey</i></p>

California's overall state goal of achieving carbon neutrality no later than 2045 can also inform GHG reduction targets at individual community levels, and some communities or regions may be able to reach neutrality themselves. However, it is important to design targets in ways that support overall state goals, recognizing that each region has distinctive sources and systems. For instance, energy and transportation systems that serve Californians do not stop at jurisdictional boundaries, and some decisions can have ramifications for other communities (e.g., by inadvertently exporting emissions from a jurisdiction with a net-zero target to another jurisdiction with less stringent or no target). Jurisdictions considering a net-zero target should carefully consider the implications it may have on emissions in neighboring communities and beyond. Jurisdictions should also avoid creating targets that are impossible to meet as a basis to determine significance. For example, a net-zero target may imply that the GHG emissions of any project that are not reduced or offset to zero would be considered potentially significant. This may lead to undue burdens and frustrate project approval processes, which may be particularly problematic for residential development in climate-smart, infill areas. In addition, some jurisdictions have more land capacity to remove and store carbon, while others host GHG-emitting facilities that serve necessary functions and will take time to transition to new technology (e.g., municipal wastewater treatment plants, landfills, energy generation facilities). In those cases, jurisdictions that work together on a regional framework to rapidly decarbonize together may have better success in maximizing both emission reductions and other co-benefits. Ultimately, a net-zero target that makes it more difficult to achieve statewide goals by prohibiting or complicating projects that are needed to support the State's climate goals, like infill development or solar arrays, is not consistent with the State's goals. The scale of GHG reductions needed across all communities will be substantial. Local governments have the discretion to adopt targets that apply to their jurisdictions and may utilize the streamlining functions afforded in CEQA<sup>35</sup> so long as those targets are supported by substantial evidence.

### **3. The Role of Land Use Plans and Development Projects in Supporting the State's Climate Goals**

#### **3.1 Housing Demand and GHG Efficiency**

Local governments are responsible for adopting and updating land use plans and related implementing ordinances, such as zoning and other development codes, as well as evaluating and making decisions regarding a development project's impact on the environment. The adoption of, or update to, local plans, as well as local discretionary approvals for new development, are subject to environmental review under CEQA, which requires public agencies, including local governments, to evaluate and disclose potential environmental effects from their discretionary decisions and actions and implement feasible mitigation. This environmental review process must address whether GHG emissions from a proposed project,

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<sup>35</sup> Cal. Code Regs., tit. 14, § 15183.5.

as defined in Section 15378 of the CEQA Guidelines, would result in a cumulatively considerable contribution to climate change. As part of this review, lead agencies must consider whether a proposed project or plan would be consistent with, and supportive of, the State's climate goals.<sup>36</sup> Section 15064.4(b)(3) of the CEQA Guidelines states that lead agencies should evaluate whether a proposed project would "[c]onflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases." Moreover, CEQA Guidelines Section 15125(d) requires a discussion "of any inconsistencies between the proposed project and applicable general plans, specific plans, and regional plans...regional transportation plans ...[and]...plans for the reduction of greenhouse gas emissions," among others.

However, the discretionary processes through which local jurisdictions permit land use development projects vary widely across California and are sometimes not uniformly applied within the same jurisdiction.<sup>37</sup> O'Neill et al. (2022) found that restrictive local zoning and development approval processes are the chief regulatory contributors to California's housing crisis. Local governments have a clear opportunity to eliminate these barriers by reforming their local laws to facilitate dense development in infill areas, particularly those in high-resource and/or low-VMT communities. Local jurisdictions can also choose to adopt ministerial entitlement processes<sup>38</sup> for housing instead of imposing discretionary review processes (some jurisdictions currently even impose multiple layers of discretionary review) that provide project opponents opportunities to slow or stop projects, sometimes without advancing legitimate environmental goals.

The literature review conducted by O'Neill et al. (2022) does not find a consensus among CEQA experts on the impact of litigation (or the threat thereof) on new housing construction. The report finds that litigation rates among entitled housing projects in the jurisdictions studied were low (less than three percent overall). Of the relatively small percentage of projects that were litigated, approximately two-thirds were challenged based on claimed deficiencies in their GHG or VMT analysis. (Note, however, that this statistic in itself is not particularly revealing, since attorneys frequently include in their lawsuits a range of claims regarding various CEQA resource areas to maximize chances of prevailing.) Thus, among other bases for CEQA challenges, CEQA GHG impact analyses and mitigation measures can be sources of

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<sup>36</sup> See, e.g., *Cleveland Nat'l Forest Found. v. San Diego Assn. of Governments* (2017) 3 Cal. 5th 497, 519 (holding that CEQA requires planning agencies to ensure their CEQA GHG analysis stays in step with evolving scientific knowledge and state regulatory schemes).

<sup>37</sup> O'Neill et al. 2022. "Final Report: Examining Entitlement in California to Inform Policy and Process: Advancing Social Equity in Housing Development Patterns." Available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3956250](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3956250).

<sup>38</sup> CEQA environmental review requirements only apply to discretionary project approvals; ministerial approvals are not subject to CEQA review. (Cal. Code Regs., tit. 14, § 15002(i).)

litigation and delay for projects, especially for housing projects in high-resource areas.<sup>39</sup> While the State has long been clear that urban infill projects, particularly in high-resource and low-VMT areas, would be generally supportive of the State's climate and regional air quality goals, such claims can persist. Although CEQA litigation can present additional complexity for housing development, restrictive local zoning and development approval processes are clearly the primary hurdles for housing development in California. Local jurisdictions have clear discretion to remove these barriers.

California continues to experience a severe housing shortage. The State must plan for more than 2.5 million residential units over the next eight years, and no less than one million of those residential units must be affordable to lower-income households.<sup>40</sup> This represents more than double the housing planned for during the last eight years.<sup>41</sup> The housing crisis and the climate crisis must be confronted simultaneously, and it is possible to address the housing crisis in a manner that supports the State's climate and regional air quality goals.<sup>42</sup> The following section includes recommendations to make doing so easier.

### **3.2 Evaluating Plan-Level and Project-Level Alignment with the State's Climate Goals in CEQA GHG Analyses**

CEQA requires lead agencies to analyze the potential GHG-related impacts from their proposed projects.<sup>43</sup> As part of these analyses, agencies consider the extent to which their projects are consistent with the State's climate goals and requirements.<sup>44</sup> Land use plans (e.g., general plans, specific plans, area plans) and development projects have long operational lifespans, potentially locking in GHG emissions for decades. Some agencies have improperly attempted to use compliance with statewide regulatory programs to determine that their projects' GHG impacts are mitigated or are otherwise consistent with the Scoping Plan. While CARB has developed programs such as the State vehicle emissions standards (e.g., Advanced Clean Cars), the Low Carbon Fuel Standard, and the Cap-and-Trade program to reduce sector-wide GHG emissions, these programs were not designed to directly mitigate individual land use development project emissions from a CEQA perspective. Therefore, claimed consistency with these programs should not be used to conclude that motor vehicle

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<sup>39</sup> O'Neill et al. 2022. Final Report: Examining Entitlement in California to Inform Policy and Process: Advancing Social Equity in Housing Development Patterns. CARB Research Contract 19STC005. Available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3956250](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3956250).

<sup>40</sup> California Department of Housing and Community Development. 2022. *Statewide Housing Plan*. Available at: <https://www.hcd.ca.gov/docs/statewide-housing-plan.pdf>.

<sup>41</sup> Ibid.

<sup>42</sup> Elkind, E. N., Galante, C., Decker, N., Chapple, K., Martin, A., & Hanson, M. 2017. Right Type, Right Place: Assessing the Environmental and Economic Impacts of Infill Residential Development through 2030. Available at: <https://lternetcenter.berkeley.edu/research-and-policy/right-type-right-place/>.

<sup>43</sup> Cal. Code Regs., tit. 14, § 15064.4.

<sup>44</sup> Cal. Code Regs., tit. 14, § 15064.4(b)(3).

emissions from a land use development project are fully mitigated or that such projects are definitively consistent with the Scoping Plan—particularly where the project at issue is not itself directly regulated by these programs.<sup>45</sup>

This section outlines three distinct approaches that lead agencies may consider for evaluating alignment of proposed plans and residential and mixed-use<sup>46</sup> development projects with the State's climate goals and, therefore, may have a less-than-significant impact on GHG emissions. These approaches are recommendations only and are not requirements. They do not supplant lead agencies' discretion to develop their own evidence-based approaches for determining whether a project would have a potentially significant impact on GHG emissions.<sup>47</sup>

The recommendations outlined in this section apply only to residential and mixed-use development project types. California currently faces both a housing crisis and a climate crisis, which necessitates prioritizing recommendations for residential projects to address the housing crisis in a manner that simultaneously supports the State's GHG and regional air quality goals. CARB plans to continue to explore new approaches for other land use types in the future.

### **3.2.1 Project Attributes for Residential and Mixed-Use Projects to Qualitatively Determine Consistency with the Scoping Plan**

Absent consistency with an adequate, geographically specific GHG reduction plan such as a CEQA-qualified CAP, as described in Section 2, the first approach the State recommends for determining whether a proposed residential or mixed-use residential development would align with the State's climate goals is to examine whether the project includes key project attributes that reduce operational GHG emissions while simultaneously advancing fair housing.

Consistent with the Priority Strategies shown in Table 1, empirical research shows that the following project attributes result in reduced GHG emissions from residential and mixed-use development. Residential and mixed-use projects that have all of the key project attributes in Table 3 should accommodate growth in a manner consistent with State GHG reduction and equity prioritization goals.

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<sup>45</sup> CEQA Guidelines section 15064.4(b)(3) allows compliance with “regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions” as an approach for the determination of significance for GHG emissions.

<sup>46</sup> Mixed use residential is defined as development including both residential and nonresidential uses with at least two-thirds of the square footage designated for residential use per Cal. Gov. Code., tit. 7, § 65589.5(h)(2)(B)).

<sup>47</sup> Cal. Code Regs., tit. 14, § 15064.4.

**Table 3 – Key Residential and Mixed-Use Project Attributes that Reduce GHGs**

Priority Areas	Key Project Attribute
Transportation Electrification	Provides EV charging infrastructure that, at minimum, meets the most ambitious voluntary standard in the California Green Building Standards Code at the time of project approval <sup>48</sup>
VMT Reduction	Is located on infill sites that are surrounded by existing urban uses and reuses or redevelops previously undeveloped or underutilized land that is presently served by existing utilities and essential public services (e.g., transit, streets, water, sewer) <sup>49</sup>
	<p>Does not result in the loss or conversion of natural and working lands</p> <p>Consists of transit-supportive densities (minimum of 20 residential dwelling units per acre),<sup>50</sup> or</p> <p>Is in proximity to existing transit stops (within a half mile),<sup>51</sup> or</p> <p>Satisfies more detailed and stringent criteria specified in the region's SCS<sup>52</sup></p> <p>Reduces parking requirements<sup>53</sup> by:</p> <ul style="list-style-type: none"> <li>Eliminating parking requirements or including maximum allowable parking ratios (i.e., the ratio of parking spaces to residential units or square feet); or</li> <li>Providing residential parking supply at a ratio of less than one parking space per dwelling unit; or</li> </ul>

<sup>48</sup> Cal. Code Regs., tit. 24, Part 11.

<sup>49</sup> Government Code, § 65041.1. "Statewide Environmental Goals and Policy Report." Available at: [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=GOV&sectionNum=65041.1.1](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=65041.1.1).

<sup>50</sup> Federal Transit Administration. 2014. *Planning for Transit-Supportive Development: A Practitioner's Guide*. Available at: <https://www.transit.dot.gov/funding/funding-finance-resources/transit-oriented-development/planning-transit-supportive>.

<sup>51</sup> Washington Department of Transportation. 2013. *Tools for Estimating VMT Reductions from Built Environment Changes*. Available at: <https://www.wsdot.wa.gov/research/reports/fullreports/806.3.pdf>.

<sup>52</sup> One example of an evaluation of consistency with the region's SCS is from the 2013 draft EIR for The Cannery in Davis, p. 3.7-26. Available at: <https://www.cityofdavis.org/home/showpublisheddocument/650/635607772224000000>.

<sup>53</sup> CAPCOA. 2021. *Handbook for Analyzing Greenhouse Gas Emissions Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity: Designed for Local Governments, Communities, and Project Developers*. Available at: <https://caleemod.com/handbook/index.html>.

Priority Areas	Key Project Attribute
	For multifamily residential development, requiring parking costs to be unbundled from costs to rent or own a residential unit. <sup>54</sup>
	At least 20 percent of units included are affordable to lower-income residents <sup>55, 56</sup>
	Results in no net loss of existing affordable units
<b>Building Decarbonization</b>	Uses all-electric appliances without any natural gas connections and does not use propane or other fossil fuels for space heating, water heating, or indoor cooking <sup>57, 58</sup>

These project attributes are intended as a guide to help local jurisdictions qualitatively identify those residential and mixed-use projects that are **clearly** consistent with the State's climate goals, since these attributes address the largest sources of operational emissions for residential projects. In general, residential and mixed-use development projects that incorporate **all** of these key project attributes are aligned with the State's priority GHG reduction strategies for local climate action as shown in Table 1 and with the State's climate and housing goals. As such, they are considered to be consistent with the Scoping Plan or other plans, policies, or regulations adopted for the purposes of reducing GHGs; therefore, the GHG emissions associated with such projects may result in a less-than-significant GHG impact under CEQA. Lead agencies may determine, with adequate additional supporting evidence,

<sup>54</sup> AB 2097, adopted by the Legislature and signed by the Governor in September 2022 eliminates parking requirements for residential and commercial development within a half-mile of transit. Government Code, § 65863.2. "Residential, commercial, or other development types: parking requirements." Available at: [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB2097](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2097)

<sup>55</sup> Newmark, G. and Haas, P. 2015. Income, Location Efficiency, and VMT: Affordable Housing as a Climate Strategy. Available at: <https://chpc.net/wp-content/uploads/2016/05/CNT-Working-Paper-revised-2015-12-18.pdf>.

<sup>56</sup> California Housing Partnership Corporation and TransForm. 2014. Why Creating and Preserving Affordable Homes Near Transit is a Highly Effective Climate Protection Strategy. Available at: <https://1p08d91kd0c03rlxhmhtydrp-wpengine.netdna-ssl.com/wp-content/uploads/2015/11/4-AffordableTODResearchUpdate070114.pdf>.

<sup>57</sup> Energy and Environmental Economics. 2019. Residential Building Electrification in California: Consumer economics, greenhouse gases and grid impacts. Available at: [https://www.ethree.com/wp-content/uploads/2019/04/E3\\_Residential\\_Building\\_Electrification\\_in\\_California\\_April\\_2019.pdf](https://www.ethree.com/wp-content/uploads/2019/04/E3_Residential_Building_Electrification_in_California_April_2019.pdf).

<sup>58</sup> Energy and Environmental Economics. 2021. Achieving Carbon Neutrality in California: PATHWAYS Scenarios Developed for CARB. Available at: [https://ww2.arb.ca.gov/sites/default/files/2020-10/e3\\_cn\\_final\\_report\\_oct2020\\_0.pdf](https://ww2.arb.ca.gov/sites/default/files/2020-10/e3_cn_final_report_oct2020_0.pdf).

that projects that incorporate some, but not all, of the key project attributes are consistent with the State's climate goals.

This qualitative approach to determining the significance of GHG impacts is only intended for residential and mixed-use development projects. CARB will continue to explore this qualitative approach for evaluating the significance of GHG impacts for other types of land uses and encourages CEQA practitioners and lead agencies to do the same. The following two sections describe additional approaches lead agencies may employ in CEQA analyses.

### **3.2.2 Net-Zero Threshold of Significance**

Absent consistency with an adequate, geographically specific GHG reduction plan, as described in Section 2 or consistency with the project attributes approach identified in Table 3 for residential and mixed-use development project types, lead agencies can make a significance determination, consistent with Section 4 below, based on whether the project would result in net-zero GHG emissions. (Note that lead agencies can also use other valid significance thresholds, as described in subsection 3.2.3 below.) Although achieving net-zero GHG emissions may be an appropriate overall objective, it should be noted this approach may not be feasible or appropriate for every project. Furthermore, in determining a project's net GHG impacts, agencies should carefully consider how to view the GHG emissions implications of changes to existing land uses at the project site, particularly where such uses may simply relocate to another location. Lead agencies should consider whether there is substantial evidence that the GHG emissions generated by existing uses of the project site will cease to exist as a direct result of the proposed project and will not merely occur at a different location after the proposed project is developed. If substantial evidence demonstrates that emissions from existing sources currently operating or generating emissions at the project site would continue elsewhere, lead agencies should account for those emissions when calculating the net change in emissions associated with the proposed project.

However, there are recent examples of land use development projects in California that have demonstrated that it is feasible to design projects of nearly any scale that achieve net-zero GHG emissions. Several projects have received certification from the Governor under AB 900, the Jobs and Economic Improvement through Environmental Leadership Act (Buchanan, Chapter 354, Statutes of 2011) and a similar program authorized under SB 7 (Atkins, Chapter 19, Statutes of 2021), demonstrating an ability to design economically viable projects that create jobs while contributing net-zero GHG emissions.<sup>59</sup> These projects have included mixed-use housing and commercial developments, large-scale residential projects, sports arenas, a medical center, and business campuses.

As discussed in Section 3.2.1, "Project Attributes for Residential Projects to Qualitatively Determine Consistency with the Scoping Plan," development in infill and transit-oriented areas

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<sup>59</sup> OPR. 2021. *Judicial Streamlining*. Available at: <https://www.opr.ca.gov/ceqa/judicial-streamlining/>.

helps to reduce or avoid increasing GHG emissions. Although, while land use development patterns in California have become, in general, more compact than in the past, new low-density, auto-oriented development is still being planned for and built.<sup>60</sup> Despite this continuing challenge, several large and mixed-use projects within California have ultimately committed to achieving net-zero GHG emissions. For example, as part of the Downtown West Mixed Use Plan,<sup>61</sup> the applicant, Google LLC, ultimately committed to achieving net-zero GHG emissions for an approximately 80-acre mixed-use property, including almost 6,000 residential units, as well as retail, office, and other land uses, located in downtown San Jose, California. This commitment will be achieved through a combination of on-site measures and the purchase and retirement of carbon offset credits from CARB-approved registries in the voluntary market. Similarly, the Oakland Athletics, the applicant for the Oakland Waterfront Ballpark District Project located in Oakland, California, also committed its development to result in no net increase of GHG emissions through a combination of on-site and local mitigation measures and the purchase and retirement of carbon offset credits from CARB-approved registries in the voluntary market.<sup>62</sup> Design and local reduction measures<sup>63</sup> were employed by the developers to reduce 54 percent of total non-residential emissions, while 49 percent of operational emissions were reduced via carbon offset credits from the voluntary market.

Even California's largest, most sprawl-intensive housing developments have ultimately committed to achieving net-zero GHG emissions, even if only after intense legal battles. For example, under the Newhall Ranch Resource Management and Development Plan and Spineflower Conservation Plan,<sup>64</sup> the applicant, Newhall Land and Farming Company, ultimately committed to achieving net-zero GHG emissions for an almost 12,000-acre plan area in the Santa Clarita Valley. This commitment will be achieved through a combination of on-site and local mitigation measures and the purchase and retirement of carbon offset credits from the voluntary market. Similarly, as a result of a recent settlement agreement, Tejon Ranch Company, the developer for the Centennial Specific Plan located in northern Los

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<sup>60</sup> CARB. 2022. Draft 2022 Progress Report California's Sustainable Communities and Climate Protection Act. P. 22-25. Available at: [https://ww2.arb.ca.gov/sites/default/files/2022-07/2022\\_SB\\_150\\_Main\\_Report\\_Draft\\_ADA.pdf](https://ww2.arb.ca.gov/sites/default/files/2022-07/2022_SB_150_Main_Report_Draft_ADA.pdf).

<sup>61</sup> OPR. 2022. *Judicial Streamlining: Archived Applications*. Available at: <https://opr.ca.gov/ceqa/judicial-streamlining/archive.html>.

<sup>62</sup> Ibid.

<sup>63</sup> Local reduction measures include measures to reduce VMT and trips (including reduced parking and transportation network surcharges), installing EV chargers at 10 percent of onsite parking spaces, electrification (i.e., prohibition of non-electric energy, such as natural gas) of 50 percent of residential units, and either converting an existing jet-fueled peaker plant to battery storage or installing 1,013 EV charging stations in the community.

<sup>64</sup> California Department of Fish and Wildlife. 2021. Newhall Ranch Resource Management and Development Plan and Spineflower Conservation Plan: Final EIS/EIR Documents. Available at: (<https://nrm.dfg.ca.gov/documents/ContextDocs.aspx?cat=NewhallRanchFinal>).

Angeles County,<sup>65</sup> also committed its development to result in no net increase of GHG emissions.<sup>66</sup> Mitigation measures employed by these developers include the prohibition of natural gas in residential and commercial properties; the requirement of on-site solar photovoltaic energy systems on residential and commercial properties; the installation of almost 30,000 EV chargers within and outside the plan area; funding incentives for the purchase of 10,500 passenger EVs and electric school buses and trucks; and procuring and retiring carbon offset credits from the voluntary market.

Although the projects in San Jose and Oakland may not meet all of the key project attributes for qualitatively determining project consistency with statewide GHG goals, as shown in Table 3, and the Newhall and Tejon Ranch projects do not necessarily represent the type of development that California most needs to simultaneously tackle the housing and climate crises, they do demonstrate the feasibility of a net-zero approach for other large and complex residential development projects.

### 3.2.3 Recommended Thresholds of Significance

Lead agencies may also analyze the GHG impact of proposed projects by employing a threshold of significance recommended by the applicable air district<sup>67</sup> or other lead agencies.<sup>68</sup> As stated in CEQA Guidelines section 15064.7(b), “a lead agency may consider thresholds of significance previously adopted or recommended by other public agencies or recommended by experts, provided the decision of the lead agency to adopt such thresholds is supported by substantial evidence.” However, thresholds for analyzing a project’s GHG emissions can become outdated if they are not aligned with the State’s most recent GHG reduction goals.<sup>69</sup> To be defensible, CEQA significance thresholds must be supported by substantial evidence.<sup>70</sup> Mitigating GHG emissions below an applicable GHG threshold of significance is one way lead agencies may demonstrate that a project’s GHG emissions would have a less-than-significant impact on the environment. For lead agencies that pursue this approach, CAPCOA, which

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<sup>65</sup> Los Angeles County Department of Regional Planning. 2019. *Specific Plan No. 02-232 / Centennial Specific Plan*. Available at: [https://planning.lacounty.gov/case/view/specific\\_plan\\_no\\_02\\_232\\_centennial\\_specific\\_plan](https://planning.lacounty.gov/case/view/specific_plan_no_02_232_centennial_specific_plan).

<sup>66</sup> Tejon Ranch. 2021. *Settlement Agreement Reached in Centennial lawsuit*. Available at: <https://tejonranch.com/settlement-agreement-reached-in-centennial-lawsuit/>.

<sup>67</sup> CARB research indicates that less than 20 percent of California’s population is located in an area with CEQA GHG thresholds of significance addressing SB 32 reduction goals adopted by an air district (Bay Area Air Quality Management District and Sacramento Metropolitan Air Quality Management District).

<sup>68</sup> As with all CEQA significance thresholds, GHG significance thresholds must be supported by substantial evidence. Some lead agencies, such as the City of San Luis Obispo and County of Santa Barbara, have adopted CEQA GHG thresholds of significance due to the absence of a local air district-adopted threshold or because a local CEQA-qualified CAP used to tier and streamline its project-specific CEQA GHG analysis (per CEQA Guidelines Sections 15064.4 (b)(3) and 15183.5) may not be available or applicable.

<sup>69</sup> CEQA GHG analyses (including significance determinations) “must reasonably reflect evolving scientific knowledge and state regulatory schemes.” (Cal. Code Regs., tit. 14, §§ 15064.4(b))

<sup>70</sup> Cal. Code Regs., tit. 14, § 15064.7(b).

provides a forum for the sharing of knowledge, experience, and information between air districts throughout the state, has developed tools and guidance for CEQA practitioners, such as the California Emissions Estimator Model<sup>71</sup> (CalEEMod) and guidance for developing and quantifying project-level GHG mitigation measures.<sup>72</sup>

## 4. Mitigating Greenhouse Gas Emissions Pursuant to CEQA

If a lead agency determines that a proposed project's GHG emissions would result in a significant impact and a cumulatively considerable contribution to climate change, the lead agency must impose feasible mitigation measures to reduce the project's GHG impact to a less-than-significant level.<sup>73</sup> According to the CEQA Guidelines, mitigation measures must be feasible, roughly proportional, not inappropriately deferred, capable of being monitored or reported, fully enforceable, and based on substantial evidence. They must also have a nexus to a legitimate governmental interest.<sup>74</sup> Any GHG offsets used as CEQA mitigation must not be otherwise required (e.g., by regulation or by existing permitted CEQA projects).<sup>75</sup> Lead agencies should present substantial evidence to document that a given mitigation measure would actually serve to mitigate the proposed project's GHG emissions.<sup>76</sup>

CAPCOA has developed tools and guidance for CEQA practitioners for developing and quantifying project-level GHG mitigation measures. These include CAPCOA's Handbook,<sup>77</sup> which it published in 2021 along with the mitigation module in CalEEMod.<sup>78</sup>

As the severe impacts of climate change become better understood and the State's climate goals become more stringent over time, local, off-site CEQA GHG mitigation measures will become increasingly necessary. However, several factors often hinder the adoption of local, off-site GHG mitigation under CEQA, including confusion about CEQA's requirements for GHG mitigation, a focus on carbon offset credits and lack of awareness of local GHG mitigation

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<sup>71</sup> CAPCOA. 2022. *California Emissions Estimator Model*. Available at: [www.caleemod.com](http://www.caleemod.com).

<sup>72</sup> CAPCOA. 2021. Handbook for Analyzing Greenhouse Gas Emissions Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity: Designed for Local Governments, Communities, and Project Developers. Available at: <https://caleemod.com/handbook/index.html>.

<sup>73</sup> Cal. Code Regs., tit. 14, § 15126.4(c).

<sup>74</sup> Cal. Code Regs., tit. 14, § 15126.4(a)(4)(A).

<sup>75</sup> Cal. Code Regs., tit. 14, § 15126.4(c)(3)).

<sup>76</sup> Cal. Code Regs., tit. 14, § 15126.4(c)).

<sup>77</sup> CAPCOA. 2021. Handbook for Analyzing Greenhouse Gas Emissions Reductions. Assessing Climate Vulnerabilities and Advancing Health and Equity: Designed for Local Governments, Communities, and Project Developers. Available at: <https://caleemod.com/handbook/index.html>.

<sup>78</sup> CAPCOA. 2022. *California Emissions Estimator Model*. Available at: [www.caleemod.com](http://www.caleemod.com).

opportunities, and a perception of high costs (e.g., mitigation costs for project sponsors, administrative costs for lead and responsible agencies).

This section seeks to assist in overcoming barriers to GHG mitigation under CEQA and reduce the use of statements of overriding considerations by lead agencies by establishing a hierarchy of mitigation opportunities that reflect the State's priorities for mitigation. In doing so, this section encourages project applicants and local governments to use local and non-local off-site GHG mitigation approaches (including carbon offset credits) consistent with CEQA's requirements. This section also seeks to clarify how CEQA's mitigation requirements apply to GHG mitigation (including carbon offset credits).

While this section identifies ways to overcome some common barriers to local CEQA GHG mitigation, other barriers may take longer to remove and may even require legislative or other State-level action. Through appropriate application of local GHG mitigation under CEQA, lead agencies have an opportunity to benefit their communities while addressing the climate crisis. Local, off-site mitigation measures implemented in the communities in which project impacts occur have the added potential co-benefit of reducing emissions of toxic air contaminants and criteria air pollutants, which will improve health and social and economic resiliency to climate-related impacts. Verification of local mitigation can also be more straightforward than verification of mitigation that is outside of the jurisdictional boundaries of the lead agency.

## 4.1 GHG Mitigation Hierarchy

CEQA requires lead agencies to impose all feasible mitigation measures necessary to avoid or reduce GHG emissions to a less-than-significant level prior to certifying an Environmental Impact Report (EIR) or mitigated negative declaration. CEQA does not require mitigation measures that are infeasible for specific legal, economic, technological, or other reasons. If there are not sufficient mitigation measures that the lead agency determines are feasible for avoiding GHGs or reducing GHGs to a less-than-significant level, before approving a project, the lead agency must adopt all measures that are feasible and adopt a statement of overriding considerations (or significance "override") that explains why additional mitigation is infeasible.<sup>79</sup> The statement of overriding considerations must be supported by substantial evidence in the record.

A wide array of CEQA GHG mitigation that can help avoid the need to adopt statements of overriding considerations is discussed in Section 4.1.2 below. The hierarchy outlined below may provide a helpful reference for lead agencies and project sponsors on how to approach mitigation in a way that maximizes benefits to communities surrounding projects, with a particular emphasis on benefitting historically underserved and disadvantaged communities.

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<sup>79</sup> Cal. Code Regs., tit. 14, § 15093(b).

The State recommends prioritizing CEQA GHG mitigation according to a geographic hierarchy as follows:

1. On-site design measures;
2. Off-site GHG mitigation:
  - a. Funding or implementing local, off-site GHG reduction projects (within the communities or neighborhoods in the vicinity of the project);
  - b. Funding or implementing non-local, off-site GHG reduction projects;
3. Purchasing and retiring carbon offset credits:
  - a. That originate in the same air basin as the project;
  - b. That originate elsewhere in California;
  - c. That originate outside of California.

This geographical hierarchy is consistent with SB 7, in which the Legislature mandated a similar hierarchy for land use development projects seeking to be designated as “environmental leadership development projects” and granted certain streamlining provisions. Under this hierarchy, the community in which the project is located is prioritized to receive the environmental and economic co-benefits of the mitigation, especially the reductions in emissions of criteria air pollutants and toxic air contaminants that accompany many GHG reduction measures. Similar prioritization was included in the Oakland Waterfront Ballpark District Project, which required that a minimum of 50 percent of the GHG emission reductions from non-residential land uses result from local, direct measures, and stipulated that no more than 50 percent of reductions may result from offset credits.<sup>80</sup>

The following sections discuss each level of mitigation in the suggested hierarchy of mitigation.

#### **4.1.1 On-site GHG Mitigation**

Lead agencies should prioritize on-site design features within the project site that minimize GHG emissions. On-site GHG mitigation includes the implementation of project features, project design, or other measures, including but not limited to energy efficiency measures, installation of renewable energy electricity generation, all-electric building design, EV charging connections, and features that reduce VMT, such as a transportation demand management plan or the provision of shared mobility options (such as facilitating carpooling, providing active transportation and transit vouchers, and implementing telecommuting and alternate work schedules). Chapter 3 of CAPCOA’s 2021 *Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity*,<sup>81</sup> includes

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<sup>80</sup> Bonta, Chapter 959, Statutes of 2018. California Environmental Quality Act: Oakland Sports and Mixed-Use Project. Available at:

[https://leginfo.legislature.ca.gov/faces/billPdf.xhtml?bill\\_id=201720180AB734&version=20170AB73492CHP](https://leginfo.legislature.ca.gov/faces/billPdf.xhtml?bill_id=201720180AB734&version=20170AB73492CHP).

<sup>81</sup> CAPCOA. 2021. Handbook for Analyzing Greenhouse Gas Emissions Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity: Designed for Local Governments, Communities, and Project Developers. Available at: <https://caleemod.com/handbook/index.html>.

many on-site GHG reduction measures for a variety of project and plan types for lead agencies to consider. Many on-site GHG mitigation measures also result in a reduction in emissions of criteria air pollutants and toxic air contaminants in the air basin in which the project is located, as well as emissions of toxic air contaminants on or near the project site, consistent with legislative direction from SB 32 to “achieve the state’s more stringent greenhouse gas emission reductions in a manner that benefits the state’s most disadvantaged communities.”

#### 4.1.2 Off-site GHG Mitigation

If implementation of all feasible on-site GHG reduction measures is insufficient to reduce a project’s impact to a less-than-significant level, the State recommends that the lead agency next explore options to fund or implement *local*, off-site direct GHG reduction strategies.

Funding or implementing GHG mitigation measures in the project’s vicinity may allow the project proponent and the lead agency to work directly with the impacted community to identify and prioritize the mitigation measures that meet its needs while minimizing multiple environmental and societal impacts. Direct, local investments help build relationships for future mutually beneficial development and mitigation opportunities in that community and may also provide a multitude of other co-benefits to the neighborhood’s residents. To help remove barriers to employing these types of mitigation, lead agencies may wish to consider developing a local mitigation bank<sup>82</sup> that enables project applicants to fund such projects in exchange for being credited with the resulting GHG reductions in their CEQA analyses. The lead agency should also provide substantial evidence to show that the mitigation would actually serve to mitigate the proposed project’s GHG emissions (i.e., a project cannot take credit for unrelated off-site measures that would occur independently of the proposed project). Examples of local investments and their co-benefits include:

- **Local urban forestry** programs that increase the number of trees and other plants in urban areas can sequester carbon, reduce air pollution and ambient temperatures, help manage stormwater and improve water quality, provide shade to reduce energy demand for cooling buildings (and the associated cost and GHG emissions of that energy), improve aesthetics, foster mental health, and encourage physical activity of residents and employees, among many other benefits.
- **Local building retrofit programs** targeting existing residential and commercial buildings in the project’s vicinity can fund installation of cool roofs, solar panels, solar or heat pump water heaters, smart meters, and energy efficient lighting and appliances; replacement of fossil fuel-powered appliances with electric models; installation of energy efficient windows, insulation, and other building envelope measures; and

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<sup>82</sup> As discussed in Section 5, below, the Regional GHG Collaborative Group along the Central Coast are working to educate and provide avenues for offset projects to help meet current and future local GHG reduction targets and CEQA GHG reduction needs.

implementation of water conservation measures. These investments can improve comfort, reduce utility bills, and help manage the demand for electricity while reducing GHG emissions.

- **Off-site EV chargers** can increase access to EV charging throughout a community. Some examples could include EV chargers in multi-unit dwellings in disadvantaged or low-income areas, public locations (schools, libraries, city centers), workplaces, key destinations (e.g., parks, recreation areas, sports arenas).
- **Public transit subsidies** can increase access to transit and to daily activities served by transit and can encourage less reliance on driving and increased reliance on other modes of transportation (e.g., transit and active transportation), which provides air quality and cost savings co-benefits to residents.

Like many on-site GHG mitigation measures, implementation of most local, off-site GHG reduction strategies also results in reductions of toxic air contaminants and criteria air pollutants and their precursors in the same air basin in which the project is located. The State recommends that lead agencies prioritize GHG mitigation that also increases a community's social and economic resilience to adverse impacts exacerbated by climate change. Applying a local lens to GHG mitigation and allowing for community-led decision-making helps prioritize the mitigation measures that address community-identified needs and can also fill gaps in the existing local approach to climate action.

If a project needs further GHG reductions after adoption of all feasible local, off-site mitigation options, applicants should next consider non-local, off-site mitigation. There has been concern that GHG emission reductions from off-site GHG mitigation measures (including carbon offset credits) may double count GHG emission reductions from California's Cap-and-Trade program. However, off-site mitigation measures, such as EV charging or building efficiency retrofits, are viable options for mitigation under CEQA and would not be double counted, provided they are not otherwise required by law or regulation and would not have happened but for the mitigation requirements of the project. If the mitigation would have been implemented or required through another statute, regulation, existing local program, or requirement other than the project it is mitigating, then the project being mitigated may not also claim credit for the reductions.

#### **4.1.3 Conditions Applicable to Carbon Offset Credits**

If implementation of all feasible on-site GHG reduction measures and all feasible off-site GHG reduction measures are insufficient to reduce a project's impact to a less-than-significant level, then the lead agency or project applicant should consider purchasing and retiring carbon offset credits. The State recommends that carbon offset credits retired as CEQA mitigation be registered with a recognized and reputable carbon registry on the voluntary market. For example, while CARB does not review or authorize voluntary-market offset registries or protocols for use as CEQA mitigation, CARB notes that the registries

approved by CARB for the Cap-and-Trade Program also serve as voluntary market credit registries, with voluntary market offsets available for CEQA mitigation purposes.<sup>83</sup>

In addition, starting in 2023, the California Carbon Sequestration and Climate Resiliency Project Registry<sup>84</sup> will be maintained by the California Natural Resources Agency for the purposes of identifying and listing projects in the state that drive climate action on the state's natural and working lands. The Registry is seeking funding from State agencies and private entities and may provide additional carbon offset credits. Note that compliance offsets for the Cap-and-Trade Program (a state market-based carbon program unaffiliated with CEQA) cannot be used for any purpose other than Cap-and-Trade compliance by covered entities and therefore cannot be purchased for use as CEQA mitigation.<sup>85</sup> As with other types of off-site mitigation, the State recommends pursuing carbon offset credits that are as close to the project site as possible in the following order of priority: (1) carbon offset credits that originate in the same air basin as the project, (2) carbon offset credits that originate elsewhere in California, (3) carbon offset credits that originate outside of California.

## 4.2 Clarifying CEQA's Requirements for GHG Mitigation

Over the years, agencies and courts have provided direction and guidance regarding GHG mitigation. Given the variety of potential projects and mitigation scenarios, some uncertainty and misconceptions persist. For example, when lead agencies consider off-site GHG mitigation (including carbon offset credits), they may sometimes conflate the requirements for compliance-grade offsets in California's Cap-and-Trade regulation with the requirements for GHG mitigation measures under CEQA. The Cap-and-Trade regulation requires that compliance offsets used in the Cap-and-Trade Program meet certain regulatory criteria, including that they be real, additional, quantifiable, permanent, verifiable, and enforceable. In general, the State's Cap-and-Trade Program restricts compliance offsets from being used for any purpose other than Cap-and-Trade compliance, including being used as mitigation under CEQA.

When designing GHG mitigation measures (whether local, off-site mitigation or carbon offset credits), the State recommends that lead agencies focus on applying the requirements specified in the CEQA statute, Guidelines, and case law – e.g., not otherwise required (see CEQA Guidelines section 15126.4(c)(3)); enforceable (see CEQA Guidelines section 15126.4(a)(2)); supported by substantial evidence; etc. – rather than strictly importing all of the regulatory requirements used for compliance offsets within California's Cap-and-Trade

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<sup>83</sup> CARB. 2022. Offset Project Registries. Available at: <https://ww2.arb.ca.gov/our-work/programs/compliance-offset-program/offset-project-registries>.

<sup>84</sup> Skinner, Chapter 237, Statutes of 2021. Carbon sequestration: state goals: natural and working lands: registry of projects. Available at: [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220SB27](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB27).

<sup>85</sup> Cal. Code Regs., tit. 14, Chapter 3, §§ 15000 et seq.

program. It may be appropriate for lead agencies to require CEQA mitigation that helps localities meet targets or commitments set in local planning documents, including CAPs, lacking sufficient funding and are not otherwise explicitly required by regulation. Lead agencies should use substantial evidence to document that a specific off-site mitigation measure is not otherwise required and would not have occurred at that time **but for** the requirement to mitigate a project's GHG impacts. Examples of off-site GHG mitigation that would not have occurred but for the requirement to mitigate a project's GHG impacts and could therefore be not otherwise required are included in Section 4.1.2, Off-site GHG Mitigation.

## 5. Importance of Regional Collaboration

While local jurisdictions have considerable authority to act individually, it is important to consider the many benefits of regional collaboration. Transportation, land use, housing, climate, and energy issues are often interconnected. Local governments can benefit from collaborating with neighboring jurisdictions and regional agencies as they seek to reduce GHG emissions from these sectors. For example, CAPs that consider regional travel patterns, job and housing availability, and regional opportunities to mitigate GHG emissions can be more effective. In collaboration with other regional entities, local jurisdictions can leverage investments, data, best practices, and opportunities for GHG emission reductions in an equitable manner.

Regional collaboration and partnership across levels of government can bring together community leaders, agencies, academia, industry, community-based organizations, and other stakeholders from multiple jurisdictions within a region to share expertise, information, lessons learned, and strategies to promote mutually defined goals. Regional collaboration may include leveraging existing collaboratives and partnerships or establishing new ones. There are many excellent examples of regional collaboration in California that support the intersection of transportation, housing, and land use in tackling climate change. Local jurisdictions can leverage the work of these collaboratives and build on existing efforts to support equitable implementation of priority strategies and GHG mitigation. Examples of existing regional collaboratives include Community Choice Aggregators (CCAs), Regional Energy Networks (RENs), Regional Climate Collaboratives, Regional Housing Collaboratives, and Plug-in Electric Vehicle Collaboratives. The Integrated Climate Adaptation and Resiliency Program (ICARP)<sup>86</sup> offers funding, case studies, and tools for forming regional climate coordination entities.

Regional collaboration has tremendous potential to address barriers and expand opportunities for successful local GHG mitigation. It can help increase local opportunities for feasible GHG mitigation under CEQA that also benefit the communities impacted by the development. It can

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<sup>86</sup> Governor's Office of Planning and Research. 2022. *Integrated Climate Adaptation and Resiliency Program (ICARP)*. Available at: <https://opr.ca.gov/climate/icarp/>.

help overcome barriers, such as project and administrative costs. It can help increase awareness of local mitigation opportunities for project applicants and lead agencies, improve connections with existing programs that offer mitigation opportunities, and identify sites for off-site mitigation opportunities, all in an effort to support a local voluntary mitigation market. And it can help site owners aggregate smaller mitigation projects to potentially reduce costs, increase the efficiency of mitigation projects, and leverage expertise on mitigation strategies and quantification methodologies.

Regional collaboration can also lend support to lead agencies and air districts as they seek opportunities for local GHG mitigation. San Luis Obispo County Air Pollution Control District, County of Santa Barbara, County of Ventura, City of Santa Barbara, City of San Luis Obispo, and Community Environmental Council formed a tactical Regional GHG Collaborative Group to understand and identify opportunities for local carbon sequestration and GHG reduction projects.

Developing a local voluntary mitigation market will help a city or region capture mitigation dollars and provide local benefits that are not realized by the purchase of distant, out-of-state carbon offset credits, while providing greater transparency and enforceability. Keeping GHG mitigation dollars within communities or regions can also be a strategy to address community needs and inequities from historic and ongoing underinvestment in vulnerable and disadvantaged communities.

Creating, sustaining, and expanding regional collaboratives takes time, resources, and expertise that are not always available to local jurisdictions. There may be a role for the State to ensure that all regions have access to mitigation opportunities. One potential avenue to accomplish this would be through the creation of a statewide GHG mitigation bank designed for CEQA mitigation purposes.

## 6. Conclusion

Local governments are essential partners in California's efforts to reduce GHGs. Their unique expertise and respective authorities allow them to shape growth and development patterns within their jurisdiction, and as a result, local actions remain critical for reducing GHG emissions from the built environment and transportation. Indeed, the Scoping Plan proposes transformative reductions in GHG emissions from the building and transportation sectors. These critical emission reductions rely on significant electrification of the state's vehicle fleet and building stock, but also require a significant shift in the transportation choices for Californians favoring active mobility, shorter trips, and robust public transit rather than sprawl and automobile dependence. Local governments have a critical role to play in this transition through their land use policies, transportation investments, and partnerships with neighboring jurisdictions, community organizations, business and labor groups, and the State.

Local leadership and regional collaboration are paving the way for reducing emissions in these sectors, and this appendix seeks to inform jurisdictions about opportunities to promote transportation electrification, VMT reduction, and building decarbonization through:

- Developing local CAPs and strategies consistent with the framework described in Section 2: “The Role of Local Climate Action Planning in Supporting the State’s Climate Goals;”
- Localizing State-level GHG priorities when approving individual land use plans and projects as described in Section 3: “The Role of Land Use Development Projects in Supporting the State’s Climate Goals;”
- Implementing mitigation to reduce GHG emissions associated with CEQA projects, consistent with Section 4: “Mitigating Greenhouse Gas Emissions Pursuant to CEQA;” and
- Leveraging regional collaboration to enhance the effectiveness of local climate action and overcome barriers to CEQA GHG mitigation as highlighted in section 5: “Importance of Regional Collaboration.”

California must accommodate population and economic growth in a far more sustainable and equitable manner than in the past. California’s climate trajectory relies on local efforts that align with and help implement the State’s priorities. The recommendations provided in this appendix are non-binding and should not be interpreted as a directive to local governments, but rather as evidence-based analytical tools to assist local governments with their role as essential partners in achieving California’s climate goals.

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December 16, 2025

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**Submitted Electronically**

**RE: SUPPORT – ID 25-1641 – Southeast Development Area Specific Plan**

Dear Council President Karbassi and Members of the City Council:

On behalf of INVEST Fresno, a coalition of residents, businesses, and community organizations committed to building a diverse and sustainable economy in Fresno, we write to express support for the Southeast Development Area Specific Plan (SEDA).

Generally, INVEST Fresno supports and applauds the City's stated intent to bring up to 45,000 homes and 37,000 jobs to the plan area by 2050.

In particular, we support the City's intended plan to move forward with South SEDA as part of phase 1 of the plan. We would also support the city moving forward with the realignment of land uses consistent with EIR alternatives, as presented to the Council on November 20, 2025.

Fresno's budget is closely tied to the strength of its local economy. By attracting new businesses, encouraging housing development, and revitalizing underutilized areas, the city can expand and diversify its tax base. A broader tax base increases property tax, sales tax, and business license revenue without necessarily raising taxes on residents and consumers. Fresno needs sustainable economic development that not only increases city revenues but also boosts employment and enhances the overall quality of life.

However, we remain concerned regarding the definition of Flexible Research and Development, which does not appear to include job-creating land uses such as light or heavy industrial.

Most manufacturing uses fall within the definition of "General Industrial." However, most of the land use designations that could fall within the Flexible Research and Development Districts do not allow General Industrial uses. And those that do, such as the Regional Business Park and Business Park zoning districts, require that new or expanded manufacturing uses—no matter how small—go through the conditional use permit (CUP) process, which typically means a full EIR must be prepared. For

all but the largest manufacturing projects, a CUP requirement will render a new manufacturing project non-viable.

Further, to the extent the Flexible Research and Development District does not allow Light Industrial and Heavy Industrial land uses, SEDA would not include any such uses, and would have the opposite effect of increasing land zoned for economic development and job creation purposes. Indeed, the downzoning of properties away from heavy and light industrial land uses within SEDA—combined with the City's limited opportunities for industrial growth or expansion—would consequently steer existing and potential economic investment elsewhere.

Fresno's shortage of both housing and employment centers has also eroded the city's natural competitive advantage within the region. As neighboring cities have expanded their industrial and residential capacity, they have increasingly absorbed the growth that logically could occur in Fresno. This shift forces Fresno residents to travel farther for work and housing opportunities, increasing vehicle miles traveled (VMT), worsening air quality, and undermining regional climate goals. Just as importantly, when jobs and new development migrate outside Fresno's boundaries, the associated sales tax, property tax, and business activity migrate with them—diverting vital revenue away from the city's budget and the essential services it funds. Ensuring that SEDA includes adequate opportunities for housing, light and heavy industrial, and other job-creating land uses is essential to restoring Fresno's competitiveness and keeping economic benefits within our communities.

A well-balanced land use plan that includes job creation and other tax-generating uses is essential to strengthening the City's economic standing. Job-creating industries not only provide stable employment opportunities for Fresno residents but also generate critical revenue through sales taxes, business license fees, and property taxes. This revenue directly funds essential public services, including public safety, infrastructure improvements, and community programs.

We appreciate your time and consideration and respectfully urge the Council adopt the Southeast Development Area Specific Plan, moving forward with South SEDA and prioritizing revenue generation and job-creation uses.

If you would like to discuss this matter further, please do not hesitate to contact Ben Granholm at [info@INVESTFresnoCA.com](mailto:info@INVESTFresnoCA.com). We look forward to working with you and staff to help keep Fresno's economy moving.

Sincerely,

Ethan Smith  
Chairman

Ben Granholm  
INVEST Fresno

cc: Jerry Dyer, Mayor  
Georgeanne White, City Manager  
Councilmembers, City of Fresno

**From:** [Jennifer Laird](#)  
**Subject:** City Council Mtg 12/18/25 - Reject SEDA  
**Date:** Wednesday, December 17, 2025 10:11:01 AM

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Begin forwarded message:

**From:** Lisa Flores [REDACTED]  
**Date:** December 17, 2025 at 8:57:31 AM PST  
**To:** Jerry Dyer [REDACTED] >, District5 [REDACTED] >, District2 [REDACTED] >, District1 [REDACTED] >, District4 [REDACTED] >, District6 [REDACTED], District7 [REDACTED] >, District3 [REDACTED], [REDACTED]  
**Subject: City Council Mtg 12/18/25 - Reject SEDA**

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

City of Fresno  
City Council  
Mayor Jerry Dyer

December 17, 2026

Re: Agenda Item #  
Reject SouthEast Development Area (SEDA)

I am urging the Fresno City Council to reject the Southeast Development Area Plan in its entirety for the following reason(s):

1. SEDA public engagement plan has not reached out to all residences in the effect area. All property owners/renters should be aware of the actual real cost of this plan, so there concerns can be addressed, Furthermore, City of Fresno long history of environmental racist in land use policy continues, so it would behoove the City to not only slow down the process, but reevaluate the current process which is deficiency at best. For instance, why hold the public approval meeting a week before Christmas, and at a time when a majority of the residents still are unable to attend? As a community engagement consultant, this is the worse time of year to hold a meeting and signals to the community that the City has something to hide. Your public engagement process lacks true engagement and transparency at the issues that effect residents and landowners - why?

2. SEDA is one of the worst documents I have tried to understand, it is a prime example of incomplete staff work, and demonstrates a unique level of governmental incompetency and malfeasance. Why is the City of Fresno Planning Department leadership, as well as, the City Manager Office continuing to put forward incomplete documents that are not legally defensible? Where are the current and up to date financial forecasting of this document?
3. SEDA SHOULD NOT be approve or modified today - it needs to be completely rejected! If you choose approve this document, please note I can see at least three (if not more) major areas where the City of Fresno may face legal challenges. My personal estimations, is that the City of Fresno is looking at \$5-10 million dollars in just legal fees and possible settlements to defend this document. Where will this money come from when state and federal funding is drying up? How will a large settlement impact the City of Fresno general fund and staffing levels? At this moment no developer are NOT financial liable for this document, so why is the City of Fresno holding the financial burden - AND why are taxpayers holding the bag on this high risk document? Think about all the potholes that could be filled with \$5-10 million.
4. This plan proposes to that eliminate up to 11 schools - seriously? DO I need to elaborate on the needs for educational institutions/school in our community. According to news reports, 11 schools will be eliminated - why? Where are the children going? What is the economic impact to Fresno Unified, and will the City of Fresno be financial obligated to pay for the impacts?
5. Finally, there needs to be a public discussion on the relationship between sitting city council members and developers. Currently, a well-known developer through his a de facto “community organization” has place a billboard thanking a city council member? For what? All right before a very public vote in which this developer would greatly benefit from...even though the city council member on its face appears to have done nothing wrong - the appearance of impropriety exist. Clean up on aisle 5!

[Sent from the all new AOL app for iOS](#)

**From:** [Mike Karbassi](#)  
**To:** [Jeff Wabbit](#)  
**Cc:** [Clerk Agendas](#); [Clerk](#)  
**Subject:** RE: Southeast Development Area Specific Plan and related Final Environmental Impact Report (SCH No.2022020486) December 18, 2025 meeting  
**Date:** Friday, December 12, 2025 10:00:20 AM

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Good morning, Mr. Ramming. Thank you for writing to me directly. I am sending this information to our City Clerk so that it could be included on the record when this item is heard before the Council.

In Service,

Mike Karbassi  
Council President  
Fresno City Council  
City of Fresno  
District 2 Northwest  
[2600 N. Fresno St.](#)  
[Fresno, CA, 93721](#)  
[\(559\) 621-8000](#) Office  
[\(559\) 237-4010](#) Fax

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**From:** Jeff Wabbit <[REDACTED]>  
**Sent:** Friday, December 12, 2025 9:18 AM  
**To:** Mike Karbassi [REDACTED]  
**Subject:** Southeast Development Area Specific Plan and related Final Environmental Impact Report (SCH No.2022020486) December 18, 2025 meeting

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

December 12, 2025

From: Dr. David Ramming

To: Mike Karbassi

Subject: Southeast Development Area Specific Plan and related Final Environmental Impact Report (SCH No.2022020486) for the December 18, 2025 Fresno City Council meeting.

I am specifically addressing Trails and Parks in the SEDA plan and asking why it has been taken out of the Environmental Impact Report.

The SEDA plan states in Chapter 4, Page 9 under the heading:

**Parks, Open Spaces and Green Infrastructure** *"The SEDA Plan features a well-coordinated system of natural and developed open spaces that serve many vital uses, from recreation to community farming and agriculture, to stormwater management. As part of the future Parks and Trails Master Plan, locations of multi-use trails and other open space networks within the Southeast Development Area will be contemplated."*

I cannot find a Parks and Trails Master Plan in Fresno City's General plan. I can only find a Parks Master plan which has the following:

Under the **Bicycle / Pedestrian Trail** heading on Page 45 of the SEDA plan, it states:

*Trail systems connect regional and sub-regional destinations for bicyclists, pedestrians, and equestrians (where appropriate) and seek to provide safe, comfortable paths, which accommodate recreational activity and non-automobile travel for daily trips. In addition, multi-use trails will be located next to canals and other open space networks within the SEDA and will further help to direct storm water runoff into natural basins.*

This states that Trails are needed to reduce Vehicle Miles Traveled (VMT). It also implies that pollution will be reduced by reducing VMT. Since these two issues are a major consideration for the plan to be operational and environmentally safe, the plan should not go forward until the two issues are included in the Environmental Impact Report (EIR).

Sophia Pagoulatos stated at the Planning Commission Meeting November 19, 2025, that the trails had been taken out of the plan as they were too controversial at the outreach meetings. I think she meant that the Trails were taken out of the EIR, however, they are still in the SEDA plan. How can this be a viable plan without the proposed walk ways and open spaces they say are so vital for this plan. If Trails are so controversial, then the problems certainly needs to be worked out before any plan is accepted.

The plan also states the trails will be located next to canals.

#### **POLICY OS-1.1 JOINT USE OF OPEN SPACES.**

- Establish joint-use agreements with the **Fresno Irrigation District** to provide public access to areas adjacent to canals and creeks. These agreements should address issues associated with the provision of canal side trails, where appropriate." Page 54 SEDA plan.*

Irrigation canals operated by Fresno Irrigation District are usually on private property in the SEDA area and, therefore, would have to be obtained by Eminent Domain or other means. These canals are dangerous when filled with irrigation water and certainly are a safety hazard. These issues need to be worked out publicly before this plan can go forward.

In the Next Steps statement of the SEDA plan, page 13, they have placed **Complete a Parks**

**and Trails Master Plan to Determine Locations for Parks and Trails after Amend the General Plan and Development Code to Implement the Land Use and Zoning Described in the Plan.**

*Under the section OBJECTIVE OS-4 PARKS AND TRAILS MASTER PLAN it states,*

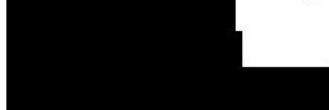
**Prior to the design and construction of the SEDA trail system, a SEDA Parks and Trails Master Plan will need to be completed that would define the final location and alignment of trails that encompass the following open space opportunities below:** Multi-Use Trails • Establish a planned network of multi-use greenway trails. These trails will serve bicyclists, pedestrians, and, where appropriate, equestrians. • Cross sections and width requirements will be provided for specific conditions—including canal side, open space, streetside, and farm side trails. Regional Trails • Coordinate regional trail planning with Fresno County, the City of Clovis, and other jurisdictions as appropriate. The City of Fresno Active Transportation Plan calls for Class I Bicycle Paths along each canal in the SEDA. A regional Rails to Trails Bicycle Path is planned to run parallel to California Avenue should existing railroad lines be vacated. Trail Standards • Trails shall be designed with features that encourage use, provide safety, and are resource efficient. Trail standards shall address shading, low-water landscaping, fencing, paving and surface materials, lighting, seating and furniture, ADA access requirements, signage, and intersection treatments.” Page 58.

The SEDA Parks and Trails Master Plan need to be included in the EIR and the plan now. If the plan is calling for trails and open spaces to be a vital part of the plan, these areas need to be included in the zoning maps at the beginning, not some time later when they hope people have forgotten about it. Please put in the plan maps what the plan is calling for so the public can comment whether their ideas for trails and parks in the SEDA area would be acceptable or not.

The SEDA plan should not be accepted until the issues with the trails can be worked out and included in the EIR. I respectfully request you vote no against the SEDA plan, its EIR report and the adoption of a text amendment to put it in the General Plan.

Sincerely yours,

Dr. David W. Ramming

A large rectangular area of the page has been completely blacked out, obscuring a signature. The blacked-out area is roughly the size of a standard business card.

**From:** [REDACTED]  
**To:** Clerk  
**Cc:** Dale Reitz; Dustin Pattigan  
**Subject:** Comments to City Council 12-18-2025 Agenda Item 25-1641, Adoption of SEDA Specific Plan and EIR  
**Date:** Monday, December 15, 2025 10:37:46 AM  
**Attachments:** [Comments presented to City Council Meeting on SEDA Specific Plan and EIR Reitz 12-18-2025 C.pdf](#)

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

Please distribute this comment document to the city council members regarding the 12-18-2025 Agenda Item 25-1641, Adoption of SEDA Specific Plan and EIR.

Thank you, please contact me if you have any questions.

Mark Reitz

[REDACTED]  
Fresno CA  
[REDACTED]

Owner of property at [REDACTED]

To: Fresno City Council

December 18, 2025

From: Mark Reitz, Registered Civil Engineer and Dale Reitz, Geologist

[REDACTED]  
Fresno CA 93720  
[REDACTED]

Comments to 12-18-2025 Agenda Item 25-1641 for City Council Hearing on Adoption of  
Southeast Area Development Specific Plan and related Final Environmental Impact Report

We would like to congratulate and thank the city of Fresno for their work in preparing this significant document and moving towards adoption of a Specific Plan for the Southeast Development Area that has been discussed and anticipated since 2007. As long-time property owners of a family home and farm within this area for over 100 years at 1080 S. Temperance (east of Temperance between the Railroad and Church Avenues), we and our neighbors welcome the opportunity to finally provide input to this Plan and hopefully provide local perspective to responsible growth and for the benefit of the city of Fresno for years to come.

We have watched the city grow to the southeast over the past 50 years, and we are excited for a well-planned and responsible expansion of Fresno. Currently, there are three new major residential subdivisions directly across the street from our farm property on Temperance Ave as well as a new Sanger Unified High School at Jensen and Fowler and a planned new elementary school on the west side of Temperance Avenue just an eighth of a mile south of our property.

We have attended numerous planning meetings and public presentations. We have offered our written recommendations and alternative maps regarding land use planning in our area going back to 2007. These documents have been passed on to various members of the Fresno Planning Department staff who have been very gracious in reviewing them and providing further direction to us on how we should submit our recommendations and input. However, the current Land Use Map is the same map that was presented by the original EIR consultant (Calthorpe) back in 2006 with virtually no changes. We were essentially told to follow the development of this EIR and to provide our input to the original land use map that was proposed back in 2006 (almost 20 years ago). We were advised that no changes would be made to it during this preparation period and that we need to provide our input to the Planning Commission and City Council during the adoption period.

**Below are a few of the justifications we presented in our prior letters and documents for relocating a portion of the Land Use Plan Area bounded by Temperance Ave. to the west,**

**Jensen Ave. to the south, the Briggs Canal to the east, and the Railroad to the north (part of south SEDA), from Flexible Research and Development/Regional Business Park to a mixture of Community Center, Mixed Residential, and Neighborhood Residential. We request this change or some version of it for the reasons outlined in the documents previously submitted and summarized below. The Flexible R&D/Business Park could be moved to south of Jensen where it would provide a larger more economical approach.**

- The Sanger Unified School District has recently purchased and zoned a 15-acre parcel on the west side of Temperance about midway between the Railroad and Church Ave. This school as well as the new High School at Jensen and Fowler Avenue would benefit by having more residential homes and apartments closer to these schools to reduce car miles driven and allow walking to school.
- A community center, a small commercial center, and similar job-creating uses at this central south SEDA site will serve the proposed residential and mixed residential areas as well as the very large residential areas (4 square miles) to the west of Temperance between Kings Canyon Road and Jensen Avenue. Currently there are no shopping/commercial areas for over 3 driving miles to the Kings Canyon/Clovis Avenue center. Adding a small community center/office/ commercial center and some mixed residential would greatly reduce trip miles, air pollution, and noise. These uses would not conflict with the large community center proposed at DeWolf and California Avenue and would complement it by reducing trip miles between shopping/office space needed in both areas. The proposed California Avenue would support both developments and conveniently connect the Temperance and DeWolf arterial streets for both bicycle and foot traffic.
- There is significant pressure/demand on this area to develop and employ these land uses due to the SR 180 Freeway completion. Temperance Avenue will be a major connector between SR 180 and Jensen Avenue for communities to the south and east such as Sanger, Del Rey, Reedley, Parlier, and Selma. There are no services, such as gas stations, grocery stores, drug stores, restaurants, etc., to serve this traffic volume. The streets and large community centers proposed over a mile to the east will not develop for 20 to 30 years or more and will not be able to serve the immediate needs. This inconvenient situation will create more trip miles, air pollution, and noise.
- **By making this area Flexible R&D, it will essentially stop or severely slow development of this area and cause development to leapfrog over to areas east of the Briggs Canal. This would cause an expensive and undesirable situation for City services, such as roads, water, sewer, storm drainage, gas, and electrical, to be extended far to the east without development west of the Briggs Canal. Stranded areas of land development are sure to cause unnecessary environmental impacts, future inconvenience, and wasted money.**

- If it is necessary to have a certain number of Flexible R&D/Business Park acres in the plan, we suggest moving this zoned area to south of Jensen Avenue and west of Temperance Avenue. The present plan shows some residential in these areas, which would be an environmentally unsound choice due to the heavy traffic noise, light pollution, and air quality impacts created by a future six-lane roadway such as Jensen Avenue.
- **As evidenced by our previously proposed application in 2008 for this modification, over 70 percent of the property owners (17 parcels) in this area do not want the Flex R&D/Business Park zoning in this area.** These property owners have owned and paid taxes on these properties for many years, in some cases over 75 years. Many of the parcels are small (less than 10 acres) and are not conducive to developing the larger parcels necessary for Flexible R&D/Business Park, which would further hamper the sales and development of the area for these uses. This condition would promote further leapfrogging over this area.

In reading Chapter 5 of the Recirculated Draft Program EIR prepared by the City of Fresno, the city considered various Land Use Alternatives. One of these, listed as **Alternative 2, Consolidated Business Park Alternative** is described below:

*Under the **Consolidated Business Park Alternative (Alternative 2)**, the SEDA Specific Plan would occur as planned, but this alternative maintains the Flexible Research and Development land designations from the General Plan for the area south of Jensen Avenue. It would accommodate approximately 42,900 homes and 36,000 jobs within the 9,000-acre planning area.*

The **Alternative 2, Consolidated Business Park Alternative**, essentially agrees with what we and our neighbors have been proposing since 2008, and we are extremely pleased that it was analyzed to the same degree as the “Proposed Project” in the Draft EIR. The results of this analysis, as described in detail in Chapter 5, were determined to be an **environmentally superior alternative** as compared to the “Proposed Project” when all aspects are considered. This determination was illustrated in **Table 5-1** of the Program EIR. Below are excerpts from the Recirculated Draft Program EIR that reflect this determination as well as the project objectives related to new dwelling units and jobs.

## **5.6 - Environmentally Superior Alternative**

*“The Consolidated Business Park Alternative is the environmentally superior alternative because it has similar, but slightly less, impacts as compared to the proposed project and meets the project objectives.”*

In summary we wish to thank the city and city staff for allowing us and our neighbors to comment on the proposed Specific Plan and Final EIR. For the reasons stated above and also as stated in your own Recirculated Draft Program EIR, **we request that the *Consolidated Business Park Alternative (Alternative 2) or a similar version, be adopted as the preferred land use plan and be adopted as such.*** We hope that the City Council adopt this plan based on the desires of the property owners in this area as well as the analysis performed by their EIR consultant in accordance with the CEQA process.

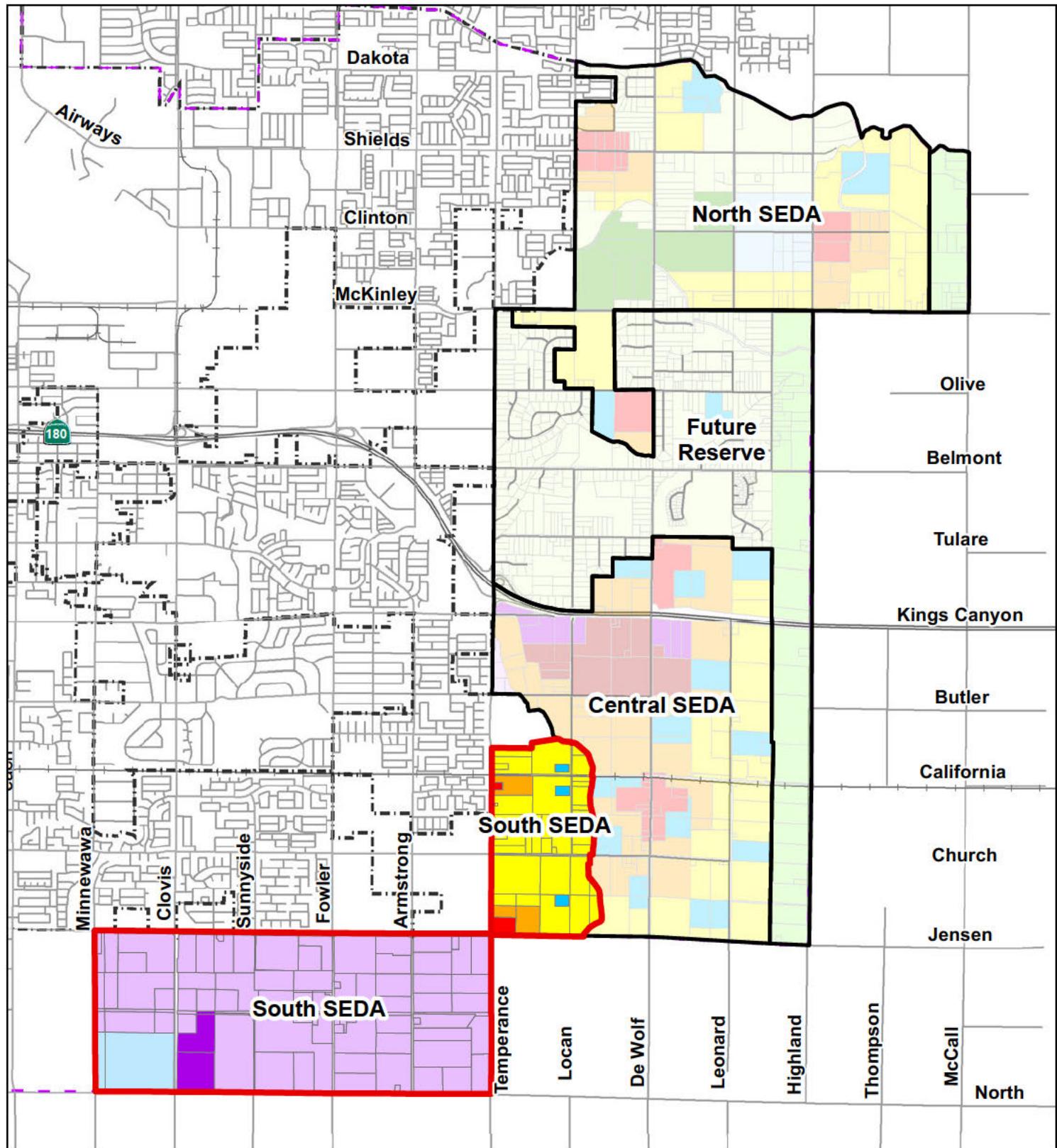
**Also, as provided by the city in this Agenda, there is Exhibit M (attached) which shows the Consolidated Business Park Alternative Map with South SEDA areas highlighted. We would be very much in favor of this Alternative Land Use Map instead of the original Land Use Map. If these highlighted areas shown as South SEDA are allowed to develop first with the Land Uses shown, we believe it would be very beneficial to the city in terms of jobs, reduced impacts to the environment, economic benefit to the city, and reduced cost.**

### **Our responses to those opposing the SEDA Plan at the Planning Commission Meeting**

1. To address the concerns for SEDA paying for itself and not impacting the present city economy, we were glad to see in the proposed Specific Plan in Chapter 9, IMPLEMENTATION, the following goals. **“It will provide self-financing for the development and ongoing maintenance of the SEDA that does not reduce City of Fresno resources dedicated to other areas of the City or burden Fresno residents outside of the SEDA.”** In addition, **“Development needs to pay its own way. The City of Fresno will not subsidize new development. Development projects will pay their fair share of public facilities and services using developer constructed improvements, development impact fees, community facilities districts, or other funding and financing mechanisms. Etc.”**
2. The multimillion-dollar State Route 180 which was paid by our sales tax dollars under Measure C, is a major 6 lane freeway up to Temperance Avenue and beyond to the east. This freeway bisects the SEDA plan area. To forever force growth to stop at Temperance Avenue in the future would seem contrary to responsible planning. The same could be said for Temperance Avenue which has an approved Plan Line for a major 6 lane arterial south of State Route 180 to Jensen Ave. A 60" sewer is also planned soon within Temperance Avenue which could economically serve lands to the east which are up gradient. Stopping growth at Temperance Avenue would not seem to be prudent.

3. Regarding comments about requiring connection to sewer and water services within 5 years of these utilities being available, we would personally welcome the opportunity to connect to both sewer and water city services. Over the last two years we have spent nearly \$10,000 for repairs and pumping of our septic tank and seepage pits. Also, we are currently on bottled water due to the shallow ground water pollution from nitrates which are over the maximum contaminant levels in our region. This contamination comes from farm fertilizers and septic tanks in the area. We also spent \$3,000 in repairs to our house well and pump this year. Connection of a 1.5" water service to our home with a meter and backflow preventer so we could continue using our well for irrigation, as well as a new 4" sewer service installed by a local plumber, would certainly be significantly less than the cost of \$100,000 as was stated by some attending the meeting.

Thank you.



### Consolidated Business Park Alternative Map

#### Legend

Regional Town Center	Mixed Residential	South SEDA Plan Area
Community Town Center	Neighborhood Residential	SEDA Plan Area
Neighborhood Town Center	Rural Residential	City Limits
Office Center	Rural Cluster Residential	Fresno Sphere of Influence
Flexible Research & Development	Institutional	



0 0.5 1 Miles

**Southeast Development Area**  
Source: City of Fresno, SEDA Illustrative Plan  
derived from community and stakeholder meetings.

**From:** [REDACTED]  
**To:** [Clerk](#)  
**Subject:** Comments on SEDA for Fresno Council Meeting 12-18-25  
**Date:** Monday, December 15, 2025 11:40:33 AM  
**Attachments:** [Fresno City Council Meeting Comments 12-18-25.docx](#)

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

Please enter the attached comments for the SEDA item at the next Fresno City Council meeting.

Thank you

Alan Cederquist  
[REDACTED]

December 15, 2025

From: Alan Cederquist

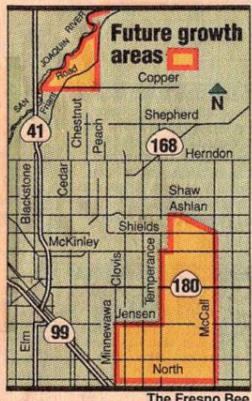
To: Fresno City Council, City Clerk

Subject: Comments on Southeast Development Area Specific Plan ID 25-1641

At the November 19th Fresno City Planning Commission meeting, Jennifer Clark made several misleading or inaccurate statements about population projections for Fresno County. The planning commission was not advised how weak the math of SEDA was when they narrowly approved the project. The scope and impact of ignoring the recent Department of Finance projections could be devastating to Fresno's financial future. The potential 4 billion dollar infrastructure investment without the population to support it could make SEDA the biggest boondoggle in the history of our city. The differences between projections used by Fresno City Planners and the California Department of Finance estimates are not trivial. They are wildly different.

1. Clark claimed that Fresno's growth rate has been in a 'narrow band' and projected that this will continue for decades. Fresno County's population growth percentage has never been in a constant band. The population growth percent has **CONSISTENTLY DECLINED** since the 1980s.
2. The California Department of Finance projections do not simply use a fixed growth percentage. They perform extensive demographic and statistical analysis and incorporate age-specific assumptions and historical trends for fertility, mortality, and migration. None of this appears to be considered by city planners.
  - a. [Could Fresno County start losing population?](#)
3. Clark pointed to a single year that the Department of Finance allegedly got wrong and claimed the Department of Finance does not reflect reality. The truth is that it is Fresno City planning has a history of bad projections and is willing to risk Fresno's financial future using unquestioned and suspect estimates. Witness the article below from the Fresno Bee in March of 1993. Then, they were estimating close to 1 million residents by 2020. Fresno's actual population in 2020 was 540,000. A miss of 40%. Had SEDA been approved back in 1993 to support this phantom growth, we could be billions in debt or worse...bankrupt. A quote regarding Southeast growth from the article: "It was done at the whim of the wheelers and dealers, and it is a replay of what got us into trouble last time." Some things never change...please have the foresight to not "get Fresno into trouble" this time.

3/15/93



## Fresno looks to limit pain of growth

With a population expected to approach 1 million by 2020, the issue is where to grow.

**By Donald E. Coleman**  
The Fresno Bee

"Those who cannot remember the past are condemned to repeat it," warned George Santayana, a native of Spain who did most of his philosophical writing in the United States.

Heeding that warning, Fresno wants to develop a blueprint that will guide the city's growth through the next 25 years. Having already topped every population prediction during the last decade, the city has struggled with traffic congestion, as well as trying to provide urban services, affordable

housing, quality water and clean air while preserving agricultural land and other generally expected quality-of-life issues.

But with a population expected to approach 1 million by the year 2020, city planners and a citizens' committee have gone back to the drawing board to update the 1984 general plan, as required by state law.

As the city plans for a population of 960,000, more than double the current 377,000, one issue remains a constant — where to grow.

Last week, the Fresno City Council directed its Development Department and a 27-member citizens' committee assigned to update the general plan to focus on a familiar direction for the city's continued growth.

Spurning potential growth west of

Highway 99, an area near Malaga in southeast Fresno and a northeast area that overlapped the city of Clovis' proposed sphere of influence, the City Council advised that emphasis should be placed on the northeast with boundaries at the San Joaquin River, Copper Avenue and the Friant-Kern Canal.

Also designated for study is a southeast area bordered by Shields, McCall, Minnewawa and North avenues.

"It was done at the whim of the wheelers and dealers and it is a replay of what got us into trouble last time," said Joni Johnson of the Fresno Neighborhood Alliance, referring to the eventual northward growth trend of the city in the 1980s. "Unless we look

Please see General plan, Page A6

# General plan: Balanced approach recommended

Continued from Page A1  
at balanced growth there are going to be some problems."

Nick Yovino, city development manager, agreed with the need for balance.

"Our objective is to balance market forces with public planning policy as established by the council," Yovino said. "Woodward Park is a good example. In the 1980s there was too much growth in too

**IT'S YOUR CALL**  
Tell us what you think, Page B2, and schools.

The council established new policies that limited densities and adopted stringent findings on water."

In the decade of the 1980s, the area north of Herndon Avenue, which includes the Woodward Park community, grew about 187 percent from 13,568 people to 39,062. Although studies of the area showed water supply problems — ground-water sources were not plentiful and, once tapped, were slow to recover — new home buyers flocked there anyway.

## Citizens rally

In the following years, citizens' groups railed against multiple-family housing and increased densities. Some called the area an "elitist enclave" and state water officials came close to imposing a moratorium on growth because of the water supply.

Yovino said similar stringent policies might be needed this time.

"Everybody knows the water situation is not going to be easy in the northeast," Yovino said. "And in the southeast, [the pesticide] DBCP has been entering the ground-water supply to the east."

"If we go closer to the mountains there is less reliable ground water. If we use more surface water, we could force development to compete with agriculture."

That competition is what Fresno County Supervisor Deran Koligian doesn't want. Koligian said he was adamantly opposed to the city expanding its western boundaries.

"Every foot you go beyond the city's sphere there, you're in productive ag land," Koligian said.

## Cooperation seen

Council Member Esther Padilla said her support of the push north and south rested on preserving agricultural land and cooperating with the city of Clovis and Fresno County, both of which are competing with the city for development territory.

"We need to work more cooperatively with our sister cities, like Clovis and the county," she said. "On the west side, we already took a beating from the county last year. On the southeast side, we would get into a battle with two supervisors. There is a lot of ag land there."

Koligian hopes to avoid any

battles if the city continues its northward movement, though the city's potential study area — bounded by the San Joaquin River, Copper Avenue and the Friant-Kern Canal — is also being explored by the county.

"From my perspective, that could be jointly done," he said.

Koligian said the push toward development in the north has made the area a "lost cause" for agricultural productivity. He said the city's decision to concentrate more on encouraging development of land already inside the city's influence area is worth pursuing.

"They have 40,000 acres already within their sphere that could be developed. They should be looking at a spirit of cooperation with Clovis and the county," he said.

## Political vacuum

Yovino agreed. "Cooperation is extremely important. We have to take into account what others are doing. We don't want to plan in a political vacuum."

And a political vacuum is just what happened with the 1984 general plan, said Craig Scharton, a former council member and a member of the current citizen's committee to update the general plan.

"The old plan was the opposite of what most wanted," said Scharton. "It did not focus on established neighborhoods and established new-growth areas that allowed people to move away from the inner city. In the last 10 years, 65 percent of the growth has been south of McKinley with practically no new construction. We've created a disposable city where we can build and then throw away what we don't need anymore."

Jeff Roberts, a planning consultant and member of the committee, said market forces dictate where people buy.

## Housing values

The median value of homes in Fresno zoomed from \$15,400 in 1970 to about \$95,000 today, still far below the state's median value of about \$195,000, according to the city Development Department.

Real estate agents agreed that such a bargain did contribute to the number of people flocking to Fresno in the last several years, but doubted whether the trend would continue.

Roberts said the big issues for the committee would be preserving ag land, the direction of growth and the quality of life.

What the committee and the Development Department must do over the next several years is develop a blueprint for the next 25 years, Yovino said.

He said other issues to be explored include future needs for roads, sewers, parks, schools, parks, fire and police stations, public transit corridors and commercial, industrial and office space. The climate, air, water, soils, mineral resources, plants and wildlife are among the environmental issues to be studied.

4. Fresno City Planners have demonstrated a clear bias in this issue. They use California Department of Finance projections when they align with the city's growth objectives, but abandon them when the model doesn't support their desired outcome. At this point, moving forward with SEDA without a professional, unbiased, detailed examination to determine WHY the two models differ so much, and to establish which estimate is based on better science, would be irresponsible and reckless. Until such an analysis is performed, Clark needs to retract her factually incorrect statements about past growth and place SEDA on hold until a detailed analysis of this core population assumption can be conducted by population scientists.

Regards,

Alan Cederquist

[REDACTED]  
Fresno, CA 93737

[REDACTED]

**From:** [REDACTED]  
**To:** [Clerk](#)  
**Subject:** Public Comment: item ID 25-1641 (SEDA)  
**Date:** Monday, December 15, 2025 9:25:59 PM

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

Kyle Lyman  
[REDACTED]

Fresno, CA 93722

District 2

Hello,

I am writing to urge the city council to not pass SEDA in its current state. It will harm the environment, lead to the disinvestment of other Fresno Neighborhoods and schools, and is financially not sustainable for the city. SEDA makes a lot of promises it will not be able to deliver on. It was made with developer interests first and foremost and this plan is not what we should be doing for our city.

I have listened to residents who will be affected by SEDA at various planning meetings and city council meetings, and it is clear that SEDA is not supported by a vast majority of the Fresno community. The unity between residents from all 7 districts speaks to what Fresno could be without SEDA.

The price point of this project is over 4 billion dollars, with no real plans of how to pay for this annexation. It is a financial crisis in waiting. This will end up becoming an all too familiar story that happened to my community of Northwest Fresno, which after well over 20 years is finally moving forward with an actual plan. If SEDA is approved, it is history just repeating itself.

The projections and estimations the city is making for the growth of population and jobs have been questioned by experts and State officials as inaccurate. The idea that SEDA "pays for itself" gambles on being able to support the number of people the city is falsely claiming will exist in that area.

The estimated damage to our environment will be massive. The projections for air/ground pollution (which again the city makes inaccurate assessments about) should make anyone who supports this project ashamed of themselves for poisoning our air and land. The amount of traffic this new development will cause is unsustainable for our already strained roadways and under-resourced/lacking transportation.

We know the true reason for this project: to keep paying for Clovis Unified. It's been clearly

said by planning comissioner Kathy Bray that this project is needed to support the new high school that Clovis decided to build in that area. In what world does a school district dictate where city growth should happen? This project is sanctioned economic redlining that will further disenfranchise our marginalized and segregate our communities.

While the mayor and other supporters who represent Fresno lie to our faces about SEDA, we can see through the act and we demand better.

I urge each city council member to be better. To listen to the citizens of Fresno and to make decisions that support our community. Vote NO on this plan.

**From:** [REDACTED]  
**To:** Clerk  
**Subject:** ID 25-1641 Against Adopting SEDA Air pollution  
**Date:** Tuesday, December 16, 2025 8:55:23 AM

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

Dear Fresno City Council,

I was at the planning commission meeting and was astonished to witness the narrow approval of SEDA while the overwhelming majority of comments were against it and for very good reasons.

The major reasons I am compelled to comment against it now are the negative and unmitigated Impacts on air pollution, traffic, school attendance, and pressure on services to other existing communities of FRESNO.

At that meeting, I myself also mentioned my own concern for the ridiculous idea of building a soccer fields when Fresno desperately needs more public swimming pools of the municipal Olympic size. Without the schools' pools, which have limited hours (5-6am) and limited months of access(which excludes the hot months of May, June, August and September,) Fresno, one of the hottest large cities in California, has not a single one! Even the new Senior Center plans to build a smaller pool- a mistake before it has even been built, not to mention that it is not family friendly. Who will be playing soccer in the middle of our summer heat?! Who will want to move here if they have to pay dearly for basic access to water? Yet Fresnans pay dearly for our access to cooling water. Many go to the river or lakes, which are without lifeguards, and sadly, every year some families go home without family members who died from drowning. For more ideas from other hot places, take a look at the public year round family friendly accessible pools of Las Vegas, Concord, and LA.

I also mentioned the PG&E high pressure gas system expansion. The utility will be drawn away from completing this existing project in our existing neighborhood if it suddenly needs to build a whole new community. SEDA is a distraction from this existing upgrade and responsibility that would be terrible to ignore!

If you want to compare Fresno to Visalia, start with the downtowns. Visalia has an amazing and clean Main Street. Fresno has filth and diarrhea even just across the street from our City Hall on a regular basis.

Move on to Fresno State, our pride. But right off its main exit on the 41, there stands a Hustlers. What city proud branding is that? Poor zoning is a sad and difficult thing to ignore. Now Clovis. What happens with expansion? North of Herndon now has more traffic than parts of Southern CA.

We have a lot of potential here but gridlock and air pollution are what sank LA basin half a century ago. Our problem is we are not near the ocean and air pollution will literally kill us! Which is why we cannot even burn firewood, despite our proximity to the forests.

Which is also why we do NOT want nuclear power, either. As you may know, Trump has approved the nuclear power that some wished for West Fresno decades ago. We are in an air pocket due to the natural wall known as Mt. Whitney. Here, in the lee of this tallest mountain in the lower 48 states, a nuclear disaster would be the ultimate nail in our coffin. As would any major air pollution problem. At the planning commission, an employee of the air district emphatically stated his opposition to SEDA.

Driverless cars and AI seem like part of a carbon free future, but they are devouring energy at such a pace that billionaires are buying nuclear power plants! I truly hope you do not ignore

these facts- do not put Fresno in the position of approving the nuclear power project in our county; do not get sucked in to that on your watch!

Instead of selling off farmland, hire someone to clean up our image and save us from the terrible fate of history repeating itself.

For a city and specifically a district know for its blossom trail, you do not want to be known as the one who voted for more air pollution and driverless cars, while your constituents overwhelmingly begged you not to.

Most Sincerely,

Mary Aldern

[REDACTED]  
Fresno CA 93702

**From:** [REDACTED]  
**To:** [REDACTED]  
**Subject:** SUPPORT: ID 25-1641 - Southeast Development Area Specific Plan  
**Date:** Wednesday, December 17, 2025 8:00:33 AM  
**Attachments:** [12.16.25 - INVEST Fresno - SEDA Letter.pdf](#)

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

Good afternoon, Clerk Stermer:

On behalf of INVEST Fresno, a coalition of residents, businesses, and community organizations committed to building a diverse and sustainable economy in Fresno, we write to express support for the Southeast Development Area Specific Plan (SEDA), intended to be Considered by the Fresno City Council on December 18, 2025.

Generally, INVEST Fresno supports and applauds the City's stated intent to bring up to 45,000 homes and 37,000 jobs to the plan area by 2050. In particular, we support the City's intended plan to move forward with South SEDA as part of phase 1 of the plan. We would also support the city moving forward with the realignment of land uses consistent with EIR alternatives, as presented to the Council on November 20.

If you would like to discuss this matter further, please do not hesitate to contact Ethan or myself. We look forward to working with you and staff to help keep Fresno's economy moving.

Best,

--

**Ben Granholm**  
Executive Director  
INVEST Fresno  
[www.INVESTFresnoCA.com](http://www.INVESTFresnoCA.com)

---

December 16, 2025

Mike Karbassi, President  
City Council  
City of Fresno  
2600 Fresno Street, [REDACTED]  
Fresno, CA 93721  
[clerk@fresno.gov](mailto:clerk@fresno.gov)

**Submitted Electronically**

**RE: SUPPORT – ID 25-1641 – Southeast Development Area Specific Plan**

Dear Council President Karbassi and Members of the City Council:

On behalf of INVEST Fresno, a coalition of residents, businesses, and community organizations committed to building a diverse and sustainable economy in Fresno, we write to express support for the Southeast Development Area Specific Plan (SEDA).

Generally, INVEST Fresno supports and applauds the City's stated intent to bring up to 45,000 homes and 37,000 jobs to the plan area by 2050.

In particular, we support the City's intended plan to move forward with South SEDA as part of phase 1 of the plan. We would also support the city moving forward with the realignment of land uses consistent with EIR alternatives, as presented to the Council on November 20, 2025.

Fresno's budget is closely tied to the strength of its local economy. By attracting new businesses, encouraging housing development, and revitalizing underutilized areas, the city can expand and diversify its tax base. A broader tax base increases property tax, sales tax, and business license revenue without necessarily raising taxes on residents and consumers. Fresno needs sustainable economic development that not only increases city revenues but also boosts employment and enhances the overall quality of life.

However, we remain concerned regarding the definition of Flexible Research and Development, which does not appear to include job-creating land uses such as light or heavy industrial.

Most manufacturing uses fall within the definition of "General Industrial." However, most of the land use designations that could fall within the Flexible Research and Development Districts do not allow General Industrial uses. And those that do, such as the Regional Business Park and Business Park zoning districts, require that new or expanded manufacturing uses—no matter how small—go through the conditional use permit (CUP) process, which typically means a full EIR must be prepared. For

all but the largest manufacturing projects, a CUP requirement will render a new manufacturing project non-viable.

Further, to the extent the Flexible Research and Development District does not allow Light Industrial and Heavy Industrial land uses, SEDA would not include any such uses, and would have the opposite effect of increasing land zoned for economic development and job creation purposes. Indeed, the downzoning of properties away from heavy and light industrial land uses within SEDA—combined with the City's limited opportunities for industrial growth or expansion—would consequently steer existing and potential economic investment elsewhere.

Fresno's shortage of both housing and employment centers has also eroded the city's natural competitive advantage within the region. As neighboring cities have expanded their industrial and residential capacity, they have increasingly absorbed the growth that logically could occur in Fresno. This shift forces Fresno residents to travel farther for work and housing opportunities, increasing vehicle miles traveled (VMT), worsening air quality, and undermining regional climate goals. Just as importantly, when jobs and new development migrate outside Fresno's boundaries, the associated sales tax, property tax, and business activity migrate with them—diverting vital revenue away from the city's budget and the essential services it funds. Ensuring that SEDA includes adequate opportunities for housing, light and heavy industrial, and other job-creating land uses is essential to restoring Fresno's competitiveness and keeping economic benefits within our communities.

A well-balanced land use plan that includes job creation and other tax-generating uses is essential to strengthening the City's economic standing. Job-creating industries not only provide stable employment opportunities for Fresno residents but also generate critical revenue through sales taxes, business license fees, and property taxes. This revenue directly funds essential public services, including public safety, infrastructure improvements, and community programs.

We appreciate your time and consideration and respectfully urge the Council adopt the Southeast Development Area Specific Plan, moving forward with South SEDA and prioritizing revenue generation and job-creation uses.

If you would like to discuss this matter further, please do not hesitate to contact Ben Granholm at [info@INVESTFresnoCA.com](mailto:info@INVESTFresnoCA.com). We look forward to working with you and staff to help keep Fresno's economy moving.

Sincerely,

Ethan Smith  
Chairman

Ben Granholm  
INVEST Fresno

cc: Jerry Dyer, Mayor  
Georgeanne White, City Manager  
Councilmembers, City of Fresno

**From:** [REDACTED]  
**To:** Clerk  
**Subject:** Agenda Item ID 25-1641 to be heard December 18, 2025, Information sent to Council Members and Mayor  
**Date:** Wednesday, December 17, 2025 9:25:19 AM  
**Attachments:** [Letter to Council Members 12-17-2025.pages](#)  
[City of Fresno Approved and Plans Under Review.pages](#)  
[Proposed SEDA Phasing Map.pdf](#)  
[Exhibit M - South SEDA Map.pdf](#)

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

I am writing to express my strong opposition to item ID 25-1641 to be heard by the City Council on December 18, 2025, regarding the SEDA specific plan.

The fiscal responsibility is the primary concern that needs to be addressed at this time. Until that is resolved and SEDA is shown to be self-financing the only responsible vote is a “No” on SEDA.

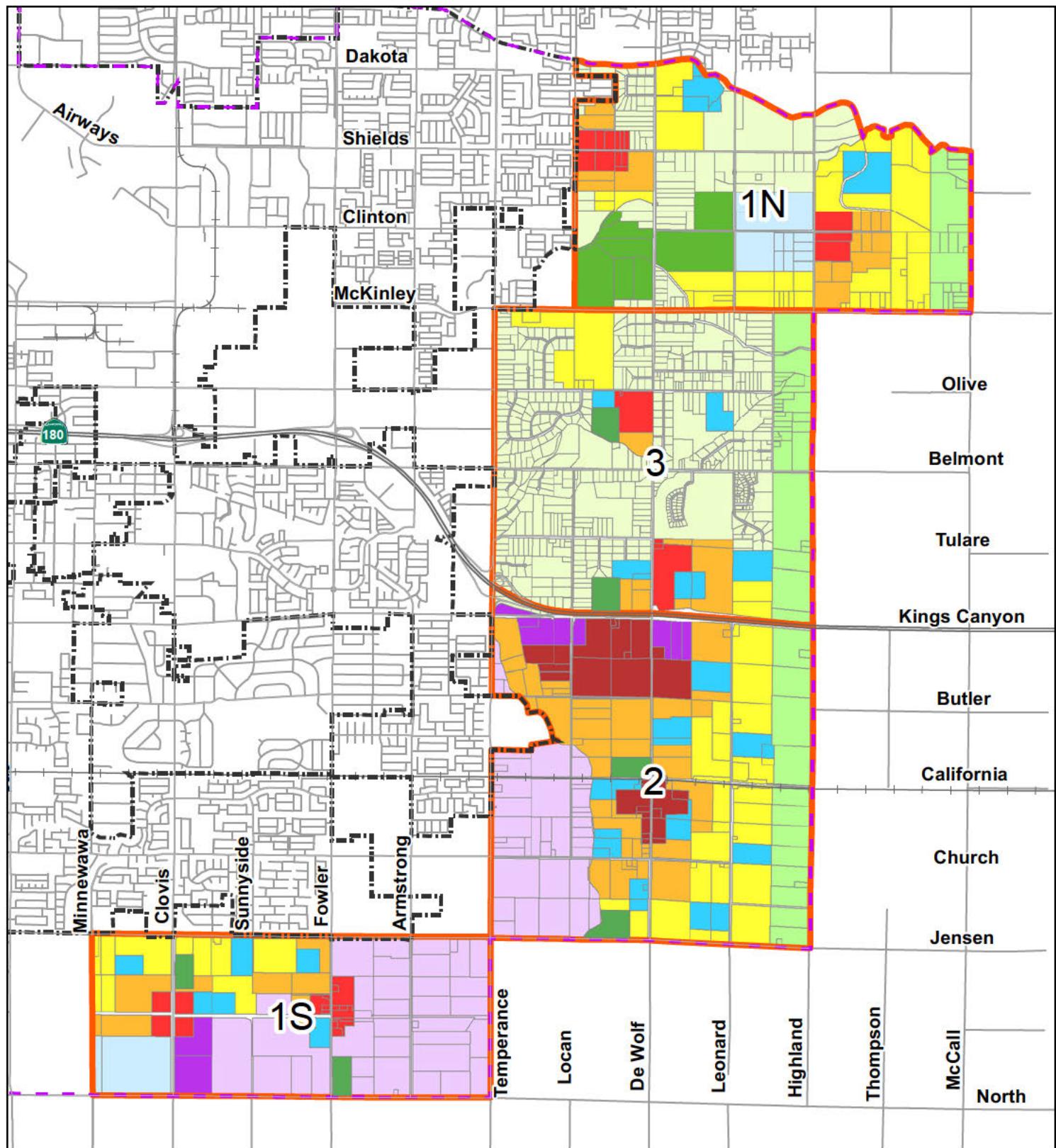
I have attached my comment letter and supporting documents.

Please confirm that you received the letter and documents.

Thank you.

Sincerely,

Elizabeth Sandberg  
Fresno, California 93737



## PROPOSED PHASING MAP

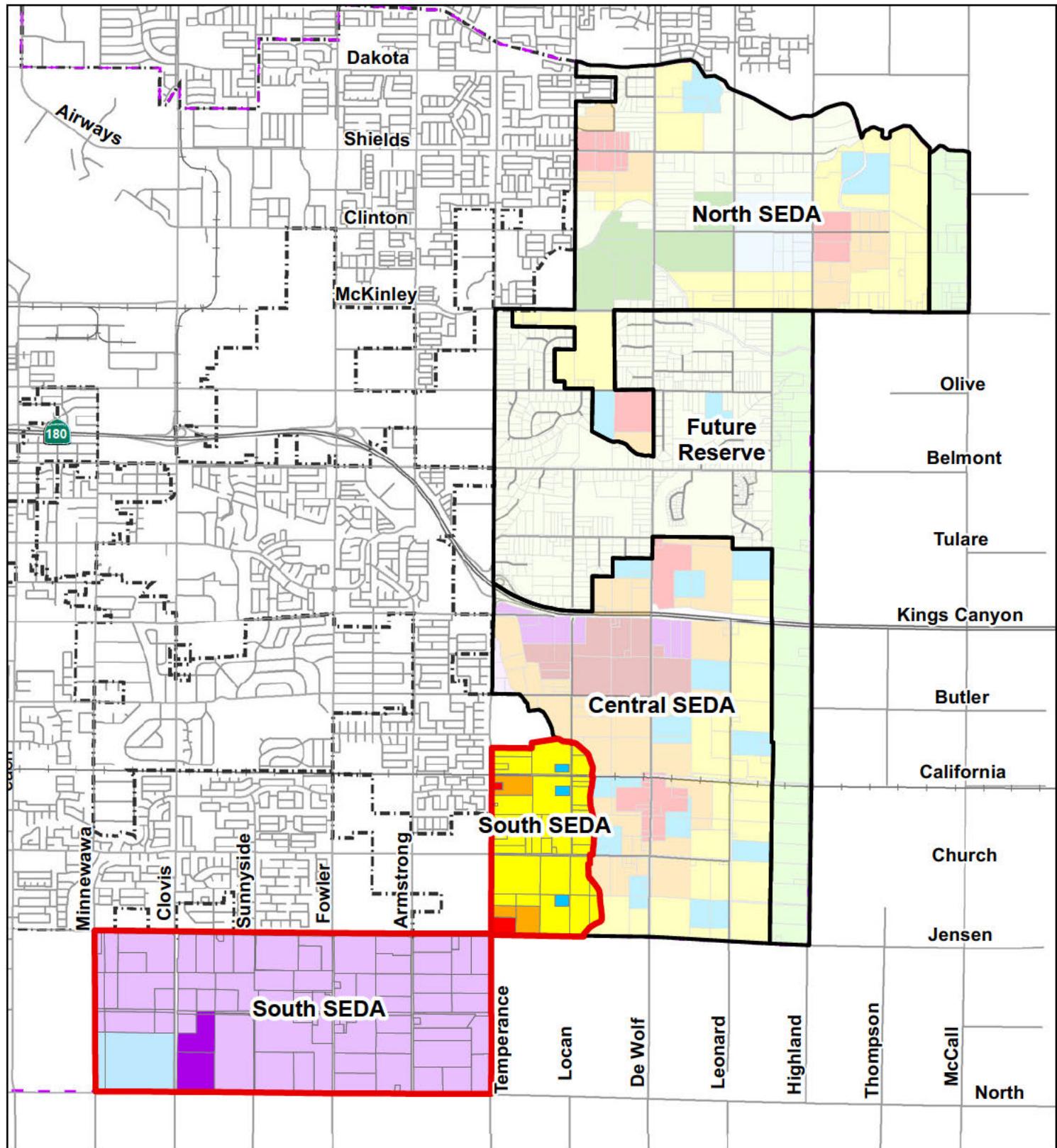
### Legend

Regional Town Center	Mixed Residential	Ponding Basins
Community Town Center	Neighborhood Residential	SEDA Plan Area
Neighborhood Town Center	Rural Residential	City Limits
Office Center	Rural Cluster Residential	Fresno Sphere of Influence
Flexible Research & Development	Institutional	



0 0.5 1 Miles

**Southeast Development Area**  
Source: City of Fresno, SEDA Illustrative Plan  
derived from community and stakeholder meetings.



### Consolidated Business Park Alternative Map

#### Legend

Regional Town Center	Mixed Residential	South SEDA Plan Area
Community Town Center	Neighborhood Residential	SEDA Plan Area
Neighborhood Town Center	Rural Residential	City Limits
Office Center	Rural Cluster Residential	Fresno Sphere of Influence
Flexible Research & Development	Institutional	



0 0.5 1 Miles

**Southeast Development Area**  
Source: City of Fresno, SEDA Illustrative Plan  
derived from community and stakeholder meetings.

**From:** [REDACTED]  
**To:** Clerk  
**Cc:** [REDACTED]  
**Subject:** Re: SEDA comment letter--for 4:30p agenda item  
**Date:** Wednesday, December 17, 2025 9:43:58 AM  
**Attachments:** [2025.12.17 CLC-RCI Comment letter.pdf](#)  
[Screen Shot 2022-06-23 at 11.05.25 AM.png](#)

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

This time with attachment



985 North Van Ness Avenue  
Fresno, California 93728  
[REDACTED]  
[REDACTED]

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On Dec 17, 2025, at 9:42 AM, Patience Milrod <[patience\\_milrod@icloud.com](mailto:patience_milrod@icloud.com)> wrote:

Please post and circulate—thank you so much.

Very truly yours,

Patience Milrod  
<[Screen Shot 2022-06-23 at 11.05.25 AM.png](#)>

985 North Van Ness Avenue  
Fresno, California 93728  
[REDACTED]  
[REDACTED]

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PATIENCE MILROD

LAWYER/LICENCIADA EN LEYES

December 17, 2025

Hon. Mike Karbassi, Council President  
Members of the Fresno City Council  
2600 Fresno Street  
Fresno, CA 93721

by email to [clerk@fresno.gov](mailto:clerk@fresno.gov)

RE: Public Comment on 2025 Recirculated draft Program Environmental Impact Report for Southeast Development Area Plan

Dear Fresno City Council:

On behalf of the Central Labor Council of Fresno, Madera, Kings & Tulare (CLC) and Regenerate California Innovation (RCI), I respectfully submit the following comments.

The Administration has effectively admitted that the SEDA Plan as it comes to you on December 18 is ill conceived. The Mayor has admitted the City cannot afford it. Most recently, we've learned that SEDA will worsen Fresno Unified School District's declining enrollment, and its capacity to serve the students in Fresno's core neighborhoods<sup>1</sup>.

The Administration is now gesturing toward some "alternative" plan—for which there are still no clear maps or land use designations, and therefore no environmental studies, fiscal impact study, market demand study, nor facilities financing plan. It is not in your Council's remit to redesign the SEDA Plan, and especially not from the dais. Nor should the Administration try to get you to do so.

We, with our coalition partners, therefore respectfully request you consider a more logical mode of proceeding at your December 18 meeting:

**First:** **Reject** in their entirety Agenda Items 1 through 4, the proposed Resolutions certifying the SEDA EIR and adopting the SEDA Specific Plan, as well as Agenda Item 5, which calls for the City Council to "select an alternative described in the EIR" for study and possible adoption in the future.

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<sup>1</sup> In addition, CLC and RCI hereby join, and incorporate by reference, the comment letter submitted to the City on December 9, 2025, on behalf of the Sierra Club, Central Valley Partnership, and League of Women Voters.

[REDACTED] FRESNO, CALIFORNIA 93728 [REDACTED]

**Second:** **Direct staff** to return with a set of two to three specific alternatives targeted toward creating high paying jobs, industrial and economic growth.

Staff's work to develop such alternatives should be based on an updated and relevant current market demand study<sup>2</sup>. This study should also renew and expand the **Citywide Industrial Compatibility Study** authorized by City Council but never released<sup>3</sup>, provide a fresh inventory of available industrial properties within the existing City limits and adopted plan areas cost-effectively served by infrastructure, and represent input from a wide range of stakeholders, including community coalition members, diverse industry representatives, UC and CSU Offices of Innovation, Technology Transfer, Entrepreneurship and Industry Partnership, state government economic development and workforce experts, and surrounding communities.

Each proposed alternative should include a map with land uses specified, an environmental assessment, a fiscal impact report that incorporates a full scope of impacts<sup>4</sup>, and a financing plan for any infrastructure or public facilities required to ensure successful development. If one of the alternatives is for annexation of part of SEDA, it must be accompanied by solid evidence that creating such facilities on greenfields is more advantageous *to City residents* than developing them within existing City boundaries.

In this way, your Council can expedite movement toward the economic development that you, the City Administration, and we all want to see.

Very truly yours,

PATIENCE MILROD  
Attorney for Fresno Madera Tulare and Kings  
Counties Central Labor Council, and Regenerate  
California Innovation

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<sup>2</sup> An updated and relevant City of Fresno economic development and job creation market demand study in the age of AI would focus on identifying occupations resilient to automation, fostering an AI-ready talent pool, and leveraging AI for enhanced local services and strategic planning. **McKinsey Global Institute, Agents, robots, and us: Skill partnerships in the age of AI, November 25, 2025 Report:**

<https://www.mckinsey.com/mgi/our-research/agents-robots-and-us-skill-partnerships-in-the-age-of-ai>

<sup>3</sup> In 2018, the City hired a consultant to work on the **Citywide Industrial Compatibility Study**, which was intended to address General Plan Policy HC-3-g. Public workshops were held to gather community input, but the Study was never released for public review.

<https://fresno.legistar.com/LegislationDetail.aspx?ID=3531014&GUID=3A609BDA-4BB8-4845-8736-EE66758A5ECE&Options=&Search=>

<sup>4</sup> These must include but are not limited to impacts on the General Fund; the numbers of jobs likely to be created and at what income level; and the impacts on local energy and water consumption and pricing if any significant proportion of projected development is AI-serving data centers.

**From:** [REDACTED]  
**To:** [Clerk Agendas](#)  
**Subject:** FW: City Council Mtg 12/18/25 - Reject SEDA  
**Date:** Wednesday, December 17, 2025 11:00:10 AM

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For agenda item, [ID 25-1641](#) 4:30 p.m.

-District 3 Office

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**From:** Lisa Flores [REDACTED]  
**Sent:** Wednesday, December 17, 2025 8:47 AM  
**To:** [REDACTED]  
[REDACTED]  
[REDACTED]  
**Subject:** City Council Mtg 12/18/25 - Reject SEDA

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

City of Fresno  
City Council  
Mayor Jerry Dyer

December 17, 2026

Re: Agenda Item #  
Reject SouthEast Development Area (SEDA)

I am urging the Fresno City Council to reject the Southeast Development Area Plan in its entirety for the following reason(s):

1. SEDA public engagement plan has not reached out to all residences in the effect area. All property owners/renters should be aware of the actual real cost of this plan, so there concerns can be addressed. Furthermore, City of Fresno long history of environmental racist in land use policy continues, so it would behoove the City to not only slow down the process, but reevaluate the current process which is deficiency at best. For instance, why hold the public approval meeting a week before Christmas, and at a time when a majority of the residents still are unable to attend? As a community engagement consultant, this is the worse time of year to hold a meeting and signals to the community that the City has something to hide. Your public engagement process lacks true engagement and transparency at the issues that effect residents and landowners - why?
2. SEDA is one of the worst documents I have tried to understand, it is a prime example of incomplete staff work, and demonstrates a unique level of governmental incompetency and malfeasance. Why is the City of Fresno Planning Department leadership, as well as, the City Manager Office continuing to put forward incomplete documents that are not legally defensible? Where are the current and up to date financial forecasting of this document?
3. SEDA SHOULD NOT be approve or modified today - it needs to be completely rejected! If you choose approve this document, please note I can see at least three (if not more) major areas where the City of Fresno may face legal challenges. My personal

estimations, is that the City of Fresno is looking at \$5-10 million dollars in just legal fees and possible settlements to defend this document. Where will this money come from when state and federal funding is drying up? How will a large settlement impact the City of Fresno general fund and staffing levels? At this moment no developer are NOT financial liable for this document, so why is the City of Fresno holding the financial burden - AND why are taxpayers holding the bag on this high risk document? Think about all the potholes that could be filled with \$5-10 million.

4. This plan proposes to that eliminate up to 11 schools - seriously? DO I need to elaborate on the needs for educational institutions/school in our community. According to news reports, 11 schools will be eliminated - why? Where are the children going? What is the economic impact to Fresno Unified, and will the City of Fresno be financial obligated to pay for the impacts?
5. Finally, there needs to be a public discussion on the relationship between sitting city council members and developers. Currently, a well-known developer through his a de facto “community organization” has place a billboard thanking a city council member? For what? All right before a very public vote in which this developer would greatly benefit from...even though the city council member on its face appears to have done nothing wrong - the appearance of impropriety exist. Clean up on aisle 5!

[Sent from the all new AOL app for iOS](#)

**From:** [District3](#)  
**To:** [Clerk Agendas](#)  
**Subject:** FW: SEDA  
**Date:** Wednesday, December 17, 2025 11:00:41 AM

For agenda item, ID 25-1641 4:30 p.m.

-District 3 Office

**From:** Douglas Hoagland [REDACTED]  
**Sent:** Saturday, December 13, 2025 1:24 PM

To:

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**Subject:** SEDA

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

Dear Tyler,

I write to urge you to vote “no” on SEDA when it comes before the City Council.

As the Council Member representing east central Fresno, you will have the opportunity to protect the integrity – and the future – of the older neighborhoods that your constituents call home.

I see the need for city investment as I walk in my part of District 4. There are the raised sidewalks on Rialto, east of First Street, uprooted by trees that the city planted in park strips. There is cracked asphalt on First Street south of Gettysburg that needs repaving. There are empty storefronts in corner shopping centers abandoned for many reasons, not the least of which is the draw of the next, shiny new development in Fresno.

SEDA will be such a development, magnified many times over, and it will drain badly-needed resources from the neighborhoods you represent. I read that opponents of SEDA assert there will be a \$3 billion shortfall in the cost of infrastructure for the project. Proponents say that is false. If you support SEDA, I ask you to show your constituents the numbers that prove your claim. You could do so at a district meeting where you explain your position on SEDA.

I believe you have been an effective representative for District 4. Please continue that representation in the face of what I assume is heavy lobbying from developers eager to cash in on SEDA. Those developers do not live in our part of Fresno. They have not made the commitment to our neighborhood – as my wife and I have for more than 30 years.

Developers may complain that infill development does not satisfy their bottom line. That – or any other political consideration – should not guide your vote. Leadership, in my view, is about voting the common good. Rejecting SEDA is your opportunity to do that good.

Sincerely,

Doug Hoagland

A solid black rectangular box used to redact a handwritten signature.

**From:** [District3](#)  
**To:** [Clerk Agendas](#)  
**Subject:** FW: Opposition to SEDA  
**Date:** Wednesday, December 17, 2025 11:01:55 AM

For agenda item, ID 25-1641 4:30 p.m.

-District 3 Office

**From:** Chris Baeza [REDACTED]  
**Sent:** Thursday, December 11, 2025 9:56 AM

To:

**Subject:** [Possible Scam Fraud]Opposition to SEDA

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

**WARNING:** Your email security system has determined the message below may be a potential threat.

The sender may pose as a friend by using a compromised email account, claiming to be stranded abroad, and needing cash to get home.

If you do not know the sender or cannot verify the integrity of the message, please do not respond or click on links in the message. Depending on the security settings, clickable URLs may have been modified to provide additional security.

Greetings Mr. Arias, City Council Members, and Mr. Mayor,

I am a resident of District 3, and an involved member of the Fresno community. Since moving to this city in 2021, I have worked in a local nonprofit, I have lived on the north end of town and south side of town, have attended church on both sides of town, and more recently involved in the local arts community.

I am writing to express my strong opposition to the SEDA project. I oppose the project for the following reasons:

1. The massive cost of this project, both for the city and for the current land owners.
2. The amount of land that would be removed from food production.
3. The huge amount of money that would be directed away from existing Fresno neighborhoods and schools.
4. The amount of money that would be taken from Fresno Unified and given to Clovis Unified.
5. The focus on new development, when our existing neighborhoods desperately need resources and maintenance from the city.

I urge you to vote no on SEDA, and prioritize the Fresno that you were elected to serve.

Thank you,

Christopher J Baeza

A black rectangular redaction box covering a signature.

**From:** [District3](#)  
**To:** [Clerk Agendas](#)  
**Subject:** FW: Opposition to the SEDA Project  
**Date:** Wednesday, December 17, 2025 11:02:09 AM

For agenda item, ID 25-1641 4:30 p.m.

-District 3 Office

**From:** Lydia Baeza [REDACTED]  
**Sent:** Thursday, December 11, 2025 9:18 AM

To:

**Subject:** [Possible Scam Fraud] Opposition to the SEDA Project

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

**WARNING:** Your email security system has determined the message below may be a potential threat.

The sender may pose as a friend by using a compromised email account, claiming to be stranded abroad, and needing cash to get home.

If you do not know the sender or cannot verify the integrity of the message, please do not respond or click on links in the message. Depending on the security settings, clickable URLs may have been modified to provide additional security.

Greetings Mr. Arias, City Council Members, and Mr. Mayor,

I am a resident of District 3, and an involved member of the Fresno community. I got my bachelor's at Fresno State, have worked in local nonprofits, have attended church in town, and have been involved in the community since I came here for college in 2012.

I am writing to express my strong opposition to the SEDA project. I oppose the project for

the following reasons:

1. The massive cost of this project, both for the city and for land owners.
2. The amount of land that would be removed from food production.
3. The huge amount of money that would be directed away from existing Fresno neighborhoods and schools.
4. The amount of money that would be taken from Fresno Unified and given to Clovis Unified.
5. The focus on new development, when our existing neighborhoods desperately need resources and maintenance from the city.

I urge you to vote no on SEDA, and prioritize the Fresno that you were elected to serve.

Thank you,

Lydia Baeza

[REDACTED]  
Fresno, CA 93728

**From:** [District3](#)  
**To:** [Clerk Agendas](#)  
**Subject:** FW: Contact District 3 Form submitted on City of Fresno  
**Date:** Wednesday, December 17, 2025 11:03:08 AM

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For agenda item, [ID 25-1641](#) 4:30 p.m.

-District 3 Office

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**From:** Ronald Martin [REDACTED]  
**Sent:** Wednesday, December 10, 2025 2:43 PM  
**To:** District3 [REDACTED]  
**Subject:** Contact District 3 Form submitted on City of Fresno

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

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<b>First Name</b>	Ronald
<b>Last Name</b>	Martin
<b>Address</b>	[REDACTED]
<b>Email</b>	[REDACTED]
<b>Phone Number</b>	[REDACTED]
<b>Subject</b>	Vote NO on SEDA.
<b>Message</b>	<p>Dear Councilman Arias:</p> <p>I encourage you to vote against approval of the proposed Southeast Development Area (SEDA), even though the planning commission narrowly approved it, which should give you pause about the appropriateness of this massively expensive project for our city. It would be a mistake to have developers put market-rate, expensive housing in this agricultural area for a series of reasons.</p> <p>If the council fears that if Fresno does not develop the area as part of our city, Clovis or Sanger might approve development and have the tax revenue of the area for their budgets, this is not reason for Fresno to agree to connect to such development. If they are foolish enough to be responsible for this costly project, they will strain their budgets and starve their residents of city services that they are paying for. We can hope they will not do this, and seek to place what barriers that Fresno can in the way of that. Perhaps they can be persuaded (if need be) not to approve</p>

development there based on the problems with it.

The financial problem is that such a largest-ever development will require tremendous costs of providing the infrastructure for the houses: water, sewage, electricity, gas, along with fire and police stations and schools. Developers expect cities to provide these. They should be paid for with developer fees. I have heard that developers fees, as usually charged, would cover only perhaps 20% of the infrastructure costs. Where would the other 80% come from? The city budget paid for by Fresno residents' taxes. And this is at a time when the city is already behind on street and sidewalk maintenance by \$2 billion to \$3 billion.

A wise approach to an approval of development in the area would be to charge developer fees to cover all the infrastructure costs, calculated to account for inflation plus an amount for unforeseen expenses. The infrastructure costs per house I heard are about \$100,000 per house. This should be increased based on inflation and unforeseen costs. A developer might object that if the city wants the development, we would have to lower the developer fee. The reply should be to open the books and show him what things will cost, and make it clear that the fee is nonnegotiable. The true costs and planned fee should be made clear early in the process, and if the developer gets in financial trouble, the fee will stay the same. The city already took this budgeted-expenses-only approach with the Granite Park development, where Harpaine's Dairy once was. I remember the materials, trees, and roller-coaster track sitting on the property for months until it was hauled away. The developer offered to develop the area for a certain amount, then ran out of money, and asked the city for more. But he was told that further funding was not written into the contract. I suspect that more detailed supervision of his plans and costs should have been done by city agencies, but at least the city kept account of what was given and what was spent, and put a limit on it. Developers can be similarly held to non-negotiable contracts for fees. Of course my hope is that when informed of the true costs and fixed developer fee, the SEDA project will be dropped, for several reasons.

What Fresno needs is affordable housing, as evidenced by our persistent homeless population. An NPR reporter commented that West Virginia has had more serious drug addiction problems than California, but those poor folks are housed. Our city needs more public housing, subsidized apartments, perhaps even a tiny home development, to help solve the national problem of the cost crunch that is moving people out of the middle class into the lower class. Keep in mind that democracy cannot survive without a majority in a strong middle class. To continue to ignore the need for lower housing costs is to lay the groundwork for the loss of our democracy, for authoritarianism, and making our national and state constitutions irrelevant.

Ancient Rome fell in large part to income inequality and the effort of the wealthy to shape the empire to become an instrument for channeling its

wealth to them. The SEDA development, an instrument for channeling \$millions to developers, would make Fresno one more nail in the coffin of American democracy. We don't want that.

Fresno does not need more market-rate housing. Fresno's population growth has been steady through many decades, which created a market for constant housing development. But Fresno's population growth rate is predicted to drop nearly to zero as California's population shrinks. The nation's birth rate is falling. Immigration has been virtually stopped. What would happen to houses in SEDA? If sensible developer fees are applied, their cost could keep them empty. But billionaires are buying up blocks of housing to rent out. If the houses are occupied, it will probably be by current Fresno residents. They would abandon their older houses. The prices of those houses would drop as those neighborhoods empty out, leaving the areas as urban blight. As we know, empty houses lead to neighborhoods sinking into slum conditions, with graffiti on boarded-up buildings. We don't want Fresno known for that.

Another problem with a SEDA would be the pollution from vehicle miles traveled. Developers claim that there will be enough jobs, stores, and entertainment in the development that residents won't feel the need to drive out of it. But all government services and offices won't be built there, nor will all those who work downtown not live in SEDA. Our air basin has attainment compliance with our air pollution standard. If the SEDA were to be developed, we would go out of compliance, with the attendant lung disease, and release of carbon dioxide would also increase.

Mayor Dyer wants SEDA, although I'm not sure why. We need to remind him that Fresno's population isn't growing, and we don't need the SEDA sort of development, in addition to Fresno being unable to afford it.

I hope you vote against running Fresno into the ground with bankruptcy, and against environmental damage, too.

---

IP Address

[REDACTED]

---

User-Agent  
(Browser/OS)

[REDACTED]  
<https://www.fresno.gov/citycouncil/district-3/>

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**From:** [Jeff Reid](#)  
**To:** [Clerk](#)  
**Cc:** [Jimenez, Bernard](#)  
**Subject:** FW: County of Fresno correspondence regarding City of Fresno 12-18-2025 Deliberations re SEDA - Meeting ID 25-1641  
**Date:** Wednesday, December 17, 2025 12:13:27 PM  
**Attachments:** [Council Letter 12-17-2025.pdf](#)  
**Importance:** High

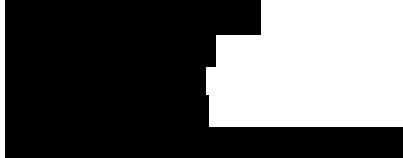
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**External Email: Use caution with links and attachments**

Ms. Aller, I received a nondelivery notice in reply to my below email. Apparently, it was sent to an incorrect email address.

I called your office and they advised to send email to the clerk's office generic email address stated above.

Please review the below and attached and let me know if there are any questions or concerns about these requests and whether you are able to coordinate such requests. Thanks.

**Jeff Reid**  
Partner  
McCormick Barstow et al LLP  


---

**From:** Jeff Reid  
**Sent:** Wednesday, December 17, 2025 3:05 PM  
**To:**   
**Cc:** Jimenez, Bernard   
**Subject:** County of Fresno correspondence regarding City of Fresno 12-18-2025 Deliberations re SEDA - Meeting ID 25-1641  
**Importance:** High

Ms. Aller,

I am writing to you in your capacity as the Interim City Clerk of Fresno, on behalf of my client, the County of Fresno.

This email and the attached letter concerns the City's proposed adoption of the Southeast Development Area (SEDA) Specific Plan, and the deliberations that the City Council presently intends to conduct at its upcoming meeting on December 18, 2025, at

a 4:30 PM Hearing as ID 25-1641.

I am requesting that you please distribute copies of the attached letter to all Council Members prior to deliberation of the above referenced matter.

I am also requesting that the attached letter be included in the Record of Proceedings for the SEDA Specific Plan.

Please confirm if there are any questions or concerns about these requests and whether you are able to coordinate such requests.

Thanks.

**Jeff Reid**  
Partner  
McCormick Barstow et al LLP

A large rectangular area of the page is completely blacked out, indicating a redaction. Within this redacted area, there is a small, irregular white shape that appears to be a portion of a signature that has been preserved while the rest of the text was removed.



**M C C O R M I C K**  
**BARSTOW LLP**  
ATTORNEYS AT LAW

Jeffrey M. Reid  
Partner  
(Admitted in California, Virginia  
and District of Columbia)  
**(559) 433-2310**  
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403 North Floral  
Visalia, California 93291-4950  
Telephone (559) 433-1300  
Fax (559) 433-2300

December 17, 2025

Via Email to [REDACTED]  
Amy Aller, Interim City Clerk

**Council Members**  
City of Fresno  
c/o Interim City Clerk Amy Aller  
City of Fresno  
2600 Fresno Street  
Fresno, CA 93721-3612

Re: Southeast Development Area (SEDA) Specific Plan

Dear Council Members

I am writing on behalf of my client, the County of Fresno, regarding the City's proposed adoption of the Southeast Development Area (SEDA) Specific Plan, and the deliberations that the City Council presently intends to conduct at its upcoming meeting on December 18, 2025. I am requesting that Ms. Aller distribute copies of this letter to all Council Members prior to deliberation of the above referenced matter. I am also requesting that this letter and its attachments and referenced materials be included in the Record of Proceedings for the SEDA Specific Plan.

We appreciate that there has been a robust public participation, which has led the City Staff to reevaluate land use elements of the SEDA Specific Plan that was evaluated as the preferred alternative in the EIR. The staff has also recommended that the SEDA Specific plan be modified to confirm an area of the Plan the City might designate for the first phase of development.

The Planning Commission's recommendation (adopted by a bare majority of its members) further retreated from the preferred alternative SEDA Plan proposals, to the greatest feasible extent without triggering the requirement for updated CEQA Evaluations. It did this by requesting that the Plan be modified to incorporate elements of both of the Alternatives evaluated in the EIR, since only those options could be incorporated without further CEQA compliance. The statements of the Commissioners in making that proposal were consistent with their desire to seek significant modifications to the SEDA Plan proposal originally evaluated as the preferred alternative in the EIR. One Commission Member advised the public that the SEDA Plan broke her heart, but she was voting in favor of it because she believed it was effectively a fait accompli.

Based on the staff's revised recommendations, and the Planning Commissions proposed further revisions and the comments the Commissioner made during their deliberations, it is clear that the Plan does not offer a vision for the future that is being well received. There is therefore much work to be done to update the proposed SEDA Plan, and to ensure that there is a CEQA document to support the proposed revisions. As detailed in our prior comment letters to the EIR (and below), there are also further

Fresno City Council  
December 17, 2025  
Re: SEDA  
Page 2

revisions required to satisfy the relevant LAFCO Resolution that governs these matters, which were intended to address potentially significant environmental impacts of the SEDA Plan area development. We hope you will take the time to do so and that those efforts help to secure broader public support for this endeavor.

**Protecting the West Area Specific Plan Development, the Urban Core and Existing Neighborhoods.**

It is important that your Council consider the concerns raised by the public. They recognize that the SEDA Specific Plan is an important step forward in the long-term planning of the community. The public is being asked to support a SEDA Specific Plan on the immediate heels of other important planning actions, specifically the recent adoption of the West Area Specific Plan. The public has raised concerns about whether the City has evaluated its ability to concurrently develop both the West Area and the SEDA territory, while maintaining appropriate focus on the core Downtown and existing neighborhood. These are concerns your Council should seriously address.

The community also raised substantial concerns about the preservation of rural residential housing, and ag land preservation, which are not adequately addressed in the Plan documents. They are also concerned that the financing arrangements for the public infrastructure required for the Plan's implementation will lead to disinvestment in the existing City neighborhoods.

**Missing Programs and Policies Needed to Meaningfully Address Environmental Impacts.**

The County participated in the CEQA process that the City has administered. That is because the CEQA process was the most robust aspect of the City's outreach. Unfortunately, the recently distributed Response to the CEQA Comments that the City Staff and its consultants prepared, simply avoided the need to address many of the issues of public concern. They did this by inaccurately classifying a wide range of comments as not relevant to potential environmental impacts.

For all the comments deemed to not address environmental impacts, the sole response was that the concern would be included in the record provided to the City for its review as part of the consideration of the proposed Project as a whole. To make good on that commitment, we recommend that your Staff compile all of the comments where this reply was provided, into a single document. In that fashion, you would have the tool necessary to effectively consider and deliberate on those concerns that the Staff believes are not relevant to the CEQA process it has administered.

Several of our comments in the CEQA process focused on the fact that the Specific Plan, and its implementation arrangements thus far made available for public review,

Fresno City Council  
December 17, 2025  
Re: SEDA  
Page 3

do not satisfy the requirements of LAFCO Resolution USOI-144. We assumed that when the City committed to expend considerable public funds and conduct significant public engagement on the Specific Plan, it did so on the basis that the intended Specific Plan, and its related implementation arrangements, would satisfy the requirements of that LAFCO Resolution.

If the City had incorporated the analysis and programs the LAFCO Resolution requires to be included in the Specific Plan, it may have alleviated many of the concerns raised by the County and the general public about details missing from the City's proposed SEDA implementation. Those concerns include the current lack of any committed phasing plan, the lack of a master service delivery plan (including a relevant financing plan), the lack of a program for preservation of rural residential neighborhoods, and the failure of the Specific Plan to address Williamson Act Contracts. All of these matters are required by the LAFCO Resolution before any annexations can commence.

Despite the Responses to the CEQA Comments provided by the City's Staff and its consultant, these matters directly relate to potentially significant environmental impacts of the SEDA Specific Plan. Without those materials, the EIR document fails to address several potentially significant impacts. Deferring them on the basis that no annexations are presently being conducted, or that the EIR relates to a Program versus a Project, are simply inadequate to address both the mandates of CEQA and the concerns of the public.

**The Lack of a Rural Residential Neighborhoods Preservation Program In the Specific Plan.**

A program for preservation of rural residential neighborhoods is specifically required by LAFCO Resolution USOI-144 to be included in the Specific Plan. That Program was confirmed as necessary to address *"logical and reasonable development, discourage urban sprawl, preserve open-space and prime agricultural lands, and efficiently provide for government services and encourage orderly development."*

The LAFCO Resolution further makes clear that the program concerning rural residential neighborhood annexation *"should emphasize the retention of characteristics that make the neighborhood desirable places to live, while making provision for appropriate improvements needed to incorporate such characteristics into the urban landscape. The program should include an outreach effort demonstrating to residents that annexation into the City would provide for an enhanced living environment preferable to staying in an unincorporated enclave, surrounded or substantially surrounded by the City."*

Such a program is nowhere in the Specific Plan. We are instead told that the City's existing ordinances (at Municipal Code sections 15-404 and 15-405) provide for an

Fresno City Council  
December 17, 2025  
Re: SEDA  
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Annexed Rural Residential Transitional Overlay District and that this is sufficient for the need. It is not.

Despite City staff's assurance, allocating existing Rural Residential land uses into a "legal nonconforming use" status (as provided for by that Transitional Overlay) will create difficulties with lenders and buyers of property. Imposing those constraints are not consistent with protecting the maintenance of such rural residential uses. It will also hinder appropriate expansion of existing legal nonconforming structures that may be reasonable and desirable to maintain thriving rural residential neighborhoods. The City's Transitional Overlay does allow some expansion in single family residential structures. However, similar expansion of other ancillary structures is not permitted except with the attainment of subsequent entitlements. In addition, expansions of single-family residential structures requires that the improvements conform to the standards of the newly allocated Base District. (Municipal Code Section 15-405-E-1).

The City has also not adequately dealt with the significant costs that the City intends to impose on existing rural residential homeowners when the City subsequently mandates that they connect to City water and sewer systems. The offer of 5-year financing for these substantial costs does not satisfy the standards that the LAFCO Resolution requires for the intended the rural residential neighborhood preservation program.

**The Lack of Policies in the Specific Plan to Address Williamson Act Contracts and the Requirements of Government Code section 56426.6.**

LAFCO Resolution USOI-144 also requires that the Specific Plan include policies concerning Williamson Act Contracts sufficient to address the requirements of Government Code section 56426.6<sup>1</sup>. This has also not been done. In fact, the Specific Plan makes no reference to Williamson Act Contracts.

At the Planning Commission, the presentation by the City Staff reflected a lack of knowledge about the basics of the Williamson Act program. They advised the Planning Commission that such contacts expire at the end of 10 years, unless they are renewed at the end of that period. In fact, such contracts have evergreen clauses that automatically renew each year to maintain a 10-year term of the contract, unless and until a notice of nonrenewal is issued. At that time, and only after a nonrenewal notice is issued, does a Williamson Act Contract terminate at the end of 10 years.

The City has included, in the EIR supporting the Specific Plan, a discussion of fact that the Specific Plan conflicts with the Williamson Act Contracts. However, this does not

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<sup>1</sup> LAFCO Resolution USOI-144 includes an apparent scrivener's error in that it refers to Government Code section 56426.5, when in fact the standards for annexation that address impacts to Williamson Act Contracts is set forth in Government Code section 56426.6.

Fresno City Council  
December 17, 2025  
Re: SEDA  
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address the fact that LAFCO Resolution USOI-144 requires that the Specific Plan include policies to address Williamson Act Contracts.

The City's consultants provided a response to the County's Comment on the EIR regarding this matter. That response inaccurately states that the "*Specific Plan Policy CF-1.4 directly addresses the City's commitments to parcels with Williamson Act Contracts in that it will not facilitate early termination of such contracts.*" In fact, Policy CF-1.4 makes no reference to Williamson Act Contracts. In addition, a commitment by the City (assuming one is made) to not facilitate early termination of Williamson Act Contracts does not address any of the issues intended to be addressed by Government Code Section 56426.6, as required by the LAFCO Resolution.

The City also asserts that the issue of complying with Government Code section 56426.6 is something that can be deferred and addressed when an actual annexation of lands that include a Williamson Act Contract is intended. That approach, however, is directly in conflict with the requirements of LAFCO Resolution USOI-144, which requires that the Specific Plan include policies that will guide the process of the City in complying with Government Code section 56426.6 in its subsequent annexation activities.

#### **Lack of Certainty Regarding Land Use Designations.**

Even the land use designations that are central to the SEDA document are not adequately detailed. Those land use designations are provided with a caveat that the actual uses and densities of development detailed in the Specific Plan will be overridden by the terms of a future amendment to the City's Development Code. (See Specific Plan at page 39). We are told that it is appropriate for us to await those development standards until the later amendment of the City's Development Code, because the EIR is only evaluating the Specific Plan at a programmatic level. However, the failure to provide meaningful details of those standards in the Specific Plan fails to address these important aspects of the Specific Plan's intended scope of development, and results in an inadequate CEQA evaluation of its environmental impacts, even at a programmatic level.

#### **Further Council Deliberations and Directions.**

At the time of this writing, we do not know with any certainty what the City Council intends to evaluate (or potentially adopt) at the meeting scheduled for December 18, 2025. However, we are led to believe that City Staff intends to focus the Council's deliberations on providing the Staff with direction on the Specific Plan proposals, including addressing the revisions hastily recommended at the conclusion of the Planning Commission meeting. We therefore presently understand that no actions of adoption (or EIR Certification) are intended at that meeting.

Fresno City Council  
December 17, 2025  
Re: SEDA  
Page 6

In considering the appropriate directions to your Staff, we urge that you include a requirement that the Specific Plan incorporate the program for rural residential preservation, and policies to address the requirements of Government Code Section 56426.5, as required by LAFCO Resolution USOI-144. We also urge that you provide the public a meaningful opportunity to comment upon any intended phasing plan, and that you release for public review and comment the Public Facilities Financing Options Report. The public facilities to be financed as part of the SEDA Plan are important to addressing important environmental impacts. Without a plan to deliver that infrastructure, those environmental impacts are not addressed. Even the concept of a potential plan is better than no proposal at all.

Sincerely,  
McCORMICK, BARSTOW, SHEPPARD,  
WAYTE & CARRUTH LLP

[Redacted]  
Jeffrey M. Reid

cc: Bernard Jimenez, Planning & Resource Management Officer  
Fresno County Department of Public Works and Planning

**From:** [Darren Rose](#)  
**To:** [Clerk](#)  
**Subject:** Fresno City Council Meeting Agenda ID 25-1641  
**Date:** Wednesday, December 17, 2025 12:41:09 PM  
**Attachments:** [BIA SEDA 12.18.25 Fresno City Council.pdf](#)

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

Darren Rose  
President/ CEO  
Building Industry Association of Fresno/ Madera Counties



December 16, 2025

Chairman of the Board  
*Zach Gomes*  
Bonadelle Neighborhoods  
Secretary/Treasurer  
*Corine Demetreos*  
D R Horton

**Directors**  
Arakel Arsanian  
Ansian Group  
Danus Assemi  
Granville Homes  
Gregory Bardini  
Morton & Pitalo  
John A. Bonadelle  
Bonadelle Neighborhoods  
Terry Broussard  
Broussard Associates  
Nick Bruno  
Valley Development Company  
Deborah Coe  
Baker Manock & Jensen  
Jill Craven  
Lennar  
Walter Diamond  
Lennar  
David Dick  
Donald P. Dick Air Conditioning  
Ed Dunkel, Jr.  
Precision Civil Engineering  
Dennis Gaab  
Century Communities  
Gary Giannetta  
Gary Giannetta, Civil Engineer  
Stan Harbour  
Harbour & Associates  
Jeff Harris  
Wilson Homes  
Gary McDonald  
Gary McDonald Homes  
Josh Peterson  
Trumark Homes  
Drew Phelps  
Woodside Homes  
Mike Pickett  
Don Pickett & Associates  
Jeff Reid  
McCormick, Barstow  
Rob Schiegel  
D R Horton  
Matt Smith  
Woodside Homes  
Carl Swanson

Housing Capital Company  
Kurt Vote  
Wanger Jones Heisley  
Ron Wathen  
QK  
Leo Wilson  
Wilson Homes  
Joseph Gendron  
KB Home  
Shannon Travis  
KB Home  
Priscilla Presto  
Granville Homes  
Freddie Logue  
Trumark Homes  
Machael Smith  
Century Communities

The Honorable Members of the Fresno City Council  
City of Fresno  
2600 Fresno Street  
Fresno, CA 93721

## VIA EMAIL

**Re: ITEM #25-1641- Letter of Support for the Southeast Development Area (SEDA) Specific Plan**

Dear Honorable Members of the Fresno City Council:

The Building Industry Association of Fresno/Madera Counties (BIA Fresno/Madera), established in 1947, represents builders, developers, and associated professionals dedicated to advancing responsible growth and housing opportunities in our region. Our membership is comprised of 74 member companies that employ thousands of workers throughout the greater Fresno area and contribute hundreds of millions of dollars in economic activity and revenue for our municipal partners.

We are writing to express our strong support for the Southeast Development Area (SEDA) Specific Plan, as outlined in the Draft Specific Plan and Environmental Impact Report and encourage you to support an alternative described in the EIR; request an updated land use map reflecting the alternative; confirm the alternative is within the scope of the EIR, and prepare a financial analysis for the plan; and make any other necessary updates that are needed.

Fresno and Madera Counties face a critical housing shortage, exacerbated by population growth and rising demand. SEDA represents a forward-thinking solution that aligns with the City's General Plan and addresses these challenges head-on. SEDA offers you a generational opportunity to remedy Fresno's housing affordability crisis by increasing the supply of market-rate housing. The status quo means working-class families will be priced out of the Fresno housing market who want to achieve the American Dream of homeownership.

We commend the Planning Department staff and stakeholders for their thorough work on the Specific Plan, including the analysis of alternatives in the Environmental Impact Report. The Preferred Alternative stands out as the most viable option to deliver much-needed housing.

Approving this plan will unlock significant economic opportunities, generate thousands of construction and related jobs, and bolster the local economy for



Chairman of the Board  
*Zach Gomes*  
Bonadelle Neighborhoods  
Secretary/Treasurer  
*Corine Demetrios*  
D R Horton

Directors  
*Arakei Arsanian*  
*Ansanian Group*  
*Danus Assemi*  
Granville Homes  
*Gregory Bardini*  
*Morton & Pitalo*  
*John A. Bonadelle*  
Bonadelle Neighborhoods  
*Terry Broussard*  
Broussard Associates  
*Nick Bruno*  
Valley Development  
Company  
*Deborah Coe*  
Baker Manock & Jensen

*Jill Craven*  
*Lennar*  
*Walter Diamond*  
*Lennar*  
*David Dick*  
Donald P. Dick Air  
Conditioning  
*Ed Dunkel, Jr.*  
Precision Civil Engineering  
*Dennis Gaab*  
Century Communities  
*Gary Giannetta*  
Gary Giannetta, Civil  
Engineer  
*Stan Harbour*  
Harbour & Associates  
*Jeff Hams*  
*Wilson Homes*  
*Gary McDonald*  
Gary McDonald Homes  
*Josh Peterson*  
Trumark Homes  
*Drew Phelps*  
Woodside Homes  
*Mike Pickett*

Don Pickett & Associates  
*Jeff Reid*  
McCormick, Barstow  
*Rob Schlegel*  
*D R Horton*  
*Matt Smith*  
Woodside Homes  
*Carl Swanson*

Housing Capital Company  
*Kurt Vote*  
Wanger Jones Heisley  
*Ron Wathen*  
*OK*  
*Leo Wilson*  
Wilson Homes  
*Joseph Gendron*  
*KB Home*  
Shannon Travis  
*KB Home*

*Priscilla Presto*  
Granville Homes  
*Freddie Logue*  
Trumark Homes  
*Machael Smith*  
Century Communities

decades to come. Otherwise, without additional housing supply the housing affordability crisis will continue.

Thank you for your leadership and commitment to Fresno's future. Please contact our Executive Officer, Darren Rose, at (559) 226-5900 or [darren@biafm.org](mailto:darren@biafm.org) if you have any questions or require additional information.

Sincerely,

  
**Darren Rose**  
Executive Officer

**Building Industry Association of Fresno/Madera Counties**

From:

Subject:  
Date:

SEDA Specific Plan On the October 18th Fresno City Council Agenda  
Wednesday, December 17, 2025 12:52:43 PM

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

Hello, my name is Jerry Prieto Jr. My wife Cynthia and I own and operate Red Bank Creek Ranch, a small family cattle ranch consisting of 8.9 acres. In addition, we lease 4 additional acres from our neighbors. Nine of these are irrigated pasture and two are non-irrigated rangeland. Our address is 2517 North DeWolf Avenue. The Fresno Irrigation District supplies the water to flood irrigate the pastures. We do not have an agricultural well. We maintain 5-15 head of cattle on our ranch. We worked and saved for many years to finally be able to purchase our ranch in 2001. We are **OPPOSED** to the SEDA Specific Plan because it would negatively impact our chosen lifestyle by imposing restrictions on the number and type of livestock we can raise. It will impose an estimated cost of \$200,000 on us for mandatory water and sewer connections to the city system. We chose our ranch location because our home is set back 900 feet from DeWolf Avenue providing us with increased privacy. This set back distance and the likely need for one or more sewer lift stations is the reason for the high estimated cost. These costs are in addition to the cost of removing our septic system and properly destroying our domestic water well. Our property will immediately be devalued by a like amount because these costs would have to be borne by potential buyers. These are personal reasons that contribute to our opposition

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I am a former Fresno County Agricultural Commissioner/Sealer of Weights and Measures. I held that office from 1999 to 2008. I currently am the Chairman of the North Kings Groundwater Sustainability Agency, and the city of Fresno (City) is a board member. I am also the Vice-President of the Fresno Irrigation District. In 2008 I was the Chairman of Council of Fresno County Governments (COG) Model Farmland Conservation Program Steering Committee. COG contracted with the American Farmland Trust (AFT) to assist in the development of the program. AFT developed a Strategic Farmland map that designated the land most likely to remain viable for high value commercial agriculture in the long-term and that should receive the highest priority for conservation and the lowest priority for non-farm development. All of SEDA was included in the map. I recently made a Public Records Act request to the Melissa Cregan, the current Fresno County Agricultural Commissioner for the 2024 SEDA type of crop and total gross crop value. There are 29 crop types with a total gross value of \$33,357,794. Applying a multiplier of 2.5 the total direct and indirect economic impact of SEDA agriculture on the economy of Fresno County is \$83,394,485. The conversion of this strategic farmland and the economic benefit it generates should not be allowed to happen. The loss affects the livelihood of farmers, farm workers, and businesses. It further erodes our ability to sustain our food security in an uncertain world politic. Cal. Civ. Code 815:

California Code-Section 815 in part states the "Legislature finds and declares that the preservation of land in its natural scenic, agricultural, historical, forested, or open space condition is among the most important assets of California." Los Angeles County was the number 1 agricultural county in the nation from 1910 - 1950. Don't repeat their fate. Reject the SEDA Specific Plan as presented!

Additional concerns with the SEDA Specific Plan:

- majority of cost will be borne by residents and not by the City or developers
- School Bonds covering a minimum of sixteen schools in the Sanger School District alone
- Increase in taxes to cover the cost of police protection due to increased crime
- loss of property for trails
- metered water usage for ag wells
- increase in taxes for infrastructure
- increase taxes for fire protection
- reduction in tax revenue for the Fresno County Fire Department
- cost of plan is prohibitive
- don't let the Clovis School District and developers dictate where development occurs
- The West Area Neighborhood Specific Plan is approved and shovel ready. Over 50% of area is within the City limits
- increase in taxes to pay for utilities
- loss of property rights - hunting and shooting
- traffic increase
- loss of wildlife habitat
- loss of property through Eminent Domain
- farming that will be forced out due to complaints about cultural practices
- residents have received limited, vague, incorrect, and conflicting answers
- no true public involvement; holding public information meetings where we are told how it is, does not equal public engagement
- loss of rural lifestyle
- current surface water supply for project may not be adequate
- loss of flood irrigated crop land will reduce groundwater recharge

Approval of the SEDA Plan will further delay the initiation and completion of development in the already approved specific plan areas of the City. Don't let developers dictate the direction of growth! We oppose the SEDA Plan and so should you.

Sincerely,

Jerry Prieto Jr.

**From:** [Greg Terzakis](#)  
**To:** [Clerk](#)  
**Subject:** CAA's SEDA Support Letter  
**Date:** Wednesday, December 17, 2025 12:53:19 PM  
**Attachments:** [CAA SEDA Letter.pdf](#)

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



**Greg Terzakis**  
Senior Vice President  
[California Apartment Association](#)  
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December 17, 2025

Development and Resource Management Department  
Fresno City Hall, 3<sup>rd</sup> Floor, Rm. 3065  
2600 Fresno Street  
Fresno, CA 93721

On behalf of the California Apartment Association, which represents over 2 million rental housing units statewide, I write in support of the Southeast Development Area (SEDA) plan.

California is in the midst of a severe, ongoing housing shortage. CAA's ongoing mission has been to strongly advocate for new housing at the state, county and city levels. We fundamentally believe that government at all levels should prioritize increased housing supply as a means to satisfy the housing needs of all Californians, whatever their economic status. CAA supports SEDA because it will:

- Address the need for increased housing supply of very low and low-income housing;
- Add much needed supply to the Fresno Metro Area housing stock at the single and multifamily levels, and provide more options to those looking to rent or buy;
- Through increased supply, lower the overall costs associated with housing throughout the entire City of Fresno.
- Create a consistent, robust tax base to support the infrastructural needs of the city, from public safety to roads.
- Take advantage of new state laws that encourage the construction of new housing, such as SB 621 which streamlines CEQA for affordable housing projects;
- Adequately plan for population growth over the next thirty years for California's fifth largest city.

There is no question that Fresno will continue to see increased demand for more housing. The SEDA plan is a critical step toward Fresno addressing the short-term and long-range housing and affordability needs of all Fresnans. CAA urges the city council to act now in favor of working families at all levels and support the Southeast Development Area today.

Thank you for your consideration.

Sincerely,

Greg Terzakis  
Senior Vice President

**From:** [Annette Paxton](#)  
**To:** [Clerk](#)  
**Subject:** Reference: SEDA / December 18 2025 agenda  
**Date:** Wednesday, December 17, 2025 1:00:53 PM

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

To Fresno City Clerk:

I oppose the SEDA Project and recommend it NOT to be approved; I ask that the council suspend further exploration into the Southeast Development area.

Fresno City's current infrastructure is deteriorating. Decades of promises to rebuild areas within the current City have fallen through the cracks. There are not enough funds within the entire county to support the SEDA Project development costs. The air we breathe and the water we drink are negatively impacted. This project rapes the most fertile ag land in the world. None of these concerns have solutions by approving SEDA.

The City of Fresno does not need to annex more land -- **9,000 acres is double the size of the City of Sanger!** There is plenty of work inside the current city limits that should be completed before adding more. Stop the sprawl. I encourage all members of the Fresno City Council to be bold — do something different and build from within!

Please do not approve the SEDA Project.

-- Annette Paxton



**From:** [District3](#)  
**To:** [Clerk Agendas](#)  
**Subject:** FW: Please Vote NO on SEDA Project  
**Date:** Wednesday, December 17, 2025 1:57:59 PM

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For agenda item, [ID 25-1641](#) 4:30 p.m.

-District 3 Office

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**From:** Andy Hansen-Smith <ahansensmith@gmail.com>  
**Sent:** Wednesday, December 17, 2025 12:15 PM  
**To:** District3 <District3@fresno.gov>  
**Subject:** Please Vote NO on SEDA Project

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

Dear Councilmember Arias,  
Please vote NO on ID-25 1641 (the SEDA project)

Thank you,  
Andy Hansen-Smith

[REDACTED]  
Fresno, CA 93702

**From:** [District3](#)  
**To:** [Clerk Agendas](#)  
**Subject:** FW: SEDA  
**Date:** Wednesday, December 17, 2025 2:18:53 PM

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For agenda item, ID 25-1641 4:30 p.m.

-----Original Message-----

From: Bob Hooke [REDACTED]  
Sent: Wednesday, December 17, 2025 2:17 PM  
To: [REDACTED]  
[REDACTED]  
Subject: SEDA

External Email: Use caution with links and attachments

Fresno City Council members,

I urge you to approve the EIR and SEDA Plan. I'm sure it has been well thought out by the professionals on the planning staff and the Planning Commission.

Please don't be distracted by the media hype suggesting that it is being put forward by developers and will be built out quickly. Ultimately market demand will determine what gets built and when.

FUSD objections are irrelevant. Enrollment will shrink regardless of adoption of the SEDA Plan. People with young children no longer wish to live in the small houses of the inner city. They want more space.

--  
Bob Hooke

[REDACTED]  
Fresno CA 93726

**From:** [REDACTED]  
**To:** [Clerk](#)  
**Subject:** No on SEDA  
**Date:** Wednesday, December 17, 2025 2:30:43 PM

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

Hello,

As a previous Fresno Unified teacher and a south east resident, I am emailing to express my dissent against development in my community. Taking away equitable access to south east students by closing schools to benefit land developers is detrimental to our community. Is it time to stop putting the needs of children and families aside so rich companies can become more rich.

Do the right thing,

Racheal Moni

**From:**

**Subject:**  
**Date:**

Public Comment - December 18, 2025, Item ID 25-1641  
Wednesday, December 17, 2025 3:27:10 PM

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

Dear Mayor and Members of the Fresno City Council,

I am writing as a **District 3 resident and small business owner** to urgently oppose the Southeast Development Area (SEDA) plan as it is being advanced to you on December 18.

District 3 already bears the consequences of decades of sprawl: **limited transit access, disconnected neighborhoods, and small businesses struggling to remain reachable to the communities they serve**. In our first year of operation as a brick-and-mortar, one of the most consistent complaints we receive is how difficult it is to reach our location without a car. Customers regularly cite the lack of nearby bus routes and the distance between neighborhoods—conditions that are the direct result of Fresno’s outward expansion.

Advancing SEDA will **worsen these inequities**. Research shows that sprawling development drains public resources, increases infrastructure and service costs, and deepens environmental and public health harms while failing to serve existing neighborhoods (Resnik, 2010). For District 3 residents and business owners, this will mean fewer resources for transit, street maintenance, public safety, and neighborhood investment, even as development dollars are pushed farther away.

What is especially troubling is the contradiction between this plan and the administration’s repeated promise of “ONE Fresno.” In meetings and public forums focused on Chinatown and Downtown—both within District 3—residents are told that revitalization and equity are priorities. Yet SEDA represents the opposite: **greenfield expansion that benefits developers and real estate interests while leaving core and historic neighborhoods behind**.

Labor, environmental, and community advocates have already raised serious concerns about SEDA’s fiscal viability, lack of clear alternatives, and absence of updated studies. Even the Administration has acknowledged that the plan, as proposed, is financially unsustainable. Moving forward without transparent analysis places District 3 at particular risk, as we are consistently asked to do more with fewer resources. This new plan is a slap in the face to myself and the fellow businesses doing our best to serve while constantly being told to wait our turn.

I urge the City Council to **reject the SEDA plan as presented** and direct staff to return with clearly defined, fully studied alternatives that prioritize:

- Investment within existing city limits
- Transit-accessible, high-quality job creation

- Fiscal responsibility and long-term sustainability
- Meaningful reinvestment in District 3 and other established neighborhoods

The decisions you make on December 18 will shape Fresno for decades. District 3 residents are paying attention, and we are asking you to choose reinvestment, equity, and accountability over continued sprawl.

Sincerely,  
**Ashley Marie Mireles-Guerrero**  
District 3 Resident & Small Business Owner

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#### **Reference**

Resnik, D. B. (2010). *Urban sprawl, smart growth, and deliberative democracy*. *American Journal of Public Health*, 100(10), 1852–1856. <https://doi.org/10.2105/AJPH.2009.182444>