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Supplemental Information Packet

Agenda Related Items –File ID16-543

Contents of Supplement: Correspondence from Leadership Counsel for Justice and Accountability dated May 9, 2016

Item(s)

RESOLUTION - Adopting the Analysis of Impediments to Fair Housing Choice; approving submission to the U.S. Department of Housing and Urban Development (HUD); and authorizing the City Manager to sign all implementing documents required by HUD approved as to form by the City Attorney.

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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May 9, 2016

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Sent via Email

Re: City of Fresno's March 25, 2016 Draft Analysis of Impediments to Fair Housing Choice

Dear Commissioners and Councilmembers:

We are writing to submit comments on the City of Fresno's 2016 Draft Analysis of Impediments to Fair Housing Choice ("Draft AI"). As you know, Leadership Counsel for Justice and Accountability works alongside residents of low-income neighborhoods of color, including residents from Southeast Fresno, West Fresno, and the Jane Addams neighborhood, to secure equal access to opportunity regardless of wealth, race, income, or place. We work extensively in Fresno and throughout the San Joaquin Valley to ensure investment in basic infrastructure, services, and amenities in those neighborhoods; healthy land use policies and practices; access to safe and affordable housing for all residents throughout Fresno; and inclusive public processes.

Through our comments, we aim to assist the City in developing a robust final AI ("Final AI") which satisfies the objectives of the AI to "*analyze and eliminate* housing discrimination" in the City of Fresno and promote fair housing choice for all persons.

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Italics added. HUD's Fair Housing Planning Guide ("FHPG"), 1996, 1:2-3. The Draft AI does not meet this standard. The City can and must do more to further fair housing through its Final AI. Our comments below identify deficiencies in the Draft AI and set

forth specific ways in which the City can address those deficiencies through further analysis and actions.

1. The City Must Enhance its Efforts to Engage the Public in the AI Update & the Development & Implementation of Housing-Related Policies

a. The City Has Failed to Make Sufficient Efforts to Engage the Public in the Development of the Draft AI

HUD expects entitlement jurisdictions "to develop an AI that involves and addresses the concerns of the entire community." FHPG, 3:3. According to HUD's Fair Housing Planning Guide, "The AI structure should provide for effective, ongoing relationships with *all* elements of the community with clear and continuous exchange of concerns, ideas, analysis, and evaluation of results." FHPG, 2:12. The "[chief executive] should ensure, through focus groups, an advisory commission, town meetings, or other effective means, that regular contact and working arrangements are created and maintained" with fair housing organizations, other governments in the metropolitan area or region, advocacy groups, housing providers, banks and other financial institutions, and the general public. 2:13-14.

Fresno's efforts to solicit input from residents and stakeholders do not meet this standard. The City's public participation process in developing the Draft AI consisted of a total of three public workshops clustered together over two days, including one workshop at 3:00 p.m. during the workday, and the distribution of a fair housing survey. Only a handful of people (between approximately two to six) attended each of the workshops and according to the Draft AI, only seven people completed the survey.¹ Only approximately one to three individuals at each meeting were residents participating on their own time (as opposed to agency or non-profit staff). The limited public participation in the AI update process is consistent with the City's pattern and practice of failing to engage the public, also evidenced by limited public participation in development of the City's recently adopted Housing Element and Development Code Updates.

¹ This number includes the author of these comments, who attended each of the three public workshops.
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As we have advised the City in written and oral comments on various occasions, the City must assess the reasons for the limited public participation during housing-related planning processes in the City and revise its public participation strategy accordingly.

We have previously recommended to the City and recommend again now that the City adopt the following practices to enhance public participation:

- Schedule all housing-related meetings, workshops, and hearings after 5 p.m. so that residents who work have the opportunity to attend;
- Take advantage of free advertising opportunities with bilingual and foreign language media, such as with Radio Bilingue, Hmong TV, and Arriba Valle Central (Channel 21). (If an outlet does not run a notice provided by the City, the City should follow up by inquiring why not);
- Use automated voice messages and text messaging to inform residents of public participation opportunities;
- Inform key community leaders and organizations, who can share information with their networks, of upcoming participation opportunities directly through telephone calls;
- Ensure that fliers explain the significance of technical terms in lay person language (i.e., Analysis of Impediments to Fair Housing)

The City also should make additional efforts to engage the public prior to adoption of the AI. We are unaware of efforts made by the City to date to promote public awareness of the release of the Draft AI and encourage and respond to public comment. The City has scheduled its City Council hearing on the AI as an untimed item to be heard during the Council's regular Thursday meeting in the day. The City declined our request to move the hearing to a time in the evening which would allow participation by residents who work during the day.

Given the lack of public engagement in the AI update process to date, including the lack of engagement of low-income residents and members of protected classes, the City must make additional efforts to achieve public participation prior to adoption. We appreciated our meeting with City staff and residents today regarding residents' recommendations for ways the City can improve its efforts to engage the public. We are hopeful that the City will adopt some of the recommendations made by residents as well as recommendations contained in this letter.

b. The Draft AI Fails to Respond to Public Comments

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As mentioned above, the City is required “to develop an AI that involves and *addresses* the concerns of the entire community.” (italics added). FHPG, 3:3. The Draft AI fails to do so, however, as the impediments, actions and objectives identified in the Draft AI do

not respond to or address the barriers to fair housing identified by workshop participants, as described in Appendix C. Workshop participants’ fair housing concerns raised during the public workshops included the lack of zoning for housing affordable to low-income populations in higher income neighborhoods; the concentration of subsidized housing in R/ECAPs; the lack of protective barriers between train tracks and multi-family housing complexes; failure of landlords to respond to tenant housing complaints, the use of intimidation to prevent tenants from reporting housing issues, and the lack of code enforcement by the City; the need to ensure affordable housing opportunities as the City continues to grow outwards. pp. 164, 168, 170, 171. The Draft AI fails to analyze or identify as impediments any of these concerns. The Draft AI also fails to adopt actions that directly address these concerns, other than a non-specific commitment to “[a]dvocate and facilitate the conservation and rehabilitation of substandard housing”.

The Final AI must address the fair housing concerns raised in the AI workshops by analyzing the concerns and adopting responsive impediments, actions, and objectives as appropriate.

c. The City Must Update its Citizen Participation Plan in Accordance with the New AFFH Regulations

The City of Fresno must update its existing Citizen Participation Plan to conform with the new AFFH regulations adopted by HUD. *See* 24 C.F.R. § 91.105(a)(1). This will provide the City with an opportunity to adopt public participation policies and practices that address the limited public engagement in the City’s housing-related planning efforts. The Final AI should include the CPP update as an action item and identify a timeline for conducting the update. The public should be afforded ample opportunity to provide meaningful input on the updated Citizen Participation Plan.

2. The City Must Ensure Consistency Between the AI and 2015-2023 Housing Element

The City’s duty to affirmatively further fair housing applies to *all* of its housing-related planning and activities. FHPLG, 1:3; ; *see also* 24 C.F.R. § 5.152 (definition of “affirmatively furthering fair housing” included in the new AFFH rule states that the “duty to affirmatively further fair

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housing extends to all of a program participant's activities and programs relating to housing and urban development.”). The City thus should incorporate information and analysis contained in the AI into the City's newly adopted 2015-2023 Housing Element and vice versa to ensure consistency between the documents and to tailor the policies and programs contained therein such that they advance and do not hinder the achievement of fair housing objectives. This includes ensuring that sites identified for low-income housing in the housing element do not further entrench and exacerbate existing patterns of concentrated poverty but rather expand fair housing opportunity throughout the City. See Section 7(b).

3. The Final AI Should Consider the AFFH Regulations & Utilize the AFFH Data & Mapping Tool in Preparing the Final AI

In 2015, HUD issued its new Affirmatively Furthering Fair Housing (“AFFH”) Rule, under which jurisdictions will be required to prepare an Assessment of Fair Housing, which will take the place of the AI, as a lead up to the next update of their Consolidated Plan. The AFFH Rule sets out a framework for local governments to take meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities free from discrimination in accordance with the purposes and policies of the Fair Housing Act of 1968. HUD has provided an AFFH Data & Mapping Tool to aid jurisdictions in setting local fair housing priorities and goals. While the AI update is not subject to the new AFFH rule, the City should consider the guidance provided by the rule and utilize the AFFH Data and Mapping Tool to create a robust AI that fulfills the purpose of the Fair Housing Act to eliminate historic patterns of segregation and discrimination.

4. The Final AI Should Consider & Respond to Relevant Studies

HUD strongly encourages jurisdictions to “become familiar with all studies that apply to their community and region as a first step in planning an AI” in order to “plan and carry out actions to address the problems” identified in those studies. FHPG, 2:18. The Draft AI fails to consider several existing and recent studies that document fair housing problems impacting the community in Fresno, including the 2014 Fair Housing and Equity Assessment,² which was prepared by various Central Valley jurisdictions including the City of Fresno, and studies by the Brookings Institute identifying highly

²Available at https://www.fresnostate.edu/academics/oced/documents/SJV_Fair-Housing-and-Equity-Assessment_April-2014.pdf

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concentrated poverty and uneven distribution of the benefits of the economic recovery across race and class lines in Fresno³. The Final AI should consider the information

contained in these and other relevant studies in order to identify impediments to fair housing and adopt appropriate responsive actions and objectives.

5. The Draft AI Fails to Identify Specific Actions the City Will Take to Achieve Measurable Outcomes to Eliminate Impediments to Fair Housing Choice

a. The Draft AI Fails to Identify Specific Actions the City Will Take Pursuant to Established Timelines to Achieve Measurable Outcomes

The AI must contain actions which the City will take to overcome the effects of identified impediments. HUD encourages entitlement jurisdictions to “establish strong performance goals to measure the success” of the AI and suggests that jurisdictions organize the actions they will take into a “prioritized list of specific actions” “[w]ith milestones, timetables, and measurable results” “[t]o be undertaken by the jurisdiction in each of the 4 years following completion/update of the AI.” FHPG, 1:5; 2:6. The actions identified should be “in response to the impediments identified in the AI”. 2:6. HUD “considers the achievement of measurable results as the basis of the successful FHP.” *Id.*

The Draft AI fails to establish such specific actions, milestones, and timetables, in response to various impediments identified therein. Instead, in these cases, the “Action” contained in the Draft AI in response to an identified impediment consists of only a vague commitment to “promote”, “explore”, or “consider” certain opportunities or actions without a commitment to any specific action steps or timelines. The Draft AI further fails to establish measurable goals by which would allow the City to assess the success of its action taken to address the identified impediments, but rather establishes the City’s accomplishments themselves as the standard by which to measure those same accomplishments.

³ MetroMonitor 2016; Tracking Growth, Prosperity, and Inclusion in the 100 Largest U.S. Metropolitan Areas, available at <http://www.brookings.edu/~media/research/files/interactives/2016/metro-monitor/metromonitor.pdf>; U.S. concentrated poverty in the wake of the Great Recession, available at <http://www.brookings.edu/research/reports2/2016/03/31-concentrated-poverty-recession-kneebone-holmes>
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A few examples of drafted actions and objectives contained in the Draft AI which fail to contain the requisite specificity, timelines, and measurable goals include the following:

- “[Private Sector] Impediment 2: Failure to make reasonable modification or accommodation.”
“Action 2.4: Promote the provision of disabled-accessible units and housing for persons with mental and physical disabilities...”

“Measurable Objective 2.4: Efforts and policies to promote the provision of disabled-accessible units.” (p. 12)
- “[Private Sector] Impediment 3: Relatively low levels of private investment in racial/ethnic minority neighborhoods and areas with comparatively high poverty rates.”
“Action 3.1: Consider funding, matching funds, training programs and Section 3 opportunities for small business loan investment and to prepare small businesses for loans.”
“Measurable Objective 3.1: The amount of funding dedicated to investment in small business and Section 3 training opportunities, and the amount of private sector investment supported or facilitated by those public investments.” (p. 13)
- “[Public Sector] Impediment 1: Persistence of concentrated areas of poverty with disproportionate shares of racial/ethnic minorities.”
“Action 1.4: Advocate and facilitate the conservation and rehabilitation of substandard residential properties by homeowners and landlords”
“Measurable Objective 1.4: Policies and actions designed to facilitate conservation and rehabilitation of substandard housing.” (pp. 13-14)
- “[Public Sector] Impediment 2: Concentration of assisted housing in concentrated areas of poverty with relatively high concentrations of racial/ethnic minority residents.”
“Action 2.2: Encourage the Fresno Housing Authority to provide mobility counseling to voucher recipients.”
“Measurable Objective 2.2: The number of voucher recipients who have been provided mobility counseling.”

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The Final AI must contain revised actions and objectives which identify the *specific* actions the City will take to mitigate and eliminate impediments pursuant to established timelines and tied to measurable outcomes.

b. Actions and Objectives Fail to Respond to Identified Impediments

In various instances, the actions and objectives identified by the Draft AI fail to respond to or address the associated impediment. The Final AI must contain revised and

additional actions and objectives that directly respond to and address the corresponding impediments. FHPG, 2:6.

For instance, Private Sector Impediment 3 reads, “Relatively low levels of private investment in racial/ethnic minority neighborhoods and areas with comparatively high poverty rates,” and was identified through CRA data demonstrating relatively few small business loans issued in high poverty census tracts with high concentrations of black and hispanic residents. However, none of the actions or objectives included in response to the impediment specifically address the lack of private investment in R/ECAPs. Action 3.1 and Measurable Objective 3.1 commit the City to consider funding and training programs for small businesses generally, without regard to location or the owners’ protected class status. Action 3.2 and Measurable Objective 3.2 directs the City to explore funding to support transit oriented mixed-income housing without connection to or impact on the lack of private investment and small business loans in R/ECAPs.

Similarly, Public Sector Impediment 1 reads, “Persistence of concentrated areas of poverty with disproportionate shares of racial/ethnic minorities”. The actions and objectives identified in response to Impediment 1 generally aim to target certain resources to low-income populations and/or areas of racially and ethnically concentrated poverty; however, they do not in fact aim to address the impediment of racially and ethnically concentrated poverty itself (see e.g., “Action 1.4: Advocate and facilitate the conservation and rehabilitation of substandard residential properties by homeowners and landlords”; Action 1.5: Continue to facilitate access to rehabilitation programs that provide financial and technical assistance to low- and moderate income households...”) While critical to improve the health and well-being of Fresno’s neighborhoods with high levels of concentrated poverty, these actions are non-responsive to the identified impediment.

6. The Draft AI Fails to Assess Prior and Current Actions to AFFH

The Fair Housing Planning Guide indicates that the AI should assess prior and current actions taken by the jurisdiction as well as the housing industry, PHA, private organizations and foundations, and neighborhood groups to AFFH. 2:19. The FHP fails to contain any such assessment of efforts by the City to implement its current AI or any other efforts to AFFH. The FHP describes but does not assess certain state, federal, and private initiatives relevant to fair housing.

The Final AI should assess prior and current actions taken in Fresno to AFFH in accordance with HUD regulations and modify its impediments, actions, and objectives in response to that assessment.

7. The Draft AI Fails to Adopt Adequate Actions and Measurable Objectives to Address Continued Racially and Ethnically Concentrated Poverty & the Concentration of Assisted Housing in R/ECAPs

The Draft AI acknowledges the persistence of racially and ethnically concentrated areas of poverty as well as the concentration of subsidized housing units in such areas as impediments to fair housing choice. Public Sector Impediments 1 & 2. Indeed, various studies not considered in the Draft AI identify Fresno as among the jurisdictions with among the highest levels of racially and ethnically concentrated poverty in the nation.⁴ Since 2003, all 2,063 new units constructed with low-income housing tax credits in Fresno were located South of Shaw Avenue, with approximately 90% of those units located in R/ECAPs and the majority receiving HOME, CDBG, and RDA gap financing from the City. The AI workshop meeting minutes confirm community concern regarding Fresno's persistently high levels of racially and ethnically concentrated poverty and concentration of subsidized housing in such areas. Despite these facts, the Draft fails to analyze the reasons for the existence of these impediments or to identify and adopt available actions and objectives to meaningfully address them.

a. The Draft AI Fails to Include Actions and Objectives Designed to Address Public Sector Impediments 1 and 2

⁴ See e.g., Elizabeth Kneebone, U.S. concentrated poverty in the wake of the great recession, March 2016, available at <http://www.brookings.edu/research/reports/2016/03/31-concentrated-poverty-recession-kneebone-holmes>; Elizabeth Kneebone, The Growth & Spread of Concentrated Poverty, 2000 to 2008-2012, July 2014, available at <http://www.brookings.edu/research/interactives/2014/concentrated-poverty#/M10420>

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As explained above in Section 5(b), the actions and objectives associated with Draft AI Impediment 1 would target certain resources towards low-income neighborhoods but do not in fact aim to address the impediment of racially and ethnically concentrated poverty itself. Similarly, Draft AI fails to directly address Impediment 2 by failing to include an action or objective to prevent the City's continued support for the construction of LIHTC units and gap financed projects in R/ECAP areas South of Shaw Avenue and to target resources to support the development of subsidized housing to more affluent and whiter neighborhoods.

b. The Draft AI Fails to Consider or Address the Lack of Sites for Affordable Housing Outside of R/ECAPs

Workshop participants raised concerns regarding the lack of higher density zoned residential sites, including sites zoned for multi-family housing, in the Northern, more affluent areas of the City and in growth areas as a factor contributing to Fresno's racially and ethnically concentrated poverty and the lack of subsidized housing units in North Fresno. The body of the Draft AI fails to analyze or respond to this concern.

As we stated in its written comments to the City on its Draft 2015-2023 Housing Element dated March 30, 2016, attached hereto as Exhibit A for reference, the sites identified for housing affordable to low- and moderate-income residents are located predominately in R/ECAPs, including West Fresno, Downtown, and Pinedale, and in economically disadvantaged neighborhoods that lack access to necessary infrastructure and/or services such as public transportation. The Housing Element identified no sites for affordable housing north of Herndon Avenue -- the northern dividing line between the most economically distressed neighborhoods in the City and nation according to Fresno's 2035 General Plan⁵ -- which are not located within or immediately adjacent to an R/ECAP.

The Final AI must assess the distribution of high density sites in Fresno and its impact on the availability of affordable and subsidized housing in higher income areas and must adopt actions and objectives to ensure an equitable distribution of higher density residential sites throughout the City.

⁵ P. 12:11.

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The Final AI must also assess barriers to affordable housing outside of R/ECAPs associated with lack of services, such as public transportation, in higher income areas, and adopt actions and objectives to eliminate those barriers.

c. The Draft AI Inappropriately Dismisses the Development Code's Prohibition on Inclusionary Zoning as a Barrier to Fair Housing

The Draft AI notes that Development Code Section 15-2201(H) prohibits the City from adopting an inclusionary zoning requirement obligating developers to include housing affordable to low- and moderate-income populations in their developments without first updating its 2014 General Plan. p. 129. Inclusionary zoning is a tool used by nearly 200

jurisdictions in California alone by addressing the lack of production of housing affordable to low-income populations and expanding affordable housing opportunities in higher income and higher opportunity neighborhoods. However, the Draft AI fails to identify Section 15-2201(H) as an impediment to fair housing choice or to adopt any action or program to eliminate the policy or mitigate its impact. Rather, the Draft AI dismisses the adoption of an inclusionary zoning requirement in Fresno as impossible and states that “other options will have to be considered”. p. 10. Given the importance of inclusionary zoning as a key tool to AFFH, the Final AI must assess options to address the barrier to fair housing posed by Development Code Section 15-2201(H), including its repeal, and should incorporate an action to consider the development and adoption of an inclusionary zoning ordinance or other comparable mechanism to AFFH through zoning and financing policies and practices.

d. The Draft AI Fails to Consider or Respond to the Lack of Adequate Financial Resources to Expand Affordable Housing Options

Higher density zoning is necessary but not sufficient to expand affordable housing opportunity for low-income residents in higher opportunity areas given the relatively high housing costs in those areas. The Draft AI fails to analyze or respond to how funding and resource limitations restrict the City, PHA, and private actors' ability to AFFH through the construction of subsidized housing in higher opportunity areas. The Final AI should include a program to assess and pursue local affordable housing financing options, including but not limited to an inclusionary zoning requirement and a commercial linkage fee, that could support the development of affordable housing in higher income neighborhoods.

8. The Draft AI Lacks Information & Analysis Relating to Jobs-Housing Fit

The FHPG suggests that AIs should include a focus on the location of job centers in the jurisdictions and in nearby jurisdictions; the geographic relationship of such centers to the current and planned locations of housing for lower-income households; and the need for accessible public transportation to link job centers with housing affordable to lower-income households. 2:27. The Draft AI does not contain such information and analysis. The Final AI must do so.

9. The Draft AI Fails to Analyze & Adopt Actions that Respond to Impediments to Fair Housing Choice Associated with the City's Development Code

HUD guidelines require that the City conduct a “*comprehensive* review of [its] laws, regulations and administrative policies, procedures and practices affecting the location, availability, and accessibility of housing, as well as an assessment of conditions, both public and private, affecting fair housing choice.” FHPG, 4:4.

The Draft AI claims that the City's 2015 Development Code contains the “potential to mitigate some of the impediments facing the city to the extent that it promotes economic, infrastructural, and housing development in areas with relatively high poverty rates and concentrations of racial/ethnic minority residents.” p. 10. Beyond that and other broad statements, the Draft AI does little however to actually review the provisions of the new code and their impact on fair housing choice. The Final AI must consider how specific provisions in the Development Code as well as the City's General Plan, Municipal Code and its administrative practices and procedures impact fair housing choice and include any actions and objectives necessary to address impediments identified.

Leadership Counsel has previously submitted written comments dated June 1, 2015 to the City identifying various impediments to fair housing associated with the Development Code as well as comments regarding other City land use policies, regulations and practices. These include but are not limited to the following:

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- Lack of sufficient requirements guaranteeing a diversity of residential zoning, including multi-family residential zoning, on land in growth areas annexed for development.
- Application of fees to the development of affordable housing outside of “Inner City” areas characterized by racially and ethnically concentrated poverty.
- Inadequate park space and amenities in areas of racially and ethnically concentrated poverty
- The concentration of industrial and heavy commercial zoning and facilities that store or process hazardous materials in and around low-income neighborhoods of color in South Fresno pursuant to the General Plan Land Use Map.
- Reduced permitting and environmental review requirements for industrial, heavy commercial, and other potentially hazardous and polluting facilities under the Development Code as compared to the previous Zoning Ordinance.
- The elimination of Conditional Use Permit and public notice requirements for various land uses which disproportionately adversely impact low-income residents of color in South Fresno neighborhoods, including but not limited to various industrial and heavy commercial facilities.

The Draft AI does not consider or respond to these and other barriers to fair housing choice associated with the City’s laws, regulations and administrative policies, procedures and practices. The Final AI must analyze the barriers to fair housing associated with these and other City policies and practices and adopt actions and objectives to address them.

10. Protect Low-Income Residents and Protected Classes From Displacement Due to Rising Rents

As we have explained to the City in previous comment letters, low-income residents of color are at risk of displacement from rising rental costs as a result of the City’s targeted revitalization efforts in the Downtown, certain neighborhoods surrounding the Downtown, and the Blackstone Corridor, as well as the advent of High Speed Rail, population growth, the increasing scarcity of land for new development, and millennials’ preference for housing in urban centers. Data from the magazine, *Governing*, indicates that certain census tracts in the Lowell Neighborhood, just North of Downtown, are

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already experiencing gentrification and possible displacement of low-income residents of color, further exacerbating existing concentrations of poverty.⁶

The Draft AI does not mention, let alone analyze, existing or potential displacement of protected classes due to rising rents. The Fair Housing Planning Guide advises jurisdictions take specific actions not only to address existing barriers but also prevent or ameliorate possible future impediments to fair housing. 2:7. The Final AI must analyze existing and potential displacement of low-income residents and protected classes in Fresno and identify and adopt actions and objectives to address such displacement. Such actions and objectives include but are not limited to adoption of a method to monitor and record displacement; adoption of rent control; and inclusionary zoning requirements applicable to areas targeted for revitalization.

11. Lack of Actions to Address High Rates of Race-Based and National Origin Discrimination in the Private Rental Market

The Draft AI states that fair housing testing in the Fresno and Clovis housing markets revealed race-based discrimination in 40% of tests and national origin discrimination in 32% of tests. P. 78. However, the Draft AI fails to identify as an impediment or adopt actions and objectives to address discrimination in the private rental market against members of protected classes. The Final AI must identify race-based and national-origin discrimination as impediments to fair housing and adopt actions to mitigate and eliminate the impediment.

12. Need for Additional Action to Address Concentration of Housing Choice Voucher Use in R/ECAPs

The Draft AI states that Housing Choice Voucher use in Fresno is disproportionately concentrated in low-income neighborhoods of color in South Fresno, resulting in residential segregation. Pp. 69, 123. The only action identified by the Draft AI in response to this fair housing barrier is for the City to “[e]ncourage the Fresno Housing Authority to provide mobility counsel to voucher recipients”. Public Sector Impediment 2, Action 2.2, p. 15. The Draft AI does not state any specific action the City will take to “encourage” the Housing Authority to do so. The Draft AI also does not contain an

⁶Governing, Fresno Gentrification Maps and Data, available at <http://www.governing.com/gov-data/fresno-gentrification-maps-demographic-data.html>

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established target with respect to the number of voucher recipients to be assisted as a result of the City's encouragement. Rather, it proposes as Measurable Objective 2.2, "The number of voucher recipients who have been provided mobility counseling."

Many local jurisdictions across the country have enacted prohibitions on source of income discrimination in order to expand housing choice and combat *de facto* discrimination when landlords use source of income as a proxy for race. The Final AI should include an action to consider the adoption of such a prohibition in Fresno.

13. The Draft AI Fails to Assess & Respond to Ongoing Incidences of Foreclosure

The Draft AI completely fails to analyze and respond to ongoing incidences of foreclosure in Fresno which, to our knowledge, disproportionately impact low-income residents of color. We work with many residents who continue to be at risk of or face impending foreclosure, particularly with respect to properties purchased before the onset

of the recession. These residents need assistance in obtaining reduced interest rates, securing reduced principal payments, and paying outstanding mortgage debt. The Final AI must analyze foreclosure incidences and risks that disproportionately impact residents on the basis of a protected class and include programs and objectives to address those impacts.

14. The Draft AI Fails to Include Actions to Combat NIMBY-ism

The Draft AI indicates that at least two of three City staff interviewed for the AI update identified NIMBY-ism as a barrier to the development of affordable housing. p. 127. We agree that NIMBY-ism against affordable housing exists in Fresno and constitutes a significant barrier to affordable housing development, especially in higher income and whiter neighborhoods in North Fresno. We further believe that much of the public and even elected official opposition to higher density and subsidized housing is racially motivated.

The Final AI should include further analysis of NIMBY-ism as a barrier to affordable in Fresno and actions and objectives to combat it. Such actions may include training programs for elected officials on the manifestations and impacts of NIMBY-ism and actions officials can take to overcome hostility to and win approval of affordable housing developments.

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15. The Draft AI Fails to Analyze or Respond to Fair Housing Impediments Faced by Immigrants

The Draft AI fails to analyze impediments to fair housing associated with limited English proficiency and/or lack of legal status that disproportionately impact protected classes in Fresno, including but not limited to on the basis of race, color and national origin. Our comment letter on the City's Draft Housing Element dated March 30th and attached herein as Exhibit A details several such barriers. pp. 15-16. The Final AI must analyze these barriers and include appropriate actions and objectives to ameliorate and eliminate them.

16. The City Should Engage in Regional Efforts to AFFH

Fresno County, Clovis, Coalinga, Fowler, Huron, Kerman, Kingsburg, Mendota, Parlier, Reedley, San Joaquin, Sanger, and Selma recently completed a 2015-2023 multi-

jurisdictional housing element which contains a regional-level analysis, policy goals and programs calling for cooperative efforts to eliminate barriers to affordable housing and to further fair housing throughout the jurisdictions, as well as individually tailored analysis, policies, and programs for each jurisdiction. The City of Fresno did not participate in the multi-jurisdictional housing element update. However, in accordance with HUD guidance encouraging region-wide fair housing planning, the City could and should participate in the ongoing collaborative efforts of the thirteen jurisdictions to develop and implement regional solutions to affordable and fair housing barriers. See FHPLG, 1:5; 2:11.

In addition, the City should initiate, strengthen and formalize efforts to engage the Fresno County Housing Authorities and local school districts in regional fair housing planning discussions.

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We thank you for the opportunity to provide comments on the Draft AI and look forward to continuing to work together to develop a robust final AI ("Final AI") that will allow the City to further fair housing opportunities for all protected classes. Please contact us to find a time to discuss these comments in person.

Sincerely,

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Bob Farrar, Chairman, HCDC
Paul Caprioligio, Council President, City Council
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May 10, 2016

/s/

/s/

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Adrianna Windham, Equal Opportunity Specialist, HUD-FHEO SF