

PUBLIC REVIEW DRAFT

**FRESNO GENERAL PLAN
RESPONSE TO COMMENTS DOCUMENT**

RECIRCULATED DRAFT PROGRAM EIR

FRESNO, CALIFORNIA

STATE CLEARINGHOUSE NO. 2019050005



July 2021

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RECIRCULATED DRAFT PROGRAM EIR

FRESNO, CALIFORNIA

STATE CLEARINGHOUSE NO. 2019050005

Submitted to:

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July 2021

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1.0 INTRODUCTION

1.1 PURPOSE OF THE RESPONSE TO COMMENTS DOCUMENT

This document has been prepared to respond to comments received on the Recirculated Draft Program Environmental Impact Report (Recirculated Draft PEIR) prepared for the approved General Plan (proposed project) for the City of Fresno (City). The PEIR identifies the likely environmental consequences associated with implementation of the proposed project, and recommends mitigation measures to reduce potentially significant impacts. The Recirculated Draft PEIR provided text updates to the Project Description, and three environmental resources topic sections (Air Quality, Greenhouse Gas Emissions, and Transportation). This Response to Comments (RTC) document provides responses to comments on the Recirculated Draft PEIR and makes revisions to the Recirculated Draft PEIR, as necessary, in response to those comments or to make clarifications in the Recirculated Draft PEIR. No significant changes have been made to the information contained in the Draft PEIR as a result of the responses to comments, and no significant new information has been added that would require recirculation of the document. This document, together with the Recirculated Draft PEIR, the Draft PEIR and the Response to Comments Document for the Draft PEIR, constitutes the Final EIR for the proposed project.

1.2 ENVIRONMENTAL REVIEW PROCESS

According to the California Environmental Quality Act (CEQA), lead agencies are required to consult with public agencies having jurisdiction over a proposed project and to provide the general public with an opportunity to comment on the Draft PEIR.

The City circulated a Notice of Preparation (NOP) to solicit input from responsible and trustee agencies regarding the scope and content of the Draft PEIR, as well as identify potential areas of controversy. The NOP was published on May 16, 2019, and was distributed to local, regional, and State agencies. A scoping session for the preparation of the EIR was held at 5:00 p.m. on May 21, 2019. Comments received by the City on the NOP were taken into account during the preparation of the Draft PEIR.

The Draft PEIR was circulated for public review period on March 6, 2020 and was extended to 61 days due to COVID-19 restrictions. Following close of the public review period, and preparation of a Response to Comments Document (referred to as the 2020 Response to Comments Document), the City decided to recirculated portions of the Draft PEIR with text changes made to the Project Description, and the Air Quality, Greenhouse Gas Emissions, and Transportation sections.

The Recirculated Draft PEIR was made available for a 45-day public review on March 26, 2021, and was distributed to local and State responsible and trustee agencies. The Recirculated Draft PEIR and an announcement of the its availability were posted electronically on the City's website, and hard copies were available for public review at Fresno City Hall and all branches of the Fresno County Public Library located in Fresno. Additionally, a notice of its availability was posted in the Fresno Bee.

The public comment period for the Recirculated Draft PEIR ended on May 10, 2021. During the 45-day public comment period, the City received five comment letters. Copies of all written comments received during the comment period are included in Appendix L, Public Comment Letters on the Recirculated Draft PEIR, of this document. The responses to comments included in this document pertain to new comments on the Recirculated Draft PEIR.

1.3 DOCUMENT ORGANIZATION

This RTC Document consists of the following chapters:

- **Chapter 1.0: Introduction.** This chapter discusses the purpose and organization of this RTC Document, and summarizes the environmental review process for the project.
- **Chapter 2.0: Recirculated Draft PEIR Commenters.** This chapter contains a list of agencies, individuals and organizations who submitted written comments on the Recirculated Draft PEIR during the public review period.
- **Chapter 3.0: Comments and Responses.** This chapter contains a matrix that includes text of each CEQA-related comment received on the Recirculated Draft PEIR during the public review period, and a written response to each comment. Reproductions of all comment letter included in Appendix L, Public Comment Letters on the Recirculated Draft PEIR.

2.0 RECIRCULATED DRAFT PEIR COMMENTERS

This chapter presents a list of comment letters received during the public review period and describes the organization of the letters and comments that are provided in Chapter 3.0, Comments and Responses, of this document.

2.1 ORGANIZATION OF COMMENT LETTERS AND RESPONSES

Chapter 3.0 includes a matrix of each CEQA-related comment received on the Recirculated Draft PEIR during the public review period, and a written response to each comment. Reproductions of all comment letter included in Appendix L, Public Comment Letters on the Recirculated Draft PEIR. The written comments are grouped by the affiliation of the commenter, as follows: State agencies (A), Local Agencies (B), and Organizations and Interested Parties (C). The comment letters are numbered consecutively following the designations defined below:

State Agencies	A
Local Agencies	B
Organizations and Interested Parties	C

Comment letters are numbered and comments within each letter are numbered consecutively after the hyphen.

2.2 LIST OF COMMENTERS ON THE RECIRCULATED DRAFT PEIR

Table 2.A provides a list of the State agencies, local agencies, and organizations and interested parties that commented on the Recirculated Draft PEIR prior to the close of the public comment period or immediately thereafter. The comments received have been organized by date received and in a manner that facilitates finding a particular comment or set of comments. Each comment letter received is indexed with a number below.

Table 2.A: List of Comments Received

State Agencies		
A1	California Department of Transportation, District 6	May 4, 2021
A2	California Department of Fish and Wildlife, Central Region	May 10, 2021
Local Agencies		
B1	Fresno Irrigation District	March 30, 2021
B2	San Joaquin Valley Air Pollution Control District	May 6, 2021
Organizations and Interested Parties		
C1	Leadership Counsel for Justice and Accountability	May 10, 2021

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3.0 COMMENTS AND RESPONSES

Written responses to the comment letters received on the Recirculated Draft Program Environmental Impact Report (Recirculated Draft PEIR) are provided in this chapter. The letters received during the public review period on the Recirculated Draft PEIR are provided in their entirety in Table 3.A: Comments and Responses Matrix. As previously noted, each letter as received by the City, is included in Appendix L of this Response to Comments document. A response to each comment is provided in Table 3.A.

Please note that text within the letters that has not been numbered does not raise environmental issues or relate to the adequacy of the information or analysis within the Recirculated Draft PEIR and, therefore, no comment is enumerated or response required, per California Environmental Quality Act (CEQA) Guidelines Section 15132. In addition, when general support or opposition is given for the project, that comment is noted but no further analysis is provided in the response as the commenter is not questioning the adequacy of the information or analysis within the Recirculated Draft PEIR.

Where comments on the Recirculated Draft PEIR concern issues requiring technical expertise such as those related to air quality, the responses to comments, like the initial analysis in the Draft PEIR and Recirculated Draft PEIR, relies on the knowledge and professional analysis of qualified experts. This chapter also includes a Master Response intended to address comments related to a particular theme. In this case, a Master Response is included to further clarify the Project Description and the baseline conditions that were evaluated against it in the Draft PEIR and Recirculated Draft PEIR.

3.1 MASTER RESPONSE: PROJECT DESCRIPTION AND BASELINE CONDITIONS

Chapter 3, Project Description, of the Recirculated Draft PEIR provides an overview of the proposed project and describes the specific changes to the approved General Plan that are evaluated in the Draft PEIR and Recirculated Draft PEIR. The overall intent of the proposed project, aside from continued implementation of the General Plan, is to update the text of policies of the approved General Plan in order to reflect changes in applicable statutes and regulations related to Vehicle Miles Traveled (VMT), update the Greenhouse Gas Reduction Plan, update the EIR to include a current baseline for the continued implementation of the General Plan, and reflect changes in City planning documents since adoption of the General Plan in 2014.

When the General Plan was adopted in 2014, the City utilized a Master Environmental Impact Report (MEIR) to evaluate implementation of the General Plan. A MEIR is intended to streamline subsequent environmental reviews of projects by allowing for approvals of projects analyzed in the MEIR. In many cases, the MEIR was used to approve projects in a streamlined process because the analysis included in the MEIR addressed potential impacts that could occur at the project-level by including project-level mitigation measures. The City has used the MEIR as a basis to determine whether a proposed project could rely on a Finding of Conformity and, therefore, not require any additional environmental analysis.

As discussed above, through the amendment of the approved General Plan to update policies related to transportation and the update of the Greenhouse Gas Reduction Plan, the City is also updating the EIR for the approved General Plan from an MEIR to a Program EIR. Although similar to a MEIR, a Program EIR analyzes the potential environmental impacts that could result from implementation of a plan, but a Program EIR does not provide analysis of specific projects that can be used to complete a Finding of Conformity. The use of a Program EIR allows for future plans and projects to rely on analysis included in the Program EIR to tier from for subsequent analysis. This would allow for future plans and projects to utilize the baseline information included in the Program EIR; however, because a Program EIR does not provide detailed analysis to address project-level impacts, in many cases subsequent analysis of future plans and projects will require specific project-related analysis and mitigation. The result is a more rigorous environmental review process on a project-by-project basis in the City compared with the City's prior environmental review process under the MEIR for the General Plan. Use of a Program EIR does not expand development rights within the city. In addition, development allowed by right is only allowed as permitted by law and future environmental approvals. As a result, subsequent projects would be required to be considered under CEQA.

Furthermore, the City's on-going specific plan development efforts for specific geographic areas throughout the City would provide for additional opportunities for public input of more specific land use changes.

The proposed text updates to the approved General Plan related to VMT, the updated Greenhouse Gas Reduction Plan, and descriptions of plans adopted since certification of the MEIR are all parts of one large project to update the approved General Plan's environmental documentation. Therefore, preparation of a Program EIR for the proposed project is appropriate, as described in *State CEQA Guidelines* Section 15168 of a project's relation either:

1. Geographically;
2. As logical parts in the chain of contemplated actions;
3. In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program; or
4. As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways.

Unlike a Project EIR, which addresses the environmental impacts of a specific development project, a Program EIR addresses the potential impacts of a series of actions that can be characterized as one large project. Therefore, the use of a Program EIR is appropriate in evaluating program-related environmental impacts resulting from implementation of the proposed project.

Because there is no specific development project being proposed at this time, a Project EIR cannot be prepared; no specific project-level details are available and project-level CEQA analysis is infeasible. Future discretionary projects facilitated by certification of a Program EIR must be further evaluated in light of the Program EIR to determine whether or not an additional environmental

document must be prepared. Therefore, the City will determine whether future projects require no new analysis or the preparation of a new Initial Study, Mitigated Negative Declaration, or new EIR. Under CEQA, environmental documentation is required on all discretionary actions. The Draft PEIR and Recirculated Draft PEIR include mitigation measures that establish performance standards to ensure that when future specific projects are proposed as facilitated under the approved General Plan, and at the time when information regarding future projects is known, project specific analysis will be conducted and mitigation measures will be imposed consistent with this PEIR to mitigate the potential environmental impacts. The project-level analysis required under CEQA for projects proposed subsequent to certification of a Program EIR is more specifically tailored to address the identified impacts of each project. This will result in a more rigorous environmental review process on a project-by-project basis compared with the City's prior process under the MEIR for the General Plan.

Section 15126.4 of the CEQA Guidelines provides a description of how feasible mitigation measures are to be implemented to minimize significant adverse impacts. Section 15126.4(a)(1)(B) states the following:

Formulation of mitigation measures shall not be deferred until some future time. The specific details of a mitigation measure, however, 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.

As indicated in the language of Section 15126.4(a)(1)(B), mitigation may be developed after project approval when it is infeasible to include such details during a project's environmental review. The use of a Program EIR allows for such a condition; the details of future discretionary projects allowed under a General Plan would be subject to CEQA review at the time they are proposed, and appropriate mitigation would be developed based on such analysis. As stated above, the PEIR mitigation measures establish performance standards that future projects must meet. While future project details are unknown at this time and therefore it is infeasible to include project-level mitigation, adherence to the performance standards set forth in the PEIR means that future mitigation will be required and enforceable.

Implementation of mitigation measures included in the Draft PEIR and Recirculated Draft PEIR would directly affect future discretionary projects as those projects would be subject to additional environmental analysis consistent with CEQA. Ministerial projects, projects that are exempt from the requirements of CEQA, are still required to conform to fixed standards or objective measurements. For example, ministerial projects include such actions as the issuance of building permits, approval of final subdivision maps, and approval of individual utility service connections so long as the proposed actions conform to fixed standards and do not require subjective discretion for approval.

The City has developed VMT Thresholds to be used for environmental analyses, and those thresholds became effective July 1, 2020. As discussed in the Chapter 3.0, Project Description, of the

Recirculated Draft PEIR, the discretionary action related to the proposed project is the adoption of text changes to the Mobility and Transportation Element of the approved General Plan, and updating the Greenhouse Gas Reduction Plan. The General Plan, as a whole, is not being considered to be re-adopted.

The City is not modifying the City's current land use plan, and the proposed project does not result in any direct physical changes or new land uses. By updating the General Plan policies, and issuing the Notice of Preparation (NOP) for the PEIR in May 2019, the regulatory conditions and physical conditions within the Planning Area at the time the NOP was issued are required to be the baseline. The Draft PEIR and Recirculated Draft PEIR provide updated baseline conditions information to account for changes to the approved General Plan and regulatory environment that have taken place since the approved General Plan was adopted in 2014. Any previous changes to the land use plan, including General Plan amendments, adoption of Specific Plans, and approval of various projects throughout Fresno, have already been evaluated under CEQA, as applicable, and those changes, by definition do not result in any new potential environmental impacts to be considered or evaluated as part of the proposed project.

Future projects considered under the approved General Plan would include projects located within the South Central Specific Plan (SCSP) Area, previously known as the South Industrial Priority Area. The City is currently in the process of preparing and analyzing a draft South Central Specific Plan and SCSP EIR. (Meetings and document links are available for download on the City of Fresno website at: www.fresno.gov/scsp.) With respect to environmental review, on April 14, 2021, the City issued a revised notice of preparation of an EIR for the South Central Specific Plan Project (City of Fresno website, available for download at: <https://www.fresno.gov/darm/wp-content/uploads/sites/10/2021/04/Revised-NOP-english.pdf>). The EIR will provide an evaluation of potential environmental impacts associated with the South Central Specific Plan. The proposed project would designate land uses (in the South Central Specific Plan area), establish a planning framework, and development standards to facilitate and guide future development within the planning area through the year 2040.

Although an EIR is currently being prepared that evaluates the SCSP, in March 2021, the City of Fresno entered into a Settlement Agreement and Release of All Claims with the South Fresno Community Alliance and the Leadership Counsel for Justice and Accountability regarding the Development Permit Revised Exhibit Application No. P20-03406 and its related Environmental Assessment No. P20-03406, referred to as the Northpointe Drive Settlement Agreement (included as Appendix M). The Northpoint Drive Settlement Agreement pertains to future analyses for projects that would be developed under the approved General Plan and within the South Central Specific Plan (SCSP) Area. The Northpointe Drive Settlement Agreement includes:

- Creation of a Community Benefit Fund to fund qualified mitigation improvements to address impacts within the SCSP Area;
- Water and sewer service extensions to residential properties identified in the Northpoint Drive Settlement Agreement;
- Pedestrian safety improvements;

- Traffic impact mitigations;
- Traffic monitoring, acquisition and improvements to roadways currently owned by Fresno County;
- Installation of truck traffic signage;
- Completion of a truck re-routing study;
- Evaluation of a policy to support local hire;
- Development of infrastructure for electric vehicle charging;
- Consideration of incorporating Air District Rule 9510 as emission reduction measures for development projects; and
- Installation and maintenance of new air monitoring equipment.

A summary of the status of implementation of the actions listed in the Northpointe Drive Settlement Agreement is included as Appendix N. The Northpointe Drive Settlement Agreement addresses several public comments provided on the Recirculated Draft PEIR, as referred to in the following Comments and Responses Matrix.

3.2 COMMENTS AND RESPONSES MATRIX

Table 3.A includes all CEQA-related comments received on the Recirculated Draft PEIR and a response to each comment. The text of each comment has been included in the matrix and includes any grammatical errors included in the original comment letter. Each comment letter is included in its entirety in Appendix L, Public Comment Letters on the Recirculated Draft PEIR.

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Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
State Agencies		
A1	California Department of Transportation, District 6 (May 4, 2021)	
A1-1	<p>Dear Mx. Pagoulatos:</p> <p>Thank you for the opportunity to review the Draft Program Environmental Impact Report (PEIR) for the City of Fresno General Plan Amendment no. p19-04226. The City of Fresno (City) has prepared the recirculated Draft PEIR to analyze environmental impacts associated with implementation of the proposed project based on new information made available after its original circulation, but before certification, in 2020. The project location is the Planning Area of the City of Fresno. The Planning Area is generally bounded by the San Joaquin River to the north, American Avenue to the south, Garfield Avenue to the west, and McCall Avenue to the east.</p> <p>Caltrans provides the following comments consistent with the State's smart mobility goals that support a vibrant economy and sustainable communities:</p>	<p>This comment provides an introduction to the comment letter and does not address the adequacy or completeness of the Recirculated Draft PEIR; does not raise environmental issues; and does not request the incorporation of additional information relevant to environmental issues. Such comments do not require a response, pursuant to Section 15088(a) of the State CEQA Guidelines. No further response is necessary.</p>
A1-2	<p>1. Caltrans believes a traffic safety impact analysis should be performed during the California Environmental Quality Act (CEQA) development review process. Therefore, please include Caltrans in the scope of work for the traffic analysis.</p>	<p>A traffic safety impact analysis is not included in the scope of the PEIR, and the City does not believe that potential traffic safety impact analyses on State facilities should be conducted for the PEIR. When future projects that have the potential to affect State facilities are proposed under the existing General Plan, Caltrans will be notified and asked to review the scope of work for future traffic analysis.</p>
A1-3	<p>2. Any safety impacts to any State facilities should be included in the local regions traffic impact fee program.</p>	<p>The City of Fresno acknowledges that any impacts to State facilities should be included in the local regions traffic impact fee program. The City is currently a participant in the Regional Traffic Mitigation (RTMF) Program, administered by the Fresno Council of Governments (COG). This comment does not address the adequacy or completeness of the Recirculated Draft PEIR. No further response is necessary.</p>
A1-4	<p>3. Page 78 of the PDF document: 3.2.1.1 General Plan Elements- <i>Mobility and Transportation Element</i>. "This element addresses the multi-modal transportation needs throughout the Planning Area including all users of streets and highways, transit, sidewalks and trails, and bicycle transportation modes".</p> <p>4. Caltrans concurs with the above statement to address multi-modal transportation needs for a growing population.</p>	<p>This comment identifies language included in the Recirculated Draft EIR and states that Caltrans agrees that multi-modal transportation needs to be addressed for the growing population of Fresno. This comment does not address the adequacy or completeness of the Recirculated Draft PEIR. No further response is necessary.</p>

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
A1-5	5. Page 78 of the PDF document: 3.2.1.1 General Plan Elements –Parks, Open Space, and Schools Element. “This element provides guidance for green spaces and community facilities in the Planning Area such as parks, recreation, open space, biological resources, and schools. The project evaluated in this PEIR does not include any revisions to this element”. 6. If not done so already, the General Plan might consider including recommendations to implement Safe Routes to School strategies where feasible for safer modes of active transportation.	The scope of the proposed project is to update the approved General Plan to address current regulatory requirement while adding a policy addressing future VMT analyses. The proposed project does not include recommendations to implement Safe Routes to School strategies, however the City has several plans and programs that address Safe Routes to School strategies including the Active Transportation Plan (ATP). This comment does not address the adequacy or completeness of the Recirculated Draft PEIR. No further response is necessary.
A1-6	7. Page 292 of the PDF document: Policy MT-2-c: Reduce VMT through Infill Development. “Provide incentives for infill development that would provide jobs and services closer to housing and multi-modal transportation corridors in order to reduce citywide vehicle miles travelled (VMT)”. 8. For high density areas, Caltrans recommends the Lead Agency conduct a study to determine if a bike-share kiosk is feasible. This can provide commuter options for those who do not own an automobile or for those who prefer alternative transportation.	The City acknowledges this recommendation. This comment does not address the adequacy or completeness of the Recirculated Draft PEIR. No further response is necessary.
A1-7	9. Active Transportation Plans (ATP) and Smart Growth efforts support the State’s 2050 Climate goals. Caltrans supports reducing Vehicle Miles Traveled (VMT) and GHG emissions in ways that increase the likelihood people will benefit from a multimodal transportation network.	The City acknowledges this comment. This comment does not address the adequacy or completeness of the Recirculated Draft PEIR. No further response is necessary.
A1-8	If you have any other questions, please call or email Edgar Hernandez at (559) 981-7436 or at Edgar.Hernandez@dot.ca.gov. Sincerely, David Padilla, Branch Chief Transportation Planning – North	This comment provides a closing to the comment letter and does not question the adequacy of the analysis included in the Recirculated Draft PEIR. No further response is required.
A2	California Department of Fish and Wildlife, Central Region (May 10, 2021)	
A2-1	Dear Ms. Pagoulatos: The California Department of Fish and Wildlife (CDFW) received a PEIR from the City of Fresno for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines. ¹ Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to	This comment provides an introduction to the comment letter and provides a summary of CDFW’s role in approving project. This comment does not address the adequacy or completeness of the Recirculated Draft PEIR; does not raise environmental issues; and does not request the incorporation of additional information relevant to environmental issues. Such comments do not require a response, pursuant to Section 15088(a) of the State CEQA Guidelines. No further response is necessary.

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
	<p>carry out or approve through the exercise of its own regulatory authority under Fish and Game Code.</p> <p>¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The “CEQA Guidelines” are found in Title 14 of the California Code of Regulations, commencing with section 15000.</p> <p>CDFW ROLE</p> <p>CDFW is California’s Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.</p> <p>CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW’s lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in “take” as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code may be required.</p>	
A2-2	<p>PROJECT DESCRIPTION SUMMARY</p> <p>Proponent: City of Fresno</p> <p>Objective: The City of Fresno is updating the existing General Plan Master EIR (MEIR) and converting it to a Program EIR (PEIR) to be in conformance with State law and consistent with recent legislative changes related to Vehicle Miles Traveled (VMT). The PEIR includes a current baseline for the continued implementation of the approved General Plan and reflects changes in City planning documents that have occurred since adoption of the approved</p>	<p>This comment provides a summary of the propose project, and does not address the adequacy or completeness of the Recirculated Draft PEIR. No further response is necessary.</p>

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
	<p>General Plan in 2014. The City is not proposing any land use changes as a part of this project, but it does include an update to the City's Greenhouse Gas Reduction Plan. This update, consistent with Section 15168 of the CEQA Guidelines, is intended to streamline implementation of the General Plan's programs and projects by supporting them with updated environmental analysis, regulatory framework, and mitigation measures, pursuant to CEQA. The Draft PEIR is being recirculated to address a new significant impact related to VMT which includes air quality, greenhouse gas emissions, and transportation. All other information, including Biological Resources, remains the same as the March 2020 PEIR.</p> <p>Location: The Project site (General Plan Planning Area) encompasses approximately 106,000 acres and includes all areas within the City's limits and current sphere of influence.</p> <p>The majority (approximately 63 percent) of the Project site/Planning Area consists of previously disturbed urban/developed areas containing industrial, commercial, and residential development and associated roads and infrastructure. Approximately 32 percent of this area contains previously disturbed agricultural lands, orchards, pasture, and row and field crops located predominately along the outer boundaries of the Planning Area. Undeveloped and undisturbed areas with native vegetation occur within the remaining 5 percent of the Planning Area.</p> <p>Timeframe: The proposed project would be implemented over a 15-year period, through the horizon year of 2035 and beyond since the complete build out of the General Plan would not likely occur until after 2056.</p>	
A2-3	<p>COMMENTS AND RECOMMENDATIONS</p> <p>After reviewing the 2021 recirculated PEIR document, CDFW has the same comments as previously listed in our comment letter dated April 20, 2020 for the City's previous version of PEIR written in 2020 (See Attachment 1).</p> <p>CDFW remains concerned regarding potential impacts to special-status species including, but not limited to, the State and federally endangered Fresno kangaroo rat (<i>Dipodomys nitratoides exilis</i>), San Joaquin kit fox (<i>Vulpes macrotis mutica</i>), and least Bell's vireo (<i>Vireo bellii pusillus</i>); the State endangered and federally threatened western yellow-billed cuckoo (<i>Coccyzus</i></p>	<p>In response to the comments provided by CDFW on the Draft PEIR, the City made several clarifications and refinements to Mitigation Measures BIO-1.1, BIO-1.2, BIO-1.3, BIO-1.4, BIO-2.1, BIO-2.2, and BIO-2.3 (see the 2020 Response to Comments Document). These changes were identified in the 2020 Response to Comments Document, and were included in Chapter 2.0, Executive Summary Matrix, of the Recirculated Draft PEIR. The mitigation measures provide prescriptive measures that would be implemented when future specific projects are proposed under the approved General Plan. The mitigation measures require future projects conduct site-specific studies and</p>

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
	<p>americanus occidentalis); the federally endangered valley elderberry longhorn beetle (<i>Desmocerus californicus dimorphus</i>); the federally threatened vernal pool fairy shrimp (<i>Branchinecta lynchi</i>); the State and federally threatened California tiger salamander (<i>Ambystoma californiense</i>); the State threatened Swainson's hawk (<i>Buteo swainsoni</i>) and tricolored blackbird (<i>Agelaius tricolor</i>); the State species of special concern burrowing owl (<i>Athene cunicularia</i>), western spadefoot (<i>Spea hammondi</i>), western pond turtle (<i>Emys marmorata</i>), American badger (<i>Taxidea taxus</i>), Chinook salmon (<i>Oncorhynchus tshawytscha</i>), pallid bat (<i>Antrozous pallidus</i>), and spotted bat (<i>Euderma maculatum</i>); the State rare California Satintail (<i>Imperata brevifolia</i>), and other special-status plants.</p> <p>We acknowledge that it is unlikely that any individual Project site would require all the recommended mitigation measures to reduce impacts to less than significant, and it's likely that some or most of the disturbed urban/developed areas would not require any of the recommended mitigation measures to reduce impacts to less than significant. However, special status species may occur in previously disturbed agricultural lands, orchards, pasture, and row and field crops as well as the undisturbed areas occurring within the Project area. Based on the information provided in the recirculated PEIR, CDFW cannot determine the extent of impacts that are likely to occur to fish and wildlife resources, or what mitigation measures may be necessary to reduce impacts to less than significant and/or avoid unauthorized take of species listed pursuant to CESA.</p>	<p>adhere to regulatory requirements and CDFW protocols in effect at the time that future projects are proposed. No further response is required.</p>
A2-4	<p>CDFW appreciates the opportunity to comment on the Project to assist the City of Fresno in identifying and mitigating the Project's impacts on biological resources. We are happy to meet with you to discuss the Project, our recommended mitigation measures, and/or consider alternative measures. If you have any questions, please contact Kelley Nelson, Environmental Scientist, at the address provided on this letterhead, or by electronic mail at Kelley.Nelson@wildlife.ca.gov.</p> <p>Sincerely, Julie A. Vance, Regional Manager</p>	<p>This comment provides a closing to the comment letter and does not question the adequacy of the analysis included in the Recirculated Draft PEIR. No further response is required.</p>

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
Local Agencies		
B1 Fresno Irrigation District (March 30, 2021)		
B1-1	The Fresno Irrigation District (FID) has reviewed the Draft Program Environmental Impact Report (PEIR) for the City of Fresno. The project location is the Planning Area of the City of Fresno. To be in conformance with State law and consistent with recent legislative changes, the City is updating the 2014 adopted Fresno General Plan and certified Master Environmental Impact Report (MEIR). This update is to provide consistency with Section 15168 of the CEQA Guidelines. We appreciate the opportunity to review and comment on the subject documents for the proposed Plan. The proposed Plan is a significant development and requires thorough and careful consideration of all the potential impacts. Our comments are as follows:	This comment provides an introduction to the comment letter and does not address the adequacy or completeness of the Recirculated Draft PEIR; does not raise environmental issues; and does not request the incorporation of additional information relevant to environmental issues. Such comments do not require a response, pursuant to Section 15088(a) of the State CEQA Guidelines. No further response is necessary.
B1-2	1. FID previously reviewed and commented on the subject project on May 29, 2019 as Notice of Preparation of a Program Environmental Impact Report, an Update to the Master Environmental Impact Report for the City of Fresno General Plan. A copy of FID's previous comments have been attached for your reference. The comments and conditions still apply. It also appears that there may still be a water deficit within the project area by 2040. These impacts must be mitigated or considered as part of the your determination.	This comment does not pertain to the Recirculated Draft PEIR. As noted in the 2020 Response to Comments Document, a discussion of groundwater supplies is provided on page 4.10-21 of the Hydrology and Water Quality section of the Draft PEIR, and projected water supplies are discussed on page 4.17-28 of the Utilities and Service Systems section of the Draft PEIR. Based on current population growth estimates, groundwater sustainability efforts, and expected water deliveries from sources identified in Table 4.17-1 of the Draft PEIR, water is expected to be available to accommodate growth identified in the approved General Plan in 2040. The Hydrology and Water Quality Section and the Utilities and Service System Section were not included in the Recirculated Draft PEIR. Prior comments on these sections are addressed in the 2020 Response to Comments document. No further response is required.
B1-3	Thank you for making available to us the City of Fresno's Draft Plan Environmental Impact Report for our review and allowing us the opportunity to provide comments. We appreciate the opportunity to review and comment on the subject documents for this project. While it is difficult to envision all of the potential impacts without all of the improvement details, we attempted to provide you as much information as possible. We reserve the right to provide additional comments when more detailed information becomes available. If you have any questions, please feel free to contact me at (559) 233-7161 extension 7103 or LKimura@fresnoirrigation.com. Sincerely, Laurence Kimura, P.E., Chief Engineer	This comment provides a closing to the comment letter and does not question the adequacy of the analysis included in the Recirculated Draft PEIR. No further response is required.

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
B2	San Joaquin Valley Air Pollution Control District (May 6, 2021)	
B2-1	<p>Dear Ms. Pagoulatos:</p> <p>The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the Recirculated Draft Program Environmental Impact Report (DPEIR) for the project referenced above from the City of Fresno (City). The project consists only of text changes to the Mobility and Transportation Element related to Vehicle Miles Traveled (VMT) analysis, and an update to the Greenhouse Gas Reduction Plan from the prior DPEIR (Project). The text changes for Mobility and Transportation Element related to Vehicle Miles Traveled and Greenhouse Gas Plan Update sections include adding the City of Fresno's adopted VMT thresholds and guidelines that were adopted after the last DPEIR was circulated to the public. Additionally, the thresholds and guidelines adopted by the City include screening methods for VMT threshold, and VMT significance thresholds for development projects, transportation projects, and plans. The Project is located within the Planning Area, shown in Figure 1, which is bounded by the San Joaquin River to the north, American Avenue to south, Garfield Avenue and McCall Avenue to the east, with the Fresno-Clovis Regional Wastewater Reclamation Facility (RWRF) generally located with Jensen Avenue to the north, American Avenue to the south, South Chateau Fresno Avenue to the west, and Cornelia Avenue to the east. This Project also lies within one of the fifteen communities in the State selected by the California Air Resources Board (CARB) for investment of additional air quality resources and attention under Assembly Bill (AB) 617 (2017, Garcia) in an effort to reduce air pollution exposure in impacted disadvantaged communities.</p> <p>The District offers the following comments:</p>	<p>This comment provides an introduction to the comment letter and does not address the adequacy or completeness of the Recirculated Draft PEIR; does not raise environmental issues; and does not request the incorporation of additional information relevant to environmental issues. Such comments do not require a response, pursuant to Section 15088(a) of the State CEQA Guidelines. No further response is necessary.</p>
B2-2	<p><u>1) Ongoing Commitment to Strengthen Working Relationship</u></p> <p>The District appreciates the City's ongoing commitment to strengthen the working relationship with the District, and commits to supporting the City in identifying and mitigating impacts on air quality through the CEQA review process.</p> <p>Consistent with this cooperative effort and in order to address air quality impacts and concerns prior to future development projects occurring, the District recommends that the City develop administrative mechanisms and policies that ensure consistency in providing the District with information about projects under consideration by the City, such as land use designation, project size, and proximity to sensitive receptors and existing emission sources.</p>	<p>This comment recommends that the City provide an assessment evaluating potential project construction and operation related to air quality impacts. As noted on page 4.3-53 of the Recirculated Draft PEIR, implementation of the approved General Plan would result in many individual development projects for which information regarding specifics are currently unknown. Therefore, Mitigation Measure AIR-2.1 has been identified which would require that prior to approval of future projects, applicants will be required to submit an assessment of potential project construction phase-related air quality impacts. Additionally, Mitigation Measure AIR-2.2 would require project applicants to prepare a technical assessment evaluating potential project operation-related air quality impacts. These mitigation measures would be required through the duration of implementation of the approved General Plan.</p>

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
	To aid the City in determining a project's potential impacts, the District recommends the City provide an assessment evaluating potential project construction and operation related to air quality impacts to the District as early as possible. Additionally, the District is available to work with the City and project applicants on future development projects to address air quality impacts and concerns. The District encourages the City to include in the General Plan a section that advises project applicants to reach out and work with the District. The District's goal is to assist with enhancing project designs in the early stages of the planning process for a better overall project with minimized impact on air quality and early identification of feasible mitigation measures.	This comment also states that the District is available to work with the City and project applicants on future development projects and encourages the City to include a section in the approved General Plan that advises project applicants to work with the District. Revisions to the approved General Plan are limited to changes to the VMT, however, as outlined in Section 4.3.5.4 Local Policies and Regulations, the approved General Plan already includes several policies and objectives that direct coordination with the SJVAPCD to achieve compliance with State and federal air quality standards for criteria air pollutants, consistent with the District's goal of minimizing air quality impacts.
B2-3	<p>2) Project Siting</p> <p>The General Plan is the blueprint for future growth and provides guidance for the community's development. The Project itself will not have an impact on air quality. However, without appropriate mitigation, future development projects within the City may contribute to negative impacts on air quality due to increased traffic and ongoing operational emissions. The General Plan sets the planning guidelines for where future developments can be sited and includes the City's comprehensive community goals, policies, and objectives. Appropriate project siting helps ensure there is adequate distance between conflicting land uses, to prevent or reduce both localized and cumulative air pollution impacts from commercial and industrial land uses that are in close proximity to schools or residential areas. Possible planning resources that may be included in the General Plan that are available to the City and future developers include:</p> <ul style="list-style-type: none"> California Air Board Resources' (CARB) <i>Air Quality and Land Use Handbook: A Community Health Perspective</i>. The document includes tables with recommended buffer distances associated with various types of common sources (e.g. distribution centers, chrome platers, gasoline dispensing facilities, etc.), and can be found at: https://ww3.arb.ca.gov/ch/handbook.pdf <i>CARB Freight Handbook Concept Paper</i>. This document will compile the best practices designed to address air pollution impacts as "practices" which may 	This comment provides references to possible planning resources that may be included in the approved General Plan. As noted in response to comment B2-2, the revisions to the approved General Plan were limited to the changes that were required to bring the approved General Plan into conformance with State law and recent legislative changes. The references provided in this comment do not change the findings of the Draft PEIR or Recirculated Draft PEIR and will be considered for future reference. It should be noted that the City included the reference to the California Air Resources Board's (CARB) Air Quality and Land Use Handbook: A Community Health Perspective, and the recommended buffer distances have been incorporated into future analysis requirements as outlined in Mitigation Measure AIR-3.2.

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
	<p>apply to the siting, design, construction, and operation of freight facilities to minimize health impacts on nearby communities. CARB and the District are committed to work cooperatively to advance implementation of the best practices discussed in Tables 5 and 6 of the Freight Handbook Concept Paper. CARB Freight Handbook Concept Paper documents can be found at:</p> <p>https://ww2.arb.ca.gov/sites/default/files/2020-03/2019.12.12%20-%20Concept%20Paper%20for%20the%20Freight%20Handbook_1.pdf</p>	
B2-4	<p><u>3) Reducing Vehicle Miles Traveled</u></p> <p>The District is currently designated as extreme non-attainment of the federal national ambient air quality standard for ozone and non-attainment for PM2.5. Mobile source emissions resulting from growth and development could have significant impacts on air quality. To reduce the project related impacts on air quality, the General Plan should include language supported by policy establishing standards designed to reduce vehicle miles traveled (VMT). The General Plan VMT can be reduced through encouragement of mixed-use development, walkable communities, and other project design elements.</p> <p>To aid agencies in addressing VMT impacts the District has prepared the following guidance documents: Air Quality Guidelines for General Plans, and AB 170 Requirements for General Plans. These documents provide general information and recommendations for policies that are effective in reducing impacts from growth and development projects. The District appreciates the City for its effort in integrating recommendations identified in the Air Quality Guidelines for General Plans document into the proposed General Plan.</p> <p>These documents are available on the District's website at: http://www.valleyair.org/transportation/Guidelines_for_General_Plans.htm.</p> <p>Additionally, recommended design elements can be found on the District's website at: http://www.valleyair.org/transportation/Mitigation-Measures.pdf.</p>	<p>This comment suggests that the approved General Plan should include language supported by policy establishing standards designed to reduce vehicle miles traveled. It should be noted that the purpose of the revised General Plan was to amend the approved General Plan Mobility and Transportation Element and, as such, it includes the addition of VMT policies consistent with the requirements of Senate Bill (SB) 743 and the revision of text related to Level of Service (LOS) metrics. As described in detail in Section 4.16 of the Recirculated Draft PEIR, the approved General Plan includes several policies to reduce VMT and the revisions to the approved General Plan will facilitate the adoption of VMT policies to reduce VMT citywide.</p>
B2-5	<p><u>4) Assembly Bill 617</u></p> <p>Assembly Bill 617 requires CARB and air districts to develop and implement Community Emission Reduction Programs (CERPs) in an effort to reduce air pollution exposure in impacted disadvantaged communities, like those in which the Project is located. The South Central Fresno AB 617 community is</p>	<p>This comment encourages the City to further assess the emission reduction measures and strategies contained in the Community Emission Reduction Programs (CERPs) and address them in the Fresno General Plan. This comment is noted. The approved General Plan is the City's long-range plan for future development in the City. The revisions to the approved General Plan at this</p>

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
	<p>one of the three Valley communities selected by CARB for investment of additional air quality resources and attention under AB 617.</p> <p>The CERP for South Central Fresno was developed through an extensive community engagement process, which included input from members of a Community Steering Committee. The South Central Fresno CERP was adopted by the District's Governing Board in September 2019 and by CARB in February 2020. The CERP identifies a wide range of measures designed to reduce air pollution and exposure, including a number of strategies to be implemented in partnership between agencies and local organizations. The Community Steering Committee has developed, through a collaborative process, a series of emission reduction strategies with the goal to improve community health by reducing exposure to air pollutants. Such emission reduction strategies include, but are not limited to, enhanced community participation in land use processes, the deployment of zero and near-zero emission Heavy Heavy-Duty (HHD) trucks, HHD truck rerouting analyses, reducing HHD truck idling, and incorporating vegetative barriers and urban greening. In addition, one of the measures identified and prioritized in the CERP includes working collaboratively with the City to enhance community participation in land use processes, including working together to ensure more comprehensive opportunities for public input on land use decisions, and better communicating and understanding air quality impacts and potential mitigation.</p> <p>Recognizing that a large portion of the City consists of the South Central Fresno AB 617 community, the District encourages the City to further assess the emission reductions measures and strategies contained in the CERP, and address them in the Fresno General Plan, as appropriate.</p> <p>For more details about the South Central Fresno CERP, please visit the District website at: http://community.valleyair.org/media/1516/01finalscfresnocerp-9-19-19.pdf.</p>	<p>time are limited to specific changes related to VMT and compliance with recent legislative updates. As outlined in Section 4.3.5.4 Local Policies and Regulations, the approved General Plan includes several policies and objectives that direct coordination with the SJVAPCD to achieve compliance with State and federal air quality standards for criteria air pollutants, consistent with the District's goal of minimizing air quality impacts. The Recirculated Draft PEIR also identified Mitigation Measure AIR-3.1 that requires all new development proposals for new industrial or warehousing land uses to prepare Health Risk Assessment reports to minimize impacts to off-site receptors. In addition, Mitigation Measure AIR-3.2 requires the siting of sensitive land uses to avoid incompatibilities with the CARB's recommended Air Quality and Land Use Handbook. These mitigation measures are consistent with the goals of the CERP to reduce air exposure in impacted disadvantaged communities.</p>
B2-6	<p><u>5) Recommendations for Future Individual Development Projects</u></p> <p>The following recommendations should be considered for inclusion in the PEIR to address impacts resulting from future development projects on air quality:</p>	<p>This comments provides an introduction to the following comments. No responses is required.</p>

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
B2-7	<p><u>5a) Construction Related Emissions</u></p> <p>Mitigation Measure (MM) Air-2.1 in the Draft PEIR states,</p> <p><i>“Prior to future discretionary project approval, development project applicants shall prepare and submit to the Director of the City Planning and Development Department, or designee, a technical assessment evaluating potential project construction phase-related air quality impacts. The evaluation shall be prepared in conformance with SJVAPCD methodology for assessing construction impacts. If construction related air pollutants are determined to have the potential to exceed the SJVAPCD adopted threshold of significance, the Planning and Development Department shall require that applicants for new development projects incorporate mitigation measures into construction plans to reduce air pollutant emissions during construction activities.”</i></p> <p>Per the Draft PEIR, if construction emissions for specific future development projects would result in a significant impact on air quality, the new development project will be required to incorporate mitigation measures, such as the use of diesel oxidation catalysts and/or catalyzed diesel particulate traps on diesel equipment, into their construction plans.</p> <p>Nonetheless, to further reduce impacts from construction-related exhaust emissions and activities, the District recommends the proposed mitigation measure Air-2.1 be modified to include the following additional potential mitigation measures:</p> <ul style="list-style-type: none"> ● Requiring all future development projects with construction-related exhaust emissions and activities resulting in significant impacts on air quality to utilize the cleanest reasonably available off-road construction fleets and practices (i.e. eliminating unnecessary idling), and ● Advising all future development projects with construction-related exhaust emissions and activities resulting in a less than significant impact on air quality to utilize the cleanest reasonably available off-road construction fleets and practices (i.e. eliminating unnecessary idling). 	<p>This comment recommends modifications and additions to Mitigation Measure AIR-2.1 in the Recirculated Draft PEIR. Mitigation Measure AIR-2.1 lists possible mitigation options to reduce construction emissions; however, project-specific measures consistent with the performance standards established by the PEIR mitigation measures will be implemented and made enforceable as applicable at the project level during the discretionary project review process. The approved General Plan is a long-term planning level document; and therefore, identification of specific measures recommended by the District are not appropriate or necessary at this time. Project applicants will be required to identify applicable mitigation measures based on current technology at the time a development is proposed in order to reduce emissions to a less-than-significant level. Therefore, Mitigation Measure AIR-2.1 has not been revised.</p>

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
B2-8	<p><u>5b) Operational Related Emissions – Heavy-Duty Trucks and Other Heavy-Duty Equipment</u></p> <p>Mitigation Measure (MM) Air-2.2 in the Draft PEIR states:</p> <p><i>“Prior to future discretionary project approval, development project applicants shall prepare and submit to the Director of the City Planning and Development Department, or designee, a technical assessment evaluating potential project operation-related air quality impacts. The evaluation shall be prepared in conformance with SJVAPCD methodology in assessing air quality impacts. If operation-related air pollutants are determined to have the potential to exceed the SJVAPCD-adopted thresholds of significance, the Planning and Development Department shall require that applicants for new development projects incorporate mitigation measures to reduce air pollutant emissions during operational activities.”</i></p> <p>Per the Draft PEIR, new development projects that result in significant impact on air quality for operational emissions are required to incorporate clean air project design elements aimed at reducing project impact on air quality to less than significant when feasible.</p> <p>The San Joaquin Valley will not be able to attain stringent health-based federal air quality standards without significant reductions in emissions from Heavy Heavy-Duty (HHD) Trucks, the single largest source of NOx emissions in the San Joaquin Valley. The District recently adopted the 2018 PM2.5 Plan for meeting federal PM2.5 standards in the San Joaquin Valley, and which relies on significant new emissions reductions from HHD Trucks. These reductions include those achieved through the implementation of the California Air Resources Board (CARB) Statewide Truck and Bus Regulation, which requires truck fleets operating in California to meet the 2010 0.2 g/bhp-hr NOx standard by 2023. Additionally, to meet the federal air quality standards by the 2020 to 2024 attainment deadlines, the Plan relies on a significant and immediate transition of heavy-duty truck fleets to zero or near-zero emissions technologies, including the near-zero truck standard of 0.02 g/bhp-hr NOx established by the California Air Resources Board.</p> <p>Nonetheless, to further reduce impacts from future development projects with related operational emissions and activities that result in significant impacts on</p>	<p>This comment suggests modifications to Mitigation Measure AIR-2.2 related to operational fleets and additional reductions to projects that do not result in significant air quality impacts. The General Plan Recirculated Draft PEIR is a programmatic document and will be implemented over time as development occurs within the City. Mitigation Measure AIR-2.2 will require future development project applicants to prepare and submit a technical evaluation of project operation-related air quality impacts in conformance with SJVAPCD methodology. As noted in the discussion, applicants will be required to incorporate mitigation measure to reduce air pollutant emissions during operational activities. Project-specific mitigation measures consistent with the performance standards established by the PEIR mitigation measures will be implemented and made enforceable as applicable on a project-by-project basis during the discretionary review process. All potential measures would be considered, consistent with District guidance. Therefore, Mitigation Measure AIR-2.2 has not been revised.</p>

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
	<p>air quality, the District recommends the following proposed mitigation measures be included in the General Plan:</p> <ul style="list-style-type: none"> • Requiring operational fleets to utilize the cleanest available HHD truck technologies, including zero and near-zero (0.02 g/bhp-hr NOx) technologies as feasible, • Requiring all on-site service equipment (cargo handling, yard hostlers, forklifts, pallet jacks, etc.) from development projects (such as distribution centers, warehouse, etc.) to utilize zero-emissions technologies as feasible, and • Requiring fleets associated with future development projects to implement best practices (i.e. eliminating unnecessary idling). <p>Furthermore, for future development projects with operational emissions and activities that result in a less than significant impact on air quality, the District recommends the following proposed measures be included in the General Plan:</p> <ul style="list-style-type: none"> • Advising operational fleets to utilize the cleanest available HHD truck technologies, including zero and near-zero (0.02 g/bhp-hr NOx) technologies as feasible, • Advising all on-site service equipment (cargo handling, yard hostlers, forklifts, pallet jacks, etc.) from development projects (such as distribution centers, warehouse, etc.) to utilize zero-emissions technologies as feasible, and • Advising fleets associated with future development projects to implement best practices (i.e. eliminating unnecessary idling). 	
B2-9	<p><u>5c) Operational Related Emissions - Truck Routing</u></p> <p>Truck routing involves the path/roads heavy-duty trucks take to and from their destination. The air emissions from heavy-duty trucks can impact residential communities and sensitive receptors.</p> <p>The District recommends the General Plan include guidance supported by policy requiring future development projects to evaluate heavy-duty truck</p>	<p>This comment recommends revisions to the approved General Plan that include guidance and policy for heavy-duty truck routing pattern analysis. As previously noted, revisions to the approved General Plan at this time are limited to specific changes related to VMT and compliance with recent legislative updates. Truck routing patterns and associated emissions would be evaluated consistent with the operational analysis requirements of Mitigation Measure AIR-2.2. Projects would also be subject to the City's updated guidance</p>

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
	<p>routing patterns to help limit emission exposure to residential communities and sensitive receptors. More specifically, this measure would require study of current truck routes, in consideration of the number and type of each vehicle, destination/origin of each vehicular trip, time of day/week analysis, vehicle miles traveled and emissions. The truck routing study would also identify alternative truck routes and their impacts on VMT, GHG emissions, and air quality.</p> <p>Additionally, as related information, the City has committed to working with the District to commission a heavy-duty truck rerouting study for the community in the adopted CERP for South Central Fresno. The District recommends that this study be discussed in the General Plan as appropriate, and look forward to working with the City to move forward with this project, including identifying co-funding opportunities to ensure maximum leveraging of funding.</p>	<p>on VMT analysis as well. Implementation of the approved General Plan revisions and PEIR would not affect the City's ongoing work with the District to commission a heavy duty truck rerouting study. In addition, a study of truck routing is currently underway, as required by the Northpointe Drive Settlement Agreement.</p>
B2-10	<p>5d) Operational Related Emissions – Under-fired Charbroilers</p> <p>Future development projects for restaurants with under-fired charbroilers may pose the potential for immediate health risk, particularly when located in densely developed locations near sensitive receptors. Since the cooking of meat can release carcinogenic PM2.5 species like polycyclic aromatic hydrocarbons, controlling emissions from new under-fired charbroilers will have a substantial positive impact on public health. The air quality impacts on neighborhoods near restaurants with under-fired charbroilers can be significant on days when meteorological conditions are stable, when dispersion is limited and emissions are trapped near the surface within the surrounding neighborhoods. This potential for neighborhood-level concentration of emissions during evening or multi-day stagnation events raises environmental concerns.</p> <p>Furthermore, reducing commercial charbroiling emissions is essential to achieving attainment of multiple federal PM2.5 standards and associated health benefits in the Valley. Therefore, the District recommends that the General Plan include a measure requiring the assessment and potential installation, as technologically feasible, of particulate matter emission control systems for new large restaurants operating under-fired charbroilers. The</p>	<p>This comment warns of the immediate health risk associated with under-fire char broilers and recommends changes to the approved General Plan to include measures related to installation of control systems for new restaurants with under-fired char broilers. The changes to the approved General Plan at this time are limited to specific compliance with State legislative updates. However, all future development proposals that contain under-fired char broilers will be evaluated for consistency with SJVPACD Rule 4692 for commercial charbroiling and will be evaluated for potential health effects during the discretionary review process. No changes to the Recirculated Draft PEIR or approved General Plan are required.</p>

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
	<p>District is available to assist the City and project proponents with this assessment. Additionally, to ease the financial burden for Valley businesses, the District is currently offering substantial incentive funding that covers the full cost of purchasing, installing, and maintaining the system for up to two years. Please contact the District at (559) 230-5800 or technology@valleyair.org for more information.</p>	
B2-11	<p><u>5e) Voluntary Emission Reduction Agreement</u></p> <p>Per the Draft PEIR, the City recognizes that a Voluntary Emission Reduction Agreement (VERA) is a method available for projects to mitigate significant criteria pollutant impacts. The District supports the City's acknowledgment that a VERA should be considered for projects with significant air impacts.</p> <p>A VERA is a mitigation measure by which the project applicant provides pound-for-pound mitigation of emissions increases through a process that develops, funds, and implements emission reduction projects, with the District serving a role of administrator of the emissions reduction projects and verifier of the successful mitigation effort. To implement a VERA, the project applicant and the District enter into a contractual agreement in which the project applicant agrees to mitigate Project specific emissions by providing funds for the District's incentives programs. The funds are disbursed by the District in the form of grants for projects that achieve emission reductions. Thus, project-specific regional impacts on air quality can be fully mitigated. Types of emission reduction projects that have been funded in the past include replacement of old heavy-duty trucks with new, cleaner, heavy-duty trucks, electrification of stationary internal combustion engines (such as agricultural irrigation pumps), and replacement of older school buses.</p> <p>In implementing a VERA, the District verifies the actual emission reductions that have been achieved as a result of completed grant contracts, monitors the emission reduction projects, and ensures the enforceability of achieved reductions. After the project is mitigated, the District certifies to the Lead Agency that the mitigation is completed, providing the Lead Agency with an enforceable mitigation measure demonstrating that project-specific regional emissions have been mitigated to less than significant. To assist the Lead Agency and project applicant in ensuring that the environmental document is</p>	<p>The commenter concurs that a Voluntary Emission Reduction Agreement (VERA) is a method available for mitigating criteria pollutant impacts. This comment provides additional information on implementation of a VERA agreement, which is noted. No additional response is required.</p>

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
	<p>compliant with CEQA, the District recommends the Draft PEIR includes an assessment of the feasibility of implementing a VERA.</p> <p>Additional information on implementing a VERA can be obtained by contacting District CEQA staff at by email at CEQA@valleyair.org or by phone at (559) 230-6000.</p>	
B2-12	<p><u>5f) Allowed Uses Not Requiring Project-Specific Discretionary Approval</u></p> <p>In some cases, for future development projects, the City may determine that a proposed project be approved as an allowed use not requiring a project-specific discretionary approval from the City. The District recommends the General Plan include language supported by policy requiring such projects to prepare a technical assessment in consultation with the District, and recommending that a VERA be considered for development projects determined to have a significant impact on air quality. For example, this requirement would apply to large development projects (i.e. large residential project, large distribution center, large warehouse, etc.) that would have the potential to significantly impact air quality and is determined by the City to be allowed by use, not requiring a project specific discretionary approval from the City.</p> <p>Furthermore, to strengthen City policies for allowed uses, the District recommends that only future development projects resulting in a less than significant impact for all District CEQA applicable thresholds be eligible for an allowed use approval. Projects exceeding any District CEQA significance threshold should be required to receive a discretionary approval from the City.</p>	<p>This comment suggests modifications to the approved General Plan to require consultation with the District and consideration of VERA agreements for projects with potentially-significant air quality impacts. The commenter stipulates that for future development projects, the City may determine that a proposed project would be approved as an allowed use not requiring a project-specific discretionary approval from the City. It should be noted however, that projects deemed consistent with the approved General Plan would be subject to the PEIR Mitigation and Monitoring and Reporting Program (MMRP) which includes Mitigation Measure AIR-2.2. Mitigation Measure AIR-2.2 requires the preparation of an operational air quality assessment. It is not anticipated that any large development projects with potential significant air quality impacts would be approved without discretionary review and approval.</p>
B2-13	<p><u>5g) Health Risk Screening/Assessment</u></p> <p>A Health Risk Screening/Assessment identifies potential Toxic Air Contaminants (TAC's) impact on surrounding sensitive receptors such as hospitals, daycare centers, schools, work-sites, and residences. TACs are air pollutants identified by the Office of Environmental Health Hazard Assessment/California Air Resources Board (OEHHA/CARB). A list of TACs which post a present or potential hazard to human health can be found at: https://ww2.arb.ca.gov/resources/documents/carb-identified-toxic-aircontaminants</p>	<p>This comment recommends that future development projects be evaluated for potential health impacts to surrounding receptors. Mitigation Measure AIR-3.1 and Mitigation Measure AIR-3.2 require the preparation of a HRA consistent with the current guidance of the State Office of Environmental Health Hazard Assessment (OEHHA) and the SJVAPCD. Mitigation measures would be required to reduce risk impacts to an acceptable level. Additionally, as listed in Section 4.2.7.1 in the Recirculated Draft PEIR, the approved General Plan includes policies with provisions for reducing exposure to sensitive receptors to toxic air contaminants. The District reporting requirements as outlined in this comment are noted.</p>

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
	<p>The District recommends the future development project(s) be evaluated for potential health impacts to surrounding receptors (on-site and off-site) resulting from operational and multi-year construction TAC emissions.</p> <p>i) The District recommends conducting a screening analysis that includes all sources of emissions. A screening analysis is used to identify projects which may have a significant health impact. A prioritization, using the latest approved California Air Pollution Control Officer's Association (CAPCOA) methodology, is the recommended screening method. A prioritization score of 10 or greater is considered to be significant and a refined Health Risk Assessment (HRA) should be performed.</p> <p>For your convenience, the District's prioritization calculator can be found at: http://www.valleyair.org/busind/pto/emission_factors/Criteria/Toxics/Utilities/PRIORITIZATION%20RMR%202016.XLS.</p> <p>ii) The District recommends a refined HRA for development projects that result in a prioritization score of 10 or greater. Prior to performing an HRA, it is recommended that development project applicants contact the District to review the proposed modeling protocol. A development project would be considered to have a significant health risk if the HRA demonstrates that the project related health impacts would exceed the District's significance threshold of 20 in a million for carcinogenic risk and 1.0 for the Acute and Chronic Hazard Indices, and would trigger all feasible mitigation measures. The District recommends that development projects which result in a significant health risk not be approved.</p> <p>For HRA submittals, please provide the following information electronically to the District for review:</p> <ul style="list-style-type: none"> • HRA AERMOD model files • HARP2 files • Summary of emissions source locations, emissions rates, and emission factor calculations and methodology. <p>More information on toxic emission factors, prioritizations and HRAs can be</p>	

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
	<p>obtained by:</p> <ul style="list-style-type: none"> • E-Mailing inquiries to: hramodeler@valleyair.org; or • Contacting the District by phone for assistance at (559) 230-6000; or • Visiting the Districts website (Modeling Guidance) at: http://www.valleyair.org/busind/pto/Tox_Resources/AirQualityMonitoring.htm. 	
B2-14	<p><u>5h) Ambient Air Quality Analysis</u></p> <p>An Ambient Air Quality Analysis (AAQA) uses air dispersion modeling to determine if emissions increases from a project will cause or contribute to a violation of the ambient air quality standards. For future development projects the District recommends that an AAQA be performed for the project if emissions exceed 100 pounds per day of any pollutant.</p> <p>If an AAQA is performed, the analysis should include emissions from both project specific permitted and non-permitted equipment and activities. The District recommends consultation with District staff to determine the appropriate model and input data to use in the analysis.</p> <p>Specific information for assessing significance, including screening tools and modeling guidance is available online at the District's website: www.valleyair.org/ceqa.</p>	<p>The commenter is recommending an ambient air quality analysis (AAQA) using a dispersion model for projects that exceed 100 pounds per day of any pollutant. As stated on page 4.3-55 of the Recirculated Draft PEIR, the scale of individual project-level emissions that would result under the continued implementation of the approved General Plan has not been determined as such project plans are not yet known. Mitigation Measure AIR-2.2 would require an evaluation of air quality impacts consistent with SJVAPCD methodology, including any requirement for an AAQA evaluation.</p>
B2-15	<p><u>5i) Nuisance Odors</u></p> <p>Future development projects should be evaluated to determine the likelihood that the project would result in nuisance odors. Nuisance odors may be assessed qualitatively taking into consideration project design elements and proximity to off-site receptors that potentially would be exposed to objectionable odors. The intensity of an odor source's operations and its proximity to sensitive receptors influences the potential significance of odor emissions. Any project with the potential to frequently expose members of the public to objectionable odors should be deemed to have a significant impact and should be required to implement all feasible mitigation measures.</p>	<p>This comment suggests that all future development projects be evaluated to determine the likelihood that the project would result in nuisance odors. Odors in the City are discussed on pages 4.3-67 and 4.3-68 of the Recirculated Draft PEIR. Mitigation Measure AIR-4.1 would require project developers with the potential to generate odor impacts prepare an odor impact assessment and implement any odor control measures recommended by the SJVAPCD or the City as needed to reduce the impact to a level deemed acceptable by the SJVAPCD.</p>

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response																																	
B2-16	<p><u>5j) District Rule 9510 (Indirect Source Review)</u></p> <p>The purpose of District Rule 9510 is to reduce the growth in both NOx and PM10 emissions associated with development and transportation projects from mobile and area sources; specifically, the emissions associated with the construction and subsequent operation of completed development projects. The Rule requires all developers whose projects are applicable to the Rule to mitigate their NOx and PM10 emissions by incorporating clean air design elements into their development projects. Should the proposed development project clean air design elements be insufficient to meet the required emission reductions, developers must pay a fee which ultimately funds incentive projects to achieve off-site emissions reductions.</p> <p>Accordingly, a future development project within the City of Fresno General Plan area would be subject to District Rule 9510 if upon full buildout, the project would equal or exceed any of the following applicability thresholds, depending on the type of development, and the land use agency's approval mechanism:</p> <table border="1"> <thead> <tr> <th>Development Type</th><th>Discretionary Approval Threshold</th><th>Ministerial Approval Threshold</th></tr> </thead> <tbody> <tr> <td>Residential</td><td>50 dwelling units</td><td>250 dwelling units</td></tr> <tr> <td>Commercial</td><td>2,000 square feet</td><td>10,000 square feet</td></tr> <tr> <td>Light Industrial</td><td>25,000 square feet</td><td>125,000 square feet</td></tr> <tr> <td>Heavy Industrial</td><td>100,000 square feet</td><td>500,000 square feet</td></tr> <tr> <td>Medical Office</td><td>20,000 square feet</td><td>100,000 square feet</td></tr> <tr> <td>General Office</td><td>39,000 square feet</td><td>195,000 square feet</td></tr> <tr> <td>Educational Office</td><td>9,000 square feet</td><td>45,000 square feet</td></tr> <tr> <td>Government</td><td>10,000 square feet</td><td>50,000 square feet</td></tr> <tr> <td>Recreational</td><td>20,000 square feet</td><td>100,000 square feet</td></tr> <tr> <td>Office</td><td>9,000 square feet</td><td>45,000 square feet</td></tr> </tbody> </table>	Development Type	Discretionary Approval Threshold	Ministerial Approval Threshold	Residential	50 dwelling units	250 dwelling units	Commercial	2,000 square feet	10,000 square feet	Light Industrial	25,000 square feet	125,000 square feet	Heavy Industrial	100,000 square feet	500,000 square feet	Medical Office	20,000 square feet	100,000 square feet	General Office	39,000 square feet	195,000 square feet	Educational Office	9,000 square feet	45,000 square feet	Government	10,000 square feet	50,000 square feet	Recreational	20,000 square feet	100,000 square feet	Office	9,000 square feet	45,000 square feet	<p>This comment provides information related to the District's Rule 9510 (Indirect Source Rule). Rule 9510 is discussed in the Recirculated Draft PEIR (pages 4.3-26, 4.3-48, 4.3-54, and 4.3-59) as an applicable law and regulation related to implementation of the approved General Plan. As indicated in the comment, an Air Impact Assessment (AIA) application is required for future development project(s) that are subject to District Rule 9510. The information provided in this comment is noted. No additional response is required.</p>
Development Type	Discretionary Approval Threshold	Ministerial Approval Threshold																																	
Residential	50 dwelling units	250 dwelling units																																	
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Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
	<p>District Rule 9510 also applies to any transportation or transit development projects where construction exhaust emissions equal or exceed two (2.0) tons of NOx or two (2.0) tons of PM10.</p> <p>In the case the future development project(s) are subject to District Rule 9510, an Air Impact Assessment (AIA) application is required and the District recommends that demonstration of compliance with District Rule 9510, before issuance of the first building permit, be made a condition of Project approval.</p> <p>Information about how to comply with District Rule 9510 can be found online at: http://www.valleyair.org/ISR/ISRHome.htm.</p> <p>The AIA application form can be found online at: http://www.valleyair.org/ISR/ISRFormsAndApplications.htm.</p> <p>District staff is available to provide assistance with determining if future development projects will be subject to Rule 9510, and can be reached by phone at (559) 230-6000 or by email at ISR@valleyair.org.</p>	
B2-17	<p><u>5k) District Rule 9410 (Employer Based Trip Reduction)</u></p> <p>Future development projects may be subject to District Rule 9410 (Employer Based Trip Reduction) if the Project would result in employment of 100 or more “eligible” employees. District Rule 9410 requires employers with 100 or more “eligible” employees at a worksite to establish an Employer Trip Reduction Implementation Plan (eTRIP) that encourages employees to reduce single-occupancy vehicle trips, thus reducing pollutant emissions associated with work commutes. Under an eTRIP plan, employers have the flexibility to select the options that work best for their worksites and their employees.</p> <p>Information about how District Rule 9410 can be found online at: http://www.valleyair.org/Programs/Rule9410TripReduction/eTRIP_main.htm.</p> <p>For additional information, you can contact the District by phone at 559-230-6000 or by e-mail at etrip@valleyair.org.</p>	<p>This comment provides information related to the District’s Rule 9410 (Employer Based Trip Reduction). This rule is discussed in the Recirculated Draft PEIR (pages 4.3-25, 4.3-54, and 4.3-59) as an applicable law and regulation related to implementation of the approved General Plan. The information provided in this comment is noted. No additional response is required.</p>

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
B2-18	<p>5l) Air Quality Permitting: District Rules 2010 and 2201</p> <p>Future development projects may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and will require District permits. In general, facilities with equipment that may emit air pollution or is used for controlling air pollution are subject to permit requirements. Prior to construction, the future development project proponent should submit to the District an application for an Authority to Construct (ATC).</p> <p>For further information or assistance, the project proponent can contact the District's Small Business Assistance (SBA) office at (559) 230-5888, or visit https://www.valleyair.org/busind/pto/ptoprocess.htm#who.</p>	<p>This comment provides information on District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review). Rule 2201 and permitting requirements of the District are discussed on pages 4.3-24 and 4.3-57 of the Recirculated Draft PEIR. The Recirculated Draft PEIR acknowledges that any new or modified stationary/industrial source would be required to provide emission controls and offsets. The further information provided in this comment is noted.</p>
B2-19	<p>5m) Other District Rules and Regulations</p> <p>Future development projects may also be subject to the following District rules: Regulation VIII, (Fugitive PM10 Prohibitions), Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished or removed, the project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants).</p> <p>The above list of rules is neither exhaustive nor exclusive. To identify other District rules or regulations that apply to future project or to obtain information about District permit requirements, project applicants are strongly encouraged to contact the District's Small Business Assistance Office at (559) 230-5888.</p> <p>Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm.</p>	<p>This comment states that future development projects may be subject to additional District rules. Recognizing the need for coordination and permitting requirements, the City has identified General Plan Policy RC-4-d: Forward Information, which requires the City to forward information regarding proposed development proposals that require air quality evaluation to the SJVAPCD for review and identification of any permitting requirements, including those listed in this comment.</p>
B2-20	<p>5n) Referral Documents.</p> <p>Referral documents provided to the District for review for new development projects should include a project summary detailing, at a minimum, the land use designation, project size, and proximity to sensitive receptors and existing emission sources.</p>	<p>This comment identifies the necessary information needed for future projects. This comment does not address the adequacy or completeness of the Recirculated Draft PEIR. No further response is necessary.</p>

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
B2-21	<p>If you have any questions or require further information, please contact Eric McLaughlin by e-mail at Eric.McLaughlin@valleyair.org or by phone at (559) 230-5808.</p> <p>Sincerely, Brian Clements Director of Permit Services John Stagnaro Program Manager</p>	This comment provides a closing to the comment letter and does not question the adequacy of the analysis included in the Recirculated Draft PEIR. No further response is required.
Organizations and Interested Parties		
C1	Leadership Counsel for Justice and Accountability (May 10, 2021)	
C1-1	<p>Dear Ms. Pagoulatos:</p> <p>We are submitting this letter on behalf of South Fresno Community Alliance, Friends of Calwa, and Fresno Building Healthy Communities. Leadership Counsel for Justice and Accountability submitted comments on the Draft PEIR (“DPEIR”) on May 5, 2020 (“May 2020 comments”). See Fresno General Plan Response to Comments Document, SCH 2019050005, July 2020 (“Response to Comments”) at Comment Letter C-3; C-69 to C-123. Shute, Mihaly and Weinberger, LLP submitted additional comments to the City on the DPEIR on Leadership Counsel’s behalf on August 19, 2020 (“August 2020 comments”). See Attachment 1, SMW August 2020 Comments. These letters raised serious concerns about the inadequacies of the DPEIR and the consequences of these inadequacies to South Fresno neighborhoods which the General Plan designates for thousands of acres of industrial development.</p> <p>Despite Leadership Counsel and Shute, Mihaly and Weinberger’s efforts to inform the City in detail of the DPEIR’s deficiencies and their requests that the City correct these deficiencies and recirculate the corrected DPEIR for public review and comment, the RPEIR makes only minor revisions to three sections of the DPEIR (Air Quality, Greenhouse Gas Emissions, and Transportation) and to DPEIR Appendix G, the Greenhouse Gas Reduction Plan (“GGRP”). These minor revisions fail to correct the DPEIR’s deficiencies, including the DPEIR’s illegal truncated description of the Project, its inadequate analysis of the Project’s significant impacts for a range of impact categories,</p>	This comment provides an overview of the comment letter and requests that the Draft PEIR be recirculated. This introductory comment does not provide specific comments, and no further response is required.

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
	<p>and its failure to identify enforceable mitigation measures or a reasonable range of alternatives to the Project that will avoid or reduce environmental impacts, among other flaws. As a result, the DPEIR and RPEIR continue to fail to comply with the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code sections 2100, et seq.), the CEQA Guidelines (California Code of Regulation, title 14 sections 15000, et seq.) and the GGRP, which fails to meet the requirements of CEQA Guidelines section 15183.5, cannot be used to support streamlined project-level GHG analysis. Further, the City's continued refusal to disclose and analyze the Project's significant impacts on South Fresno communities and identify mitigation and alternatives that would reduce those impacts conflicts with the City's duties under state and federal fair housing and civil rights laws. See e.g., Government Code §§ 11135, 12900, et seq.; 65008, 8899.50; 42 U.S.C. § 2000d, et seq., 3601, et seq., 5304(b)(2)&(s)(7B), & 12075.</p> <p>This letter describes below the DPEIR and RPEIR's failures to comply with CEQA's requirements and provides the City once again with specific information about revisions the City can make to come into compliance. Leadership Counsel's May 2020 comments and Shute, Mihaly, and Weinberger's August 2020 comments are also hereby incorporated into this letter by reference. Furthermore, we reserve the right to submit additional comments on this matter to the City. We ask that the City revise and recirculate the DPEIR for public review and comment to address the legal deficiencies detailed in this letter. Doing so is both the City's legal obligation and an ethical imperative to ensure that City policy and actions support quality of life, environmental quality, and public health for South Fresno residents.</p>	
C1-2	<p>I. The RPEIR's Flawed Project Description Conflicts with CEQA's Mandate to Review the Impacts of the "Whole of an Action" and Undermines the Entire PEIR</p> <p>The City's recirculated PEIR fails to correct the PEIR's ill-defined description of the project and its truncated environmental review stemming from that flawed description. As a result, the City has prepared a deficient environmental document that fails to serve its required informational purpose, in violation of CEQA.</p>	<p>See Master Response: Project Description and Baseline Conditions.</p> <p>As stated in the Master Response, and acknowledged in this comment, the Project Description is limited to the addition of a VMT-related policy and the EIR is being converted from an MEIR to a PEIR. In addition, the Greenhouse Gas Reduction Plan has been updated. The Master Response provides an explanation regarding the baseline used in the PEIR, which accounts for land use changes that have already occurred since the MEIR was certified in 2014. The Master Response also states that future environmental analysis, whether it be for Specific Plans or specific development projects, would consider potential</p>

Table 3.A: Comments and Responses Matrix

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	<p>An EIR must accurately and consistently describe the project it analyzes. CEQA Guidelines § 15124; Guidelines § 15378 (defining “project”); County of Inyo v. City of Los Angeles (1977) 71 Cal.App.3d 185, 192-3 (“An accurate, stable, and finite project description is the sine qua non of an informative and legally sufficient EIR.”). As a result, courts have found that, even if an EIR is adequate in all other respects, the use of a “truncated project concept” violates CEQA and requires the conclusion that the lead agency did not proceed in a manner required by law. San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1994) 27 Cal.App.4th 713, 730. An inaccurate or incomplete project description undermines CEQA’s purposes because it thwarts a full analysis of project impacts, thus minimizing the project’s effects. City of Santee v. County of San Diego (1989) 214 Cal.App.3d 1438, 1454; San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal.App.4th 645, 656. Thus, when an EIR gives “conflicting signals to decision-makers and the public about the nature and scope of the activity being proposed,” the courts have found it “fundamentally inadequate and misleading.” San Joaquin Raptor Rescue Center, 149 Cal.App.4th at 655-56.</p> <p>As we have critiqued in prior comment letters, the PEIR – and now the RPEIR – has precisely the type of conflicted and confusing project description that CEQA prohibits, and creates uncertainty about the nature of the action under review. Specifically, the RPEIR states that the Project consists of “updating the EIR to include a current baseline for the continued implementation of the General Plan,” and that the Project also includes minor edits to the General Plan “to reflect changes in applicable statutes and regulations related to Vehicle Miles Traveled (VMT), . . . changes in City planning documents since adoption of the General Plan in 2014”, and “an update to the City’s Greenhouse Gas Reduction Plan.” RPEIR at 3-2. The RPEIR further explains that in taking these actions “the City is converting the previously-certified MEIR to a PEIR with the goal of extending the life of the environmental document for the General Plan.” RPEIR at 3-2.</p> <p>This description of the Project sows doubt about the scope of environmental impacts, especially those resulting from General Plan implementation, that the RPEIR intends to and does analyze. In describing the RPEIR as a conversion of the General Plan MEIR to a PEIR (RPEIR at 3-2), the</p>	<p>land use changes.</p> <p>With respect to the assertion that a lead agency must consider the potential environmental impacts resulting from the whole of the action, the Master Response provides a summary of the intent of using a Program EIR for analyzing potential impacts of implementing a program or plan. The approved General Plan is not being replaced, but amended to include new policies and in doing so, the City is updating the EIR to account for legislative changes that have occurred as well as to update the Greenhouse Gas Reduction Plan. The whole of the action in this case refers to implementing the General Plan as it was adopted in 2014, and updating the program-level environmental analysis and mitigation measures to account for the approved land use changes and amendments made since the MEIR was certified. Reverting the baseline date to that of the MEIR, would require assuming that all of the development that has taken place between certification of the MEIR and the 2019 baseline date has yet to occur. This approach would produce an inaccurate analysis. The General Plan is not being replaced or updated substantially at this time. As a result, the PEIR evaluates continued implementation of the approved General Plan. No further response is required.</p>

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
	<p>City suggests that the RPEIR will serve as a complete, standalone EIR for the City's General Plan. And in explaining why the RPEIR generally uses a 2019 baseline, in contrast to the earlier baseline used in the MEIR, the RPEIR asserts:</p> <p>“Baseline conditions other than 2019 would therefore not achieve CEQA’s objective of informing the public and decision makers as to the potential impacts of the project compared with the baseline of the physical conditions at the time of publication of the Notice of Preparation. Therefore, if the PEIR used the same baseline as the MEIR, approximately five years of development in physical environmental conditions would not be accounted for and would not provide an accurate assessment of potential environmental effects that have occurred or would occur through continued implementation of the approved General Plan.” RPEIR at 3-5 (emphasis added).</p> <p>However, this statement demonstrates the problem in the RPEIR’s approach. By including five years of development in the baseline, the RPEIR fails to address these impacts at all—even though that development is part of the General Plan. By characterizing the Project as simply “updating the EIR to include a current baseline for the continued implementation of the General Plan” (RPEIR at 3-2; see also id. at 3-5, 4-1) the RPEIR artificially and incorrectly limits the scope of the project subject to environmental review.¹ Given that the City has prepared a new EIR for its General Plan, that EIR must analyze and mitigate all significant environmental impacts associated with the General Plan’s implementation. Yet the City takes the position that it need not do so because it adopted the General Plan and because it previously prepared an EIR (i.e. the MEIR) for the General Plan. For example, the RPEIR states:</p> <p>“The City is not proposing any land use designation changes as part of the project, and the project will not result in any direct physical changes or new land uses. All previous changes to land use designations since the adoption of the General Plan in 2014 have already been evaluated under CEQA, as applicable, and those changes do not result in any new potential environmental impacts to be considered as part of this project.” RDEIR at 3-5.</p> <p>This position echoes similar statements in the PEIR’s Response to Comments that the PEIR need not review impacts from implementation of the</p>	

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
	<p>General Plan's land use policies, because the City does not propose to amend those policies and because the General Plan has already been adopted. For example, the Response to Comments states:</p> <p>"The General Plan, as a whole, is not being considered to be re-adopted. The City is not modifying the City's current land use plan, and the proposed project does not result in any direct physical changes or new land uses. . . . Any previous changes to the land use plan, including General Plan amendments, adoption of Specific Plans, and approval of various projects throughout Fresno, have already been evaluated under CEQA, as applicable, and those changes, by definition do not result in any new potential environmental impacts to be considered or evaluated as part of the proposed project." Response to Comments at 3-3.</p> <p>See also Response to Comments, pp. 3-70, 71, 72, 74, 78, 80 (making similar assertions in responding to Leadership Counsel's critiques of the PEIR's failure to adequately analyze or mitigate the General Plan's impacts).</p> <p>As these statements demonstrate, the City has prepared an EIR that it admits does not provide a full portrait of the General Plan's environmental impacts. Moreover, by refusing to consider any changes to the General Plan, the City has undermined one of the key functions of CEQA—to address a project's impacts and determine whether changes or alternatives to the project could reduce those impacts. By taking as a given the level and type of development approved under the General Plan in 2014 and refusing to reconsider any element of the Plan, the RPEIR ignores one of its fundamental purposes under CEQA. The RPEIR then compounds this error with its intention to allow other projects and plans to tier from it for their own environmental review.</p> <p>In describing the Project as "continued implementation of the approved General Plan," and picking and choosing which impacts of General Plan implementation to review, the RPEIR fails to describe the whole of the action. A fundamental premise of CEQA is that a lead agency must consider the environmental impacts of the whole of the action being approved, not segmented pieces. CEQA Guidelines § 15378(a) (defining "project"). CEQA prohibits segmentation of a project. See <i>Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora</i> (2007) 155 Cal.App.4th 1214, 1229</p>	

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
	<p>(“when one activity is an integral part of another activity, the combined activities are within the scope of the same CEQA project” and must be analyzed together); Guidelines § 15378(a) (“‘Project’ means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.”); see also CEQA Guidelines § 15378(c) (term “project” means the whole of the “activity which is being approved”). Because the statute requires study of “the whole of an action,” CEQA prohibits public agencies from “subdivid[ing] a single project into smaller individual subprojects in order to avoid the responsibility of considering the environmental impact of the project as a whole.” <i>Orinda Assn. v. Bd. of Supervisors</i> (1986) 182 Cal.App.3d 1145, 1171. Breaking the project into smaller subprojects will lead to inadequate environmental review. See, e.g., <i>City of Santee v. County of San Diego</i> (1989) 214 Cal.App.3d 1438, 1452 (citation omitted) (CEQA “mandates ‘that environmental considerations do not become submerged by chopping a large project into many little ones’” which, individually, may have lesser environmental effects but which together may be “disastrous.”).</p> <p>Here, the “whole of the action” includes all of the development permitted under the General Plan. However, the RPEIR, by proposing to only review the adopted General Plan’s “continued implementation,” has effectively segmented the review of the General Plan into two projects—the first five years of development under the General Plan, which have now been subsumed into the baseline, and the next 15 years of development that fall under the Plan’s planning horizon. At the same time, however, the City refuses to consider any changes to the General Plan itself that could address its significant impacts. Instead, the General Plan will continue to be implemented as previously approved, but the City has truncated its review such that it avoids the obligation to ensure the impacts of the project as a whole are addressed. Nor does the City consider any alternatives that even attempt to reduce any of the significant and unavoidable impacts identified in the RPEIR. For example, the RPEIR evaluates a net zero energy alternative for commercial buildings that would reduce GHG and energy impacts— impacts that the RPEIR already finds (incorrectly) less than significant, but ignores alternatives—such as a low VMT alternative—that would address potentially significant impacts.</p>	

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
	<p>This results in an incomplete and inaccurate impacts analysis that significantly underestimates the impacts of General Plan implementation. The RPEIR must be revised to evaluate the full scope of development permitted under the General Plan. If it does not do so, the must define an actual project for review and subject it to the review CEQA requires, including consideration of alternatives and mitigation measures that could reduce the project's impacts, as well as a complete assessment of the impacts of the full scope development permitted by the project.</p> <p>1 Notably, the PEIR never clearly defines what "continued implementation of the General Plan" actually means, heightening uncertainty about the EIR's scope.</p>	
C1-3	<p>II. General Comments</p> <p>The following are our general comments on the legal inadequacies of the PEIR. More specific comments on individual sections of the document follow.</p>	This comment provides an introduction to the following comments. No response is required.
C1-4	<p>A. The DPEIR and RPEIR Improperly Attempt to Avoid Analysis and Mitigation of the General Plan's Impacts by Concluding That They Are Significant and Unavoidable</p> <p>Where all available and feasible mitigation measures have been proposed, but are inadequate to reduce an environmental impact to a less-than-significant level, an EIR may conclude that the impact is significant and unavoidable. See CEQA Guidelines § 15126.2. If supported by substantial evidence, the lead agency may make findings of overriding considerations and approve the project in spite of its significant and unavoidable impacts. Id. at §§ 15091, 15093. However, the lead agency cannot simply conclude that an impact is significant and unavoidable and move on. A conclusion of residual significance does not excuse the agency from (1) performing a thorough evaluation and description of the impact and its severity before and after mitigation, and (2) proposing all feasible mitigation to "substantially lessen the significant environmental effect." CEQA Guidelines § 15091(a)(1); see also id. § 15126.2(b) (requiring an EIR to discuss "any significant impacts, including those which can be mitigated but not reduced to a level of insignificance" (emphasis added). "A mitigation measure may reduce or minimize a significant impact without avoiding the impact entirely." 1 Stephen Kostka & Michael Zischke,</p>	The potential environment impacts identified in the Draft PEIR and Recirculated Draft PEIR were evaluated based on the information available for analysis. It should be noted that the Draft PEIR and Recirculated Draft PEIR evaluate potential impacts at a program level because project-specific information is not available. As discussed in the Master Response, the PEIR evaluates continued implementation of the approved General Plan and considers implementation at a plan level. As future development projects are proposed under the approved General Plan, project-specific impacts would be evaluated with additional detail. Without project-specific information, the analysis cannot provide project-specific mitigation.

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	Practice Under the California Environmental Quality Act § 14.6 (2d ed. 2008). The PEIR finds that the City's plans for future growth and development as set out in the General Plan will result in significant and unavoidable impacts in multiple topic areas. Draft PEIR at 1-9 to 1-46. As detailed below, in numerous instances, the PEIR fails to thoroughly assess impacts deemed to be significant and unavoidable and/or fails to identify all feasible mitigation measures to reduce the severity of the impacts.	
C1-5	<p>B. The PEIR Fails to Analyze the Impacts of All Development That Could Occur as a Result of Buildout under the General Plan.</p> <p>The General Plan acknowledges the harmful effects of unrestricted growth in the City, including increased reliance on personal automobile use and the inability to provide efficient public transit service to new development, which leads to increased air pollution and greenhouse gas emissions. General Plan, pp. 3-6, 3-7, and 7-7. Yet, the General Plan proposes land use policies that fail to limit development in future growth areas. Specifically, the General Plan includes objectives and policies that address growth by "promoting" development in certain parts of the City. (See, e.g., Objective UF-12 directing the City to locate roughly one half of future residential development in infill areas; and PEIR at 4.3-28 emphasis added.) However, the General Plan is unclear regarding the definitions for terms such as "roughly" and "approximately" as applied in the Plan. Specifically, the General Plan states that use of these terms is intended to be flexible so that depending on context, a reference to "approximately one-half" could vary at least 10 to 15 percent and use of the term "roughly" could include twice that amount or more. General Plan at 1-30. These vague definitions have important implications when applied to planning policy.</p> <p>For example, General Objective UF-12 directs the City to locate "roughly one half" of future residential development in infill areas. But given the General Plan's flexible definition of the word "roughly," anywhere from 20 percent to over 80 percent of future development could occur in infill areas. General Plan at 1-28 and 1-29. Such "infill" developments in the city have included several sprawl developments, including city islands, east of Highway 180 bordering Clovis and west of Highway 99. However, the DPEIR presents only one set of estimates for the amount of anticipated development at build-</p>	The PEIR is not considering the approval of a proposed new General Plan. The project being evaluated by the PEIR is continued implementation of the General Plan, a General Plan amendment that considers the addition of a new policy related to VMT analyses, update of the Greenhouse Gas Reduction Plan, and updates in response to legislative changes. No land use changes are being proposed by the proposed project. See Master Response: Project Description and Baseline Conditions. No further response is required.

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	<p>out. See DPEIR Table 3-3. Thus, the DPEIR fails to disclose its assumptions for the amount of infill used (i.e., 20 percent, 50 percent, or 80 percent of development in infill areas at build-out) for the analyses of the Project's environmental impacts. Given that the Plan allows a broad range of development to occur outside of infill areas, the PEIR must evaluate potential impacts that would occur if only 20 percent of anticipated future development were to take place in identified infill areas, or better yet, revise General Objective UF-12 to ensure the majority of future development occurs in infill areas and define infill areas with sufficient precision to promote reduced automobile travel. If the majority of Project-related growth takes place outside the identified infill areas, Project impacts related to transportation, air quality and greenhouse gases would be much worse than the DPEIR indicates. These impacts would be even more severe in disadvantaged communities that are already over-burdened with pollution and inadequate access to transit.</p>	
C1-6	<p>C. The DPEIR Ignores Feasible Mitigation, Such as Changes to the Land Use Designations and Densities and Intensities Proposed in the General Plan</p> <p>For several of the General Plan's significant and unavoidable impacts, notably the Project's significant impacts related to greenhouse gas emissions, the DPEIR fails to consider all feasible mitigation. The DPEIR never considers changes to land use designations or densities and intensities as potential mitigation even though such changes could significantly reduce greenhouse gas emissions and other significant impacts disclosed in the DPEIR. CEQA requires the EIR to consider such mitigation.</p> <p>The City cannot approve projects with significant environmental impacts if any feasible mitigation measure or alternative is available that will substantially lessen the severity of any impact. Pub. Res. Code § 21002; CEQA Guidelines § 15126(a). The City is legally required to mitigate or avoid the significant impacts of the projects it approves whenever it is feasible to do so. Pub. Res. Code § 21002.1(b). "In the case of the adoption of a plan, policy, regulation, or other public project [such as the General Plan], mitigation measures can be incorporated into the plan, policy, regulation, or project design." CEQA Guidelines § 15126.4(a)(2). Mitigation is defined by CEQA to include "[m]inimizing impacts by limiting the degree or magnitude of the action and its implementation." CEQA Guidelines § 15370(b). In addition to proposing new</p>	<p>See response to Comment C1-5 and Master Response: Project Description and Baseline Conditions. It should be noted that the proposed project does not include land use changes, and specific development densities and intensities to occur under the approved General Plan are not known. Therefore, analysis of buildout of the currently-approved General Plan land uses is appropriate. Specific mitigation measures will be fully addressed at the appropriate time, and with specific projects, to fully meet all mitigation standards current at the time those projects are proposed. At this point, any further analysis or prescription of mitigation measures would be premature in advance of knowing the details of a specific future project. No further response is required.</p>

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	<p>“policies” as mitigation, mitigation should include changes in where development is planned, what kind is planned, and how dense or intense that development is planned to be, i.e., changes to the land use diagram and land use designations.</p> <p>There is no indication that the DPEIR considered modifications to land use designations or densities and intensities to mitigate the impacts of the General Plan. This omission is surprising given that those changes are the easiest, most effective, and most obvious ways to lessen or avoid many of the General Plan’s impacts. For example, the Plan has resulted, and will continue to result in, locating a substantial amount of new industrial uses in close proximity to existing and proposed residential areas. DPEIR at Figure 3-5 Growth Areas; General Plan Implementation Element Figure IM-2. This will in turn result in increased exposure of sensitive receptors, especially disadvantaged communities, to substantial pollutant concentrations. DPEIR at 4.3-57 and 58. As explained in previous comments, exploring alternative land use scenarios would go a long way toward reducing numerous significant General Plan impacts identified in the DPEIR, and with the MEIR before it, such as air quality, public health, climate change, traffic, and noise.</p>	
C1-7	<p>D. The PEIR Cannot Rely on Unenforceable and Noncommittal General Plan Policies to Mitigate the Project’s Significant Impacts</p> <p>Mitigation measures proposed in an EIR must be “fully enforceable” through permit conditions, agreements, or other legally binding instruments. Pub. Res. Code § 21081.6(b); CEQA Guidelines § 15126.4(a)(2). The PEIR relies on a number of General Plan policies to mitigate significant environmental impacts. See, for example, DPEIR at 4.3-47, 4.3-55, 4.3-59. Many of these General Plan policies and programs are vague, optional, directory, or otherwise unenforceable.</p> <p>For example, the Plan fails to provide enforceable policies that direct orderly growth. Instead, the Plan includes policies that call for “promoting” development in certain parts of the City. See, e.g., Policy LU-1-a (directing the City to promote development within the existing City Limits and in infill areas); Policy LU-1-c (directing the City to promote order land use development in pace with public facilities and services needed to serve development)</p>	<p>As discussed in Master Response: Project Description and Baseline Conditions, the proposed project evaluates potential environmental effects of implementing the approved General Plan text changes to the Mobility and Transportation Element and an update to the Greenhouse Gas Reduction Plan. Where applicable, policies included in the approved General Plan can be used to require future development to incorporate design features and other components that reduce potential environmental impacts. However, as also described in the Master Response, the approved General Plan should not be solely relied on in order to address potential impacts that could occur as a result of future projects. A project-level analysis would be required when known projects are proposed, which would include consideration of applicable General Plan policies in order to determine if potential impacts can be reduced. If application of the policies alone would not sufficiently mitigate project-related impacts, then project-level mitigation measures would be imposed. The result is a more rigorous environmental review process on a project-by-project basis compared with the City’s prior process under the MEIR for the General</p>

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	<p>(emphasis added). These vague and unenforceable policies fail to describe how the City will promote and enforce an orderly growth process and fail to ensure that infill development will occur prior to development in the Growth Areas. General Plan Implementation Element at 12-30.</p> <p>A other examples of ineffective mitigation—out of numerous instances—include the following (emphases added):</p> <ul style="list-style-type: none"> • Policy RC-8-c: Energy Conservation in New Development. Consider providing an incentive program for new buildings that exceeds California Energy Code requirements by fifteen percent. Draft PEIR at 4.3-33. • Policy RC-8-j: Alternative Fuel Network. Support the development of a network of integrated charging and alternate fuel stations for both public and private vehicles, and if feasible, open up municipal stations to the public as part of network development. Id. at 4.3-34. • Policy LU-2-b: Infill Development for Affordable Housing. Consider a priority infill incentive program for residential infill development of existing vacant lots and underutilized sites within the City limits as a strategy to help to meet the affordable housing needs of the community. Id. at 4.6-15. • Policy LU-6-b: Consider adopting commercial development guidelines to assure high quality design and site planning for large commercial developments, consistent with the Urban Form policies of this Plan. Id. at 4.6-16. • Policy LU-1-e: Annexation Requirements. Consider implementing policies and requirements that achieve annexations to the City that conform to the General Plan Land Use Designations and open space and park system, and are revenue neutral and cover all costs for public infrastructure, public facilities, and public services on an ongoing basis. Id. at 4.10-10. • Policy LU-2-a: Infill Development and Redevelopment. Promote development of vacant, underdeveloped, and redevelopable land within the City Limits where urban services are available by considering the establishment and implementation of supportive regulations and programs. Id. at 4.11-11. • Policy D-4-b: Incentives for Pedestrian-Oriented Anchor Retail. Consider adopting and implementing incentives for new pedestrian-friendly anchor 	Plan

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	<p>retail at intersections within Activity Centers and along corridors to attract retail clientele and maximize foot traffic. Id. at 4.6-17.</p> <ul style="list-style-type: none"> Policy D-4-f: Design Compatibility with Residential Uses. Strive to ensure that all new nonresidential land uses are developed and maintained in a manner complementary to and compatible with adjacent residential land uses, to minimize interface problems with the surrounding environment and to be compatible with public facilities and services. Id. at 4.1-10 and 11. <p>A general plan's goals and policies are necessarily general and aspirational. The City may rely on such policies to mitigate environmental impacts under CEQA, however, only if they will be implemented through specific implementation programs that represent a firm, enforceable commitment to mitigate. See <i>Napa Citizens for Honest Gov't v. Napa County Bd. of Supervisors</i> (2001) 91 Cal.App.4th 342, 358 (citing <i>Rio Vista Farm Bureau Center v. County of Solano</i> (1992) 5 Cal.App.4th 351, 377). CEQA requires that mitigation measures actually be implemented—not merely adopted and then disregarded. <i>Anderson First Coalition v. City of Anderson</i> (2005) 130 Cal.App.4th 1173, 1186-87; <i>Fed'n of Hillside & Canyon Ass'ns v. City of Los Angeles</i> (2000) 83 Cal.App.4th 1252, 1261.</p> <p>Here, the General Plan's vague, unenforceable, and noncommittal policies and programs (and policies for which no implementation programs are identified) allow the City to take no action and thus fail to mitigate impacts. As a result, the PEIR cannot ensure that the policies relied on as mitigation measures will ever in fact be implemented. Therefore, they cannot serve as CEQA mitigation. See <i>Anderson First</i>, 130 Cal.App.4th at 1186-87.</p>	
C1-8	<p>III. The RPEIR's Analysis of and Mitigation for the General Plan's Transportation Impacts is Factually and Legally Deficient</p> <p>Leadership Counsel's May 2020 comments and Shute, Mihaly & Weinberger's August 2020 comments alerted the City to deficiencies in the Draft PEIR's and Final PEIR's analysis of the General Plan's transportation impacts, relating both to VMT and impacts on pedestrians, cyclists, and transit riders. Despite recirculating the transportation section of the EIR, the RPEIR's transportation analysis suffers from many of the same flaws as the earlier documents. The RPEIR must be remedied if the public and decisionmakers are to fully understand the General Plan's potential effects.</p>	<p>This comment provides and introduction to the following comments. No further responses is required.</p>

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C1-9	<p>A. The RPEIR Fails to Adequately Analyze Impacts Relating to Conflicts with Programs and Policies Addressing Transit, Bicycle and Pedestrian Facilities</p> <p>The RPEIR relies on CEQA’s Appendix G’s thresholds of significance. To this end, the RPEIR determines that implementation of the approved General Plan would result in a significant impact related to transportation if it would conflict with a program, plan, ordinance or policy addressing the circulation system including transit, roadway, bicycle and pedestrian facilities. RPEIR at 4.16-36. Unfortunately, the RPEIR fails entirely to analyze how implementation of the General Plan would affect programs, plans, ordinances, and policies pertaining to bicycles, pedestrians and transit.</p> <p>The RPEIR focuses exclusively on the adopted General Plan’s conflict with auto-based policies (i.e., policies intended to ensure efficient operations of roadways and intersections). See e.g., RPEIR pp. 4.16-38 through 4.16-41 discussing how General Plan implementation conflicts with the General Plan Mobility and Transportation Element’s policies intended to reduce traffic congestion. While the General Plan’s Mobility and Transportation Element contains numerous policies and objectives intended to ensure that development does not adversely impact travel by pedestrian and bicycles, the RPEIR makes no attempt to determine whether the growth and development contemplated by implementation of the General Plan would be inconsistent with these policies and objectives.</p> <p>For example, several General Plan policies and objectives call for planning for “complete streets,” improving quality of life, implementing traffic calming measures, redesigning streets to support non-automobile travel modes, prioritizing bikeway improvements, retrofitting streets to improve bicycle and pedestrian safety, and taking measures to minimize vehicular and pedestrian conflicts. See RPEIR at 4.16-21 through 4.16-29 (citing Plan policies MT-1-e: Ensure Interconnectivity Across Land Use, MT-1-f: Match Travel Demand with Transportation Facilities, GP Policy MT-1-g: Complete Streets Concept Implementation, Policy MT-1-i: Local Street standards, Policy MT-2-d: Street Redesign where Excess Capacity Exist, Policy MT-2-g: Transportation Demand Management and Transportation System Management; Objective MT-4, MT-4-b: Bikeway Improvements; MT-5-b: Sidewalk Requirements, and Policy MT-2-d:</p>	<p>The PEIR evaluates potential environmental impacts resulting from continued implementation of the approved General Plan, and does not address potential project-level impacts resulting from future projects that would be developed under the approved General Plan. As stated in the Master Response, the proposed project does not include land use changes, nor does it include sufficient detail to analyze specific impacts that could result from continued implementation of the approved General Plan. As stated in the Master Response, the growth anticipated to occur under the approved General Plan was evaluated under the MEIR and through subsequent CEQA analyses of projects occurring since the MEIR was certified in 2014 and the time the NOP was issued for the PEIR in 2019. The policies identified in this comment letter would be evaluated when future projects are proposed to occur under the approved General Plan. The policies of the approved General Plan would not be precluded from being implemented as future discretionary actions are proposed. Policies of the approved General Plan that are identified in this comment are intended to be implemented by the City over the life of the approved General Plan. For example, Policy MT-2-g requires the City to pursue implementation of Transportation Demand Management and Transportation System Management strategies to reduce peak hour vehicle traffic and supplement the capacity of the transportation system. In addition, the proposed project includes the addition General Plan Policy MT-2-m which would require VMT analysis for future discretionary projects in order to be compliant with CEQA. Although continued implementation of the approved General Plan would result in increased vehicular traffic on local roadways, the City can implement Transportation Demand Management and Transportation System Management strategies at the project level as specific projects are proposed. Similarly, Policy MT-1-g requires the City to provide transportation facilities based upon a Complete Streets concept. However, the project evaluated in this PEIR is not proposing any specific roadway improvements, and any Complete Streets features would be implemented as future projects are proposed. Implementation of the approved General Plan would still require adopted General Plan policies to be implemented, and, depending on the future project being proposed, future projects may be mitigated through implementation of those policies. No further response is required.</p>

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	<p>Street Redesign where Excess Capacity Exist). All of these policies and objectives are intended to reduce travel by automobile and promote walking and bicycling. Yet implementation of the General Plan would result in a substantial increase in VMT and traffic congestion (as evidenced by the increase in number of intersections operating at deficient LOS levels) and thus would be directly at odds with these important General Plan policies and objectives. But the RPEIR omits any analysis of these conflicts. Consequently, the City is not only in violation of CEQA for not analyzing these inconsistencies, it is also missing a critical opportunity to promote alternative modes of travel. Moreover, the conflicts that General Plan implementation would create with these General Plan policies and objectives constitutes a significant impact. See RPEIR at 4.16-36 (the project would have a significant impact related to transportation if it would “[c]onflict with a program, plan, ordinance or policy addressing the circulation system including transit, roadway, bicycle and pedestrian facilities.”)</p> <p>The RPEIR also fails to acknowledge that General Plan implementation would be clearly inconsistent with policies in the Mobility and Transportation Element that call for reducing VMT. For example, Policy MT-2-b: Reduce Vehicle Miles Traveled and Trips and Policy MT-2- c: Reduce VMT through Infill Development (pp. 4.16-2- through 4.16-24) call for implementing various strategies to reduce VMT including through the provision of incentives for infill development. Because the General Plan would result in a substantial increase in VMT, it would be clearly inconsistent with these policies. The RPEIR’s failure to acknowledge the General Plan’s inconsistency with these policies is another serious flaw and this inconsistency constitutes a significant impact.</p> <p>Finally, the RPEIR fails to analyze how General Plan implementation would conflict with applicable transit policies. Here, the RPEIR errs in two ways. First, it does not analyze the General Plan’s inconsistency with the multiple policies calling for the City to increase public transit (e.g., General Plan Policy MT-8-b: Transit Serving Residential and Employment Nodes, Policy MT-8-c: New Development Facilitating Transit, and Policy MT-8-j: Transit Services, Policy MT-9-c: Addressing Unmet Transit Needs, Policy MT-9-e: Area Specific Transit Improvements). See RPEIR at 4.16-32 through 4.16-35. Here too, the RPEIR focuses exclusively on analyzing how the General Plan may conflict with auto-</p>	

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	<p>oriented policies and ignores altogether the General Plan’s potential to conflict the transit-oriented General Plan policies and objectives.</p> <p>Second, the RPEIR omits any analysis of how growth resulting from implementation of the General Plan would affect local and regional transit service. The City operates Fresno Area Express (FAX) which operates 17 fixed-route buses, including paratransit services. RPEIR at 4.16-7. The RPEIR fails to provide any information about existing local and regional transit service and does not disclose how growth resulting from General Plan implementation would affect transit service. Buildout of the General Plan could increase transit demand potentially causing overcrowding of buses and the potential for drivers to pass-up waiting passengers. The addition of vehicle traffic generated by the General Plan could also increase bus delay, reduce the ability of FAX to meet its on-time performance and schedule goals, and increased pedestrian safety risks. This could cause people to switch to using private vehicles, increasing the lowoccupancy vehicle share of trips causing secondary safety impacts from the increased number of motor vehicles on city streets.</p> <p>The RPEIR must be revised to evaluate how growth from General Plan implementation would affect the City’s bicycle, pedestrian and transit’s plans, programs and policies. The revised document must begin this evaluation by estimating existing mode share (e.g., the number of people walking, biking, taking transit, and driving) and then disclose mode share upon build out under the General Plan. Then the RPEIR must also identify any specific bike, pedestrian and transit projects that would be implemented as a result of the General Plan. Finally, the revised RPEIR must identify mitigation for pedestrian, bicycle and transit related impacts.</p>	
C1-10	<p>B. The RPEIR Fails to Adequately Analyze Impacts Relating to VMT and Lacks Support for Its Conclusion That Impacts Relating to VMT Would Be Less than Significant</p> <p>The RPEIR’s analysis of the General Plan’s effect on VMT is deficient because it fails to document its assumptions relating to existing and General Plan-related VMT, and because it lacks support for its conclusion that the General Plan’s VMT-related impacts would be less than significant.</p> <p>The RPEIR identifies existing (2019) VMT and VMT under the General Plan</p>	<p>The VMT analysis included in the Draft PEIR concluded that, in the absence of thresholds in which to evaluate potential VMT-related impacts against, a significance determination could not be made. After the Draft PEIR was published, the City adopted Guidelines for VMT thresholds in July 2020. Based on the adopted thresholds, the Recirculated Draft PEIR concluded that any net increase in VMT would result in a significant impact. Program-level mitigation measures are not available to reduce potential VMT impacts, however, as discussed on page 4.16-44 of the Recirculated Draft PEIR, the City’s Guidelines for VMT Thresholds includes a summary of the VMT mitigation measures and</p>

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	<p>in 2035. See Table 4.16-B: County and City of Fresno VMT, Draft PEIR at 4.16-43. However, it is not sufficient to simply identify these numbers without providing information about how the RPEIR arrived at these estimates. Meaningful analysis of impacts effectuates one of CEQA's fundamental purposes: to "inform the public and responsible officials of the environmental consequences of their decisions before they are made." Laurel Heights Improvement Ass'n v. Regents of the University of California (1993) 6 Cal.4th 1112, 1123. To accomplish this purpose, an EIR must contain facts and analysis, not just an agency's bare conclusions. Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 568. An EIR's conclusions must be supported by substantial evidence. Laurel Heights Improvement Ass'n v. Regents of the University of California (1988) 47 Cal.3d 376, 409.</p> <p>As transportation engineer Neal Liddicoat with Griffin Cove Transportation Consulting ("GCTC") explained in his comments on the Draft PEIR, the brevity of the VMT discussion in the PEIR is a function of the "black box" analysis procedure involved. See GCTC Report, August 7, 2020, Attachment 2, p. 1. The RPEIR employs precisely the same approach as the Draft PEIR, and suffers from precisely the same flaws, and his comments are therefore equally applicable to the RPEIR. The RPEIR's VMT analysis was completed entirely within the Fresno Council of Governments Regional Travel Demand Model (also referred to as the "Activity- Based Model"). As such, the background assumptions and detailed analysis steps are unknown and it is impossible for the public and decisionmakers to determine whether the VMT estimates are accurate. Id. This error is particularly serious because Neal Liddicoat also informed the City of this precise problem in his 2014 comments on the MEIR's transportation analysis. See Letter from N. Liddicoat, MRO Engineers to C. Borg, Shute, Mihaly & Weinberger, LLP, September 10, 2014, p. 5, Attachment 3 to this letter: "No information is provided in the DMEIR with regard to the specific input parameters that were used in developing the theoretical thresholds applied in the LOS analysis, whether for freeways or any of the other roadway types presented. Consequently, it is impossible to judge whether the analysis is credible and, moreover, whether the LOS results are valid.").</p> <p>The RPEIR errs further because it fails to identify mitigation for the significant increase in VMT that would result from implementation of the</p>	<p>project alternatives that could be used to reduce VMT at a project-level. However, these mitigation measures and project alternatives are required be implemented through continued implementation of the approved General Plan and as discretionary projects are proposed. Therefore, because these future projects are unknown at this time, VMT impacts remain significant and unavoidable at a plan level and no mitigation measures are available to reduce the potential impacts.</p> <p>In addition to the recommended mitigation measures, the City currently uses a City staff-developed Urban Design Calculator to identify measures that could be used in to reduce potential VMT impacts. In addition, the City allows for project applicants to propose project-specific mitigation measures (supported by substantial evidence) to reduce potential VMT impacts. The City is currently in the process of retaining a consulting firm to further refine the City's VMT mitigation measures and to develop a mitigation program to offset potential VMT impacts. Taken together with policies in the approved General Plan, and continued efforts to mitigate potential VMT impacts at a project-level, the City intends to provide several possible ways to address VMT.</p>

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	<p>General Plan. Rather than provide meaningful mitigation for this impact, the RPEIR generally refers to VMT mitigation measures and project alternatives purportedly contained within the City's Guidelines for VMT Thresholds. RPEIR at 4.16-44. The RPEIR does not bother to specifically identify these mitigation measures. Instead the RPEIR simply concludes that VMT-related impacts would be significant and unavoidable. RPEIR at 4.16-44. The RPEIR's lackluster approach to impact analysis and mitigation violates CEQA. A lead agency cannot simply conclude that an impact is significant and unavoidable and move on. A conclusion of residual significance does not excuse the agency from (1) performing a thorough evaluation and description of the impact and its severity before and after mitigation, and (2) proposing all feasible mitigation to "substantially lessen the significant environmental effect." CEQA Guidelines § 15091(a)(1); see also id. § 15126.2(b) (requiring an EIR to discuss "any significant impacts, including those which can be mitigated but not reduced to a level of insignificance" (emphasis added). Consequently, the City must consider feasible mitigation measures in a revised and recirculated RPEIR.</p> <p>The City's CEQA Guidelines for VMT thresholds, adopted June 2020, are an important first step as they set forth measures that, if revised to be more specific and enforceable, could potentially reduce vehicular travel associated with buildout of the General Plan. Indeed, the Guidelines concede that the measures provided in the Guidelines are mere summaries of measures. The Guidelines do nothing more than direct the reader to the "original source" for details and subsequent updates to the mitigation measures. Fresno VMT Guidelines at 42. The City must take the general measures identified in the Guidelines and refine them so that they are able to reduce the General Plan's significant VMT impacts. For example, the revised RPEIR must identify feasible, specific, and efficacious mitigation measures for the following categories:</p> <ul style="list-style-type: none"> • Public transportation: expand the City's public transportation network, increase capacity on transit lines, and increase the frequency of transit service; require development to subsidize public transit service upgrades; and require development to provide transit passes; • Shuttle service: require development to implement shuttle service to reduce motor vehicle trips; 	

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	<ul style="list-style-type: none"> • Electric infrastructure: increase electric vehicle infrastructure (e.g., charging equipment) beyond the levels identified in the General Plan; • Bicycle and pedestrian: improve pedestrian and bicycle networks; require development to provide bike parking in non-residential projects; and, • Parking management: limit or eliminate parking supply; unbundle parking costs from property costs. 	
C1-11	<p>C. The PEIR Fails to Analyze or Mitigate Significant Impacts on Pedestrians, Cyclists, and Transit Riders</p> <p>The PEIR does not evaluate the significant impacts on pedestrians, cyclists, and public transit riders that will be caused by increased vehicle miles traveled (VMT) under the General Plan. The PEIR concludes that VMT will increase substantially from the General Plan's implementation. See PEIR at 4.16-41. The PEIR acknowledges that this VMT increase will "result in a significant impact [under CEQA]." Id. at 4.16-44. As transportation engineer Neal Liddicoat with Griffin Cove Transportation Consulting ("GCTC") explains in his comments on the RPEIR, the RPEIR fails to adequately analyze the General Plan's impact on pedestrians, cyclists, and transit riders. See GCTC Report, May 7, 2021, Attachment 4, p. 1. Although the General Plan places a heavy emphasis on the importance of pedestrian and bicycle travel in Fresno's future, the RPEIR transportation analysis largely ignores these non-motorized travel modes. Id. at 3.</p> <p>The PEIR's failure to analyze impacts on pedestrians, cyclists and transit riders violates CEQA. CEQA requires the City to evaluate the General Plan's traffic safety impacts on pedestrians, cyclists, and transit riders. See <i>City of Maywood v. Los Angeles Unified Sch. Dist.</i>, (2012) 208 Cal. App. 4th 362, 392-95 (holding EIR was inadequate because it failed to analyze and mitigate project impacts on pedestrians). The City must also identify and adopt feasible mitigation measures to reduce those impacts if feasible. Pub. Res. Code § 21083(b)(2); CEQA Guidelines § 15064(h)(1)). Here, however, the PEIR states explicitly that it "does not consider potential impacts on walking, biking, and transit. Pedestrians, bicyclists, transit riders are all users of the roadway system but may not be fully recognized in the traffic operations analysis and the</p>	<p>See Master Response: Project Description and Baseline Conditions.</p> <p>As discussed in the Master Response, the proposed project includes addition of a new VMT policy and evaluates potential environmental impacts at a program level. As identified in the Master Response and throughout the Draft PEIR and Recirculated Draft PEIR, addressing project-level impacts is not possible at this time without project-specific information. The 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. Furthermore, the Northpointe Drive Settlement Agreement includes several actions to address potential impacts, including pedestrian and cyclist safety, and transit ridership.</p> <p>See response to Comment C1-10 regarding potential impacts related to VMT.</p>

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	<p>calculation of LOS.” PEIR at 4.16-4. It is an understatement to say that the impacts on pedestrians and bicyclists “may not be fully recognized” in the LOS analysis. GCTC Report, at 3. In fact, the impacts on those vulnerable transportation system users have been completely ignored in the RPEIR, as well as in the technical report provided in Appendix J. Id. Nor does the PEIR identify any feasible mitigation measures to address the potentially significant VMT impacts. The City’s failure here “precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process.” Ass’n of Irrigated Residents v. Cty. of Madera (2003) 107 Cal. App. 4th 1383, 1391.</p> <p>The failure to address pedestrian safety is particularly concerning given recent trends in pedestrian fatalities. GCTC Report at 5-6 & Tables 2 & 3. VMT increases are concomitant with increased traffic fatality rates. See Hamed Ahangari, et al., Automobile-dependency as a barrier to vision zero, evidence from the states in the USA, ACCIDENT ANALYSIS & PREVENTION, Vol. 107 (2017), at 77-85². The fatalities and other negative impacts caused by increased VMT are not limited to motorists; increases in vehicle travel negatively affect pedestrians, cyclists, and many transit users. See Governor’s Office of Planning and Research, Technical Advisory: On Evaluating Transportation Impacts in CEQA (December 2018), at 7.³ Again, pedestrians and bicyclists are vulnerable users of the transportation system, as they are not protected by thousands of pounds of vehicular structure, airbags, and other such safety devices. GCTC Report at 7. In 2018, 64 percent of deadly vehicle collisions in Fresno involved pedestrians.⁴ Pedestrians are 1.5 times more likely than passenger vehicle occupants to be killed in a car crash. GCTC Report at 7. In California, more than one quarter of people killed in motor vehicle collisions are pedestrians, bicyclists, or users of other non-motorized modes. Fang, et al., Cutting Greenhouse Gas Emissions Is Only the Beginning: A Literature Review of the Co- Benefits of Reducing Vehicle Miles Traveled, U.C. DAVIS WHITE PAPER (March 2017).⁵</p> <p>Although VMT increases are directly related to pedestrian and cyclist deaths and negative impacts on residents that rely on public transportation, the RPEIR does not analyze or attempt to mitigate these impacts. The PEIR lists certain General Plan policies relating to walking, biking, and public</p>	

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	<p>transportation. See GCTC Report at 4. The RPEIR also discusses the City’s Active Transportation Plan—a plan which was adopted after the General Plan and which is not a component thereof. However, the RPEIR does not include any discussion of how the General Plan itself might impact pedestrians, cyclists, or public transit users, and to what extent the policies identified affect the impacts. See id. Indeed, the impacts on pedestrians and bicyclists are not addressed within the RPEIR in terms of either system operational capacity (i.e., will the City be able to accommodate the demand for these non-motorized travel modes?) or, more importantly, safety GCTC Report at 4. This failure does not satisfy CEQA’s informational mandate.</p> <p>The RPEIR’s failure to address these impacts is particularly concerning because increased VMT raises environmental justice concerns. Increased VMT will cause impacts on residents of lower-income neighborhoods and neighborhoods of color in South Fresno, which disproportionately rely on active transportation and public transit. See City of Fresno, Active Transportation Plan, at Figure 37.⁶ These neighborhoods also lack basic infrastructure (e.g., sidewalks, streetlights, crosswalks, storm water drainage) to accommodate walking and biking safely. See, e.g. General Plan at 4-16 & 3-66 to 3-68. For instance, the route that many schoolchildren take to Orange Center Elementary School lacks sidewalks, stormwater drainage, safety installations and even a crosswalk on East Central Avenue, which is a primary route for truck traffic.</p> <p>These disproportionate impacts are exacerbated by the General Plan’s designation of these same neighborhoods for heavy industrial and warehouse development—which the RPEIR acknowledges generate significant truck and car traffic. Pedestrians and bicyclists are often vulnerable users of the transportation system. GCTC Report at 4-5. They operate within a system that has traditionally focused on the needs of motor vehicles weighing thousands of pounds, many of which are operated by drivers who are increasingly distracted by cell phones and unnecessarily complicated automotive infotainment systems. Id. This vulnerability will be exacerbated by the future warehouse (and other industrial facility) projects contemplated by the General Plan. For instance, a recently approved warehouse in the North Pointe Business Park in South Fresno will generate more than 3,000 vehicle trips a day, or 1.1 million</p>	

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	<p>trips a year. See Urban Crossroads, Northpointe Building 31 Trip Generation and Impact Assessment (November 2020) p. 4, Attachment 5. This is only one of several warehouses generating thousands of trips every day in South Fresno. In fact, the City has approved over more than at least 2.8 million square feet of warehouse development since the General Plan was approval and more than 5 million square feet since 2012. See Attorney General Letter to City's Director of Development and Resource Management, Re: City of Fresno's South Industrial Priority Area Specific Plan (August 2, 2019) at 10⁷; Footnote 48, p. 63. Pedestrians and cyclists forced to share the road with intensive truck and car traffic will be impacted by the air pollution, noise, and vibration generated by that traffic and the safety hazard of walking and biking on roads shared by trucks without sidewalks, crosswalks, speed bumps, or other protective measures.</p> <p>Furthermore, the RPEIR incorrectly concludes that there are no feasible mitigation measures for reducing increased VMT impacts. The City cannot approve projects with significant environmental impacts if any feasible mitigation measure or alternative is available that will substantially reduce the project's effects. See Pub. Res. Code § 21002; CEQA Guidelines § 15126(a). Significant impacts must be mitigated when it is feasible to do so. Pub. Res. Code § 21002.1(b); Covington v. Great Basin Unified Air Pollution Control Dist. (2019) 43 Cal.App.5th 867, 879. 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. Pub. Res. Code § 21061.1; CEQA Guidelines § 15364; Covington (2019) 43 Cal.App.5th at 878. The City's conclusion that there are no feasible mitigation measures for VMT impacts is without merit.</p> <p>The City's determination that there are no feasible mitigation measures is based on the RPEIR's cursory observation that "mitigation would be limited to re-designating the affected arterials to a higher classification, creating a new General Plan LOS goal, widening the roads, or identifying the infeasibility of acquiring the affected right-of-way and implementing road widening." RPEIR at 4.16-41. However, the RPEIR fails to conduct the required feasibility analysis. See Pub. Res. Code § 21061.1; CEQA Guidelines § 15364. In fact, there are potentially feasible mitigation measures here. For instance, the California Air</p>	

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	<p>Resources Board has made many suggestions for mitigating VMT impacts—such as providing more public transportation options and investing in disadvantaged communities.^{8,9} Similarly, the Governor’s Office of Planning and Research has found that “data from the past two decades shows that economic growth is possible without a concomitant increase in VMT.” See OPR, Technical Advisory, at 3. The RPEIR inexplicably disregards these potentially feasible mitigation measures to reduce significant VMT impacts on pedestrians, cyclists, and public transit users.</p> <p>It is critically important that the potential safety impacts associated with continued implementation of the Fresno General Plan be adequately addressed. GCTC Report at 7. As currently presented, that is not the case. Id. The RPEIR should consider, at a minimum, the following potentially feasible mitigation measures:</p> <ul style="list-style-type: none"> ● Rezoning industrial zoned land on streets where residences are located and on routes to schools to reduce truck traffic; ● Investing in sidewalks, streetlights, crosswalks, transit stops, bicycle lanes, speed bumps and other pedestrian safety infrastructure on heavily travelled routes. (Active transportation infrastructure should be on both sides of the street, not just the side of development projects, which is all the City currently requires.) <p>² Available at https://blinktag.com/induced-travel-calculator/downloads/20180413-Automobile_dependency_as_a_barrier_to_vision_zero_evidence_from_the_states.pdf</p> <p>³ Available at http://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf</p> <p>⁴ https://www.yourcentralvalley.com/news/64-percent-of-fresnos-deadly-collisions-are-vehicle-vs-pedestrian-onespolice-say/</p> <p>⁵ Available at https://ncst.ucdavis.edu/project/cutting-greenhouse-gas-emissions-only-beginning-literature-reviewco-benefits-reducing</p> <p>⁶ Available at https://www.fresno.gov/publicworks/wpcontent/uploads/sites/17/2016/09/170022FresnoATPFinal012017.pdf</p>	

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	<p>⁷ Available at https://oag.ca.gov/sites/all/files/agweb/pdfs/environment/comments-fresno-south-industrial-priorityarea-specific-plan-08-02-2019.pdf.</p> <p>⁸ CARB 2017 Scoping Plan Identified VMT Reductions and Relation to State Climate Goals (January 2019), https://ww2.arb.ca.gov/sites/default/files/2019-01/2017_sp_vmt_reductions_jan19.pdf.</p> <p>⁹ CARB Staff Presentation, Interface Between Air Quality, Climate Change, and Transportation (June 27, 2018), https://ww3.arb.ca.gov/board/books/2018/062718/carbstaffpres.pdf?_ga=2.203024280.884607571.1530222910-1119340360.1463155559.</p>	
C1-12	<p>IV. The RPEIR Fails to Adequately Analyze and Mitigate the Project's Air Quality Impacts</p> <p>The City of Fresno and the surrounding San Joaquin Valley Air Basin suffer from some of the nation's worst air pollution. In its 2020 State of the Air Report, the American Lung Association graded the Fresno-Madera-Hanford Metropolitan Area as the city with the worst short-term air pollution (24-hour PM_{2.5}) the nation. pp. 8, 20. The State of the Air Report also ranked the Fresno Metropolitan area the second worst city for annual particle pollution and the fourth most ozone polluted city.¹⁰ ALA, State of the Air Report, pp. 9, 21, 22. All Fresno residents are impacted by the region's poor air quality, but vulnerable populations, including people of color, low-income residents, children, and people with underlying health conditions, face heightened health risks. Id. pp. 20, 21, 37, 66. And South Fresno neighborhoods, where the General Plan concentrates industrial and warehouse land uses, are disproportionately exposed to concentrated air emissions generated by these facilities.</p> <p>It is therefore imperative that the RPEIR provide an accurate assessment of the Project's potential to further degrade air quality and the impact of air emissions on vulnerable residents and identify and adopt all feasible mitigation measures to minimize those impacts. Nevertheless, the RPEIR omits critical information that is necessary to allow the public and decision-makers to understand the nature or magnitude of its impacts and fails to identify enforceable mitigation measures to reduce those impacts.</p> <p>¹⁰ Available at http://www.stateoftheair.org/assets/SOTA-2020.pdf, access on</p>	<p>This comment provides an introduction to the following comments regarding air quality and greenhouse gas emissions, and does not provide specific comments on the adequacy of the analysis included in the Recirculated Draft PEIR. No responses is required.</p>

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C1-13	<p>1. The RPEIR Fails to Adequately Describe the Existing Setting by Failing to Acknowledge the Location of Existing Sensitive Receptors and Their Vulnerability to Air Pollution Exposure</p> <p>The General Plan designates approximately 5,000 acres of land in Southwest, South Central, and South East Fresno for industrial and warehouse development, including land currently occupied by residences and places of worship and on land surrounding schools and other sensitive receptors. The Plan also allows excessive vehicle traffic serving this planned industrial and warehouse development to use roadways, such as East Central Avenue and Jensen Avenue, which are lined with occupied housing. Despite the General Plan's policies to encircle and replace neighborhoods with development responsible for significant quantities of criteria and toxic air pollutants, the RPEIR includes no description about the location of existing sensitive receptors which may be exposed to air pollution as a result of the Project. In fact, the RPEIR's discussion of sensitive receptors is limited to a definition of the term "sensitive receptors" and the acknowledgement that "There are many sensitive receptors throughout the city of Fresno." RPEIR, p. 4.3-8.</p> <p>This omission renders the EIR inadequate. An EIR's description of the environmental setting must be contain sufficient information to "permit the significant effects of the project to be considered in the full environmental context." CEQA Guidelines, § 15125(c). "If the description of the environmental setting 'is inaccurate, incomplete or misleading, the EIR does not comply with CEQA.'" <i>Cleveland National Forest Foundation v. San Diego Assn. of Governments</i> (2017) 17 Cal.App.5th 413, 439. An accurate description of the environmental setting is critical, because the significance of an activity may vary with the setting. CEQA Guidelines, § 15064(b). A "project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant." <i>Kings County Farm Bureau v. City of Hanford</i> (1990) 221 Cal.App.3d 692, 718, 721; CEQA Guidelines, § 15300.2(a)). The RPEIR should 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</p>	<p>Programmatic analysis cannot include an identification of the location of all existing sensitive receptors through the Planning Area. At the time that discretionary projects are proposed under the approved General Plan, site-specific project-level analysis would be required to identify sensitive receptors. Sensitive receptors will be evaluated for vulnerability to air pollution exposure based on a project-specific analysis as required under Mitigation Measure AIR-2.1, Mitigation Measure AIR-2.2, and Mitigation Measure AIR-3.1. If required, mitigation measures would be imposed to address potentially-significant impacts. Without a specific project application, it is not possible to address site-specific impacts to sensitive receptors.</p> <p>The Recirculated Draft PEIR includes a detailed discussion regarding the South Central Fresno CERP. 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.</p> <p>Refer to Master Response: Project Description and Baseline Conditions.</p>

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	<p>diesel truck traffic and car traffic as a result of General Plan implementation. The existence of entire communities on land planned or surrounded by land designated for industrial development is a component of the environmental context which the RPEIR must consider for the public and decision-makers to fully understand the nature and scope of the Project's impact on air quality, public health, other environmental impacts.</p> <p>The RPEIR's failure to include information about the environmental setting in communities vulnerable to the General Plan's industrial development plans also prevents the RPEIR from making accurate determinations about the significance of project-related air emissions and exposure of sensitive populations to toxic air contaminants. "[A]n 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." <i>Sierra Club v. County of Fresno</i> (2018) 6 Cal.5th 502, 514. Here, the RPEIR cannot accurately assess the nature and magnitude of the impact of exposure of sensitive receptors to air emissions without information about existing air pollution levels in vulnerable communities, health factors impacting susceptibility to adverse outcomes due to air pollution exposure, or the location of sensitive receptors.</p> <p>Although the RPEIR does not disclose it, many South Fresno neighborhoods, including in the South Industrial Priority Area, are heavily impacted by emissions from existing industrial uses, warehouse distribution centers, freeway traffic, fueling stations, and the use of local roadways for heavy diesel truck traffic. These neighborhoods include neighborhoods in Southwest Fresno, South Central Fresno, Calwa, the community located along Drummond and Jensen Avenues, and Southeast Fresno. These and other South Fresno neighborhoods rank among the most pollution burdened in the state according to the California Communities Environmental Health Screening Tool (CalEnviroScreen), 3.0., a tool created by the California EPA to identify communities by census tract which are disproportionately burdened by and vulnerable to multiple sources of pollution.¹¹ See Attachment 6, Fresno CalEnviroScreen Results¹²; Attachment 7, CalEnviroScreen 3.0 Excell Results (Abridged)¹³. To rank neighborhoods across the state, CalEnviroScreen 3.0 uses pollution burden and population characteristic indicators. The CalEnviroScreen</p>	

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	<p>pollution burden indicators include air pollution exposure indicators for ozone, PM2.5, Diesel, Particulate Matter, pesticide use, toxic releases from facilities, and traffic density.^{14 15}</p> <p>Ten of the twenty highest ranked census tracts in the state under CalEnviroScreen are located in South Fresno neighborhoods. See Attachment C. Census Tract 601900100 ranks as the most pollution-burdened census tract and encompasses portions of South Central, Southwest, and Southeast Fresno, including the Orange Center Elementary School. In terms of air pollution exposure, Census Tract 601901100 in the 93706 zip code ranks in the 98th percentile for ozone, 97th percentile for toxic releases from facilities, 97th percentile for PM2.5, and 95th percentile for diesel. Census Tract 6019001500, located in the 93725 zip code and which includes incorporated and unincorporated residential neighborhoods in South Central and Southeast Fresno, is listed as the third most pollution burdened neighborhood in the state, ranks as the fifth most pollution burdened census tract and ranks in the 98th percentile for ozone, 98th percentile for toxic releases, 97th percentile for PM2.5, and 95th percentile for pesticides. As another example, Census Tract 601901000 in the 93706 zip code ranks as the eighth most pollution burdened census tract in the state and in the 99th percentile for ozone and toxic releases, 97th percentile for PM2.5, and 96th percentile for diesel and traffic.</p> <p>These same census tracts, census tracts 601901100, 6019001500, and 601901000, and other top-ranking census tracts in South Fresno, score among the highest in the state for the CalEnviroScreen population indicators for asthma, low-birth weight, and cardiovascular disease.¹⁶ Air pollution exposure is a known cause and contributor to these health issues, and those health issues render individuals even more vulnerable to further health impacts from pollution. See Attachment XX; Update to the California Communities Environmental Health Screening Tool, CalEnviroScreen 3.0 Report, January 2017, pp. 6-7, 11, 27, 33, 60. ¹⁷ Therefore, the RPEIR must disclose these existing sensitive receptors and their vulnerability to air pollution exposures.</p> <p>¹¹ CalEPA's Office of Environmental Health Hazard Assessment (OEHHA)'s webpage on CalEnviroScreen, 3.0 is accessible at this link: https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30</p> <p>¹² Downloaded from the California Office of Environmental Health Hazard</p>	

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	<p>Assessment's CalEnviroScreen 3.0 website at https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30 on May 10, 2020</p> <p>¹³ Downloaded from the California Office of Environmental Health Hazard Assessment's CalEnviroScreen 3.0 website at https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30 on May 10, 2020.</p> <p>¹⁴ See OEHHA's CalEnviroScreen 3.0 "Pollution Indicators" webpage, accessible at https://oehha.ca.gov/calenviroscreen/pollution-indicators</p> <p>¹⁵ The City could also use data from the U.S. EPA's National Air Toxic Assessment which includes data on ambient pollution concentrations, exposures, and health risks for every census tract in the U.S., to illustrate relevant characteristics of the environmental setting.</p> <p>¹⁶ Census Tract 6019001100 ranks in the 97th percentile for asthma, the 93rd percentile for lowbirth weight (LBW), and the 96th percentile for cardiovascular diseases. Census Tract 6019001000 ranks in the 98th percentile for asthma, 80th percentile for LBW, and 97th percentile for cardiovascular disease. Census Tract 6019001000 ranks in the 99th percentile for asthma, the 97th percentile for LBW, and the 91st percentile for cardiovascular disease. See Attachment C.</p> <p>¹⁷ Available at oehha.ca.gov/media/downloads/calenviroscreen/report/ces3report.pdf.</p>	
C1-14	<p>2. The RPEIR Fails to Accurately Describe Potential Inconsistencies Between the Project and Applicable Air Quality Plans</p> <p>CEQA requires EIRs to discuss any inconsistencies between the proposed project and applicable air quality plans. See CEQA Guidelines § 15125(d). Here, the RPEIR fails to discuss the inconsistencies between the General Plan's implementation and South Central Fresno's Community Emissions Reduction Plan under AB 617 (C. Garcia, Stats. 2017).</p>	<p>A detailed discussion regarding the South Central Fresno Community Emissions Reduction Plan (CERP) was added to the Recirculated Draft PEIR beginning on page 4.3-49. The text includes evaluations of heavy duty mobile sources measures, older/high polluting passenger cars measures, residential burning measures, agricultural operations measures, industrial source measures, and emissions exposure and land use measures. As discussed, the proposed project would generally implement the applicable measures outlined in the CERP, including emissions exposure and land use measures. For example, the CERP suggested measure HD.11 which would reroute heavy duty trucks off of Jensen Avenue to other streets. In addition, the City is in the process of preparing this truck rerouting plan as part of the Northpointe Drive Settlement Agreement. Measure LU.2 of the CERP provides assistance during the CEQA process with guidance to land use agencies, project proponents, and the public on how a</p>

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		proposed project may impact air quality in the San Joaquin Valley, and information on how air pollution impacts could be reduced. The City implements this measure by including the SJVAPCD in the City's pre-application process and by regularly communicating with SJVAPCD staff on potential project impacts. However, the SJVAPCD and CARB are responsible for implementing the measures included in the CERP. For example, the CERP includes incentive programs to fund deployment of zero emission yard trucks, installation of EV chargers, and chipping agricultural materials. These measures are intended to be implemented on a case-by-case basis. In most cases, SJVAPCD and CARB are responsible for implementing the measures. As a result, the proposed project would not conflict with or hinder implementation of the CERP.
C1-15	<p>3. The RPEIR Fails to Describe the General Plan Implementation's Inconsistencies with South Central Fresno's AB 617 Community Emissions Reduction Plan</p> <p>In 2018, the California Air Resources Board (CARB) selected the South Central Fresno community, as described in the RPEIR, for the development of a Community Air Monitoring Plan and Community Emissions Reduction Program (CERP) pursuant to AB 617. AB 617 requires CERPs to reduce cumulative air pollution in disadvantaged communities such as South Central Fresno. Health & Safety Code § 44391.2 (c)(2). South Central Fresno was selected in recognition of its high cumulative air pollution exposure burden, significant number of sensitive receptors, and census tracts which have been designated as disadvantaged communities. After substantial work to develop a plan to reduce emissions in South Central Fresno by community members and Air District staff, in September 2019 CARB approved the CERP under AB 617¹⁸. The CERP recognizes that the majority of air pollution emissions in South Central Fresno come from mobile and industrial sources. p. 69. As described by CARB, the CERP "focuses on reducing exposure to fine particulate matter (PM2.5), toxic air contaminants (TAC), as well as oxides of nitrogen (NOx)."¹⁹</p> <p>The CERP is unequivocal that its purpose is to reduce pollution in the designated south Fresno area. While the San Joaquin Valley Air Pollution Control District ("Air District") leads CERP implementation, the City has a critical role in supporting CERP implementation and emission reduction.</p>	See response to Comment C1-14. In addition, the Northpointe Drive Settlement Agreement includes several measures that address potential air quality impacts in the South Central Fresno Specific Plan Area referenced in this comment. The Northpointe Drive Settlement agreement includes measures such as a creation of a Community Benefit Fund to fund qualified mitigation improvements in the South Central Specific Plan Area, a truck routing study, and development of electric vehicle charging infrastructure. The Northpointe Drive Settlement Agreement also enhances community participation in creation of the Community Benefit Fund through regularly scheduled meetings with City staff, representatives from the Leadership Counsel, sensitive receptors in the vicinity of the project, and members of the South Fresno Community Alliance. Enhanced community participation in land use decisions, called for in Policy LU.4 of the CARB-approved CERP is also being implemented through the public process for drafting the South Central Specific Plan, which includes a steering committee composed of stakeholders and community members who have prepared three alternatives for a proposed land use map that will be analyzed pursuant to CEQA. This project-level, and specific plan level analysis is consistent with relevant policies in the CERP. In contrast, the proposed project does not include land use changes in the General Plan, and is limited to updating the analysis to reflect legislative updates, updating the Greenhouse Gas Reduction Plan, and the addition of a new VMT-related policy. See Master Response: Project Description and

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	<p>Several policies and commitments in the CERP implicate the City of Fresno’s participation, yet none of these policies and commitments have made their way into either the General Plan or the RPEIR. Some of the relevant policies and commitments in the CERP that require municipal coordination include:</p> <ul style="list-style-type: none"> ● HD.11: Heavy Duty Truck Rerouting ● C.5: Incentive Program for Educational Training for Electric Vehicle Mechanics ● LU.2: Provide Assistance During the California Environmental Quality Act Process ● LU.3: Provide Education and Outreach on Available Tools for Public Information Regrading Land Use Projects ● LU.4: Collaborating to Enhance Community Participation in Land Use Processes ● FD.2: Street Sweeping ● Strengthened working relationship between the Air District and agencies that have land use and transportation authority in South Central Fresno, including development of a Memorandum of Understanding or other appropriate mechanisms for coordination. <p>And the Response to Comments also declines, for example, to consider suggestions from the Air District that revisions be made to the General Plan to discuss a heavy-duty truck rerouting study from the adopted CERP, noting that “approved General Plan at this time are limited to specific changes related to VMT and compliance with recent legislative updates.” Response to Comments, p. 3-55.</p> <p>The RPEIR concludes that the Project is consistent with the CERP, because many of the CERP’s policies require implementation by the Air District or CARB and because the General Plan contains policies supporting mixed-use development and multi-modal transportation. Yet the RPEIR’s analysis fails to acknowledge or discuss the General Plan’s South Industrial Priority Area, which designates roughly 5,000 acres of land for heavy industrial use in an area that</p>	<p>Baseline Conditions.</p>

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	<p>falls within the AB 617 South Fresno community boundaries. General Plan, pp. 2-13, 12-26, Figure IM-1; See Draft South Industrial Priority Area Specific Plan, March 2019, p. 7²⁰. We have provided below copies of the South Central Fresno Community AB 617 Boundaries, as they appear on CARB’s South Central Fresno webpage; the SIPA boundaries as displayed in General Plan Figure IM-1, “Priority Areas for Development Incentives,” and an overlay of these boundaries which we created.</p> <p>[Figure Imbedded] South Central Fresno AB 617 Boundaries²¹</p> <p>[Figure Imbedded] General Plan South Industrial Priority Area (SIPA designated in grey) (General Plan, Figure IM-1)</p> <p>[Figure Imbedded] AB 617 and SCSP Boundary Lines</p> <p>The RPEIR also fails to disclose General Plan policies intended to promote and expedite industrial business expansion in this and other industrial-designated areas within the General Plan Sphere of Influence. See General Plan, pp. 2-13, 14, 22 (Policy ED-1-j, describing permit streamlining and industrial development incentive programs); 12-24 (Policy ED-3-b, providing for targeted marketing efforts to support industrial business expansion; Policy ED-3-c, requiring the development of incentives to attract targeted industries). The General Plan’s emphasis on industrial business expansion in the heart of the AB 617 South Central Fresno community, through Plan’s land use designations and policies, is antithetical to the CERP’s statutory mandate to reduce air emissions exposures by sensitive receptors within that area.</p> <p>In addition, General Plan and Development Code policies that prioritize and facilitate the streamlined approval of industrial development with little or no public process conflicts with CERP provisions calling for City and Air District collaboration to deepen community engagement in land use decision-making. CERP Policy LU.4 identifies “[e]nsuring more comprehensive opportunities for public input on land-use decisions,” “[p]roviding additional public access and education regarding permitting and CEQA processes,” and “[b]etter communicating and understanding air quality impacts and potential mitigation” as strategies to pursue to this end. CERP, p. 94. In contrast, the first of the General Plan’s 17 goals includes the use of land use and Development Code policies to “streamline permit approval” to stimulate economic</p>	

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	<p>development. General Plan, p. 1-5. Goal 13 calls for “efficient processing and permit streamlining.” Id., p. 1-7. This potential for exclusion of community engagement in land use decision-making runs afoul of AB 617 and the state-approved CERP.</p> <p>The Development Code implements the General Plan’s development streamlining goals by designating numerous land uses, including a wide range of industrial land uses²², for ministerial approval, wherein CEQA does not apply and the City must issue permits for the project upon demonstration of compliance with objective design standards and application procedures. Fresno Municipal Code (FMC) § 15-4907, Table 15-4907. The Code provides for no public notice to potentially impacted residents or other members of the public and no public hearing. Development Permit and Conditional Use Permits, which do trigger CEQA review, also may be unilaterally approved by the planning director with no public hearing and the Code does not require any public notice for Development Permit issuance.²³ Id. Based on these Development Code procedures, the City has approved millions of square feet of industrial and warehouse development in South Central Fresno since the Code’s approval without any advance public notice to or input from surrounding community members.</p> <p>Thus, the RPEIR fails to discuss the clear inconsistencies of the City of Fresno General Plan and Development Code provisions with the CERP. This violates CEQA. See CEQA Guidelines § 15125(d).</p> <p>²⁰ Available at the City of Fresno’s website at https://www.fresno.gov/darm/wpcontent/uploads/sites/10/2019/05/SIPA_do_c_v4-pressready-1.pdf</p> <p>²¹ South Central Fresno AB 617 Boundaries figure copied from CARB’s South Central Fresno webpage at https://ww2.arb.ca.gov/our-work/programs/community-air-protection-program/communities/south-central-fresno</p> <p>²²The FMC permits warehouses, freight/truck terminals, and research and development land uses by right in the Heavy Industrial, Light Industrial, Regional Business Park, and Business Park zone districts. FMC, § 15-1302, Table 15-1302. In the Light and Heavy Industrial zone districts land uses permitted by</p>	

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	<p>right include, among other things, “agricultural processing” and “General Industrial” land uses, which the Code states includes “operations such as food and beverage processing...; production apparel manufacturing; photographic processing plants; leather and allied product manufacturing; wood product manufacturing; paper manufacturing; plastics and rubber products manufacturing; nonmetallic mineral product manufacturing; primary metal manufacturing; fabricated metal product manufacturing; and automotive and heavy equipment manufacturing.” FMC §§ 15-6705, 6707.</p> <p>²³ Individuals may issue a written request for notice in advance of the approval of a Development Permit or Conditional Use Permit in order to receive notice of the director’s approval of such requests. After receiving notice of permit approval, individuals have the option to file an appeal of the decision within fifteen days. FMC § 15-5017.</p>	
C1-16	<p>4. The RPEIR Relies on Tenuous Reasoning to Arrive at its Conclusion That the Project is Consistent with Air District Attainment Plans</p> <p>The RPEIR uses two tests to determine if the project would create a potentially significant impact by conflicting with or obstructing applicable air quality plans (AQPs or attainment plans). Pursuant to the first test, if development proposed by the approved General Plan exceeds the growth projections used in an applicable attainment plan, it would produce a potentially significant impact. The RPEIR determines that the project would not result in a potentially significant impact under this test, because “the growth projections used for the approved General Plan assume that growth in population, vehicle use and other source categories will occur at historically robust rates that are consistent with the rates used to develop the SJVAPCD’s attainment plans.” However, several attainment plans listed in the RPEIR – the 2013 Plan for the Revoked 1-Hour Ozone Standard, the 2007 PM10 Maintenance Plan, and the 2004 Revision to the California State Implementation Plan for Carbon Monoxide – were adopted prior to the General Plan’s approval in December 2014. The RPEIR’s reasoning therefore raises the question of how attainment plans adopted prior to the 2014 General Plan would have taken into account the General Plan’s growth projections used for the adopted General Plan. Even if population growth and residential vehicle use projections remained the same for the same for the 2014 General Plans</p>	<p>For a project to be consistent with the attainment plans, the pollutants emitted from project operation should not exceed the SJVAPCD daily threshold or cause a significant impact on air quality, or the project must already have been included in the attainment plans projection. The project must also not hinder implementation of measures included in air quality plans.</p> <p>Although the 2014 General Plan was adopted after development of the 2004 California State Implementation Plan for Carbon Monoxide, the proposed project does not hinder implementation of this plan. CO levels in the State and within the City of Fresno continue to decline with continued implementation of Basinwide rules and regulations established by the State and the SJVAPCD. The 1-Hour Ozone Standard was revoked. The 2007 PM10 Maintenance Plan identified rapid economic growth, including increases in population and VMT, such as those assumed in the 2014 General Plan.</p> <p>The SJVAPCD has adopted rules and regulations specifically designed to reduce the impacts of growth on the applicable air quality plans. For example, Rule 9510, Indirect Source Review, was adopted to provide emission reductions needed by the SJVAPCD to demonstrate attainment of the federal PM10 standard and contribute to reductions that assist in attaining federal ozone standards. Rule 9510 also contributes toward attainment of State standards for these pollutants. The SJVAPCD’s Regulation VIII, Fugitive PM10 Prohibitions,</p>

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	<p>and previous City of Fresno General Plans, those projections would not account for land use and policy changes included in the 2014 General Plan which significantly influence the nature and air impacts of growth.</p> <p>Given the Fresno's notoriously poor air quality, its non-attainment status for several criteria air pollutants, and the health consequences for residents, it is imperative that the RPEIR's discussion of the bases on which it reached its determination that the General Plan is consistent with applicable AQPs is both accurate and transparent. The City must revise the RPEIR to clarify the basis for its determination.</p>	<p>requires controls for sources of particulate matter necessary for attaining the federal PM10 standards and achieving progress toward attaining the State PM10 standards. Rule 2201, New and Modified Stationary Source Review, requires new and modified stationary/industrial sources to provide emission controls and offsets that ensure that stationary sources decline over time and do not impact the applicable air quality plans. Development associated with continued implementation of the approved General Plan would comply with these rules and regulations providing additional support for the conclusion that it would not interfere or obstruct with the application of the attainment plans. No further response is required.</p>
C1-17	<p>5. The RPEIR's Analysis of Project-Related Criteria Air Pollutants Omits Critical Information and Relies on Unsound Reasoning</p> <p>The RPEIR's analysis of the impacts of criteria air pollutant that will result from the Project does not allow the public and decision-makers to understand the nature and magnitude of the criteria air pollutants that will result from the Project, because it omits critical information and fails to demonstrate that its conclusions are supported by sound reasoning and evidence. An adequate description of adverse environmental effects is necessary to inform the critical discussion of mitigation measures and project alternatives at the core of the EIR. <i>Sierra Club v. Fresno County</i> (2018) 6th Cal.5th 502, 514. The RPEIR must be revised to include an accurate and complete analysis of the project's CAPs and their impacts and to include appropriate mitigation measures to address those impacts.</p> <p>First, the RPEIR emphasizes that individual projects that occur as a result of the General Plan and that exceed thresholds of significance will be required to adopt mitigation measures that reduce impacts to less than significance or the City would be required to adopt an EIR. RPEIR, 4.3-54. But this statement is inaccurate, because, as mentioned above, under the Development Code dozens of individual project types are permitted by right without further CEQA review or mitigation, including industrial and warehouse projects which are significant emissions sources. Thus, the RPEIR violates CEQA by overstating the degree of mitigation and misrepresenting the magnitude of the adverse impacts from criteria air emissions that will occur as a result of General Plan</p>	<p>See Master Response: Project Description and Baseline Conditions. At the program level, the analysis considers whether the proposed project would be consistent with applicable plans and whether implementation of the approved General Plan would violate criteria air pollutants. As stated in the Master Response, project-specific information that would allow for quantification of emissions generated by development proposals is not known at this time. In addition, the use of the PEIR does not expand development rights within the city, and development allowed by right is only allowed as permitted by law and future environmental approvals. As a result, subsequent discretionary projects would be required to be considered under CEQA. Furthermore, the City's specific plan efforts throughout the City, such as the ongoing South Central Specific Plan, would provide for additional opportunities for public input of more specific land use changes in focused geographical areas.</p>

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	<p>implementation. See <i>Sierra Club v. County of Fresno</i> (2018) 6 Cal.5th 502, 514.</p> <p>Second, the RPEIR uses circular and faulty reasoning to support its conclusion that criteria air emissions from construction will not violate Air District attainment plans. In the same way that the RPEIR claims that General Plan growth projects are consistent with AQPs, the RPEIR also claims that emissions related to construction activities are included in emissions forecasts in attainment plans and would therefore not interfere with or obstruct attainment plans. RPEIR, p. 4.3-54. As discussed above, however, several AQPs were adopted before the adoption of the General Plan. The RPEIR does not disclose how construction emissions forecasts for the 2014 General Plan could be accounted for attainment plans adopted before 2014.</p> <p>Third, the RPEIR fails to support its conclusion that the project's stationary source emissions may be expected to be less than significant. The RPEIR's analysis references emissions from the City's top-three stationary source emitters but does not connect those emissions to a broader analysis of stationary source emissions which may occur as a result of entirety of General Plan implementation. Nor does the RPEIR include any other discussion of the nature or magnitude of stationary source emissions which may occur. However, General Plan implementation represents the potential for extensive new stationary source development, with the General Plan's designation of roughly 5,000 acres of industrial-zoned land in South Central Fresno, and Development Code rules allowing for the streamlined development of numerous stationary sources on a by right basis or otherwise limited process.</p> <p>In finding stationary source emissions to be less than significant, the RPEIR argues that the Air District regulatory system will result in "continued reductions in stationary source emissions including the continued implementation of the approved General Plan." RPEIR, p. 4.3- 57. The RPEIR is not explicit as to whether it anticipates ongoing reductions in stationary source emissions only at the individual project level or whether this expectation extends to the entire air basin, or why such an expectation would be warranted. Even if the RPEIR is correct that Air District rules will ensure ongoing reduction in emissions, the RPEIR does not identify "ongoing emissions reductions" as a threshold for significance and the RPEIR's assertion that ongoing emissions reductions will occur does not justify the finding that</p>	

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	stationary source emissions for this Project are less than significant. Accordingly, the RPEIR lacks substantial evidence to support its determination that stationary-source criteria emissions are less than significant, and the RPEIR must be revised. See California Oak Federation v. Regents Univ. of California (2010) 188 Cal.App.4th 227, 261-232; CEQA Guidelines § 15384(a).	
C1-18	<p>6. The RPEIR's Determination That Construction-Related Fugitive Dust Emissions Are Less Than Significant Lacks Substantial Evidence</p> <p>The RPEIR relies heavily on Air District rules and regulations, especially Regulation VIII, to support its conclusion that construction-related fugitive dust impacts are less than significant. RPEIR, p. 4.3-53. In doing so, the RPEIR misrepresents the Air District's assessment of the adequacy of Regulation VIII as a CEQA mitigation measure. The RPEIR reads, "The GAMAQI," the Air District's Guidance for Assessing and Mitigation Air Quality Impacts, "states that compliance with Regulation VIII will normally reduce impacts from fugitive dust to less than significant." RPEIR, p. 4.3-53. Yet the GAMAQI actually states:</p> <p>"although compliance with District Regulation VIII substantially reduces project specific fugitive dust emissions, it may not be sufficient to reduce project specific emissions to less than significant levels. Furthermore, District Regulation VIII does not reduce construction exhaust emissions." p. 78²⁴.</p> <p>The RPEIR also states that the Air District may "require" the application of certain enhanced control measures to projects which merit them due to their size or proximity to sensitive receptors. Again, the RPEIR's choice of words is misleading. The GAMAQI in fact says that District may "recommend" such measures "when conditions warrant," indicating that a project's adoption of such measures is not a requirement but an option. p. 119. A review of Regulation VIII, including Rule 8011 (General Requirements)²⁵ and Rule 8021 (Construction, Demolition, Excavation, and Other Earthmoving Activities)²⁶, does not reveal any process for the provision or imposition of enhanced control measures by the Air District nor otherwise mention the topic.</p> <p>The RPEIR attempts to further emphasize the comprehensive protection against constructionrelated fugitive dust emissions afforded by Regulation VIII, noting that "[if] measures included in the Dust Control Plan prove inadequate to</p>	As discussed beginning on page 4.3-53 of the Recirculated Draft PEIR, SJVAPCD requires control measures in Regulation VIII for all construction sites to reduce fugitive dust emissions. If measures included in required the Dust Control Plan prove inadequate to control fugitive dust, construction contractors must implement additional controls or cease dust generating construction activities. In addition, projects smaller than the Dust Control Plan size thresholds must still comply with most other Regulation VIII requirements. Therefore, fugitive dust impacts from construction activities are considered less than significant because there are SJVAPCD regulations and procedures in place that would reduce potential dust impacts at the project level.

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	<p>control fugitive dust, construction contractors must implement additional controls or cease dust generation construction activities.” RPEIR, p. 4.3- 53. Yet Regulation VIII does not establish any triggering event for a review of the adequacy of fugitive dust control or other oversight mechanism that would ensure compliance.</p> <p>General Plan implementation to date has shown that fugitive dust impacts as a result of construction are in fact significant, and in the case of warehouse development near sensitive receptors, severe despite Regulation VIII and other Air District rules and regulations. Since the General Plan was adopted, several concrete warehouse buildings, including an Amazon distribution center in 2016, have been constructed in and around the North Pointe Business Park located on South North Pointe Drive. The round-the-clock months-long construction of these buildings resulted in the generation of plumes of dust from the project site which coated nearby residences on East Central Avenue. Residents, including members of South Fresno Community Alliance, a signatory to this letter, were forced to keep their windows shut to reduce the infiltration of dust into their homes during this time. Even with such preventative measures, residents reported that dust accumulated inside their homes as well as adverse health impacts from dust inhalation, including allergies and asthma. See Attachment 8, South Central Neighbors United v. City of Fresno, et al., Petition for Writ of Mandate and Complaint for Injunctive Relief, p. 7, Ins. 21-23. Continued build out of vacant industrial-zoned sites in this area may be expected to result in similar significant impacts on nearby residences and community-members in the absence of suitable mitigation.</p> <p>Simply put, by relying on Regulation VIII and other Air District rules, the RPEIR fails to support its conclusion that fugitive dust emissions are less than significant with substantial evidence and overlooks information provided to the City about the serious impacts that General Plan buildout has resulted in to date.</p> <p>²⁴ The GAMAQI is available on the Air District’s website at the following link: www.valleyair.org/transportation/GAMAQI.pdf, accessed on May 10, 2020</p> <p>²⁵ Available on the Air District’s website at https://www.valleyair.org/rules/currnrules/r8011.pdf</p> <p>²⁶ Available on the Air District’s website at http://www.sjvapcd.dst.ca.us/rules/currnrules/r8021.pdf</p>	

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C1-19	<p>7. The RPEIR's Analysis or Mitigation of the Health Impacts Associated with the Project's Air Emissions Falls Short of CEQA's Requirements</p> <p>The RPEIR acknowledges that high-volume roadways, stationary diesel engines, and, "facilities attracting heavy and constant diesel vehicle traffic," including distribution centers and trucks stops, have been identified by CARB as "posing the highest risk to adjacent receptors." RPEIR, 4.3-16. The RPEIR also states that other facilities with increased risk include warehouse distribution centers and large industrial facilities and that "most diesel particulate matter," a carcinogen, "is emitted from mobile sources" including construction and agricultural equipment, truck-mounted refrigeration units, and "trucks and buses traveling on freeways and local roadways." Id. Despite these recognitions, the RPEIR fails to even acknowledge or analyze the impacts of the Project's land use and transportation policies which concentrate industrial and warehouse distribution facilities and generate voluminous diesel truck traffic in some of the most vulnerable communities in Fresno County and the state.</p> <p>In addition, the RPEIR omits information necessary for a complete and accurate understanding by the public and decision-makers understanding of the Project's air emissions-related health impacts. The RPEIR must be revised to address these flaws.</p>	<p>As discussed beginning on page 4.3-57 of the Recirculated Draft PEIR, although the emissions from some project operations are expected to exceed the SJVAPCD's project level thresholds, this does not in itself constitute a significant health impact to the future residents on the project site and within the SJVAB. Exceeding the SJVAPCD's project level thresholds does not constitute a particular health impact to an individual nearby because project-level thresholds are in tons/year emitted into the air, whereas health effects are determined based on the concentration of a pollutant in the air at a particular location (e.g., ppm by volume of air or $\mu\text{g}/\text{m}^3$ of air). CAAQS and NAAQS were developed to protect the most susceptible population groups from adverse health effects and were established in terms of ppm or $\mu\text{g}/\text{m}^3$ for the applicable emissions.</p> <p>Additionally, air quality trends for emissions of NOX, VOCs, and ozone (which is a byproduct of NOX and VOCs) have been trending downward within the SJVAB even as development has increased over the last several years. As a result, continued implementation of the approved General Plan is not expected to result in any Basin-wide increase in health effects.</p> <p>At the localized level, Mitigation Measure AIR-3.1 has been identified to reduce health impacts from future development proposals by requiring the preparation of a Health Risk Assessment and identification of project specific control technologies to reduce potential risk to an acceptable level.</p>
C1-20	<p>8. The RPEIR Fails to Use Available Information to Analyze Potential Health Impacts as a Result of Criteria Air Pollutants</p> <p>The RPEIR briefly acknowledges three groups of people as sensitive to air pollution: children, the elderly, and persons with pre-existing respiratory or cardiovascular illness." Research shows that other population characteristics, including lower educational attainment levels, linguistic isolation, housing-cost burden level, poverty and identification as a person of color, are associated with heightened vulnerability to health impacts from air pollution. See CalEPA's Update to the California Communities Environmental Health Screening Tool, CalEnviroScreen, 3.0, January 2017, pp. 12,9 American Lung Association, 2020 State of the Air Report, pp. 20, 21, 37, 66. Many neighborhoods in Fresno, and in South Fresno in particular, rank highly for the percentage of the population</p>	<p>See response to Comment C1-19. Exceeding the SJVAPCD's project level thresholds does not constitute a particular health impact to an individual nearby because project-level thresholds are in tons/year emitted into the air, whereas health effects are determined based on the concentration of a pollutant in the air at a particular location. Localized health impacts would be addressed at the project-level when future discretionary projects are being considered. Mitigation Measure AIR-3.1 requires that for proposed industrial or warehouse projects, a Health Risk Assessment be prepared in accordance with policies and procedures of the most current State Office of Environmental Health Hazard Assessment (OEHHA) and the SJVAPCD. Mitigation Measure AIR-3.1 also includes a list of control technologies for toxics that could be used to reduce potential localized health impacts. See Master Response: Project Description and Baseline Conditions regarding the use of Program EIR relative</p>

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	<p>the falls into these categories of vulnerability pursuant to the California EPA's CalEnviroScreen, 3.0 tool. To provide a complete analysis, the RPEIR should be revised to consider the health impacts of Project air emissions on this broader range of vulnerable populations.</p> <p>The Air District's comments on the DPEIR implored the City to include a discussion of how the General Plan "will endeavour to conform to the Court's holding" in <i>Sierra Club v. County of Fresno</i> (2018) 6 Cal.5th 502 (Friant Ranch), where the California Supreme Court held that an EIR's overly general discussion of adverse health impacts from air pollution failed to comply with CEQA. Response to Comments B3-5. Despite the Air District's comments, the RPEIR makes no attempt to correlate the project's anticipated emissions of criteria air pollutants and human health. Rather, it claims that an analysis of the correlation between a project's anticipated criteria air pollutants on human health is not possible, relying on statements contained in a 2015 Amicus Curiae brief by the Air District in <i>Sierra Club, et al. v. Fresno County, et al.</i> that "currently available modeling tools are not equipped to provide a meaningful analysis of the correlation between an individual development project's air emissions and specific human health impacts." RPEIR, 4.3, 57, 58. Yet, the project studied by the RPEIR is not an individual development project but rather a plan-level project encompassing all development within the General Plan Planning Area through buildout in 2056. The RPEIR's use of projectlevel significance thresholds for CAPs is not an adequate basis for the RPEIR to fail to assess health impacts associated with the Project's criteria air pollutants.</p> <p>The RPEIR's analysis of the health impacts associated with criteria air emissions focuses in significant part on the RPEIR's claims that Project emissions are not high enough to use regional modeling to correlate health effects on a Basin-wide level. RPEIR, p. 4.3-58, 59. It also emphasizes that that "emissions of NOx, VOCs, and ozone... have been trending downward" within the San Joaquin Valley Air Basin. RPEIR, p. 4.3-58. Yet in focusing on modeling deficiencies at the regional level and regional level trends, the RPEIR completely ignores abundant research associating serious localized health impacts with concentrated air pollutant exposures. The Office of Planning and Research recommends that "[l]ocal governments should . . . consider localized air pollution resulting from the concentration of various stationary sources in</p>	<p>to a project-level analysis.</p> <p>Contributions to the Basinwide ozone concentrations associated with implementation of the General Plan are accounted for in the 2016 Plan for the 2008 8-Hour Ozone Standard and more recently the 2020 RACT Demonstration for the 2015 8-Hour Ozone Standard, as the model inputs for these studies (i.e., population, employment) were included in the evaluation.</p>

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	<p>disadvantaged communities, such as freight-handling facilities, manufacturing facilities or other industrial air pollution sources.” State of California 2017 General Plan Guidelines, p. 16.²⁷ The California Air Resources Board’s “Technical Advisory: Strategies to Reduce Air Pollution Exposure Near High-Volume Roadways,” (CARB Technical Advisory) states that studies show that sensitive populations can experience serious health impacts, including worsening of asthma and cardiovascular disease and adverse birth outcomes because of exposure to traffic-related air pollution.²⁸ The advisory also states that studies “show that poor and minority communities are more likely to live near busy roadways, and therefore may be more at-risk for the health effects related to exposure to traffic emissions.” p. 3. Here, the General Plan’s land use designations providing for the extensive co-location of new industrial development and warehouses with existing disadvantaged communities and the use of local roadways for high-volume truck and car traffic serving those projects indicate that the General Plan can be expected to result in significant adverse health impacts associated with localized project air emissions. The RPEIR improperly fails to evaluate these impacts.</p> <p>The DPEIR also fails to include any discussion of the project’s anticipate emissions of criteria air pollutants for which the Air District is currently in attainment, including lead, carbon monoxide, and sulfur dioxide. The City’s Response to Comments justifies this exclusion on the basis that Project is “not expected to result in substantial changes to the levels of these pollutants.” But this expectation is unsupported. Carbon monoxide is a primary emission from motor vehicles. CARB Technical Advisory, p. 3.</p> <p>In addition, the DPEIR does not even provide any information about the quantity of ozone that may be expected to result from project implementation. As noted above, in recent case law, the Supreme Court held that inclusion of raw numbers estimating tons of ROG and NOx from a project alone do not provide meaningful information to a reader about how much ozone will be produced and whether that ozone will result in adverse health effects. <i>Sierra Club v. Fresno County</i> (2018) 6 Cal.5th 502, 520. The Air District’s assertion in a legal brief in 2015 that it lacks models to assess CAP impacts from individual projects on human health does not justify the DPEIR’s failure to make any attempt to conduct such an analysis. As the Supreme Court stated in <i>Sierra</i></p>	

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	<p>Club, “technical perfection” or “scientific certainty” are not required of a DPEIR’s analysis, but “adequacy, completeness, and a good-faith effort at full disclosure” is. <i>Sierra Club v. Fresno County</i> (2018) 6 Cal.5th 502, 515.</p> <p>²⁷ Available at https://opr.ca.gov/docs/OPR_COMPLETE_7.31.17.pdf, accessed on May 6, 2021.</p> <p>²⁸ Available at https://ww3.arb.ca.gov/ch/rd_technical_advisory_final.pdf, accessed on May 6, 2021.</p>	
C1-21	<p>9. The RPEIR Fails to Make a Good-Faith Effort to Analyze Health Risks Resulting from Sensitive Populations’ Exposures to Toxic Air Contaminants</p> <p>The RPEIR specifically identifies only four toxic air contaminants, namely, benzene, butadiene, formaldehyde, and hydrogen sulfide, and provides little information about their individual health impacts. However, the California EPA identifies several dozen TACs and provides extensive documentation regarding their unique health impacts.²⁹ The RPEIR cannot analyze the impacts of toxic air contaminants on sensitive receptors where it has not even identified the air pollutants at issue.</p> <p>In addition, The DPEIR fails to include any meaningful analysis of potential exposure of sensitive receptors to TACs based on its assertion that it is not possible to calculate the risks, because the City cannot determine the amount of TACs that will be released. The RPEIR fails to make a good-faith effort to provide information that is available regarding potential exposures of sensitive receptors and possible health impacts given General Plan land use designations, land uses permitted within those designations and their potential TAC emissions, their proximity to sensitive receptors, and factors impacting sensitive receptor exposure in those locations.</p> <p>The City must revise the RPEIR to correct these deficiencies and adopt adequate mitigation measures to address the exposure of sensitive populations to air pollution as identified in the revised DPEIR.</p> <p>²⁹ CalEPA’s Office of Environmental Health Hazard Assessment provides a list of TACs and documents with information specific to each TAC on its website at the following link: https://oehha.ca.gov/air/general-info/toxic-air-contaminant-list-staff-reportsexecutive-summaries</p>	See responses to Comment C1-19 and Comment C1-20 and Master Response: Project Description and Baseline Conditions.

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C1-22	<p>10. The RPEIR Fails to Identify Adequate Mitigation for the Project's Criteria Air Pollutants</p> <p>The RPEIR finds that the Project will result in significant impacts associated with the release of criteria air pollutants. In response to these impacts, the RPEIR identifies two mitigation measures, AIR-2.1 and AIR-2.2. MM AIR-2.1 states:</p> <p>"If construction related air pollutants are determined to have the potential to exceed the SJVAPCD adopted threshold of significance, the Planning and Development Department shall require that applicants for new development projects incorporate mitigation measures into construction plans to reduce air pollutant emissions during construction activities" (p. 2-5)</p> <p>MM AIR-2.2 states:</p> <p>"If operation-related air pollutants are determined to have the potential to exceed the SJVAPCD-adopted thresholds of significance, the Planning and Development Department shall require that applicants for new development projects incorporate mitigation measures to reduce air pollutant emissions during operational activities" (p. 2- 6).</p> <p>As designed, these measures will fail to meaningfully reduce project CAP impacts. First, AIR-2.1 and 2.2 only apply to projects which require discretionary review. Yet, as discussed above, the General Plan and Development Code establish by right permit issuance for numerous projects, including industrial and warehouse projects which the RPEIR acknowledges are associated with significant air emissions. AIR-2.1 and 2.2 will not apply to these projects. The Air District's comments on the DPEIR recognize this problem as well; the Air District recommended that the "the General Plan include language supported by policy requiring consultation with the District, and recommending that a VERA be considered for development projects determined to have a significant impact on air quality." Response to Comments at B3- 12. The City improperly refused to adopt this sensible recommendation. See id.</p> <p>Second, the measures would unlawfully defer formulation of mitigation to future projects without incorporation of specific performance standards the mitigation will achieve. CEQA Guidelines § 15126.4(a)(1)(B). The City may not rely on mitigation measures AIR-2.1 and 2.2 as currently drafted.</p>	<p>See Master Responses: Project Description and Baseline Conditions. As stated in the Master Response, the project does not propose to change land uses and future discretionary actions would be required to do so. As the comment acknowledges, the Recirculated Draft PEIR includes Mitigation Measures AIR-2.1, AIR-2.2, AIR-3.1, AIR-3.2 and AIR-4.1, which would significantly reduce criteria air pollutant emissions generated by continued implementation of the approved General Plan. The measures suggested by this comment may be appropriate at the project level when specific impacts are anticipated to occur as a direct result of the future actions. Each of the identified mitigation measures requires that future site-specific analysis be consistent with the regulations and methodologies current when the future project is proposed. As such, project-level analysis will meet the performance standards of the regulations applicable at that time. However, because there is not enough information regarding future projects to quantify emissions at this time, it cannot be determined whether potential impacts could be reduced to less-than-significant levels.</p>

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	<p>The RPEIR is required to identify and consider all feasible mitigation. The City must revise the DPEIR to incorporate mitigation measures which apply to all projects (not only those subject to discretionary review) that contribute to the General Plan’s significant CAP emissions impacts and identify enforceable and feasible mitigation at this time. Examples of feasible and effective mitigation measures include but are not limited to:</p> <ul style="list-style-type: none"> • the re-designation of industrial land uses near residential land uses, schools, and other sensitive receptors to less intensive and community-serving uses; • amendment of the Development Code to incorporate enhanced protections for disadvantaged communities and vulnerable populations, including adopting Conditional Use Permit requirements for warehouse facilities and other land uses known for significant air quality impacts; • heightened standards for acceptable impact levels for permit issuance; heightened performance standards; and specific penalties and enforcement measures to reduce air quality-related violations for projects which would have air quality impacts and are located in or near disadvantaged communities; • the adoption, funding, and staffing of a program to conduct proactive code enforcement of air quality-related rules, regulations, and mitigation measures applicable to industrial facilities, warehouse and distribution centers, and other facilities which result in significant air impacts on sensitive receptors; • the creation of a program to dedicate funds for enforcement of air quality-related rules and regulations to programs to reduce the impacts of air pollution exposure on vulnerable populations; and, • commitments to take specific actions and work with the Air District to implement specific policies and measures contained in the South Fresno Community CERP. <p>In addition, the Attorney General Xavier Becerra issued a guidance document titled, “Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act.”³⁰ The document identifies numerous mitigation measures applicable to air quality and other impacts of warehouse development which have been implemented in warehouse projects across the state and are recommended by the Attorney General’s Office. These measures include but are not limited to the following</p>	

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	<p>mitigation for construction and operation impacts:</p> <ul style="list-style-type: none"> • 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 • 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. • 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 	

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	<p>information to report violations to CARB, the air district, and the building manager.</p> <ul style="list-style-type: none"> ● 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 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 singleoccupancy 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 	

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	<p>to the truck route.</p> <ul style="list-style-type: none"> 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 CARBapproved 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. Given the increasing prevalence of warehouse development in Fresno, we recommend that the City review the mitigation measures contained in the document and incorporate them as appropriate into the RPEIR. <p>³⁰ Available at https://oag.ca.gov/sites/all/files/agweb/pdfs/environment/warehouse-best-practices.pdf, accessed on May 7, 2021.</p>	
C1-23	<p>11. The RPEIR Erroneously Fails to Acknowledge or Analyze COVID-19 As Part of the Environmental Setting</p> <p>Over the past year, the global COVID-19 pandemic has had a devastating toll on San Joaquin Valley and Fresno residents. Fresno County has registered over 100,000 COVID-19 cases and 1,680 deaths as a result of the pandemic.³¹ Studies comparing excess deaths in 2020 versus prior years indicate that confirmed U.S. deaths due to the coronavirus are significantly lower than the actual death rate attributable to COVID-19.³² In December 2020, ICUs of hospitals in the San Joaquin Valley region reached full capacity and zero available beds due to the prevalence of critically-ill COVID-19 patients.³³ COVID-19 has disproportionately infected and killed more Latino and disproportionately killed more Black people in the United States, and has disproportionately killed and infected Latinos in Fresno County. Fresno County COVID-19 Data and Surveillance Dashboard, Covid-19 Deaths Race-Ethnicity, and Cases by Race and Ethnicity; U.S. Center for Disease Control, COVID-19</p>	<p>As stated on page 4.3-1 of the Recirculated Draft PEIR, the status of COVID-19 as a pandemic is not expected to continue throughout the duration of the project. In addition, the potential risk of any future pandemics is not an environmental impact for CEQA purposes; instead, it is an impact of the environment on the Project, which is not required to be addressed in a CEQA analysis. The CEQA guidelines do not include any criteria or thresholds for evaluating communicable diseases, including COVID-19, and do not provide guidance or thresholds for evaluating the impact of criteria pollutants on susceptibility to communicable disease, beyond what is set forth in existing guidance. No further response is required.</p>

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	<p>Racial and Ethnic Health Disparities³⁴.</p> <p>Numerous studies published over the past year have documented heightened susceptibility to COVID-19 and other viruses among people who experience greater air pollution exposures, including traffic-related air pollution. A study by researchers at the Harvard T.H Chan School of Public Health found that people who live in U.S. regions with high levels of PM2.5 are more likely to die from COVID-19 than people who live in less polluted regions.³⁵ Another study found that patients with severe COVID-19 infections requiring intensive care were twice as likely to have had pre-existing diseases, including heart diseases, stroke, chronic lung disease and diabetes, known to be caused by air pollution.³⁶ Multiple studies have found that living in communities with greater exposure to tailpipe emissions is associated with increased COVID-19 incidence and risk of dying from COVID.³⁷ Another study found positive associations between short-term PM2.5, PM10, CO, NO2, and O3 exposure with COVID-19 infection.³⁸ Studies have also found evidence from past outbreaks, including SARS and influenza, that breathing more polluted air increased risks of death.</p> <p>As a result of vaccine access barriers and vaccine hesitancy, only 26.5% of residents have been fully vaccinated and just 28% of residents who live in the economically and socially disadvantaged South Fresno zip codes have received at least one dose of COVID-19 vaccine.³⁹ Due to low demand for vaccine, Fresno County shipped about 28,000 vaccines to other counties and reduced the number of vaccines it ordered in April 2021.⁴⁰ In addition, recent uncontrolled COVID-19 outbreaks in India and other nations have led to the spread of dangerous virus variants. Experts expect that vaccine hesitancy and barriers, coupled with ongoing and accelerating outbreaks and the emergence of variants, is likely to prolong the pandemic.⁴¹</p> <p>Despite the abundance of information available about the continued prevalence of COVID-19, the virus' grim impacts on people in Fresno, and the heightened susceptibility to COVID and other viruses caused by air pollution exposure, the RPEIR dismisses the relevance of COVID to its analysis. The RPEIR mischaracterizes the nature of the pandemic in relationship to the City's obligations under CEQA, stating that the pandemic "is an impact of the environment on the Project, which is not required to be addressed in a CEQA</p>	

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	<p>analysis.” RPEIR, p. 1-3. The City is incorrect. The General Plan’s impacts, including the nature and severity of its air quality impacts, are affected by and must be considered in light of research and other information demonstrating the heightened vulnerability of residents who are exposed to air pollution to viral illness, including COVID-19 and other viruses. In particular, the pandemic and potential for other viral outbreaks are relevant to the nature and severity of the General Plan’s air quality impacts on human beings and must be acknowledged and incorporated into the RPEIR as a component of the environmental setting. CEQA Guidelines, § 15125(c) (requiring “the significant effects of the project to be considered in the full environmental context”); Friends of the Eel River v. Sonoma County Water Agency (2003), 108 Cal.App.4th 859, 874 (interpreting CEQA Guidelines § 15125 broadly to afford the fullest possible protection to the environment and ensure the accuracy of the EIR’s environmental effects analysis). The disproportionate impacts of COVID-19 on people of color, and the disproportionate share of Latino and Black residents that live in South Fresno neighborhoods with heightened exposures to air pollution raise particular concerns as to the PEIR’s failure to assess and mitigate air quality and health impacts, and failure to assess the disproportionate impacts of this failure on people of color, especially in the context of COVID-19.</p> <p>³¹ See Fresno County, COVID-19 Data Hub, available at https://covid-19-cogisonline.hub.arcgis.com/, access on May 6, 2021.</p> <p>³² CNBC, Official U.S. coronavirus death toll is “a substantial undercount” of actual tally, Yale study finds,” July 1, 2020, available at https://www.cnbc.com/2020/07/01/official-us-coronavirus-death-toll-is-a-substantial-undercountof-actual-tally-new-yale-study-finds.html, accessed on May 6, 2021</p> <p>³³ Los Angeles Times, “‘I’ve seen people die.’ COVID-19 slams Central Valley hospitals, as many resist lockdowns.” December 13, 2020, available at https://www.latimes.com/california/story/2020-12-13/san-joaquinvalley-coronavirus-hospitals-many-resist-lockdown, access on May 6, 2021.</p> <p>³⁴ Fresno County’s COVID-19 Data and Surveillance Dashboard is accessible at https://covid-19-cogisonline.hub.arcgis.com/. Accessed on May 10, 2021; the U.S. CDC’s COVID-19 Racial and Ethnic Health Disparities webpage is located at</p>	

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	<p>the following link: https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/racial-ethnic-disparities/disparities-deaths.html</p> <p>³⁵ Wu, X., et al. Air pollution and COVID-19 mortality in the United States: Strengths and limitations of an ecological regression analysis, Science Advances, Nov 4, 2020: Vol. 6, no. 4., available at https://advances.sciencemag.org/content/6/45/eabd4049/tab-pdf</p> <p>³⁶ Yang, J., et al. Prevalence of comorbidities and its effects in patients infected with SARS-CoV-2: a systematic review and meta-analysis, International Journal of Infectious Diseases 94 (2020) 91-95, available at https://www.ijidonline.com/article/S1201-9712(20)30136-3/pdf, accessed on May 6, 2021</p> <p>³⁷ Liang, D. et al., Urban Air Pollution May Enhance COVID-19 Case Fatality and Mortality Rates in the United States, The Innovation, Sept. 21, 2020, available at https://www.cell.com/the-innovation/fulltext/S2666-6758(20)30050-3, accessed on May 6, 2021; Lipsitt, J., et al., Spatial analysis of COVID-19 and traffic-related air pollution in Los Angeles, Environment International, Vol. 153, August 2020, available at https://www.sciencedirect.com/science/article/pii/S0160412021001562#!, accessed on May 6, 2021</p> <p>³⁸ Zhu, Y., et al. Association between short-term exposure to air pollution and COVID-19 infection: Evidence from China. Science of the Total Environment, Vol. 727, July 20, 2020, available at www.sciencedirect.com/science/article/abs/pii/S004896972032221X?via%3Dihub, accessed on May 6, 2021</p> <p>³⁹ Fresno Bee, "See Fresno County vaccination rates by ZIP code. How does your neighborhood compare?," April 18, 2021, available at https://www.fresnobee.com/news/local/article250730119.html, accessed on May 6, 2021</p> <p>⁴⁰ Fresno Bee, "'Demand isn't there.' As Fresno residents refuse vaccine, doses shipped to other counties." April 15, 2021, available at https://www.fresnobee.com/news/local/article250706119.html.</p> <p>⁴¹ New York Times, "India's outbreak is a danger to the world. Here's why." https://www.nytimes.com/2021/05/02/world/india-covid-variants.html</p>	

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C1-24	<p>V. The RPEIR Fails to Adequately Analyze and Mitigate for the General Plan's Greenhouse Gas Emissions, and the Recirculated GHG Plan Cannot Qualify as a CEQA Streamlining Document</p> <p>Reducing GHG emissions to minimize the harms from climate change is one of the most urgent challenges of our time. Scientific evidence continues to mount that we are not only facing a true climate crisis, but also rapidly running out of time to confront it. The City of Fresno and the surrounding region face mounting risks from climate change, including wildfire, precipitation extremes, and decreased water supply. GHG Plan at 2.7 to 2.8. Moreover, the effects of climate change in California and the San Joaquin Valley in particular – such as extreme heat events, flooding, and drought – disproportionately impact low-income communities and communities of color. See The climate gap: environmental health and equity implications of climate change and mitigation policies in California-a review of the literature, S. Shonkoff et al., Climatic Change (2011) at S485-86, Attachment 9; See Climate Change, Public Health, and Policy: A California Case Study, C. Ganesh, et al. AJPH Policy (2017).. These communities often have more limited resources to access cooler and safer conditions during heat events and are more likely to suffer from chronic health conditions that heighten risk of death during heat waves and other extreme weather events. See Id. at S486-90. The residents of Fresno therefore have a direct and immediate interest in swift and decisive climate action at all levels of government. Further, the law is clear that lead agencies must thoroughly evaluate a project's impacts on climate change under CEQA, and identify and adopt feasible mitigation measures to address project-specific or cumulative impacts. See Communities for a Better Env't v. City of Richmond (2010) 184 Cal.App.4th 70, 89-91; CEQA Guidelines § 15064.4.</p> <p>The City's preparation of the RPEIR and 2021 Recirculated GHG Plan ("GHG Plan"), included as Appendix G to the RPEIR, offered an important opportunity to aggressively reduce emissions, including from VMT, which contributes significantly to climate disruption in Fresno. GHG Plan at ii. Unfortunately, in preparing these recirculated documents, the City has yet again passed up the opportunity to do so. The RPEIR and 2021 GHG Plan suffer from the same defects as the PEIR and the 2020 GHG Plan before them.</p> <p>The GHG Plan continues to rely largely on vague, nonbinding policies from</p>	<p>This comment asserts that the GHG Plan is not a "qualified" climate action plan under CEQA Guidelines Section 15183.5 because the GHG Plan relies on vague non-binding policies from the General Plan. Further, the comment asserts that the GHG Plan applies a vague process for approval for a project to tier off of the GHG Plan that provides no assurance that the tiered projects will reliably reduce GHG emissions through project design. This comment is based on general assumptions and is not accurate. Chapter 5 of the GHG Plan outlines City's local GHG reduction strategy. In doing so the plan uses the City's applicable General Plan Policies that contribute towards GHG reduction as a basis to guide the identification and development of local measures for GHG reduction. The GHG Plan does not rely on the General Plan Policies directly to show emissions reductions from implementing local measures. The local reduction measures identified in Chapter 5 Section 5.2 presents the details of how local reduction strategies will help the City meet the GHG reduction targets, supported with detailed explanation behind the assumptions (as summarized in Table 5.2.5). These local reduction strategies help the City meet 2030 GHG reduction targets and demonstrate compliance with SB 32. Therefore, the comment asserting that GHG Plan cannot serve as a "qualified" Plan is false.</p> <p>The comment also asserts that the GHG mitigation identified in the PEIR is undefined and does not include permit conditions, agreements or legally binding instruments that enforce the implementation of the GHG mitigation measures. However, Section 7.3 of the GHG Reduction Plan includes the GHG Reduction Plan Update Project Consistency Checklist that all development applicants must complete and include in the permit application in order to tier from the GHG Reduction Plan. The commitments made in the GHG Reduction Plan Update Project Consistency Checklist become Conditions of Approval for the Project which provides the permit conditions needed to enforce the GHG reduction measures. Therefore, this comment is false. The GHG reduction measures in the GHG Reduction Plan will be implemented and the monitoring programs described in Section 7 of the GHG Reduction Plan ensure that implementation is monitored and tracked to ensure that the reduction targets are achieved.</p>

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	<p>the General Plan to reduce GHG emissions, and fails to provide data to support its conclusion that compliance with these policies would be sufficient to meet the state's GHG emission reduction mandates. Further, the GHG Plan applies such a vague approval process for a project to tier off of the GHG Plan that it provides no assurance that tiered projects will reliably reduce GHG emissions through project design. With these deficiencies, the GHG Plan cannot serve as a "qualified" climate action plan under CEQA Guidelines section 15183.5, i.e. one that can be used as a "threshold of significance" for evaluating the climate impacts of future discretionary projects.</p> <p>The RPEIR likewise relies on implementation of these same vague, optional General Plan policies to mitigate the impacts of greenhouse gas emissions from General Plan implementation. Finding that GHG emissions from implementation might nevertheless have potentially significant climate change impacts, the RPEIR asserts that these emissions can be mitigated to less than significant levels with a single mitigation measure: new development projects subject to discretionary review are to show consistency with the GHG Plan and implement applicable measures from the GHG Plan's CEQA Project Consistency Checklist. See Mitigation Measure GHG-1.1, RPEIR at 4.8-47. Efficacy of this measure is unsupported by substantial evidence and cannot be relied upon given the vague framework for project-level GHG reductions laid out in the GHG Plan. The RPEIR also lacks evidence to support its conclusion that the General Plan is consistent with applicable plans, policies, and regulations adopted to reduce GHG emissions. RPEIR at 4.8-47 to 49.</p>	
C1-25	<p>A. The City's Recirculated GHG Plan Fails to Ensure Reduction of GHG Emissions and Cannot be Relied on for Tiering under CEQA Guidelines § 15183.5</p> <p>Where a public agency's climate action plan meets the requirements in CEQA Guidelines section 15183.5, compliance with that plan may be used to mitigate cumulative levels of GHG emissions within a jurisdiction to a less-than-significant level and allows development project tiering from the plan. CEQA Guidelines § 15185.3. Such plans must do all of the following: (1) make an inventory of greenhouse gas emissions, both existing and projected over a specified time period, resulting from activities within a defined geographic area; (2) set a reduction target, based on substantial evidence, below which</p>	<p>This comment asserts that the GHG Reduction Plan does not satisfy the requirements provided in California Environmental Quality Act (CEQA) Guidelines Section 15183.5. This is not true. Specifically CEQA Guidelines Section 15183.5 requires GHG Reduction Plans to provide the following:</p> <ul style="list-style-type: none"> Quantify GHG emissions, both existing and projected over a specified time period resulting from activities within a defined geographic area. The Fresno GHG Reduction Plan quantifies existing GHG emissions in the 2016 GHG inventory and forecasts GHG emissions for the specified times of 2020, 2030 and 2035 for all activities within the City's geographic limits for activities within the City's jurisdictional control. Therefore, the GHG Reduction Plan has satisfied this requirement in CEQA Guidelines Section 15183.5.

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	<p>the contribution to greenhouse gas emissions from activities covered by the plan would not be cumulatively considerable; (3) forecast projected emissions for activities covered by the plan; (4) specify reduction 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 reduction target; and (5) establish a mechanism to monitor the plan's progress toward achieving reduction targets.</p> <p>The City's GHG Plan fails to meet all of these requirements. In particular, it continues to omit 2050 as a target reduction year, which leaves the City without information on whether adequate reductions, under General Plan and other local policies, will be possible in later years. The Plan also lacks substantial evidence that its reduction measures, taken largely from the General Plan, are capable of achieving reduction targets. Further, it provides only vague direction for how a project tying off of the GHG Plan would comply with the plan, undermining the GHG Plan's ability to ensure project-level emissions reduction.</p>	<ul style="list-style-type: none"> ● Establish a level, based upon substantial evidence below which the contribution to GHG emissions from activities covered under the plan would not be cumulatively significant. The GHG Reduction Plan includes 2020 and 2030 reduction targets based upon Assembly Bill 32 and Senate Bill 32, which legislatively set reduction targets for California to achieve climate stabilization. Because the State chose the legislative targets within AB 32 and SB 32 to achieve climate stabilization, which would reduce cumulative GHG emission impacts to less than significant and the GHG Reduction Plan provides the local context for these Statewide reduction targets, AB 32 and SB 32 provides the substantial evidence that if the plan achieved the reduction targets, cumulative impacts related to GHG emissions would be less than significant. Therefore, the GHG Reduction Plan satisfied this requirement in CEQA Guidelines Section 15183.5. ● Identify and analyze the GHG emissions resulting from specific actions or categories of actions anticipated within the geographic area. The GHG Reduction Plan identifies categories of actions including the consumption of electricity, natural gas, and water; the generation of waste and wastewater; and the emission associated with vehicles and off-road equipment within the geographic boundaries of the City of Fresno. Therefore, the GHG Reduction Plan satisfied this requirement in CEQA Guidelines Section 15183.5. ● Specify measures or sets of measures that substantial evidence demonstrates if implemented on a project-by-project basis would collectively achieve the specified emission levels (i.e. reduction targets). Section 4 of the GHG Reduction Plan provides the set of measures needed to achieve the reduction targets. Section 5 of the GHG Reduction Plan provides the quantitative evidence that if the reduction measures are implemented the reduction targets will be achieved. Therefore, the GHG Reduction Plan satisfied this requirement in CEQA Guidelines Section 15183.5. ● Establish a mechanism to monitor the plan's progress toward achieving the level (i.e., reduction targets) and to require amendments if the plan is not achieving the specificities levels. Section 7.2 of the GHG Reduction Plan provides the mechanisms to monitor the plan's progress including GHG inventory updates, reduction measure implementation, and triggers when

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		<p>the GHG Plan will require updates (i.e. amendments) to ensure achievement of the reduction targets. Section 7.3 of the GHG Reduction Plan specifies the tracking tools that will be used to monitor the plan’s progress. Therefore, the GHG Reduction Plan satisfied this requirement in CEQA Guidelines Section 15183.5.</p> <ul style="list-style-type: none"> Be adopted in a public process following environmental review. The PEIR for the General Plan and GHG Reduction Plan and City Council Hearings provide the environmental review and adoption in a public process. Therefore, the GHG Reduction Plan satisfied this requirement in CEQA Guidelines Section 15183.5. <p>For these reasons, the GHG Reduction Plan satisfies all the requirements outlined in CEQA Guidelines Section 15183.5 and future development projects can tier from the GHG Reduction Plan once adopted.</p>
C1-26	<p>1. The Baseline Inventory of GHG Emissions Is Incomplete and Inaccurate</p> <p>The baseline inventory of City GHG emissions is the foundation of the GHG Plan. Without a complete and accurate inventory, the City cannot accurately project future business-as-usual (“BAU”) emissions or measure the effectiveness of reduction measures in meeting identified targets and goals. Effective policies cannot be built on a flawed inventory. Unfortunately, the City’s GHG Plan inventory is incomplete and therefore inaccurate.</p> <p>First, the GHG Plan omits a 1990 inventory of local emissions (GHG Plan at 3-2), even though compliance with AB 32 and California’s 2017 Climate Change Scoping Plan require an 80 percent emissions reduction below 1990 levels by 2050. RPEIR at 4.8.50. Because the Plan omits a 1990 inventory, the City will not be able to establish whether it is on track to meet and ultimately does meet, this state-mandated target. The GHG Plan must be revised to include a 1990 emission inventory.</p> <p>Second, in developing a 2010 inventory – which the GHG Plan uses to the exclusion of a 1990 inventory – the GHG Plan omits certain types of emissions without justification. For example, the GHG Plan states that it did not include emissions sources that comprise less than 3 percent of the emissions inventory. GHG Plan at 3-1. The GHG Plan gives no further details and no explanation or basis for this arbitrary omission.</p>	<p>This comment asserts that the baseline inventory is incomplete, and therefore, inaccurate. The comment bases this assertion on Section 3-2 and a statement in Section 3.1.2 of the GHG Reduction Plan that explains the baseline inventory selection criteria and states that the baseline inventory does not include GHG emissions that are less than three percent of the inventory, respectively. To clarify, the City’s baseline inventory year is selected as 2010 as this is the year for which the complete economic data is available to be able to develop a valid communitywide baseline GHG inventory. The baseline inventory included all sources of GHG emissions within the geographic boundary and direct or indirect jurisdictional control of the City. Table 3-C in the GHG Reduction Plan includes the 2016 GHG inventory and includes all categories of GHG emissions including industrial processes and agricultural energy which constitute less than one percent of the inventory. Off-road equipment and vehicles also represent less than one percent of the 2016 inventory and were combined in the transportation category of GHG emissions in the 2016 inventory. Therefore, these minor emission categories were included in the 2016 baseline inventory update, business as usual forecasts (BAU) and reduction targets. Emissions from existing and future large projects, such as distribution centers, were assumed in the analysis. These large projects generate VMT and emissions from energy and water use which were accounted for in the overall analysis of Citywide operations. The statement in Section 3.1.2 of the GHG</p>

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	<p>Similarly, the inventory specifically omits emissions from large industrial sources that are subject to California Air Resources Board's (CARB) reporting regulations and to Cap-and-Trade regulations. Id. In other words, only emissions from smaller sources are counted in the baseline inventory, while emissions from larger permitted sources are ignored. However, by subtracting permitted industrial emissions from the baseline inventory, the GHG Plan presents an inaccurate description of existing conditions. CEQA Guidelines § 15125(a).</p> <p>The City's GHG Plan and PEIR fail to disclose these emissions, analyze their impacts, or identify feasible measures to ensure emission reductions over the life of the Plan. The result is a GHG Plan that presents flawed baseline data of GHG emissions that undermines the entire planning process. Without an accurate baseline inventory, the PEIR presents an inaccurate description of the existing setting and its projected future emissions have no evidentiary basis. Inasmuch as the City permits the activities resulting in emissions, the City has an obligation to disclose these emissions. The failure to do so renders the GHG Plan fatally flawed. A revised Plan must correct this flaw and include a comprehensive inventory of all emissions.</p>	<p>Reduction Plan stating that the baseline inventory did not include emission sources that were less than three percent was intended to mean that these minor emission sources were not the focus of the GHG Reduction Plan. The GHG Reduction Plan demonstrates that GHG emissions would be reduced down to the 2020, 2030, and 2035 reduction targets without a focus on the minor sources of emissions.</p>
C1-27	<p>2. The GHG Plan Must Include Substantial Evidence to Support Its BAU Scenarios and Further Explain Its 2020 Emissions Figures</p> <p>The GHG Plan, as well as the RPEIR, use "Business-as-Usual" (BAU) scenarios as a starting point to calculate the City's projected GHG emissions in 2020, 2030, and 2035. GHG Plan at 3-4; RPEIR at 4.8-33. Yet those documents fail to explain how these BAU figures were calculated and what assumptions they rely on. While the GHG Plan notes that BAU emissions used "population, households, and employment growth rate from the Fresno County 2050 Growth Projections developed by Fresno County Council of Governments" (GHG Plan at 3-4), it does not disclose what methodology it used to arrive at the BAU figures, and whether, for example, the BAU numbers take into account the surge in warehouse development and associated truck trips allowed for under the City's General Plan. The GHG Plan and the RPEIR must be revised to include substantial evidence supporting its BAU calculations.</p> <p>At the same time, it is unclear to what extent the GHG Plan's 2020</p>	<p>The comment that the GHG Plan as well as the RPEIR fail to explain how the BAU figures were calculated and the assumptions they rely on is not accurate. The GHG Reduction Plan Section 3.5 explains the City's BAU projections for the year 2020, 2030 and 2045, and assumptions behind the calculations. As explained in the GHG Reduction Plan Section 3.5.1, the City's BAU GHG emissions were projected based on 2016 Inventory Update data using population, households, and employment growth rate from the Fresno County 2050 Growth Projections developed by Fresno County Council of Governments. This is the standard protocol and established methodology for projecting future growth in emissions as the emissions growth will depend on City's socio-economic growth projections.</p> <p>The 2020 emissions figures are projected based on the 2016 inventory. At the time of the GHG Reduction Plan update, 2016 was used as the year for updating the 2010 baseline inventory as this is the year for which complete data for all the inventory sectors was available.</p>

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	emissions figures represent an emissions inventory versus an emissions projections. See GHG Plan at 3-4. The City must revise the Plan to explain how it arrived at these 2020 figures, including whether those figures account for the dramatic increase in warehouse space and truck traffic in Fresno subsequent to adoption of the City's 2014 General Plan.	
C1-28	<p>3. The GHG Plan's Emission Forecasts Should Extend to 2050</p> <p>The GHG Plan states that the "approved General Plan and GHG Plan Update ensure that the City of Fresno will do its part of reducing GHG emissions for the short-term (2020) and the long term (2050)." GHG Plan at 1-9; see also RPEIR at 4.8-50. Yet the GHG Plan, as well as the RPEIR, forecast emissions only for the years 2020, 2030, and 2035. The forecast does not go to 2050. GHG Plan at i; RPEIR at 4.8-50. Although the GHG states that "[a] straight-line projection from the 2030 to 2050 goals would result in a reduction goal of 58 percent below baseline levels by 2035" (GHG Plan at 4-4) it is unclear how this figure was determined and the GHG Plan does not include 2050 in its emission forecast charts. (GHG Plan at 4-4, 4-33, 4-34).</p> <p>The RPEIR asserts that a forecast farther into the future than 2035 is unnecessary. It states that "[a]lthough the General Plan growth rate would result in buildout by the year 2056, given current methods and the State's goals and targets, 2035 is a reasonable forecast for GHG and is in-line with the State emission reduction targets." RPEIR at 4.8-47. This approach is inadequate. First, the GHG Plan notes that one of the goals of converting the MEIR to a PEIR is to "extend[] the life of the Fresno General Plan and the accompanying environmental document by up to 10 years." GHG Plan at 1-2. To the extent that this means extending the lives of these documents 10 years past 2035, until 2045, a forecast farther into the future is essential to establish that the General Plan's policies are capable of reducing emissions in line with state mandates over the entire life of the General Plan.</p> <p>Further, because buildout under the General Plan extends to 2056 (GHG Plan at 2-2; RPEIR at 4.8-47) the GHG Plan should have forecast emissions to implement the plan until at least 2050. As drafted, the document considers less than 20 years' worth of emissions. Twenty year is a small fraction of the time over which General Plan impacts will be felt, a Plan that sets in place land use</p>	<p>This comment asserts that the GHG Reduction Plan should include 2050 forecasts, a 2050 reduction target, and reduction measures that demonstrate meeting a 2050 reduction target. This is not true. The PEIR and GHG Reduction Plan were updated to ensure that the General Plan was consistent with current State regulations, which require a 2030 GHG reduction target to be included in the GHG Reduction Plan. The 2050 goal that the comment asserts needs to be met is within an Executive Order from the Governor. Specifically Executive Order S-3-05, sets Statewide goals for State agencies that GHG emissions should be reduced down to year 2000 levels of emissions by 2010, 1990 levels of emissions by 2020, and 80 percent below 1990 levels by 2050.</p> <p>However, the California Supreme Court, in a 6-1 ruling, in <i>Cleveland National Forest Foundation, et al v. San Diego Association of Governments</i> held that San Diego Association of Governments' (SANDAG) Environmental Impact Report's (EIR) greenhouse gas analysis for its regional transportation plan (Plan) was not required to "explicitly engage in an analysis of the consistency of projected 2050 emissions" with the 80 percent reduction goal called for in an Executive Order. The California Supreme Court reasoned that Executive Orders may be goals set by the Governor and would apply to state agencies, but Executive Orders do not set mandatory reduction targets for local agencies such as the City of Fresno.</p> <p>The GHG Reduction Plan has reduction targets that match and complement the Statewide effort to reduce GHG emissions set forth in Senate Bill 32 and detailed in the 2017 Climate Change Scoping Plan. The GHG Reduction Plan is also a living document in that it is updated to keep current with the State's legislative reduction goals. As such the 2020, 2030 and 2035 reduction targets are not the end in the City of Fresno's GHG reduction efforts. The City will continue to update the GHG Reduction Plan in step with the Statewide efforts to reduce GHG emissions, consistent with State regulations.</p>

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	<p>patterns leading to emissions for decades to come, long after 2035. In particular, the General Plan designated the South Industrial Priority Area, roughly 5,000 acres slated for heavy industrial use in South Fresno. General Plan, pp. 2-13, 12-26, Figure IM-1. Development within this industrial hub will be significant source of GHG emissions far into the future. Only projecting impacts until 2035 fails to provide the public with a meaningful assessment of the Project's long-term impacts. The GHG Plan should have accounted for, and the RPEIR should have analyzed, GHG emissions at least through the year 2050. Only then could the RPEIR analysis determine if implementation of the General Plan and other local GHG reducing policies is consistent with the long-term emissions reductions targets for climate stabilization articulated in AB 32 and California's 2017 Climate Change Scoping Plan. The statewide reduction goals set forth in the Scoping Plan call for reducing emissions levels to 80 percent below 1990 levels by the year 2050. Accordingly, 2050 is the minimum appropriate planning horizon for analyzing annual emissions of a long-term project such as the City's General Plan.</p> <p>Critically, meeting the statewide 2050 goals requires continuing and steady annual reductions in both total and per capita GHG emissions. See California's 2017 Climate Change Scoping Plan, CARB, April 1, 2018 at 18⁴². Because state policy aims to steeply reduce GHG emissions over that same time period, it is imperative that the RPEIR inform the public and decision-makers whether the General Plan implementation directly conflicts with the state's reduction goals. Of course, as mentioned above, that analysis should include the Project's anticipated emissions out to 2050. As the California Supreme Court has held, an agency "abuses its discretion if it exercises it in a manner that causes an EIR's analysis to be misleading or without informational value." <i>Neighbors for Smart Rail v. Exposition Metro Line Construction Authority</i> (2013) 57 Cal.4th 439, 457. Here, neither the GHG Plan nor the EIR provide evidence that emissions reductions targets will be met.</p> <p>⁴² Available on CARB's website at https://ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/scoping_plan_2017.pdf, accessed on May 10, 2021/</p>	

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C1-29	<p>4. The GHG Plan Presents Vague Measures That Cannot Produce the Necessary Emission Reductions and Lacks Evidence of the Development of Implementation Programs</p> <p>The GHG Plan’s most fundamental weakness may be its failure to identify a set of GHG reduction measures that comes anywhere close to achieving the City’s desired targets and goals. The GHG Plan offers only a vague assurance that the “GHG Plan Update ensures conformity with the mandates of California Supreme Court in the Newhall Ranch case and the State of California’s latest GHG regulations” (GHG Plan at i) but fails to comprehensively address how it will “ensure conformity” and does not demonstrate how these policies in the GHG Plan will reduce emissions by the amounts necessary.</p> <p>Indeed, many of the GHG reduction measures collected in the GHG Plan from various elements of the General Plan represent vague, unenforceable, unquantifiable commitments to “encourage” or “promote” various actions (see Section V.B below for specific examples). Although measures of this sort may be appropriate to supplement more concrete requirements, identification of specific, enforceable measures and quantification of resulting emissions reductions are required to demonstrate consistency with quantitative targets and goals. Enforceable, concrete commitments to mitigation also are required under CEQA. Neither the GHG Plan nor the RPEIR contain adequate measures of this kind. Such measures are vital here given that the City needs tremendous reductions in emissions by 2035 and even greater reductions in 2050, particularly through reductions in VMT, to achieve state-mandated targets. The City will be unable to achieve these reductions through unenforceable policies. In addition, although the GHG Plan states conclusions regarding projected levels of GHG emission reductions under the GHG Plan, it fails to provide evidentiary support for those conclusions. For example, that plan indicates that required emissions reductions are met for 2020, but provides no evidence that the GHG Plan policies will be enforceable and effective at meeting emission reduction targets. GHG Plan at 4-4.</p> <p>In addition, the GHG Plan concludes that the reductions will be met for 2030 and 2035, but again provides no evidence to support this conclusion. GHG Plan at 5-34. And although the GHG Plan appears to be relying heavily on VMT reduction to meet these targets (GHG Plan at 5-34; see also RDEIR at 4.8-41),</p>	<p>This comment asserts that the reduction measures are too vague to ensure reductions. This comment is not true. The reduction measures are correlated to the General Plan Policies that fit the context of the reduction measure. For example, Section 5.1.1 of the GHG Reduction Plan focuses on infill development that is compact and mixed use in order to efficiently reduce on-road transportation emissions through a reduction in vehicle miles traveled. By focusing development on infill and a complementary mix of land uses, residents will reduce the vehicle miles they travel to work, shop, and recreate. Section 5.1.3.3 of the GHG Reduction Plan also requires new development to install electric vehicle chargers that will significantly reduce GHG emissions associated with on-road vehicle travel. Section 5.1.4.1 of the GHG Reduction Plan requires new buildings to be energy efficient and Section 5.1.4.3 of the GHG Reduction Plan requires new development to include photovoltaic (PV) solar and solar water heating which will significantly lower GHG emissions associated with energy consumption. These measures constitute a reduction in the major sources of GHG emissions within the City of Fresno. Section 5.1.5 relates to water conservation required within the City of Fresno and Section 5.1.6 includes waste recycling requirements. While water and waste are minor sources of GHG emissions, the reduction measures related to water conservation and waste recycling were determined to be both feasible and implementable within the City, and therefore, are included in the set of reduction measures.</p> <p>Table 5-C in Section 5.2 of the GHG Reduction Plan quantifies the GHG emission reductions associated with the reduction measures detailed in Section 5.1. Table 5-D compares the reduced GHG emissions with the reduction targets and concludes that with implementation of the reduction measures, the reduction targets for 2030 and 2035 will be achieved.</p> <p>Section 7.3 describes the GHG Reduction Plan Tracking Tool that will be used to track implementation of the reduction measures. This tracking tool includes a Project Consistency Checklist that all applications of new development, including new discretionary industrial projects, are required to fill out documenting the reduction measures the development project will implement. The commitments made within the Project Consistency Checklist become Conditions of Approval for projects, which ensure implementation of the</p>

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	<p>this appears inconsistent with the RDEIR’s conclusion that increases in VMT amount to a significant and unavoidable Transportation impact (RDEIR at 4.16-44).</p> <p>Meanwhile, the approval process and checklist the GHG Plan sets for individual development projects to qualify for CEQA streamlining is too undefined to ensure that projects will achieve necessary GHG reductions. This severely undermines the GHG Plan’s ability to reduce emissions. This is especially serious given that the Plan relies largely on reducing emissions from new development because “[r]esidents of new development projects will achieve lower per capita rates than residents of existing development.” GHG Plan at 1-8.</p> <p>The Plan specifies a review process for proposed new developments subject to discretionary approval that are consistent with the underlying land use and zoning designations. Such projects would review the GHG Plan Update Consistency Checklist, and incorporate and implement design features or mitigation measures “as needed to demonstrate consistency.” GHG Plan at 6-1, -2. The GHG Plan does not specify what these proposed projects must demonstrate consistency with. For example, if it is consistency with the Checklist itself, what would consistency with the Checklist entail? Adoption of one or more measures included on the Checklist? Adoption of all measures included in the Checklist? This requirement is vague and unclear, even after edits to the Checklist in the most recent GHG Plan update. Furthermore, the Checklist itself contains only a small number of measures, some of which are optional, or appear to already be required by state law or local policy. GHG Plan Checklist at 1-3Appendix B to GHG Plan. Notably, the GHG Plan does not clarify how it will be determined if design features or mitigation measures will be “needed,” and does not specify that all possible features or measures will be required. Id. It further does not make clear whether a project may still take advantage of CEQA streamlining if it does not comply with all or certain measures on the checklist. Id. It is also unclear how the City will determine how a project is consistent with the Checklist given that not all the measures are</p>	<p>reduction measures.</p> <p>Stationary sources of GHG emissions would be required to follow guidance from the SJVAPCD. The SJVAPCD requires the implementation of best performance standards in order to be considered less than significant.¹</p>

¹ SJVAPCD. 2009. District Policy – Addressing GHG Emission Impacts for Stationary Source Projects Under CEQA When Serving As the Lead Agency. December.

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	<p>mandatory. Id.</p> <p>Meanwhile, the approval process for new discretionary industrial projects requiring a general plan amendment inexplicably exempts emissions from stationary sources from consideration in the significance determination. GHG Plan at 6-2. Neither the GHG Plan nor the RPEIR provide any justification for omitting stationary sources from CEQA review for these projects. To ensure that future projects are adequately reviewed, all emissions, including stationary sources must be considered in the CEQA analysis.</p>	
C1-30	<p>5. The GHG Plan Lacks a Reliable Mechanism for Monitoring Compliance</p> <p>Under CEQA Guidelines section 15183.5, a qualifying plan must establish a mechanism to monitor the plan's progress toward achieving reduction targets. The City's GHG Plan does not meet this requirement. The Plan concedes that its implementation and monitoring steps are "suggested—not required" (GHG Plan at 7-1) even though the Plan states that "successful implementation of the GHG Plan Update will require implementation and monitoring." Id. The GHG Plan then states: "presently it would appear that without future State action the City would need to implement the local reduction strategies to reach its reduction targets for 2035." GHG Plan at 7-2. This casts doubt on the City's plans for implementing reduction strategies, yet according to other sections of the GHG Plan, the City must implement local reduction strategies regardless in order to meet reduction targets. GHG Plan at 5-33. This further underscores the need for a reliable monitoring mechanism. Moreover, although the RPEIR, at Mitigation Measure GHG-1, calls for the Director of the City Planning and Development Department to "ensure" that discretionary development projects are consistent with the GHG Plan and implement all measures deemed applicable to the project through the GHG Reduction Plan Update-Project Consistency Checklist, it includes no mechanism to monitor the City's progress in achieving reduction targets.</p>	<p>This comment asserts that that the monitoring is "suggested" and not required. This is not true. Section 7.2 of the GHG Reduction Plan provides the monitoring criteria and circumstances when the GHG Reduction Plan will need to be updated based upon monitoring. In Section 7.2, the City commits to providing periodic GHG emission inventory updates to compare citywide emissions with the reduction targets. Section 7.2 also describes tracking progress on implementing the reduction measures. Section 7.3 describes the GHG Reduction Plan Tracking Tool that will be used to track implementation of the reduction measures. This tracking tool includes a Project Consistency Checklist that all applications of new development are required to fill out, documenting the reduction measures the development project will implement. The commitments made within the Project Consistency Checklist become Conditions of Approval for projects, which ensure implementation of the reduction measures.</p>

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C1-31	<p>6. The GHG Plan Does Not Satisfy the Requirements for CEQA Streamlining and Must Be Revised to Indicate That</p> <p>The GHG Plan allows for streamlined review for new projects subject to discretionary review and that trigger review under CEQA. GHG Plan at iv. As drafted, however, the GHG Plan falls far short of the requirements of CEQA Guidelines section 15183.5. In order to support a determination that climate action plan consistency eliminates significant climate effects, a climate action plan must, among other things, clearly demonstrate that its prescribed measures will actually achieve the reductions necessary to attain the climate action plan's stated goals. CEQA Guidelines § 15183.5(b)(1)(D). As discussed above, the GHG Plan provides no basis for such a conclusion. The GHG Plan and the RPEIR should therefore be revised to make explicit that the GHG Plan does not contain sufficient specific, enforceable GHG reduction measures to support streamlined CEQA review of future projects. Development projects in Fresno are already subject to great discretion regarding the level of applicable environmental review. See, e.g. Attorney General's Letter to City's Director of Development and Resource Management, Re: City of Fresno's South Industrial Priority Area Specific Plan (August 2, 2019), at 11-12. The City cannot, in addition, allow most projects subject to discretionary review bypass GHG analysis under the GHG Plan.</p>	<p>The response to comment C1-25 above, explains how the plan satisfies the requirements for CEQA streamlining. Chapter 5, Section 5.2 of the GHG Reduction Plan provides a detailed explanation regarding the GHG emission reduction potential of the local reduction measures, including how the local reduction measures would allow the City to meet the 2030 targets per SB 32, and its associated 2017 CARB Scoping Plan. Therefore, the GHG Reduction Plan clearly demonstrate that its prescribed measures will actually achieve the reductions necessary to attain the climate action plan's stated goals.</p>
C1-32	<p>B. The PEIR Fails to Adequately Analyze and Mitigate for the General Plan's Greenhouse Gas Emissions</p> <p>The RPEIR, like the GHG Plan, concludes that implementation of the General Plan, along with implementation of other local policies, will enable the City to meet state-mandated GHG reduction targets. RPEIR at 4.8-46, 50. The City therefore relies on implementation of these policies to mitigate GHG emissions resulting from implementation of the General Plan.</p> <p>Courts have clarified that an EIR is inadequate where proposed mitigation measures are so undefined that it is impossible to evaluate their effectiveness. <i>San Franciscans for Reasonable Growth v. City and County of San Francisco</i> (1984) 151 Cal.App.3d 61, 79. Moreover, "[m]itigation measures must be fully enforceable through permit conditions, agreements, or legally binding instruments." CEQA Guidelines § 15126.4(a). The record must also contain</p>	<p>This comment asserts that the GHG mitigation identified in the PEIR are undefined and does not include permit conditions, agreements or legally binding instruments that enforce the implementation of the GHG mitigation measures. However, Section 7.3 of the GHG Reduction Plan includes the GHG Plan Update Project Consistency Checklist that all development applicants must complete and include in the permit application. The commitments made in the GHG Plan Update Project Consistency Checklist become Conditions of Approval for the Project which provides the permit conditions needed to enforce the GHG mitigation. Therefore, this comment is incorrect. The GHG reduction measures in the GHG Reduction Plan would be implemented and the monitoring programs described in Section 7 of the GHG Reduction Plan ensure that implementation is monitored and tracked in order that collectively, the reduction targets are achieved. Therefore, specific mitigation to address specific project impacts would be developed and implemented when future</p>

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	<p>substantial evidence of the measures' feasibility and effectiveness. Sacramento Old City Assn. v. City Council of Sacramento (1991) 229 Cal.App.3d 1011, 1027.</p> <p>Unfortunately, the GHG mitigation identified in the PEIR fails to meet these standards. Many of the General Plan's policies and programs relied on to mitigate impacts related to GHG emissions are vague, optional, directory, or otherwise unenforceable, or lack evidence to support their assumptions. Emissions reductions cannot be assumed from such policies. A few examples—out of numerous instances—include the following:</p> <ul style="list-style-type: none"> • General Plan Objective UF-12. Directing the City to locate roughly one half of future residential development in infill areas (emphasis added). RPEIR at 4.8-19. However, the General Plan provides liberal definitions for terms such as “roughly” and “approximately” as applied in the Plan. It states that use of these terms is intended to be flexible so that depending on context, a reference to “approximately one-half” could vary at least 10 to 15 percent and use of the term “roughly” could include twice that amount or more. General Plan at 1-30. Anywhere from 20 percent to over 80 percent of future development could occur in infill areas. • General Plan Policy RC-5-c: GHG Reduction through Design and Operations. “Promote the expansion of incentive-based programs that involve certification of projects for energy and water efficiency and resiliency. . . . Promote appropriate energy and water conservation standards and facilitate mixed-use projects, new incentives for infill development, and the incorporation of mass transit, bicycle and pedestrian amenities into public and private projects.” RPEIR at 4.8-28 (emphasis added). • Building Energy Efficiency. “The City encourages developers to achieve the voluntary tier levels from the CPUC Energy Efficiency Strategic Plan, which ultimately lead to net zero energy consumption for residential development by 2020 and non-residential development by 2030.” RPEIR at 4.8-43. • General Plan Policy RC-8-b: Energy Reduction Targets. “Strive to reduce per capita residential electricity use to 1,800 kWh per year and non-residential electricity use to 2,700 kWh per year per capita by developing and implementing incentives, design and operation standards, promoting 	<p>discretionary projects are proposed and the specifics of such projects are known.</p>

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	<p>alternative energy sources, and cost-effective savings.” RPEIR at 4.8-31.</p> <ul style="list-style-type: none"> • General Policy RC-8-c: Energy Conservation in New Development. “Consider providing an incentive program for new buildings that exceed California Energy Code requirements by fifteen percent.” RPEIR at 4.8-31. • Electric Vehicles. The PEIR states that based upon the historic trends in Electric Vehicle (EV) ownership and the CARB Zero-Emission Vehicles (ZEV) Action Plan, it is assumed that by 2030 EV ownership in the city would reach 8.7%, and by 2035, 13% of the vehicle trips would be made by EVs. RPEIR at 4.8-4@. The PEIR offers no evidence to support this assertion. The City’s planned launch of an EV charging pilot program does not provide such evidence. Id. <p>Moreover, although the RPEIR purports to analyze impacts of the General Plan’s continued implementation (RPEIR at 4-1), it fails to present evidence that the City has acted on these policies. The City has had over six years since General Plan adoption to develop incentive programs and reduction measures, yet it presents no evidence that any programs have been implemented. References to future plans to implement General Plan policies related to transportation demand management and VMT reduction do not provide such evidence. RPEIR at 4.8-41, 42. Nor do references to the EV charging pilot program. RPEIR at 4.8-42. Therefore, the RPEIR cannot conclude that the City will see the substantial emissions reductions from these policies necessary to meet state mandates.</p> <p>Further, in concluding that General Plan implementation may directly or indirectly generate GHG emissions having significant environmental impacts and would result in significant cumulative GHG impacts, the RPEIR relies entirely on Mitigation Measure GHG-1 to reduce these emissions to less than significant. RPEIR at 4.8-47, 50. Mitigation Measure GHG-1 requires new development projects subject to discretionary review to show consistency with the GHG Plan and its CEQA Project Consistency Checklist. RPEIR at 4.8-47. However, Mitigation Measure GHG-1 relies on consistency with the very policies, described above, from the General Plan and other local programs, that require little apart from consistency with existing regulations, or with vague and unenforceable measures. This approach fails for the same reasons as</p>	

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	<p>noted above. Permissible mitigation under CEQA must be binding or fully enforceable. The RPEIR fails to present evidence applying Mitigation Measure GHG-1 will actually allow the City to meet GHG emissions reduction mandates.</p> <p>There are numerous feasible mitigation measures the City could adopt to reduce the General Plan's GHG impacts. Some examples include:</p> <ul style="list-style-type: none"> • Create funding incentives for projects that conform to the General Plan and development approvals to smart growth and infill development standards such as LEED Neighborhood Development standards. Alternatively, the City could adopt a policy that it will not provide or seek future funding for widening roadways to serve sprawl developments but will instead prioritize funding for projects that serve development adjacent to or within already developed areas. • Require local hiring within the vicinity of new employment centers to reduce VMTs. • Facilitate the development of affordable housing for lower-income residents near low-wage jobs by zoning for multi-family housing and working with affordable housing developers to assemble financing for deed-restricted affordable housing in those areas. • Redesignate industrial land use designations on vacant parcels in areas with sensitive receptors to land uses associated with fewer emissions in order to lessen the cumulative impact of GHG emissions in areas already experiencing disproportionate air impacts. • Adopt any number of policies that apply to new development within the City's jurisdiction. For example, it could: • Adopt an ordinance requiring payment of indirect source impact fees from development projects, similar to what the San Joaquin Valley Air Pollution Control District requires in order to offset air pollution. The fee could be tailored to address traditional air pollution, toxic air contaminants, and disproportionate impacts on overburdened communities as well as GHG emissions through community-driven processes. • Adopt a policy conditioning funding of certain transportation projects on a 	

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	<p>demonstration that the project will reduce vehicle-miles traveled and will not add to cumulative and disproportionate pollution burdens on disadvantaged communities.</p> <ul style="list-style-type: none"> • Adopt a policy requiring publicly accessible electric vehicle charging stations to be installed at all new buildings (residential, and commercial, and industrial) with a parking lot larger than 10 parking spots. • Offer fee reductions, waivers, loans or grants to developers and contractors who commit to verifiable green building practices that exceed state minimum standards and that create co-benefits that reduce cumulative impacts on surrounding disadvantaged communities. See Attachment 11, , Exhibit K (Institute for Local Government Sustainability Best Practices) at 9. • Provide incentives for new development projects to install home or business electric vehicle charging stations, alternative energy systems or energy efficiency upgrades. See Attachment 11, Exhibit K (Institute for Local Government Sustainability Best Practices) at 11. <p>Even if the City cannot feasibly adopt some of these measures as part of its environmental review of the General Plan, it certainly can commit to developing and adopting specific measures in the future, provided it includes proper performance standards that will guide it in developing the measures. Gray v. County of Madera (2008) 167 Cal.App.4th 1099.</p>	
C1-33	<p>C. The RPEIR's Conclusion that the Project Will Not Conflict with an Applicable Plan to Reduce GHG Emissions is Not Supported by Substantial Evidence</p> <p>The RPEIR recognizes that the Project will have significant GHG-related impacts if it will conflict with an applicable plan, policy, or regulation that was adopted for the purpose of reducing the emissions of GHGs. RPEIR at 4.8-47. However, the RPEIR concludes that the Project will not conflict with any such plan, and therefore will not have a significant impact. Id. at 4.8-47 to 49. The RPEIR's analysis on this point is flawed.</p> <p>First, the RPEIR concludes that the Project is consistent with state GHG reduction goals and with the CARB Scoping Plan, and asserts that implementation of the GHG Plan will allow the City to meet the state's</p>	<p>This comment asserts that the "Project" does not provide evidence that it will meet the State's reduction targets, the San Joaquin Valley Air Pollution Control District (SJVAPCD) Climate Action Plan, or the SJVAPCD's Guidance for Valley Land-use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA. This comment is incorrect.</p> <p>First, the GHG Reduction Plan sets reduction targets identical to the State's legislative reduction targets set in Senate Bill 32 for year 2030. For this reason the GHG Reduction Plan will not conflict with the Statewide goals as identified in State legislation.</p> <p>The GHG Reduction Plan reduces GHG emissions from activities including on-road transportation and electricity consumption. These reductions also reduce air toxics associated with these sources of emissions. For this reason, the GHG</p>

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	<p>reduction targets. Id. Yet it appears to omit data supporting this conclusion. An EIR’s conclusions must be supported by substantial evidence. Laurel Heights Improvement Ass’n, 47 Cal.3d at 409. And without presenting such evidence, the RPEIR cannot ensure that the Project is consistent with state climate mandates.</p> <p>Second, the RPEIR fails to analyze the Project’s consistency with the San Joaquin Valley Air Pollution Control District Climate Change Action Plan. Goal 3 of that plan, referenced in the RPEIR, states: “Ensure that climate protection measures do not cause increases in toxic or criteria pollutants that adversely impact public health or environmental justice communities.” RPEIR at 4.8-16. The Project is inconsistent with this goal, and therefore with the District’s plan, because it results in increases of both toxic and criteria pollutants in close proximity to, and in some cases directly within, low income communities and communities of color in Fresno already overburdened by pollution – environmental justice communities.</p> <p>Finally, the RPEIR fails to examine the Project’s consistency with the San Joaquin Valley Air Pollution Control District’s Guidance for Valley Land-use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA. The Project, however, is inconsistent with this Guidance as well, where the Guidance finds that project-specific emissions are cumulative, and “that this cumulative impact is best addressed by requiring all projects to reduce their GHG emissions” RPEIR at 4.8-17. The RPEIR does not generally “require” such project-specific reductions, and therefore could not be found consistent with the Guidance.</p>	<p>Reduction Plan does not conflict with Goal 3 of the SJVAPCD Climate Action Plan, which ensures that climate protection measures will not increase air toxics or criteria air pollutants. The same reduction measures in the GHG Reduction Plan that reduce GHG emissions also reduce air toxics and criteria air pollutants because they reduce the emissions coming from the sources of emissions. Electric vehicles, PV solar, and energy efficiency significantly reduce GHG emissions, air toxics and criteria air pollutants.</p> <p>Finally, the comment asserts that the GHG Reduction Plan is not consistent with the SJVAPCD’s Guidance for Valley Land-use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA because it does not require individual projects to implement the reduction measures. This is also untrue. The GHG Reduction Plan requires all new development applications to implement applicable reduction measures using the GHG Plan Update Project Consistency Checklist. The commitments made in the GHG Plan Update Project Consistency Checklist become Conditions of Approval for the project. For this reason, the GHG Reduction Plan will not conflict with the SJVAPCD’s Guidance for Valley Land-use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA.</p>
C1-34	<p>VI. The PEIR Fails to Analyze and Mitigate the General Plan’s Significant Energy Impacts in Violation of CEQA</p> <p>Leadership Counsel’s May 2020 comments discussed the PEIR’s deficient analysis of the General Plan’s energy impacts. The City’s responses to Leadership Counsel’s comments, and the RPEIR, do not remedy the deficiencies. The PEIR must be revised to fully disclose the General Plan’s energy impacts and evaluate feasible mitigation measures.</p>	<p>This comment pertains to the analysis of energy beginning on page 4.6-28 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. Comments on the Draft PEIR related to energy were addressed in the 2020 Response to Comments document. No further response is required.</p>

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C1-35	<p>A. The PEIR's Restriction of the Study Area for Energy Impacts to the Planning Area Artificially Excludes the Project's Energy Impacts</p> <p>The City must revise and broaden the Study Area for energy impacts so that the energy impacts associated with all phases of project implementation are included in the impact analysis. 14 C.C.R. § 1516.2(b). An EIR's analysis must include the project's energy use for all project phases and components, including transportation-related energy, during construction and operation. Id.; CEQA Guidelines Appendix F. Here, the PEIR's description of the Project Area for energy impacts is the City of Fresno Planning Area. 4.6-2. However, this Project Area artificially excludes analysis of project impacts from certain phases and components of the project, including transportation-related and operational energy impacts which extend beyond the Planning Area. For example, the project designates land for industrial development and warehouse distribution centers in South Fresno. Distribution facilities will increase VMTs from trucks that travel to and from facilities along Highway 99 and other high-volume freeways and roadways. These thousands of additional truck trips will require fuel throughout their journeys and will therefore impact energy usage well beyond the Planning Area.</p> <p>With respect to operations resulting from the project, the General Plan plans for extensive industrial and warehouse distribution center development in close proximity to residential areas located just outside of the Planning Area. One example is the disadvantaged unincorporated community of Malaga, which is located less than a quarter mile to the east of the Planning Area. The development and operation of industrial and warehouse distribution facilities on land that is currently vacant or used for farming may be expected to result in ambient temperature increases for nearby land uses, including existing residential, commercial, and public facilities just outside of the Planning Area.</p> <p>The City failed to substantively respond to Leadership Counsel's May 2020 comments on the Draft PEIR concerning the inadequate Study Area. See Response to Comments, p. C3-25. The City argued that the project "would not result in any physical improvements that would require the construction of new energy generating facilities within the Planning Area," does "not change the distribution or intensity of land uses," and does "not result in any physical impacts that would affect energy." Id. The City is mistaken. The General Plan's</p>	<p>This comment pertains to the analysis of energy beginning on page 4.6-28 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. Comments on the Draft PEIR related to energy were addressed in the 2020 Response to Comments document. No further response is required.</p>

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	implementation will foreseeably result in development that will impact energy use. These foreseeable impacts must therefore be studied in the PEIR. See 14 C.C.R. § 15152. Moreover, the PEIR's discussion of unenforceable and non-binding "policies and implementation programs that are focused on improving the sustainability of the city" (id. C3-25) does not remedy the failure to fully disclose and mitigate the General Plan's impacts.	
C1-36	<p>B. The PEIR's Project Setting Description Fails to Identify Diesel Fuel and Renewable Energy Supplies and Use Patterns in the Planning Area</p> <p>An EIR's description of the environmental setting must include existing energy supplies and energy use patterns in order to permit a complete and accurate assessment of the project's energy impacts. See CEQA Guidelines Appendix F(II)(B). Here, the PEIR's environmental setting discussion contains just one reference to renewable energy sources—a statement of the percentage that renewable sources comprise among all energy sources generated in California. The PEIR's environmental setting discussion includes no information about existing renewable energy supplies and energy use patterns in Fresno. The PEIR must be revised to include information about supplies and usage of wind, solar, hydrogen and other renewable sources.</p> <p>The PEIR's cursory discussion of existing fuel usage focuses on gasoline use by lightduty vehicles. The PEIR provides an estimate of diesel usage from trips in Fresno County in 2018 but does not state anything about the basis for that usage or provide any information about diesel and gasoline usage for trips that extend beyond Fresno County. Fresno is located in the heart of inland California, hundreds of miles from California's heavily-populated coastal cities and ports, and is home to warehouse distribution centers, agricultural processing, and other industries that rely on shipping and transportation. Thus, the PEIR's environmental setting discussion should disclose the patterns of diesel-energy usage from truck traffic to and from Fresno, including trips both within and beyond Fresno County.</p> <p>Although Leadership Counsel's May 2020 comment informed the City of the Draft PEIR's failure to fully disclose energy supplies and use patterns, the City did not substantively respond. See Response to Comments, p. C3-26. The City's response to the Leadership Counsel's comment merely references the</p>	<p>This comment pertains to the analysis of energy included in Section 4.6 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. Comments on the Draft PEIR related to energy were addressed in the 2020 Response to Comments document. No further response is required.</p>

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	PEIR's cursory energy supply discussion—which Leadership Counsel already identified as deficient. Id. The RPEIR similarly does not attempt to address the deficiencies.	
C1-37	<p>C. The PEIR Fails to Include Information Necessary to Describe the Project and Support the City's Conclusion That the Project Will Not Have Significant Energy Impacts</p> <p>CEQA requires an EIR's analysis to include "the project's energy use for all project phases and components, including transportation-related energy, during construction and operation." 14 C.C.R. § 1516.2(b). The analysis should consider not only building code compliance, but also other relevant factors such as "the project's size, location, orientation, equipment use and any renewable energy features that could be incorporated into the project." CEQA Guidelines Appendix F describes five topics that an EIR's project description and five topics which an EIR's energy impacts analysis must include where relevant. Appendix F(II)(A)(1-5) & (II)(C)(1-5). Here, the PEIR fails to describe and analyze several aspects of the project's energy usage which are both relevant to the project and identified in Appendix F as important components of an EIR's energy impact analysis. The PEIR further fails to support its findings that the project's energy-related impacts are less than significant with facts and analysis.</p>	<p>This comment pertains to the analysis of energy beginning on page 4.6-28 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. Comments on the Draft PEIR related to energy were addressed in the 2020 Response to Comments document. No further response is required.</p>
C1-38	<p>1. The PEIR Fails to Describe Construction-Related Energy Impacts or Support Its Conclusion That Such Impacts Are Less Than Significant Without Mitigation</p> <p>The PEIR concludes that "[p]otential construction impacts would be less than significant, and no mitigation is required." The PEIR arrives at this conclusion based on only two sentences of analysis that respectively state:</p> <p>"Energy would be required during construction for the transportation of building materials, manufacturing of building materials, and the actual construction of buildings and infrastructure." PEIR, 4.6-29, and;</p> <p>"Energy use during construction of future development facilitated by the approved General Plan would primarily involve gasoline and diesel fuel and would represent a short-term use of readily available resources." PEIR, 4.6-30.</p>	<p>This comment pertains to the analysis of energy beginning on page 4.6-28 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. Comments on the Draft PEIR related to energy were addressed in the 2020 Response to Comments document. No further response is required.</p>

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	<p>Other than a general assertion regarding the primary construction-related fuel sources, this analysis contains no information about the project's construction-related energy use requirements. The PEIR does not provide any information about the amount of energy from different sources that may be expected to be used; the energy consuming equipment and processes; or the energy intensiveness of materials and equipment that may be expected for construction-related activities, as required by Appendix F. The PEIR provides no factual basis for its conclusion that construction-related energy use would be derived from "readily available resources" nor does this conclusion support a finding that the project avoids the "inefficient, wasteful, and unnecessary consumption of energy" (PEIR, 4.6-30) from construction-related activities.</p> <p>The project plans for thousands of acres of new residential, commercial, and industrial development. Yet the PEIR contains no discussion of any policies or implementation measures included in the General Plan that would reduce energy consumption associated with construction. Therefore, it is likely that, without mitigation, the project will have significant energy-related construction impacts that require the identification and adoption of mitigation measures to avoid and reduce those impacts.</p>	
C1-39	<p>2. The PEIR Fails to Support Its Conclusion That Project Operational Energy Impacts Are Less Than Significant Without Mitigation</p> <p>The PEIR states that project operational energy demand "includes natural gas and electricity" and indicates that the project's operational energy requirements and use efficiencies by amount and fuel type are less than significant.⁴³ The PEIR's conclusion is unfounded and its analysis fails to include the information required by CEQA. The PEIR does not provide any information about the energy consuming equipment or processes which may be used or the energy intensiveness of activities which may occur during operation of buildings and facilities developed as a result of General Plan implementation. See Appendix F(II)(A)(1) & (II)(C)(1). The PEIR also makes no effort to quantify the project's potential energy impacts or to explain why that is not possible. See <i>Ukiah Citizens for Safety First v. City of Ukiah</i> (2016) 248 Cal.App.4th 256. Without adequate information about the project's operational energy impacts, the PEIR provides no factual basis for its finding that those impacts are less</p>	<p>This comment pertains to the analysis of energy beginning on page 4.6-28 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. Comments on the Draft PEIR related to energy were addressed in the 2020 Response to Comments document. No further response is required.</p>

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	<p>than significant.</p> <p>In addition, the factors that the PEIR relies on to support its conclusion that the project's operational energy impacts are less than significant and do not require mitigation do not in fact demonstrate that the project will not result in wasteful, inefficient, or unnecessary consumption of energy and that the project's energy impacts are less than significant. The General Plan policies which the PEIR's analysis of the project's operational energy impacts cites – Policies RC-8-a through k and Policy HC-3-d – contain no clear or enforceable requirements or commitments that ensure the reduction or avoidance of unnecessary energy consumption. PEIR, 4.6-30, 33. Rather, those policies use discretionary and vague terms and descriptions without guarantees, enforcement mechanisms or timelines to ensure implementation. In most cases, the policies fail to identify specific actions to be taken and lack quantified targets relating to the amount of energy to be saved.</p> <p>For example, Policy RC-8-b calls on the City to “[s]trive to reduce per capita residential electricity consumption,” Policy RC-8-c directs the City to “[c]onsider providing an incentive program for new buildings that exceed California Energy Code requirements,” and Policy RC-8- I states, “[a]dopt and implement a program to increase the use of renewable energy to meet a given percentage of the city’s peak electrical load in a given timeframe.” Italics added. Policy HC-3-d in turn states, “[p]rovide appropriate incentives for affordable housing providers, agencies, non-profit, and market-rate developers to use LEED and CalGreen Tier 1 or Tier 2 standards.” PEIR, 4.3-34. Policy HC-3-d includes a commentary that the “City will publicize the health, environmental, and long term economic and maintenance benefits of applying LEED, CalGreen [or] third party equivalents to projects in Fresno.” These and the other policies cited by the PEIR do not demonstrate that any reduction in project energy emissions will occur compared to emissions levels that would occur without those policies nor do they show that the project’s energy impacts will be less than significant and that mitigation is not required.</p> <p>The PEIR bases its conclusion that the operational impacts would be less than significant in part on its assertion that “potential improvements” to energy and natural gas “facilities” for future projects, which have not yet been proposed, would be identified at the time such projects are considered. PEIR</p>	

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	<p>4.6-31. The use of the term “facilities” in this sentence is unclear, and we assume it refers to all use of energy and natural gas in future projects which have yet to be proposed. That said, the PEIR provides no information about the nature or impact of such improvements as they relate to project operational energy usage nor does it provide a factual basis for this assertion. An EIR must contain facts and analysis, not just an agency’s bare conclusions or opinions. <i>Sierra Club v. County of Fresno</i> (2018) 6C5th 502, 522. Here, the PEIR’s conclusion that future projects that result from General Plan implementation will reflect unidentified “potential improvements” to energy usage does not support the PEIR’s finding that project operational energy impacts are less than significant.</p> <p>In addition, the PEIR contends that General Plan implementation’s energy impacts will be less than significant because future projects will be required to meet California Energy Code building efficiency standards and the CalGreen Code. However, a requirement that a project comply with the Building Code does not, by itself, constitute an adequate assessment of mitigation measures that can be taken to address the energy impacts that occur during construction and operation of a project. <i>California Clean Energy Committee v. City of Woodland</i> (2014) 225 Cal.App.4th 173. Likewise, a statement that a project will be required to comply with Energy Code requirements does not in itself mean that project impacts are less than significant. And in this case, the PEIR does not provide support for its assertion that future projects will be required to comply with the Energy Code. Indeed, the PEIR does not identify any policies or mitigation measures that require compliance with the Energy Code. Nor does it describe how and at what stage the City will ensure such compliance. In fact, future projects that qualify for “by right” under the City’s Development Code will not be required to undergo further environmental review under CEQA and will not be subject to additional mitigation measures to require compliance with Energy Code building efficiency standards.</p> <p>The City did not adequately respond to Leadership Counsel’s May 2020 comments concerning these issues. Again, the City argues incorrectly that the General Plan’s implementation “would not result in any physical impacts that would affect energy.” Response to Comment C3-28. To the contrary, the General Plan will foreseeably result in development that causes significant</p>	

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	<p>energy impacts, including approximately 6,000 acres of energy-intensive industrial and warehouse development in and around South Fresno neighborhoods. Moreover, the City’s reference to General Plan policies “encouraging alternative energy sources and affordable housing (id. C3-29), for example, does not address the PEIR’s failure to identify enforceable mitigation measures for significant energy impacts.</p> <p>⁴³ The PEIR actually states that “continued implementation of the approved General Plan is consistent with this item,” referring to a paraphrased statement the impact category contained in Appendix F, Section II(C)(1). We assume that by “consistent with” the authors of the PEIR mean that the impact in this category is less than significant. PEIR, 4.6-30.</p>	
C1-40	<p>D. The PEIR Fails to Acknowledge or Mitigate Significant Indirect Energy-Related Impacts Resulting from New Construction</p> <p>The PEIR does not disclose or attempt to mitigate the energy impacts caused by new construction that will take place under the General Plan. As discussed above, the General Plan’s implementation stands to significantly increase energy demand within existing residential, commercial, mixed-use and public facilities buildings due to the construction of structures on parcels that are currently vacant or are used for agriculture. New development and, in particular, the construction of large concrete distribution facilities in the Southern portion of the planning area, will, without mitigation, radiate heat into surrounding areas and increases ambient air temperatures and contribute to higher temperatures during the evenings. The increase in air temperatures means that air conditioning units in nearby structures used by people will need to consume more energy to cool the structures to desired temperatures. Because temperatures in Fresno routinely reach highs of well over 100 degrees in the summer, energy demand from air conditioners is already high in the Planning Area compared to other parts of the state and further increases in energy demand are likely to be significant. Given this and the fact that the General Plan plans for approximately 6,000 acres of industrial and warehouse development in and surrounding South Fresno neighborhoods that are occupied by thousands of residents and are home to schools, utility districts, commercial, and employment centers, the project’s impact on increased energy usage due to AC units will likely be significant. Thus, under CEQA, the</p>	<p>This comment pertains to the analysis of energy beginning on page 4.6-28 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. Comments on the Draft PEIR related to energy were addressed in the 2020 Response to Comments document. No further response is required.</p>

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	<p>PEIR should evaluate these potentially significant energy impacts and adopt feasible mitigation measures.</p> <p>Yet again, the City did not substantively respond to Leadership Counsel’s May 2020 comments addressing increased energy demand caused by new construction. The City contended that the Draft PEIR was not required to address these potentially significant impacts because the review is “programmatic in nature.” Response to Comments, C3-30. The City is mistaken. The use of a programmatic EIR “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.” 14 C.C.R. § 15152. Here, the significant energy impacts from new development under the General Plan are foreseeable. The PEIR must therefore evaluate these impacts and mitigate them.</p>	
C1-41	<p>E. The DPEIR’s Analysis of the Project’s Transportation-Related Energy Impacts is Inadequate</p> <p>CEQA Guidelines Appendix F requires that an EIR’s energy impact analysis include the “project’s energy requirements and its energy use efficiencies by amount and fuel type for each stage of the project,” as well as the project’s “project transportation energy use requirements and its overall use of efficient transportation alternatives.” Appendix F(II)(C)(1)&(6). The DPEIR however makes no attempt to meet these requirements. Instead, it states only, “[t]he project would result in energy usage associated with gasoline to fuel project-related trips (i.e., the use of motor vehicles). When evaluating a long-range planning project, forecasting future travel methods and gasoline use is too speculative and not appropriate or feasible.” DPEIR, 4.6-33. The DPEIR provides no explanation for why any assessment of future travel methods and/or gasoline use is too speculative and not feasible or why the DPEIR cannot otherwise comply with the energy impacts analysis requirements set forth in Appendix F. This failure violates CEQA. See <i>Berkeley Keep Jets Over the Bay Comm. v. Board of Port Comm’rs</i> (2001) 91 CA.4th 1344, 1370.</p> <p>The project-related VMT forecasts the DPEIR provides have limited value in assisting the reader in understanding the nature and the significance of the Project’s transportation-related impacts. In support of its conclusion that the</p>	<p>This comment pertains to the analysis of energy beginning on page 4.6-28 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. Comments on the Draft PEIR related to energy were addressed in the 2020 Response to Comments document. No further response is required.</p>

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	<p>project will not result in wasteful, inefficient, or unnecessary use of energy, the DPEIR states:</p> <p>“Although the measures of VMT in per capita terms increase from existing conditions with the City’s General Plan Update, the city’s VMT is below that of the regional average and the propose project would not result in a significant impact on gasoline demand.”</p> <p>The fact that the DPEIR’s forecasts show average VMT per capita in the City of Fresno as less than the average VMT per capita for Fresno County does not support the conclusion that project implementation would not result in the wasteful use of energy. The City and County of Fresno have distinct residential and employment land use patterns and transportation options available to residents and workers. For instance, many residents in rural Fresno employed in the agricultural sector must travel significant distances each day to and from work on farms which are widely dispersed across the region as well as to meet their everyday household needs, as many rural communities, including disadvantaged unincorporated communities, lack grocery stores, health clinics, libraries, and other locations to obtain essential goods and services. Residents in the City of Fresno on average need to drive significantly shorter distances in order to reach their place of employment and/or obtain essential goods and services. In addition, the limited operations of Fresno County’s Rural Transit Service, which reach many communities once or twice a day, makes using public transit infeasible for many residents, whereas residents in the City of Fresno have greater access to more frequent service to meet their mobility needs. Therefore, whether a given VMT level may be indicate “efficient” energy usage differs based on context and comparison of the City and County of Fresno’s average VMT levels does not provide useful guidance to assess the project’s energy impacts.</p> <p>The DPEIR’s general discussion of the General Plan’s support for active transportation also does not demonstrate that the project will not result in the wasteful or unnecessary consumption of energy. The discussion only mentions one specific policy, Policy RC-8-j, which provides that the City will “[s]upport the development of a network of integrated charging and alternate fuel stations for both public and private vehicles, and if feasible, open up municipal stations to the public as part of network development.” DPEIR, 4.6-12, italics</p>	

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	<p>added. Like other policies that the DPEIR relies on to support its findings that impacts will be less than significant, Policy RC-8-j provides no details about what “support” the city will provide for the charging network; when that support will be provided; any specifics about the extent of that network or the nature of charging infrastructure, including whether the network will serve trucks as well as passenger vehicles; and how the City will determine whether to open municipal stations to the public as part of the network. The DPEIR’s general description of the General Plan’s support for alternative transportation apart from motor vehicles also lacks the specificity to show that General Plan implementation will not result in energy waste. This general description also does not address if and how general plan policies ensure efficient transportation-related energy use for truck and car trips associated with industrial development in South Fresno.</p> <p>And, as discussed above, while Table 4.16-2 includes forecasts for total employment VMT, the DPEIR does not state whether this figure includes VMT resulting from truck and car trips made by employees during the course of work (rather than just commute trips); truck trips made to and from commercial and industrial facilities, such as warehouse distribution centers and agricultural processing facilities, by individuals who do not reside in and/or are not employed within the Planning Area; and VMT portions of truck and car trips that extend outside of Fresno. DPEIR, 4.6-33.</p> <p>The DPEIR also makes no attempt to discuss transportation energy use requirements that may be expected (for instance, projections relating to project-related VMT attributable to cars, trucks, and/or public transit and their respective projected energy requirements) nor does it discuss the use of “efficient transportation alternatives.” Efficient transportation alternatives relevant to General Plan implementation that should be discussed include the extent to which clean energy vehicles, such as electric or hydrogen fuel cell vehicles may be utilized as opposed to vehicles reliant upon diesel or gasoline. The Attorney General’s guidance document, “Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act⁴⁴,” discussed elsewhere in this letter, provides numerous examples of feasible measures to reduce unnecessary fuel usage by vehicles serving warehouse projects. These examples include but are not</p>	

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	<p>limited to the following:</p> <ul style="list-style-type: none"> • requirements that facility-owned and operated fleet equipment with vehicle weight rating greater than 14,000 pounds meet or exceed 2010 model-year emissions equivalent engine standards, requiring all heavy duty vehicles entering the project site to be zero-emission beginning in 2030 • prohibitions on truck idling for more than two minutes • construction of electric truck and light-duty vehicle charging stations proportional to the number of dock doors and parking spaces respectively at the project. The City must consider incorporation into the General Plan and Development Code of these and other requirements listed in the Attorney General's guidance that would reduce unnecessary transportation-related energy consumption. • construction of electric plugs for electric transport refrigeration units at every dock door, if the warehouse use could include refrigeration • requirements that 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 <p>While the Attorney General's guidance is designed to reduce the impacts of warehouse projects, the measures listed above and others included in the guidance are applicable to a wide range of industrial and commercial projects which generate significant traffic. The City must consider incorporating these and other measures into the General Plan and Development Code in order to reduce unnecessary transportation-related energy-consumption associated with the Project.</p> <p>In addition, the DPEIR's discussion of the project's energy impacts, as well as its discussion of the environmental setting, completely omits any discussion of impacts associated with the use of freight. As the DPEIR notes elsewhere, both the Union Pacific and BNSF rail lines in Fresno carry freight traffic, with the Union Pacific line carrying exclusively freight. 4.13- 8. The U.S. Department of Transportation's Bureau of Transportation indicates that rail freight service</p>	

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	<p>was responsible for the consumption of 507 trillion BTU of distillate/diesel fuel nationwide.⁴⁵ The DPEIR must disclose the project’s anticipated impacts on the use of freight, in addition to underlying energy demand associated with freight in Fresno. The presence of two freight-carrying rail lines and a BNSF intermodal hub center in Fresno and the General Plan’s dedication of extensive land for industrial development, including agricultural processing and warehouse distribution uses, indicate that the project’s freight-related energy impacts are potentially significant.</p> <p>The City must revise the DPEIR to accurately and completely describe the project’s likely energy impacts and must provide factual bases justifying its conclusions regarding the energy impact significance levels. Given the regional scope and multi-decade nature of this project; the extensive development it contemplates; and the lack of clear and enforceable requirements that will ensure the reduction and avoidance of unnecessary and wasteful energy usage, the project will likely result in significant energy impacts which require mitigation. Pub. Res. Code § 21100(b)(3); 14 C.C.R. § 1516.2(b) (“If analysis of the project’s energy use reveals that the project may result in significant environmental effects due to wasteful, inefficient, or unnecessary use of energy, or wasteful use of energy resources, the EIR shall mitigate that energy use”). Mitigation measures identified must comply with the specific mitigation requirements set forth in Public Resources Code Section 21000(b)(3), CEQA Guidelines Section 15126.4(a)(1), and Appendix F(II)(D)(1-5). See also <i>People v. County of Kern</i> (1976) 62 CA.3d 761, 774 (finding an EIR deficient that failed to include a detailed statement setting forth the mitigation measures proposed to reduce wasteful, inefficient, and unnecessary consumption of energy as required by section 21100(c) and CEQA Guidelines section 15143).</p> <p>⁴⁴ Available at https://oag.ca.gov/sites/all/files/agweb/pdfs/environment/warehouse-best-practices.pdf, access on May 8, 2021.</p> <p>⁴⁵ See Bureau of Transportation Statistics, Energy Consumption by Mode of Transportation, Table 4-6, available at https://www.bts.gov/content/energy-consumption-mode-transportation</p>	

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C1-42	<p>F. The PEIR Fails to Consider Electrification of Buildings as a Potentially Feasible Mitigation Measure for Reducing the General Plan's Significant Energy, Air Quality, and GHG Impacts</p> <p>The PEIR errs by failing to analyze building electrification as a potentially feasible mitigation measure for reducing energy use, GHG emissions, and air pollution. The California Energy Commission recently found that “[t]here is a growing consensus that building electrification is the most viable and predictable path to zero-emissions buildings” and is “essential to California’s strategy to meet its [greenhouse gas] reduction goals for 2030 and 2050.”⁴⁶ Given the General Plan’s significant GHG and air quality impacts, the PEIR should evaluate building electrification as a potentially feasible mitigation measure.</p> <p>Building electrification substantially reduces GHG emissions. Energy use by buildings is a major source of GHG emissions, much of which comes from gas end uses, such as space and water heating. Electrification can “reduce total greenhouse gas emissions in single family homes by approximately 30 to 60 percent in 2020, relative to a natural gas-fueled home.”⁹ In addition, as “the carbon intensity of the grid decreases over time, these savings are estimated to increase to approximately 80 to 90 percent by 2050, including the impacts of upstream methane leakage and refrigerant gas leakage from air conditioners and heat pumps.”¹⁰</p> <p>Building electrification also reduces air pollution. Gas appliances in buildings make up a quarter of California’s nitrogen oxide (NOx) emissions from natural gas. NOx is a precursor to ozone and particulate matter, which are key pollutants to curb in order to comply with state and federal ambient air quality standards. All-electric buildings reduce NOx and ground level ozone, improving outdoor air quality and benefiting public health. A recent study from the UCLA Fielding School of Public Health found that immediate replacement of all residential gas appliances with clean electric alternatives would result in 354 fewer deaths, 596 fewer cases of acute bronchitis, and 304 fewer cases of chronic bronchitis annually in California due to improvements in outdoor air quality alone—the monetized equivalent of \$3.5 billion in health benefits per year.⁴⁷</p> <p>In addition, given the disproportionately high asthma rates in low-income</p>	<p>This comment pertains to the analysis of energy beginning on page 4.6-28 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. Comments on the Draft PEIR related to energy were addressed in the 2020 Response to Comments document. No further response is required.</p>

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	<p>communities in Fresno, it is essential that the PEIR evaluate all-electric development as a potentially feasible mitigation measure.⁴⁸ Children from low-income households who have asthma often experience greater exposure to outdoor air pollution and are more susceptible to the health effects of pollution than asthmatic children from higher-income families.⁴⁹</p> <p>Requiring electrified buildings is a potentially feasible mitigation measure for reducing the significant air quality and GHG impacts identified in the DPEIR. All-electric residences can be less costly to build due to avoided gas infrastructure costs. Industry leaders have shown that all-electric construction is feasible for all building types, from single-family residences to large, commercial buildings.⁵⁰ For example, PG&E records demonstrate the average cost of gas infrastructure to serve a single-family home in an existing subdivision may be \$8,700 or more. Moreover, while electric rates are expected to have long-run stability due to increased sales from electrification of vehicle and gas end uses, gas rates are likely to rise substantially as gas throughput decreases, particularly in an unmanaged scenario where avoidable capital investments in the gas system continue. Thus, the DPEIR improperly fails to consider building electrification as a potentially feasible mitigation measure.</p> <p>⁴⁶ Docket No. 18-IEPR-01, 2018 IEPR Update Volume II, at 28, 32 (Mar. 21, 2019), https://www.energy.ca.gov/data-reports/reports/integrated-energy-policy-report/2018-integrated-energy-policyreport-update.</p> <p>⁴⁷ Zhu, et al., Effects of Residential Gas Appliances on Indoor and Outdoor Air Quality and Public Health in California, UCLA Fielding School of Public Health (April 2020), available at https://ucla.app.box.com/s/xyzt8jc1ixnetiv0269qe704wu0ihif7.</p> <p>⁴⁸ Brady Seals and Andee Krasner, Health Effects from Gas Stove Pollution, Rocky Mountain Institute, Physicians for Social Responsibility, and Sierra Club, 2020, at 13, https://rmi.org/insight/gasstoves-pollution-health.</p> <p>⁴⁹ Id.</p> <p>⁵⁰ Redwood Energy, Zero Carbon Commercial Construction: An Electrification Guide for Large Commercial Buildings and Campuses (2019), available at https://www.redwoodenergy.tech/wp-content/uploads/2019/09/Pocket-Guide-to-Zero-Carbon-Commercial-Buildings-2nd-Edition.pdf</p>	

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
C1-43	<p>VII. The DPEIR Fails to Adequately Analyze or Mitigate Significant Noise and Groundborne Vibration Impacts</p> <p>The DPEIR does not analyze potentially feasible mitigation measures to reduce or avoid the significant noise impacts caused by implementation of the General Plan. The DPEIR concludes that the General Plan's implementation will result in a significant increase in noise levels that cannot be mitigated. NOI-1 at 1-36. However, the DPEIR does not meaningfully evaluate ways to minimize the impact of noise on residents through noise reduction and suppression techniques, or through appropriate land use policies.</p> <p>As discussed above, the City has approved millions of square feet of warehouse projects in South Fresno. The California Attorney General recently observed that the noise from the construction of these warehouses causes "intrusive impacts to nearby sensitive receptors." See Attorney General, Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act, at 9.⁵¹ In addition, the Attorney General notes that trucks and on-site loading activities at warehouses can also be loud, bringing disruptive noise levels during 24/7 operation that can cause hearing damage after prolonged exposure. <i>Id.</i> (citing Noise Sources and Their Effects (a diesel truck moving 40 miles per hour, 50 feet away, produces 84 decibels of sound)).⁵² Therefore, the Attorney General implores "developers and lead agencies [to] adopt measures to reduce the noise generated by both construction and operation activities." <i>Id.</i></p> <p>Although the DPEIR notes several examples of possible measures to reduce noise from new development—such as providing setbacks and regulating hours of operation—it fails to impose any such requirements on construction or new development to reduce noise. See DPEIR 4.13-13. In fact, the DPEIR asserts that all construction activity is exempt from noise controls so long as the activity is conducted pursuant to an applicable construction permit and occurs between 7:00 a.m. and 10:00 p.m. 4.13-9. DPEIR at 4.13-19. The DPEIR then contends that "short-term construction impacts associated with the exposure of persons to or the generation of noise levels . . . would be less than significant" because construction noise is exempt from the City's noise ordinance. <i>Id.</i> That is not how CEQA works. The City ordinance's exemption of construction noise does not authorize a finding that construction noise will be</p>	<p>This comment pertains to the noise analysis beginning on page 4.13-17 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. The Recirculated Draft PEIR includes the Project Description chapter, and the Air Quality, Greenhouse Gas Emissions, and Transportation sections. Noise and Vibration comments on the Draft PEIR were addressed in the 2020 Response to Comments document. No further response is required.</p>

Table 3.A: Comments and Responses Matrix

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	<p>less than significant. To the contrary, the lack of any applicable local regulation controlling construction noise impacts indicates the need for mitigation to address noise impacts. CEQA provides no exemption for mitigating construction noise impacts simply because a local ordinance does not apply to such impacts.</p> <p>The City must analyze potentially feasible mitigation measures for the significant construction noise impacts caused by the Project, which the DPEIR acknowledges could be approximately 90 decibels (dB) at 50 feet. 4.13-18. That level is known to cause hearing damage. DPEIR at 4.13-5. In fact, construction noise impacts are known to occur at over 90 dB at 100 feet from the source, and over 80 dB at 200 feet from the source. See Kimley Horn, Acoustical Assessment of Sierra Avenue and Casa Grande Warehouse Project City of Fontana, California (June 2020), at 20, Table 6.⁵³ Although the DPEIR acknowledges that activities anticipated by the General Plan will expose sensitive populations to excessive groundborne vibration and groundborne noise levels (DPEIR 4.13-24), the PEIR fails to discuss any potential feasible mitigation measures. The DPEIR observes that disturbance due to groundborne vibration and groundborne noise are “usually contained to areas within about 100 feet of the vibration source” and as far as 200 feet. PEIR at 4.13-6. Despite identifying this 100 to 200-foot impact area, the DPEIR asserts that requiring a 25-foot buffer between heavy construction equipment and existing structures would mitigate groundborne vibration impacts to less than significant. DPEIR 4.13-24 (Mitigation Measure NOI-2); Table 1-1 at 1-36. The DPEIR provides no analysis for this conclusion that a 25-foot buffer will mitigate noise that the DPEIR itself admits is significant within a 100 to 200-foot area.</p> <p>Instead of attempting to mitigate noise impacts, the DPEIR improperly proposes to relax noise limits. For instance, the DPEIR proposes to increase the maximum allowable noise exposure level for noise-sensitive land uses such as residential, transient lodging, hospitals/nursing homes, and churches/meeting halls from 60 to 65 dB. DPEIR at 4.13-22. This increase is not supported by any rational analysis or evidence. The DPEIR merely states that the increase is justified considering the “intensification of land uses in the city” and the “continuing sensitive populations to unmitigated noise pollution.</p> <p>Likewise, the DPEIR proposes a 3 dB increase from ambient levels as a</p>	

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	<p>significance threshold for noise impacts (Policy NS-1-j). Again, the DPEIR does not explain why this 3 dB threshold was selected or is appropriate for determining the significance of noise impacts. In any case, the DPEIR fails to acknowledge that noise thresholds set in General Plans and ordinances are not determinative of whether noise impacts are significant. See <i>Keep Our Mountains Quiet v. County of Santa Clara</i> (2015) 236 Cal.App.4th 714, 732. Accordingly, the City's reliance on this arbitrary 3 dB significance threshold is misplaced and may not be used to analyze the noise impacts of future development. Thus, the DPEIR fails to analyze and mitigate significant noise impacts in violation of CEQA.</p> <p>It is critical for the DPEIR to evaluate potential mitigation of the significant noise impacts that will foreseeably occur from General Plan implementation. The City should consider, at a minimum, the following potentially feasible mitigation measures identified by the Attorney General's Warehouse Best Practices guide:</p> <ul style="list-style-type: none"> ● Siting warehouse facilities so that their property lines are at least 1,000 feet from the property lines of the nearest sensitive receptors; ● 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; ● 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 	

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	<p>community or public streets.</p> <p>See Attorney General, <i>Warehouse Best Practices</i>, at 5. In addition, the City should consider limiting construction to daytime hours, e.g., 9:00 a.m. to 5:00 p.m.</p> <p>⁵¹ Available at https://oag.ca.gov/sites/all/files/agweb/pdfs/environment/warehouse-best-practices.pdf</p> <p>⁵² Available at https://www.chem.purdue.edu/chemsafety/Training/PPETrain/dblevels.htm</p> <p>⁵³ Available at https://www.fontana.org/DocumentCenter/View/32906/Sierra-and-Casa-Grande-Appendix-G---Noise</p>	
C1-44	<p>VIII. The DPEIR Fails to Adequately Analyze and Mitigate the Project's Aesthetic Impacts Resulting From Industrial Development in Rural Settings and Residential Areas</p> <p>The General Plan's designation of nearly the entire South Industrial Priority Area for industrial development would result in the visual transformation of this area, which includes scenic semi-rural and agricultural landscapes, low-density residential neighborhoods, and cultural and architectural landmarks like Wat Brahmachariyakaram, to a sprawling industrial center. The aesthetic, light, and glare impacts resulting from buildout of the South Industrial Priority Area are clearly significant and require thorough analysis and consideration and adoption of all feasible mitigation measures. Indeed, the implementation of the General Plan and Development Code since their adoption in 2014 has already wrought significant aesthetic impacts in the area. The approval and development of millions of square feet of towering warehouse distribution centers has replaced farmland, blocked scenic vistas of the Sierra Nevada mountains, directed light glare into residents' homes at night, and filled roadways with heavy-duty trucks, vans, and car traffic.</p> <p>Leadership Counsel detailed for the City the potential for and occurrence of significant aesthetic impacts associated with the Project in its May 2020 comments on the DPEIR. Unfortunately, both the DPEIR and the RPEIR fail to address these issues. The RPEIR includes no revisions to address the comments regarding aesthetic impacts that Leadership Counsel previously raised. In its</p>	<p>This comment pertains to the analysis of aesthetics beginning on page 4.1-13 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. Comments on the Draft PEIR related to Aesthetics were addressed in the 2020 Response to Comments document. No further response is required.</p>

Table 3.A: Comments and Responses Matrix

Letter/ Comment Number	Comment	Response
	<p>Response to Comments, the City claims that the “the proposed project does not include any land use changes” that would result in aesthetic impacts, “because the current land uses have already been adopted.” Response to Comments, p. 3-78. But as discussed elsewhere in this letter, the City cannot evade a holistic review of the General Plan’s impacts by narrowly defining the project as “continued implementation of the General Plan.” The City’s Response to Comments also asserts that analysis is not required at this time, because future development would be subject to CEQA analysis. Yet, CEQA does not permit the City to defer analysis and mitigation of reasonably foreseeable impacts because of possible CEQA review of subsequent projects. Further, the City’s response ignores the fact that the Development Code provides for the approval of dozens of land use types without project-level discretionary review. As discussed further below, the DPEIR’s analysis of the Project’s aesthetic impacts and its failure to identify suitable mitigation to reduce those impacts fails to comply with CEQA.</p>	
C1-45	<p>A. Substantial Adverse Impacts on Scenic Vistas in Rural and Residential Areas</p> <p>The DPEIR concludes that the project would not have a substantial adverse effect on a scenic vista and that no mitigation is required to achieve this result. The analysis supporting the DPEIR’s conclusion fails to acknowledge or describe the impacts on scenic vistas of the Sierra Nevada Mountain Ranges and semi-rural agricultural landscapes that implementation of the General Plan has had and will continue to have on South Fresno neighborhoods which are designated by the General Plan Land Use Map for industrial development.</p> <p>The DPEIR states that:</p> <p>“scenic vistas may be impacted in two ways: a development project can have visual impacts by either directly diminishing the scenic quality of the vista or by blocking the view corridors or “vista” of the scenic resource. Important factors in determining whether a proposed project would block scenic vistas include the project’s proposed height, mass, and location relative to surrounding land uses and travel corridors. Typical scenic vistas are locations where views of rivers, hillsides, and open spaces are accessible from public vantage points.” (4.1-3)</p>	<p>This comment pertains to the analysis of aesthetics beginning on page 4.1-13 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. Comments on the Draft PEIR related to Aesthetics were addressed in the 2020 Response to Comments document. No further response is required.</p>

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	<p>The General Plan’s designation of about 5,000 acres of land for industrial development South Industrial Priority Area has and will continue to directly diminish the area’s scenic quality and block the view of scenic vistas. These impacts result from large industrial warehouses and other industrial buildings constructed on vacant land and land occupied by agricultural or lowdensity residential uses and heavy truck and car traffic on local roadways generated by these industrial facilities. The height, mass, and location of industrial development permitted by the General Plan and Development Code and of the truck and car traffic which this development generates has and will continue to have a substantial adverse impact on scenic vistas.⁶ Since the General Plan’s adoption, more than two million square feet of warehouse distribution facilities have been developed and permitted in the area.</p> <p>The Development Code permits buildings in all industrial zone districts, including the Heavy Industrial, Light Industrial, Regional Business Park, and Business Park zone districts, to stand up to 60 feet tall (or up to 30 or 40 feet when the building is within 40 or 50 feet of a residential property line) and requires buildings in those zone districts to be set back just 15 feet from the property line. FMC § 15-303, Tables 15-302-1 & 15-302-2. The construction of these buildings mars the scenic vista of the rural agricultural setting, as low-lying vineyards, agricultural lands, and small residential communities become interspersed with expansive and towering buildings in relation to the setting. The industrial buildings and other features of industrial sites, like retaining walls and berms, also substantially or completely block views of the Sierra Nevada Mountain Ranges from both public and private spaces depending on the location of the observer. For instance, since the General Plan’s adoption, the construction of the Ulta Beauty distribution facility and retaining walls along the facility’s perimeter at 850 East Central Avenue has blocked the previously open view of the Sierra Nevada mountain range from the community of Daleville on E Daleville and S Mary Avenues, which is adjacent to the facility.</p> <p>In addition, constant truck and car traffic associated with these projects blocks and interferes with scenic vistas in the Southern portion of the Planning Area. Pursuant to the California Vehicle Code, trucks may be up to 14 feet in height, and the average car is five to six feet tall. For just one warehouse</p>	

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	<p>project alone, an expansion of the existing Amazon warehouse in the North Pointe Business Park which was approved in 2021, the project's Traffic Impact Analysis estimated that the project would generate 3,274 daily vehicle trips into the neighborhood or 1,195,010 vehicle trips per year. Northpoint Building 31 Trip Generation and Impact Assessment, p. 4, Attachment 5. The continuous passage of trucks, vans, and cars on local roadways to and from this and other projects which have been approved since the General Plan's adoption and future projects which will occur with continued implementation of the General Plan substantially diminishes the quality and blocks the view of both the Sierra Nevadas and agricultural lands for pedestrians and users of private property throughout the area.</p> <p>Because the DPEIR fails to study these significant impacts on aesthetics, despite our previous comments describing these impacts to the City, the DPEIR fails to live up to its role as an informational document. Further, given the clearly significant impacts which have and will continue to result from General Plan and Development Code implementation, the DPEIR must consider and identify feasible and legally enforceable mitigation measures to reduce the project's impacts to scenic vistas on rural and residential areas. We recommend that the City consider the following measures to reduce these impacts:</p> <ul style="list-style-type: none"> ● Revise the General Plan land use designations for the SIPA to non-industrial land use designations that establish smaller height and building size limitations (i.e., designations other than Heavy Industrial, Light Industrial, Regional Business Park, and Business Park) around schools, places of worship, neighborhoods, residences, and public parks. ● Revise the Development Code to reduce the maximum building height allowed in Employment Districts where buildings would block the view of a scenic vista. ● Require enhanced set backs, installation of mature evergreen trees, and adoption of other design features for industrial development in areas that are near residential neighborhoods to mitigate adverse impacts on scenic vistas. ● Re-route truck traffic from roadways lined with residences in industrial-designated areas. 	

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C1-46	<p>B. Significant Adverse Impacts on the Visual Character and Quality of Rural and Residential Neighborhoods</p> <p>The DPEIR recognizes that the land uses proposed by the General Plan would replace existing rural, agricultural, and open space uses and that as a result, continued implementation of the General Plan will substantially alter the visual character within the Planning Area. Yet the DPEIR's analysis fails to describe the magnitude and severity of this impact, including in communities and neighborhoods located in these areas, and the DPEIR fails to identify feasible mitigation measures that would effectively reduce the projects impacts on visual character and quality. The City must revise the DPEIR to address these flaws and recirculate it for public review and comment. <i>Sierra Club v. County of Fresno</i> (2018) 6 C5th 502, 514 ([A]n 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.); <i>City of Long Beach v. City of Los Angeles</i> (2018) 19 CA5th 465, 486.</p> <p>Buildout of the General Plan has and will continue to dramatically adversely impact the visual character and quality of these areas due to the replacement of agricultural land uses, lowdensity residential housing, and cultural and architectural landmarks like Wat Brahmachariyakaram with industrial development pursuant to the General Plan land use map. features of the area. Vineyards, single-family farm residences, and single-family residences and neighborhoods would be replaced with concrete warehouses and other industrial facilities up to 60 feet tall pursuant to Development Code standards for industrial zone districts. These changes would significantly alter and degrade the visual character or quality of views of the area, including from streets, sidewalks, schools, places of worship, and residences.</p> <p>We note that the DPEIR's significance criteria for impacts to visual character and quality do not include impacts to views from privately-owned spaces. While the project would have significant impacts on the visual character of the area from both public and private spaces, The DPEIR provides no explanation for its exclusion of privately owned spaces. CEQA does not limit an EIR's impacts analysis only to impacts that affect spaces within the public domain. The DPEIR must be revised and recirculated to address the Project's impacts to visual character and the quality of views on privately-owned spaces,</p>	<p>This comment pertains to the analysis of aesthetics beginning on page 4.1-13 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. Comments on the Draft PEIR related to Aesthetics were addressed in the 2020 Response to Comments document. No further response is required.</p>

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	<p>including from the residences and other privately-owned property in the neighborhoods and communities located in and near the South Industrial Priority Area. The DPEIR must identify and adopt suitable mitigation to address these impacts too.</p> <p>Furthermore, while DPEIR acknowledges that the project will result in a potentially significant impact on visual character and quality of public views, it states that no feasible mitigation measures are available without even considering any measures at all. The DPEIR is incorrect. Many feasible mitigation measures exist to avoid and reduce the Project's impacts of visual characters and the quality of public views. These include the same mitigation measures identified sub-section (A) of this section of this letter above. In addition, the City could adopt mitigation measures that would establish a commitment by the City to invest in the visual character of the area, including through the installation of landscaping, the modification of Development Code design standards to ensure compatibility of new development with the existing rural residential character of the area, and investment in aesthetically pleasing public spaces, such as trails and parks, which could be used by residents and workers.</p>	
C1-47	<p>IX. The DPEIR Fails to Acknowledge the Project's Significant Land Use Impacts Resulting from the General Plan's Division of Established Communities</p> <p>The DPEIR finds that the Project "would not physically divide an established community," and therefore would have a less than significant impact in this impact category. In reaching this conclusion, the DPEIR fails to consider the impacts of the General Plan's application of industrial land use designations to entire residential neighborhoods in South Fresno and policies promoting shovel ready development. The City failed to correct this serious omission in its RPEIR and in doing so, dismissed comments by Leadership Counsel in its May 2020 comments in which it raised these issues. As the City did for other portions of Leadership Counsel's May 2020 comments, the City based its dismissal of our comments on its description of the Project as only the "continued implementation of the General Plan" rather than the General Plan in its entirety, including its land use designations. Response to Comments, p. 3- 115. The City's reliance on an inaccurate and segmented project</p>	<p>This comment pertains to the analysis of land use and planning beginning on page 4.11-26 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. Comments on the Draft PEIR related to land use and planning were addressed in the 2020 Response to Comments document. No further response is required.</p>

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	<p>description does not excuse it from analyzing, acknowledging, and mitigating the Project's significant impacts from its designation of entire neighborhoods for industrial development.</p> <p>The DPEIR's brief analysis of this impact category states that "future development could create established communities within rural communities that are located in the outer areas of the Planning Area," and that "[i]t is anticipated that as future development in accordance with the approved General Plan expands within the rural areas, there could be continuing conflicts between existing and new land uses, which could create a division of existing rural communities." DPEIR, 4.11-28. The DPEIR then goes on to state that objectives and policies contained within the General Plan would "lessen the impact of dividing established communities by increasing or maintaining connectivity to the surrounding area." Id. This analysis does not acknowledge that in addition to new residential development in and around existing rural communities, the General Plan also plans for industrial development where residential neighborhoods are currently located. The General Plan Land Use Map designates entire neighborhoods and communities, as well as the land surrounding these communities, for industrial development. Residential neighborhoods and communities designated for industrial development include but are not limited to the following:</p> <ul style="list-style-type: none"> • the community of Daleville • the community bounded by East Central, South Orange, and East Cedar Avenues • the portion of the community of Calwa located to the South of East Jensen Avenue • the community bounded by South Peach Avenue on the East and East Jensen Avenue on the North • the community bounded by South Rose, East Kaviland, and East Grove Avenue • a mobile home park located in the Jane Addams neighborhood of the City of Fresno <p>The General Plan's designation of these and other communities for industrial land uses is designed not only to divide established residential communities, as industrial development projects occur in the midst of those</p>	

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	<p>communities, but ultimately to replace those communities with industrial development. General Plan, p. 3-31, Figure IM-1. In addition, the designation of homes and other community-serving land uses for industrial development may impair residential property owners' ability to successfully obtain credit for home maintenance and permits for home improvements and reduce their ability to sell their homes for residential use. The DPEIR's designation of residential neighborhoods for industrial land use requires analysis, mitigation and a finding of significance. It is critical that the City acknowledge and assess these impacts in order for the public and decision-makers to have accurate information about the nature and severity of the Project's land use impacts. The DPEIR's lack of such analysis renders it deficient under CEQA.</p> <p>Moreover, the DPEIR fails to identify and acknowledge General Plan policies facilitating investment in shovel ready development opportunities and permit streamlining for areas designated for industrial uses (which the General Plan calls "employment" land uses) . See e.g., General Plan, Ch. 2-3, 22 (Policies ED-1-e & j), 24 (ED-3-b), 27 (ED-5-c). By planning for and supporting industrial development surrounding residential communities, the General Plan results in negative impacts on housing quality and on schools, places of worship, corner stores, and other neighborhood-serving institutions and destabilizes the long-term viability of the community. General Plan Policy MT-1-c, "Plan Line Adoption," (General Plan, 4-26) furthers the City's objectives to transform residential neighborhoods to industrial centers by providing for the adoption of Official Plan Lines "for transportation corridors, roadways, and bicycle/pedestrian paths/trails, as necessary to preserve and/or obtain right-of-way needed for planned circulation improvements." General Plan, p. 4-26. Since the General Plan's adoption, the City has implemented Policy MT-1-c by adopting OPLs for East Central Avenue which plan to widen East Central Avenue in a manner that would encroach into residential property and allow for higher traffic volumes in closer proximity to homes in the SIPA. MT-1-c therefore accelerates the decline of SIPA neighborhoods and their ultimate division and elimination. But the DPEIR does not acknowledge or analyze the impacts of these policies on existing communities.</p> <p>The DPEIR lists certain General Plan objectives and policies as evidence that project impacts associated with the division of existing communities will</p>	

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	<p>not be significant. But the DPEIR provides no analysis of those objectives and policies to explain why they support that conclusion or how they would counteract policies aimed at the division of existing communities. The DPEIR simply states that they would “reduce the potential to physically divide an established community to a less than significant level,” and that “[n]o mitigation is required.” DPEIR, 4.11-28. These policies appear to do nothing to reduce the likelihood that the General Plan’s industrial land use designations and policies will result in the division and replacement of existing communities with industrial land uses. For example, Objective UF-8 states, “Develop each of Downtown’s neighborhoods and districts, according to its unique character,”; Policy UF- 12-a provides, “[d]esign land uses and integrate development site plans along BRT corridors, with transit-oriented development that supports transit ridership”⁵⁴; and Policy UF-12-g directs the City to establish design standards for mixed-used activity centers (none of which are located within the areas designated purely for industrial development listed in this section above). Policy LU-1-b calls for the creation of “appropriate transitions or buffers between new development with existing uses,” yet the General Plan Land Use Map, as explained above, provide for no buffers or transition zones between areas designated for heavy industrial land use and existing residential and community-serving land uses. And as explained above in this this letter, the Development Code also lacks standards to create buffers and ensure that existing residential neighborhoods are protected from new industrial and warehouse development.</p> <p>For these reasons, the DPEIR fails to support its conclusion that the division of existing communities is a less than significant impact with substantial evidence, and the City ignores crucial information provided by Leadership Counsel and evident from a review of the General Plan land use map and policies that demonstrate that these impacts will be significant. The City must revise and recirculate the DPEIR to correct these deficiencies in order to comply with</p> <p>CEQA.</p> <p>⁵⁴ None of the residential communities listed in this letter as designated by the General Plan for industrial development are located along a designated BRT corridor.</p>	

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C1-48	<p>X. The DPEIR's Analysis of Project Impacts to Population and Housing is Deficient Because it Fails to Acknowledge the Project's Potential to Displace Substantial Numbers of People</p> <p>The DPEIR must consider the project's potential impact on population and housing, and specifically, whether the project would "[d]isplace substantial numbers of existing people or housing." 14 C.C.R. § 15000 et seq., appen. G, § XIV; cf. <i>Hollywoodians Encouraging Rental Opportunities v. City of Los Angeles</i> (2019) 37 Cal. App. 5th 768, 774. The DPEIR does not adequately do so here.</p> <p>The DPEIR's analysis of the Project's potential to displace existing people or housing fails to acknowledge or discuss the potential for displacement associated with planned industrial development and fails to provide facts to support its assertions that General Plan policies will mitigate any displacement impacts to less than significant levels. DPEIR, 4.14-14, 15. As discussed above, the General Plan designates entire residential communities (both within and outside of current City limits) and land up to and surrounding housing for industrial development. As a result of the designation of residential uses for industrial development, the project anticipates the conversion of hundreds of units of housing to industrial land uses. And, as also discussed above in this letter, the designation of land adjacent to housing for industrial uses and the use of local roadways where housing is located for heavy truck and car traffic serving those industrial uses will contribute to the significant deterioration of housing quality and the relocation of neighborhood residents to more suitable housing. The elimination of housing stock and the relocation of residents from neighborhoods designated for industrial development will put pressure on the housing supply. These housing supply impacts may be expected to occur not only in the City of Fresno but also elsewhere in Fresno County and beyond, given that most of the housing stock impacted by the General Plan's industrial land use designations are located outside of City limits and near the edge of the Planning Area and residents who relocate will not necessarily move to an area within the Planning Area. Notably, the Study Area that the DPEIR adopts for this analysis – the Planning Area – fails to allow for the consideration of the impacts of that displacement outside of the Planning Area in Fresno County and beyond. See DPEIR, 4.14-2.</p> <p>The DPEIR dismisses the project's potential displacement impacts by</p>	<p>This comment pertains to the analysis of population and housing beginning on page 4.14-11 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. Comments on the Draft PEIR related to population and housing were addressed in the 2020 Response to Comments document. No further response is required.</p>

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	<p>stating that the General Plan implementation “would also result in the development of a net increase in units when compared to the existing inventory” and that the housing units available as replacement units for those that could be removed as a result of General Plan implementation would be increased. DPEIR, 4.14-15, 15. However, the DPEIR fails to state how many units may be expected to be developed with General Plan implementation and how this compares to the number of units which may be lost due to displacement coupled with the demand for housing among existing and future residents. In addition, the DPEIR says nothing of the expected price levels of new housing development and how that compares to price levels which displaced residents can afford. According to the City of Fresno’s 2019 and 2018 Housing Element Annual Progress Reports, new residential development in the City of Fresno has primarily served abovemoderate income households. On the other hand, South Fresno neighborhoods which the General Plan designates for heavy industrial development have high poverty rates, meaning that many residents in these neighborhoods are unlikely to be able to afford new residential development that occurs as a result of General Plan implementation.</p> <p>In addition, the DPEIR’s statement that a relocation analysis would be required to be prepared “[p]rior to any displacement” is inaccurate and misleading. First, a displacement study will not be required prior to relocation of residents who move to avoid the impacts of new industrial development and roadway expansion or for residents who chose to sell their homes to a buyer that develops the land for industrial uses. Second, pursuant to General Plan policies promoting permit streamlining for “employment” land uses, much new industrial development occurs by right under the Development Code and is not subject to CEQA or a displacement analysis that the law might otherwise trigger.</p> <p>Finally, the DPEIR also states that several Housing Element policies and objectives would “reduce housing impacts,” and “avoid the need for construction of replacement housing due to the development of a net increase of new housing units” and that therefore “[n]o mitigation would be required.” DPEIR, 4.14-15. This analysis fails to contain facts necessary to support its conclusion. First, the DPEIR does not make the connection between the</p>	

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	<p>housing element policies to which it cites and the conclusion that the General Plan’s displacement required. The DPEIR does not explain or demonstrate (1) how or why the specific policies cited would lead to an actual reduction in impacts, (2) the nature and scope of the reduction in housing impacts which may be expected to occur and/or the nature and number of new housing units which may be developed, or (3) how the DPEIR determined that the reduction in housing impacts and/or the development of new units as a result of the housing element objectives and policies would reduce housing and population displacement impacts to a less than significant level. The analysis also does not explain why implementation of housing element policy and objectives in and of themselves will reduce potential displacement impacts to less than significant levels, taking into consideration existing lower-income housing needs in Fresno, which include the need for more than 15,000 units for lower-income households; increasing employee to housing ratios identified by the DPEIR, and the very low levels of lower-income housing production compared to the need that has occurred as a result of Housing Element implementation to date. DPEIR, 4.14-3, 7 (identifying the City’s current lower-income RHNA of 8,955 units and the City’s carry-over RHNA of 6,476 units);</p> <p>The City must revise the DPEIR to accurately and completely acknowledge and disclose the project’s potential to displace substantial numbers of existing people and units of housing in existing residential neighborhoods that are planned for industrial development. See 4 C.C.R. § 15000 et seq., appen. G, § XIV. Given the apparent significance of these impacts, the revised DPEIR must include feasible and enforceable mitigation measures to reduce and avoid these impacts.</p>	
C1-49	<p>XI. The DPEIR Fails to Disclose & Identify Adequate Mitigation to Minimize the Project’s Groundwater Impacts</p> <p>A. The DPEIR Fails to Disclose or Adopt Adequate Mitigation to Minimize the Project’s Groundwater Supply Impacts on Neighborhoods Reliant on Well Water</p> <p>The Planning Area is located in the Kings Groundwater Subbasin which is designated by the State Water Resources Control Department as a “critically over-drafted high priority basin.” North Fork Kings Groundwater Sustainability</p>	<p>This comment pertains to the analysis of hydrology and water quality beginning on page 4.10-18 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. Comments on the Draft PEIR related to groundwater were addressed in the 2020 Response to Comments</p>

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	<p>Agency “Groundwater Sustainability Plan in Compliance with the Sustainable Groundwater Management Act,” (2019), p. 1-1&2.⁵⁵ The subbasin was given its high-priority status as a result of the removal of millions of acre-feet of groundwater from subsurface storage as a result of groundwater pumping exceeding recharge. Id., p. 1-2. The DPEIR acknowledges that “the City is creating an overdraft of the Kings Groundwater Subbasin.” 4.10-21. The adopted 2019 Groundwater Sustainability Plan (GSP) for the Kings Subbasin notes that the “trend of groundwater overdraft was accelerated in recent years by increased groundwater pumping as⁵⁶ a result of significantly reduced surface water deliveries” during the drought from 2012 and 2016. Id. Given this reality, CEQA requires the DPEIR to include a thorough discussion of the project’s potentially significant impacts on groundwater and propose robust mitigation measures to reduce groundwater impacts however feasible. San Joaquin Raptor Rescue Ctr. v. Cty. of Merced (2007) 149 Cal. App. 4th 645, 661– 62. An adequate evaluation is particularly important in light of the current local drought, which the City Board of Supervisors recently declared an emergency. See Fresno Bee, Fresno County leaders declare local drought emergency. One says drought is ‘man-made’ (May 4, 2021). This DPEIR does not do so.</p> <p>First, the DPEIR contains no discussion about the current groundwater availability for residential communities and households which rely on domestic wells for their everyday water needs and the project’s potential groundwater impacts on these communities and households. The DPEIR provides some data from City wells about groundwater level decline rates since 1990 in certain areas within the City that range from .5 to three feet per year. 4.10-3. This data does not include unincorporated areas within the Planning Area and the DPEIR does not indicate the range of years which the data represents and how reflective the decline rates are of recent trends. Between 2012 and 2016, numerous households and entire neighborhoods located in unincorporated County in the Southcentral and Southwestern portions of the Planning Area lost access to water in their homes as their wells ran dry. These households were forced to buy bottled water, rely on emergency connections to neighbors, seek emergency assistance such as the installation of water tanks from the state and non-profit organizations like Self-Help Enterprises, and in</p>	<p>document. No further response is required.</p>

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	<p>the case of households with the financial resources to do so, spend thousands of dollars to drill deeper wells. The DPEIR asserts that the City's continued participation in the North Kings Groundwater Sustainability Agency (GSA) and compliance with the Subbasin GSP will result in balanced water demand by 2040. 4.10-21, 22. Yet a balanced water demand in 2040 does not address significant impacts on households and communities impacted by groundwater depletion that occur within the next twenty years. For homes with shallow domestic wells, reductions in groundwater levels by just a few feet can mean the difference between flowing and dry taps. 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.</p> <p>The South Fresno neighborhoods reliant upon domestic groundwater are disproportionately lower-income and disproportionately comprised of people of color, immigrants, and people who speak languages other than English compared to other parts of the Planning Area. The DPEIR's failure to disclose, analyze, and adopt feasible and enforceable mitigation measures to address the project's potentially significant impacts on groundwater supply in households that rely on domestic wells disproportionately adversely impacts protected classes and potentially violates civil rights and fair housing laws.</p> <p>Second, while the GSP recognizes that recent severe and prolonged drought accelerated groundwater pumping in the Kings Subbasin, the DPEIR does not mention this in its discussion of the environmental setting nor does it disclose or discuss the likelihood of future drought conditions, water supply reductions, and increased groundwater demand that will occur as a result of climate change.⁵⁷ Without information relating to the impacts of climate change on groundwater supply between the present and the potential attainment of balanced water demand in 2040, the DPEIR fails to accurately inform decision-makers of the nature and magnitude of the project's significant impacts on groundwater supplies in the Kings Subbasin and the Planning Area as a whole and on domestic well users who are the most vulnerable to groundwater depletion.</p> <p>Third, the DPEIR's calculations of the amount of water that will be available to the City of Fresno as buildout occurs do not appear to take into account groundwater depletion that occurs outside of City limits. The GSP does</p>	

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	<p>not contain measures to limit groundwater pumping and pumping that occurs outside of City limits may negatively impact subsurface inflow from neighboring areas and recharge supplies. The DPEIR relies on estimates of subsurface inflow and recharge supplies for its calculations of the water supply available to the City and the amount of groundwater that may be necessary. The DPEIR's failure to account for groundwater pumping outside of City limits therefore has the result of potentially inflating the DPEIR's calculation of available water supplies and understating future groundwater demand in the Planning Area. These calculation errors would artificially lessen the apparent significance of the project's impacts on groundwater supplies. The City must revise the DPEIR to its calculations with respect to groundwater pumping outside of City limits and its effects on subsurface inflow and recharge supplies and correct the DPEIR's calculations and analysis if they failed to account for the pumping.</p> <p>Fourth and finally, the one mitigation measure that the DPEIR proposes, Mitigation Measure HYHD-2.1, will not minimize the project's impact on groundwater supplies and will not address impacts to households on domestic wells over the next twenty years. The measure provides only that the City will "continue to be an active participant in the North Fork Kings [GSA] and the implementation of the North Fork Kings [GSP]..." The commitment for the City to be an "active participant" in the GSA and GSP implementation is undefined and lacks clear actions that the City will take that will actually reduce groundwater supply depletion. Numerous feasible and effective mitigation options to minimize this impact exist, including commitments by the City to decrease groundwater pumping, switch to other sources of water, and ensure the City does not exceed the amount it can consume within the GSA boundaries while not depleting supplies (as it is currently doing). The DPEIR must consider each of these mitigation options and incorporate them as enforceable mitigation measures which specify the actions that the City will take to ensure that the project's groundwater impacts are minimized. Pub. Res. Code §§ 21002.1(a), 21100(b)(2), 21081.6(b); 14 C.C.R. § 15126.4.(a)(2). Further, the DPEIR also must identify specific mitigation measures to minimize groundwater supply depletion impacts on households on domestic wells. Such measures may include but are not limited to the following:</p>	

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	<ul style="list-style-type: none"> • a commitment to work proactively to facilitate the connection by such households to City water supplies, including by seeking and offering financial assistance and waiving and/or reducing fees to make it financially feasible for lower-income households to connect; • the incorporation of households on domestic wells into City planning for infrastructure extension projects serving new development and/or requirements that new development which will contribute to the City's overall water demand pay a fee to support the connection of households on domestic wells. <p>⁵⁵ Available at http://northforkkings.org/webpages/wp-content/uploads/2020/01/NFKGSA_GSP_Final_Adopted.pdf</p> <p>⁵⁶ Available at https://www.fresnobee.com/news/local/water-and-drought/article251156669.html.</p> <p>⁵⁷ See Michael E. Mann & Peter H. Gleick, "Commentary: Climate change and California drought in the 21st century," March 31, 2015, discussing study results showing that the climate change is influencing the frequency, magnitude, and duration of drought in California and that the co-occurrence of dry years with warm years raises the risk of drought. Published on the Proceedings of the National Academy of Science of the United States of America's website and available at https://www.pnas.org/content/pnas/112/13/3858.full.pdf</p>	
C1-50	<p>XI. The RPEIR Fails to Adequately Analyze or Mitigate the General Plan's Cumulative Impacts</p> <p>An EIR must discuss significant "cumulative impacts." CEQA Guidelines § 15130(a). "Cumulative impacts" are defined as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." CEQA Guidelines § 15355(a). "[I]ndividual effects may be changes resulting from a single project or a number of separate projects." CEQA Guidelines § 15355(a). A legally adequate "cumulative impacts analysis" views a particular project over time and in conjunction with other related past, present, and reasonably foreseeable future projects whose impacts might compound or interrelate with those of</p>	<p>As stated in each resource topic area included in the Draft PEIR and Recirculated Draft PEIR, potential environmental impacts are analyzed based on a series of factors. Based on the overall buildout and planning horizon of the approved General Plan, a list of past, present, and probable future projects would not allow for an accurate analysis as the specifics of future projects is speculative at this time.</p> <p>This comment identifies several land use changes that were incorporated into the project analysis and included as part of the baseline conditions. These land use changes have occurred since the MEIR was certified in 2014 and are considered to be the currently-approved General Plan land uses. As such, the land use changes that occurred prior to the 2019 baseline date have been</p>

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	<p>the project at hand. CEQA Guidelines § 15065(a)(3). “Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.” CEQA Guidelines § 15355(b). The cumulative impacts concept recognizes that “[t]he full environmental impact of a proposed . . . action cannot be gauged in a vacuum.” <i>Whitman v. Board of Supervisors</i> (1979) 88 Cal.App.3d 397, 408. Here, the RPEIR’s analysis of cumulative impacts is incomplete, cursory and superficial.</p> <p>The CEQA Guidelines provide that an agency can take two approaches to its cumulative impacts analysis. It may identify a list of past, present, and probable future projects producing related or cumulative impacts or identify a summary of projections contained in an adopted plan that describes or evaluates cumulative conditions. CEQA Guidelines § 15130(b)(1). The RPEIR purports to use both the list of projects approach and the summary of projections approach for analyzing cumulative impacts, and the RPEIR’s approach varies by impact chapter. RPEIR at 4- 3. Yet a review of the impact chapters reveals that the RPEIR generally fails to disclose which approach is being used. In those few instances in which the RPEIR states that it is using the list of projects approach, it never identifies the projects that are purportedly being evaluated.</p> <p>Nor is there any evidentiary support that the RPEIR’s cumulative impacts analysis takes into account past projects and future projects, as CEQA requires. CEQA Guidelines § 15065(a)(3). In order for the public and decisionmakers to fully understand which projects have and have not been included in the RPEIR’s cumulative impacts analysis, the RPEIR must first explicitly identify the following and then describe how the RPEIR’s cumulative impacts analysis included this information:</p> <ul style="list-style-type: none"> • the change in light industrial and heavy industrial land use acreage between 2014 and 2019; • the number of light industrial and heavy industrial projects that were approved between 2014 and 2019; • a description of these 2014-2019 light industrial and heavy industrial projects, including the nature of the projects and whether their approval required general plan amendments and/or rezonings; 	<p>considered when analyzing continued implementation of the approved General Plan, as well as when analyzing cumulative impacts. Please refer to Master Response: Project Description and Baseline Conditions. As described in the Master Response, the existing conditions of the Planning Area have been taken into account when analyzing the proposed project. It should be noted that the projects that have been approved prior to issuance of the NOP for the proposed project have completed CEQA analyses. No further response is required.</p> <p>As noted in each resource topic section included in the Recirculated Draft PEIR, cumulative impacts are addressed depending on the resource being evaluated. For example, the cumulative impact analysis for Air Quality evaluates emissions in the San Joaquin Valley Air Basin (SJVAB). For Greenhouse Gas Emissions, the analysis is cumulative in nature and localized greenhouse gas emission impacts are the result of the cumulative impact of global emissions. For Transportation, the build out of the General Plan and cumulative development in Fresno County are accounted for and analyzed relative to the Fresno COG Activity-Based Model. For each cumulative impact discussion, the EIR considered the baseline conditions that existed in May 2019.</p>

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	<ul style="list-style-type: none"> • an identification of the general plan amendments and/or rezonings to “light industrial” and/or “heavy industrial” land uses since 2019; • an identification of the light industrial and heavy industrial projects approved since 2019; • a list of proposed applications for general plan amendments or rezonings to “light industrial” and/or “heavy industrial” land uses; and, • a list of proposed applications for light industrial and heavy industrial projects. <p>Information regarding this development is critical to understanding the impacts of the Project. Since the 2014 General Plan was adopted, the City approved over 2.8 million square feet of industrial development, particularly warehouse projects in the South Central area of Fresno, including Amazon and Ulta warehouse projects.⁵⁸ These projects, which were approved with minimal notice to the public and little to no mitigation, have had substantial impacts on the surrounding community. The RPEIR must analyze the impacts of these projects in combination with the development permitted under the General Plan.</p> <p>Set forth below are examples of deficiencies within each of the cumulative impacts analyses.</p> <p>⁵⁸ This figure includes the following developments: three warehouse buildings located at 3455, 3523, and 3611 South North Pointe Drive, approved pursuant to Development Permit No. 17-175, and consisting of 804,045 square feet of industrial warehouse space; an Amazon distribution center also located at 3575 South Orange Avenue, and consisting of 856,000 square feet; an Ulta Beauty distribution center located at 850 East Central Avenue, approved pursuant to Development Permit No. D-16-150, and consisting of 871,020 square feet, and a warehouse located at 3608 East East Avenue, approved pursuant to Development Permit, No. P18-03577. These are only a few examples of warehouse development approved in this area since the General Plan’s adoption, and we understand that at least several other projects have been approved during this time.</p>	

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C1-51	<p>A. Agricultural Resources Impacts</p> <p>The RPEIR's cumulative impacts section pertaining to impacts to agricultural resources purports to rely on the summary of projections approach (at 4.2-17), yet we can find no indication that the document actually used this approach. Moreover, the RPEIR fails to conduct the required cumulative impact analysis. While the RPEIR generally refers to cumulative development occurring within the city of Clovis, the county of Fresno, and the county of Madera, the RPEIR never actually identifies the nature or amount of the development in these other jurisdictions. Nor does the RPEIR identify the amount of agricultural land that would be converted to development within these jurisdictions. In addition, the RPEIR makes no attempt to determine how much agricultural land would be lost as a result of the development contemplated by the Fresno General Plan, together with the development contemplated by the city of Clovis, the county of Fresno, and the county of Madera. Notwithstanding the fact that the RPEIR provides no actual analysis, it nonetheless concludes that cumulative impacts to agricultural resources would be significant and unavoidable. RPEIR at 4.2-18. In further violation of CEQA, the EIR fails to provide any mitigation for this significant impact. CEQA Guidelines § 15126.4. Such mitigation should include limits on the conversion of agricultural land, requirements for restoration of agricultural lands, and the use of conservation easements to offset agricultural land conversions.</p>	<p>This comment pertains to the cumulative analysis of agricultural resources beginning on page 4.2-17 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. Comments on the Draft PEIR related to agricultural resources were addressed in the 2020 Response to Comments document. No further response is required.</p>
C1-52	<p>B. Air Quality Impacts</p> <p>A thorough evaluation of the General Plan's cumulative effect on air quality is particularly important because the San Joaquin Valley Air Basin is designated as "nonattainment" of the ozone, PM10 and PM2.5 state ambient air quality standards. The RPEIR purports to assess the General Plan's cumulative air quality impacts by evaluating development within the San Joaquin Valley Air Basin. RPEIR at 4.3-68. However, the RPEIR fails to conduct any actual analysis of how buildout of the General Plan, together with other growth in the air basin, will affect air quality. Instead, the document offers vague statements such as "[f]uture development that may occur with the continued implementation of the approved General Plan would contribute criteria pollutants to the area during project construction and operation." RPEIR at 4.3-68. "To facilitate CEQA's informational role, an EIR must contain</p>	<p>As discussed beginning on page 4.3-68 of the Recirculated Draft PEIR, since the combination, number, and size of projects that would occur under the approved General Plan are unknown, even with implementation of mitigation measures (such as General Plan policies and regional regulations), the proposed project would result in significant cumulative construction emissions from criteria pollutants. Additionally, even with implementation of mitigation, operational impacts from criteria pollutant emissions would contribute to an ozone exceedance, which could hinder the attainment of air quality standards. Further, cumulative growth within the city could result in potential TAC health risks exceeding applicable standards and cumulatively contributing to elevated health risks in the Basin. As a result, air quality emissions associated with future development that may occur under the continued implementation of the approved General Plan could result in cumulatively considerable impacts,</p>

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	facts and analysis, not just the agency's bare conclusions or opinions." Habitat & Watershed Caretakers v. City of Santa Cruz (2013) 213 Cal.App.4th 1277, 1303. At a minimum, the RPEIR could have evaluated whether growth from the Fresno General Plan together with growth from the other jurisdictions within the San Joaquin Valley Air Basin is consistent with the projections identified in the San Joaquin Valley APCD's air quality plan.	even with implementation of mitigation. In order to reduce project-specific impacts, future development would be analyzed under additional, more focused project-specific CEQA analysis.
C1-53	<p>C. Biological Resources Impacts</p> <p>The RPEIR's discussion of cumulative biological resources fails to disclose whether it relies on a summary of projections or a list of projects approach. Regardless, it fails to undertake the analysis of cumulative impacts CEQA requires. For example, the RPEIR makes no attempt to evaluate the cumulative loss of habitat for special-status species that would result from buildout of the General Plan and other development in the area (e.g., development contemplated by city of Clovis, the county of Fresno, and the county of Madera). Nor does the RPEIR disclose how cumulative development would affect riparian habitat habitats and wetland habitats. The document lacks any substantive analysis and instead offers self-evident assertions such as "cumulative development near the San Joaquin River corridor could result in potential impacts on riparian habitat" and "[t]he conversion of grassland and undeveloped areas to cumulative development, within the San Joaquin Valley, may increase effects on protected wetland habitats." RPEIR at 4.4-33 and 4.4-34 (emphasis added). Here too, in direct violation of CEQA, the RPEIR fails to provide any specific analysis as to the effect that cumulative development would have on habitat loss for special-status species, or riparian or wetland habitats, yet concludes such impacts would be significant. RPEIR at 4.4-33.</p> <p>The RPEIR includes a laundry list of mitigation measures (Mitigation Measures BIO-1.1 through BIO-1.4, Mitigation Measures BIO-2.1 through BIO-2.3, and Mitigation Measures BIO- 3.1 through BIO-3.2) and concludes that cumulative impacts to biological resources would be less than significant. But here too, the RPEIR makes no attempt to explain how these mitigation measures would reduce the General Plan's cumulative effects. To conclude, as the RPEIR does, that an impact is less than significant, substantial evidence must demonstrate that mitigation measures will reduce an impact to a less-than-significant level. Substantial evidence consists of "facts, a reasonable</p>	This comment pertains to the cumulative analysis of biological resources beginning on page 4.4-33 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. Comments on the Draft PEIR related to biological resources were addressed in the 2020 Response to Comments document. No further response is required.

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	presumption predicated on fact, or expert opinion supported by fact,” not “argument, speculation, unsubstantiated opinion or narrative.” Pub. Res. Code § 21080(e)(1)-(2). Because the RPEIR’s conclusion of insignificance is premised on unsupported assumptions, it fails far short of this threshold.	
C1-54	<p>D. Energy Impacts</p> <p>The RPEIR purports to assess the General Plan’s cumulative energy impacts by evaluating development within the PG&E service area, which encompasses 70,000 square miles. RPEIR at 4.6-36. However, the RPEIR fails to conduct any actual analysis. Instead, the RPEIR asserts that development within the General Plan Planning Area would be required to adhere to policies in the General Plan and concludes that future development in the Planning Area would not contribute to cumulative impacts. RPEIR at 4.6-36. This approach fails. As an initial matter, the RPEIR only refers to impacts from the General Plan itself; it makes no attempt to evaluate cumulative energy impacts from the General Plan together with cumulative development.</p> <p>Second, the RPEIR concludes that the General Plan’s energy impacts would be less than significant asserting that the City would comply with General Plan policies. But once again, the RPEIR fails to provide the evidentiary support that such policies would effectively reduce impacts. For example, the RPEIR refers to one policy—Policy RC-8-b—which, “includes targets for reducing residential and non-residential electricity use.” RPEIR at 4.6-36. However, this Policy does not actually require that any action be taken. Rather, it calls for the city to “strive” to reduce per capita electricity use by developing and implementing incentives and promoting alternative energy sources. RPEIR at 4.3-33. A policy calling for the City to strive to reduce electricity use is meaningless as it does not provide a firm commitment to take action. Nor does the policy include any type of performance standards that would provide concrete criteria for success. Thus the RPEIR may not rely on this policy to conclude that the General Plan’s cumulative energy impacts would be less than significant.</p> <p>Third, the RPEIR’s analysis does not comply with CEQA’s requirement that agencies first determine whether cumulative impacts to a resource are significant, and then determine whether a project’s impacts are cumulatively considerable (i.e., significant when considered in conjunction with other past,</p>	<p>This comment pertains to the cumulative analysis of energy on page 4.6-36 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. Comments on the Draft PEIR related to energy were addressed in the 2020 Response to Comments document. No further response is required.</p>

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	present and reasonably foreseeable projects). CEQA Guidelines § 15064(h)(1). The RPEIR skips the first step and focuses only on the second. This error causes the document to underestimate the significance of the Project's cumulative impacts because it focuses on the significance of the Project's impacts on their own as opposed to considering them in the context of the cumulative problem. It is wholly inappropriate to end a cumulative analysis on account of a determination that a project's individual contribution would be less than significant. Rather, this should constitute the beginning of the analysis.	
C1-55	<p>E. Hydrology and Water Quality Impacts</p> <p>The RPEIR's discussion of cumulative hydrology and groundwater impacts gives the impression that it assesses cumulative effects from other projects in the area. RPEIR at 4.10-35. Yet, the document never identifies those projects. Consequently, although the RPEIR asserts that operations of these (unidentified) other projects would increase impervious surfaces and increase stormwater runoff rates, it fails to provide any factual analysis to allow for a determination as to whether this runoff would degrade water quality in the area.</p> <p>In addition, the RPEIR does not adequately analyze cumulative impacts due to groundwater pumping. The RPEIR acknowledges that Kings Subbasin is in overdraft condition and that if the City does not continue to implement programs, a significant impact would occur. RPEIR at 4.10-36. Yet, the RPEIR never does the hard work of identifying the other projects that are contributing to the overdraft condition. Nor does it analyze the specific consequences to the Kings Subbasin of this overdraft (e.g., severity of localized cones of depression, the effects of changes in groundwater flow direction, the potential for increased concentrations of contaminants, and the specific effects of land subsidence). Here too, the RPEIR lists several mitigation measures (HYD-2.1, HYD-3.1, HYD-3.2, HYD-3.3, HYD-3.4, and HYD-3.5) and concludes that cumulative hydrology and water quality impacts would be less than significant. RPEIR at 4.10-36. Yet, the document fails to describe the nature of these measures or explain how these measures would protect against overdraft. Therefore, the RPEIR lacks support that the measures would reduce impacts to a less than significant level.</p>	<p>This comment pertains to the cumulative analysis of hydrology and water quality beginning on page 4.10-35 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. Comments on the Draft PEIR related to hydrology and water quality were addressed in the 2020 Response to Comments document. No further response is required.</p>

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C1-56	<p>F. Water Supply Impacts</p> <p>Similar to the RPEIR’s analysis of cumulative energy impacts, the RPEIR determines that the General Plan’s cumulative water supply impacts would be less than significant because water supplies would be adequate to serve buildout of the General Plan. The RPEIR fails to even mention, let alone identify, water demand from cumulative development and fails to provide any information about the adequacy of water supplies in the region, including for domestic well users impacted by City and regional groundwater usage. Consequently, the RPEIR lacks support for its conclusion that cumulative water supply impacts would be less than significant.</p>	<p>This comment pertains to the cumulative analysis of water supply beginning on page 4.10-35 and page 4.17-28 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. Comments on the Draft PEIR related to water supply were addressed in the 2020 Response to Comments document. No further response is required.</p>
C1-57	<p>XII. The EIR Fails to Identify a Reasonable Range of Potentially Feasible Alternatives</p> <p>An EIR must consider a reasonable range of potentially feasible alternatives that would avoid or lessen a project’s potentially significant effects. 14 C.C.R. § 15126.6(a). “The core of an EIR is the mitigation and alternatives section.” Watsonville Pilots Association v. City of Watsonville (2010), 183 Cal.App.4th 1059, 1089. Alternatives must be able to implement most project objectives, though they need not implement all of them. 14 C.C.R. § 15126.6; Mira Mar Mobile Community v. City of Oceanside (2004) 119 CA4th 477, 489. The range of alternatives required in an EIR are those that are necessary to permit a reasoned choice. 14 C.C.R. § 15126.6(f). The scope of alternatives reviewed must be considered in light of the nature of the project, the project’s impacts, relevant agency policies and other material facts. Rancho Palos Verdes v. City Council (1976) 59 Cal. App. 3d 869, 891. The “purpose of an alternatives analysis is to allow the decision maker to determine whether there is an environmentally superior alternative that will meet most of the project’s objectives.” Watsonville Pilots Ass’n, 183 Cal.App.4th at 1089.</p> <p>In evaluating only the “No Project Alternative” and the Net Zero Energy Consumption Alternative, the City has failed to meet CEQA’s standards for its alternatives analysis. Courts have made clear that the “No Project Alternative” is not in fact an “alternative” pursuant to the CEQA Guidelines, since the No Project Alternative by default does not advance the Project’s objectives. The City therefore effectively evaluates only one alternative, the Net Zero Energy</p>	<p>This comment pertains to the analysis of project alternatives, as analyzed in Chapter 6.0 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. Comments on the Draft PEIR related to alternatives were addressed in the 2020 Response to Comments document. No further response is required.</p>

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	<p>Consumption Alternative, despite the fact that the Project will guide all development in Fresno through 2056 and will have far reaching environmental impacts long beyond that time. For a project of this scale and impact, the evaluation of just one alternative is unreasonable.</p> <p>Further, the one alternative the City does analyze does not meet CEQA's requirements for a legally adequate alternative. First, the Net Zero Energy Consumption Alternative is not feasible or reasonable, because it consists of a requirement with a deadline which has already passed – the achievement of net zero energy consumption by both residential and non-residential development by 2020. DPEIR, 6.5.1; Pub. Res. Code § 21061.1 (defining "feasible" as "capable of being accomplished in a successful manner..."). Second, the Net Zero Energy Alternative fails to reduce or avoid significant environmental effects based on the DPEIR's own findings. The DPEIR finds that the Project would not result in potentially significant impacts related to energy or Greenhouse Gas Emissions. DPEIR, 6.5.2. Nevertheless, the DPEIR identified the Net Zero Energy Consumption Alternative as the Environmentally Superior Alternative since it "has the least impact to the environment because it would result in few impacts related to energy and greenhouse gas emissions". See DPEIR, 6.6. The selection and consideration of the Net Zero Energy Consumption Alternative is inconsistent with CEQA, since it will not reduce a significant impact, as acknowledged by the City. Thus, the City must identify other alternatives that potentially will avoid or lessen a significant effect of the project.</p> <p>The City's failure to analyze a reduced development alternative compounds the inadequacy of the DPEIR's alternatives analysis. The Net Zero Energy Consumption Alternative is explicit that, other than the requirement that all development achieve zero net energy by 2020, "[all other components of the approved General Plan would remain in effect." DPEIR, p. 6-6. The alternative specifies that "new development would occur using new development practices," but that "development would still occur consistent with the policies of the approved General Plan. DPEIR, p. 6-7. The Net Zero Energy Alternative and therefore the DPEIR's alternatives analysis does not include a reduced development component. And the RPEIR does not include an alternatives analysis, because the City did not modify the DPEIR's alternatives</p>	

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	<p>analysis. Moreover, the DPEIR does not consider or propose any changes to its Development Code lessen the severity of the impacts of new industrial development, including on vulnerable disadvantaged communities and sensitive receptors. Such changes considered in an alternative could include the reduction in the intensity of land use types allowed within certain zone districts or near sensitive receptors or the addition of discretionary permit requirements for certain industrial uses likely to have significant environmental impacts.</p> <p>The City's failure to include a reduced development alternatives analysis is particularly significant, because Leadership Counsel requested that the City consider such an alternative in its May 2020 comments. Leadership Counsel May 2020 comments, pp. 3, 4, 21. Specifically, the letter requested that the City analyze alternatives to industrial land use designations avoid and minimize significant environmental and public health impacts on South Fresno neighborhoods. Leadership Counsel even included a map as an attachment to its letter that provided sample alternative land use designations in South Fresno which would achieve this objective.⁵⁹ The City's preparation and consideration of such an alternative would be consistent with guidance by the Attorney General Xavier Becerra's encouraging proactive planning to avoid conflicts between industrial districts and residential communities. "Land use designation and zoning decisions should channel development into appropriate areas," including away from sensitive receptors. Attorney General Xavier Becerra, Stat of California Department of Justice, Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act, p. 3.⁶⁰</p> <p>An EIR is required to consider those alternatives that will "attain most of the basic objectives" while avoiding or substantially reducing the environmental impacts of the project. A reduced development alternative may be required where it is capable of avoiding or substantially lessening any significant effects of the project," even if it "would impede to some degree the attainment of the project objectives. <i>Watsonville Pilots Assn. v. City of Watsonville</i> (2010) 183 Cal.App.4th 1058, 1088-1089 (General Plan EIR was inadequate where it failed to consider a reduced development alternative that would have met most general plan objectives and would have reduced</p>	

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	<p>environmental impacts attributable primarily to growth itself). A reduced development alternative which replaces heavy industrial land use designations with less intensive, non-industrial designations with land use designations that meet community needs directly surrounding existing residential and other sensitive neighborhood uses would achieve the CEQA requirement that alternatives considered avoid or substantially reduce the project's significant environmental impacts. In particular, the enactment of buffers between residential neighborhoods and industrial development could substantially reduce a variety of significant impacts identified in the DPEIR, including but not limited to aesthetic, light, noise, air pollution, public health, traffic, and greenhouse gas emissions, among others. Importantly, such a reduced development alternative would reduce health impacts on vulnerable populations in pollution-burdened South Fresno neighborhoods who would be subjected to fewer environmental impacts.</p> <p>Additionally, a reduced development alternative that creates buffer zones around sensitive land uses while leaving remaining industrial land use designations in place would achieve all of the Project's goals and objectives and further many of them more than the General Plan with its existing land use designations. Among the General Plan's seventeen goals, some of the goals that this alternative would actively further include the following (discussion by author is in italics):</p> <p>Goal 3. Emphasize conservation, successful adaptation to climate and changing resource conditions, and performance effectiveness in the use of energy, water, land, buildings, natural resources, and fiscal resources required for the longterm sustainability of Fresno. (General Plan, p. 1-6)</p> <p><i>Creating buffer zones between residences and other sensitive land uses will stabilize neighborhoods and promote their long-term sustainability by reducing adverse impacts from industrial land uses. By preserving the quality and long-term viability of existing housing, the alternative promotes resource conservation. The alternative also supports climate adaptation by reducing heat impacts from large warehouse and industrial development on sensitive land uses.</i></p> <p>Goal 4. Emphasize achieving healthy air quality and reduced greenhouse gas</p>	

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	<p>emissions. (General Plan, p. 1-6)</p> <p><i>The RPEIR acknowledges that industrial development is a leading source of air pollution in Fresno. By reducing the scale of planned industrial development, the alternative promotes the achievement of both healthy air quality and reduced GHG emissions.</i></p> <p>Goal 6. Protect, preserve, and enhance natural, historic, and cultural resources. [This includes both designated historic structures and neighborhoods, but also “urban artifacts” and neighborhoods that create the character of Fresno. (General Plan, p. 1-6)</p> <p><i>The General Plan currently designates entire neighborhoods and unique and culturally-important places of worship for industrial development. A few examples include the disadvantaged unincorporated community of Daleville, neighborhoods on East Central Avenue and East Malaga Avenue, the Sikh Gurdwaras Nanaksar Sahib, and the Thai Buddhist Temple Wat Brahmachariyakaram, all located in South Central Fresno. By planning for the elimination of these places, the General Plan undermines Goal 6. The reduced development alternative proposed by Leadership Counsel, on the other hand, would actively promote this goal.</i></p> <p>Goal 8. Develop Complete Neighborhoods and districts with an efficient and diverse mix of residential densities, building types, and affordability which are designed to be healthy, attractive, and centered by schools, parks, and public and commercial services to provide a sense of place and that provide as many services as possible within walking distance. (General Plan, p. 1-6)</p> <p><i>The land use map proposed by Leadership Counsel replaces industrial land use designations around sensitive uses with commercial and office space. These designations respond to resident priorities articulated at workshops held by the City for the development of the South Central Specific Plan, where residents requested that the City plan for uses to meet basic community needs, including fresh food, retail, health services, and green space. These land use types would also meet the needs of the thousands of workers already employed</i></p>	

Table 3.A: Comments and Responses Matrix

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	<p><i>within the SCSF area, allowing both residents and workers to meet day-to-day needs without reliance on car travel.</i></p> <p>Goal 9. Promote a city of healthy communities and improve quality of life in established neighborhoods. (General Plan, p. 1-6)</p> <p><i>The further concentration of industrial land uses in and around South Fresno neighborhoods, as proposed by the General Plan, will undermine public health and quality of life in neighborhoods which bare the brunt of their environmental impacts. Alternatively, a reduced development alternative with buffer zones which facilitate commercial, retail, health care and other establishments that meet community needs promotes healthy communities and would improve quality of life in South Fresno neighborhoods which lack basic services and amenities.</i></p> <p>Goal 11. Emphasize and plan for all modes of travel on local and Major Streets in Fresno. [Facilitate travel by walking, biking, transit, and motor vehicle with interconnected and linked neighborhoods, districts,...shopping centers and other service centers...] (General Plan, p. 1-7)</p> <p><i>Planning for neighborhood-serving land uses in South Fresno residential areas will reduce residents' dependence on travel by car. By redesignating industrial land use designations around sensitive uses, it will also promote walking and biking by reducing truck traffic in the area and improving pedestrian and cyclist safety.</i></p> <p>Goal 13. Emphasize the City as a role model for good growth management planning,...effective urban development policies, environmental qualities, and a strong economy...</p> <p><i>By balancing industrial growth with the safeguarding of existing residential communities and cultural resources, the alternative would advance Goal 13.</i></p> <p>Goal 16. Protect and improve public health and safety.</p> <p>Goal 17. Recognize, respect, and plan for Fresno's cultural, social, and ethnic diversity, and foster an informed and engaged citizenry.</p>	

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	<p><i>South Fresno neighborhoods which the General Plan designates for industrial development are disproportionately comprised of Latino, Black, Asian American residents, households which speak languages other than English, and immigrants compared to the City as a whole. A reduced development alternative which plans for the continuation of these neighborhoods, not their elimination, and for the basic resources they need to thrive better aligns with Goal 17's directive that the City "[r]ecognize, respect, and plan for Fresno's cultural, social, and ethnic diversity".</i></p> <p>In addition, a reduced development alternative that creates buffer zones while still including significant industrial land use designation aligns with Goal 1 ("Increase opportunity, economic development, business, and job creation) by creating a range of job development opportunities with industrial employers as well as commercial, retail and other employers which could serve both community and industrial worker needs. Furthermore, a land use redesignation alternative is clearly feasible as it can be accomplished through the City's legal authority to do so.⁶¹</p> <p>Finally, the DPEIR fails to "identify any alternatives that were considered by the lead agency but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the lead agency's determination" as required by Section 15126.6(c). The only explanation the City provided for selecting only two alternatives is that "given the set of specific changes that the project is proposing for the approved General Plan, a reasonable range of alternatives is limited". See DPEIR, 6.2. As explained elsewhere in this letter, an accurate description of the Project includes the General Plan and the entire duration of its implementation, not only the revisions to the General Plan to which the City wishes to limit its environmental review. Regardless, the DPEIR's explanation neither discloses whether other alternatives were in fact considered, such as the reduced development alternative proposed in Leadership Counsel's May 2020 comments, or why the specific changes of the project limit the alternatives.</p> <p>As such, the City must revise and recirculate the DPEIR to comply with CEQA's requirements for its selection and analysis of project alternatives.</p> <p>⁵⁹ That map is available on the City's webpage for the South Central Specific</p>	

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	<p>Plan at the following link: https://www.fresno.gov/darm/wp-content/uploads/sites/10/2020/06/Community-Revision-Map.pdf, accessed on May 10, 2021.</p> <p>⁶⁰ Available at https://oag.ca.gov/sites/all/files/agweb/pdfs/environment/warehouse-best-practices.pdf, access on May 8, 2021. ⁶¹ Our proposed alternatives would not constitute a “taking” pursuant to U.S. Constitutional law, an issue the City has raised in the past. The land use map we have proposed includes re-designation of certain land in the SIPA from industrial to commercial and office space uses, which allow parcels to retain at least some economic value.</p> <p>⁶¹ Our proposed alternatives would not constitute a “taking” pursuant to U.S. Constitutional law, an issue the City has raised in the past. The land use map we have proposed includes re-designation of certain land in the SIPA from industrial to commercial and office space uses, which allow parcels to retain at least some economic value.</p>	
C1-58	<p>XIII. The DPEIR’s and RPEIR’s Inadequacies Together With the General Plan’s Policies Promoting Industrial Development in South Fresno Neighborhoods Render Them Inconsistent with Fair Housing and Civil Rights Laws</p> <p>As noted in all previous correspondence on the matter, the RPEIR’s deficiencies violate state and federal fair housing and civil rights laws as codified in Cal. Gov. Code §§ 12900, et. seq., 11135, 65008, 8899.50; 42 U.S.C. § 2000d, et seq., 3601, et seq., 5304(b)(2)&(s)(7B), & 12075), and other applicable law. These deficiencies include the RPEIR’s failure to acknowledge and fully analyze impacts which uniquely, acutely, and / or disproportionately burden lower income communities of color and non-English speaking populations; the RPEIR’s failure to analyze project alternatives that would reduce or eliminate impacts that disproportionately impact lower income communities of color and non-English speaking populations; and the RPEIR’s failure to identify and include adequate mitigation measures for the same. Thus, the DPEIR not only violates CEQA but results in violations of state and federal fair housing and civil rights laws which require the City to both avoid discrimination and to affirmatively further fair housing.</p>	<p>This comment pertains to the analysis of population and housing, as analyzed in Section 4.14 of the Draft PEIR. In addition, this comment questions the adequacy of the project alternatives analyzed in Chapter 6.0 of the Draft PEIR. As stated on page 1-4 of the Recirculated Draft PEIR, pursuant to CEQA guidelines Section 15088.5(f)(2), reviewers of the Recirculated Draft PEIR are requested to limit their comments to the new material that has been included in the revised chapters or portions of the Recirculated Draft PEIR. The City is required to only respond to comments received during the recirculation period that relate to the chapters or portions of the Recirculated Draft PEIR. Comments on the Draft PEIR related to population and housing and alternatives were addressed in the 2020 Response to Comments document. Furthermore, the Northpointe Drive Settlement Agreement identifies specific actions to be undertaken by the City to reduce potential environmental impacts that could affect South Fresno Neighborhoods. No further response is required.</p>

Table 3.A: Comments and Responses Matrix

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C1-59	<p>XIV. Conclusion</p> <p>For the foregoing reasons, we request that the City revise the DPEIR and RPEIR to correct the errors identified in this letter and recirculate the revised PEIR for public review and comment. The revised PEIR must thoroughly review the impacts from the entire lifetime of the General Plan and Development Code and consider all feasible mitigation measures and a reasonable range of alternatives to avoid and mitigate those impacts. In addition, we request that the City revise its GHG Reduction Plan to indicate that it does not meet the requirements for CEQA streamlining.</p> <p>Please contact Ashley Werner at awerner@leadershipcounsel.org or (415) 686-1368 if you would like to set up a time to discuss these comments.</p> <p>Sincerely, Ashley Werner Directing Attorney, Leadership Counsel for Justice Accountability</p> <p>Lucas Williams Visiting Associate Professor of Law /Staff Attorney Golden Gate University Environmental Law and Justice Clinic</p>	<p>This comment provides a closing to the comment letter and provides general summary of the issues identified in the comment letter. No further response is required.</p>

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