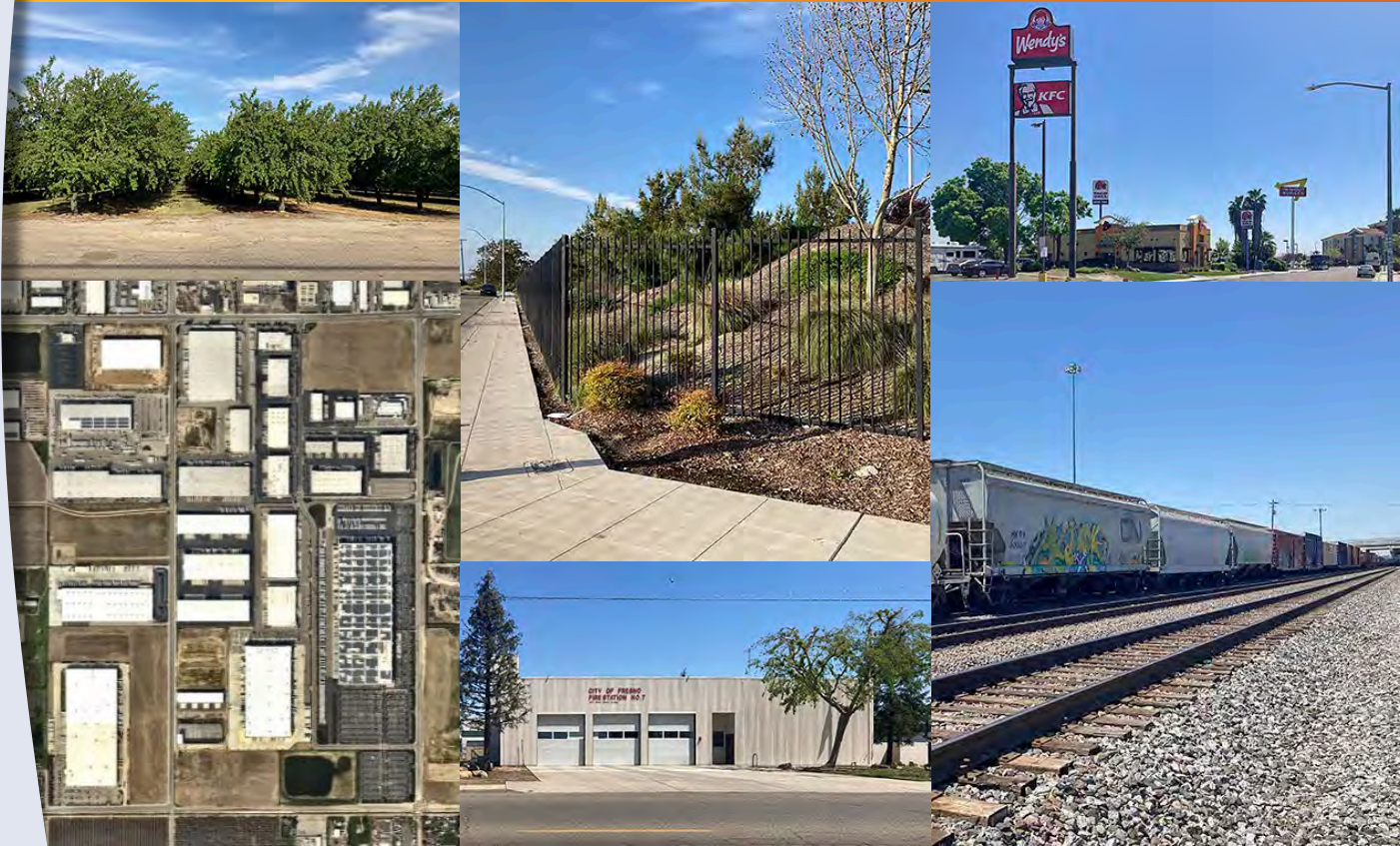


FINAL ENVIRONMENTAL IMPACT REPORT

# Fresno South Central Specific Plan

STATE CLEARINGHOUSE No.: 2019079022



Prepared for:  
**City of Fresno**

November 2024

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Prepared for:

**City of Fresno**

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November 2024

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# LIST OF ABBREVIATIONS

AB	Assembly Bill
BACT	best available control technology
BMP	best management practice
CalEnviroScreen	California Communities Environmental Health Screening Tool
CALGreen	California Green Building Standards
Caltrans	California Department of Transportation
CARB	California Air Resources Board
CCR	California Code of Regulations
CEQA	California Environmental Quality Act
CERP	South Central Fresno Community Emissions Reduction Plan
CESA	California Endangered Species Act
CGP	Construction General Permit
City	City of Fresno
EIA	environmental impact assessment
EIR	environmental impact report
EV	electric vehicle
Final EIR	final environmental impact report
FMFCD	Fresno Metropolitan Flood Control District
GHG	greenhouse gas
HIA	Health Impact Assessment
HRA	health risk assessment
HVAC	heating, cooling, ventilation, and air conditioning
LED	light-emitting diode
MTCO <sub>2e</sub> /year	metric tons of carbon dioxide equivalent per year
NO <sub>x</sub>	oxides of nitrogen
NPDES	National Pollutant Discharge Elimination System
PM <sub>10</sub>	respirable particulate matter
SMAQMD	Sacramento Metropolitan Air Quality Management District
SCSP or project	South Central Specific Plan Project
sf	square feet
SFAP	Sustainable Freight Action Plan
SJVAB	San Joaquin Valley Air Basin
SJVAPCD	San Joaquin Valley Air Pollution Control District
TAC	toxic air contaminant
TRU	transport refrigeration unit
VERA	Voluntary Emissions Reduction Agreement
VMT	vehicle miles traveled
VOC	volatile organic compound
ZNE	zero net energy



# 1 INTRODUCTION

This final environmental impact report (Final EIR) has been prepared by the City of Fresno (City), as lead agency, in accordance with the requirements of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines (California Code of Regulations [CCR], Section 15132). This Final EIR contains responses to comments received on the draft environmental impact report (Draft EIR) for the South Central Specific Plan Project (project, proposed plan, or SCSP). The Final EIR consists of the Draft EIR and this document (response to comments document), which includes comments on the Draft EIR, responses to those comments, and revisions to the Draft EIR.

## 1.1 PURPOSE AND INTENDED USES OF THIS FINAL EIR

CEQA requires a lead agency that has prepared a Draft EIR to consult with and obtain comments from responsible and trustee agencies that have jurisdiction by law with respect to the project, and to provide the public with an opportunity to comment on the Draft EIR. This Final EIR has been prepared to respond to comments received on the Draft EIR, which are reproduced in this document, and to present corrections, revisions, and other clarifications to the Draft EIR, including revisions to the SCSP made in response to these comments. The Final EIR will be used to support the City's decision regarding whether to approve the project.

This Final EIR will also be used by CEQA responsible and trustee agencies to ensure that they have met their requirements under CEQA before deciding whether to approve or permit project elements over which they have jurisdiction. It may also be used by other state, regional, and local agencies that may have an interest in resources that could be affected by the project. In accordance with Section 15168(c) of the State CEQA Guidelines, subsequent projects will be examined in light of the program EIR to determine whether an additional environmental document must be prepared and if so, the type and scope of that environmental document.

The Fresno City Council is the decision-making body responsible for considering the adequacy of the EIR and whether it should be certified and whether the project should be approved as proposed.

## 1.2 PROJECT LOCATION

The Plan Area encompasses 5,567 acres located just south and southeast of Downtown Fresno. The Plan Area is generally located south of California Avenue, north of American Avenue, and between Fig and Peach Avenues. The area has a range of existing land uses including industrial, warehouse, commercial, residential, religious, educational, public, and open space uses.

## 1.3 PROJECT OBJECTIVES

The overarching vision of the SCSP is to improve the City's overall economic competitiveness, support employment opportunities for residents, and maintain and improve community livability. The objectives that would help realize this vision are as follows:

- ▶ **Stimulate economic development.** Promote inclusive and sustainable economic growth and attract development that focuses on emerging markets and new technologies.
- ▶ **Provide diverse employment.** Create diverse employment opportunities, including an accessible and resilient employment zone.
- ▶ **Minimize environmental and neighborhood impacts.** Consider project-specific environmental effects (e.g., truck traffic, air emissions, noise and vibration) on existing and potential future sensitive receptors and impose measures to minimize such impacts.

- ▶ **Preserve existing operations:** Preserve the viability of existing industrial and manufacturing operations in the Plan Area.
- ▶ **Protect against incompatible uses.** Protect existing and future development from adverse impacts associated with incompatible uses.
- ▶ **Implement infrastructure improvement:** Improve Plan Area infrastructure (e.g., transportation, sewer, water) to expand the supply of “shovel-ready” sites.
- ▶ **Be a good neighbor.** Participate in “good neighbor” policies to provide residents with clear and transparent access to information regarding community development and assist in addressing disputes and concerns.
- ▶ **State Routes 99 and 41 as Gateways.** Transform State Routes 99 and 41 as gateways into the City. Utilize landscaping and architectural design to improve the visual quality when entering the Plan Area.

## 1.4 SUMMARY DESCRIPTION OF THE PROJECT

The City of Fresno is proposing to adopt the SCSP. The SCSP would facilitate opportunities for economic growth and job creation and promote development of underutilized lands within the planning area. The purpose of the proposed plan is to serve as a policy and regulatory document that seeks to balance economic benefit, environmental impacts, and quality of life. Buildout of the SCSP would result in approximately 18.5 million square feet of industrial uses (less than would be accommodated in the existing General Plan), 10 million square feet of commercial/office uses, and 1.2 million square feet of retail uses and public facilities.

The SCSP proposes land use designation changes for certain areas, requiring a General Plan amendment and rezone of those properties. The changes are proposed primarily to 1) reconcile land use designations with existing conditions, 2) to buffer sensitive uses (e.g., residential areas, Orange Center School) with less intensive uses (e.g., business park instead of industrial), and 3) to provide more opportunities for neighborhood-serving general commercial uses near residential areas. The SCSP would result in substantial reductions in acreage of Heavy Industrial land uses and a modest decrease in Regional Business Park, with corresponding increases in acreage of Business Park, Single-Family Residential, Public, Light Industrial, and General Commercial uses.

The Plan Area currently supports nearly 19.6 million square feet of nonresidential development and 400 residential units. It is conservatively estimated that an additional 12 million square feet of nonresidential uses and 91 dwelling units would be constructed by 2040 (Table 1-1). Growth in the Plan Area would be primarily industrial, with smaller amounts of office and retail uses. Other land uses would be permitted in accordance with General Plan land use designations but are not the focus of the SCSP.

**Table 1-1 Assumed Development for the Proposed Plan Compared to Existing Conditions**

Land Use Designation	Existing (square footage)	Proposed Plan (square footage) 2022-2040
Retail	0	866,676
Office	10,912	578,790
Industrial	19,624,154	10,576,278
Total Non-residential	19,635,066 <sup>1</sup>	12,021,744
Residential Units	400 dwelling units	91 dwelling units

<sup>1</sup> Existing development only reflects the employment land use categories within the Specific Plan Area.

Source: Data provided by Ascent in 2023.

## 1.5 ASSEMBLY BILL 98

Since public and agency review of the Draft EIR, new legislation, Assembly Bill (AB) 98, was signed into law. AB 98, adopted on September 29, 2024 (Section 65302.02 [commencing with Section 65098] to Chapter 2.8 of the Division 1 of Title 7 of the California Government Code; Sections 40458.5 and 40522.7 of the Health and Safety Code) establishes various requirements for proposed new or expanded logistics use developments or centers. Logistics centers are characterized as warehouses or buildings intended for the movement of goods in the supply chain, from supplies to manufacturers, sellers, distributors, and buyers. Logistic centers are known to generate high volumes of truck trips associated with the movement of commercial goods.

AB 98 establishes a first-of-its-kind definition for a “21st Century Warehouse” and a “Tier 1 21st Century Warehouse.” For 21st Century Warehouses, starting on January 1, 2026, all new or expanded logistics centers must incorporate solar photovoltaic systems and battery storage; skylights in at least 1 percent of the roof area or equivalent light-emitting diode (LED) lighting; cool roofing; medium- and heavy-duty electric vehicle (EV) ready infrastructure; light-duty EV charging equipped with EV supply equipment (EVSE); conduits and electrical hookups for cold storage; high efficiency heating, cooling, ventilation, and air conditioning (HVAC) systems; 100 percent zero-emission forklifts by 2030; and use of zero-emission small off-road engines, as commercially available. AB 98 also defines requirements for a “Tier 1 21st Century Warehouse” that expands on the aforementioned 21st Century Warehouse requirements with mandatory minimums for EV charging infrastructure, use of smart metering, microgrid-ready switchgear systems, and an accelerated target to transition to a zero-emission forklift fleet by January 2028, as commercially available.

AB 98 also sets requirements for new and modified logistics centers below and above 250,000 square feet (sf) in areas that are already industrially zoned or for which an amendment is sought to rezone to an industrial land use. All logistics centers greater than 250,000 sf, either proposed on a parcel already zoned for industrial or seeking a rezone, must comply with the requirements of a Tier 1 21st Century Warehouse (Section 65098(g)); logistics centers less than 250,000 sf need only comply with the requirements of a 21st Century Warehouse (Section 65098(a)).

Depending on the size and zoning designations of logistics centers, additional AB 98 requirements generally include setback distances from existing sensitive receptors of a minimum of 900 feet; orientation of loading bays away from sensitive receptors and, at minimum, 500 feet from the property line; construction and maintenance of a solid decorative wall, landscaped berm and wall, or landscaped berm of 10 feet or more in height; and planting of trees comprising two rows along the length of a property line adjacent to a sensitive receptor.

It is foreseeable that proposed industrial land uses under the SCSP could include the construction and operation of logistics centers, which would be subject to the 21st century and Tier 1 21st century warehouse requirements of AB 98. Notably, these requirements apply only to developments that meet the definition of a logistics center or warehouse, and not to all industrial developments that could become operational within the SCSP boundary. Based on review of AB 98, the EIR analysis does not conflict with the provisions of the bill, and future logistics centers that could operate within the SCSP would be subject to AB 98, as applicable. Moreover, many of the mitigation measures recommended in the Draft EIR and revised in this Final EIR are reflective of standards embedded in AB 98, and could apply to other industrial and commercial land uses that would not be classified as a logistics center.

## 1.6 MAJOR CONCLUSIONS OF THE ENVIRONMENTAL ANALYSIS

The Draft EIR identified the following significant impacts related to the project and comments and responses to comments in the Final EIR resulted in no changes to these conclusions:

- ▶ **Aesthetics:** Implementation of the proposed plan would result in increases of densities and intensification primarily of industrial and commercial land uses within the Plan Area, which would result in substantial changes in the existing visual character. No feasible mitigation measures are available to mitigate the impact to a less-than-significant level; therefore, the impact of the proposed plan and its considerable contribution to the cumulative impact on the existing visual character would be **significant and unavoidable**. The proposed plan would introduce new sources of light and glare associated with new buildings and facilities. Although residential development is

relatively sparse in the Plan Area and the SCSP assumes relatively little new residential development that could be affected by additional light and glare, such lighting could nonetheless contribute to indirect lighting/glare on adjacent land uses that could adversely affect daytime or nighttime views and result in additional skyglow, resulting in a significant impact. After mitigation, light/glare impacts would be **less than significant**.

- ▶ **Agriculture and Forestry Resources:** Implementation of the proposed plan would result in conversion of Prime Farmland and Farmland of Statewide Importance to non-agricultural uses. This impact would be significant. Mitigation measures are included in the EIR to require compensatory farmland to be preserved. However, the mitigation measure would not replace the farmland that is converted; therefore, this proposed plan and cumulative impact would be **significant and unavoidable**. Additionally, implementation of the proposed plan is likely to result in conversion of existing Farmlands that are enrolled in Williamson Act contracts to non-agriculture uses. Because future development could result in conflict with a Williamson Act contract and no feasible mitigation is available, the impact of the proposed plan and its considerable contribution to the cumulative impact would be **significant and unavoidable**.
- ▶ **Air Quality:** The proposed plan, which comprises many future development projects, would generate construction and operational emissions of criteria air pollutants and ozone precursors exceeding the San Joaquin Valley Air Pollution Control District's (SJVAPCD) thresholds of significance. In addition, implementation of the proposed plan would result in significant impacts related to exposure of sensitive receptors to toxic air contaminants (TACs) and resultant cancer risk. After mitigation, air quality impacts would be **less than significant**, except for TAC impacts. The impact of the proposed plan and its considerable contribution to the cumulative impact would be **significant and unavoidable**.
- ▶ **Biological Resources:** Future development under the proposed plan may include ground disturbance, vegetation removal, and overall conversion of land cover, which would have potentially adverse effects on biological resources. This would include potentially significant impacts related to the disturbance, injury, or mortality of several special-status plant and wildlife species, if present; reduced reproductive productivity of these species; and contribution to loss of species habitat. Development under the proposed plan could also result in potentially significant impacts related the degradation or loss of riparian habitat (e.g., reduction of vegetation cover, trampling, alteration of root structure), if it is present on a particular project site; and the loss of state or federally protected wetland habitat, which includes seasonal wetlands. After implementation of mitigation measures, impacts to biological resources would be **less than significant**.
- ▶ **Cultural and Tribal Cultural Resources:** Because the Plan Area could contain unrecorded historic sites, implementation of the proposed plan could result in a significant impact related to historic resources if such a resource exists and damage to or destruction of the resource occurred. After implementation of mitigation measures, the impact of the proposed plan and its considerable contribution to the cumulative impact would remain **significant and unavoidable**. Additionally, ground-disturbing activities could result in discovery or damage of yet undiscovered archaeological resources and previously unknown human remains, which would result in potentially significant impacts. After implementation of mitigation measures, impacts to these resources would be **less than significant**.
- ▶ **Energy:** The proposed plan would reduce vehicle miles traveled (VMT) per service population relative to existing conditions and 2040 no project conditions, meet the mandatory electric vehicle (EV) charging requirements of the CALGreen Code and promote the use of EVs, and result in new development that would comply with 2022 California Energy Code Standards and with the progressively more stringent requirements of future Energy Code standards. However, because the proposed plan does not include any policies that address building zero net energy (ZNE) for future land uses, the proposed plan would conflict with the energy-related measures of the City's Greenhouse Gas Reduction Plan (GHGRP), which requires that commercial projects achieve ZNE electricity. After implementation of mitigation measures, this impact would be **less than significant**.
- ▶ **Geology, Soils, and Mineral Resources:** Construction of future development under the proposed plan could require ground disturbance within previously undisturbed soils and in areas of high sensitivity for paleontological resources. Such development has the potential to destroy a unique paleontological resource or site or unique

geologic feature, which would be a potentially significant impact. After mitigation, impacts to paleontological resources would be **less than significant**.

- ▶ **Greenhouse Gas Emissions and Climate Change:** The proposed plan would result in greenhouse gas (GHG) emissions during both construction and operation of plan development. Because neither the City nor SJVAPCD have recommended thresholds for determining the significance of GHG emissions, consistency with the 2022 Scoping Plan is used to determine whether implementing the proposed plan would result in a cumulatively considerable contribution to climate change. The proposed plan would not align with the Transportation Electrification and Building Decarbonization Priority Areas included in the 2022 Scoping Plan. Therefore, the proposed plan would generate GHG emissions that may have a significant impact on the environment, would conflict with state GHG reduction goals, and would cumulatively contribute to global climate change. After implementation of mitigation measures, the greenhouse gas emissions impact of the proposed plan and its considerable contribution to the cumulative impact would remain **significant and unavoidable**.
- ▶ **Hazards and Hazardous Materials:** Construction and operation of development under the proposed plan would result in potentially significant impacts related to the routine transport, use, and disposal of hazardous materials and reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment; potential for hazardous emissions or handling of hazardous or acutely hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school; potential to be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment; and potential to impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. After implementation of mitigation measures, impacts related to hazards and hazardous materials would be **less than significant**.
- ▶ **Hydrology and Water Quality:** Future development under the proposed plan could degrade the quality of stormwater flows and potential downgrade downstream surface water quality, and result in an increase of impervious surface and runoff. In addition, the Plan Area contains flood hazard and dam inundation areas. Development under the proposed plan would be required to comply with applicable requirements related to water quality, groundwater, flood hazards. With compliance with existing regulations and applicable plans such as the Basin Plan, hydrology and water quality impacts would be **less than significant**.
- ▶ **Land Use and Planning:** Development under the proposed plan would not physically divide an established community. Implementing the proposed plan would require a general plan amendment to allow for the proposed land use changes, as some of the proposed land uses differ from the general plan. With the approval of the amendment, the SCSP would be consistent with the City of Fresno General Plan and would not conflict with any other plans or policies. Therefore, land use impacts would be **less than significant**.
- ▶ **Noise:** Future construction activities could result in a substantial (i.e., 5 dB) temporary or periodic increase in noise during daytime or nighttime hours at existing and future sensitive land uses. Depending on the specific location of future land development and specific land uses located close to high-volume roads, exterior and interior noise limits could be exceeded at existing and future sensitive land uses. In addition, operation of future projects could result in truck-generated vibration impacts on sensitive receptors and—though unlikely—sensitive uses could be developed within the small areas of land in the proposed Business Park and Residential land use designations adjacent to existing railroad tracks, operational vibration impacts would be significant. After implementation of mitigation measures, the noise impact of the proposed plan and its considerable contribution to the cumulative impact would remain **significant and unavoidable**.
- ▶ **Population and Housing:** Implementation of the proposed plan would create jobs for the City's projected growth in population and employment. The proposed plan would not induce substantial unplanned population growth, either directly (i.e., by proposed new unplanned homes) or indirectly (i.e., by the extension of roads or other infrastructure) or displace substantial numbers of people or housing. Therefore, population and housing impacts would be **less than significant**.

- ▶ **Public Service and Recreation:** Under the proposed plan, development would be intensified within the Plan Area and may increase demand for fire protection services and law enforcement services that could require new or expanded facilities. Construction activities and duration would be typical of such facilities and would be required to comply with applicable City policies and regulatory requirements to reduce adverse environmental effects. For these reasons, there is no evidence to suggest that such construction would result in unmitigable, adverse effects on the environment. The projected future development of the proposed plan would include an estimated 91 new residential dwelling units by 2040, which is anticipated to support approximately 279 new residents at buildout. The projected number of residents in the Plan Area would be relatively small and dispersed and would not require the construction or expansion of school or recreations facilities. Therefore, public services and recreation impacts would be **less than significant**.
- ▶ **Transportation and Circulation:** The proposed SCSF policies would encourage the construction of bicycle and pedestrian safety improvements and transportation demand management strategies for employees to support the use of alternative modes of transportation. There is no evidence to suggest that the SCSF or future development under the plan would conflict with any applicable program, plan, ordinance, or policy addressing the circulation system. The *Transportation Impact Analysis: South Central Specific Plan* found that under horizon year with project conditions, the proposed plan would result in a VMT per service population of 29.87 as compared to 44.88 VMT per service population under existing conditions. Because the proposed plan would result in a 33 percent decrease in VMT, the proposed plan would not conflict or be inconsistent with CEQA Guidelines Section 15064.3. Although the nature and location of specific development projects under the proposed plan cannot be known, the plan would substantially increase industrial uses in the Plan Area and implement commercial and minor residential development. Thus, the industrial and other uses would substantially increase traffic, including truck traffic, in the Plan Area. Subsequent projects under the plan would be required to comply with all applicable design standards and would be subject to review by City staff to ensure these requirements are met. In addition, with adherence to local and State emergency access and design standards and regulations, implementation of the proposed plan would not adversely affect emergency vehicle access or response times. Therefore, the proposed plan would not result in inadequate emergency access. With compliance with existing regulations and applicable plans transportation and circulation impacts would be **less than significant**.
- ▶ **Utilities and Service Systems:** Implementation of the proposed plan would require relocation or construction of new or expanded water, wastewater treatment, stormwater drainage, electric power, natural gas, and telecommunications facilities. New infrastructure would generally be constructed within existing roadways or would consist of short connections to existing pipelines and would be developed as part of buildout of the proposed plan. The impacts associated with such infrastructure connections would be typical of such construction and would result in are generally assessed as part of the proposed development under the SCSF (e.g., construction-related air, noise, GHG, and transportation effects), within the context of this EIR, and there is no evidence to suggest that such construction would result in additional significant environmental effects. Future development of the proposed plan would demand less water than the currently approved General Plan land uses within the Plan Area. As such, there would be a greater surplus of water supply for the City during normal, dry, and multiple-dry years through 2045 with implementation of the proposed plan compared with the existing approved land uses considered in the 2020 UWMP. In addition, Implementation of the proposed plan would allow for development of industrial, commercial office, retail, and residential uses, which would generate solid waste. Without attainment of zero waste goals, development under the proposed plan may generate waste in excess of capacity at the American Avenue Landfill, which is planned for closure in 2031. After implementation of mitigation measures, impacts related to utilities and service systems would be **less than significant**.



## 1.7 CEQA PUBLIC REVIEW PROCESS

The environmental review process began with efforts to gather information to establish the breadth, or scope, of environmental review. A notice of preparation (NOP) was issued to inform agencies and the public that an EIR was being prepared for the project and to solicit views of agencies and the public regarding the scope and content of the document. Scoping meetings were held to allow written and oral expression of those views, provide information about the proposal, and answer questions. A summary of the written and oral comments and the issues raised by the public, agencies, and organizations, as well as the comment letters in their entirety, are included in Appendix A.

An NOP was initially distributed on July 8, 2019, to responsible agencies, interested parties, and organizations, as well as private organizations and individuals that may have an interest in the project. The NOP was available at the City of Fresno offices, Fresno County Library, and online at <https://www.fresno.gov/cityclerk/notices-publications>. A public scoping meeting was held on July 8, 2019, from 5:30 to 7:30 p.m. at the City Council Chambers, 2600 Fresno Street.

A revised NOP was circulated on April 14, 2021, to reflect revisions to the South Central Specific Plan, formerly referred to as the South Industrial Priority Area Specific Plan. Again, the NOP was made available to responsible agencies and interested parties, organizations, and individuals, and an additional scoping meeting was held virtually on April 6, 2021, from 6 to 8 p.m. The revised NOP is consistent with the project description in Chapter 3 of the Draft EIR.

The purpose of the NOPs were to provide notification that an EIR for the South Central Specific Plan project was being prepared and to solicit input on the scope and content of the document. Numerous responses were received, offering meaningful guidance to the City on the scope and content of the EIR, expressing environmental and other concerns, presenting opinions on the merits of the project, and suggesting revisions to the land use plan. Each section of Chapter 4 of the Draft EIR provides a summary of comments received for each related environmental issue.

On May 31, 2024, the City released the Draft EIR for a 60-day public review and comment period. The Draft EIR was submitted to the State Clearinghouse for distribution to reviewing agencies; posted on the City's website (<https://www.fresno.gov/planning/plans-projects-under-review/#south-central-specific-plan-scsp>); and was made available at the City's Planning and Development Department, Fresno County Public Library, Mosqueda Branch Library, and West Fresno Branch Library. A notice of availability of the Draft EIR was published in the Fresno Bee and distributed by the City to a project-specific mailing list. On July 11, 2024, the City held an open house for the SCSP and the Draft EIR to ensure the public had the opportunity to ask questions about the Plan and the EIR process.

As a result of these notification efforts, written and oral comments were received from agencies, organizations, and individuals on the content of the Draft EIR. Chapter 2, "Responses to Comments," identifies these commenting parties, their respective comments, and responses to these comments. None of the comments received, or the responses provided, constitute "significant new information" as defined in the CEQA Guidelines (State CEQA Guidelines CCR Section 15088.5).

## 1.8 ORGANIZATION OF THE FINAL EIR

This Final EIR is organized as follows:

- ▶ **Chapter 1, "Introduction,"** describes the purpose of the Final EIR, summarizes the project and the major conclusions of the Draft EIR, provides an overview of the CEQA public review process, and describes the content of the Final EIR.
- ▶ **Chapter 2, "Responses to Comments,"** contains a list of all parties who submitted comments on the Draft EIR during the public review period, copies of the comment letters received, and responses to the comments. The chapter begins with a set of master responses that were prepared to respond comprehensively to multiple comments that raised similar issues. A reference to the master response is provided, where relevant, in responses to individual comments.

- ▶ **Chapter 3, "Revisions to the Draft EIR,"** presents revisions to the Draft EIR text made in response to comments, or to amplify, clarify or make minor modifications or corrections. Changes in the text are signified by ~~strikeouts~~ where text is removed and by underline where text is added.
- ▶ **Chapter 4, "References,"** identifies the documents used as sources for the analysis.
- ▶ **Chapter 5, "List of Preparers,"** identifies the lead agency contacts as well as the preparers of this Final EIR.

## 2 RESPONSES TO COMMENTS

This chapter contains comment letters received during the public review period for the Draft EIR, which concluded on July 30, 2024. In conformance with Section 15088(a) of the State CEQA Guidelines, written responses were prepared addressing comments on environmental issues received from reviewers of the Draft EIR.

### 2.1 LIST OF COMMENTERS ON THE DRAFT EIR

Table 2-1 presents the list of commenters, including the numerical designation for each comment letter received, the author of the comment letter, and the date of the comment letter.

**Table 2-1 List of Commenters**

Letter No.	Commenter	Date
<b>STATE AGENCIES</b>		
1	California Air Resources Board Matthew O'Donnell, Chief, Risk Reduction Branch	7/24/2024
2	California Department of Fish and Wildlife Julie A. Vance, Regional Manager	7/24/2024
3	California Department of Transportation, District 6 Dave Padilla, Branch Chief, Office of System and Regional Planning, Transportation Planning - North Branch	7/29/2024
<b>LOCAL AGENCIES</b>		
4	County of Fresno Elliott Racusin, Planner, Development Services and Capital Projects Division	7/11/2024
5	Fresno Irrigation District Laurence Kimura, P.E., Chief Engineer	7/15/2024
6	Fresno Metropolitan Flood Control District Denise Wade, Master Plan Special Projects Manager	7/30/2024
7	San Joaquin Valley APCD Mark Montelongo, Program Manager	7/30/2024
<b>ENVIRONMENTAL ORGANIZATIONS</b>		
8	Center for Biological Diversity Frances Tinney, Attorney	7/7/2024
9	Leadership Council for Justice & Accountability et al. Ivanka Saunders, et al.	7/30/2024
10	Leadership Council for Justice & Accountability Edward T. Schexnayder, SMW Law	7/30/2024
11	Regenerate California Innovation (RCI) Keith Bergthold	7/30/2024
12	Tree Fresno Mona N. Cummings	7/17/2024
<b>COMPANIES, BUSINESS ASSOCIATIONS, LABOR, OTHER ORGANIZATIONS</b>		
13	Affinity Truck Center Kim Mesfin, President	7/30/2024
14	Betts Company Mike Betts	ND

Letter No.	Commenter	Date
15	Building and Construction Trades Council, AFL-CIO Chuck Riojas, Financial Secretary-Treasurer	ND
16	Central California Food Bank Kym Dildine, Co-CEO	ND
17	Certified Meat Products Jimmy Maxey	ND
18	Chamber of Commerce Scott Miller	7/18/2024
19	D & I Farms, Daniel Barandalla Dirk Poeschel	7/30/2024
20	Donaghy Sales, Beverage Distributor Ryan Donaghy	ND
21	Dumont Printing Susan D. Moore, President & Owner	7/29/2024
22	Formax, LLC Paul Gillum, Managing Member	ND
23	Fresno Business Council Genelle Taylor Kumpe, CEO and Deborah Nankivell, CEO, Fresno Stewardship Foundation	7/24/2024
24	INVESTFresno et al. Ben Granholm	7/30/2024
25	JD Food Mark Ford, CEO	ND
26	Pacific Gas and Electric Company Plan Review Team, Land Management	7/3/2024
27	Penny Newman Grain Company David Meeker	7/29/2024
28	Robert V. Jensen, Inc. William V. Jensen	ND
29	San Joaquin Valley Manufacturing Alliance Genelle Taylor Kumpe, CEO and Mario Persicone, Chair	7/24/2024
30	Valley Iron, Inc. Noel Briscoe	ND
31	Wanger Jones Helsley John P. Kinsey	7/30/2024
<b>INDIVIDUALS</b>		
32	Rosa DePew	7/30/2024

## 2.2 MASTER RESPONSES

Several comments raised similar issues. Rather than responding individually, master responses have been developed to address the comments comprehensively. Master Responses are provided for the following topics: comments pertaining to the South Central Specific Plan, recirculation (of the Draft EIR), program versus project-level analysis, downzoning to create transitional or buffer areas, economic feasibility of mitigation, and relationship to the Truck Reroute Study. Reference to one or more master responses is provided, where relevant, in responses to individual comments.

## 2.2.1 Master Response 1: Comments Pertaining to the South Central Specific Plan

Many comments do not address environmental impacts or the adequacy of the Draft EIR, but instead address various provisions of the Draft South Central Specific Plan (SCSP) itself, and in some cases, the City's General Plan or other plans and documents and their relationship to the SCSP. These plan and policy comments offer a variety of perspectives regarding the SCSP, ranging from simple statements of support for or opposition to, and detailed recommendations regarding specific provisions of the plan.

In response to the call for review and public comment on the Draft SCSP and EIR, 32 comment letters were received, including 7 from public agencies, 5 from non-governmental organizations, 19 from other organizations (including companies and their representatives, business organizations/associations, and other entities), and 1 from an individual. An additional 5 individuals provided comments at the open house. These comment letters contain approximately 250 discrete comments, many of which do not address environmental impacts or the adequacy of the Draft EIR and instead provided some form of policy or procedural recommendation or opinion directed to the Draft SCSP.

CEQA and the State CEQA Guidelines require written responses to significant environmental issues raised in public comments on a Draft EIR. Accordingly, this Final EIR provides required responses to comments on such issues as the completeness, accuracy, and adequacy of the environmental analysis. Comments that do not address significant environmental issues, but that instead raise issues or questions pertaining to the SCSP, are summarized and identified in this Final EIR, but specific responses are not provided herein. Rather, the Staff Summary/Report that accompanies this Final EIR summarizes the public comments that pertain to the Draft SCSP and the resulting changes that were made to the Draft SCSP.

Several comments were received expressing concern about the lack of public notice regarding land use changes proposed in the SCSP. In response, the City of Fresno sent a letter dated October 7, 2024, to owners of all properties for which adoption of the SCSP would result in a change to the underlying land use and zoning designation. A map was included for reference. Property owners were encouraged to contact City staff by November 14, 2024, with any questions or to express opposition to the proposed land use changes. In addition, on November 8, 2024, the City sent a letter to owners of all property within the SCSP area boundary to notify them that adoption of the SCSP may result in changes to development standards applicable to their property. Included with this letter was a notice of public hearing before the Fresno Planning Commission on November 20, 2024, and a notice of public hearing before the Fresno City Council on December 5, 2024.

All public comments on the Draft SCSP and Draft EIR, regardless of their environmental content, have been made available to the City of Fresno Planning Commission and City Council for consideration and have been posted on the City's website and made available to the public (available at: <http://www.fresno.gov/scsp>).

## 2.2.2 Master Response 2: Recirculation

The City received comments stating that the Draft EIR should be revised and recirculated for an additional round of public review and comment. This response discusses the standards generally applicable to recirculation of an EIR, so that other responses can refer to this Master Response rather than repeating this information multiple times.

The lead agency is required to recirculate a draft EIR when "significant new information" is added to the EIR after the close of the public comment period but prior to certification of the final EIR (PRC Section 21092.1; State CEQA Guidelines Section 15088.5). As used in this Section of the CEQA Guidelines, "information" can include changes to the project or environmental setting as well as additional data or other information. "New information added to an EIR is not 'significant' unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement" (State CEQA Guidelines Section 15088.5(a)). Specifically, "significant" new information includes information showing that:

- ▶ A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented (CEQA Guidelines Section 15088.5(a)(1)).
- ▶ A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance (CEQA Guidelines Section 15088.5(a)(2)).
- ▶ A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it (CEQA Guidelines Section 15088.5(a)(3)).
- ▶ The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (State CEQA Guidelines Section 15088.5(a)(4)).

The Natural Resources Agency adopted Section 15088.5 of the State CEQA Guidelines to incorporate the California Supreme Court's decision in *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112 (*Laurel Heights II*). According to the Supreme Court in this decision, the rules governing recirculation of a draft EIR are "not intend[ed] to promote endless rounds of revision and recirculation of EIRs" (*Laurel Heights II, supra*, 6 Cal.4th at p. 1132). Instead, recirculation is "an exception, rather than the general rule." (*Mount Shasta Bioregional Ecology Center v. County of Siskiyou* (2012) 210 Cal.App.4th 184, 221.)

Under these standards, "new information" such as a change to a proposed project, mitigation measures, environmental setting information, or the addition of new data, made in response to comments on a draft EIR, generally does not trigger the obligation to recirculate the draft EIR. "The CEQA reporting process is not designed to freeze the ultimate proposal in the precise mold of the initial project; indeed, new and unforeseen insights may emerge during investigation, evoking revision of the original proposal." (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 199; see *River Valley Preservation Project v. Metropolitan Transit Development Bd.* (1995) 37 Cal.App.4th 154, 168, fn. 11). Given the recognized potential for project changes during the EIR review process, as well as the potential for changed conditions and the availability of new data, the criteria for "significant new information" provided in CEQA Guidelines Section 15088.5 were adopted to prevent the "endless rounds of revision and recirculation" referenced in *Laurel Heights II*.

As these cases recognize, CEQA encourages the lead agency to respond to concerns as they arise, by adjusting a project, revising mitigation measures, developing additional mitigation measures, or otherwise modifying an EIR, as necessary. That an EIR evolves to address such concerns is evidence of an agency performing meaningful environmental review. A rule requiring recirculation of the draft EIR any time a project or circumstances change would have the unintended effect of freezing the original proposal or the EIR contents, and of penalizing the lead agency or the project sponsor for revising the project or EIR in ways that may be environmentally benign or even beneficial. In light of this policy concern, the courts uniformly hold that the lead agency need not recirculate the draft EIR merely because the proposed project evolves or circumstances change during the environmental review process. (See, e.g., *Citizens for a Sustainable Treasure Island v. City and County of San Francisco* (2014) 227 Cal.App.4th 1036, 1061-1065 [project modification requiring consultation with Coast Guard regarding building designs did not require recirculation of Draft EIR]; *South County Citizens for Smart Growth v. County of Nevada* (2013) 221 Cal.App.4th 316, 329-332 [identification of staff-recommended alternative after publication of final EIR did not trigger obligation to recirculate draft EIR because alternative resembled other alternatives that the EIR had already analyzed]; *Western Placer Citizens for an Agricultural and Rural Environment v. County of Placer* (2006) 144 Cal.App.4th 890, 903-906 [revision in phasing plan did not trigger recirculation requirement because revision addressed environmental concerns identified during EIR process]; *Laurel Heights II, supra*, 6 Cal.4th at pp. 1141-1142 [final EIR's identification of night-lighting glare, and adoption of corresponding mitigation measures, did not trigger recirculation requirement].)

Information that clarifies or expands on information in the draft EIR also does not require recirculation. A number of cases illustrate this legal principle. For example, in *North Coast Rivers Alliance v. Marin Municipal Water Dist. Bd. of Directors* (2013) 216 Cal.App.4th 614, 654-656, the addition of a hybrid alternative to the FEIR did not trigger a duty to recirculate the Draft EIR. In *Mount Shasta Bioregional Ecology Center v. County of Siskiyou, supra*, 210 Cal.App.4th at p. 221, recirculation was not required when two reports were added to the FEIR after the Draft EIR had already summarized the reports' contents. In *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 219-224,



information regarding the presence of cultural resources on the property did not require recirculation because information amplified information that was already in the Draft EIR. In *Silverado Modjeska Recreation and Park Dist. v. County of Orange* (2011) 197 Cal.App.4th 282, 305-307, new information regarding the potential presence of protected species in the vicinity of the project site did not require recirculation because the previous EIRs had already disclosed that the species might be present. In *California Oak Foundation v. Regents of Univ. of Cal.* (2010) 188 Cal.App.4th 227, 266-268, letters addressing seismic risks did not trigger a duty to recirculate the Draft EIR because although the letters recommended further analysis, they did not contradict the conclusions in the Draft EIR. In *Cadiz Land Co. v. Rail Cycle, L.P.* (2000) 83 Cal.App.4th 74, 97, the commenter's disagreement with the analysis of groundwater flow in the EIR did not require recirculation because substantial evidence supported the EIR's analysis and the lead agency had discretion regarding which expert to rely upon. In *Chaparral Greens v. City of Chula Vista* (1996) 50 Cal.App.4th 1134, 1148-1151, regulatory and planning efforts to protect endangered species did not require recirculation of the Draft EIR because analysis already contained detailed analysis of the project's physical impacts on that species. In *Fort Mojave Indian Tribe v. California Department of Health Services* (1995) 38 Cal.App.4th 1574, 1605-1606, the designation of "critical habitat" under the Endangered Species Act was not "significant new information" requiring recirculation because the EIR had already analyzed the physical impacts to the species and its habitat. Finally, in *Marin Municipal Water Dist. v. KG Land California Corp* (1991) 235 Cal.App.3d 1652, 1666-1668, clarifying information regarding the potential length of the moratorium was not "significant new information" requiring recirculation.

There are instances in which the courts have ruled that an agency erred by failing to recirculate a draft EIR. In particular, in *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, the EIR for a large development project contained no analysis of the impact on groundwater pumping on surface water flows in a river that provided habitat for endangered fish species. In responses to comments from expert resource agencies, the final EIR conceded that the pumping could dry up the river at the same time the fish would otherwise migrate through the area. The disclosure of a new significant impact, for which no mitigation was offered, triggered the duty to recirculate the draft EIR (40 Cal.4th at page 447-449). Other examples of courts ruling that recirculating a draft EIR was required include *Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 128-131, in which the Court directed the County to revise and recirculate the draft EIR to disclose potential significant impacts of reducing off-site groundwater pumping to offset increase in pumping to provide water supply for proposed development project. Another example is *Grey v. County of Madera* (2008) 167 Cal.App.4th 1099, 1120, in which the County included a new mitigation measure in the final EIR, and the administrative record contained no evidence of the feasibility of that measure; therefore, the Court directed the County to recirculate the draft EIR to receive comments on that measure. Moreover, if a draft EIR is found to be "woefully inadequate," such that meaningful public review and comment are precluded, then the agency must recirculate the document. See, for example, *Mountain Lion Coalition v. Fish & Game Com.* (1989) 214 Cal.App.3d 1043, 1050-1052, in which the draft EIR omitted entirely any discussion of cumulative impacts, despite a court order requiring such analysis.

In the instance of the South Central Specific Plan, the responses to comments in this Final REIR are thorough and extensive. The responses to comments provide the following general categories of information:

- ▶ First and foremost, the responses address the environmental concerns raised by the comments, and describe how they are addressed in the Draft EIR;
- ▶ They provide corrections to the Draft EIR text, where such corrections are warranted;
- ▶ They expand on or provide minor clarifications to information already included in the Draft EIR where warranted;
- ▶ They suggest revised or augmented mitigation measures that may more effectively reduce already identified significant environmental impacts of the project; and
- ▶ They address recommendations for alternatives to the project, including whether these recommendations are already included in the alternatives evaluated in the Draft EIR.

However, for the reasons described in the master responses and individual responses to comments (see Sections 3.2, "Master Responses," and 3.3, "Comments and Responses," respectively, in this Final EIR), none of the conditions

warranting recirculation of a draft EIR, as specified in State CEQA Guidelines Section 15088.5 and described above, have occurred. As a result of responses to comments and any other additional new information, no new significant impacts would result; there is no increase in the severity of a significant impact identified in the Draft EIR, following mitigation; no feasible alternatives have been recommended that would avoid a significant impact, wherein the applicant has refused to adopt such an alternative; and as to the Draft EIR adequacy, the City believes the Draft EIR is complete and fully compliant with CEQA.

### 2.2.3 Master Response 3: Program Versus Project-Level Analysis

Several comments critiqued the approach taken in the Draft EIR to analyze the SCSP at a program level and/or suggested that the Draft EIR should present more detailed information about subsequent projects than is available or now known.

The State CEQA Guidelines contain guidance on when a program EIR may be prepared and describe the focus of a project EIR. As explained on Draft EIR page 1-1, the SCSP Draft EIR functions as a program EIR. State CEQA Guidelines Section 15168 states that “a program EIR may be prepared on a series of actions that can be characterized as one large project and, among other things, are related geographically or in connection with issuance of rules, regulations, or plans to govern the conduct of a continuing program.” State CEQA Guidelines Section 15161 states that “a project EIR focuses on the changes in the environment that would result from a development project.”

Although several commenters assert that calling an analysis “project level” or “program level” necessarily results in a requirement that the EIR contain a certain level of specificity, that is not the case. Indeed, in practice, the phrase “program EIR” is often used to refer to an EIR that presents a higher level of analysis with less detail, whereas the phrase “project EIR” is often used to refer to an EIR that presents a more detailed level of analysis. However, the name of the analysis—program or project level—does not ultimately dictate the specificity required in an EIR under CEQA. Instead, State CEQA Guidelines Section 15146, as noted on Draft EIR page 4-1, speaks to the degree of specificity necessary in an EIR: “The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.” Importantly, Section 15146(a) continues:

Section 15146(b) further states:

An EIR on a project such as the adoption or amendment of a comprehensive zoning ordinance or a local general plan should focus on the secondary effects that can be expected to follow from the adoption or amendment, but the EIR need not be as detailed as an EIR on the specific construction projects that might follow.

A comment on the Draft EIR (See comment 10-11) suggests that Section 15168(b) describes program EIRs as providing for “more exhaustive consideration” of effects and alternatives than an EIR on an individual action in order to ensure consideration of cumulative impacts that might be slighted in a case-by-case analysis. Contrary to the commenter’s inference that the “programmatic nature” of the Draft EIR is an excuse to avoid detailed analyses, and that “a program EIR must provide ‘more exhaustive consideration,’” Section 15168(b) merely lists potential benefits that use of a program EIR can provide; it does not dictate what contents a program EIR shall contain. Specifically, Section 15168(b) states that “[u]se of a program EIR can provide the following advantages...” and “[t]he program EIR can” before listing several potential benefits (emphasis added). To reiterate, the level of specificity in an EIR is not dictated in the State CEQA Guidelines by the name of the analysis—program or project— but instead by Section 15146 and the level of detail known about activities associated with the project. Furthermore, CEQA is clear that an indirect impact should be considered only if it is a reasonably foreseeable impact caused by the project (State CEQA Guidelines Sections 15064(d)(3), 15358(a)(2)). An environmental impact that is speculative or unlikely to occur is not reasonably foreseeable (State CEQA Guidelines Section 15064(d)(3)).

This EIR addresses a regional-scale, policy-level plan and it is, therefore, not feasible to provide details on yet-unknown site-specific projects or activities. As described throughout the Draft EIR, no specific development is currently proposed for the plan area. The broad geography and long timeframe to which the SCSP applies, and the policy-oriented nature of its guidance, is such that the EIR’s impact analysis is prepared at a policy level—that is, a

more general analysis with a level of detail and degree of specificity commensurate with that of the plan itself. As such, the EIR focuses on the potential effects of land use changes and policies, which—because they are to be implemented through as-yet-undefined projects over the duration of the Plan—are inherently less precise. The EIR is not intended to take the place of all project-specific environmental documentation that will be needed to implement actions anticipated to occur following approval of the SCSP, nor does it contain sufficient analytical detail for the City to approve site-specific projects that may be proposed in the future consistent with the SCSP without some level of subsequent project-specific review. In accordance with Section 15168(c) of the State CEQA Guidelines, subsequent projects will be examined in light of the program EIR to determine whether an additional environmental document must be prepared and if so, the type and scope of that environmental document.

## 2.2.4 Master Response 4: Downzoning to Create Transitional or Buffer Areas

Several comments address the SCSP proposal to redesignate and rezone certain portions of the plan area. As described on page 3-12 of the Draft EIR, “[w]hile the total area subject to development under the SCSP would be the same as the General Plan, the SCSP proposes land use designation changes for certain areas, requiring a General Plan amendment and rezone of the same properties. The changes are proposed primarily to 1) reconcile land use designations with existing conditions, 2) to buffer sensitive uses (e.g., residential areas, Orange Center School) with less intensive uses (e.g., business park instead of industrial), and 3) to provide more opportunities for neighborhood-serving general commercial uses near residential areas. The SCSP would result in substantial reductions in acreage of Heavy Industrial land uses and a modest decrease in Regional Business Park, with corresponding increases in acreage of Business Park, Single-Family Residential, Public, Light Industrial, and General Commercial uses. Figure 3-6 illustrates proposed SCSP land uses and Table 3-4 shows the proposed net change for each land use designation.”

Some of the comments express displeasure that the proposed redesignation and rezone do not go far enough to protect residential and other sensitive uses in the plan area, alleging that allowable uses would still result in development that would be incompatible with sensitive uses. Still other comments express concern that the City would propose such land use changes in the first instance, citing adverse economic effects and development constraints.

To the first type of comment, the EIR is a programmatic evaluation of potential development in the plan area that could conservatively happen through the planning horizon of 2024. The EIR’s charge is to evaluate such development—using reasonable assumptions—against baseline conditions, in this case, conditions in the plan area at the time of release of the Notice of Preparation, which is approximately the same as existing conditions. The EIR contains this analysis, discloses environmental impacts, and recommends feasible mitigation measures to address adverse effects. While the EIR analysis is not a plan-to-plan comparison, it is important to emphasize that the City’s objective in proposing the land use changes is to codify *more appropriate* planning guidance in relation to sensitive uses than now exists with the general plan and existing land use plans. By reflecting existing sensitive uses in the SCSP (which is not now the case: many existing residential areas are designated Heavy Industrial), reducing overall acreage of heavy industrial land uses, and surrounding existing sensitive uses with more restrictive designations and zoning (e.g., changing Heavy Industrial designations to Business Park), the City is proposing to reduce the intensity and change the nature of development that could occur adjacent to sensitive uses. From this perspective, the revised plan is beneficial. With this change, uses such as intensive industrial, chemical warehousing, salvage and wrecking, waste transfer, rendering, and other heavy industrial uses would no longer be permitted.

To the second group of comments that express the opposite concern—that these areas should not be downzoned—the concerns are largely economic. Comments allege that the proposed zoning would impose unfair restrictions on industrial activities, render as conditional some uses that are currently allowed, limit warehousing and distribution uses, and require extensive and expensive Health Risk Assessments. While these comments are acknowledged, it is within the City’s authority to propose changes to land use designations and zoning to achieve certain aims, in this instance to reduce potential land use conflicts between future development and existing sensitive uses.

Several comments take issue with the size of the 1,000-foot buffer and suggest it is arbitrary and inflated. This is incorrect. Fresno City Council Resolution 2019-235 directs the consideration of land use intensity reduction adjacent to sensitive uses on undeveloped land as well as the provision of buffers to protect sensitive uses from adverse impacts from intense land uses in the SCSP area. Regarding the specific distance, the 1,000-foot buffer established for the SCSP is also the recommended distance between new sensitive land uses and distribution centers found in the California Air Resources Board (CARB) Air Quality and Land Use Handbook (April 2005), page 4, Table 1-1: Recommendations on Siting New Sensitive Land Uses such as Residences, Schools, Daycare Centers, Playgrounds, or Medical Facilities. This distance is based on CARB and South Coast Air Quality Management District emissions and modeling analyses that estimated an 80 percent decline in pollutant concentrations at approximately 1,000 feet from a distribution center. For these reasons, it is reasonable to assume that—at the SCSP Plan level—1,000 feet is an appropriate distance from sensitive uses within which the City would prohibit Heavy Industrial uses in favor of Business Park uses. Project-specific prohibitions and requirements of the SCSP for otherwise allowable Business Park uses would still be enforced.

## 2.2.5 Master Response 5: Economic Feasibility of Mitigation

Several comments raised concerns about the economic effects of the SCSP (e.g., its effect on property values) and with the economic feasibility of implementing mitigation measures at the project level. As an initial matter and to the former concern, evaluation of economic and social effects may be included in an EIR, but as stated in Section 15131 of the CEQA Guidelines, the economic and social effects of a project shall not be treated as significant effects on the environment. An EIR may trace a chain of cause and effect through social and economic effects to determine if they result in physical effects (such as blight); environmental effects would only result if the social or economic effect causes a change to the physical environment.

To the latter concern about the economic feasibility of certain mitigation measures, the EIR acknowledges that some measures are based on emerging technologies, but the mitigation measures recommended in this EIR have been determined to be feasible based on examples in other contexts (e.g., CARB 2022 Scoping Plan Update, City of Fontana Municipal Code Amendment No. 21-001R1 to Revise Sustainability Standards for Industrial Commercial Centers, Mariposa Industrial Park Project #2 EIR, Attorney General guidance, Assembly Bill 98 [summarized in greater detail in Chapter 1, “Introduction,” and throughout these responses], and other sources). In accordance with Section 15126.4 of the CEQA Guidelines, “an EIR shall describe feasible measures which could minimize significant adverse impacts...” and in these instances, the measures must be adopted unless they are otherwise shown to be infeasible by decisionmakers and are documented as part of CEQA findings (CEQA Guidelines Sections 15091) and, as applicable, a statement of overriding considerations (CEQA Guidelines Section 15093). However, no information has been provided to suggest that implementation of the proposed mitigation measures in the EIR would result in a significant change to the physical environment or that the mitigation measures are infeasible.

In addition, and as discussed in Master Response 3 above, this EIR addresses a regional-scale, policy-level plan and it is, therefore, not feasible to provide details on yet-unknown site-specific projects or activities. As such, the EIR focuses on the potential effects of land use changes and policies, which—because they are to be implemented through as-yet-undefined projects over the duration of the Plan—are inherently less precise. The EIR is not intended to take the place of all project-specific environmental documentation that will be needed to implement actions anticipated to occur following approval of the SCSP, nor does it contain sufficient analytical detail for the City to approve site-specific projects that may be proposed in the future consistent with the SCSP without some level of subsequent project-specific review. During the subsequent review process for specific projects, the City will conduct environmental analyses and determine the appropriate mitigation measures from the SCSP EIR necessary to mitigate impacts.

## 2.2.6 Master Response 6: Relationship to the Truck Reroute Study

Some comments erroneously state that the SCSP and EIR relied on the Truck Reroute Study to address air quality and traffic safety impacts associated with truck traffic. This is not the case.

The Truck Reroute Study was prepared by the City in partnership with SJVAPCD to identify existing truck patterns within the South Central Fresno community and associated adverse health effects from truck-generated emissions to receptors within the community. The Truck Reroute Study evaluates potential rerouting of existing and future trucks, and identifies strategies to mitigate negative freight impacts, improve air quality, and improve the quality of life for members of the South Central Fresno community. The findings of the Truck Reroute Study were released at nearly the same time as the Draft EIR. While the Draft EIR refers to the Truck Reroute Study, then in progress, the strategies and conclusions of the Truck Reroute Study, which are yet to be considered for acceptance by the City Council, were not and could not have been relied upon for the Draft EIR analysis and are not reflected in the Draft EIR conclusions. The Draft EIR acknowledged that the City's effort was in progress, and that the conclusions and recommendations of the Truck Reroute Study were anticipated to result in positive changes relative to truck traffic safety and human health as it relates to truck emissions. At this programmatic stage, the Draft EIR does not attempt to quantify the number of new trucks that could be added to any one existing roadway as individual development projects are yet to be proposed. Section 4.3, "Air Quality," provides a suite of mitigation measures that may be applied to future development once project-level development proposals have been submitted for consideration. Moreover, the findings of the Draft EIR do not prohibit the City from implementing the strategies of the Truck Reroute Study, which include investments in new sidewalks, crosswalks, bike lanes, roadway repaving, traffic calming, signage, signaling, and roadway reconfiguration. These investments are not limited to existing truck activity within the South Central Community and would serve to reduce impacts of future trucking from future development including, but not limited to, the SCSP.

The Fresno Community Health Impact Assessment (HIA) and the South Central Fresno AB 617 Community Truck Reroute Study have been completed and the City plans to submit for consideration a resolution to the City Council for acceptance of these studies. Both studies are informational and include recommendations that the City could implement. As a subsequent action, the City plans to submit for consideration by the City Council, an ordinance for approval of the addition and removal of truck routes from the official list of designated truck routes under provisions of Section 14-1303 of the Fresno Municipal Code. The draft SCSP has been revised to reflect the anticipated process. If the City approves the ordinance to add and remove truck routes from the official list in the Municipal Code, then SCSP Figure 6-8 will be updated to reflect those changes. Approximately 39 net truck route miles are recommended for removal. This includes the removal of 37 truck routes and the addition of 6 truck routes related to California Department of Transportation (Caltrans) and California High-Speed Rail Authority circulation changes. Within the Plan Area, planned truck routes along Elm, Cherry, East, and Central Avenues are proposed to be removed as well as existing truck routes on Golden State Boulevard and Chestnut Avenue.

## 2.3 COMMENTS AND RESPONSES

The oral and written individual comments received on the Draft EIR and the responses to those comments are provided below. The comment letters and verbal comments made at the public hearing are reproduced in their entirety and are followed by the response(s). Where a commenter has provided multiple comments, each comment is indicated by a line bracket and an identifying number in the margin of the comment letter.

## 2.3.1 State Agencies



Gavin Newsom, Governor  
Yana Garcia, CalEPA Secretary  
Liane M. Randolph, Chair

**Letter  
1**

July 24, 2024

Sophia Pagoulatos  
Planning Manager  
City of Fresno  
2600 Fresno Street, Room 3065  
Fresno, California 93721  
[scsp@fresno.gov](mailto:scsp@fresno.gov)

*Sent via email*

Sophia Pagoulatos:

Thank you for providing the California Air Resources Board (CARB) with the opportunity to comment on the South Central Specific Plan (Specific Plan) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2019079022. The Specific Plan would establish a planning framework to facilitate and guide future development within the 5,567-acre planning area through the year 2040. The Specific Plan area currently supports nearly 19.6 million square feet of industrial development and 400 residential units. It was assumed in the DEIR that an additional 12 million square feet of industrial, retail, and office uses, and 91 dwelling units would be constructed by 2040. The Specific Plan is proposed within the City of Fresno (City), California, which is the lead agency for California Environmental Quality Act (CEQA) purposes.

1-1

CARB submitted a comment letter, which is attached to this letter, on the Notice of Preparing (NOP) for the DEIR released in April 2021. CARB's comments dated April 23, 2021, highlighted the need for preparing a health risk assessment (HRA) for the Specific Plan and encouraged the City and applicant to implement all existing and emerging zero emission technologies to minimize exposure to diesel particulate matter (diesel PM) and oxides of nitrogen (NOx) emissions for all neighboring communities, and to minimize the greenhouse gases that contribute to climate change. Due to the Specific Plan's proximity to residences already burdened by multiple sources of pollution, CARB's comments expressed concerns with the potential cumulative health risks associated with the construction and operation of the Specific Plan.

1-2

CARB is encouraged to see that the City would implement many of the recommended mitigation reduction measures requested in CARB's letter on the NOP for the DEIR released in April 2021. Section 3.6.6 (Development Standards) of the DEIR shows the City would require all on-site motorized operational equipment within the Specific Plan area to be zero-emission, would require 100% of loading dock doors at warehouses used for cold storage to install electric plug-in units to service trucks and trailers with transport refrigeration units (TRU) and would require all TRUs to plug-in while within the Specific Plan

1-3

[arb.ca.gov](http://arb.ca.gov)

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Sophia Pagoulatos  
July 24, 2024  
Page 2

area.<sup>1</sup> The Specific Plan also includes Mitigation Measures 4.3-1h and 4.3-1i, which would require vans/trucks and heavy-duty trucks to be zero emission by 2026 and 2031, respectively.

1-3  
cont.

However, CARB remains concerned that the construction and operation described in the Specific Plan will expose nearby residential communities to elevated levels of air pollution beyond the existing baseline emissions.

1-4

Residences are located adjacent to and within the proposed Specific Plan area. As described in the DEIR, the existing 400 residences within the Specific Plan area are already exposed to diesel PM emissions from the 19.6 million square feet of industrial land uses currently in operation within the Specific Plan area, vehicular traffic along State Route 99 and State Route 41, and rail traffic along existing rail lines. These residences within and around the Specific Plan area are within the South Central Fresno Community which has been designated as a disadvantaged community under Assembly Bill (AB) 617 (C. Garcia, Chapter 136, Statutes of 2017).<sup>2</sup> AB 617 is a significant piece of air quality legislation that highlights the need for further emission reductions in communities with high exposure burdens, like those in which the Project is located. CARB has selected the South Central Fresno Community, which encompasses the Project area, as a community that, due to its high pollution burden, requires the development of a community emissions reduction program (CERP), to significantly reduce emissions within the community. Therefore, it is imperative that the City ensure that its land use decisions, including its decision on this Project, are consistent with the South Central Fresno Community CERP, in its entirety.

1-5

Through its authority under Health and Safety Code section 39711, the California Environmental Protection Agency (CalEPA) is charged with the duty to identify disadvantaged communities. CalEPA bases its identification of these communities on geographic, socioeconomic, public health, and environmental hazard criteria (Health and Safety Code, section 39711, subsection (a)); In this capacity, CalEPA currently defines a disadvantaged community, from an environmental hazard and socioeconomic standpoint, as a community that scores within the top 25% of the census tracts as analyzed by the California Communities Environmental Health Screening Tool Version 4.0 (CalEnviroScreen). CalEnviroScreen uses a screening methodology to help identify California communities currently disproportionately burdened by multiple sources of pollution. The census tract containing the Project is within the top 4% for Pollution Burden and is considered a

1-6

<sup>1</sup> City of Fresno. Fresno Central Specific Plan Draft Environmental Impact Report. Page 4-32 through 4-33.

Accessible at [https://files.cerqanet.opr.ca.gov/252896-7/attachment/rOpLXb209Ofk3eZe4wDFg7wHQDVsv6wq019ZVSHYYW7VgHSIL\\_TwoEWyadgEWrmCOwpSZq5Z-wIYpd0](https://files.cerqanet.opr.ca.gov/252896-7/attachment/rOpLXb209Ofk3eZe4wDFg7wHQDVsv6wq019ZVSHYYW7VgHSIL_TwoEWyadgEWrmCOwpSZq5Z-wIYpd0)

<sup>2</sup> Assembly Bill 617, Garcia, C., Chapter 136, Statutes of 2017, modified the California Health and Safety Code, amending § 40920.6, § 42400, and § 42402, and adding § 39607.1, § 40920.8, § 42411, § 42705.5, and § 44391.2.

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disadvantaged community. The City must ensure that the Project does not adversely impact neighboring disadvantaged communities.

1-6  
cont.

## The City Must Fully Evaluate the Project's Health Risk Impacts

The DEIR did not include an HRA for the Specific Plan “[b]ecause no specific developments are proposed and no site-specific construction and operational information is available, and because of the programmatic nature of analyses for a large-scale plan...”<sup>3</sup> Consequently, the City evaluated the Specific Plan’s health risk impacts qualitatively. Based on this qualitative analysis, the City concluded that the construction and operation of the Specific Plan would expose nearby residences to diesel PM emissions that would result in a significant impact. To mitigate this impact, the City included mitigation measures MM 4.3-3a and MM 4.3-3b, which would require the preparing of a construction and operational HRA for each proposed industrial development within the Specific Plan area located within 1,000 feet of a sensitive receptor.<sup>4</sup> Even after the implantation of these mitigation measures, the City concluded in the DEIR that the construction and operation of the Specific Plan would result in a significant and unavoidable health risk impact.

1-7

To fully understand the Project’s health risk impacts, mitigation measures MM 4.3-3a and MM 4.3-3b must be modified to require all proposed industrial development within the Specific Plan area to prepare their own individual HRA; the City must also ensure the combined construction and operation of all industrial developments within the Specific Plan area does not expose any existing or future proposed residences to a health risk that exceeds the San Joaquin Valley Air Pollution Control District’s (SJVAPCD) 20 in a million cancer risk significance threshold. Some of the proposed industrial development could be located well beyond the specified 1,000-foot distances required to prepare an HRA. The combined operation of heavy-duty trucks, onsite equipment, and other industrial emissions sources at each of the proposed industrial developments within the Specific Plan area would very likely expose residences within the South Central Fresno Community to cancer risks that would exceed the SJVAPCD’s health risk significance threshold. To mitigate this impact, the City must track the potential health risk impacts as the proposed industrial development is built out. The City must require additional mitigation measures to be implemented if existing or future residences within or outside of the Specific Plan are exposed to diesel PM emissions above the SJVAPCD’s health risk significance threshold.

<sup>3</sup> City of Fresno. Fresno Central Specific Plan Draft Environmental Impact Report. Page 4.3-17. Accessible at [https://files.ceqanet.opr.ca.gov/252896-7/attachment/rOpLXb209Ofk3eZe4wDFg7wHQDVsv6wq019ZVSHYYW7VgHSIL\\_TwoEWyYadgeWrmCOWpSZq5Z-w-lypd0](https://files.ceqanet.opr.ca.gov/252896-7/attachment/rOpLXb209Ofk3eZe4wDFg7wHQDVsv6wq019ZVSHYYW7VgHSIL_TwoEWyYadgeWrmCOWpSZq5Z-w-lypd0)

<sup>4</sup> City of Fresno. Fresno Central Specific Plan Draft Environmental Impact Report. Page 4.3-31. Accessible at [https://files.ceqanet.opr.ca.gov/252896-7/attachment/rOpLXb209Ofk3eZe4wDFg7wHQDVsv6wq019ZVSHYYW7VgHSIL\\_TwoEWyYadgeWrmCOWpSZq5Z-w-lypd0](https://files.ceqanet.opr.ca.gov/252896-7/attachment/rOpLXb209Ofk3eZe4wDFg7wHQDVsv6wq019ZVSHYYW7VgHSIL_TwoEWyYadgeWrmCOWpSZq5Z-w-lypd0)



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## The City Must Evaluate the Specific Plan's Combined Air Quality Impacts

The City concluded in Section 4.3 (Air Quality) of the DEIR that the construction and operation of the Specific Plan would result in a significant impact on air quality. To reduce these impacts, the City includes 13 mitigation measures, including Mitigation Measure 4.3-1a, which would require the preparation of an Ambient Air Quality Analysis (AAQA) for all individual industrial projects within the Specific Plan area.<sup>5</sup> The AAQA would be submitted to the Director of the Fresno Planning and Development Department, or designee for approval. The AAQA would evaluate whether each project within the Specific Plan area, requiring discretionary approval, would exceed the SJVAPCD's CEQA significance thresholds or violate the Ambient Air Quality Standards. "If one or more thresholds are exceeded, prior to the issuance of Certificates of Occupancy, future development will engage in a voluntary emissions reduction agreement (VERA) through coordination with SJVAPCD to reduce emissions to meet SJVAPCD's annual mass emissions thresholds for any pollutant that exceeds the respective threshold."<sup>6</sup> After the implementation of the mitigation measures listed in the DEIR, the City concludes that the Specific Plan's impact on air quality would be reduced to a less than significant level.

1-8

The City does not provide substantial evidence showing how Mitigation Measure 4.3-1a and other mitigation measures listed in the DEIR would reduce the Specific Plan's construction and operational air pollutant emission rates to below the SJVAPCD's significance thresholds. Although the City provides unmitigated air pollutant emission rates in the DEIR showing the Specific Plan would impact air quality, it does not provide mitigated air pollutant emission rates showing how this impact would be reduced to a less than significant level. Implementation of Mitigation Measure 4.3-1a would ensure that each individual project within the Specific Plan area would be reduced to below the SJVAPCD's significance thresholds; however, it is unclear how this mitigation measure would ensure that the cumulative air pollutant emissions from all industrial projects within the Specific Plan area would be reduced to below the SJVAPCD's significance thresholds substantiating the less than significant impact after mitigation conclusion in the DEIR. To ensure that the Specific Plan's air quality impacts would be reduced to a less than significant level after mitigation, Mitigation Measure 4.3-1a should be modified to require the City to track the combined air pollutant emissions emitted by the proposed industrial developments as the

<sup>5</sup> City of Fresno. Fresno Central Specific Plan Draft Environmental Impact Report. Page 4.2-20. Accessible at [https://files.ceqanet.opr.ca.gov/252896-7/attachment/rOpLXb209Ofk3eZe4wDFg7wHQDVsv6wq019ZVSHYYW7VgHSIL\\_TwoEWyYadgeWrmCOWpSZq5Z-w-lypd0](https://files.ceqanet.opr.ca.gov/252896-7/attachment/rOpLXb209Ofk3eZe4wDFg7wHQDVsv6wq019ZVSHYYW7VgHSIL_TwoEWyYadgeWrmCOWpSZq5Z-w-lypd0)

<sup>6</sup> City of Fresno. Fresno Central Specific Plan Draft Environmental Impact Report. Page 4.3-20. Accessible at [https://files.ceqanet.opr.ca.gov/252896-7/attachment/rOpLXb209Ofk3eZe4wDFg7wHQDVsv6wq019ZVSHYYW7VgHSIL\\_TwoEWyYadgeWrmCOWpSZq5Z-w-lypd0](https://files.ceqanet.opr.ca.gov/252896-7/attachment/rOpLXb209Ofk3eZe4wDFg7wHQDVsv6wq019ZVSHYYW7VgHSIL_TwoEWyYadgeWrmCOWpSZq5Z-w-lypd0)

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Specific Plan is built out in the year 2040. If the combined air pollution rates of all industrial developments proposed in the Specific Plan exceed the SJVAPCD's significance threshold after all mitigation is applied, additional mitigation measures should be implemented to reduce the air quality impact.

1-8  
cont.

## **The DEIR May Have Used Inappropriate Trip Lengths When Modeling the Specific Plan's Air Quality Impacts from Mobile Sources**

The City may have underestimated mobile source air pollutant emissions in the DEIR by relying on unrealistic truck trip lengths. The Project's operational air pollutant emissions are presented in Section 4.3 (Air Quality) of the DEIR and modeled in Appendix B (Air Quality, Energy, and Greenhouse Gases Emissions Modeling Data). Based on CARB's review of the Project's air quality analysis, the Project's mobile air quality impacts were modeled assuming trucks would travel a distance of 40 miles.<sup>7</sup> The City does not provide any substantial evidence in the DEIR explaining why this would be a representative trip distance. Since trucks serving the Project may originate from the Ports of Stockton or other regions approximately 130 miles from the Project site, CARB urges the City to use Project-specific truck trip distances in their air quality impact analysis. Unless the City re-evaluates or provides substantiation for the designated truck trip lengths, the Project should include a mitigation measure or project design feature that restricts trucks from traveling a distance greater than what was analyzed in the DEIR.

1-9

## **Conclusion**

CARB is concerned about the Specific Plan's air quality and public health impacts. CARB urges the City to modify MM 4.3-3a and MM 4.3-3b to require the preparation of an HRA for each of the industrial developments proposed within the Specific Plan area and ensure the combined construction and operation of all industrial developments within the Specific Plan area does not expose any existing or future proposed residences to a health risk that exceeds the SJVAPCD's significance threshold. To ensure that the Specific Plan's air quality impacts would be reduced to a less than significant level after mitigation, as concluded in the DEIR, Mitigation Measure 4.3-1a should be modified to require the City to track the combined air pollutant emissions as the Specific Plan is built out in the year 2040, and ensure air pollutant emissions do not exceed the SJVAPCD's significance thresholds. Lastly, the City must evaluate the Project's mobile air quality impacts using trip distances supported by substantial evidence.

1-10

<sup>7</sup> City of Fresno. Fresno Central Specific Plan Draft Environmental Impact Report. Appendix B. Accessible at [https://files.ceqanet.opr.ca.gov/252896-7/attachment/LYZTBtoo7I\\_0ssk8usW36TN6-12AvbU2w6WDSa26PODNT3s-17vo4mcCkq3bqbt2RUtDyPLZem\\_QHE100](https://files.ceqanet.opr.ca.gov/252896-7/attachment/LYZTBtoo7I_0ssk8usW36TN6-12AvbU2w6WDSa26PODNT3s-17vo4mcCkq3bqbt2RUtDyPLZem_QHE100)



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CARB appreciates the opportunity to comment on the DEIR for the Project. Given the breadth and scope of projects subject to CEQA review throughout California that have air quality and greenhouse gas impacts, coupled with CARB's limited staff resources to substantively respond to all issues associated with a project, CARB must prioritize its substantive comments here based on staff time, resources, and its assessment of impacts. CARB's deliberate decision to substantively comment on some issues does not constitute an admission or concession that it substantively agrees with the lead agency's findings and conclusions on any issues on which CARB does not substantively submit comments.

1-11

CARB staff can provide assistance with zero-emission technologies and emission reduction strategies, as needed. Please include CARB on your list of selected State agencies that will receive the FEIR. If you have questions, please contact Stanley Armstrong, Air Pollution Specialist via email at [stanley.armstrong@arb.ca.gov](mailto:stanley.armstrong@arb.ca.gov).

Sincerely,



Matthew O'Donnell, Chief, Risk Reduction Branch

Attachment

cc: State Clearinghouse  
[state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

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Stanley Armstrong, Air Pollution Specialist, Risk Reduction Branch



Gavin Newsom, Governor  
Jared Blumenfeld, CalEPA Secretary  
Liane M. Randolph, Chair

April 23, 2021

Jennifer Clark, Planning Director  
c/o Cherie Vick, Executive Assistant  
Planning and Development Department  
2600 Fresno Street, Room 3065  
Fresno, CA 93721  
[Cherie.vick@fresno.gov](mailto:Cherie.vick@fresno.gov)

Dear Jennifer Clark:

Thank you for providing the California Air Resources Board (CARB) with the opportunity to comment on the Notice of Preparation (NOP) for the South Central Specific Plan Project (Project) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2019079022. The Project would establish a planning framework to facilitate and guide future development within the 4,997-acre planning area through the year 2040. The Project is located in the City of Fresno (City), California, which is the lead agency for California Environmental Quality Act (CEQA) purposes.

Consistent with CARB's letter in response to the first NOP for this Project, dated January 14, 2020, CARB is again providing comments urging the City to address potential air quality impacts and associated public health effects related to the construction and operation of the Project.<sup>1</sup> The Project would result in the development of light and heavy industrial land uses that will result in higher daily volumes of heavy-duty diesel truck traffic and operation of on-site equipment (e.g., forklifts, yard tractors, and transport refrigeration units). This increase in activity will negatively impact local air quality with health-harming emissions, including particulate matter, diesel particulate matter (diesel PM), and other toxic air contaminants, generated during the construction and operation of the Project. These air pollutant emissions also contribute to regional air pollution by emitting precursors that lead to the formation of secondary air pollutants, like ozone, and contribute to an increase in greenhouse gas (GHG) emissions.<sup>2</sup>

Notably, as clearly laid out in the California Attorney General's letter in response to the City's NOP for the first iteration of this project, entitled the South Industrial Priority Area (SIPA) Specific Plan, the Project area sits squarely in and adjacent to several communities already suffering from the highest pollution burdens in Fresno and the State.<sup>3</sup> Indeed, as explained

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1 California Air Resources Board. Letter to the City of Fresno. January 14, 2020. Comments on the Notice of Preparation for the South Stockton Commerce Center Project Draft Environmental Report. Accessible at <https://www2.arb.ca.gov/sites/default/files/classic/toxics/ttdceqalist/southstocktoncommercecenternop.pdf>

2. With regard to greenhouse gas emissions from this project, CARB has been clear that local governments and project proponents have a responsibility to properly mitigate these impacts. CARB's guidance, set out in detail in the Scoping Plan issued in 2017, makes clear that in CARB's expert view, local mitigation is critical to achieving climate goals and reducing greenhouse gases below levels of significance.

3 State of California Department of Justice. Letter to the City of Fresno. August 2, 2021. Accessible at: <https://oag.ca.gov/sites/all/files/agweb/pdfs/environment/comments-fresno-south-industrial-priority-area-specific-plan-08-02-2021.pdf>.



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below, CARB has selected South Central Fresno Community, which encompasses the Project area<sup>4</sup>, as a community that, due to its high pollution burden, requires the development of a community emissions reduction program (CERP), to significantly reduce emissions within the community. Therefore, it is imperative that the City ensure that its land use decisions, including its decision on this Project, are consistent with the South Central Fresno Community CERP, in its entirety.

### **The Industrial Uses Will Increase Exposure to Air Pollution in Disadvantaged Communities**

The proposed heavy and light industrial land uses will undoubtedly expose the nearby disadvantaged communities to increased levels of air pollution. Addressing the disproportionate impacts that air pollution has on disadvantaged communities is a pressing concern across the State, as evidenced by statutory requirements compelling California's public agencies to target these communities for clean air investment, pollution mitigation, and environmental regulation. The following three pieces of legislation need to be considered and included in the DEIR when developing a project like this in a disadvantaged community:

#### **Senate Bill 535 (De León, 2012)**

Senate Bill 535 (De León, Chapter 830, 2012)<sup>5</sup> recognizes the potential vulnerability of low-income and disadvantaged communities to poor air quality and requires funds to be spent to benefit disadvantaged communities. The California Environmental Protection Agency (CalEPA) is charged with the duty to identify disadvantaged communities. CalEPA bases its identification of these communities on geographic, socioeconomic, public health, and environmental hazard criteria (Health and Safety Code, section 39711, subsection (a)). In this capacity, CalEPA currently defines a disadvantaged community, from an environmental hazard and socioeconomic standpoint, as a community that scores within the top 25 percent of the census tracts, as analyzed by the California Communities Environmental Health Screening Tool Version 3.0 (CalEnviroScreen).<sup>6</sup> This Project falls within the boundary of the South Central Fresno Community. The maximum CalEnviroScreen score for the South Central Fresno Community is in the top 1 percent, indicating that the area is home to some of the most vulnerable neighborhoods in the State. The air pollution levels in the South Central Fresno Community routinely exceed State and federal air quality standards. CARB urges the City to ensure that the Project does not adversely impact neighboring disadvantaged communities.

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<sup>4</sup> San Joaquin Valley Air Pollution Control District. AB 617 Fresno Community Boundary. Accessible at: <https://sjvapcd.maps.arcgis.com/apps/webappviewer/index.html?id=8ec36b5d4f61474094aacd37ad4f0f95>.

<sup>5</sup> Senate Bill 535, De León, K., Chapter 800, Statutes of 2012, modified the California Health and Safety Code, adding § 39711, § 39713, § 39715, § 39721 and § 39723.

<sup>6</sup> "CalEnviroScreen 3.0." Oehha.ca.gov, California Office of Environmental Health Hazard Assessment, June 2018. <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>.

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### **Senate Bill 1000 (Leyva, 2016)**

Senate Bill 1000 (SB 1000) (Leyva, Chapter 587, Statutes of 2016)<sup>7</sup> amended California's Planning and Zoning Law. SB 1000 requires local governments that have identified disadvantaged communities to incorporate the addition of an environmental justice element into their general plans upon the adoption or next revision of two or more elements concurrently on or after January 1, 2018. SB 1000 requires environmental justice elements to identify objectives and policies to reduce unique or compounded health risks in disadvantaged communities. Generally, environmental justice elements will include policies to reduce the community's exposure to pollution through air quality improvement. SB 1000 affirms the need to integrate environmental justice principles into the planning process to prioritize improvements and programs that address the needs of disadvantaged communities.

### **Assembly Bill 617 (Garcia, 2017)**

The State of California has emphasized protecting local communities from the harmful effects of air pollution through the passage of Assembly Bill 617 (AB 617) (Garcia, Chapter 136, Statutes of 2017).<sup>8</sup> AB 617 requires CARB to direct the process that creates new community-focused and community-driven action to reduce air pollution and improve public health in communities that experience disproportionate burdens from exposure to air pollutants. In response to AB 617, CARB established the Community Air Protection Program with the goal of reducing exposure in communities heavily impacted by air pollution. As part of its role in implementing AB 617, CARB must annually consider the selection of communities for development and implementation of community air monitoring plans and/or community emission reduction programs for those communities affected by a high cumulative exposure burden. The South Central Fresno Community is one of 15 communities statewide chosen thus far for inclusion in the Community Air Protection Program.

The South Central Fresno Community was selected for both community air monitoring and the development of a CERP due to its high cumulative exposure burden, the presence of a significant number of sensitive populations (children, elderly, and individuals with pre-existing conditions), and the socioeconomic challenges experienced by its residents. On February 13, 2020, CARB approved the community's CERP, making it a legally enforceable emission reduction program. The CERP included several strategies to achieve emission reductions throughout this community, including significantly reducing or eliminating emissions from heavy-duty mobile sources and industrial stationary sources.<sup>9</sup>

Health-harming emissions, including particulate matter (PM), toxic air contaminants, and diesel PM generated from the proposed increase in heavy and light industrial development in the Project area will negatively impact the community, which is already disproportionately

<sup>7</sup> Senate Bill 1000, Leyva, S., Chapter 587, Statutes of 2016, amended the California Health and Safety Code, § 65302.

<sup>8</sup> Assembly Bill 617, Garcia, C., Chapter 136, Statutes of 2017, modified the California Health and Safety Code, amending § 40920.6, § 42400, and § 42402, and adding § 39607.1, § 40920.8, § 42411, § 42705.5, and § 44391.2.

<sup>9</sup> San Joaquin Valley Air Pollution Control District. AB 617 Fresno Community Boundary. Accessible at: <https://sjvapcd.maps.arcgis.com/apps/webappviewer/index.html?id=Bec36b5d4f61474094aacd37ad4f0f95>.

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impacted by air pollution from existing freight operations as well as stationary sources of air pollution. Part of the AB 617 process required CARB and the San Joaquin Valley Air Pollution Control District (SJVAPCD) to create a highly-resolved inventory of air pollution sources within this community. CARB would be happy to share and discuss this community emissions inventory with the City to aid in the DEIR's cumulative impact analysis.

### **The DEIR Should Quantify and Discuss the Potential Cancer Risks from Project Operation**

Since the light and heavy industrial land uses proposed under the Project are near residential communities that are already burdened by multiple air pollution sources, CARB urges the City to prepare a health risk assessment (HRA) for the Project. The HRA should account for all potential operational health risks from Project-related diesel PM emission sources, including, but not limited to, back-up generators, on-site diesel-powered equipment, and heavy-duty trucks. The City has approved, in a piecemealed manner, over 5 million square feet of industrial warehouse space along East Central Avenue over the past few years without adequately addressing air quality impacts from the approved projects. Going forward, the City must prepare the HRA that accounts for operation of the full buildout of the Project before it can consider approving the Project. Given the past approvals of industrial warehouses and other industrial uses, the HRA should also determine if the operation of the Project in conjunction with the operation of past, present, and reasonably foreseeable future projects or activities would result in a cumulative cancer risk impact on nearby residences. To reduce diesel PM exposure and associated cancer risks, CARB urges the City to include all the air pollution reduction measures listed in Attachment A of this comment letter in the HRA and DEIR.

The project description in the NOP does not state whether the industrial uses proposed under the Project would include cold storage warehouses. Project descriptions "must include (a) the precise location and boundaries of the proposed project, (b) a statement of the objectives sought by the proposed project, (c) a general description of the project's technical, economic and environmental characteristics, and (d) a statement briefly describing the intended use of the EIR." (*stopthemillenniumhollywood.com v. City of Los Angeles* (2019) 39 Cal.App.5th 1, 16.) "This description of the project is an indispensable element of both a valid draft EIR and final EIR." (*Ibid.*) Given this mandate to include a complete project description, CARB urges the City to prepare an EIR that addresses the impacts from the full buildout of the Project area.

Since the Project description provided in the NOP does not explicitly state that the proposed industrial land uses would not be used for cold storage, there is a possibility that trucks and trailers visiting the Project-site would be equipped with transport refrigeration units (TRU).<sup>10</sup> TRUs on trucks and trailers can emit large quantities of diesel exhaust while operating within the Project-site. Residences and other sensitive receptors (e.g., daycare facilities, senior care

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<sup>10</sup> TRUs are refrigeration systems powered by integral diesel engines that protect perishable goods during transport in an insulated truck and trailer vans, rail cars, and domestic shipping containers.



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facilities, and schools) located near where these TRUs could be operating, would be exposed to diesel exhaust emissions that would result in a significant cancer risk impact to the nearby community. If the industrial land uses proposed under the Project would be used for cold storage, CARB urges the City to model air pollutant emissions from on-site TRUs in the DEIR, as well as include potential cancer risks from on-site TRUs in the Project's HRA. If the Project will not be used for cold storage, CARB urges the City to include one of the following design measures in the DEIR:

- A Project design measure requiring contractual language in tenant lease agreements that prohibits tenants from operating TRUs within the Project-site; or
- A condition requiring a restrictive covenant over the parcel that prohibits the applicant's use of TRUs on the property unless the applicant seeks and receives an amendment to its conditional use permit allowing such use.

The HRA prepared in support of the Project should be based on the latest Office of Environmental Health Hazard Assessment's (OEHHA) guidance (2015 Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments),<sup>11</sup> and CARB's Hot Spots Analysis and Reporting Program (HARP2 model). The Project's mobile diesel PM emissions used to estimate the Project's cancer risk impacts should be based on CARB's latest 2021 Emission Factors model (EMFAC2021). Mobile emission factors can be easily obtained by running the EMFAC2021 Web Database: <https://arb.ca.gov/emfac/>.

The HRA should evaluate and present the existing baseline (current conditions), future baseline (full build-out year, without the Project), and future year with the Project. The health risks modeled under both the existing and the future baselines should reflect all applicable federal, state, and local rules and regulations. By evaluating health risks using both baselines, the public and planners will have a complete understanding of the potential health impacts that would result from the Project.

### **The DEIR Should Quantify and Discuss the Potential Cancer Risks from Project Construction**

In addition to the health risks associated with operational diesel PM emissions, health risks associated with construction diesel PM emissions should also be included in the air quality section of the DEIR and the Project's HRA. Construction of the Project would result in short-term diesel PM emissions from the use of both on-road and off-road diesel equipment. The OEHHA guidance recommends assessing cancer risks for construction projects lasting longer than two months. Since construction of the Project would very likely occur over a period lasting longer than two months, the HRA prepared for the Project should include health risks for existing residences near the Project-site during construction.

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11: Office of Environmental Health Hazard Assessment (OEHHA). Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments, February 2015. Accessed at: <https://oehha.ca.gov/media/downloads/tamr/2015guidancemanual.pdf>.

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The HRA should account for all diesel PM emission sources related to Project construction, including, but not limited to, off-road mobile equipment, diesel generators, and on-road heavy-duty trucks. As previously stated in Section II of this letter, the cancer risks evaluated in the construction HRA should be based on the latest OEHHA guidance and CARB's HARP2 model. The cancer risks reported in the HRA should be calculated using the latest emission factors obtained from CARB's latest EMFAC (currently EMFAC 2021) and Off-road models.

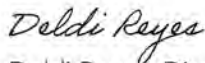
## Conclusion

To reduce the exposure of toxic diesel PM emissions in disadvantaged communities already impacted by air pollution, the final design of the Project should include all existing and emerging zero-emission technologies to minimize diesel PM and NO<sub>x</sub> emissions, as well as the GHGs that contribute to climate change. CARB encourages the City to implement the measures listed in Attachment A of this comment letter to reduce the Project's construction and operational air pollution emissions.

Given the breadth and scope of projects subject to CEQA review throughout California that have air quality and greenhouse gas impacts, coupled with CARB's limited staff resources to substantively respond to all issues associated with a project, CARB must prioritize its substantive comments here based on staff time, resources, and its assessment of impacts. CARB's deliberate decision to substantively comment on some issues does not constitute an admission or concession that it substantively agrees with the lead agency's findings and conclusions on any issues on which CARB does not substantively submit comments.

CARB appreciates the opportunity to comment on the NOP for the Project and can provide assistance on zero-emission technologies and emission reduction strategies, as needed. Please include CARB on your State Clearinghouse list of selected State agencies that will receive the DEIR as part of the comment period. If you have questions, please contact Stanley Armstrong, Air Pollution Specialist via email at [stanley.armstrong@arb.ca.gov](mailto:stanley.armstrong@arb.ca.gov).

Sincerely,



Deldi Reyes, Director, Office of Community Air Protection

Attachment

cc: See next page.

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cc: State Clearinghouse  
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## ATTACHMENT A



## ATTACHMENT A

### Recommended Air Pollution Emission Reduction Measures for Warehouses and Distribution Centers

The California Air Resources Board (CARB) recommends developers and government planners use all existing and emerging zero to near-zero emission technologies during project construction and operation to minimize public exposure to air pollution. Below are some measures, currently recommended by CARB, specific to warehouse and distribution center projects. These recommendations are subject to change as new zero-emission technologies become available.

#### Recommended Construction Measures

1. Ensure the cleanest possible construction practices and equipment are used. This includes eliminating the idling of diesel-powered equipment and providing the necessary infrastructure (e.g., electrical hookups) to support zero and near-zero equipment and tools.
2. Implement, and plan accordingly for, the necessary infrastructure to support the zero and near-zero emission technology vehicles and equipment that will be operating on site. Necessary infrastructure may include the physical (e.g., needed footprint), energy, and fueling infrastructure for construction equipment, on-site vehicles and equipment, and medium-heavy and heavy-heavy duty trucks.
3. In construction contracts, include language that requires all off-road diesel-powered equipment used during construction to be equipped with Tier 4 or cleaner engines, except for specialized construction equipment in which Tier 4 engines are not available. In place of Tier 4 engines, off-road equipment can incorporate retrofits, such that, emission reductions achieved equal to or exceed that of a Tier 4 engine.
4. In construction contracts, include language that requires all off-road equipment with a power rating below 19 kilowatts (e.g., plate compactors, pressure washers) used during project construction be battery powered.
5. In construction contracts, include language that requires all heavy-duty trucks entering the construction site, during the grading and building construction phases be model year 2014 or later. All heavy-duty haul trucks should also meet CARB's lowest optional low-oxides of nitrogen (NO<sub>x</sub>) standard starting in the year 2022.<sup>1</sup>

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1. In 2013, CARB adopted optional low-NO<sub>x</sub> emission standards for on-road heavy-duty engines. CARB encourages engine manufacturers to introduce new technologies to reduce NO<sub>x</sub> emissions below the current mandatory on-road heavy-duty diesel engine emission standards for model-year 2010 and later. CARB's optional low-NO<sub>x</sub> emission standard is available at: <https://ww2.arb.ca.gov/our-work/programs/optional-reduced-nox-standards>.



6. In construction contracts, include language that requires all construction equipment and fleets to be in compliance with all current air quality regulations. CARB is available to assist in implementing this recommendation.

### **Recommended Operation Measures**

1. Include contractual language in tenant lease agreements that requires tenants to use the cleanest technologies available, and to provide the necessary infrastructure to support zero-emission vehicles and equipment that will be operating on site.
2. Include contractual language in tenant lease agreements that requires all loading/unloading docks and trailer spaces be equipped with electrical hookups for trucks with transport refrigeration units (TRU) or auxiliary power units. This requirement will substantially decrease the amount of time that a TRU powered by a fossil-fueled internal combustion engine can operate at the project site. Use of zero-emission all-electric plug-in TRUs, hydrogen fuel cell transport refrigeration, and cryogenic transport refrigeration are encouraged and can also be included in lease agreements.<sup>2</sup>
3. Include contractual language in tenant lease agreements that requires all TRUs entering the project-site be plug-in capable.
4. Include contractual language in tenant lease agreements that requires future tenants to exclusively use zero-emission light and medium-duty delivery trucks and vans.
5. Include contractual language in tenant lease agreements requiring all TRUs, trucks, and cars entering the project site be zero-emission.
6. Include contractual language in tenant lease agreements that requires all service equipment (e.g., yard hostlers, yard equipment, forklifts, and pallet jacks) used within the project site to be zero-emission. This equipment is widely available.
7. Include contractual language in tenant lease agreements that requires all heavy-duty trucks entering or on the project site to be model year 2014 or later, expedite a transition to zero-emission vehicles, and be fully zero-emission beginning in 2030.
8. Include contractual language in tenant lease agreements that requires the tenant be in, and monitor compliance with, all current air quality regulations for on-road trucks

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2. CARB's technology assessment for transport refrigerators provides information on the current and projected development of TRUs, including current and anticipated costs. The assessment is available at: [https://www.arb.ca.gov/msprog/tech/techreport/tru\\_07292015.pdf](https://www.arb.ca.gov/msprog/tech/techreport/tru_07292015.pdf).

including CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation,<sup>3</sup> Periodic Smoke Inspection Program (PSIP),<sup>4</sup> and the Statewide Truck and Bus Regulation.<sup>5</sup>

9. Include contractual language in tenant lease agreements restricting trucks and support equipment from idling longer than five minutes while on site.
10. Include contractual language in tenant lease agreements that limits on-site TRU diesel engine runtime to no longer than 15 minutes. If no cold storage operations are planned, include contractual language and permit conditions that prohibit cold storage operations unless a health risk assessment is conducted, and the health impacts fully mitigated.
11. Include rooftop solar panels for each proposed warehouse to the extent feasible, with a capacity that matches the maximum allowed for distributed solar connections to the grid.
12. Including language in tenant lease agreements, requiring the installing of vegetative walls<sup>6</sup> or other effective barriers that separate loading docks and people living or working nearby.

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3. In December 2008, CARB adopted a regulation to reduce greenhouse gas emissions by improving the fuel efficiency of heavy-duty tractors that pull 53-foot or longer box-type trailers. The regulation applies primarily to owners of 53-foot or longer box-type trailers, including both dry-van and refrigerated-van trailers, and owners of the heavy-duty tractors that pull them on California highways. CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation is available at: <https://ww2.arb.ca.gov/our-work/programs/ttghg>.

4. The PSIP program requires that diesel and bus fleet owners conduct annual smoke opacity inspections of their vehicles and repair those with excessive smoke emissions to ensure compliance. CARB's PSIP program is available at: <https://www.arb.ca.gov/enf/hdvp/hdvp.htm>.

5. The regulation requires that newer heavier trucks and buses must meet particulate matter filter requirements beginning January 1, 2012. Lighter and older heavier trucks must be replaced starting January 1, 2015. By January 1, 2023, nearly all trucks and buses will need to have 2010 model-year engines or equivalent. CARB's Statewide Truck and Bus Regulation is available at: <https://www.arb.ca.gov/msprog/onrdiesel/onrdiesel.htm>.

6. Effectiveness of Sound Wall-Vegetation Combination Barriers as Near-Roadway Pollutant Mitigation Strategies (2017) is available at: <https://ww2.arb.ca.gov/sites/default/files/classic/research/apr/past/13-306.pdf>.

**Letter 1      California Air Resources Board,  
Matthew O'Donnell, Chief, Risk Reduction Branch**  
7/24/24

**Response 1-1**

The comment is introductory and summarizes elements of the SCSP. No edits to the Draft EIR are needed in response to this comment and no further response is required.

**Response 1-2**

The comment reiterates similar comments made during the NOP scoping period, stating that a Health Risk Assessment should be prepared for the SCSP, and that the City and future applicants are encouraged to implement zero emission technologies to minimize exposure of people to diesel PM and NO<sub>x</sub> emissions (toxic air contaminants or TACs) and minimize GHG emissions. CARB also expressed concern about potential cumulative health risks to existing pollution-burdened communities.

The Draft EIR includes several mitigation measures intended to minimize emissions of diesel PM and NO<sub>x</sub>. All mitigation measures that directly relate to criteria air pollutants, toxic air contaminants (TACs), and greenhouse gas (GHG) emissions were developed in consideration of comments submitted during the NOP scoping period, as well as direct input provided by CARB and the San Joaquin Valley Air Pollution Control District (SJVAPCD), during the preparation of the Draft EIR. The mitigation measures provided in the Draft EIR, and discussed and revised throughout this document, reflect the opinions and recommendations of CARB and SJVAPCD, among other public stakeholders including the Attorney General's Office. As recommended by CARB, several measures are similar to mitigation practices included in the Mariposa Industrial Park EIR (SCN 2020120283), certified by the City of Stockton in 2022 (City of Stockton 2022).

Mitigation Measure 4.3-1b requires use of clean heavy-duty equipment for future construction activities which would serve to minimize the combustion of diesel fuels through the use of electric equipment, renewable diesel, and use of Tier 4 engines. Mitigation Measure 4.3-1c prohibits the use of portable diesel engines which serves to reduce diesel exhaust emissions during construction. Mitigation Measure 4.3-1e includes several measures to control exhaust emissions. Additionally, Mitigation Measures 4.3-1h and 4.3-1i set performance standards for class 2 through 8 trucks which would reduce operational exhaust emissions from truck activity. These mitigation measures would holistically reduce diesel PM and NO<sub>x</sub> emissions during project construction and operation.

Impacts related to TACs are discussed under Impact 4.3-3 of the Draft EIR. Construction and operational health risk assessments (HRAs) were not prepared for the SCSP due to the programmatic approach taken in the Draft EIR. As summarized in Table 3-2 in Chapter 3, "Project Description," the SCSP entails the development of 5,567 acres of several land use types including, but not limited to, heavy industrial, light industrial, business park, and general commercial. While the locations of land with specific land use designations and zoning are known, there is considerable variability in the types of development allowed within each designation, and project-level information pertaining to the nature, location, size, characteristics, construction, and operation of each individual future development is unknown at this time. No specific developments are currently proposed. Please refer to Master Response 3, Program Versus Project-level Analysis. The construction period for the SCSP as a whole over the planning horizon was conservatively assumed to occur from 2024 through 2040; however, it is foreseeable that development under the SCSP could be built out over a longer construction period. There is inherent uncertainty, at this programmatic stage, regarding the magnitude, location, and construction phasing of future development proposed in the SCSP. Therefore, the transport of TACs from the use of heavy-duty equipment and new haul truck trips, and subsequent exposure of TACs to on- and off-site receptors cannot be reliably estimated, and a construction HRA was not prepared. Similarly, because no specific developments are proposed and no-site specific operational information is available, little confidence could be placed in an operational HRA that relied on guesswork and speculation, so one was not prepared. Specifically, an informative and meaningful operational HRA would require specific locations (e.g., on individual properties and buildings), activity parameters (e.g., daily and annual operational schedule), source types (e.g., manufacturing processes, diesel engines, generators) and pollutants (e.g., diesel

particulate matter, benzene) associated with individual TAC sources. This information is not known and cannot be reasonably estimated at the programmatic level of analysis appropriate for the SCSP. When conducting an HRA, individual source characteristics are used to accurately estimate the emissions rate for each TAC resulting from the source, based on the process type and the anticipated operational schedule. Then, using site-specific characteristics such as location of the source on or next to a building, including any intervening barriers and local topography, are all taken into account in the modeling, to develop a representation of the areas that would result in the highest risk exposure. Without this level of detail available, an informative operational HRA cannot be prepared.

Mitigation Measures 4.3-3a through 4.3-3d are recommended to minimize the exposure of sensitive receptors to substantial concentrations of air pollutants. Mitigation Measure 4.3-3a and 4.3-3b direct applicants of future development to conduct construction and operational HRAs once project-specific information is known. Per the requirements of Mitigation Measures 4.3-3a and 4.3-3b, if future development would result in a significant and unavoidable TAC impact following the implementation of all feasible mitigation, the development proposal would be prohibited. While the measure was adequate in its original form, in response to this comment and others, the language of Mitigation Measure 4.3-3a and 4.3-3b have been revised as follows on pages 4.3-31:

**Mitigation Measure 4.3-3a: Require Construction Health Risk Assessment**

A site-specific HRA shall be required for all construction projects anticipated to last more than ~~six~~ two months and located within 1,000 feet of sensitive receptors (as defined by SJVAPCD) regardless of intensity of construction. In addition to project-level health risk from construction, future construction HRAs must evaluate cumulative health risk levels from project implementation. All recommendations from the HRA shall be enforced as conditions of approval of the development. If the recommendations of the HRA are insufficient to reduce impacts to levels at or below SJVAPCD's threshold of 20 in one million, such development with significant cancer risk (i.e., that exceed that threshold) shall be prohibited.

**Mitigation Measure 4.3-3b: Require Operational Health Risk Assessment**

A site-specific HRA shall be required for the operation of projects that propose the use of TAC-emitting equipment or industrial processes ~~located within 1,000 feet of sensitive receptors (as defined by SJVAPCD).~~ In addition to project-level health risk from operation, future operation HRAs must evaluate cumulative health risk levels from project implementation. All recommendations from the HRA shall be enforced as conditions of approval of the development. If the recommendations of the HRA are insufficient to reduce impacts to levels at or below SJVAPCD's threshold of 20 in one million, such development with significant cancer risk shall be prohibited.

The above edits do not alter the findings of the Draft EIR, and no further response is required.

**Response 1-3**

The comment expresses that CARB is encouraged to see that the Draft EIR includes mitigation measures it recommended in response to the April 2021 NOP, and expresses particular agreement with development standards (Section 3.6.6, "Development Standards") of the SCSP and Mitigation Measures 4.3-1h and 4.3-1i. The comment is noted.

**Response 1-4**

The comment expresses concern that the construction and operation of future developments in the SCSP area will expose nearby residential communities to elevated levels of air pollution beyond existing baseline conditions. Please see Responses to Comments 1-5 and 1-6 for additional information.

**Response 1-5**

The comment correctly states that residences are located adjacent to and within the SCSP area. The comment also states that the SCSP is located within the Assembly Bill (AB) 617 South Central Fresno Community and that the project should be consistent with the South Central Fresno Community Emissions Reduction Plan (CERP). The CERP is summarized on pages 4.3-12 through 4.3-13 of the Draft EIR.

The South Central Fresno CERP includes several strategies to reduce the cumulative exposure burden in the South Central Fresno community applicable to the SCSP including:

- ▶ HD.1: Incentive program for heavy duty trucks replacement with zero and near zero emission technology.
- ▶ HD.2: Incentive program for the deployment of clean yard trucks, transport refrigeration units, and related infrastructure.
- ▶ HD.3: Incentive program to reduce idling of heavy duty trucks within the community: charging infrastructure.
- ▶ HD.4: Support planning and development of clean fueling infrastructure.
- ▶ HD.6: Enhanced enforcement of the statewide anti-idling regulation.
- ▶ HD.12: Promote the use of biodiesel/renewable diesel fuels.

The CERP also includes strategies directed to manage emissions from industrial sources; however, these strategies comprise regulatory actions overseen by SJVAPCD and CARB and are outside of the purview of CEQA.

Section 4.3, "Air Quality," includes several mitigation measures that align with the strategies of the South Central Fresno CERP. Mitigation Measure 4.3-1b, 4.3-1h, and 4.3-1i target emissions from heavy-duty trucks (HD-1) by requiring the use of clean fleets during project construction and implementing benchmark goals for zero and near-zero heavy-duty trucks, equipment, and vehicles. Under Mitigation Measure 4.3-1h, future tenants of new and developed commercial and industrial land uses shall meet an accelerated target of 100 percent zero emissions by December 31, 2026, or when commercially available. Under Mitigation Measure 4.3-1i, an accelerated transition of Class 2 through 6 vehicles shall be 100 percent zero or near-zero by December 31, 2031. Moreover, the SCSP includes policies (AQ-4 and AQ-7) that support the electrification of TRUs (HD.2). Mitigation Measure 4.3-1e includes requirements for exhaust control measures including idling restrictions (HD.3 and HD.6). Mitigation Measure 4.6-1a directs future commercial and residential development to meet the most ambitious electric vehicle voluntary requirements of the most current version of the CALGreen Code in effect at the time of project approval (HD.4). Mitigation Measure 4.6-1c directs future industrial development to source natural gas from renewable natural gas and Policy AQ-4 requires alternative fuel stations be available throughout the plan area (HD.12).

In applicable areas of overlap, these mitigation measures align with the strategies identified by SJVAPCD in the South Central Fresno CERP and would serve to reduce the SCSP's contribution of air pollution to the plan area. As such, the City finds that the SCSP is consistent with the South Central Fresno CERP.

#### **Response 1-6**

The comment summarizes the findings of the California Communities Environmental Health Screening Tool (CalEnviroScreen) Version 4.0 and states that the project should not impact a pollution-burdened community. As discussed on pages 4.12 through 4.3-14, the Draft EIR uses CalEnviroScreen to identify the project area as a severely pollution burdened community, which is also shown in Figure 4.3-1. The analysis in Section 4.3, "Air Quality," of the Draft EIR programmatically evaluates air quality impacts of the proposed plan and its potential effects on the nearby community and recommends mitigation for impacts found to be potentially significant.

#### **Response 1-7**

The comment summarizes the approach taken in Section 4.3, "Air Quality" with respect to the programmatic health risk analysis prepared for the analysis. The comment correctly states that an HRA was not prepared for the SCSP as a whole (see response to comment 1-2). The comment recommends text edits to Mitigation Measures 4.3-3a and 4.3-3b to require all proposed industrial development to prepare their own individual HRAs. As detailed on page 4.3-31 of the Draft EIR, Mitigation Measures 4.3-3a and 4.3-3b include language requiring project-level construction and operational HRAs for all future development in the SCSP within 1,000 feet of a sensitive receptor, consistent with guidance provided by SJVAPCD. Pursuant to Mitigation Measures 4.3-3a and 4.3-3b, if TAC levels are found to exceed SJVAPCD's 20 in one million threshold of significance, additional project-level mitigation is required, which is summarized in Mitigation Measure 4.3-3c and 4.3-3d. If such additional mitigation is not sufficient to reduce impacts

to below SJVAPCD's threshold, development shall be prohibited. See response to Comment 1-2 for a summary of text edits made to Mitigation Measure 4.3-1a and 4.3-b.

### **Response 1-8**

The comment states that the Draft EIR's evaluation of the SCSP's contribution of regional air pollution and subsequently recommended mitigation would not be sufficient to demonstrate that impacts could be reduced to a less-than-significant level on a cumulative basis. The comment recommends text edits to Mitigation Measure 4.3-1a. Air pollution is inherently a cumulative impact. The nonattainment or attainment status of regional pollutants is a result of past, present, and future development. The future attainment of state and federal ambient air quality standards is a function of the successful implementation of air quality attainment plans. Therefore, SJVAPCD recommends that its numerical thresholds be applied to assess whether a project would have a cumulatively considerable impact on air quality (SJVAPCD 2015: 66).

The Draft EIR for the SCSP includes a programmatic analysis of a proposed plan. SJVAPCD's numerical thresholds may be applied projects of all types and sizes; however, given that they are fixed regardless of project size, projects of scale like the SCSP often trigger an exceedance of these thresholds given the acreage and development capacity of the SCSP. Therefore, programmatic and project level mitigation measures are provided to reduce impacts; however, it is foreseeable that individual projects proposed under the SCSP may not exceed SJVAPCD's thresholds following the implementation of the mitigation measures enumerated in Section 4.3, "Air Quality." Additionally, SJVAPCD oversees its Voluntary Emissions Reduction Agreement (VERA) program for project applicants whose projects generate emissions exceeding its thresholds following the application of all feasible on-site mitigation measures.

Because SJVAPCD's thresholds of significance are inherently cumulative, the approach taken in Mitigation Measure 4.3-1a directing future development proposals to conduct project-level analyses to identify potential future impact is appropriate. As written, Mitigation Measure 4.3-1a requires future development proposals to incorporate all feasible on-site reduction measures, including, but not limited to, Mitigation Measures 4.3-1b through 4.3-1m, in a project-level CEQA evaluation to identify potential impacts. If emissions are found to exceed SJVAPCD's thresholds of significance, additional mitigation or engagement in a VERA may be required. In response to this comment, the text of Mitigation Measure 4.3-1a has been revised as follows on page 4.3-20 of the Draft EIR:

### **Mitigation Measure 4.3-1a: Prepare an Ambient Air Quality Analysis and Mitigation Plan or Voluntary Emissions Reduction Agreement**

Prior to future individual discretionary project approval, and once all feasible on-site reduction measures have been incorporated, development project applicants shall prepare and submit to the Director of the Fresno Planning and Development Department, or designee, an AAQA air quality assessment to determine whether any SJVAPCD annual mass emissions thresholds are exceeded or if a future project's emissions may result in the violation of an AAQS. If no thresholds are exceeded, no further action is necessary. If one or more thresholds are exceeded, ~~prior to the issuance of Certificates of Occupancy,~~ future individual development projects will engage in a voluntary emissions reduction agreement (VERA) prior to applying for project-level approval from the City through coordination with SJVAPCD to reduce emissions to meet below SJVAPCD's annual mass emissions thresholds for any pollutant that exceeds the respective threshold. The project applicant shall engage in a discussion with SJVAPCD prior to the adoption of the VERA to ensure that feasible mitigation has been identified to reduce emissions to a less-than-significant level consistent with the direction given in SJVAPCD's GAMAQI. ~~As allowed by SJVAPCD, the~~ The project applicant shall be provided the opportunity to perform an additional quantification of the project's operational emissions to estimate the type of reduction needed to reduce emissions to meet below SJVAPCD's annual significance thresholds ~~of significance~~. Engagement in the VERA shall be monitored by SJVAPCD in perpetuity with oversight by the City.

The above edits do not alter the findings of the Draft EIR and no further response is required. See also Responses to Comments 7-3, 7-4, and 7-5.

**Response 1-9**

The comment suggests that the Draft EIR may have underestimated mobile source emissions by relying on unrealistic truck trip lengths. The comment indicates that operational truck trips would likely be up 130 miles, which is an example distance based on the project site's proximity to the Port of Stockton. The modeling prepared for the SCSP does not assume a 40-mile trip distance for operational trucks; however, to estimate construction-generated haul truck trips, CalEEMod defaults were utilized assuming 20 miles for one-way trips (collectively 40 miles). With respect to construction assumptions, this is a reasonable distance to assume as compared to operational truck activity which may warrant longer trips to deliver manufactured goods. The emissions from operational mobile sources, which includes truck trips, were derived from the Transportation Impact Analysis prepared by TJKM in 2023. The 40-mile trip distance was extrapolated based on average annual heavy duty truck trip mileage (FHWA Highway Statics 2021, Table VM-1). The Federal Highway Administration estimates that a heavy duty truck travels an average of 60,000 miles per year (FHWA Highway Statics 2021, Table VM-1), which equates to an average of 164 miles per day. Assuming each heavy duty truck takes 4 trips a day (to account for loading and unloading between different warehouses/industrial centers) the average truck trip distance would be 41 miles, or approximately 40 miles per trip. While the SCSP understands the need for project-specific truck trip evaluation, the SCSP is a land use plan, and thus does not have project specific details regarding subsequent developments in the plan area such as location, size, and use. Thus, the findings of the air quality modeling prepared for the Draft EIR remain defensible and are substantiated by evidence.

**Response 1-10**

The comment reiterates its concerns about the SCSP's air quality and public health impacts. Please refer to Response to Comments 1-2 through 1-9.

**Response 1-11**

The comment conveys that lack of comment by CARB on any issue does not constitute agreement with the EIR conclusions or lead agency findings. This comment is acknowledged. CARB also offers its assistance with zero-emission technologies and emission reduction strategies. The City appreciates this offer.



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State of California – Natural Resources Agency  
 DEPARTMENT OF FISH AND WILDLIFE  
 Central Region  
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GAVIN NEWSOM, Governor  
 CHARLTON H. BONHAM, Director

Letter  
 2



July 29, 2024

Sophia Pagoulatos, Planning Manager  
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**Subject: South Central Specific Plan (Plan)  
 Draft Environmental Impact Report (DEIR)  
 SCH No. 2019079022**

Dear Sophia Pagoulatos:

The California Department of Fish and Wildlife (CDFW) received a DEIR from the City of Fresno for the Plan pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Plan that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Plan that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code.

#### **CDFW ROLE**

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.

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, projects tiered from the Plan may be **subject to CDFW's lake and streambed alteration regulatory authority** (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of a project tiered from the Plan may result in

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*Conserving California's Wildlife Since 1870*



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**"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 will be required.**

**Nesting Birds:** CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include, sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

## PROJECT DESCRIPTION SUMMARY

**Proponent(s):** City of Fresno

**Objective:** The Plan proposes land use designation changes for certain areas, requiring a General Plan amendment and rezone of the same properties. The changes are proposed primarily to 1) reconcile land use designations with existing conditions, 2) to buffer sensitive uses (e.g., residential areas, Orange Center School) with less intensive uses (e.g., business park instead of industrial), and 3) to provide more opportunities for neighborhood-serving general commercial uses near residential areas. The SCSP would result in substantial reductions in acreage of Heavy Industrial land uses and a modest decrease in Regional Business Park, with corresponding increases in acreage of Business Park, Single-Family Residential, Public, Light Industrial, and General Commercial uses. Growth in the Plan area would be primarily industrial, with smaller amounts of office and retail uses.

**Location:** The Plan area encompasses 5,567 acres located just south and southeast of downtown Fresno. The Plan area is generally located south of California Avenue, north of American Avenue, and between Fig and Peach Avenues. The area has a range of property types including residential, religious, educational, public, warehouse, and industrial.

**Timeframe:** Unspecified

## COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City of Fresno **in adequately identifying and/or mitigating the Plan's significant, or potentially significant, direct, indirect, and cumulative impacts on fish and wildlife (biological) resources.** Editorial comments or other suggestions may also be included to improve the document for this Plan.

The majority (approximately 60.80 percent) of the approximately 5,567-acre Plan area consists of urban (developed) areas containing industrial, commercial, and residential

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cont.

2-2

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development and associated roads and infrastructure. Urban land is dominant near the intersection of State Route (SR) 99 and SR 41 extending southeast along SR 99. Lands along the west, south, and eastern margins of the Plan area are mapped as agricultural land, which comprises approximately 39 percent of the Plan area. Small discontinuous patches of annual grassland (0.21 percent) and lacustrine (ponded) habitat (0.10 percent) are also present throughout the Plan area.

The DEIR acknowledges that the Plan area is within the geographic range of several special-status animal species and proposes specific mitigation measures to reduce impacts to less than significant. CDFW has concerns about the ability of some of the proposed mitigation measures to reduce impacts to less than significant and avoid unauthorized take for several special status animal species, including the State threatened **Swainson's hawk** (*Buteo swainsoni*), the State candidate endangered **Crotch's bumble bee** (*Bombus crotchii*), and the State species of special concern burrowing owl (*Athene cunicularia*).

2-2  
cont.

### **Swainson's Hawk**

#### **Comment 1: SWHA Pre-construction Surveys**

Mitigation Measure 4.4-1e is provided to mitigate for potential impacts to **Swainson's hawk (SWHA)** from project's tiered from this Plan and states that SWHA pre-construction surveys will be conducted within 14 days before the onset of project activities during the breeding season. CDFW does not concur this measure is sufficient to adequately mitigate for impacts to SWHA and recommends that preconstruction surveys for projects tiered from this Plan be conducted following the survey methodology developed by the SWHA Technical Advisory Committee (TAC) (SWHA TAC 2000). Please note SWHA TAC survey protocol includes early season surveys to assist the project proponent in implementing necessary avoidance and minimization measures, and in identifying active nest sites prior to initiating ground-disturbing activities.

2-3

#### **Comment 2: SWHA Buffer Distance and Consultation**

Mitigation Measure 4.4-1e also states that SWHA no-disturbance buffers would be ¼-mile for areas in urban development and ½-mile in areas away from urban development. CDFW would like to note that there should not be a differentiation in buffer distance for urban and non-urban nests and recommends that if project activities will take place during the SWHA nesting season (i.e., March 1 through September 15), and active SWHA nests are present, that a minimum ½-mile no-disturbance buffer be delineated and maintained around each nest, regardless of whether it was detected by surveys or observed incidentally. These buffers would remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival, to prevent

2-4

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nest abandonment and other take of SWHA. CDFW also recommends that in the event an active SWHA nest is detected for project tiered from this plan, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is warranted to discuss how to implement the project and avoid take. If take cannot be avoided, take authorization through the acquisition of an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

2-4  
cont.

### **Crotch's Bumble Bee**

#### **Comment 3: CBB Habitat Assessment and Surveys**

The DEIR states within the special status species evaluation table that the Plan area has a low potential for **Crotch's bumble bee (CBB)** due to lack of sightings recorded on the California Natural Diversity Database (CNDDDB). CDFW does not concur that the entirety of the Plan area has a low potential for CBB and would like to note that CNDDDB is a positive occurrence database only, which can be reliable for determining presence of a species but unreliable as a primary source for concluding absence. As such, CDFW recommends that projects tiered from this Plan conduct a habitat assessment for CBB. If suitable habitat is present, CDFW recommends conducting protocol surveys following the "Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species" (CDFW 2023). If surveys indicate the presence or potential presence of CBB, consultation with the CDFW is recommended for guidance on the development of mitigation measures such as take avoidance, minimization, and mitigation. If take cannot be avoided, then take authorization through acquisition of an ITP, pursuant to Fish and Game Code section 2081, subdivision (b) is necessary to comply with the California Endangered Species Act (CESA).

2-5

### **Burrowing Owl**

#### **Comment 4: BUOW Consultation**

Mitigation Measure 4.4-1d is provided to mitigate for potential impacts to burrowing owl (BUOW) from project's tiered from this Plan. CDFW concurs with this measure but recommends that, in the event BUOW are detected during surveys and the no-disturbance buffers identified within the 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012) are unable to be maintained, consultation with the CDFW occur for guidance on the development of mitigation measures such as take avoidance, minimization, and mitigation.

2-6

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### Editorial Comments and/or Suggestions

**California Natural Diversity Database (CNDDDB):** Please note that the CNDDDB is populated by voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record, or lack of recent occurrence records, in the CNDDDB does not mean that a species is not present. In order to adequately assess any potential Plan-related impacts to biological resources, surveys conducted by a qualified biologist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted in order to determine whether or not any special status species are present.

2-7

**Lake and Streambed Alteration:** Activities for future projects tiered from this Plan that substantially change the bed, bank, and channel of any river, stream, or lake are subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial and may include those that are highly modified such as canals and retention basins.

2-8

CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement (LSAA); therefore, if the CEQA document for projects tiered from this Plan does not adequately describe the project and its impacts to lakes or streams, a subsequent CEQA analysis may be necessary for LSAA issuance. For information on notification requirements, please refer to CDFW's website (<https://wildlife.ca.gov/Conservation/LSA>) or contact CDFW staff in the Central Region Lake and Streambed Alteration Program at (559) 243-4593.

**Nesting birds:** CDFW encourages that ground-disturbing activities occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the nesting season (February 1st through September 15th), a project applicant is responsible for ensuring that implementation of the project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Code sections as referenced above.

2-9

To evaluate project-related impacts on nesting birds, CDFW recommends that a general habitat assessment for nesting birds be conducted as part of the biological technical studies conducted in support of the CEQA document for projects tiered from this Plan. Depending on the results of that assessment, CDFW further recommends that the CEQA document for projects tiered from this Plan include that a qualified biologist



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conduct a pre-construction survey for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around a project site to identify nests and determine their status. A sufficient area means any area potentially affected, either directly or indirectly, by a project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. CDFW recommends that a qualified biologist establish a behavioral baseline of all identified nests. Once project activities begin, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

2-9  
cont.

If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is a compelling biological or ecological reason to do so, such as when the project site would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

#### Environmental Data

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, Section 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during surveys to CNDDDB. The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

2-10

#### Filing Fees

The Plan, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying Plan approval to be operative, vested, and final. (Cal. Code Regs. tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

2-11

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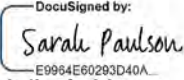
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## CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist the City of Fresno in identifying and mitigating Plan impacts on biological resources. Questions regarding this letter or further coordination should be directed to Kelley Nelson, Environmental Scientist, at (559) 580-3194 or [Kelley.Nelson@wildlife.ca.gov](mailto:Kelley.Nelson@wildlife.ca.gov).

2-12

Sincerely,

DocuSigned by:  
  
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For Julie A. Vance  
Regional Manager

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## REFERENCES

California Department of Fish and Game. 2012. Staff report on burrowing owl mitigation. Sacramento, California, USA.

CDFW. 2023. Survey considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species. California Department of Fish and Wildlife, Sacramento, California, USA.

**Swainson's hawk technical advisory committee (SWHA TAC). 2000. Recommended timing and methodology for Swainson's hawk nesting surveys in the central valley of California. Swainson's Hawk Technical Advisory Committee.**

## Letter 2 California Department of Fish and Wildlife, Julie A. Vance, Regional Manager 7/24/24

### Response 2-1

The comment is an introduction to the letter and describes CDFW role and responsibilities as an agency.

### Response 2-2

The comment summarizes the land cover in the Plan Area and recognizes that the Draft EIR identifies that the Plan Area is within the geographic range of several special-status animal species and includes specific mitigation measures to reduce impacts to less than significant levels. CDFW offers to provide comments and recommendations to assist the City in adequately identifying and/or mitigating the Plan's significant or potentially significant impacts to biological resources. CDFW's specific comments are detailed in the comments that follow.

### Response 2-3

The comment suggests that Mitigation Measure 4.4-1e is not sufficient as written to mitigate potential impacts to Swainson's hawk (SWHA). CDFW notes that Swainson's hawk surveys should be conducted following the survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000), and that this protocol includes early season surveys to assist in implementing of necessary avoidance and minimization measures prior to initiating ground-disturbing activities. Respectfully, the City disagrees that the mitigation is not sufficient to mitigate impacts to Swainson's hawk. Impact 4.4-1 in the Draft EIR describes the potential impact to Swainson's hawk and Mitigation Measure 4.4-1e describes that surveys for nesting birds would be required in advance of project activities that commence on or after February 1. According to SWHA TAC (2000), Swainson's hawks typically do not return to the Central Valley to breed until approximately April 1, so pre-construction surveys for nesting Swainson's hawk prior to activities starting on February 1 would constitute an early season survey. However, for clarification in response to this comment and to comment 2-4, Mitigation Measure 4.4-1e has been amended as suggested by CDFW. Please see comment 2-4 for the revised Mitigation Measure 4.4-1e.

### Response 2-4

The comment states that no-disturbance buffers for Swainson's hawk should be ½ mile around each nest, regardless of whether it was detected within or outside of urban development areas, if project activities will take place during the Swainson's hawk nesting season and active Swainson's hawk nests are present. CDFW defines the nesting period for Swainson's hawk as March 1 through September 15. CDFW also recommends that if the ½ mile is infeasible, consultation with CDFW is warranted to discuss how to implement the project and avoid take. The buffer distances for Swainson's hawk nests in Mitigation Measure 4.4-1e are based on CDFW's *Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California* (CDFG 1994). In that report, the recommended management conditions for Swainson's hawk state that no new disturbances or other project related activities that may cause nest abandonment or forced fledging should be initiated within ¼ mile of an active nest between March 1 and September 15. The report (CDFG 1994) also states that the buffer zone should be increased to ½ mile in nesting areas away from urban development. While the City believes that the buffer distance for Swainson's hawk nests stated in Mitigation Measure 4.4-1e is adequate, in response to this comment, comment 2-3, and comment 2-9, the language of Mitigation Measure 4.4-1e has been amended as follows:

#### **Mitigation Measure 4.4-1e: Conduct Focused Surveys for Special-Status Birds, Nesting Raptors, and Other Native Nesting Birds, and Implement Protective Buffers**

If it is determined through implementation of Mitigation Measure 4.4-1a that habitat for special-status birds, nesting raptors, or other native nesting birds is present within a particular project site, the following measures shall be implemented:

- ▶ To minimize the potential for loss of special-status bird species, raptors, and other native birds (including Swainson's hawk, tricolored blackbird, and white-tailed kite), project activities (e.g., tree removal,



vegetation clearing, ground disturbance, staging) shall be conducted during the nonbreeding season (approximately ~~September 16~~ ~~September 1~~ January 31, as determined by a qualified biologist), if feasible. If project activities are conducted during the nonbreeding season, no further mitigation shall be required. This measure applies to project activities that occur where habitat suitable for nesting is present, as determined by a qualified biologist. Birds may nest on the ground, in bushes, in trees, in structures, and in cavities; therefore, habitat suitable for bird nesting may include portions of the Plan Area that qualify as annual grassland, agricultural land, or riparian habitat.

- Guidelines provided in *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in the Central Valley* (Swainson's Hawk Technical Advisory Committee 2000) shall be followed for surveys for Swainson's hawk. This protocol includes early season surveys.
- For other birds, ~~W~~within 14 days before the onset of project activities during the breeding season (approximately February 1 through September 15, as determined by a qualified biologist), a qualified biologist familiar with birds of California and with experience conducting nesting bird surveys shall conduct focused surveys for special-status birds, other nesting raptors, and other native birds. Surveys shall be conducted in accessible areas within 500 feet of the project site for other raptor species (white-tailed kite) and special-status birds (tricolored blackbird), and within 50 feet of the project site for non-raptor common native bird nests, unless determined otherwise by a qualified biologist.
- If no active nests are found, the qualified biologist shall submit a report documenting the survey methods and results to the applicant and the City of Fresno, and no further mitigation shall be required.
  - If active nests are found, impacts on nesting birds shall be avoided by establishing appropriate buffers around active nest sites identified during focused surveys to prevent disturbance to the nest. Project activity shall not commence within the buffer areas until a qualified biologist has determined that the young have fledged, the nest is no longer active, or reducing the buffer would not likely result in nest abandonment.
  - Buffers typically shall be ~~0.25 mile (or increased to 0.5 mile in areas away from urban development)~~ for Swainson's hawk; and 500 feet for other raptors. Buffer size for non-raptor bird species shall typically be 250 feet. Variance from these no-disturbance buffers may be possible at the recommendation of the qualified biologist when there is a compelling biological or ecological reason to do so. Factors to be considered for determining buffer size shall include presence of natural buffers provided by vegetation or topography, nest height above ground, baseline levels of noise and human activity, species sensitivity, and proposed project activities. Generally, buffer size for these species shall be at least 20 feet. The size of the buffer may be adjusted if a qualified biologist determines that such an adjustment shall not be likely to adversely affect the nest. Any buffer reduction for a special-status species shall require consultation with CDFW.
  - If an active Swainson's hawk nest is detected for project tiered from this plan, and a 0.5-mile no-disturbance buffer is not feasible, the project proponent shall consult with CDFW to discuss how to implement the project and avoid take. If take cannot be avoided, take authorization through the acquisition of an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081 subdivision (b) would be necessary to comply with CESA.
  - If active nests are detected, the qualified biologist shall monitor the nest prior to initiation of work to determine a baseline activity level for the nesting birds. If a buffer has been reduced below 250 feet at the recommendation of the qualified biologist, then the nest shall be continuously monitored at the initiation of work inside of the 250 feet to detect behavioral changes resulting from the project. If behavioral changes occur, CDFW shall be consulted for additional avoidance and minimization measures, and work shall be halted and the buffer shall be extended until the nesting birds are confirmed by the qualified biologist to have resumed regular nesting behaviors.

- Periodic monitoring of the nest by a qualified biologist during project activities shall be required if the activity has potential to adversely affect the nest, the buffer has been reduced, or if birds within active nests are showing behavioral signs of agitation (e.g., standing up from a brooding position, flying off the nest) during project activities, as determined by the qualified biologist.

In addition to these revisions, the following reference has been added to the EIR Section 4.04 Biological Resources:

Swainson's Hawk Technical Advisory Committee. 2000 (May 31). Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley. Accessed August 22, 2024. Available: <https://wildlife.ca.gov/Conservation/Survey-Protocols>.

The text revisions above do not alter the findings of the Draft EIR and no further response is required.

### **Response 2-5**

The comment takes issue with the Draft EIR conclusion that the Plan area has a low potential for Crotch's bumble bee. The Draft EIR states that the Plan Area is within the historic range of this species; however, the population has declined significantly in the central portion of the range including Fresno (Xerces 2018). Two occurrences are recorded in the vicinity of the Plan Area, but both are greater than 100 years old. A record from 1983 reports the nearest occurrence of crotch bumble bee approximately 25 miles northeast of the Plan Area (CNDDDB 2023). CDFW has requested that projects tiering from the Plan conduct a habitat assessment for Crotch's bumble bee, and if suitable habitat is present, conduct a protocol survey following the "Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species" (CDFW 2023). If surveys result in positive detection of Crotch's bumblebee, further consultation is recommended by CDFW, including potential take authorization through acquisition of an Incidental Take Permit (ITP), if take cannot be avoided.

In response to this comment, the potential to occur for Crotch's bumble bee has been changed from "not expected to occur" to "may occur." Additionally, Mitigation Measure 4.4-1a has been revised as shown below, and Mitigation Measure 4.4-1g has been added to the project:

### **Mitigation Measure 4.4-1a: Conduct Project-Level Biological Reconnaissance Sensitive Species and Habitats Survey**

During the early planning stages of projects under the SCSF, the following measure shall apply:

- ▶ If a project site has natural land cover and is not within existing development with an urban landscape, a data review and biological reconnaissance survey will be conducted within a project site by a qualified biologist prior to project activities (e.g., ground disturbance, vegetation removal, staging, construction). The survey will be conducted no more than one year prior to project implementation. The qualified biologist must be familiar with the life histories and ecology of species in the City of Fresno and must have experience conducting field surveys of relevant species or resources, including focused surveys for individual species, if applicable. The data reviewed will include the biological resources setting, species tables, and habitat information in this EIR. It will also include review of the best available, current data for the area, including vegetation mapping data, species distribution/range information, CNDDDB, CNPS Inventory of Rare and Endangered Plants of California, relevant Biogeographic Information and Observation System (BIOS) queries, and relevant general plans. BIOS is a web-based system that enables the management and visualization of biogeographic data collected by CDFW and partner organizations. The qualified biologist will assess the habitat suitability of the project site for all special-status plant and wildlife species as well as sensitive habitats identified as having potential to occur in the SCSF area (refer to Section 4.4.2, "Environmental Setting"), and will identify bat maternity roosts within the SCSF area. The qualified biologist will also assess the potential for aquatic resources (e.g., wetlands, streams, seeps) or sensitive natural communities to be present within the project site. The biologist will provide a report to the City of Fresno with evidence to support a conclusion as to whether special-status species and sensitive habitats are present or are likely to occur within the project site.

- The reconnaissance survey will include a habitat assessment for Crotch's bumble bee based on the habitat assessment guidance in the *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species* (CDFW 2023) or other updated guidance from CDFW. If the habitat assessment determines that habitat suitable for Crotch bumble bee is present within a project area, then Mitigation Measure 4.4-1g will be implemented.
- If the reconnaissance survey identifies no potential for special-status plant or wildlife species, and no potential sensitive habitats including riparian habitat or wetlands, the City of Fresno will not be required to apply any additional mitigation measures under Impact 4.4-1b through ~~4.4-1f~~ 4.4-1g, 4.4-2, or 4.4-3.
- If the qualified biologist determines that there is potential for special-status species or sensitive habitats to be present within the project site, the appropriate biological mitigation measures, identified herein shall be implemented.
- ▶ All special-status species detected during surveys will be reported to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at <https://wildlife.ca.gov/Data/CNDDDB/Submitting-02Data> and the completed form can be mailed to CNDDDB at [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov).

#### **Mitigation Measure 4.4-1g: Conduct Crotch's Bumble Bee Protocol Survey and Avoidance**

If habitat suitable for Crotch's bumble bee is detected in the project area during the reconnaissance survey conducted pursuant to Mitigation Measure 4.4-1a, the following measure shall apply:

- ▶ Surveys for Crotch's bumble bee will be conducted in areas with habitat suitable for Crotch's bumble bee following the protocol in the *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species* (CDFW 2023) or other updated guidance from CDFW. This protocol requires that a qualified biologist conduct three on-site surveys to detect foraging bumble bees and potential nesting sites (nesting surveys) during the colony active period and when peak floral resources are present (April–August). Each survey should ideally be spaced 2–4 weeks apart. Surveys are only valid for the year in which they are conducted. If more than 1 year passes between survey completion and initiation of ground disturbing project activities, presence surveys must be repeated.
- If surveys are conducted and no Crotch's bumble bee are detected, results shall be reported to CDFW, and work may proceed during that year.
- If surveys indicate the presence or potential presence of Crotch's bumble bee, the project proponent shall consult with CDFW on development of take avoidance and minimization measures. Measures may include avoidance of small mammal burrows and thatched or brunch grasses, onsite biological monitoring during vegetation removal or ground-disturbing activities, or seasonal avoidance of activities during the queen flight period (February – March), the gyne flight period (September – October), and/or the colony active period (April – August).
- ▶ If take of Crotch's bumble bee cannot be avoided, take authorization through acquisition of an Incidental take permit (ITP) pursuant to the Fish and Game Code section 2081, subdivision (b) shall be sought to comply with the California Endangered Species Act (CESA).

Additionally, the following reference will be added to the EIR.

California Department of Fish and Wildlife. 2023 (June 6). *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species*. Accessed August 22, 2024. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>.

Adoption and implementation of this mitigation measure would avoid adverse impacts to Crotch's bumble bee, and no change to the Draft EIR conclusions would result.

**Response 2-6**

This comment states that while CDFW concurs with Mitigation Measure 4.4-1d, it recommends that in the event that burrowing owls are detected during surveys and the no-disturbance buffers are infeasible, CDFW should be consulted for guidance. In response to this comment, and to the recent decision by the California Fish and Game Commission to accept burrowing owl as a candidate for listing under the California Endangered Species Act, Mitigation Measure 4.4-1d is revised as follows:

**Mitigation Measure 4.4-1d: Conduct Burrowing Owl Survey, Implement Avoidance Measures, and Compensate for Loss of Occupied Burrows**

If it is determined through implementation of Mitigation Measure 4.4-1a that habitat suitable for burrowing owl is present within a particular project site, the following measures shall be implemented:

- ▶ If proposed projects within the Plan Area are implemented in habitat suitable for burrowing owls, a qualified biologist shall conduct ~~a focused~~ surveys for burrowing owls in areas of habitat suitable for the species on and within 1,640 feet (500 meters) of the Plan Area ~~no less than 14 days before initiating ground disturbance activities~~ using survey methods described in Appendix D of the 2012 Staff Report on Burrowing Owl Mitigation prepared by the California Department of Fish and Game (now CDFW) (CDFG 2012) or any subsequent updated guidance. A minimum of four surveys shall be conducted to determine whether burrowing owls occupy the site. If feasible, at least one survey should be conducted between February 15 and April 15 and the remaining surveys should be conducted between April 15 and July 15, at least three weeks apart. Because burrowing owls may recolonize a site after only a few days, one of the surveys, or an additional survey, shall be conducted no less than 14 days before initiating ground disturbance activities to verify that take of burrowing owl would not occur.
- ▶ If no occupied burrows are found, the qualified biologist shall submit a report documenting the survey methods and results to the City of Fresno, and no further mitigation shall be required.
- ▶ If a ~~non-active~~ burrow occupied by a burrowing owl is found during the surveys, within 1,640 feet of pending construction activities during the nonbreeding season (September 1 through January 31), the project proponent shall establish and maintain a minimum protection buffer of 164 feet (50 meters) around the occupied burrow and any identified satellite burrows (i.e., non-nesting burrows that burrowing owls use to escape predators or move young into after hatching) to prevent take of burrowing owls.
  - ▶ During the non-breeding season (September 1 through January 31), the minimum buffer distance shall be 164 feet (50 m). During the breeding season (February 1 through August 31), the minimum buffer distance shall be increased to 1,640 feet (500 m).
  - ▶ The ~~protection~~ buffer may be adjusted if, in consultation with CDFW, a qualified biologist determines that an alternative buffer shall not disturb burrowing owl adults, young, or eggs because of particular site features (e.g., topography, natural line-sight-barriers), level of project disturbance, or other considerations. If the buffer is reduced, a qualified biologist shall monitor the behavior of the burrowing owls during all project activities within 1,640 feet of the burrow. If the owls are disturbed or agitated (e.g., vocalizations, bill snaps, fluffing feathers to increase body size appearance, drooping wings and rotating them forward, crouching and weaving back and forth) by the project activities, the biologist shall have the authority to halt the activities and re-establish a buffer consistent with the first bullet until the agitated behavior ceases and normal behavior resumes.
  - ▶ The buffer shall remain in place around the occupied burrow and associated satellite burrows until a qualified biologist has determined through noninvasive methods that the burrows are no longer occupied by burrowing owl. A previously occupied burrow will be considered unoccupied if surveys demonstrate that no owls have used the burrow for seven consecutive days.
  - ▶ Locations of burrowing owls detected during surveys shall be reported to the CNDDDB.

- ▶ If implementation of a buffer to prevent take of burrowing owl is not feasible, the project applicant shall consult with CDFW and obtain an Incidental Take Permit (ITP) prior to commencing project related ground-disturbing activities. The impacts of taking burrowing owl shall be minimized and fully mitigated.
- ▶ The project applicant shall compensate for the loss of burrowing owl by establishing permanent protection and perpetual management on land that provides burrowing owl habitat. Habitat management lands for burrowing owl may be established by conservation easement or fee title or credits may be purchased from a CDFW-approved conservation or mitigation bank. The compensatory mitigation shall satisfy permit conditions and all other permit conditions shall be implemented.
- ▶ ~~use of the burrow because of particular site features or other buffering measures. If occupied burrows are present that cannot be avoided or adequately protected with a no-disturbance buffer, a burrowing owl exclusion plan shall be developed, as described in Appendix E of the 2012 Staff Report. Burrowing owls shall not be excluded from occupied burrows until the project burrowing owl exclusion plan is approved by CDFW. The exclusion plan shall include a compensatory habitat mitigation plan (see below).~~
- ▶ ~~If an active burrow is found during the breeding season (February 1 through August 31), occupied burrows shall not be disturbed and shall be provided with a protective buffer at a minimum of 164 feet unless a qualified biologist verifies through noninvasive means that either:~~
  - ~~(1) the birds have not begun egg laying, or~~
  - ~~(2) juveniles from the occupied burrows are foraging independently and are capable of independent survival.~~
- ▶ ~~The size of the buffer may be adjusted depending on the time of year and level of disturbance as outlined in the 2012 Staff Report. The size of the buffer may be reduced if a broad-scale, long-term, monitoring program acceptable to CDFW is implemented so that burrowing owls are not adversely affected. Once the fledglings are capable of independent survival, the owls can be evicted, and the burrow can be destroyed per the terms of a CDFW-approved burrowing owl exclusion plan developed in accordance with Appendix E of 2012 Staff Report.~~
- ▶ ~~If burrowing owls are evicted from burrows and the burrows are destroyed by implementation of project activities, the project proponent shall mitigate the loss of occupied habitat in accordance with guidance provided in the 2012 Staff Report, which states that permanent impacts on nesting, occupied, and satellite burrows, and burrowing owl habitat (i.e., grassland habitat with suitable burrows) shall be mitigated such that habitat acreage and number of burrows are replaced through permanent conservation of comparable or better habitat with similar vegetation communities and burrowing mammals (e.g., ground squirrels) present to provide for nesting, foraging, wintering, and dispersal. The project proponent shall retain a qualified biologist to develop a burrowing owl mitigation and management plan that incorporates the following goals and standards:~~
  - ~~Mitigation lands shall be selected based on comparison of the habitat lost to the compensatory habitat, including type and structure of habitat, disturbance levels, potential for conflicts with humans, pets, and other wildlife, density of burrowing owls, and relative importance of the habitat to the species throughout its range.~~
- ▶ ~~If feasible, mitigation lands shall be provided adjacent or proximate to the project site so that displaced owls can relocate with reduced risk of injury or mortality. Feasibility of providing mitigation adjacent or proximate to the project site depends on availability of sufficient habitat to support displaced owls that may be preserved in perpetuity.~~
- ▶ ~~If habitat suitable for burrowing owl is not available for conservation adjacent or proximate to the project site, mitigation lands can be secured offsite and shall aim to consolidate and enlarge conservation areas outside of planned development areas and within foraging distance of other conservation lands. Mitigation may be also accomplished through purchase of mitigation credits at a CDFW-approved~~

~~mitigation bank, if available. Alternative mitigation sites and acreages may also be determined in consultation with CDFW.~~

- ▶ ~~If burrowing owl habitat mitigation is completed through permittee responsible conservation lands, the mitigation plan shall include mitigation objectives, site selection factors, site management roles and responsibilities, vegetation management goals, financial assurances and funding mechanisms, performance standards and success criteria, monitoring and reporting protocols, and adaptive management measures. Success shall be based on the number of adult burrowing owls and pairs using the site and if the numbers are maintained over time. Measures of success, as suggested in the 2012 Staff Report, shall include site tenacity, number of adult owls present and reproducing, colonization by burrowing owls from elsewhere, changes in distribution, and trends in stressors.~~

### Response 2-7

The comment summarizes the purpose and use of the California Natural Diversity Database (CNDDDB). As described under comment 2-5 above, the Draft EIR has been revised to include Crotch's bumble bee because the Plan area falls within the range map for this species as published in "Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species" (CDFW 2023). In addition to this revision, the following clarifying language has been added under the description of the CNDDDB:

...CDFW's CNDDDB (CNDDDB 2023), a statewide inventory of the locations and conditions of the State's rarest plant and animal taxa and vegetation types, was also reviewed for specific information on documented observations of special-status species previously recorded in the Plan Area vicinity... The CNDDDB is based on actual recorded occurrences and does not constitute an exhaustive inventory of every resource. As a result, special-status species may be absent from the CNDDDB while still occupying those areas, if habitat suitable for those species is present.

### Response 2-8

The comment summarizes CDFW's regulatory authority pursuant to Fish and Game Code section 1600 et seq. and states that if CEQA documents for projects tiered from this EIR do not adequately describe the project and its impacts to lakes or streams, subsequent CEQA analysis may be necessary for issuance of Lake and Streambed Alteration Agreements. The language of Mitigation Measure 4.4-2 has been revised as follows to add contact and website reference information, to clarify when an LSAA is required, and to better reflect CDFW's preferred language regarding issuance of an LSAA:

#### **Mitigation Measure 4.4-2: Conduct Surveys for Riparian Habitat and Implement Avoidance Measures**

If it is determined through implementation of Mitigation Measure 4.4-1a that riparian habitat is present within a particular project site, the following measures shall be implemented before implementation of project activities:

- ▶ Activities for projects tiered from the Plan that substantially change the bed, bank, and channel of any river, stream, or lake are subject to CDFW's regulatory authority pursuant to Fish and Game Code 1602. If it is determined that disturbance or fill of state protected streams or riparian habitat cannot be avoided, the project proponent will notify CDFW before commencing activity that may substantially divert or obstruct the natural flow of any river stream or lake; ~~or otherwise~~ substantially change or use materials from the bed, bank, or channel of any river, stream, or lake (including removal of riparian vegetation); or otherwise deposit debris, waste, or other materials that could pass into any river, stream or lake. ~~riparian corridor of any waterway that supports fish or wildlife resources.~~ If project activities trigger the need for a Streambed Alteration Agreement, the proponent will obtain an agreement from CDFW before the activity commences. More information on notification requirements may be found on CDFW's website, <https://wildlife.ca.gov/Conservation/LSA>. Project proponents may also contact CDFW staff in the Central Region Lake and Streambed Alteration Program at (550)243-4593. The applicant will conduct project construction activities in accordance with the agreement, including implementing reasonable measures in the agreement necessary to protect fish and wildlife resources, when working within the bed or bank



of waterways or in riparian habitats associated with those waterways. These measures may include demarcation of the construction area, biological monitoring, environmental awareness training for construction crews, and compensatory measures (e.g., restoration, long-term habitat management). If riparian habitat is determined to be present within a particular project site and the habitat cannot be avoided, the following measures shall be implemented: A Streambed Alteration Notification will be submitted to CDFW, pursuant to Section 1602 of the California Fish and Game Code. If proposed project activities are determined to be subject to CDFW jurisdiction, the project proponent will abide by the measures to protect fish and wildlife resources required by any executed agreement prior to any vegetation removal or activity that may affect the resource. Measures to protect fish and wildlife resources shall include, at a minimum, a combination of the following mitigation.

...

#### **Response 2-9**

The comment contains additional recommendations regarding nesting bird surveys. While mitigation recommended in the EIR is adequate to address the potential for significant impacts to nesting birds, Mitigation Measure 4.41e has been revised in response to this comment. Please see comment 2-4 for the revised Mitigation Measure 4.4-1e.

#### **Response 2-10**

The comment states that information developed in environmental impact reports and negative declarations be incorporated into a database, which may be used to make subsequent or supplemental environmental determinations in compliance with Public Resources Code Section 21003, subd. (e). Mitigation Measure 4.4-1a has been revised to require reporting all special-status species to the CNDDDB. Please see comment 2-5 for the revised Mitigation Measure 4.4-1a.

#### **Response 2-11**

The comment notes that CDFW filing fees are required to be paid with the filing of the Notice of Determination. This comment is acknowledged.

#### **Response 2-12**

The comment provides concluding remarks and expresses appreciation. The City appreciates CDFW's comments on the EIR.

CALIFORNIA STATE TRANSPORTATION AGENCY

GAVIN NEWSOM, GOVERNOR

**California Department of Transportation**

DISTRICT 6 OFFICE  
 1352 WEST OLIVE AVENUE | P.O. BOX 12616 | FRESNO, CA 93778-2616  
 (559) 981-7284 | FAX (559) 488-4195 | TTY 711  
[www.dot.ca.gov](http://www.dot.ca.gov)



**Letter  
3**

July 29, 2024

City of Fresno  
 South Central Specific Plan  
 Draft Environmental Impact Report Notice of Availability  
 SCH #2019079022  
 GTS #: <https://id-igr-gts.dot.ca.gov/district/6/report/33065>

**SENT VIA EMAIL**

Mx. Sophia Pagoulatos, Planning Manager  
 City of Fresno  
 2600 Fresno St  
 Fresno, CA 93721  
[Sophia.pagoulatos@fresno.gov](mailto:Sophia.pagoulatos@fresno.gov)

Dear Mx. Pagoulatos:

Thank you for the opportunity to review the South-Central Specific Plan (SCSP) Draft Environmental Impact Report (DEIR). Caltrans has completed the review of the proposed Plan. This DEIR evaluates the environmental impacts of the proposed SCSP. A key impetus for the proposed SCSP is to improve Fresno's economic competitiveness and support employment opportunities for residents.

The SCSP area (Plan Area), encompasses 5,567 acres located just south and southeast of Downtown Fresno. The Plan Area is generally located south of California Avenue, north of American Avenue, and between Fig and Peach Avenues. The area has a range of property types including residential, religious, educational, public, warehouse, and industrial.

The mission of Caltrans is to provide a safe and reliable transportation network that serves all people and respects the environment. The Local Development Review (LDR) process reviews land use plans and plans through the lenses of our mission and state planning priorities of infill, conservation, and travel-efficient development. To ensure a safe and efficient transportation system, we encourage early consultation and coordination with local jurisdictions and project proponents on all development projects that utilize the multimodal transportation network.

Caltrans provides the following comments consistent with the State's smart mobility goals that support a vibrant economy and sustainable communities:

"Provide a safe and reliable transportation network that serves all people and respects the environment."

3-1

Mx. Sophia Pagoulatos– South Central Specific Plan- DEIR Notice of Availability  
 July 29, 2024  
 Page 2

1. We concur with the City of Fresno's General Plan's Mobility and Transportation Element, which outlines objectives and policies aimed at achieving goals for the local transportation and circulation system (City of Fresno, 2014). Additionally, we recognize that the policies from the Mobility and Transportation Element are relevant to the proposed SCSP. Specifically, this pertains to Policies MT-1-a through MT-1-J, MT2-1-a through MT-2-M, MT-4-b through MT-4-h, MT-5-a through MT-5-f, MT-6-a through MT-6-m, and MT-8-b through MT-8-c. It is recommended that the city consider a multimodal transportation system (such as bicycle and pedestrian facilities as well as public transportation) to provide connectivity of modes between the residential uses and commercial/retail uses to reduce VMT impacts from the SCSP. 3-2
2. We commend the City of Fresno for their proposed SCSP Policies and Development Standards T-1 through T-13, as described on page 4.15-13.0 of the SCSP Draft EIR. These policies and standards aim to establish and enforce truck routes, expand bus services, assist school districts in implementing the 'Safe Route to School' program, conduct traffic calming studies, implement traffic safety measures, and consider funding mechanisms to pre-fund infrastructure improvements prior to development. Additionally, they focus on improving and maintaining sidewalks, which we also support. 3-3
3. It is our understanding that the City of Fresno is considering the development of a regional Vehicle Miles Traveled (VMT) bank or VMT exchange program for the Southeast Development Area Specific Plan. We recommend that similar VMT mitigation strategies be explored for the SCSP. 3-4
4. Impact 4.15-3: *Substantially Increase Hazards Individual projects must conform to all City design standards and other requirements*, as stated beginning on page 4.15-16 of the SCSP Draft EIR, due to a Geometric Design Feature or Incompatible Uses. The Traffic Planning Section of the City's Traffic Operations and Planning Division will also be reviewing these projects. In addition, Caltrans should be included in the approval process for projects that are located within two miles of a State facility. 3-5
5. Alternative transportation policies should be applied to the SCSP. An assessment of multi-modal facilities should be conducted to develop an integrated multi-modal transportation system to serve and help alleviate traffic congestion caused by the project and related development in this area of the city. The assessment should include the following:
  - a. Pedestrian walkways should link this Project to transit facilities, bicycle pathways and other walkways in the surrounding area. 3-6
  - b. Coordinating connections to local and regional bicycle pathways should be done to encourage further the use of bicycles for commuter and recreational purposes.
  - c. Transit service and bus stop accommodations should be extended to within 1/4-mile of the SCSP site.
6. Check that Active Transportation Plans and Smart Growth efforts support the state's 3-7

"Provide a safe and reliable transportation network that serves all people and respects the environment."

Mx. Sophia Pagoulatos– South Central Specific Plan- DEIR Notice of Availability  
July 29, 2024  
Page 3

2050 Climate goals. Caltrans supports reducing VMT and GHG emissions in ways that increase the likelihood people will use and benefit from a multimodal transportation network.

3-7  
cont.

If you have any other questions, please call or email: Keyomi Jones, Transportation Planner at (559) 981-7284 or [keyomi.jones@dot.ca.gov](mailto:keyomi.jones@dot.ca.gov).

Sincerely,



Mr. Dave Padilla, Branch Chief,  
Office of System and Regional Planning  
Transportation Planning – North Branch

Cc: State Clearinghouse

"Provide a safe and reliable transportation network that serves all people and respects the environment."

**Letter 3      California Department of Transportation, District 6,  
Dave Padilla, Branch Chief, Office of System and Regional Planning,  
Transportation Planning**  
7/29/24

**Response 3-1**

The comment provides introductory remarks, summarizes the SCSP plan area, and describes the mission of Caltrans.

**Response 3-2**

The comment expresses concurrence with the Mobility and Transportation Element of the Fresno General Plan and discusses their relevance to the SCSP. The comment recommends the City consider a multimodal transportation system to reduce VMT impacts from the SCSP. The Draft EIR analysis determined that VMT impacts from implementation of the plan would be less than significant (and the comment does not express disagreement), so such a system would not be required to reduce VMT impacts. In recommending a multimodal transportation system, the comment is applicable to the SCSP itself. Please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

**Response 3-3**

Caltrans expresses support for specific proposed SCSP Policies and Development Standards. Please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

**Response 3-4**

The comment refers to a regional VMT bank or VMT exchange program under consideration by the City for the Southeast Development Area Specific Plan and recommends that similar strategies be explored for the SCSP. The Draft EIR analysis determined that VMT impacts from implementation of the SCSP would be less than significant (and the comment does not express disagreement), so such a program would not be required to reduce VMT impacts. In recommending a VMT bank or VMT exchange program, the comment is applicable to the SCSP itself. Please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

**Response 3-5**

The comment suggests that Caltrans be included in review and approval process for project located within 2 miles of a State facility, specifically pertaining to potential impacts of hazards due to geometric design features or incompatible uses. This comment is acknowledged.

**Response 3-6**

The comment recommends that alternative transportation policies be applied to the SCSP. No significant transportation effects requiring mitigation were identified in the Draft EIR so such policies would not be required for that reason. In recommending alternative transportation policies, the comment is applicable to the SCSP itself. Please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

**Response 3-7**

The comment recommends that Active Transportation Plans and Smart Growth efforts support the State's 2050 climate goals and expresses support for reducing VMT and GHG emissions through a multimodal transportation network. This comment is acknowledged. In Active Transportation Plans and Smart Growth efforts, the comment is applicable to the SCSP itself. Please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.



## 2.3.2 Local Agencies



### County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
STEVEN E. WHITE, DIRECTOR

Letter  
4

July 11, 2024

Sophia Pagoulatos  
Planning Manager  
City of Fresno  
(559) 621-8062

SUBJECT: City of Fresno: NOA for Draft EIR – South Central Specific Plan

Dear Ms. Pagoulatos:

The County of Fresno appreciates the opportunity to review and comment on the subject project being reviewed by the City of Fresno. The documents received for this review were circulated to our various Fresno County Public Works and Planning divisions, below are their relevant comments.

**Fresno County Transportation Division:**

- The County requests the completion of a Transportation Impact Study (TIS) and a Vehicle Miles Traveled (VMT) analysis to assess the potential impacts of the project on county facilities.

4-1

**Fresno County Road Maintenance and Operations Division:**

- Road Maintenance and Operations requests to be included in any traffic impact studies performed as part of this project.

**Fresno County Policy Planning Unit:**

- The proposed specific plan includes parcels subject to the Williamson Act. If the City did not file a protest with LAFCO during the formation of the Contract, it is recommended that a Notice of Nonrenewal be filed with the County to remove the parcels from the Williamson Act Program before development of incompatible uses occurs. Parcels are still subject to the restrictions of the Williamson Act program during the remainder of the initial term after a Notice of Nonrenewal is recorded.

4-2

**Fresno County Engineering Section:**

- According to FEMA FIRM Panel 2110H and 2130H, a large portion of the subject South-Central Development Area is found to be under shaded Flood Zone X and one of the parcel lots with APN: 463-050-32T of the subject South-Central Development Area is in Flood Zone A which is subject to flooding from the 100-year storm.
- According to the Wetlands Mapper of U.S. Fish and Wildlife Service, wetlands may be present within the parcel lot with APN: 463-050-32T. For any development on wetlands, U.S. Fish and Wildlife Service and other appropriate agencies should be consulted regarding any requirements they may have.

4-3

4-4

If you have any questions regarding the information described in this letter, please contact me at [eracusin@fresnocountyca.gov](mailto:eracusin@fresnocountyca.gov) or (559) 600-4245.

Sincerely,

*Elliot Racusin*

Elliot Racusin, Planner  
Development Services and Capital Projects Division

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DEVELOPMENT SERVICES AND CAPITAL PROJECTS DIVISION  
2220 Tulare Street, Sixth Floor / Fresno, California 93721 / Phone (559) 600-4497 / 600-4022 / 600-4540 / FAX 600-4200  
The County of Fresno is an Equal Employment Opportunity Employer

## **Letter 4 County of Fresno, Elliott Racusin, Planner, Development Services and Capital Projects Division**

7/11/24

### **Response 4-1**

The comment requests preparation of a Transportation Impact Study (TIS) and vehicle miles traveled (VMT) analysis to assess impacts on county facilities and requests that coordination with Fresno County Road Maintenance and Operations Division staff occur with respect to TIS for subsequent projects.

As discussed in Section 4.15, "Transportation and Circulation," of the Draft EIR, pursuant to SB 743, PRC Section 21099, and CCR Section 15064.3(a), generally, VMT is the most appropriate measure of transportation impacts, and a project's effect on automobile delay shall no longer constitute a significant impact under CEQA. Therefore, the transportation analysis in the Draft EIR evaluates impacts using VMT and does not include level of service (LOS) analysis as it pertains to vehicle delay. Although not addressed in this EIR for purposes of CEQA, the analysis of traffic operations (i.e., intersection and freeway LOS analysis) for the proposed plan was conducted by TJKM at the direction of the City and is included in the SCSP TIA (TJKM 2023) attached as Appendix D of the Draft EIR. In addition, the Fresno SCSP is a land use plan, and as future projects and developments are proposed, individual TIS and VMT analyses may be required to assess their transportation impacts on county facilities. The SCSP's environmental review of transportation-related impacts is contained in Section 4.15 of the EIR and addresses impacts within the project area at a programmatic level.

### **Response 4-2**

The comment notes that certain parcels within the SCSP area are subject to the Williamson Act and that Notices of Nonrenewal are required to be filed with the County prior to development of those parcels. As discussed in Section 4.2, Agriculture and Forestry Resources, in the Draft EIR, approximately 153 acres of the Plan Area outside the existing city limits but within the City's sphere of influence are under the Williamson Act contracts. It is acknowledged in the EIR that future development within the SCSP area would be required to comply with General Plan Objective RC-9 and Policies RC-9-a through RC-9-c, which are intended to limit premature conversion of agricultural land. The City will work with the County if it is determined that a Notice of Nonrenewal is needed for any future development within the SCSP.

### **Response 4-3**

The comment identifies the flood zones within the Plan Area. The information in the comment is consistent with the information for flood control, provided on page 4.10-15 of the Draft EIR.

### **Response 4-4**

The comment states that wetlands may be present within a portion of the Plan Area, according to US Fish and Wildlife Service's Wetland Mapper. The biology section acknowledges the potential presence of wetlands in the plan area as stated in the comment. The USFWS Wetland Mapper is a useful tool to view digital maps of wetland types and extent using a biological definition of wetlands. However, the Wetland Mapper does not attempt to define the limits of jurisdiction of any federal, state, or local government, or to establish the geographical scope of the regulatory programs of government agencies. The potential impacts to state or federally protected wetlands are addressed in the Draft EIR under Impact 4.4-3 and Mitigation Measure 4.4-3. Therefore, no revisions are needed to address the potential presence of wetlands.



2907 S. Maple Avenue  
Fresno, California 93725-2208  
Telephone: (559) 233-7161  
Fax: (559) 233-8227

**CONVEYANCE. COMMITMENT. CUSTOMER SERVICE.**

**Letter  
5**

July 15, 2024

Sophia Pagoulatos  
Development and Resource Management Department  
City of Fresno  
2600 Fresno Street, Room 3065  
Fresno, CA 93721

RE: City of Fresno South Central Specific Plan Draft Environmental Impact Report  
FID Facilities: Various

Dear Ms. Pagoulatos:

The Fresno Irrigation District (FID) has reviewed the South Central Specific Plan Draft Environmental Impact Report for the City of Fresno. FID has the following comments:

1. FID previously reviewed and commented on the Revised Notice of Preparation for the South Central Specific Plan Project on May 17, 2021, and Notice of Preparation of an Environmental Impact report on July 26, 2019, as City of Fresno South Industrial Priority Area Specific Plan Notice of Preparation. Those comments and conditions still apply and a copy has been attached for your review.

5-1

Thank you for providing to us the South Central Specific Plan Draft 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. FID reserves the right to provide additional comments when more detailed information becomes available. If you have any questions please feel free to contact Jeremy Landrith at (559) 233-7161 extension 7407 or [jlandrith@fresnoirrigation.com](mailto:jlandrith@fresnoirrigation.com).

Sincerely,

Laurence Kimura, P.E.  
Chief Engineer

Attachments

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**Letter 5      Fresno Irrigation District,  
Laurence Kimura, P.E., Chief Engineer**  
7/15/24

**Response 5-1**

This letter provides copies of the notices of preparation (NOP) issued by the City and the responses of Fresno Irrigation District's responses to each. The NOP comments primarily address FID drainage facilities and water supply. These topics are discussed in Section 4.10, Hydrology and Water Quality, and 4.16, Utilities and Service Systems, of the Draft EIR.





## Fresno Metropolitan Flood Control District

*Capturing Stormwater since 1956*

Letter  
6

File 310, "II1", "II2", "KK",  
"LL", "AV", "AW1", "AW2",  
"AX", "AY", "AZ", "BD",  
"CE", "CQ", "CU"  
420.214

July 30, 2024

Sophia Pagoulatos, Planning Manager  
City of Fresno Planning & Development Department  
2600 Fresno Street, Room 3065  
Fresno, CA 93721

Dear Sophia,

### Notice of Availability of a Draft Environmental Impact Report (DEIR) for the South Central Specific Plan

#### Drainage Areas "HH", "II1", "II2", "KK", "LL", "AV", "AW1", "AW2", "AX", "AY", "AZ", "BD", "CE", "CQ", and "CU"

The Fresno Metropolitan Flood Control District (District) has adopted storm drainage Master Plan systems for areas located within the South Central Specific Plan (Plan Area) shown on the attached Exhibit No. 1. These Master Plan systems are based on the previously adopted General and/or Specific Plan land uses.

There are approximately 375 acres within the Plan Area currently not located within a planned "drainage boundary" as shown on Exhibit No. 1. It is the District's intention to work with the City of Fresno to provide Master Planned drainage area systems to serve this portion of the Plan Area.

As noted in the District's prior letter dated August 6, 2019, in Master Plan areas where no drainage facilities have been constructed, the Master Plan can be revised to accommodate new land uses and pipe alignments within the Plan Area. For areas that have existing drainage facilities and propose changes to land uses that generate more runoff than originally planned, some type of mitigation to accommodate the increased flow such as parallel pipes and/or on-site retention may be required. The District has identified properties within the Plan Area that may require some form of mitigation as shown on the attached Exhibit No. 2. Proposed land uses can effect system size, the District shall be notified when changes are made to the proposed land uses.

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5469 E. Olive Avenue • Fresno, CA 93727 • (559) 456-3292 • FAX (559) 456-3194  
[www.fresnofloodcontrol.org](http://www.fresnofloodcontrol.org)

6-1



**City of Fresno**  
**Notice of Availability of a Draft Environmental Impact Report (DEIR)**  
**for the South Central Specific Plan**  
**July 30, 2024**  
**Page 2**

Drainage fees shall be collected pursuant to the Drainage Fee Ordinance prior to approval of any final maps and/or issuance of building permits at the rates in effect at the time of such approval. Instances where the District's Master Plan facilities have been constructed and proposed density is reduced, drainage fees will be subject to the higher rate anticipated to be collected when the facilities were installed. Please contact the District for a final fee obligation prior to issuance of the construction permits within the Plan Area.

6-2

The City of Fresno, the District, the County of Fresno, the City of Clovis, and the California State University, Fresno are currently covered as Co-Permittees for Municipal Separate Storm Sewer System (MS4) discharges through National Pollutant Discharge Elimination System (NPDES) General Order No. R5-2016-0040 and NPDES Permit No. CAS0085324 (Storm Water Permit) effective May 17, 2018. The previous Storm Water Permit adopted on May 31, 2013 required the adoption of Stormwater Quality Management Program (SWQMP) that describes the Storm Water Permit implementation actions and Co-Permittee responsibilities. That SWQMP was approved by the Central Valley Regional Water Quality Control Board on April 17, 2015 and is effective until adoption of a new SWQMP, which is anticipated within the next two years.

It is the District's understanding that the City will adopt a Program EIR for the proposed South Central Specific Plan and that the Program EIR may be used when considering approval of future discretionary actions. The Storm Water Permit requires that Co-Permittees update their CEQA process to incorporate procedures for considering potential stormwater quality impacts when preparing and reviewing CEQA documents. This requirement is found on Provision D.14 of the 2013 Storm Water Permit and in Section 7: Planning and Land Development Program – PLD 3 – Update CEQA Process. The District has created a guidance document that will meet this Storm Water Permit requirement entitled *Guidance for Addressing Stormwater Quality for CEQA Review*, which has been attached. In an effort to streamline future CEQA processing and maintain compliance with the Storm Water Permit, the District recommends that all future CEQA review within the City of Fresno utilize the attached guidance document Exhibit "A".

6-3

The District offers the following comments specific to the review of the DEIR Plan Area (the individual pages are included, and the section or sentence has been highlighted for your reference):

1. Page 3-13, Figure 3-6 Proposed Land Use: Show existing ponding Basin "AV" and outline correct parcels for Basin "CE" located northwest of American and Maple Avenues.
2. Page 3-27, 3.6.5 Proposed Utilities: Correct "purpose" to read "act".
3. Page 3-36, 3.8 Subsequent Entitlements and Approvals: Correct "Municipal" to read "Metropolitan".

6-4

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**City of Fresno**  
**Notice of Availability of a Draft Environmental Impact Report (DEIR)**  
**for the South Central Specific Plan**  
**July 30, 2024**  
**Page 3**

4. Page 4.10-7, Hydrology and Water Quality: Correct "Municipal" to read "Metropolitan".
5. Page 4.10-23, Hydrology and Water Quality: Second paragraph, the District requests removal of LID measures related to parcels.
6. Page 4.14-9, Figure 4.14-4 Existing and Planned Parks and Ponding Basins: The District has acquired all ponding basins shown on this Figure. Re-label the District Basin "AV" shown as "Planned District ponding basin" along Fig Avenue as an existing District ponding basin. Outline correct parcels for Basin "CE" located northwest of American and Maple Avenues.
7. Page 4.16-14, Utilities and Service System Stormwater: "164" should be corrected to say "165".
8. Page 6-10, Figure 6-1: While we understand basin designations may not be able to change for the current General Plan Land Use document, we wish to point out existing Basin "AV" needs to be added with future updates.

6-4  
cont.

Following comments below are specific to the review of the South Central Specific Plan document (the individual pages are included and the section or sentence has been highlighted for your reference):

9. Page 106, Storm Water: Correct "purpose" to read "act".
10. Page 112, Storm Water: Third paragraph, revise "ten" to "eleven" and eliminate remainder of sentence "and one planned ponding basin to be located on the east side of Fig Avenue, between North and Central Avenues".
11. Page 112, Storm Water: Fourth paragraph, correct "480" to "372", correct content to eliminate "outside of the Fresno city limits but" and eliminate "so".
12. Page 113, Figure 7.5 - Existing and Planned Open Space: The District has acquired all ponding basins shown on this Figure. Re-label the District basin shown as "Planned District ponding basin" along Fig Avenue as an existing District ponding basin. Outline correct parcels for basin located northwest of American and Maple Avenues.

6-5

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[www.fresnofloodcontrol.org](http://www.fresnofloodcontrol.org)

**City of Fresno  
Notice of Availability of a Draft Environmental Impact Report (DEIR)  
for the South Central Specific Plan  
July 30, 2024  
Page 4**

Thank you for the opportunity to comment. If you have any questions or require further information, please do not hesitate to contact me at (559) 456-3292.

Sincerely,



Denise Wade  
Master Plan Special Projects Manager

DW/lrl

Attachment

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[www.fresnofloodcontrol.org](http://www.fresnofloodcontrol.org)

## Letter 6      Fresno Metropolitan Flood Control District, Denise Wade, Master Plan Special Projects Manager

7/30/24

### Response 6-1

The comment provides a summary of the District's Master Plan and drainage boundary. Section 4.10, Hydrology and Water Quality, of the Draft EIR acknowledges the District's drainage boundaries and Master Plan, as well as General Plan policy NS-3-a: Stormwater Drainage and Flood Control Master Plan, which requires projects within the City to support and comply with the Master Plan. The analysis in Section 4.10 concludes that, with required compliance with existing regulations, including Fresno Metropolitan Flood Control District's (FMFCD) Storm Drainage and Flood Control Master Plan, SCSP implementation would result in less than significant impacts on hydrology and water quality.

### Response 6-2

The comment describes drainage fees required by the District. As identified in Section 4.10, Hydrology and Water Quality, of the Draft EIR, future projects would need to comply with the District's Master Plan and requirements, including any drainage fees. The City will coordinate with the District during processing of any future projects as required.

### Response 6-3

The comment provides an overview of the Stormwater Quality Management Program and requests that in its CEQA review for subsequent projects, the City utilize the District's *Guidance for Addressing Stormwater Quality for CEQA Review*. The District's understanding that the Draft EIR is a Program is accurate. Master Response 3, Program Versus Project-Level Analysis, explains the difference between a programmatic versus project-level CEQA analysis and identifies the process for future projects within the SCSP. During CEQA review of future projects the City will ensure that projects comply with current regulations, including those of the FMFCD.

### Response 6-4

The comment requests specific revisions to the EIR text. The following table identifies the suggested revisions and those made to the Draft EIR in response to the comment.

Requested Revision	Revision in EIR
Page 3-13, Figure 3-6 Proposed Land Use: Show existing ponding Basin "AV" and outline correct parcels for Basin "CE" located northwest of American and Maple Avenues.	Figure 3-6 depicts proposed land uses and not existing land uses such as the basins. However, Figure 4.14-4, as noted below, has been revised in accordance with the requested revisions. Requests for land use changes to SCSP Figure 4-5, Proposed Land Use, and corresponding EIR Figure 3-6 will be submitted to the City Council for its consideration.
Page 3-27, 3.6.5 Proposed Utilities: Correct "purpose" to read "act".	The Fresno Metropolitan Flood Control District (FMFCD) is a special- <del>purpose</del> <u>act</u> district that acquires and constructs facilities for flood control and the drainage of flood and storm waters, and conserves waters within the City.
Page 3-36, 3.8 Subsequent Entitlements and Approvals: Correct "Municipal" to read "Metropolitan".	Other agencies may be consulted during the adoption process, however, their approval is not required for adoption of the proposed plan. Any subsequent development under the proposed plan may require approval of State, federal and Responsible Trustee Agencies that may rely on the analysis in this Draft EIR. These agencies may include but are not limited to: <ul style="list-style-type: none"> <li>▶ California Department of Transportation,</li> <li>▶ California State Water Resources Control Board (State Water Board),</li> <li>▶ California Department of Fish and Wildlife (CDFW),</li> </ul>

Requested Revision	Revision in EIR
	<ul style="list-style-type: none"> <li>▶ Central Valley Regional Water Quality Control Board (Central Valley RWQCB),</li> <li>▶ Fresno Local Agency Formation Commission,</li> <li>▶ San Joaquin Valley Air Pollution Control District (Valley Air District),</li> <li>▶ Fresno <del>Municipal</del> <u>Metropolitan</u> Flood Control District, and</li> <li>▶ Fresno Irrigation District.</li> </ul>
Page 4.10-7, Hydrology and Water Quality: Correct “Municipal” to read “Metropolitan”.	<p><b><del>Fresno Municipal</del> <u>Metropolitan</u> Flood Control District Post-Development Standards Technical Manual</b></p> <p>Water quality treatment for post-construction discharges to stormwater in the FMFCD Master Plan Area is provided by detention and retention basins (henceforth referred to as retention basins) that are parts of FMFCDs stormwater drainage system.</p>
Page 4.10-23, Hydrology and Water Quality: Second paragraph, the District requests removal of LID measures related to parcels.	<p>The drainage pattern in the Plan Area would remain similar to current conditions but would be expanded over time in compliance with the FMFCD Storm Drain Master Plan as development occurs over the planning period. Surface runoff from the area would be managed via <del>parcel-based LID measures</del>, detention/retention basins, and flow reducing BMPs to prevent local flooding within the site.</p>
<p>Page 4.14-9, Figure 4.14-4 Existing and Planned Parks and Ponding Basins:</p> <p>The District has acquired all ponding basins shown on this Figure. Re-label the District Basin “AV” shown as “Planned District ponding basin” along Fig Avenue as an existing District ponding basin. Outline correct parcels for Basin “CE” located northwest of American and Maple Avenues.</p>	<p>Figure 4.14-4 has been revised and provided in Chapter 4, Revisions to the Draft EIR.</p>
Page 4.16-14, Utilities and Service System Stormwater: “164” should be corrected to say “165”.	<p>The Fresno Metropolitan Flood Control District (FMFCD) provides stormwater collection and disposal, and flood control to the north-central portion of Fresno County, between the San Joaquin and Kings Rivers, covering <del>164</del><u>165</u> adopted or proposed drainage areas.</p>
Page 6-10, Figure 6-1: While we understand basin designations may not be able to change for the current General Plan Land Use document, we wish to point out existing Basin “AV” needs to be added with future updates.	<p>Requests for land use changes to EIR Figure 6-1 will be submitted to the City Council for its consideration. Update of the General Plan Planned Land Use figure in the SCSP will be updated upon adoption of the SCSP.</p>

### **Response 6-5**

Refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.





Letter  
7

July 30, 2024

Jennifer Clark  
City of Fresno  
Planning & Development  
2600 Fresno Street  
Fresno, CA, 93721

**Project: Draft Environmental Impact Report for the South Central Specific Plan  
(SCH No. 2019079022)**

**District CEQA Reference No: 20240657**

Dear Ms. Clark:

The San Joaquin Valley Air Pollution Control District (District) has reviewed the Draft Environmental Impact Report (DEIR) from the City of Fresno (City) for the South Central Specific Plan (SCSP) project. The SCSP proposes land use designation changes for areas within the SCSP planning area to support future development for up to 866,676 square feet of retail space, 578,790 square feet of office space, 10,576,278 square feet of industrial space, and 91 dwelling units (Project). Additionally, the SCSP would establish a planning framework, and development standards to facilitate and guide future development within the planning area, which is approximately 5,600 acres. The Project covers the southern portion of Fresno, and includes land outside of Fresno but within the City's sphere of influence. The SCSP planning area also lies within one of the 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 (Garcia) in an effort to reduce air pollution exposure in impacted disadvantaged communities. See Figure 1 below.

7-1

**Samir Sheikh**  
Executive Director/Air Pollution Control Officer

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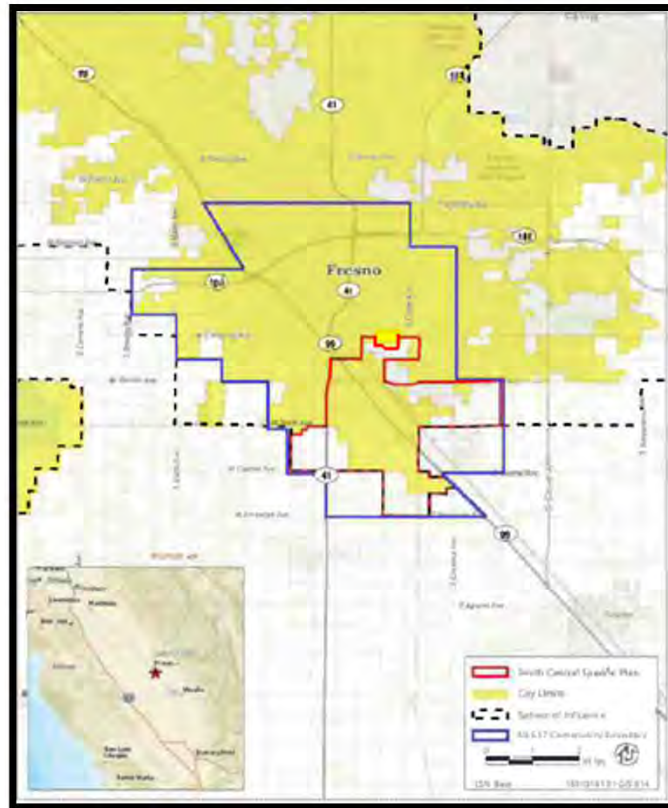
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**Figure 1: Boundaries of the AB 617 South Central Fresno and Fresno South Central Specific Plan**



7-1  
cont.

The District offers the following comments at this time regarding the Project:

**1) Assembly Bill 617**

AB 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 one of the statewide communities selected by CARB for development and implementation of a CERP.

7-2

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Following extensive community engagement and collaboration with the Community Steering Committee, the CERP for the South Central Fresno Community was adopted by the District's Governing Board in September 2019 and by CARB in February 2020.

During the development of the CERP, the Community Steering Committee expressed concerns regarding the proximity of emission sources to nearby sensitive receptors like schools, homes, day care centers, and hospitals, and the potential future industrial development within the community that may exacerbate the cumulative exposure burden for community residents. The Community Steering Committee also expressed the desire for more meaningful avenues of engagement surrounding the land-use decisions in the area. As these issues can most effectively be addressed through strong partnerships between community members and local land-use agencies. Furthermore, the District recommends the City assess the emission reductions measures and strategies included in the CERP and address them in the DEIR, as appropriate, to align the City work with the air pollution and exposure reduction strategies and measures outlined in the CERP.

7-2  
cont.

For more information regarding the CERP approved for South Central Fresno, please visit the District's website at:  
<http://community.valleyair.org/selected-communities/south-central-fresno>

## 2) **Voluntary Emission Reduction Agreement (VERA)**

- DEIR mitigation measure 4.3-1a states "...development project applicants shall prepare and submit ... an AAQA to determine whether any SJVAPCD annual emissions thresholds are exceeded or if a future project's emissions may result in the violation of an AAQS." The District recommends that an air quality assessment be performed for individual future development projects. The air quality assessment shall include: 1) quantification of construction and operational mass emissions for the individual future development projects to determine if District annual significance thresholds would be exceeded; and 2) an Ambient Air Quality Analysis to determine if emissions increases from the individual future development projects will cause or contribute to a violation of State or National Ambient Air Quality Standards.

7-3

- DEIR mitigation measure 4.3-1a also states, "...prior to the issuance of Certificate of Occupancy, future development will engage in a voluntary emissions reduction agreement (VERA) through coordination with SJVAPCD..." The District recommends engagement of a VERA between the District and individual future development projects applicant be conducted early in the project design stages prior to applying for project-level approval from the City, consistent with Rule 9510 (Indirect Source Review) applicability requirements. This will allow sufficient time to determine the extent of the air quality emissions, targeted

7-4

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emission reductions to be achieved, with the goal of ensuring contemporaneous emission reductions.

7-4  
cont.

Based on the above, the District is recommending the following revisions to mitigation measure 4.3-1a (see strikeout and underline below):

*"Prior to future individual discretionary project approval, and once all feasible on-site reduction measures have been incorporated, development project applicants shall prepare and submit to the Director of the Fresno Planning and Development Department, or designee, an AAQA air quality assessment to determine whether any SJVAPCD annual mass emissions thresholds are exceeded or if a future project's emissions may result in a violation of an AAQS. If no thresholds are exceeded, no further action is necessary. If one or more thresholds are exceeded, ~~prior to the issuance of Certificates of Occupancy,~~ future individual development projects will engage in a voluntary emissions reduction agreement (VERA) prior to applying for project-level approval from the City through coordination with SJVAPCD to reduce emissions to ~~meet below~~ meet below SJVAPCD's annual mass emissions thresholds for any pollutant that exceeds the respective threshold. The project applicant shall engage in a discussion with SJVAPCD prior to the adoption of the VERA to ensure that feasible mitigation has been identified to reduce emissions to a less-than-significant level consistent with the direction given in SJVAPCD's GAMAQI. ~~As allowed by SJVAPCD, the~~ The project applicant shall be provided the opportunity to perform an additional quantification of the project's operational emissions to estimate the type of reduction needed to reduce emissions to ~~meet below~~ meet below SJVAPCD's annual significance ~~thresholds of significance.~~"*

7-5

### **3) Mitigation of Construction Related Criteria Pollutant Emissions**

DEIR mitigation measure 4.3-1b states *"prior to issuance of future construction contracts, to reduce impacts from construction-related diesel exhaust emissions resulting from development under the SCSP, construction contractors shall demonstrate that they shall use the cleanest available fleet of heavy-duty equipment. This can be accomplished through submitting Construction Clean Fleet paperwork to SJVAPCD."*

The District would like to clarify that when individual future development projects are subject to District Rule 9510 (Indirect Source Review), the project applicant may commit to reducing construction emissions by using less polluting construction equipment, which can be achieved by utilizing add-on controls, cleaner fuels, or newer lower emitting equipment. The mechanism for satisfying such commitment is the project applicant is required to submit to the District a Construction Clean Fleet Data report, which includes records of each piece of equipment used during construction activities, equipment model year, horsepower, fuel type and hours of operation. Upon receipt, the District then conducts an analysis to determine if construction mitigation requirements under Rule 9510 have been achieved (i.e. 20%

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NOx, and 45% PM10). Based on the above, the District recommends this mitigation measure be revised to reflect for individual future development projects within the SCSP planning area that are subject to Rule 9510, the City should require project applicants to provide to the City Rule 9510 approval documentation, which would include Construction Clean Fleet paperwork for such projects making construction clean fleet commitments.

7-6  
cont.

#### **4) Mitigation of Permitted Stationary Source Related Criteria Pollutant Emissions**

DEIR mitigation measure 4.3-lh states *“Owners, operators, or tenants shall prohibit the use of diesel generators, except in emergency situations, in which case such generators shall have Best Available Control Technology (BACT) that meets ARB Tier 4 emission standards.”* The District would like to clarify that the determination of BACT requirements is determined at the time the Authority to Construct (ATC) permit is issued. Additionally, BACT is not a static requirement and is constantly evolving with the development of newer and cleaner technologies. Therefore, the District recommends revising mitigation measure 4.3-lh to require that generators meet BACT as determined by the San Joaquin Valley Air Pollution Control District at the time of ATC issuance.

7-7

#### **5) Health Risk Assessment (HRA)**

- DEIR Section 5.4.3 states, *“... TACs generated from development of the proposed plan, its contribution is significant because of the scale of development; the uncertainty in the number, type, and location of TAC sources; and the level of associated health risk exposure that would result at any one location. It cannot be determined with certainty that future TAC concentrations would not expose any receptors to levels that exceed 20 in 1 million when combined with other projects. Consequently, the proposed plan’s contribution to cumulative TACs impacts would be cumulatively considerable.”* The District recommends the City ensure a health risk assessment is performed for all individual future development projects, to ensure no significant health risk situations occur at any receptor location as a result of this Project.
- DEIR mitigation measure 4.3-3a states, *“A site-specific HRA shall be required for all construction projects anticipated to last more than six months and located within 1,000 feet of sensitive receptors...”*. The California Office of Environmental Health Hazard Assessment (OEHHA) discusses this issue in Section 8.2.10 (Cancer Risk Evaluation of Short Term Projects) of their Air Toxics Hot Spots Program Risk Assessment Guidelines document (February, 2015). OEHHA warns that *“There is valid scientific concern that the rate of exposure may influence the risk – in other words, a higher exposure to a carcinogen over a short period of time may be a greater risk than the same total exposure spread over a much longer time period.”* For this reason, OEHHA recommends evaluating health impacts from emissions with exposure periods exceeding two

7-8



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months. As such, the District recommends the City require individual future development projects perform an HRA for all individual future development projects exceeding two months of construction.

7-8  
cont.

- DEIR mitigation measure 4.3-3b states, “A site-specific HRA shall be required for the operation of projects that propose the use of TAC-emitting equipment or industrial processes located within 1,000 feet of sensitive receptors...”

Depending on the type, quantity and method of emissions, toxics can significantly impact receptors at distances greater than 1,000 feet. Sensitive receptors are children, the elderly, asthmatics and others who are at a heightened risk of negative health outcomes due to exposure to air pollution. The locations where these receptors may be present include residences, worksites, schools, daycare facilities, hospitals, convalescent facilities, parks and playgrounds, etc. All locations where sensitive receptors may be present in both the short and long-term should be evaluated when performing a health risk assessment. The District recommends the City require individual future development projects perform an HRA for operational activities that emit toxic pollutants.

7-9

#### **6) Individual Future Development Projects Trip Length for Heavy Heavy-Duty (HHD) Truck Travel**

Since the Project includes industrial uses, the City should ensure individual future development projects adequately characterize and justify an appropriate trip length distance for off-site HHD truck travel to and from the individual future development projects site. Based on the following factors: 1) the individual future development projects consists of industrial uses that are expected to generate a high volume of HHD truck trips, and 2) HHD trucks generally travel further distances for industrial uses. The District recommends individual future development projects characterize an appropriate trip length distance for HHD truck travel, and reflect such appropriate distance supported by project-specific factors.

7-10

#### **7) Industrial/Warehouse Emission Reduction Strategies**

Since the Project will include the development of industrial uses, the District recommends the City incorporate emission reduction strategies that can reduce potential harmful health impacts. In addition to those strategies contained in mitigation measure 4.3-3c, the District recommends the City incorporate the following strategies:

7-11

- Orient loading docks away from sensitive receptors unless physically impossible
- Require loading docks a minimum of 300 feet away from the property line of sensitive receptor unless dock is exclusively used for electric trucks
- Incorporate signage and “pavement markings” to clearly identify on-site

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- circulation patterns to minimize unnecessary on-site vehicle travel
- Require truck entries be located on streets of a higher commercial classification
- Require all building roofs are solar-ready
- Require all portions of roof tops that are not covered with solar panels are constructed to have light colored roofing material with a solar reflective index of greater than 78
- Ensure rooftop solar panels are installed and operated to supply 100% of the power needed to operate all non-refrigerated portions of the individual future development projects
- Require power sources at loading docks for all refrigerated trucks have “plugin” capacity, which will eliminate prolonged idling while loading and unloading goods
- Incorporate bicycle racks and electric bike plug-ins
- Designate an area during construction to charge electric powered construction vehicles and equipment, if temporary power is available
- Inform the individual future development projects applicant of the incentive programs (e.g., Carl Moyer Program and Voucher Incentive Program) offered to reduce air emissions from the individual future development projects
- Ensure all landscaping be drought tolerant

7-11  
cont.

#### **8) On-Site Solar Deployment**

It is the policy of the State of California that renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045. While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, the production of solar energy is contributing to improving air quality and public health. The District suggests that the City consider incorporating solar power systems as an emission reduction strategy for individual future development projects under the SCSP.

7-12

#### **9) District Rules and Regulations**

The District issues permits for many types of air pollution sources, and regulates some activities that do not require permits. Individual future development projects subject to District rules and regulations would reduce its impacts on air quality through compliance with the District’s regulatory framework. In general, a regulation is a collection of individual rules, each of which deals with a specific topic. As an example, Regulation II (Permits) includes District Rule 2010 (Permits Required), Rule 2201 (New and Modified Stationary Source Review), Rule 2520 (Federally Mandated Operating Permits), and several other rules pertaining to District permitting requirements and processes.

7-13

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The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: <https://ww2.valleyair.org/rules-and-planning/current-district-rules-and-regulations>. To identify other District rules or regulations that apply to individual future development projects, or to obtain information about District permit requirements, the individual future development projects applicant are strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (559) 230-5888.

**9a) District Rules 2010 and 2201 - Air Quality Permitting for Stationary Sources**

Stationary Source emissions include any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. District Rule 2010 (Permits Required) requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 (New and Modified Stationary Source Review) requires that new and modified stationary sources of emissions mitigate their emissions using Best Available Control Technology (BACT).

Individual future development projects may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and may require District permits. Prior to construction, individual future development projects applicant shall obtain an ATC permit from the District for equipment/activities subject to District permitting requirements.

*Recommended Mitigation Measure:* For individual future development projects subject to permitting by the San Joaquin Valley Air Pollution Control District, demonstration of compliance with District Rule 2201 (obtain ATC permit from the District) shall be provided to the City before issuance of the first building permit.

For further information or assistance, individual future development projects applicant may contact the District's SBA Office at (559) 230-5888.

7-13  
cont.

### 9b) District Rule 9510 - Indirect Source Review (ISR)

Individual future development projects within the SCSP area may be subject to District Rule 9510 if upon full buildout, the individual future development projects would equal or exceed any of the following applicability thresholds, depending on the type of development and public agency approval mechanism:

**Table 1: ISR Applicability Thresholds**

<b>Development Type</b>	<b>Discretionary Approval Threshold</b>	<b>Ministerial Approval / Allowed Use / By Right Thresholds</b>
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
Other	9,000 square feet	45,000 square feet

District Rule 9510 also applies to any individual future transportation or transit development projects where construction exhaust emissions equal or exceed two tons of NO<sub>x</sub> or two tons of PM.

The purpose of District Rule 9510 is to reduce the growth in both NO<sub>x</sub> and PM emissions associated with development and transportation projects from mobile and area sources; specifically, the emissions associated with the construction and subsequent operation of development projects. The Rule requires developers to mitigate their NO<sub>x</sub> and PM emissions by incorporating clean air design elements into their projects. Should the proposed individual future development projects clean air design elements be insufficient to meet the required emission reductions, developers must pay a fee that ultimately funds incentive projects to achieve off-site emissions reductions.

In the case the individual future development projects are subject to District Rule 9510, per Section 5.0 of the rule, an Air Impact Assessment (AIA) application is required to be submitted no later than applying for project-level approval from a public agency so that proper mitigation and clean air design under ISR can be incorporated into the public agency's analysis.

Information about how to comply with District Rule 9510 can be found online at: <https://ww2.valleyair.org/permitting/indirect-source-review-rule-overview>

7-13  
cont.

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The AIA application form can be found online at:  
<https://ww2.valleyair.org/permitting/indirect-source-review-rule-overview/forms-and-applications/>

District staff is available to provide assistance with determining if individual future development projects will be subject to Rule 9510, and can be reached by phone at (559) 230-5900 or by email at [ISR@valleyair.org](mailto:ISR@valleyair.org).

**9c) District Rule 9410 (Employer Based Trip Reduction)**

An individual future development project may be subject to District Rule 9410 (Employer Based Trip Reduction) if it 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.

Information about District Rule 9410 can be found online at:  
<https://ww2.valleyair.org/compliance/rule-9410-employer-based-trip-reduction/>.

For additional information, you can contact the District by phone at 559-230-6000 or by e-mail at [etrip@valleyair.org](mailto:etrip@valleyair.org)

**9d) District Rule 4002 (National Emissions Standards for Hazardous Air Pollutants)**

Individual future development projects may be subject to District Rule 4002 if they include demolition, renovation, and removal of existing structures. To protect the public from uncontrolled emissions of asbestos, this rule requires a thorough inspection for asbestos to be conducted before any regulated facility is demolished or renovated. Any asbestos present must be handled in accordance with established work practice standards and disposal requirements.

Information on how to comply with District Rule 4002 can be found online at:  
<https://ww2.valleyair.org/compliance/demolition-renovation/>.

7-13  
cont.



**9e) District Rule 4601 (Architectural Coatings)**

Individual future development projects may be subject to District Rule 4601 since they may utilize architectural coatings. Architectural coatings are paints, varnishes, sealers, or stains that are applied to structures, portable buildings, pavements or curbs. The purpose of this rule is to limit VOC emissions from architectural coatings. In addition, this rule specifies architectural coatings storage, cleanup and labeling requirements. Additional information on how to comply with District Rule 4601 requirements can be found online at: <https://ww2.valleyair.org/media/tkgjeusd/rule-4601.pdf>

**9f) District Regulation VIII (Fugitive PM10 Prohibitions)**

Individual future development projects applicant may be required to submit a Construction Notification Form or submit and receive approval of a Dust Control Plan prior to commencing any earthmoving activities as described in Regulation VIII, specifically Rule 8021 – *Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities*.

Should the individual future development projects result in at least 1-acre in size, the project applicant shall provide written notification to the District at least 48 hours prior to the project applicants intent to commence any earthmoving activities pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). Also, should the individual future development projects result in the disturbance of 5-acres or more, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials, the project applicant shall submit to the District a Dust Control Plan pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). For additional information regarding the written notification or Dust Control Plan requirements, please contact District Compliance staff at (559) 230-5950.

The application for both the Construction Notification and Dust Control Plan can be found online at: <https://ww2.valleyair.org/media/fm3jrbsq/dcp-form.docx>

Information about District Regulation VIII can be found online at: <https://ww2.valleyair.org/dustcontrol>

**9g) District Rule 4901 - Wood Burning Fireplaces and Heaters**

The purpose of this rule is to limit emissions of carbon monoxide and particulate matter from wood burning fireplaces, wood burning heaters, and outdoor wood burning devices. This rule establishes limitations on the installation of new wood burning fireplaces and wood burning heaters. Specifically, at elevations below 3,000 feet in areas with natural gas service, no

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cont.

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person shall install a wood burning fireplace, low mass fireplace, masonry heater, or wood burning heater.

Information about District Rule 4901 can be found online at:  
<https://ww2.valleyair.org/compliance/residential-wood-smoke-reduction-program/>

**9h) Other District Rules and Regulations**

Individual future development projects may also be subject to the following District rules: Rule 4102 (Nuisance) and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations).

If you have any questions or require further information, please contact Eric McLaughlin by e-mail at [eric.mclaughlin@valleyair.org](mailto:eric.mclaughlin@valleyair.org) or by phone at (559) 230-5808.

Sincerely,

Tom Jordan  
Director of Policy and Government Affairs



Mark Montelongo  
Program Manager

7-13  
cont.

## **Letter 7     San Joaquin Valley APCD, Mark Montelongo, Program Manager**

7/30/24

### **Response 7-1**

The comment is introductory in nature and summarizes elements of the SCSP and the existing setting.

### **Response 7-2**

The comment provides details regarding AB 617 and CERPs, including the South Central Fresno CERP, which was adopted by the District's Governing Board in September 2019 and by CARB in February 2020. The comment recommends that the EIR include emission reduction measures and strategies included in the AB 617 South Central Fresno CERP. See Response to Comment 1-5 for a discussion of SCSP consistency with the South Central Fresno CERP.

### **Response 7-3**

The comment recommends revision of Mitigation Measure 4.3-1a to clarify the requirement for an air quality assessment to quantify construction and operational emissions prior to preparation of an AAQA. Although this was the intent of the measure, the text of the measure is hereby revised in accordance with the District's suggestions. See Responses to Comments 7-4 and 7-5.

### **Response 7-4**

The comment recommends that engagement in a VERA between the District and applicants of applicable future projects occur early in the project design stages, prior to applying for project-level approval from the City, to allow sufficient time to determine the extent and methods of emissions reductions. Please refer to Response to Comment 1-8 for the proposed text edits to Mitigation Measure 4.3-1a. See also Responses to Comments 7-3 and 7-5.

### **Response 7-5**

The comment requests text edits to Mitigation Measure 4.3-1a. Please see Responses 7-3 and 7-4 above. The edits to Mitigation Measure 4.3-1a do not alter the findings of the Draft EIR and no further response is required.

### **Response 7-6**

The comment summarizes the requirements of SJVAPCD's Rule 9510, "Indirect Source Review," and requests changes to the language of Mitigation Measure 4.3-1b. Rule 9510 is used by SJVAPCD to minimize oxides of nitrogen (NO<sub>x</sub>) and respirable particulate matter (PM<sub>10</sub>) by 20 percent and 45 percent, respectively, during project construction. Notably, Rule 9510 does not apply to all proposed development within the San Joaquin Valley Air Vasin (SJVAB). Rule 9510 applies to projects meeting or exceeding the following land use parameters: 50 residential units, 2,000 square feet (sf) of commercial space, 25,000 sf of light industrial space, 100,000 sf of heavy industrial space, 20,000 sf of medical office space, 39,000 sf of general office space, 9,000 sf of educational space, 10,000 sf of government space, 20,000 sf of recreational space, and 9,000 sf of space not identified in the aforementioned list.

Mitigation Measure 4.3-1b includes requirements for the use of the cleanest available fleet of heavy-duty equipment including zero or near-zero heavy-duty equipment and use of EPA Tier 4 engines. The applicability of Mitigation Measure 4.3-1b does not preclude the regulatory requirements of Rule 9510, rather, it expands the applicability of Rule 9510 to projects proposing less sf or units than what is covered under Rule 9510. This ensures that all projects, regardless of size, would be required to reduce exhaust emissions from the use of heavy-duty equipment during project construction. In response to this comment, the language of Mitigation Measure 4.3-1b has been revised on page 4.3-20 of the Draft EIR:

#### **Mitigation Measure 4.3-1b: Use Clean Fleets during Construction**

Prior to issuance of future construction contracts, to reduce impacts from construction-related diesel exhaust emissions resulting from development under the SCSP, construction contractors for individual development projects within the SCSP shall demonstrate that they shall use the cleanest available fleet of heavy-duty

equipment. This can be accomplished through submitting Construction Clean Fleet paperwork to SJVAPCD in accordance with the requirements of Rule 9510. All on-site yard trucks and forklifts shall be powered by electricity where such equipment is readily available in the marketplace as reasonably determined by the City. Electric forklifts will continue to become more available as the requirements of CARB's proposed Zero-Emissions Forklifts Regulation stimulate the production of these forklifts over time. For any on-site equipment that cannot be electric-powered, and diesel-powered equipment is the only available option, construction contractors shall use equipment that either uses only high-performance renewable diesel (R100 or a similar diesel blend) or meets EPA Tier 4 Final emissions standards.

The text edits above do not alter the findings of the Draft EIR and no further response is required.

#### **Response 7-7**

The comment requests text edits to Mitigation Measure 4.3-1h to clarify that Best Available Control Technology (BACT) is determined at the time of the Authority to Construct is issued and that BACT is not static. The comment refers to this portion of Mitigation Measure 4.3-1h: "Owners, operators, or tenants shall prohibit the use of diesel generators, except in emergency situations, in which case such generators shall have BACT that meets CARB Tier 4 emission standards" on page 4.3-23. At the time of writing this EIR, Tier 4 diesel engines comprise the strictest EPA emissions requirement for off-highway diesel engines. Nevertheless, in response to this comment, the text of Mitigation Measure 4.3-1h has been revised as follows on page 4.3-22 through 4.3-23:

#### **Mitigation Measure 4.3-1h: Use Low- or Zero-Emission Heavy-Duty Trucks and Equipment**

Future tenants of new and redeveloped commercial and industrial land uses (those over which the City will have discretionary approval) shall ensure that all heavy-duty trucks (Class 7 and 8) domiciled on the project site are model year 2014 or later from start of operations and shall expedite a transition to zero-emission vehicles, with the fleet fully zero-emission by December 31, 2026, or when commercially available for the intended application (as determined by the City based on substantial evidence), whichever date is later. For industrial uses or uses that would require deliveries to/from the site (i.e., at loading docks), all heavy-duty truck fleets associated with operational activities must utilize the cleanest available heavy-duty trucks, including zero and near-zero that meet 0.02 gram per brake horsepower-hour NOx technologies. For industrial uses or any other use that requires operational on-site equipment (cargo handling, yard hostlers, forklifts, pallet jacks), zero-emissions technologies shall be used. "Domiciled at the project site" shall mean the vehicle is either (i) parked or kept overnight at the project site more than 70 percent of the calendar year or (ii) dedicated to the project site (defined as more than 70 percent of the truck routes (during the calendar year) that start at the project site even if parked or kept elsewhere). Zero-emission, heavy-duty trucks which require service can be temporarily replaced with model year 2014 or later trucks. Replacement trucks shall be used for only the minimum time required for servicing fleet trucks.

Future tenants of commercial and industrial land uses shall ensure that adequate electrical infrastructure is provided to allow for the transition to electric heavy-duty trucks.

Owners, operators, or tenants shall prohibit the use of diesel generators, except in emergency situations, in which case such generators shall have Best Available Control Technology (BACT) that meets ARB Tier 4 emission standards, or the most current and strict BACT available prior to the issuance of an Authority to Construct, as determined by SJVAPCD.

This shall be enforced through oversight by the City and shall be included as part of contractual lease agreement language to ensure the tenants/lessees are informed of all ongoing operational responsibilities.

The text edits above do not alter the findings of the Draft EIR and no further response is required.

#### **Response 7-8**

The comment recommends that all individual future development projects conduct an HRA and suggests edits to Mitigation Measure 4.3-3a to revise the threshold for which projects would be required to conduct a construction HRA for projects from a 6-month construction duration down to 2 months, citing guidance from the Office of

Environmental Health Hazard Assessment. Mitigation Measure 4.3-3a does require that future development projects conduct an HRA. Please refer to Response to Comment 1-2 for a summary of the proposed text edits to Mitigation Measure 4.3-3a in response to this comment and others.

#### **Response 7-9**

The comment cites the language of Mitigation Measure 4.3-3b, “[a] site-specific HRA shall be required for the operation of projects that propose the use of TAC-emitting equipment or industrial processes located within 1,000 feet of sensitive receptors” (page 4.3-31). The comment suggests that air toxics can significantly impact receptors at distances greater than 1,000 feet of sensitive receptors. While it is correct that air toxics may be highly concentrated at a distance further than 1,000 feet, the degree to which this would occur would depend on the findings of a site-specific HRA which would measure the dispersion of air toxics to the vicinity of a pollution source. As stated in Mitigation Measure 4.3-3b, project-level HRAs that determine impacts from future development are significant and unavoidable would be prohibited. Please refer to Response to Comment 1-2 for a summary of the proposed text edits to Mitigation Measure 4.3-3b in response to this comment and others.

#### **Response 7-10**

The comment states that because the SCSIP includes industrial uses, the City should ensure that individual future development projects adequately characterize and justify an appropriate trip length distance for off-site heavy heavy-duty truck (HHD) travel to and from individual development project sites. The movement of HHD trucks is dependent on the operational needs of future development which is unknown at this programmatic stage. The SCSIP permits a mix of heavy and light industrial and commercial development; however, the exact nature of future projects is speculative. Zoning designations allow for a variety of land use types, which may have disparate levels of transportation needs. The District’s comment is acknowledged. As future industrial development projects are proposed, applicants shall be required to support HHD trip length estimates used in project-specific analyses required by the City. This comment does not alter the findings of the Draft EIR and no further response is required.

#### **Response 7-11**

The comment recommends additional language be added to Mitigation Measure 4.3-3c including requirements for loading dock orientation; loading dock setback distances of 300 feet; signage to minimize on-site vehicle travel; and requirements for truck entries to be on higher commercial classification, solar panels, electric power sources for TRUs, bicycle infrastructure, and drought tolerant landscaping. The incorporation of solar panels and drought tolerant landscaping are not measures leading to direct reduction in air pollution, but rather serve to reduce GHG emissions, and are not included in the language of Mitigation Measure 4.3-3c. Mitigation Measure 4.6-1d requires future projects to include on-site renewable energy production and storage systems including, but not limited to, on-site solar, parking canopies with solar, and battery storage.

Mitigation Measure 4.3-3c uses a 1,000-foot buffer for the siting of sensitive receptors near a commercial loading dock. This is based on CARB’s guidance in its 2005 *Air Quality and Land Use Handbook: A Community Health Perspective* (CARB 2005). While 1,000 feet is considered protective, the City recognizes that at this programmatic stage, the exact setback distance for a future development proposal will depend upon the proposed project characteristics and magnitude of operations.

In response to this comment, the language of Mitigation Measure 4.3-3d has been revised as follows on pages 4.3-31 through 4.3-32 of the Draft EIR:

#### **Mitigation Measure 4.3-3c: Incorporate Design Features at Truck Loading Areas to Reduce Health Risk Exposure at Sensitive Receptors**

Future developments under the plan shall be designed so that truck loading/unloading facilities shall be located at an appropriate setback distance from sensitive receptors. Project-level design, including setback distance, shall be informed by the findings of ~~not be located within 1,000 feet of any sensitive receptor unless~~ a qualified, site-specific HRA, conducted in accordance with SJVAPCD guidance and approved by SJVAPCD that ~~shows~~ that the associated level of cancer risk at the sensitive receptors would not exceed 20 in 1 million. A truck loading/unloading facility is defined as any truck distribution yard, truck loading dock, or truck



loading or unloading area where more than one truck with three or more axles will be present for more than 10 minutes per week, on average; and sensitive receptors include residential land uses, campus dormitories and student housing, residential care facilities, hospitals, schools, parks, playgrounds, and daycare facilities. If the HRA determines that a nearby sensitive receptor would be exposed to an incremental increase in cancer risk greater than 20 in 1 million then design measures shall be incorporated to reduce the level of risk exposure to less than 20 in 1 million. Design measures may include but are not limited to the following:

- ▶ All truck loading/unloading facilities to be equipped with one 110/208-volt power outlet for every two-truck loading/unloading facility. A minimum 2-foot-by-3-foot sign shall be clearly visible at each loading dock that indicates, "Diesel engine idling limited to a maximum of 2 minutes." The sign shall include instructions for diesel trucks idling for more than 2 minutes to connect to the 110/208-volt power to run any auxiliary equipment.
- ▶ All loading docks shall be oriented to minimize direct exposure to sensitive receptors.
- ▶ The use of electric-powered "yard trucks" or forklifts to move truck trailers around a truck yard or truck loading/unloading facility.
- ▶ All truck entries shall be located on streets supporting commercial or industrial development (serving more than 50 percent commercial or industrial properties according to the local zoning ordinance), as feasible.
- ▶ The use of buildings or walls to shield commercial activity from nearby residences or other sensitive land uses.
- ▶ The use of EPA-rated Tier 4 Final engines in diesel-fueled construction equipment when construction activities are adjacent to existing sensitive receptors.
- ▶ The planting and maintenance of vegetative buffers between truck loading/unloading facilities and nearby residences, schools, daycare facilities, and any other sensitive receptors. As part of detailed site design, a landscape architect licensed by the California Landscape Architects Technical Committee shall identify all locations where trees should be located, accounting for areas where shade is desired such as along pedestrian and bicycle routes, the locations of solar photovoltaic panels, and other infrastructure.
- ▶ For warehouses larger than 50,000 sf, a 10-foot wide landscaping buffer shall be required measured from the property line to adjacent sensitive receptors; for warehouses larger than 400,000 sf, a 20-foot wide landscaping buffer shall be required measured from the property line to adjacent sensitive receptors.
- ▶ The use of all electrical-powered Transportation Refrigeration Units (TRUs) including access to electrical infrastructure to power TRUs while at a project site.
- ▶ The use of all electric heavy-duty trucks.

The revisions made above do not alter the findings of the Draft EIR and no further response is required.

#### **Response 7-12**

The comment suggests that the City consider incorporating solar power systems as an emissions reduction strategy for development within the SCSP. Mitigation Measure 4.6-1d requires future projects to include on-site renewable energy production and storage systems including, but not limited to, on-site solar, parking canopies with solar, and battery storage and, therefore, satisfies this suggestion. No edits to the Draft EIR are needed, and no further response is required.

#### **Response 7-13**

The comment provides a summary of SJVAPCD's applicable rules and regulations that would apply to individual projects proposed under the SCSP including Regulation II, "Permits," Regulation VIII, "Fugitive PM10 Prohibitions," Rule 2020, "Permits Required," Rule 2201, "New and Modified Stationary Source Review," Rule 2520, "Federally Mandated Operating Permits," Rule 9510, "Indirect Source Review," Rule 9410, "Employer Based Trip Reduction," Rule

4002, "National Emissions Standards for Hazardous Air Pollutants," Rule 4601, "Architectural Coatings," Rule 4901, "Wood Burning Fireplaces and Heaters," Rule 4102, "Nuisance," and Rule 4641, "Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations."

Pages 4.3-5 through 4.3-6 of the Draft EIR summarize Regulation VIII and Rules 2010, 2201, 4002, 4102, 4631, and 9510. Future development under the SCSP would be required to comply with all applicable SJVAPCD rules and regulations prior to obtaining permits to operate, which would be determined once project-specific proposals have been prepared. These rules serve to manage air pollution in the SJVAB. The comment does not alter the analysis prepared in Section 4.3, "Air Quality," of the Draft EIR and no edits to the Draft EIR are required.

## 2.3.3 Environmental Organizations



CENTER for BIOLOGICAL DIVERSITY

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Letter  
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July 7, 2024

*Sent via email*

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**Re: Fresno South Central Specific Plan Draft Environmental Impact Report SCH #2019079022**

Dear Ms. Clark:

These comments are submitted on behalf of the Center for Biological Diversity (the "Center") regarding the Fresno South Central Specific Plan SCH #2019079022 ("Project"). The Center has reviewed the Draft Environmental Impact Report ("DEIR") closely and is deeply concerned about the myriad serious inadequacies in the environmental review.

This letter focuses on the deficient greenhouse gas analysis, which ignores serious sources of greenhouse gas emissions, does not support its conclusions with substantial evidence, and fails to adopt feasible mitigation measures that are common for industrial projects. The City's plan to site hundreds of acres of heavy industrial land uses in a community that faces some of the worst environmental burdens in the state is a grave environmental injustice. Doing so without disclosing or mitigating the attendant harms is a violation of CEQA. The Center urges the City to recirculate a legally compliant EIR.

The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 68,000 thousand members and online activists throughout California and the United States. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in Fresno County.

**I. THE EIR'S GREENHOUSE GAS ANALYSIS FAILS TO DISCLOSE, ANALYZE, OR MITIGATE SIGNIFICANT IMPACTS.**

Arizona · California · Colorado · Florida · N. Carolina · Nevada · New Mexico · New York · Oregon · Washington, D.C. · La Paz, Mexico

BiologicalDiversity.org

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8-2

### **A. Climate Change Is a Catastrophic and Pressing Threat to California.**

A strong, international scientific consensus has established that human-caused climate change is causing widespread harms to human society and natural systems, and that climate change threats are becoming increasingly dangerous. The Intergovernmental Panel on Climate Change (IPCC), the leading international scientific body for the assessment of climate change, concluded in its 2014 Fifth Assessment Report that: “[w]arming of the climate system is unequivocal, and since the 1950s, many of the observed changes are unprecedented over decades to millennia. The atmosphere and ocean have warmed, the amounts of snow and ice have diminished, and sea level has risen,” and further that “[r]ecent climate changes have had widespread impacts on human and natural systems.” (IPCC 2014.) These findings were echoed in the United States’ own 2014 Third National Climate Assessment and 2017 Climate Science Special Report, prepared by scientific experts and reviewed by the National Academy of Sciences and multiple federal agencies. The Third National Climate Assessment concluded that “[m]ultiple lines of independent evidence confirm that human activities are the primary cause of the global warming of the past 50 years” and “[i]mpacts related to climate change are already evident in many regions and are expected to become increasingly disruptive across the nation throughout this century and beyond.” (Melillo 2014.) The 2017 Climate Science Special Report similarly concluded:

[B]ased on extensive evidence, it is extremely likely that human activities, especially emissions of greenhouse gases, are the dominant cause of the observed warming since the mid-20th century. For the warming over the last century, there is no convincing alternative explanation supported by the extent of the observational evidence.

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The U.S. National Research Council concluded that “[c]limate change is occurring, is caused largely by human activities, and poses significant risks for—and in many cases is already affecting—a broad range of human and natural systems.” (NRC 2010.) Based on observed and expected harms from climate change, in 2009 the U.S. Environmental Protection Agency found that greenhouse gas pollution endangers the health and welfare of current and future generations. (74 Fed. Reg. 66496 (Dec. 15, 2009) [U.S. EPA, Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act; Final Rule].)

These authoritative climate assessments decisively recognize the dominant role of greenhouse gases in driving climate change. As stated by the Third National Climate Assessment: “observations unequivocally show that climate is changing and that the warming of the past 50 years is primarily due to human-induced emissions of heat-trapping gases.” (Melillo 2014.) The Assessment makes clear that “reduc[ing] the risks of some of the worst impacts of climate change” will require “aggressive and sustained greenhouse gas emission reductions” over the course of this century. (Melillo 2014 at 13, 14, and 649.)

The impacts of climate change are already being felt by humans and wildlife. Human-induced climate change, including more frequent and intense extreme events, has caused widespread adverse impacts and related losses and damages to nature and people. (IPCC 2022.) This rise in weather and climate extremes has led to some irreversible impacts, as natural and human systems are pushed beyond their ability to adapt. (IPCC 2022.) Climate change is

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increasing stress on species and ecosystems—causing changes in distribution, phenology, physiology, vital rates, genetics, ecosystem structure and processes—in addition to increasing species extinction risk. (Warren 2008.) Climate-change-related local extinctions are already widespread and have occurred in hundreds of species. (Wiens 2016.) Catastrophic levels of species extinctions are projected during this century if climate change continues unabated. (Thomas 2004; Maclean 2011; Urban 2015.) In California, climate change will transform our climate, resulting in such impacts as increased temperatures and wildfires, and a reduction in snowpack and precipitation levels and water availability.

The United States has contributed more to climate change than any other country. The U.S. is the world's biggest cumulative emitter of greenhouse gas pollution, responsible for 27 percent of cumulative global CO<sub>2</sub> emissions since 1850, and the U.S. is currently the world's second highest emitter on an annual and per capita basis. (World Resources Institute 2020.) Nonetheless, U.S. climate policy is wholly inadequate to meet the international climate target to hold global average temperature rise to well below 2°C above pre-industrial levels to avoid the worst dangers of climate change. Current U.S. climate policy has been ranked as “insufficient” by an international team of climate policy experts and climate scientists which concluded that “the US’ climate policies and action in 2030 need substantial improvements.” (Climate Action Tracker 2022.)

The IPCC's most recent report, entitled *Climate Change 2022: Impacts, Adaptation and Vulnerability*, found that warming is proceeding even faster than anticipated, and the best-case scenario for climate change is slipping out of reach. (IPCC 2022.) The report now estimates that, over the next 20 years, the world will cross the global warming threshold of 1.5°C. And unless there are immediate, rapid and large-scale reductions in greenhouse gas emissions, limiting warming to close to 1.5°C—or even 2°C—will be beyond reach. The United Nations Secretary General described the forecasts in this report as an “atlas of human suffering.” (Borenstein 2022.)

In response to inadequate action on the national level, California has taken steps through legislation and regulation to fight climate change and reduce statewide GHG emissions. Enforcement and compliance with these steps are essential to help stabilize the climate and avoid catastrophic impacts to our environment. California has a mandate under AB 32 to reach 1990 levels of GHG emissions by the year 2020, equivalent to approximately a 15 percent reduction from a business-as-usual projection. (Health & Saf. Code, § 38550.) Based on the warning of the Intergovernmental panel on Climate Change and leading climate scientists, Governor Brown issued an executive order in April 2015 requiring GHG emission reduction 40 percent below 1990 levels by 2030. (Executive Order B-30-15 (2015).) The Executive Order is line with a previous Executive Order mandating the state reduce emission levels to 80 percent below 1990 levels by 2050 in order to minimize significant climate change impacts. (Executive Order S-3-05 (2005).) In enacting SB 375, the state has also recognized the critical role that land use planning plays in achieving greenhouse gas emission reductions in California.

The state Legislature has found that failure to achieve greenhouse gas reduction would be “detrimental” to the state's economy. (Health & Saf. Code § 38501(b).) In his 2015 Inaugural

8-2  
cont.

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Address, Governor Brown reiterated his commitment to reduce greenhouse gas emissions with three new goals for the next fifteen years:

- Increase electricity derived from renewable sources to 50 percent;
  - Reduce today's petroleum use in cars and trucks by 50 percent;
  - Double the efficiency of existing buildings and make heating fuels cleaner.
- (Brown 2015 Address.)

Although some sources of GHG emissions may seem insignificant, climate change is a problem with cumulative impacts and effects. (*Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Admin.* (9th Cir. 2008) 538 F.3d 1172, 1217 (“the impact of greenhouse gas emissions on climate change is precisely the kind of cumulative impacts analysis” that agencies must conduct).) One source or one small project may not appear to have a significant effect on climate change, but the combined impacts of many sources can drastically damage California's climate as a whole. Therefore, project-specific GHG emission disclosure, analysis and mitigation is vital to California meeting its climate goals and maintaining our climate.

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Given the increasingly urgent need for drastic action to reduce GHG emissions, the EIR's failure to fully disclose, analyze, mitigate, or consider alternatives to reduce the Project's significant climate change effects is all the more alarming.

**B. The EIR's Greenhouse Gas Analysis Uses a Threshold of Significance that Is Not Supported By Substantial Evidence and Does Not Capture Significant Impacts.**

A lead agency's selection of a threshold of significance must be supported with substantial evidence. Moreover, a determination that an environmental impact complies with a particular threshold of significance does not relieve a lead agency of its obligation to consider evidence that indicates the impact may be significant despite compliance with the threshold. (CEQA Guidelines § 15064(b)(2).) If evidence shows that an environmental impact might be significant despite the significance standard used in the EIR, the agency must address that evidence. (*Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1111.)

8-3

The City here fails its responsibility to use a threshold of significance that captures all significant impacts. The EIR claims to use a threshold taken from the 2022 Scoping Plan Appendix D—a document that states that “it focuses primarily on climate action plans and local authority over new residential development. It does not address other land use types (e.g., industrial).” (CARB Appendix D at 4.). The appendix makes clear that the three attributes the EIR uses as the threshold of significance “address the largest sources of operational emissions for residential projects.” (CARB at 23, emphasis added.) and that the approach to determining the significance of GHG impacts “is only intended for residential and mixed-use development projects.” (CARB at 24.)<sup>1</sup> The EIR itself admits that “these project attributes were developed for

8-4

<sup>1</sup> A mixed-use development project is one that includes both residential and nonresidential uses with at least two third of the square footage designated for residential use. (CARB at 21, citing Cal. Gov. Code., tit. 7, section

residential and residential mixed-use project types only, which are not emphasized in the proposed plan.” (DEIR at 4.8-14.)

The environmental impacts of industrial development are substantial, carry serious environmental justice consequences, and come from very different sources than the impacts of residential development. For one example, truck trips to transport goods are usually the greatest source of GHG emissions from a warehouse project—and, indeed, mobile sources will cause more than half of this project’s emissions. (DEIR at 4.8-13.) Warehouses are well-known for these truck trips, which have earned the neighborhoods near warehouses the nickname “diesel death zones.” Residential development does not generate heavy-duty truck traffic. Industrial development also generates GHGs from heavy-duty equipment like forklifts and pallet jacks, from industrial refrigeration of massive warehouse buildings, from diesel-powered generators—none of which are common in homes. Attempting to evaluate industrial development using a threshold of significance developed for residential projects forecloses consideration of the very things that make industrial development harmful and is therefore illegal under CEQA.

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cont.

### **C. The EIR’s Consideration of VMT Is Not Supported by Substantial Evidence.**

The EIR’s VMT analysis is riddled with errors. First, the EIR is not consistent about what the threshold of significance for VMT reduction is. The EIR claims to be using a “qualitative approach” whereby projects that include the “key attributes” that reduce GHGs from residential projects, taken from Appendix D of the 2022 Scoping Plan, will not have significant GHG impacts. (DEIR at 4.8-14-15.) However, the EIR then does not analyze whether the project includes those attributes. (It does not.) Instead, the EIR makes a number of unclear, unsupported assertions, including that the plan will “reduce the distance between destinations,” that are not connected to any threshold of significance. (DEIR at 4.8-15.) It then concludes that the VMT is not significant without explaining what yardstick was used to make this determination. (DEIR at 4.8-14.) Under CEQA, an EIR must establish a threshold of significance, support that threshold with substantial evidence, and then evaluate the impact against the threshold. This muddled analysis does not comply.

8-5

Second, the EIR incorrectly states that the proposed plan “would result in a 33% decrease in VMT.” (DEIR at 4.8-16.) This statement is not supported by explanation or citation in the body of the EIR. The Transportation Impact Analysis appendix says that “the project is expected to *increase* the total VMT in the area” by over a million miles. (DEIR Transportation Impact Analysis at 3, emphasis added, 41.) In claiming a decrease, the EIR seems to be referring to the fact that because the plan is expected to increase employment, VMT will decrease “per service population.” For one thing, the California Supreme Court has repeatedly cautioned that readers should not be forced to sift through appendices to detect the EIR’s environmental analysis. (*Cleveland Nat. Forest Found. v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 516; *Cal. Oak Found. v. City of Santa Clarita* (2005) 133 Cal.App.4th 1219, 1239 [“[I]nformation scattered here and there in EIR appendices, or a report buried in an appendix, is not a substitute for good faith reasoned analysis.”], internal quotations omitted.) Here, a reader must turn to the

8-6

65589.5(h)(2)(B)). In this Project, 270 acres would be designated for residential uses, and 5,297 acres for non residential uses. (DEIR at 3-14.) It is not a mixed-use development.

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appendix to understand that VMT will go up, not down. Moreover, when a project causes economic or population growth, the EIR must analyze the environmental impacts of that growth. Pub Res C §21100(b)(5); 14 Cal Code Regs §15126(d), §15126.2(e); *Napa Citizens for Honest Gov't v Napa County Bd. of Supervisors* (2001) 91 CA 4th 342, 368. That means that if VMT will increase as the service population increases, the increased VMT is an environmental impact that the EIR must consider.

8-6  
cont.

Third, the EIR's VMT estimate ignores the most significant source of VMTs—the generation of heavy-duty truck trips to bring goods to and from warehouses. The EIR estimates trip generation from industrial land uses using the rate for trips generated by employees, not the rate for truck trips used in warehouse operations. (DEIR Transportation Impact Analysis at 3, emphasis added, 41.) This means that the estimate includes the relatively minor impact of employee commutes, but ignores the impact of heavy-duty diesel trucks that drive many times further, go to and from the warehouse much more frequently, and produce vastly higher emissions per mile. The EIR's choice to omit analysis of the greenhouse gas impacts of heavy trucks is inexcusable. Substantial evidence demonstrates that the Project will generate hundreds of truck trips each day. The EIR acknowledges that truck trips to transport goods will be a main source of GHG emissions from the Project, and over half of the Project's GHG emissions will come from mobile sources. (DEIR at 4.8-13.) However, the EIR maintains that these truck trips, no matter their possible number, cannot possibly cause significant GHG impacts. By not estimating or disclosing how many heavy-duty truck trips the project will generate, the EIR fails inform the public about the real magnitude of the environmental impacts.

8-7

#### **D. The EIR's Mitigation Measures for Greenhouse Gas Impacts Are Inadequate.**

The EIR acknowledges that the Project will have significant greenhouse gas impacts, but adopts weak, vague mitigation measures that fall far short of best-practices. The City has the obligation to adopt all feasible mitigation to reduce the Project's significant GHG impacts, such as the basic mitigation measures that have become standard for new warehouse development. Examples of such measures include those listed in the Fontana Ordinance No. 1891, which were specifically formulated to mitigate impacts from warehouse development and protect residents and the air basin from cumulative environmental impacts. (City of Fontana 2022.) The California Office of the Attorney General also has published a document entitled "Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act" to help lead agencies comply with these requirements. (AGO 2021.) Nearly all of the example mitigation measures in this document have been adopted in a warehouse project in California, demonstrating their feasibility.

8-8

#### ***Idling times***

The EIR adopts a so-called mitigation measure that allows trucks to idle for up to five minutes—more than twice as long as the California Attorney General's recommendation of a two-minute limit. (DEIR at 4.3-22, AGO 2021.) Further, a five-minute idling restriction is required by the California Airborne Toxics Control Measure. Therefore, it is not truly mitigation measure, it is a promise to follow the law. As the California Attorney General notes, compliance

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with regulations is a baseline expectation and should not be labeled a mitigation measure. (AGO 2021.) Again the EIR replaces a recommended, feasible mitigation measure with a much weaker substitute that does not properly mitigate a significant impact. The Project must revise mitigation measure 4.3-1f to require idling times to be kept under two minutes.

8-9  
cont.

### ***VOC Emissions***

The EIR's mitigation measure 4.3f allows "low-VOC coatings," which means fewer than 50 g/liter. (DEIR at 4.3-22.) That level is five times higher than the California Attorney General's recommendation of a 10 g/L limit. (AGO 2021.) By falling so far short of the Attorney General's best practices, the EIR fails to properly mitigate a significant impact. The Project must revise mitigation measure 4.3f to require the use of low-VOC products with less than 10 g/L.

8-10

### ***Natural Gas***

As the EIR acknowledges, stopping the use of natural gas is critical for the transition to clean energy. (DEIR at 4.8-15.) However, the EIR incorrectly claims that it will comply with this mandate through the use of renewable biogas. (DEIR at 4.8-17.) Biogas is a false solution that creates dangerous leaks of methane—a greenhouse gas that is over 80 times more potent than CO<sub>2</sub>. (Bakkaloglu et al., 2022; Gallucci, 2023.) Methane is also an air pollutant that causes serious health problems. (Climate & Clean Air Coalition.) This Project cannot evade its responsibility to replace natural gas with clean energy through the counterproductive use of biogas or biomethane.

8-11

### ***100% Rooftop Solar***

The technology exists now to require all future building sites to install enough rooftop solar photovoltaic panels to meet 100% of projected energy needs or be built with the capacity for these panels to be added later. In order to meet its decarbonization targets, California needs to double its clean energy generation in the next decade, which will require a "record-breaking" expansion of clean energy infrastructure. (Cart, California Energy Commission). The Joint Agency SB 100 Report calls for building 2.8 GW/year of solar every year for 25 years, which is higher than the previous maximum annual build. (Joint Agencies at 116.) The biggest obstacle to increasing solar energy capacity as fast as it's needed is the large amount of flat, sunny land that solar farms require. (Groom) Building solar infrastructure across undeveloped land is an imperfect solution that hurts important ecosystems, eliminates opportunities for natural carbon sinks, and is often opposed by local residents. (Groom, Cart, Courage.)

8-12

Installing solar on the roofs of large warehouses in California is a crucial opportunity to use miles of flat, sunny space that would otherwise be wasted. The Inland Empire has an estimated 1 billion square feet of warehouse, or 37 square miles. (Calma.) A recent study found that California's 674 million square feet of big box stores could generate almost 10,000 gigawatt

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hours of energy from rooftop solar. (Huxley-Reicher et al.) Because warehouses in the Inland Empire cover much more square footage, their untapped potential is even greater than that.

Each warehouse built with the capacity to provide 100% of its own clean energy via rooftop solar brings California closer to the clean energy targets we must meet in order to avoid the most devastating effects of the climate crisis. The California Attorney General recommends that new warehouses are built with this capacity, and companies and municipalities are realizing it makes sense. (AGO 2021.) The City of Fontana already requires that every warehouse over 400,000 square feet get all its power from rooftop solar. (City of Fontana at 9-73.4) Because this is a feasible mitigation measure, the EIR must require rooftop solar to meet 100 percent of the building's energy needs.

8-12  
cont.

## II. CONCLUSION

Thank you for the opportunity to submit comments on the Draft Environmental Impact Report for the Fresno South Central Specific Plan. We urge the City to correct these errors and recirculate an EIR that complies with CEQA.

Given the possibility that the Center will be required to pursue legal remedies in order to ensure that the City complies with its legal obligations including those arising under CEQA, we would like to remind the City of its statutory duty to maintain and preserve all documents and communications that may constitute part of the “administrative record” of this proceeding. (§ 21167.6(e); *Golden Door Properties, LLC v. Superior Court* (July 30, 2020, Nos. D076605, D076924, D076993) \_\_\_ Cal.App.5th \_\_\_ [2020 Cal. App. LEXIS 710.]) The administrative record encompasses any and all documents and communications that relate to any and all actions taken by the City with respect to the Project, and includes “pretty much everything that ever came near a proposed [project] or [] the agency’s compliance with CEQA . . . .” (*County of Orange v. Superior Court* (2003) 113 Cal.App.4th 1, 8.) The administrative record further includes all correspondence, emails, and text messages sent to or received by the City’s representatives or employees, that relate to the Project, including any correspondence, emails, and text messages sent between the County’s representatives or employees and the Applicant’s representatives or employees. Maintenance and preservation of the administrative record requires that, *inter alia*, the County (1) suspend all data destruction policies; and (2) preserve all relevant hardware unless an exact replica of each file is made.


8-13

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

8-14

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Sincerely,

A handwritten signature in black ink, appearing to read "Frances Tinney". The signature is stylized with a large "F" and a long, sweeping underline.

Frances Tinney  
Attorney  
1212 Broadway, Suite #800  
Oakland, CA 94612  
Tel: (509) 432-9256  
ftinney@biologicaldiversity.org

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## **Letter 8      Center for Biological Diversity**

### **Frances Tinney, Attorney**

7/7/24

#### **Response 8-1**

The comment consists of prefatory remarks introducing detailed comments that appear later in the comment letter. The comment alleges inadequacies in specific technical topic assessments, the specifics of which are addressed in later comments. Please refer to subsequent responses to comments. The comment suggests recirculation is necessary. Please refer to Master Response 2, Recirculation.

#### **Response 8-2**

Comment provides a summary of climate change impacts and legislative actions both Federal and State. The information provided is generally reflective of the Environmental Setting presented in Section 4.8 "Greenhouse Gas Emissions and Climate Change," on pages 4.8-5 through 4.8-7. The comment asserts that the Draft EIR fails to fully address GHG impacts and the SCSP's contribution to global climate change. The comment is introductory in nature, see below for responses to more detailed comments.

#### **Response 8-3**

The comment summarizes selected CEQA principles regarding thresholds of significance and conclusions in the face of evidence that suggest impacts may be significant despite compliance with such thresholds. CEQA Guidelines Section 15064.4 provides guidance to lead agencies for determining the significance of impacts from GHG emissions. Section 15064.4(a) provides that a lead agency will make a good-faith effort based, to the extent possible, on scientific and factual data to describe, calculate, or estimate the amount of GHG emissions resulting from a project. Section 15064.4(a) further provides that a lead agency will have the discretion to determine, within the context of a particular project, whether to quantify GHG emissions from a project or rely on qualitative analysis or performance-based standards. Pursuant to the CEQA Guidelines in Section 15064.4(a), the analysis presented herein quantifies GHG emissions resulting from anticipated development under the plan through the planning horizon of 2040, and describes, calculates, and estimates those emissions. CEQA Guidelines Section 15064.4(b) provides that when assessing the significance of impacts from GHG emissions, a lead agency should focus the analysis on the incremental contribution of the project's emissions to the effects of climate change and consider an appropriate timeframe for the project. The lead agency's analysis should reasonably reflect evolving scientific knowledge and state regulatory schemes and consider (1) the extent to which the project may increase or reduce GHG emissions compared with existing conditions, (2) whether the project's GHG emissions exceed a threshold of significance that the lead agency determines applies to the project, and (3) the extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of GHG emissions. The analysis of the potential impacts from the SCSP's contribution of GHG emissions complies with this approach.

#### **Response 8-4**

The comment asserts that the use of Appendix D of the *2022 Scoping Plan to Achieve Carbon Neutrality* (2022 Scoping Plan) is not a suitable threshold for determining the significance of the SCSP's climate change impacts. On page 4.8-14, the Draft EIR discloses that the project design features of Appendix D are most applicable to residential and mixed-use commercial development. However, the Draft EIR's use of the 2022 Scoping Plan is considered a much more stringent threshold for evaluating the SCSP's climate change significance as compared to other available thresholds of significance. For example, other air districts within the state (e.g., the Sacramento Metropolitan Air Quality Management District [SMAQMD]) have adopted numerical stationary source threshold of significance. SMAQMD's recommends that stationary sources be compared to a bright-line threshold of 10,000 MTCO<sub>2</sub>e/year. This emissions level is derived from the reporting requirements of the State's Cap-and-Trade Program, which targets emissions from the largest sources of GHGs and air pollution in the state and is considered a suitable threshold for evaluated a stationary source (i.e., industrial) of pollution. While it is foreseeable that industrial development under the SCSP could be considered a stationary source covered by the Cap-and-Trade Program, at this programmatic



level, it is unclear what kind of industrial development would be constructed; therefore, this bright-line threshold was not applied to the project. Moreover, this threshold is intended to apply to singular projects, not plans.

As explained on page 4.8-9, given the lack of an applicable threshold consistent with the state's long-term GHG goals beyond 2030 and the lack of an applicable adopted local plan for the reduction of GHGs consistent with CEQA Guidelines Section 15183.5 with targets extending beyond 2035, the proposed plan's GHG emissions are evaluated using the following approach as suggested by CARB in Appendix D of the 2022 Scoping Plan. GHG emissions that would be generated by development under the proposed plan are evaluated for each major emission sector identified by the 2022 Scoping Plan as primary focus areas that local development can address. Also stated on page 4.8-10, the proposed plan is programmatic in nature and would govern individual development projects. The policies included in the proposed plan meant to reduce GHG emissions, as well as the mitigation measures recommended, would be applied to future development projects once specific land use proposals have been developed. This analysis in Section 4.8 is intended to provide applicable mitigation that may be applied at the project level to ensure that future projects constructed within the purview of the proposed plan contribute their fair share in assisting the state in meeting its long-term GHG reduction goals as outlined in the 2022 Scoping Plan.

The comment does not provide a recommendation for an alternative threshold, nor substantial evidence to support such an alternative. No edits to the Draft EIR are needed and no further response is required.

#### **Response 8-5**

The comment states that the VMT analysis is erroneous and that the qualitative approach taken in Section 4.8, "Greenhouse Gas Emissions and Climate Change," is an incorrect categorization. The approach taken in Section 4.8 is considered qualitative in nature with substantiation provided in a quantitative manner. The comment asserts that statements made indicating that the SCSP's contribution of new employment opportunities to the plan area would reduce employment travel distances is an unsupported assertion. Section 4.8 incorporates in its modeling and analysis the TIA prepared for the SCSP authored by TJKM. The threshold guidance for VMT is referenced in the DEIR under the City of Fresno's SB 743 VMT guidelines. The SCSP would result in a less-than-significant VMT impact if the project-generated VMT per capita, VMT per employee, or VMT per service population would be lower than the no project horizon year VMT per capita, VMT per employee, or VMT per service population. SCSPVMT was modeled using the FresnoCOG activity-based travel demand model (ABM) and it was determined that the VMT per Service Population would decrease from 46.44 to 29.87 in the horizon year. Therefore, the project's VMT impact would be less than significant.

#### **Response 8-6**

The comment takes issue with the EIR's statement that the proposed plan would result in a 33 percent decrease in VMT. The comment asserts that Section 4.8 does not provide a citation for this determination, which is incorrect. In the first paragraph of page 4.8-16 the reader is directed to Section 4.15, "Transportation," which does not violate CEQA precedent. As stated throughout Section 4.15, "Transportation," on pages 4.15-15 and 4.15-16 as well as summarized in Table 4.15-1, based on the TIA prepared for the SCSP, VMT per service population would result in 33 percent decrease in 2035 as compared to 2015 existing conditions. The TIA prepared by TJKM is clearly cited Section 4.15, included in Chapter 9, "References," and submitted as a part of the administrative record.

The decrease in VMT is partially the result of the proposed land use mix within the Plan Area, but is also affected by the fact that the Plan Area would be a major employment center. Although the proposed plan would only increase residential uses by 91 dwelling units, it would create increased employment opportunities through the implementation of industrial and commercial development leading to improved proximity between the jobs in the Plan Area and surrounding housing by shortening driving distance and, therefore, reducing VMT. See response to comment 8-5 above for additional information pertaining to the VMT approach taken in the TIA. The SCSP's VMT impact is less than significant because the horizon year scenario VMT with project is lower than the horizon year scenario VMT without the project. The SCSP includes both residential and nonresidential uses, so by definition it is a mixed use project that would result in a synergy between housing and jobs, therefore, reducing the distance traveled between home and work and other destinations.

**Response 8-7**

The comment asserts that the VMT analysis in Section 3.8 ignores VMT from heavy-duty trucks. The TIA prepared for the project provides an estimate of VMT associated with passenger and light-duty trucks. While the Draft EIR concludes that VMT associated with passenger and light-duty trucks would result in a less than significant impact, the Draft EIR does not avoid addressing the potential increase in air pollution or GHG emissions from heavy-duty vehicle movement nor does it proclaim that trucks trips would not cause a significant GHG impact. In reality, Section 4.3, "Air Quality," identifies robust and stringent mitigation (i.e., Mitigation Measure 4.3-1h and 4.3-1i) which establishes requirements for the transition to 100 percent zero or near-zero for Class 7 and 8 trucks December 31, 2026 and 100 percent zero and near-zero for Class 2 through 6 trucks by December 31, 2024. Mitigation Measure 4.3-1h and 4.3-1i is incorporated by reference in Section 4.8 to reduce GHG impacts from this emissions sector.

In addition, The SCSP is a land use plan; therefore, project-specific details related to subsequent projects proposed in the SCSP area are not known at this time. Impacts from heavy trucks for individual projects proposed in the plan area would be analyzed separately as detailed development plans are proposed. Additionally, if the plan considers GHG impacts from trucks traveling from other areas outside of the plan area, then the impacts would be double counted because impacts from incoming trucks would have been analyzed separately from their origin. The total number of heavy duty truck trips that the SCSP would generate falls within a range. While an estimate can be provided (i.e., 10 percent of 72,241 total trips), the final number of heavy trucks would need to be determined based on individual project details. Subsequent projects associated with the SCSP would be required to undergo environmental review at the project level as they are proposed.

**Response 8-8**

The comment alleges that the mitigation measures recommended in the Draft EIR are "weak" and "vague" and fall short of best practices, citing the Fontana Ordinance No. 18914 and the Attorney General's "Warehouse Projects: Best Practices and Mitigation Measures to Comply with CEQA" document. Contrary to the allegation, Draft EIR mitigation measures are rigorous, enforceable, and directly address identified significant impacts. They fully comply with the requirements for mitigation set forth in the State CEQA Guidelines, Section 15126.4. See response to comment 7-11 for a summary of the text modifications to Mitigation Measure 4.3-3c.

**Response 8-9**

The comment states that Mitigation Measure 4.3-1e's (*sic*) (the comment incorrectly sites Mitigation Measure 4.3-1f) requirement to minimize idling time to 5 minutes within the SCSP is required by law and in conflict with the Attorney General's recommendation of 3 minutes (*sic*) (the comment incorrectly cites a 2-minute limit). In response to this comment and the passage of AB 98, the language of Mitigation Measure 4.3-1e on page 4.3-22 has been amended as follows:

**Mitigation Measure 4.3-1e: Implement Exhaust Control Measures**

To reduce impacts from construction-related exhaust emissions, for all construction activities occurring from projects under the proposed plan, construction contractors shall implement the following measures, as recommended by the Sacramento Metropolitan Air Quality Management District, among other air districts:

- ▶ Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 3 minutes, ~~{[CCR Title 13, Sections 2449(d)(3) and 2485]}~~ as enforced by an identified compliance officer within the construction crew. Idling restrictions shall be enforced by highly visible posting at the site entry, posting at other on-site locations frequented by truck drivers, conspicuous inclusion in employee training and guidance material and owner, operator or tenant direct action as required.
- ▶ Maintain construction equipment and provide current certificate(s) of compliance for CARB's In-Use Off-Road Diesel-Fueled Fleets Regulation [CCR Title 13, Sections 2449 and 2449.1] to SJVAPCD.

- Maintain all construction equipment in proper working condition according to manufacturer's specifications. The equipment must be checked by a certified mechanic and determined to be running in proper condition before it is operated. Documentation of a certified mechanic's inspection and determinations shall be maintained by the Construction Manager and available for City inspection upon reasonable request.

This shall be enforced by the City.

The text revisions above do not alter the findings of the Draft EIR, and no further response is required.

#### **Response 8-10**

The comment states that Mitigation Measure 4.3-1f's requirement to use low-VOC content architectural coatings falls short of the recommendation of the Attorney General. The comment infers that low-VOC means of 50 grams per liter (g/l) or less, although Mitigation Measure 4.3-1f does not define low-VOC. In response to this comment, the language of Mitigation Measure 4.3-1f has been revised as follows on page 4.3-22 for additional clarity.

#### **Mitigation Measure 4.3-1f: Reduce Emissions from Architectural Coatings**

During construction, to reduce impacts from construction-related ROG emissions leading to ozone formation, for all construction activities occurring from development under the proposed plan, construction contractors shall use low-VOC (i.e., ROG) coatings (no greater than 10 grams per liter) beyond SJVAPCD's mandatory requirement (i.e., Regulation VIII, Rule 3, "Architectural Coatings"). This shall be enforced by the City with verification by SJVAPCD.

The text revisions above do not alter the findings of the Draft EIR, and no further response is required.

#### **Response 8-11**

The comment asserts that the Draft EIR's recommendation through Mitigation Measure 4.6-1c to procure renewable natural gas is not a solution to reduce GHG emissions. The comment does not provide a citation or substantial evidence for a reasonable substitute for industrial processes that require natural gas. At present, industrial processes are reliant upon natural gas to facilitate smelting and manufacturing processes that require temperatures that cannot be obtained from electricity. The comment correctly states that methane has a greater global warming potential as compared to carbon dioxide and can cause adverse health outcomes from exposure; however, Mitigation Measure 4.6-1c would generate increased demand for renewable natural gas that can be obtained from wastewater treatment facilities, dairy farms, and composting facilities. Fugitive methane that would otherwise not be captured from these facility operations would be avoided. Moreover, the requirement to source natural gas from renewable sources would decrease demand for fossil natural gas, thus avoiding the release of fugitive methane from extraction activities. While the combustion of renewable natural gas would generate similar emissions as conventional fossil natural gas, Mitigation Measure 4.6-1c would reduce indirect, upstream emissions of fugitive fossil methane and fugitive methane from organic waste sources by requiring the use of renewable natural gas. Human exposure to fugitive methane could also be reduced or avoided. No edits to the Draft EIR are needed, and no further response is required.

#### **Response 8-12**

The comment recommends that future commercial and industrial development under the SCSP procure 100 percent of its electricity from on-site renewable sources, providing sources from the Attorney General and the City of Fontana. While it may be feasible in the future for commercial development to be sourced from 100 percent renewable energy, the City does not consider this to be a feasible mitigation measure now given the high electricity demand generated from typical commercial and industrial development. Moreover, at this programmatic level, it is uncertain what types of commercial or industrial development may become operational within the SCSP. Electricity demand varies depending on land use type, and the feasibility of requiring a uniform 100 percent target of renewable energy generation for each future land use type cannot be assured at this time (Energy Star No Date). Future logistics centers that may become operational within the SCSP would also be required to comply with the measures of AB 98, which include on-site renewable requirements. No edits to the Draft EIR are needed, and no further response is required.



**Response 8-13**

The comment reminds the City of its statutory duty to maintain and preserve the administrative record. The City appreciates the comment.

**Response 8-14**

The comment request that the Center to the notification list for this project. The City will ensure that Center for Biological Diversity continues to receive all notifications for this project.



Letter  
9

July 30, 2024

Submitted via email  
[scsp@fresno.gov](mailto:scsp@fresno.gov)

Attention: Sophia Pagoulatos, Planning Manager  
City of Fresno  
Planning and Development Department  
2600 Fresno Street, Room 3065  
Fresno, CA 93721

**RE: Comments in Response to the Draft South Central Specific Plan**

Dear Ms. Pagoulatos,

The undersigned organizations and community members are writing to provide comments to the draft South Central Specific Plan (SCSP). The expansive industrial development proposed in the SCSP will have detrimental consequences in an already overburdened community while also denying the community of the amenities it needs to thrive. The City of Fresno must reassess the recommendations that it will receive and has received from community stakeholders and update the plan to conform with local and state policy goals and mandates and usher in a healthy and robust future for South Central Fresno.

9-1

**I. The South Central Specific Plan Area and Surrounding Neighborhoods Already Suffer Disproportionate Environmental Burdens**

The SCSP area encompasses and extends up to large swaths of Southwest, South Central, and Southeast Fresno which are home to various communities and neighborhoods and thousands of people. These neighborhoods include Calwa, Malaga Daleville, the Flamingo Mobile Home Park, the Roy and Almy Avenue neighborhoods in West Fresno, the neighborhood along Britten Avenue, the neighborhood located at Drummond and Jensen Avenues in Southeast Fresno, among others, as well as elementary schools, religious facilities, parks, and other sensitive community locations. These neighborhoods are amongst the most environmentally burdened in the entire State of California according to California Environmental Protection's (EPA) CalEnviroScreen 4.0 tool (Attachment 1 CES 4.0 Results Data Dictionary). In fact, the most socio-economically and environmentally burdened census tract in the 8,057 census tracts in California is found in the City of Fresno within the boundary lines of the SCSP. (Attachment 2

9-2

CES 4.0 Map of census tract 6019001100). The rest of the census tracts within the boundary lines are all found in the top 5% of CalEnviroScreen's most impacted census tracts across California (see attachment 1). Even further specific evidence has been documented in the recent results of UC Merced's Health Impact Assessment whose data shows that there are high rates of chronic health conditions correlating with the proximity to truck routes and high polluting sources.<sup>1</sup>

9-2  
cont.

Despite well-documented data demonstrating such disproportionate impact and repeated oral and written comments by community residents living within the plan area, the City proposes a plan that will further exacerbate and entrench environmental impacts.

## **II. The Draft South Central Specific Plan Will Increase Health and Safety Risks for Residents of the Specific Plan Area**

The draft South Central Specific Plan would continue to facilitate and concentrate intensive and industrial land uses in the SCSP neighborhoods and its implementation will intensify truck traffic, including heavy-duty diesel truck traffic. Additionally, proposed development standards, encompassed in a draft overlay zone, are insufficient to protect sensitive receptors from the deluge of industrial uses and trucks. Industrial uses exacerbate health, safety, and the quality of life in the already overburdened South Central planning area. Some of the impacts of industrial development include pedestrian, bike and road safety, air pollution from diesel and gas combustion along with emissions from breaking and tire deterioration, vibration and noise of passing trucks; light pollution throughout the night interrupting sleep and well-being, and groundwater depletion and degradation.

9-3

### **A. Implementation of The South Central Specific Plan Will Increase Industrial Uses In Areas Zoned Industrial, Business Park, and Even General Commercial**

The Draft SCSP, as currently drafted, will facilitate significant increases in intense and polluting uses near and impacting sensitive receptors. For instance, despite an apparent shift from Industrial Zones to Business Parks and Regional Business Parks throughout much of the plan area, Business Park and Regional Business Park allow for many - if not most - of the uses allowed in industrial areas including but not limited to warehousing and other facilities that attract truck traffic. Business Park and / or Regional Business Park allows for construction and material yards, custom manufacturing, limited industrial uses, indoor warehousing and storage, outdoor storage, personal storage, wholesaling and distribution, freight / truck terminals and warehouses, light fleet-based services, and agricultural processing.<sup>2</sup> These uses will intensify and

9-4

<sup>1</sup> Fresno Community Environmental Health Impact Assessment: <https://clc.ucmerced.edu/publications>

increase pollution and nuisance in the overburdened neighborhood.

Even the General Commercial Zone will allow for uses that are not appropriate for areas adjacent to sensitive receptors. On page 58 of the draft SCSP, it states that “The Commercial - General designation allows for a wide range of commercial uses *that are not appropriate in other areas because of higher volumes of vehicle traffic and potential adverse impacts on other uses*. Examples of allowable uses include: building materials, storage facilities with active storefronts, equipment rental, wholesale businesses, and specialized retail not normally found in shopping centers.” Some of the more intensive uses General Commercial zoning allows include such as building materials and services, construction and material yards, and communications facilities within buildings. Such uses are not allowed in zones more appropriate for residential neighborhoods including Neighborhood Mixed Use.

9-4  
cont.

#### **B. Truck Traffic in the Plan Area Will Intensify with Implementation of the Plan**

The Draft SCSP acknowledges increased traffic as a result of plan implementation but does not identify what share of that increase will be due to heavy duty trucks. The truth is that plan implementation will significantly increase truck traffic by facilitating uses that rely on heavy duty trucks. The Draft SCSP relies on a truck reroute study that is currently pending before City Council. Not only has that reroute study not been adopted, but it will also be an inadequate tool - if adopted - to protect the South Central Plan area from truck traffic, pollution from trucks, and the safety impacts of truck traffic.

9-5

It is notable - and of great concern - that the Truck Reroute study identifies truck regulated areas designed to limit throughway truck traffic on neighborhood roads - a designation that eludes the vast majority of the South Central planning area. This raises the concern that the truck reroute study will actually push truck traffic to the South Central neighborhoods and leave them even more vulnerable to the impacts of trucks - both those with starting points or end points in the plan area, or those using its roads as thoroughfares. While one important road - Cherry Avenue from Central Avenue to North Avenue - will not be a truck route, sensitive receptors along that route will still be subject to heavy duty truck traffic that services use on or near that road. In short, the truck reroute study, if adopted, will not protect the residents and students who live, play, and study in the South Central planning area from increased truck traffic that implementation of the plan will attract.

It also bears noting that the Truck Reroute Study fails to follow the recommendations of the accompanying UC Merced Health Impact Assessment which called for at least a 1,000 foot

9-6

<sup>2</sup> Agricultural processing would require a conditional use permit in Regional Business Park and Business Park zones.

buffer between sensitive receptors and diesel trucks.<sup>3</sup> Implementation of the South Central Specific Plan, even with incorporation of the truck reroute study, will guarantee intensification of truck traffic within 1,000 feet of sensitive receptors throughout the plan area.

9-6  
cont.

### **C. The Development Standards in the South Central Specific Plan Will Not Protect Sensitive Receptors from Industrial Land Uses.**

The Draft SCSP includes a proposed overlay zone that will require certain protections and standards to protect sensitive receptors from industrial land uses. Unfortunately, the overlay zone is unclear and ambiguous in parts and does not provide or require the necessary protections to ensure that industrial land uses will not hurt the people living, working, playing, studying, and praying in the SCSP area. Most notably, the proposed overlay zone purports to create a buffer between industrial and otherwise intense land uses and sensitive receptors. The buffer will not do that as it will not preclude warehouses and other industrial uses from nearly neighboring homes and other sensitive receptors. The overlay policies and the buffer zone in particular merely create an illusion of protection, similar to the shift from industrial zoning to business park.

9-7

#### **1. The Proposed Overlay Zone is Unclear and Ambiguous**

The Draft Overlay Zone includes three categories - (1) prohibited uses, (2) uses that are not allowed within 1,000 feet of a sensitive receptor, and (3) uses that are allowed within 1,000 feet of a sensitive receptor subject to some conditions, most notably a conditional use permit. The Overlay Zone will not lead to better protections of the residents in the South Central communities because the language of the draft SCSP ensures that there are loopholes to benefit industrial stakeholders so that their planning projects can continue in the same destructive patterns that impact the residents.

9-8

#### ***a. The proposed overlay zone does not appear to address all industrial land uses allowed in the SCSP area***

Several allowable land uses in the Industrial and Business Park zones are not included in the list of prohibited uses, uses that cannot be within 1,000 feet of a sensitive receptor, or allowed within 1,000 feet but subject to a conditional use permit. General Industrial, for example, is allowed in industrial zones however it is not included in any of the three categories. Similarly Intense Industrial is allowed in Heavy Industrial zones but is not included in any of the categories identified in the plan. Agricultural processing as well is allowed in Industrial and Business Park zones but it is not included in any of the three categories. It is unclear if these and

9-9

<sup>3</sup> Fresno Community Environmental Health Impact Assessment: <https://clc.ucmerced.edu/publications>

other industrial uses that are allowed in industrial and business park zones will be subject to any of the requirements in the overlay zone.

9-9  
cont.

***b. It is unclear how uses that fall in “Category 3” will be treated if they do not meet the conditions required by “Category 3”***

Several uses are listed in category 3 (uses that can be within 1,000 feet of a sensitive receptor but that require a Conditional Use Permit) are subject to other requirements. It is unclear what rules would apply to those uses if they did not meet the identified requirements, i.e. CARB criteria for zero or near zero emissions. Would these uses be allowed beyond 1,000 feet from a sensitive receptor? Would they simply not be allowed? The development standards are unclear and confusing with respect to several of these uses, including warehousing uses, in category 3.

9-10

***c. The SCSP does not define or accurately describe what criteria near zero or zero emission facilities must meet***

The SCSP notes that three types of warehousing, storage, and distribution uses are allowed within the proposed 1,000 feet “buffer” around sensitive uses as long as these uses meet CARB criteria for near zero or zero emission facilities, as defined in CA Sustainable Freight Action Plan (July 2016). However, the state’s Sustainable Freight Action Plan does not appear to include a list of criteria for facilities to be considered zero emission or near-zero emission and neither the SCSP nor the accompanying DEIR provide any details about the required criteria. Thus, the public and decision-makers have no way of understanding how uses would qualify as “zero or near-zero facilities,” reduce emissions, or compare to other warehouses. Moreover, the California Sustainable Freight Action Plan does not define the term “near- zero” so it remains unclear what the SCSP’s use of the term even means and how it can be verified.

9-11

***d. The SCSP recommends set-backs for “industrial uses” but does not define such uses***

The proposed overlay zone recommends building set back standards for industrial uses but does not provide details about what uses would be subject to this recommendation. Members of the public, developers, and even the City’s decision-makers would be left guessing what uses would be subject to the setback standards.

9-12

**2. The Proposed Overlay Zone Still Allows Intensive Industrial Uses Near Sensitive Receptors**

The Overlay Zone does not provide sufficient protection from industrial uses, other intensive land uses, or related truck traffic. It will not prevent the continued environmental

9-13



degradation of the South Central Specific Plan Area nor will it protect sensitive receptors from polluting land uses.

9-13  
cont.

***a. Several industrial and otherwise intense land uses will ostensibly be allowed near sensitive receptors***

Many industrial and otherwise intense land uses will be allowed in very close proximity to sensitive receptors. intense land uses, including but not limited to Motorcycle/Riding Club, Construction and Material Yards, Limited Industrial, Warehousing, Storage, and Distribution: Indoor Warehousing and Storage; Warehousing, Storage, and Distribution: Outdoor Storage; and Warehousing, Storage, and Distribution: and Wholesaling, Storage and Distribution will be allowed as close to 100 feet from a sensitive receptor with a CUP and with few other protections. As has been the case to date, CUPs will be routinely and summarily approved with little public oversight and not public hearing.<sup>4</sup> Areas next to sensitive receptors must be properly zoned, and the aforementioned types of classifications should not be permitted even under a CUP.

9-14

Additionally, as noted above, several uses don't fall within any of the restrictive categories included in the Overlay Zone and may be allowed within 1,000 feet of sensitive receptors. These uses include General Industrial, Intense Industrial, Agricultural Processing, Construction and Material Yards, and Building Materials and Services. These uses could intensify air, water, light, and noise pollution in addition to traffic safety concerns yet appear to be allowed as close as 100 feet from a sensitive receptor.

**3. The Proposed Overlay Zone Will not Protect People from The Impacts of Warehousing and Similar Facilities that Attract Truck Traffic**

The proposed Overlay Zone includes inadequate protections from the impacts of truck traffic servicing warehouses and other industrial uses. The development standards call for truck entries to be oriented away from sensitive receptors unless physically impossible.<sup>5</sup> There should be no such exception. If orienting entries and loading docks away from sensitive receptors is not possible, then that particular use is inappropriate. Similarly, the development standards suggest that loading docks and truck entries should be located away from sensitive receptors if feasible.<sup>6</sup> Again, there should be no such caveat. It's critical for health and safety considerations such standards be in place. Finally, the proposed development standards only require a 300 foot buffer

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<sup>4</sup> City of Fresno Code of Ordinances: Part V, Article 49, Sec. 15-4904 (J)(L). Article 50, Sec. 15-4904 (M) and Table 15-4907

<sup>5</sup> Draft SCSP pg 73

<sup>6</sup> Id

for warehouses that are larger than 400,000 square feet.<sup>7</sup> Not only is a 300 foot buffer inadequate given the impacts of truck idling and queueing on sensitive receptors, but a standard buffer should not be limited to only massive facilities.

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cont.

#### **D. The Proposed Land Use Plan Does Not Address Existing Needs Including the Need for Neighborhood Mixed Use Zoning and Parks**

The Draft SCSP fails to adequately incorporate recommendations of people who live in the plan area. Residents of the South Central neighborhoods recommended less industrial uses, but also recommended more community-serving amenities, more parks and green space, and more housing.

The Plan's allocation of land for parks falls far short of recommended park space. In fact the draft plan only designates 3 acres for a park and that land is at the far edge of the plan area, leaving the majority of the planning area far from any hope of a park or recreational space. Community members have repeatedly asked for more trees to create a better tree canopy to reduce heat island impacts. Insultingly, the development standards do not require any trees to be planted except for saplings that don't reach their maturity until 10 years later.

9-16

Despite a call for more community-serving amenities, housing, and pedestrian-friendly retail opportunities that would best be fulfilled through Neighborhood Mixed Use zoning, there is virtually no such zoning in the entire plan area. Instead the plan allocates almost all non-residential uses to industrial and business park zones along with some General Commercial zones which the draft plan itself describes on page 56 as not necessarily compatible with "other areas because of higher volumes of vehicle traffic and potential adverse impacts on other uses".

Unfortunately, despite the articulated desire for more housing and mixed use development in the area, including near Orange Center Elementary school, residents are seeing more and more land gobbled up for industrial uses, making residential development more and more untenable. This plan could reverse that harmful trend if corrected.

#### **E. The proposed land use and circulation plan does not protect the safety of pedestrians and cyclists in the plan region.**

Community residents have consistently and repeatedly voiced their concerns about the lack of safety for pedestrians and cyclists in the SCSP area as a result of significant heavy duty truck and employee traffic from distribution and industrial facilities in the plan area. In fact, the SCSP notes that "there are many locations that lack bikeways and sidewalks or that have

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<sup>7</sup> Draft SCSP pg 73 Developmental Regulation

sidewalks gaps between development” and goes on to state that “inconsistent bicycle and pedestrian networks contribute to an unsafe and uninviting environment for pedestrians and cyclists.”<sup>8</sup>

While the SCSP states that it incorporates relevant portions of multiple transportation planning documents and identifies *planned* bicycle, trail, and sidewalk networks, it completely fails to identify how planned network investments will actually be funded and fully realized. Furthermore, SCSP does not commit to or identify any actions the City will take to ensure timely implementation in the circulation or implementation chapters of the SCSP. It excuses any commitments by noting that improvements can only be made if they are feasible and within city limits with no acknowledgement to address bikeway and sidewalk infrastructure deficiencies for areas within the city's sphere of influence<sup>9</sup>.

9-17  
cont.

With respect to public transit, the SCSP points to existing transit services and planned service extension to support the North Pointe Business Park but does not analyze transit service deficiencies nor identify transit improvement for residents living within the SCSP area. Additionally, the circulation chapter discusses the Clean Shared Mobility Network, which is entirely a Southwest Fresno Specific Plan Transformative Climate Communities (TCC) project that lies within the Southwest Fresno Specific Plan and it does not infiltrate nor directly benefit South Central Fresno community members. The Clean Shared Mobility Network project should not be mentioned in the SCSP unless the City plans and commits to duplicate the project and its benefits of a mobility network within the community of South Central. To state that this Clean Shared Mobility Network adjoins the SCSP as if it will benefit South Central is a farce because none of the project's services are within the SCSP area.

9-18

With respect to traffic calming, the SCSP offers no analysis as to the traffic calming needs of the Plan area to protect pedestrians and bicyclists, The SCSP only proposes the City should consider traffic claiming studies and to seek funding for traffic calming *studies after* the SCSP is adopted which is unacceptable.

9-19

Insultingly, the circulation chapter identifies construction of the SR 99 South Fresno Corridor on American and North Avenues as a project that will improve traffic operations and safety at the interchanges and on intersecting and nearby local streets resulting in lower air emissions on the local road system and improved access for businesses in the Plan Area.<sup>10</sup> Community opposition to the SR 99 South Fresno Corridor project is well documented and residents have repeatedly called on the local, state, and federal agencies to rescind project approval due to significant air quality impacts of the proposed project. Most recently, public

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<sup>8</sup> Draft SCSP, page 81

<sup>9</sup> Draft SCSP, page 81

<sup>10</sup> Draft SCSP, page 93

comments were submitted to the Federal Highways Administration documenting the disastrous impacts to the health and well being of South Fresno neighborhoods, including those within the SCSP area, should the project move forward. Those comments are incorporated herein (and included as Attachment 3).

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cont.

Lastly, as noted in Section II. B of our comments, the truck reroute study is inadequate and truck traffic will intensify in the SCSP area.

9-21

#### **F. Implementation of the Plan's Policy Framework is Unclear and Ambiguous**

The policy and implementation framework found in Chapters 3 and 8 of the draft plan fail to include enforceable, timely, and meaningful policies and implementation actions. Proposed policies across categories are vague, unenforceable, and will not result in reduced pollution exposures near sensitive receptors in the Plan Area. A few notable examples include:

*T-6 - Help school districts implement a "safe routes to school: " program;*

*T-7 Build, repair, and maintain roads in good conditions;*

*T-12 Consider a funding mechanism to pre-fund infrastructure improvements, prior to allowing development to occur;*

*AQ-2 Request additional 24-hour air monitors from the San Joaquin Valley Air Pollution Control District around distributions centers, major roads near distributions centers, and at receptive school districts;*

9-22

*N-2 Identify noise-impacted areas in the Plan Area;*

*EGB-3 Encourage installation of solar panels, battery storage, and zero-emission backup electricity generators at distribution centers;*

*W-2 Implement a periodic water quality testing program in areas where contamination has been an issue;*

*W-6 Seek funding to expand water facilities to neighbors within the Plan Area;*

*E-10 Prioritize hiring local residents;*

*PN-1 Establish new noticing requirements for all project types;*

*CBD-1 Consider a Community Benefit Fund to pay for measures such as air filtration systems, dual-paned windows, parks, job training programs, and job fairs near the Plan Areas.*

Several of the proposed policies mentioned above fail to include a timeline for implementation, identify responsible city departments, identify secured funding sources to implement, and a plan for enforcement. Additionally, the SCSP states that “implementations of policies are subject to available resources, staff capacity and availability, funding, and priorities of decision makers among other things”<sup>11</sup>, thereby rendering proposed policies and implementation actions meaningless.

9-22  
cont.

### **III. The Draft South Central Specific Plan is Inconsistent with Local and State Policy Goals and Mandates**

#### **A. The SCSP is Inconsistent with the Goals, Strategies, and Overall Intent of the AB 617 South Central Fresno Community Emission Reduction Plan**

AB 617 initiated a state-wide effort to monitor and reduce air pollution, and improve public health, in communities that experience disproportionate burdens from exposure to air pollutants through new community-focused and community-driven actions.<sup>12</sup> After an extensive public engagement process and the San Joaquin Valley Air Pollution Control District’s (Air District) own comprehensive identification and prioritization analysis, the South Central Fresno neighborhood was recommended by the Air District Governing Board and selected by the California Air Resources Board (CARB) as a first-year community for the development of a community air monitoring plan and emission reduction plan to reduce pollution impacts due to the area’s high cumulative air pollution exposure burden.<sup>13</sup> The SCSP area is within the boundaries of the AB 617 South Central Fresno Region and thus subject to the goals and strategies within the adopted community emission reduction plan (CERP). (Please find included as Attachment 4 a map showing the boundaries of the City of Fresno, the boundaries of the City of Fresno’s sphere of influence, the boundaries of the AB 617 South Central Fresno Region, and the boundaries of the South Central Specific Plan)

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As noted in the CERP, top community sources of concern include heavy duty trucks, land use and industrial development, and industrial processing in the plan area.<sup>14</sup> To address these concerns, the CERP includes several strategies intended to reduce high cumulative air

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<sup>11</sup> Draft SCSP, page 135

<sup>12</sup> 2019 South Central Fresno Community Emission Reduction Plan  
<https://community.valleyair.org/media/kx2gz0h4/01finalscfresnocerp-9-19-19.pdf>

<sup>13</sup> 2019 South Central Fresno Community Emission Reduction Plan  
<https://community.valleyair.org/media/kx2gz0h4/01finalscfresnocerp-9-19-19.pdf>

<sup>14</sup> 2019 South Central Fresno Community Emission Reduction Plan  
<https://community.valleyair.org/media/kx2gz0h4/01finalscfresnocerp-9-19-19.pdf>



pollution exposure including but not limited to incentive programs for heavy duty truck replacement with zero and near zero emission technology; reducing idling of heavy duty trucks within the community; installation of electric charging infrastructure at distribution center, warehouse, and other types of freight facilities where heavy duty diesel trucks are loaded or unloaded; a heavy duty truck rerouting study which is now pending before the city; supporting projects that reduce vehicle miles traveled to promote active transportation and increase the walkability of community neighborhoods; increased coordination with the City and County on land use planning, permitting and CEQA processes to minimize impact on air quality; increased urban greening and forestry to improve air quality; and installation of vegetative barriers around and near sources of concern.<sup>15</sup>

9-24  
cont.

The CERP is unequivocal that its purpose is to reduce pollution in the designated south Fresno area. While the Air District leads CERP implementation, the City has a critical role in supporting CERP implementation and emission reduction. As noted above, the proposed land uses and development standards in the draft SCSP will facilitate significant increases in intense and polluting uses near and impacting sensitive receptors within the AB 617 South Central Fresno region thereby undermining community-led, SJVAPCD, and CARB efforts to improve air quality and reduce pollution exposure in the region.

#### **B. The SCSP is Inconsistent with the Goals and Projects of the City of Fresno's Transform Fresno Initiative.**

In 2016, the City of Fresno was awarded a \$70 million Transformative Climate Community (TCC) program grant by the California Strategic Growth Council for Southwest, Downtown and Chinatown areas of Fresno. AB 2722, which created the TCC program, calls for investment in areas that have a high proportion of census tracts identified as disadvantaged communities and that focus on communities that are most disadvantaged.<sup>16</sup> The goals of the TCC program are to invest in community-led climate resilience projects in California's most disadvantaged communities. The program aims to achieve these goals through a combination of community-driven climate projects to improve public health and the environment, to strengthen the economy through community serving projects, and to reduce greenhouse gas emissions<sup>17</sup>.

9-25

A historic and unprecedented participatory process led to the identification of a series of projects that would result in significant environmental and economic benefits to the Chinatown,

<sup>15</sup> 2019 South Central Fresno Community Emission Reduction Plan, pp 46- 126  
<https://community.valleyair.org/media/kx2gz0h4/01finalscfresnocerp-9-19-19.pdf>

<sup>16</sup> Bill Text: AB 2722 Transformative Climate Communities, Chapter 371, Section 1 Part 4 of Section 75240 of Division 44 of the Public Resources Code

<sup>17</sup> Transformative Climate Communities Fact Sheet: [https://sgc.ca.gov/grant-programs/tcc/docs/20231218-TCC\\_Fact\\_Sheet.pdf](https://sgc.ca.gov/grant-programs/tcc/docs/20231218-TCC_Fact_Sheet.pdf)



Downtown, and Southwest Fresno neighborhoods.<sup>18</sup> Funded projects and programs include but are not limited to clean mobility options, urban greening and increased park space, infrastructure to support neighborhood serving amenities, community gardens, affordable housing, and rooftop solar – all intended to provide environmental and health benefits to communities most disproportionately impacted and reduce greenhouse gasses.<sup>19</sup>

The Transform Fresno investment area is within the AB 617 South Central Fresno boundary and adjacent to the SCSP area. Combined with strategies in the South Central Fresno CERP, Transform Fresno seeks to improve environmental and health conditions in the very same neighborhoods that will be negatively impacted by the SCSP. Air quality knows no boundaries, and if approved as is, the SCSP will also undermine local and state efforts to build community and climate resilience.

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cont.

### **C. The Plan Fails to Adhere to the Mandates of the City of Fresno’s Resolution Calling for the Development of the Plan**

On November 14, 2019, the Fresno City Council passed resolution 2019-23 directing City staff to develop land use designations, zoning, and policies to protect sensitive uses in the SCSP area from the impacts of industrial development and to engage in other planning activities to ensure the extension of essential infrastructure and services to unincorporated SCSP neighborhoods in the City’s development trajectory and engage residents’ in crafting economic development strategies and policies reflective of residents’ priorities for economic mobility and business investment in local communities (Attachment 5: Resolution 2019-235). Specifically, the resolution provides that the City “wishes to obtain input from residents” “to develop a vision, land use changes, and policies that...avoid and minimize impacts to existing sensitive land uses from new development and ensure a decent quality of life and a healthy environment for residents of existing neighborhoods and communities within and near the [SCSP area].” p. 2. The resolution repeatedly emphasizes the City’s intention that SCSP residents inform the SCSP’s policies and land use designations, stating that the plan’s land use policies should be “reflective of community input,” and that residents and stakeholders “shall inform the [SCSP] to the greatest extent feasible, through an inclusive community engagement process.” p. 2.

9-26

The SCSP does not conform with the mandates outlined in the City’s own resolution.

### **1. The SCSP Does not Adequately Reduce Intensity of land uses or Include New Land Use Designations**

9-27

<sup>18</sup> <https://www.transformfresno.com/about/>

<sup>19</sup> <https://www.transformfresno.com/projects/>

The plan is also not aligned with Resolution 2019-235, which states that the SCSP plan incorporates reductions in the zoning intensity near sensitive uses to provide buffers to protect sensitive uses from adverse impacts from more intense land uses in a manner that reflects stakeholder input. The resolution also states that the Mayor and city council desire new land use designations, policies and implementation actions specific to the plan area, and incorporate relevant environmental mitigation measures reflective of community input and the analysis prepared for the Environmental Impact Review.

9-27  
cont.

The reduction in zoning from Heavy or Light Industrial to Regional and Business Park which would still allow intense industrial and polluting uses does not meet this required component of the resolution for the reasons noted above. Furthermore, the plan contains no new land use designations that would reduce pollution impact and intensity of industrial uses, invest in neighborhood serving amenities and services, and promote pedestrian safety and walkability as repeatedly requested by community residents throughout the plan development process.

## **2. The Draft SCSP Does Not Adequately Incorporate Input From Community-based Stakeholders**

Resolution 2019-235 also states that the SCSP must be informed by stakeholder input. And yet the Draft SCSP largely ignores many of the priorities and recommendations community members raised.

Community members recommended a significant reduction in industrial land uses. The Draft SCSP largely ignores this recommendation, instead swapping in Business Park for Industrial zones which allow many of the same polluting uses. If anything, this change misleads and misinforms community stakeholders rather than incorporating the recommendations. For reduced industrial uses.

9-28

Community stakeholders also recommended increased housing and neighborhood mixed uses zonings to address the need for housing and neighborhood serving retail. Unfortunately, the draft plan provides virtually no Neighborhood Mixed Use.

Finally, community members recommended additional park space and walking and biking paths. The Draft SCSP falls far short of providing land requisite to address the need for parks in the neighborhood and fails to make the necessary commitments to update pedestrian and bike safety and infrastructure.

In short, the City failed to live up to its mandate to incorporate stakeholder input - or at least community input - into the Draft SCSP.

#### **D. The Draft SCSP Fails to Align with the City of Fresno’s General Plan Goals and Policies**

The ongoing industrialization of the the SCSP area contradicts and is not in alignment with the General Plan’s goals of promoting healthy communities<sup>20</sup> and improving public health and safety.<sup>21</sup> The draft SCSP is also not in alignment with the General Plan’s Environmental Justice Goal A which states that, “...related to land use planning... ensure new developments do not disproportionately burden disadvantaged communities. To ensure the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation and enforcement of environmental laws, regulations and policies do not disproportionately impact any individual race, any culture, income or education level.”<sup>22</sup>

9-29

#### **IV. Recommendations**

##### **A. Ensure Effective Public Engagement in The Development of the Final SCSP**

Despite the City’s own call for ongoing community engagement in the development of the SCSP (through Resolution 2019-235) the City failed to meaningfully engage impacted people and seek feedback on the Draft SCSP. We are hopeful that the City incorporates all of the substantive changes recommended below, but regardless, more engagement will be necessary before plan adoption to ensure inclusion of all impacted neighborhoods.

9-30

##### **B. Recommended Changes to the Draft South Central Specific Plan**

The City should redraft the SCSP based on recommendations included in the Community Plan Alternative, included in additional community engagement as recommended above, and included herein to promote health, safety, equitable access to amenities, and to align with City and State policies and mandates. We’ve summarized the recommendations below and look forward to working with you to incorporate and implement the following land use and policy changes.

9-31

<sup>20</sup> Draft SCSP, page 13, goal number 9

<sup>21</sup> Draft SCSP, page 15, goal number 15

<sup>22</sup> Id.

We recommend the following changes to the Land Use Map to ensure that sensitive receptors are protected from some of the harshest impacts of increased industrialization and intensification of land use:

- Eliminate Industrial Zoned Land within one half mile of sensitive receptors or land zoned for sensitive receptors
- Shift Industrial Zoned Land to Business Park, Commercial General or Neighborhood Mixed Use subject to the recommendations below
- Change land that is currently zoned General Commercial to Neighborhood Mixed Use in areas that would allow a half mile buffer between the NMX use and existing industrial uses
- Change land that is currently zoned Industrial or Business Park to Neighborhood Mixed Use in areas that would allow a half mile buffer between the NMX use and industrial uses
- Increase park acreage by at least 10 acres to address the need for parks, playgrounds, and recreational areas in the plan area

9-32

We recommend inclusion of the following transportation and circulation policies:

- Eliminate truck routes that pass within 1,000 feet of sensitive receptors
- Implement UC Merced's Health Impact Assessment's recommendations of developing truck routes outside of the 1,000 foot buffer and even further away when considering more vulnerable populations; any new and future truck routes must be designed to avoid locations where people live, work and play.
- Set enforceable timelines for implementation of pedestrian safety plans and traffic calming measures, including but not limited to:
  - Construction of Class I bike routes
  - Construction of walking and bike paths on canal banks
  - Construction of complete streets
- Coordinate with residents and law enforcement entities to enforce truck routes and other traffic calming and traffic safety measures

9-33

We recommend the following policy changes to the proposed overlay zone:

- Prohibit intensive land uses and / or land uses that attract heavy duty truck traffic within a half mile of a sensitive receptor or an area zoned for a sensitive receptor. Such uses include but are not limited to general industrial, intense industrial, limited industrial, warehousing, service station, shooting / archery range, salvage and wrecking, freight / truck terminals and warehouses, waste transfer facility, mining and quarrying, motorcycle / riding club, construction and material yards, building materials and services, communications facilities within buildings, and agriculture processing and agricultural services.

9-34

- Require a CUP for any of the following uses in the plan area and require public notice and a public hearing prior to CUP approval: general industrial, intense industrial, limited industrial, warehousing, service station, shooting / archery range, salvage and wrecking, freight / truck terminals and warehouses, waste transfer facility, mining and quarrying, motorcycle / riding club, construction and material yards, building materials and services, communications facilities within buildings, and agriculture processing and agricultural services.
- Require that all loading docks at warehousing facilities and similar facilities are oriented away from sensitive receptors and eliminate discretion to override the requirement
- Require a half mile set-back from dock-doors to sensitive receptors
- Prohibit expansion, modification, and intensification of existing and new industrial uses in the SCSP area boundaries unless they meet all technologically feasible components of development standards laid out in the City's Development Code, including but not limited to requirements related to set-backs, landscaping, screening, ingress and egress standards, queuing standards, dock door orientation, and buffer zones.
- Require local hiring practices and standards to ensure that residents of the Planning Area and adjacent neighborhoods have access to job and career opportunities that result from plan implementation.

9-34  
cont.

We recommend that the following additional policies be incorporated into the City's Development Code upon its adoption:

- Require extension of water and wastewater service to any residents living in or adjacent to the City's sphere of influence who opt for municipal water and wastewater service
- Require fire suppression systems in businesses that pose high risk of fires including businesses that produce pallets, chemicals, and other flammable materials.
- Require businesses that pose great fire risk to provide nearby sensitive receptors with military grade gas/respirator masks for the population of school staff/faculty/ and students for emergency use during an active fire.
- Require the creation of a Community Benefit Fund (CBF) to fund home and neighborhood level improvements and facilitate job and career opportunities for residents of the plan area. Additionally, require all industrial developments to contribute funds to the CBF.

9-35

\* \* \* \*

Thank you for your consideration of these comments and recommendations. We look forward to working with you, and other stakeholders, to create a South Central Specific Plan that matches the potential of South Fresno neighborhoods to thrive.

Sincerely,

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Leadership Counsel for Justice and Accountability

Terry Hirschfield  
Superintendent, Orange Center Elementary School District

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Yolanda Torres  
The Children's Movement

Martha Sanchez  
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Cc:

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**Letter 9      Leadership Council for Justice & Accountability et al.,  
Ivanka Saunders, et al.**

7/30/24

**Response 9-1 through 9-35**

The comments pertain to the specific plan itself not to the environmental analysis or adequacy of the EIR. The comments are included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. See also Master Response 1, Comments Pertaining to the South Central Specific Plan and Master Response 6, Relationship to the Truck Reroute Study, as appropriate.



Letter  
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July 30, 2024

**Via Electronic Mail Only**

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Planning and Development Department  
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Re: Draft Environmental Impact Report For The Fresno South Central Specific Plan (SCH# 2019079022)

Dear Ms. Pagoulatos:

This firm represents the Leadership Counsel for Justice and Accountability (“Leadership Counsel”) in matters relating to the City’s South Central Specific Plan (“SCSP”, “Specific Plan”, or “Project”). The Leadership Counsel has serious concerns about the environmental impacts of the SCSP as currently proposed. The Draft Environmental Impact Report (“DEIR”) substantially understates, and fails to fully analyze, the severity and extent of the Project’s significant effects on air quality, greenhouse gas (“GHG”) emissions, public health, safety, and noise among others. In addition, the Specific Plan is inconsistent with the San Joaquin Valley Air Pollution Control District’s Program Air Basin Plan and AB 617 Implementation Program. But none of these impacts or inconsistencies of the Project can be discerned from reading the DEIR. The DEIR is thus inadequate as an informational document and violates the minimum standards of adequacy under the California Environmental Quality Act (“CEQA”), Public Resources Code § 21000 et seq., and the CEQA “Guidelines,” California Code of Regulations, title 14, § 15000 et seq.

10-1

The DEIR is deficient under CEQA for multiple reasons. As discussed in more detail below, the DEIR fails to: include an adequate description of the environmental setting or of the Project; fails to adequately analyze and propose mitigation for significant environmental impacts related to air quality, public health, climate change, public safety, and other topics; and fails to analyze the Project’s cumulative impacts in any meaningful

10-2

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way. For example, the DEIR fails to sufficiently discuss how the Project's significant unavoidable air quality impacts translate to adverse health impacts for the thousands of residents<sup>1</sup> of the South Central Fresno communities and adjacent areas. In addition, the numerous vague, voluntary, and unenforceable policies and measures relied on as mitigation in the DEIR fail to comply with CEQA, which requires enforceable, concrete commitments for mitigation. As a result, the DEIR fails to describe measures that could avoid or substantially lessen the Specific Plan's numerous significant impacts. The flaws demand that the DEIR be substantially modified and recirculated for review and comment by the public and public agencies.

10-2  
 cont.

The DEIR's failings will most directly and significantly impact low-income, disadvantaged residents and communities, especially communities of color, in South Central Fresno. The City must revise and recirculate the DEIR to provide the public an accurate assessment of the environmental issues at stake, and a mitigation strategy—developed *before* SCSP approval—that fully addresses the Project's significant impacts. The City must also take a serious look at alternatives that can better avoid or lessen most of the Project's significant impacts. The revised DEIR should include the changes to the SCSP requested in the comments submitted by the Leadership Counsel for Justice and Accountability. The proposed revisions to SCSP policies are feasible mitigation measures that can effectively reduce the Project's impacts.

10-3

This letter, along with the air quality report prepared by Patrick Sutton, Senior Environmental Engineer, Baseline Environmental, Inc. ("Baseline Report" attached as Exh. A) constitute our comments on the DEIR. Please refer to the Baseline Report for further detail and discussion of the DEIR's inadequacies with regard to air quality impacts.

10-4

**I. The DEIR's Flawed Project Description Does Not Permit Meaningful Public Review of the Project.**

Under CEQA, the inclusion in the EIR of a clear and comprehensive description of the proposed project is critical to meaningful public review. *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193 ("*Inyo II*"). The court in *Inyo II* explained why a thorough project description is necessary:

10-5

"A curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may

<sup>1</sup> <https://ww2.arb.ca.gov/our-work/programs/community-air-protection-program/communityhub-2-0/south-central-fresno>



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affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the "no project" alternative) and weigh other alternatives in the balance."

*Id.* at 192-93. Thus, "[a]n accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3d 818, 830.

Here, the DEIR fails to adequately describe aspects of the Project that are essential for the DEIR to provide a meaningful environmental analysis. In some instances, the DEIR presents an incomplete, unclear, and misleading description of allowed uses within the Plan Area. For example, the DEIR indicates that three types of warehousing, storage, and distribution uses are allowed within the proposed 1,000 feet "buffer" around sensitive uses as long as these uses "meet CARB criteria for zero emission facilities, as defined in CA Sustainable Freight Action Plan (July 2016) (sic). DEIR at 3-30. However, the SCSP states that these same uses "Must meet CARB criteria for zero or near zero emission facilities, as defined in CA Sustainable Freight Action Plan (July 2016)". SCSP at page 71; emphasis added. Therefore, the DEIR presents a description of uses that is inconsistent with the SCSP, and does not evaluate impacts from allowing "near zero emission facilities" to be located within the 1,000-foot buffer.

10-5  
cont.

Moreover, the state's Sustainable Freight Action Plan does not appear to include a list of criteria for facilities to be considered zero emission or near-zero emission and the DEIR fails to disclose any details about the required criteria. Thus, the public and decision-makers have no way of understanding how uses would qualify as "zero or near-zero facilities," reduce emissions, or compare to other warehouse. The California Sustainable Freight Action Plan does not define the term "near-zero" at all so the SCSP's use of the term begs the question as to what constitutes "near-zero emissions." This lack of clarity indicates that warehouse, storage, and distribution uses that emit pollutants will in fact be allowed within 1,000 feet of sensitive uses.

10-6

In another example, the DEIR's description of the Project fails to disclose the number of truck trips that would result from implementation of the SCSP. The DEIR makes a single reference to the fact that the plan would result in an additional 72,241 trips per day. DEIR at 4.3-29. Yet, it fails to elaborate on how many of these trips would be due to heavy duty trucks, including diesel-powered haul trucks, and how many would be automobiles. This information is important because diesel trucks create greater

10-7

<sup>2</sup> <https://ww2.arb.ca.gov/our-work/programs/california-sustainable-freight-action-plan>

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environmental impacts including more particulate matter, more traffic safety issues, significant road deterioration, and a higher level of noise.

10-7  
 cont.

The SCSP and the DEIR also present contradictory, misleading information regarding the level of protection proposed SCSP policies and standards would provide sensitive uses and residents. The SCSP states that the “Plan seeks to improve the quality of life” of residents in the Plan Area. SCSP at 40. The SCSP Guiding Principles include decreasing “land use intensity of undeveloped parcels surrounding sensitive uses” applying setback requirements for industrial uses, and “establishes being a good neighbor in part by “locating high intensity land uses away from sensitive uses.” SCSP at 40 and 41. Similarly, the DEIR states that Project characteristics include providing buffers from sensitive uses. DEIR at 2-2, 3-12, 2-48.

Despite these declarations, the SCSP as proposed would allow many polluting uses near residents and sensitive uses. It expressly allows three types warehousing uses and “Limited Industrial” uses, the latter of which is not defined in the SCSP, DEIR, or the City’s Zoning Code. SCSP at 71 and DEIR at 3-30. The harmful impacts resulting from warehousing uses are well known to include harmful criteria pollutant emissions, loud noise from loading docks, light pollution, and truck traffic 24 hours a day. Yet the SCSP’s proposed development standards include minimal setbacks that are unlikely to protect residents. For example, the specified building setback between industrial uses and sensitive uses is only 100 feet, and even this standard is optional. *See*, DEIR at 3-30 [The buildings *should* setback a minimum of 100 feet when sharing the same property line.] Neither the SCSP nor the DEIR offer any explanation for how this setback distance was derived. Even if the 100-foot setback distance is adequate to protect area residents, which there is no evidence to support, the wording of this standard is optional and unenforceable, thereby negating any potential benefits.

10-8

In addition, the DEIR is unclear about exactly which proposed land uses will be allowed adjacent to sensitive land uses. *See*, DEIR Figure 3-16, showing proposed land uses and 1000-foot buffer areas. Specifically, the colors used to indicate Neighborhood Mixed Use and Regional Business Park are so similar as to be indistinguishable from each other. The distinction is important because the two designations allow very different uses. As discussed above, the Regional Business Park designation allows warehouse and limited industrial uses. By contrast, the Neighborhood-Mixed Use designation allows residential uses and local-serving, pedestrian-oriented commercial development, such as convenience shopping and professional offices in two- to three-story buildings. Yet, a reader reviewing the maps presented in the DEIR cannot decipher which use is which.

10-9

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Finally, the proposed SCSP does not, in fact, “buffer” residential areas and schools from polluting industrial uses. As shown in DEIR Figure 3-16 SPLU Proposed Buffers, intensive uses such as Business Park, Regional Business Park, and Light and Heavy Industrial uses continue to be allowed within the so-called buffer. Furthermore, the DEIR fails to clearly describe the uses allowed in each proposed land use designation. This failure implicates the analysis of plan-related impacts. A revised DEIR should present a clear description of allowed uses, a corrected and thorough evaluation the transportation, air quality, greenhouse gas, light, and noise impacts associated with a higher level of such uses in the planning area, proposed measures to minimize impacts and an explanation of any residual impacts remaining after mitigation. Analyzing the potential future development in the Plan Area is an integral part of the Project and must be analyzed in this EIR. *San Joaquin Raptor Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713.

10-10

## **II. The DEIR’s Analyses of and Mitigation for the SCSP’s Environmental Impacts Are Legally Inadequate.**

The evaluation of a proposed project’s environmental impacts is the core purpose of an EIR. *See*, CEQA Guidelines § 15126.2(a) (“An EIR shall identify and focus on the significant [environmental] effects of the proposed project”). As explained below, the DEIR fails to analyze the Project’s numerous environmental impacts, including those affecting air quality, greenhouse gas emissions, and public health and safety. In addition, in numerous instances, the DEIR also fails to adequately analyze the Project’s cumulative impacts. These inadequacies require that the DEIR be revised and recirculated so that the public and decision-makers receive a proper analysis of the Project’s significant environmental impacts and feasible mitigation for those impacts. *See*, CEQA Guidelines, § 15002(a)(1) (listing as one of the “basic purposes” of CEQA to “[i]nform governmental decision makers and the public about the potential, significant environmental effects of proposed activities”).

10-11

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(c) (requiring an EIR to

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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, *Practice Under the California Environmental Quality Act* § 14.6 (2d ed. 2008).

The “programmatic” nature of this DEIR is no excuse for its lack of detailed analysis. CEQA requires that a program EIR provide an in-depth analysis of a large project, looking at effects “as specifically and comprehensively as possible.” CEQA Guidelines § 15168(a), (c)(5). Because it looks at the big picture, a program level EIR must provide “more exhaustive consideration” of effects and alternatives than an EIR for an individual action, and must consider “cumulative impacts that might be slighted by a case-by-case analysis.” CEQA Guidelines § 15168(b)(1)-(2).

Further, it is only at this early stage that the City can design wide-ranging measures to mitigate City-wide environmental impacts. *See*, CEQA Guidelines § 15168(b)(4) (programmatic EIR “[a]llows the lead agency to consider broad policy alternatives and program wide mitigation measures at an early time when the agency has greater flexibility. . .”). A “program” or “first tier” EIR is expressly not a device to be used for deferring the analysis of significant environmental impacts. *Stanislaus Natural Heritage Project v. County of Stanislaus* (1996) 48 Cal.App.4th 182, 199. It is instead an opportunity to analyze impacts common to a series of smaller projects, in order to avoid repetitious analyses. Thus, it is particularly important that the DEIR for the SCSP analyze the overall impacts for the complete level of development it is authorizing now, rather than when individual specific projects are proposed at a later time.

The DEIR finds that the City’s plans for future growth and development as set out in the SCSP will result in significant and unavoidable impacts in six different topic areas. DEIR at 2-6 to 2-55. As detailed below, in numerous instances, the DEIR fails to thoroughly assess impacts deemed to be significant or to identify additional feasible mitigation measures to reduce the severity of impacts, especially ones that remain significant even after mitigation. Therefore, the DEIR, here, fails to provide the legally required analysis of the substantial industrial growth that the Specific Plan allows and promotes. Thus, the City must revise the DEIR to accurately analyze and mitigate the Plan’s significant impacts.

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**A. The DEIR Fails to Adequately Analyze and Mitigate the SCSP's Air Quality Impacts.**

The City of Fresno, and the surrounding San Joaquin Valley Air Basin, suffer from some of the nation's worst air quality. As the DEIR acknowledges, the southern portions of the City, including the South Central planning area, experience poor air quality due to a large concentration of industrial uses and high volumes of truck traffic. DEIR at 4.3-13. South Central Fresno was prioritized and selected by the California Air Resources Board (CARB) for additional emissions monitoring, adoption of a community emission reduction plan inclusive of measures that will result in quantifiable emission reductions, and investment of additional resources under Assembly Bill 617 due to the community's disproportionate cumulative air pollution exposure burden. Therefore, it is imperative that the DEIR provide an accurate assessment of the SCSP's potential to further degrade air quality and public health.

By the DEIR's own admission, implementation of the Specific Plan would cause a substantial increase in air pollution that would expose sensitive receptors to substantial additional pollution concentrations. DEIR at 2-15. However, as described below and in the Baseline Report, the DEIR's analysis of air quality impacts fails to include recent information reflecting the baseline condition, grossly underestimates project-related increases in air pollutants, and presents inadequate mitigation. Furthermore, the DEIR fails to adequately analyze the Specific Plan's consistency with Assembly Bill 617 programs for the Plan Area. In addition, the DEIR includes a faulty analysis of plan-related health risks. Baseline Report at 6-13. Thus, the DEIR's analysis of air quality impacts does not comply with CEQA.

The fact is that this Project will have a devastating impact on local and regional air quality. Disadvantaged communities and people of color, who already suffer from health impacts of poor air quality, will feel these impacts more acutely than other City residents. Unfortunately, the details of these impacts remain unknown because the DEIR does not provide anything close to a complete analysis of these issues. These egregious flaws in the air quality analysis are described below. In addition, we incorporate by reference the letter dated July 29, 2024 from Baseline Environmental, Inc. ("Baseline Report").

**1. Inconsistency with Assembly Bill 617**

Assembly Bill 617 (C. Garcia, Chapter 136, Statutes of 2017) addresses air pollution impacts in environmental justice communities and requires CARB and local air districts to develop and implement additional emissions reporting, monitoring, reduction plans and measures in an effort to reduce air pollution exposure in the most impacted

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communities. <https://community.valleyair.org/> As discussed above, in 2018, South Central Fresno was one of the first communities selected by CARB for investment of additional resources under AB 617. As pointed out by the Attorney General's Office in their Notice of Preparation ("NOP") comments, the SJVAPCD has been implementing the South Central Fresno Community Emissions Reduction Program ("CERP") since it was adopted in early 2020. *See*, Letter from Deputy Attorney General, Scott Lichtig, dated July 22, 2019 at 7 and 8.

The DEIR states that the SCSP:

"is intended—to build upon the policy framework established by the following previously adopted plans, including the Community Emissions Reduction Program: South Central Fresno (2019, San Joaquin Valley Air Pollution Control District): an emissions reporting, monitoring, and reduction plan that was *developed under AB 617 to reduce air pollution exposure in disadvantaged communities*.

DEIR at 3-10; emphasis added.

However, while the State is investing substantial public funds to reduce air pollution in the planning area, the proposed SCSP would directly undercut these efforts, by increasing polluting industrial uses by more than 18 million square feet, resulting in significant unavoidable impacts. *See*, e.g., SCSP at DEIR at 2-1, 2-8, 2-15, 3-5, 4.3-19, 4.3-24, 4.3-28, 4.3-33. As the DEIR admits "[I]mplementation of development under the proposed plan would intensify urbanization in the Plan Area, which would in turn increase criteria air pollutants and ozone precursors in an area that is currently designated as an extreme nonattainment area with respect to the NAAQS." DEIR at 4.3-26. Thus, the proposed Specific Plan would increase pollutant emissions at a scale that could negate expected benefits from implementation of the South Central Fresno CERP.

As explained in the Attorney General's Office NOP comments, "[T]he City's EIR must account for how additional industrial development will comply with the existing legal requirement that emissions be reduced in this area." *See*, Letter from Deputy Attorney General, Scott Lichtig, dated July 22, 2019 at 8. Although the DEIR acknowledges requirements to reduce pollution emission reductions under AB 617, the DEIR fails to analyze the proposed SCSP's consistency with the CERP and AB 617 generally. *See*, DEIR at 3-10, 4.3-12 and 4.3-13 (describing AB 617), and at 4.3-19 and 4.3-20 (analysis of the proposed Specific Plan's consistency with applicable air quality

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plans *omitting* analysis of consistency with AB 617). This approach does not comport with CEQA.

In *Banning Ranch*, the California Supreme Court unequivocally held that CEQA prohibits lead agencies from “perform[ing] truncated and siloed environmental review, leaving it to other responsible agencies to address related concerns seriatim.” *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 941. Despite the Supreme Court’s admonition, here the DEIR takes a similar approach to the approach invalidated in *Banning Ranch*. The DEIR omits any analysis of the Project’s consistency with AB 617 and consistency with the associated ‘Community Emissions Reduction Program: South Central Fresno’ (2019, San Joaquin Valley Air Pollution Control District), and simply ignores how developing in the Planning Area will impair emissions reductions in the area. In *Banning Ranch*, the Supreme Court held this approach was unlawful. 2 Cal.5th at 940-41. Here as well, this DEIR’s omission violates CEQA as a matter of law. *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 510 (“*Friant Ranch*”).

10-13  
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**2. The DEIR’s Study Area Boundary Ignores CARB’s South Central Fresno Community Emissions Reduction Program Boundary Thereby Failing to Properly Describe the Existing Setting.**

Moreover, CARB’s CERP boundary for the South Central Fresno area and surrounding area, encompasses most of the City Fresno and captures many of the small unincorporated communities nearby. *See*, SCSP Figure 1-7 at 17. The DEIR appears to use the SCSP boundary as the study area for air quality analysis. However, because air pollutant emissions are not contained within arbitrary map boundaries, the DEIR should have used an expanded study area that captures all impacted sensitive receptors, including those outside the SCSP area boundary. Expanding the study boundary would both ensure consistency with the CERP and AB 617, but would also capture the full impacts of the SCSP on surrounding sensitive receptors.

10-14

**3. The DEIR Fails to Consider Existing Impacts as Part of the Environmental Setting.**

The DEIR fails to fully describe the Project setting, including impacts that would occur outside of the project boundary, as CEQA requires. CEQA Guidelines § 15125(a). This description of the environmental setting constitutes the baseline physical conditions by which a lead agency determines the significance of an impact. *Id.* “Knowledge of the regional setting is critical to the assessment of environmental impacts.” CEQA

10-15

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Guidelines § 15125(c). Without such an understanding, any impacts analysis or proposed mitigation becomes meaningless.

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Here, as explained in the Baseline Report, the DEIR fails to incorporate critical findings from the Truck Reroute Study, its associated Fresno Health Impact Assessment ("Fresno HIA"), and the Downtown Neighborhoods Community Plan ("DNCP") regarding the severity of existing air quality and health risk conditions in the Plan Area and City of Fresno. Baseline Report at 9 and 10. Based on the findings of adverse health conditions in the Fresno HIA, the Truck Reroute Study applied a 1,000-foot buffer around proposed truck routes to determine where truck-regulated areas would be most beneficial to reduce health risks. Baseline Report at 9. As shown in Figure 1 of the Baseline Report, Proposed Truck Routes with 1,000-foot Buffer in the Plan Area would affect substantially more sensitive receptors than the 500-foot setback from highways as evaluated in the DEIR. Baseline Report at 12.

10-16

In addition, a 2015 health risk assessment prepared for the DNCP (immediately adjacent to the SCSP area) showed particulate matter concentrations from vehicle emissions near SR 99, SR 41, and SR 180 in the DNCP area indicate existing cancer risk to sensitive receptors exceeds 100 in a million at distances from 1,000 to 5,000 feet from the freeways. Baseline Report at 9. That study recommended that any new residential development in areas with a cancer risk above 100 in a million incorporate ventilation systems with a Minimum Efficiency Reporting Value (MERV) 13 or higher to clean particulate matter from indoor air. *Id.* The City of San Francisco similarly adopted a requirement for MERV 13 ventilation systems for new residential development where cancer risk is above 100 in a million. Therefore, by omitting data and recommendations from these reports, the DEIR failed to incorporate information about the existing baseline conditions and impacts in the SCSP area. *Id.* at 13.

10-17

SCSP Policy T-3: Limit truck idling times states that "Recommendations that result from this (Truck Route) Study shall be adopted by reference in this Plan." SCSP at 136. However, the fact that recommendations in the Truck Route Study will be incorporated into the Plan does not excuse the City from including baseline information from the Truck Route Study into the DEIR. The Truck Route Study, along with its HIA, should be incorporated into the DEIR evaluation and the analysis recirculated for public review. Moreover, there is no excuse for failing to include data and analysis from the health risk assessment prepared for the DNCP, which was published nine years ago.

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Describing existing conditions is critical because they affect analyses of multiple issue areas, such as impacts to air quality, public health, and public safety, among others. A revised DEIR should include the data from the Truck Reroute Study and the Fresno

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HIA to accurately describe the existing setting of the Plan Area. Once that information is incorporated, the DEIR should be revised to incorporate the 1,000-foot buffer distance used by the Truck Reroute Study as well as a buffer from major roadways recommended in the Fresno HIA. *Id.* The DEIR should also be revised to evaluate existing cancer risk from freeways and major roadways in the Plan Area. *Id.* Only then can the DEIR properly evaluate air quality impacts from increased truck and automobile traffic on sensitive receptors in the Plan Area.

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**4. The DEIR Presents a Flawed Criteria Air Pollutants Analysis and Proposes Vague Unenforceable Mitigation Measures.**

The DEIR's analysis of the SCSP's impacts related to increased criteria air pollutants is critically flawed in at least two ways. First, the DEIR's analysis of expected criteria pollutants is incorrect, such that resulting emissions would be significantly higher than disclosed in the DEIR. Second, the DEIR's identified measures for mitigating admittedly significant impacts related to criteria pollutants are vague and unenforceable. These flaws are discussed in more detail below.

10-20

**a. The DEIR's Analysis of Criteria Air Pollutants Uses Flawed Methodology That Grossly Underestimates the SCSP's Emissions.**

The DEIR states that criteria pollutant emissions from construction of the development under the SCSP will be below applicable thresholds of significance and therefore less-than-significant. DEIR at Tables 4.3-4 and 4.3-5, 4.3-25 and 4.3-26. However, as explained in detail in the attached Baseline Report, the DEIR analysis suffers from a series of errors that substantially understates its emissions estimates. Specifically, in the two construction scenarios evaluated, the DEIR underestimates emissions by failing to account for seven years of construction in one scenario and accounting for only a small fraction of emissions in the second scenario. Baseline Report at 2-4. The result is that actual criteria pollutant emissions during construction would be substantially higher than disclosed in the DEIR. Critically, reactive organic gases, or ROG, emissions would be 61% higher and nitrogen oxide, or NOx, emissions would be 448% higher than disclosed in the DEIR. Baseline Report at 3.

10-21

These flaws are particularly important because these emissions would expose workers and nearby residents to health risks from exposure to particulate matter, ROG, NOx, and other toxic air contaminants. It is well documented that short-term exposure to PM10 is associated with worsening of respiratory diseases, including asthma and chronic obstructive pulmonary disease (COPD), leading to hospitalization and emergency

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department visits. See, <https://www.arb.ca.gov/research/aaqs/common-pollutants/pm/pm.htm>. Long-term exposure (months to years) to particulate matter is linked to respiratory mortality and lung cancer. *Id.*

As discussed above and in the Baseline Report, the Specific Plan as proposed would result in exceedance of applicable thresholds for ROG, also known as volatile organic compounds (VOCs), NO<sub>x</sub>. Baseline Report at 3 and 4. The increased levels of ROG and NO<sub>x</sub> emissions would increase health risks to area residents. For instance, according to CARB,

“controlled human exposure studies that show that NO<sub>2</sub> exposure can intensify responses to allergens in allergic asthmatics. In addition, a number of epidemiological studies have demonstrated associations between NO<sub>2</sub> exposure and premature death, cardiopulmonary effects, decreased lung function growth in children, respiratory symptoms, emergency room visits for asthma, and intensified allergic responses.”

10-21  
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<https://ww2.arb.ca.gov/resources/nitrogen-dioxide-and-health>. VOCs can also lead to problems with the lungs, central nervous system, kidney and liver, function, and cancer. See, “Health effects of volatile organic compounds”, attached as Exh. B. Moreover, given that the Plan Area already bears a disproportionate burden of industrial pollution and vehicle emissions in the region, even a small amount of added pollutant emissions will result in significant added impacts. See, *Los Angeles Unified School District v. City of Los Angeles* (1997) 58 Cal.App.4th 1019 (“LA Unified”); *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 718.

The DEIR must be revised to correct the aforementioned errors and to disclose the full extent and severity of the proposed SCSP’s criteria pollutant impacts. Once the analysis is corrected, the revised DEIR must be recirculated to allow the public and decision-makers to review and comment on the new information.

**b. The DEIR’s Proposed Mitigation Measures to Address the Project’s Significant Criteria Air Pollutants Are Inadequate Under CEQA.**

An EIR is inadequate if its suggested mitigation measures are so undefined that it is impossible to evaluate their effectiveness. *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61 at 79. The City may not use the inadequacy of its impacts review to avoid mitigation: “The agency should not be allowed to hide behind its own failure to collect data.” *Sundstrom v. County of*

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*Mendocino* (1988) 202 Cal.App.3d 296, 306. The formulation of mitigation measures may not be improperly deferred until after Project approval; rather, “[m]itigation measures must be fully enforceable through permit conditions, agreements, or legally binding instruments.” CEQA Guidelines § 15126.4(a)(2). Here, the DEIR’s identification and analysis of mitigation measures, like its analysis of impacts, are legally inadequate. The DEIR’s proposed measures to mitigate the admittedly significant impacts related to criteria air pollutants fall far short of meeting CEQA’s requirements.

Below are some examples of unclear and inadequate mitigation measures:

Mitigation Measure 4.3-1a: Prepare an Ambient Air Quality Analysis and Mitigation Plan or Voluntary Emissions Reduction Agreement

“[P]rior to future discretionary project approval, and once all feasible on-site reduction measures have been incorporated, development project applicants shall prepare and submit ... an AAQA to determine whether any SJVAPCD annual mass emissions thresholds are exceeded or if a future project’s emissions may result in the violation of an AAQS. If no thresholds are exceeded, no further action is necessary. If one or more thresholds are exceeded, prior to the issuance of Certificates of Occupancy, future development will engage in a voluntary emissions reduction agreement (VERA) through coordination with SJVAPCD to reduce emissions to meet SJVAPCD’s annual mass emissions thresholds for any pollutant that exceeds the respective threshold. (Emphasis added.)

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As an initial matter, the City provides no justification for confining this and other measures to discretionary projects. At the planning stage, the City can and should require all ministerial and discretionary to comply with mitigation measures to better reduce the Project’s environmental impacts.

It is also unclear what this mitigation measure is referring to when it states that “all feasible on-site reduction measures have been incorporated.” If the measure requires measures MM 4.3-1b through 4.3-1l to be implemented, the measure should be revised to expressly say so.

Mitigation Measure 4.3-1b: Use Clean Fleets during Construction

“For any on-site equipment that cannot be electric-powered, and diesel-powered equipment is the only available option, construction contractors shall use equipment that either uses only high-performance renewable diesel or meets EPA Tier 4 emissions standards.” (Excerpt.)

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The Tier 4 Final emissions standards substantially reduce NOx emissions by about 80 percent or more compared to the Tier 4 Interim emission standards; therefore, the DEIR should clarify the use of Tier 4 Final emissions standards.

The DEIR fails to define the term “high-performance renewable diesel.” Blends of renewable diesel and conventional diesel are labelled with an R followed by the percentage (by volume) of the renewable diesel content. For example, R100 is 100% renewable diesel, whereas R65 is 65% renewable diesel blended with conventional diesel. Studies prepared by CARB (*see*, CARB’s Low Emission Diesel Study Final Report, attached as Exh. C.) found that the NOx and PM emissions from a Tier 4 Final engine versus a lower tier engine that uses R100 are similar. However, testing of R65 and R50 diesel blends in lower tier engines resulted in either the same or increased emissions of NOx, respectively, compared to conventional diesel fuel. Therefore, the DEIR should clarify that use of R100 is required.

Mitigation Measure 4.3-1d: Implement Dust Control Measures

“This shall be enforced by the City with verification by SJVAPCD.” (Excerpt.)

SJVAPCD already requires preparation of a Dust Control Plan in accordance with Reg VIII. This measure should be revised to clarify that these additional measures shall be included in the Dust Control Plan already required to be submitted to SJVAPCD.

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Mitigation Measure 4.3-1f: Reduce Emissions from Architectural Coatings

“This shall be enforced by the City with verification by SJVAPCD.” (Excerpt.)

This measure is unclear about how the SJVAPCD will verify compliance with the measure.

Mitigation Measure 4.3-1h: Use Low- or Zero-Emission Heavy-Duty Trucks and Equipment

“Future tenants of new and redeveloped commercial and industrial land uses (those over which the City will have discretionary approval) shall ensure that all heavy-duty trucks (Class 7 and 8) domiciled on the project site are model year 2014 or later from start of operations and shall expedite a transition to zero-emission vehicles, with the fleet fully zero-emission by December 31, 2026”

This measure is vague and leaves many questions unanswered. For example, how will the City expedite, monitor, and enforce the transition to zero emission vehicles? How

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does the City define “commercially available” and “domiciled on the project site”, and what is considered “adequate electrical infrastructure”? A revised measure should include clear performance standards for how fleet transition will take place and clarify overall what parts of the measure apply to trucks versus off-road equipment.

Mitigation Measure 4.3-1i: Use Low- or Zero-Emission Vehicles

This measure, which requires future tenants of new and redeveloped commercial and industrial land uses within the plan area to transition to zero emission vehicle fleets, is vague regarding how the City will monitor and enforce milestones for transitioning to zero emission.

Mitigation Measure 4.3-1m: Reduce Off-Site Emissions

This measure would allow projects to implement off-site emissions reduction strategies or programs, once all on-site measures (i.e., Mitigation Measures 4.3-1a through 4.3-1i) have been exhausted. This measure should be revised so that it is required if Mitigation Measure 4.3-1a cannot mitigate impacts below the applicable thresholds. This revision would ensure that on-site emission reductions, which are more effective for reducing impacts on local residents, are implemented first before off-site emission reductions are sought.

Furthermore, the ability for future projects to effectively reduce off-site emissions of criteria air pollutants is speculative. In accordance with CEQA Guidelines 15126.4(a)(2), feasible mitigation measures must be fully enforceable. For an emission offset program to be considered feasible mitigation, the emission reductions must be genuine, quantifiable, additional, and verifiable at the time of preparation of the EIR (*Golden Door Properties, LLC v. County of San Diego* (2020) 50 Cal.App.5th 467). The availability of criteria air pollutant emission offsets for future projects to purchase on an ongoing and annual basis is speculative due to potential limitations on offset availability. Therefore, the use of an emissions offset program cannot be used to guarantee that criteria air pollutant emissions from future developments under the proposed plan would meet the SJVAPCD’s thresholds of significance.

In short, the revised DEIR should change the proposed mitigation measures to ensure they are clear, feasible, and enforceable. Only then can the City rely on the mitigation measures to reduce the Project’s significant criteria pollutant impacts.

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**5. The DEIR Fails to Adequately Analyze the SCSP's Potential to Impact Public Health.**

It is well-established that living close to high traffic areas and exposure to the associated emissions leads to adverse health effects beyond those associated with regional air pollution in urban areas. *See*, California Air Resources Board, Air Quality and Land Use Handbook: A Community Health Perspective, attached as Exh. D and "Air pollution impacts from warehousing in the United States uncovered with satellite data", July 24, 2024, attached as Exh. E. Here, despite the fact that implementation of the SCSP would result in significant air pollution emissions, the DEIR fails to adequately analyze health risks of plan-related exposure of nearby sensitive receptors to emissions of toxic air contaminants ("TACs") resulting from future increased industrial uses, truck traffic, and vehicle miles travelled ("VMT"). These flaws are discussed further below and in the attached Baseline Report.

10-23

**a. The DEIR Fails to Disclose the Severity and Extent of Cancer-Risk from Plan-Related Construction Emissions.**

The DEIR's analysis of the Project's potential to expose sensitive receptors to TACs (e.g., diesel particulate matter ("PM") during construction) is incomplete and inaccurate. As explained in the Baseline Report, the DEIR states that "construction-related TAC emissions for any given project would not expose existing sensitive receptors to an incremental increase in cancer risk greater than 20 in 1 million or a hazard index greater than 1.0." DEIR at 4.3-29 and Baseline Report at 6 and 7. The DEIR relies in large part of the "relatively short duration" of construction activity near any particular receptor as a basis for the statement, however, the DEIR fails to provide supporting evidence for this conclusion. *Id.*

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In fact children exposed to airborne carcinogens, such as diesel PM from construction activities lasting more than six months can suffer considerable health effects. This is because children are about 10 times more susceptible to health effects from exposure to TACs than adults. *See*, Office of Environmental Health Hazard Assessment (OEHHA). February, 2015. Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments, attached as Exh. F. In addition, children have a higher breathing rate per body mass and typically spend a higher fraction of time at home compared to adults. Baseline Report at 5. When these characteristics are taken into account, a child is about 48 times more susceptible to cancer risk from exposure to TACs than an adult. *Id.* This means a child exposed to one year of diesel PM emissions from construction would have the equivalent cancer risk to an adult exposed to the same level of diesel PM emissions over 48 years. *Id.* Therefore, the DEIR's reliance on the

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“relatively short duration” of construction activities is inadequate justification for dismissing construction-related health risks, especially in regard to the health risks posed to children.

In addition, as described in the Baseline Report, there are numerous examples of health risk assessments performed in California that demonstrate sensitive receptors exposed to diesel PM during construction can result in a cancer risk greater than 20 in a million. Baseline Report at 5. One such assessment that the City of San Francisco prepared to evaluate potential cancer risk from construction under their proposed Housing Element, indicated that construction of a 200-unit apartment complex with 3,000 square feet of retail uses would result in a cancer risk greater than the SJVAPCD’s threshold of 20 in a million. That study showed that cancer risk for receptors could range from 173 in a million for adjacent receptors and 21 in a million for receptors within 328 feet from construction sites. Given the size of the SCSP Plan Area, it is foreseeable that some sites could propose projects of similar size and intensity. Therefore, it is not only plausible, but foreseeable, that cancer risk from construction sites in the plan area would result in significant impacts, especially to children.

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Finally, the DEIR fails to evaluate potential health risks associated with emissions of total organic gases from passenger vehicles. As discussed in the Baseline Report, projects resulting in substantial passenger vehicle traffic and associated emissions also expose sensitive receptors to cancer risk. Other cities include total organic gasses in their evaluations of health risk. This EIR should do so as well.

**b. The DEIR Fails To Adequately Analyze and Mitigate Health Impacts to Residents Living Close to Truck Routes.**

As the DEIR acknowledges, implementation of the SCSP as proposed would result in a massive increase in industrial uses, truck traffic, and VMT, which as discussed above, will introduce new sources of TACs that would exacerbate the already adverse conditions of the South-Central community. DEIR at 4.3-28 and Baseline Report at 9. This will result in increased pollutant emissions and public safety and public health risks.

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**c. The DEIR’s Health Risk Analysis Improperly Applies Project-Level Cancer Risk Thresholds.**

The DEIR ultimately concludes that the impacts related to TACs exposure would be significant, but the associated mitigation measure reveals another flaw. Mitigation Measures 4.3-3a, b, and c require each future proposed projects in the Plan Area to a

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conduct segmented health risk assessments and to implement recommendations from the health risk assessments to ensure that cancer risk to nearby receptors is at or below SJVAPCD's threshold of 20 in one million. DEIR at 2-15 to 2-17 and Baseline Report at 9 and 10. However, the DEIR erred when it applied the SJVAPCD project level threshold to segmented pieces of future projects, even though cancer risk is a cumulative condition. *Id.*

Instead, as explained in the Baseline Report, the DEIR should have summed potential cancer risks to sensitive receptors exposed to TACs from construction, operational permitted sources, operational truck activity, and other sources. After these sources are summed, they should be compared to the project-level cancer risk threshold of 20 in one million. *Id.* By applying the cancer risk threshold in a piecemeal fashion to each source of project-related TAC emissions, individual projects could generate a cancer risk as high as 60 in a million at nearby sensitive receptors.<sup>3</sup> This level of pollution exposure is not supported by the SJVAPCD, and is especially unacceptable given the extremely high levels of existing poor air quality and pollution burden in the South-Central Fresno community. The result is that, despite the DEIR's conclusion that impacts related to exposure of sensitive receptors to substantial pollutant concentrations would be significant even after mitigation, the DEIR fails to disclose the full extent and severity of this foreseeable impacts.

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Furthermore, the DEIR fails to support the use of SJVAPCD's project-level cancer risk threshold of 20 in a million. Baseline Report at 7. The project-level threshold is inappropriate because, as discussed above, it does not account for the additive impacts of potential cancer risks to sensitive receptors exposed to TACs from construction, operational permitted sources, operational truck activity, and other sources. Therefore, it does not evaluate cumulative health risks. In addition, the project-level threshold fails to take into account the existing levels of air pollution and health risks in the Plan Area, and the fact that communities of color in the Plan Area are experiencing higher health risks for the same exposures to pollution. Baseline Report at 7 and 8 and UC Merced Fresno Community Environmental Health Impact Assessment, attached as Exh. G. In 2015, a health risk assessment was prepared for the Downtown Neighborhoods Community Plan in the City of Fresno,<sup>4</sup> which is located adjacent and to the north of the Plan Area. The

<sup>3</sup> 20 in a million for construction + 20 in a million for permitted sources + 20 in a million for truck activity = 60 in a million.

<sup>4</sup> FirstCarbon Solutions, 2015. Health Risk Assessment Report: Downtown Neighborhoods Community Plan, Fulton Corridor Specific Plan, and the Downtown

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study modeled diesel PM concentrations from vehicle emissions along State Route (SR) 99, SR 41, and SR 180 in the DNCP area and found that the existing cancer risk to sensitive receptors exceeded 100 in a million at distances ranging from about 1,000 to 5,000 feet from the freeways.

As explained in the Baseline Report, other jurisdictions have developed thresholds of significance to account for poor existing air quality conditions, the existing health risks in the community including receptors more vulnerable to air pollution, and the cumulative health risks associated with exposure to air pollution from new development. *Id.* In San Francisco, for example, if the existing health risk at receptors already meet or exceed substantial pollutant concentrations defined for the area, then an excess cancer risk at or above 7 per million from a project is considered a substantial health risk. Baseline Report at 10-11.

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Similarly, the South Coast Air Quality Management District is currently developing updated guidance for evaluating cumulative air quality impacts from increased concentrations of TACs for projects in the South Coast Air Basin. The guidance is considering a range of project-level cancer risk thresholds ranging from as low as 1 in a million to as high as 10 in a million based on the existing cancer risks from air pollution in the basin, proximity to high volume diesel-fueled mobile sources, and the protection of AB 617 communities, as well as other criteria. *Id.* Given that the South-Central Fresno AB 617 Community experiences similar or more severe air pollution burden than communities in San Francisco and the South Coast Air Basin (e.g., Los Angeles), the DEIR should be revised to use a more conservative project-level cancer risk threshold to evaluate if development under the proposed plan would expose sensitive receptors to substantial air pollutant concentrations. *Id.*

**6. The DEIR's Analysis of Cumulative Health Risks for Polluting Emissions Fails to Account for Significant Impacts to All Affected Receptors.**

The DEIR's analysis of cumulative health risks from toxic air contaminants fares no better than the rest of the air quality analysis. The cumulative health risk analysis fails in two ways. First, the DEIR failed to properly evaluate the cumulative health risks for new sensitive receptors that would be exposed to TAC emissions from highways in the Plan Area. As discussed in section III.A.2 and in the Baseline Report, because the health

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Development Code Project, City of Fresno, Fresno County, California. Available at: <https://www.fresno.gov/wp-content/uploads/2023/04/AppEAQASMBLD.pdf>. November 12.

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risk analysis only considered impacts to sensitive receptors up to 500 feet from highways, it failed to adequately analyze receptors beyond the 500-foot setback. Baseline Report at 12-13.

Second, the DEIR analysis failed to evaluate the cumulative health risks to existing sensitive receptors in the broader South-Central Fresno AB 617 Community that would be exposed to mobile-source TAC emissions generated by the proposed plan. Instead, the DEIR limits the analysis to the mapped boundary of the SCSP area. As discussed above in section III.A.1, and in the Baseline Report, because the SCSP would generate an additional 72,241 trips per day, a revised DEIR must evaluate health risks for *all* existing receptors who would be exposed to the cumulative mobile-sources toxic air contaminants generated by the proposed plan. Baseline Report at 13.

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In sum, the DEIR's analysis of impacts to public health fails to fulfill CEQA's mandate. A revised DEIR must include an accurate analysis of potential air quality impacts that discloses the full extent and severity of impacts to the community in the planning area. Merely stating that an impact will occur is insufficient; an EIR must also provide "information about how adverse the adverse impact will be." *Santiago County Water District*, 118 Cal.App.3d at 831. This information, of course, must be accurate and consist of more than mere conclusions or speculation. *Id.* The revised analysis should take into account the high pollutant exposure burden of the community, consider more appropriate thresholds of significance, and consider truck routes to protect sensitive receptors from additional exposure to toxic air contaminants.

**B. The Greenhouse Gas Emissions and Energy Analyses Do Not Comply With CEQA.**

**1. The DEIR fails to make a clear significance determination or base its conclusions on substantial evidence.**

An EIR must make a significance determination regarding a project's potentially significant impacts. *Sierra Watch v. County of Placer* (2021) 69 Cal.App.5th 86, 101–102. "Absent a determination regarding the significance of the impacts ..., it is impossible to determine whether mitigation measures are required or to evaluate whether other more effective measures than those proposed should be considered." *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 656. Thus, to effectively evaluate the SCSP's impacts, the DEIR must determine whether the GHG emissions from construction activities will have a significant impact on the environment.

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The impact analysis for construction-related GHG emissions uses an improper threshold of significance. Thresholds must be “founded on substantial evidence.” *Mission Bay Alliance v. Office of Community Investment & Infrastructure* (2016) 6 Cal.App.5th 160, 206. The DEIR justifies its use of the SMAQMD threshold for evaluating construction-related emissions by stating that “it is tied to meeting the state’s long-term GHG reduction targets set by EO B-30-15.” DEIR at 4.8-13. But the target set by EO B-30-15 (40 percent below 1990 levels by 2030) has been replaced with more rigorous long-term goals. Exh. H, Executive Order B-30-15. As the DEIR itself states, EO B-30-15’s “target was superseded by AB 1279 in 2022, which codifies a goal for ... reduction of emissions 85 percent below 1990 levels by 2045.” DEIR at 4.8-1; Exh. I, Assembly Bill 1279. Thus, the DEIR uses a threshold of significance that is outdated and does not align with the State’s current GHG reduction goals.

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In fact, the DEIR elected not to apply SJVAPCD’s thresholds of significance in its GHG impact analysis for the same reason: SJVAPCD’s thresholds are not “tied to future GHG target years (i.e., 2045, 2050)” and therefore “would not be sufficient to demonstrate consistency with the established milestone years beyond 2030” as required by AB 1279 and the Scoping Plan. DEIR at 4.8-8. Similarly, the SMAQMD threshold used in the construction-related GHG emissions analysis is based on a 2030 target and fails to account for milestones beyond that. The DEIR must use an updated threshold of significance for its analysis of construction-related impacts.

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Further, the DEIR fails to make any significance determination regarding construction-related GHG emissions. *Id.* at 4.8-13. The DEIR avoids concluding whether there will be a significant impact on the environment, instead stating that “it is unknown” whether development standards would “reduce emissions below [the] applicable threshold.” *Id.* at 4.8-13. In contrast, the DEIR states a conclusion regarding the significance of operation-related emissions. *Id.* at 4.8-16. Although the DEIR concludes that GHG emissions from the Project as a whole will be significant, this is based only on the operation-related emissions and makes no reference to construction. *Id.* at 4.8-12. As a result, the DEIR fails to inform the public and decision-makers on the impacts from the Project’s construction phase.

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This omission is compounded by the unclear and unsupported impact analysis for construction-related GHG emissions. As discussed in section II.A of this letter above, the DEIR employs a faulty methodology to evaluate criteria air pollutants. The DEIR underestimates emissions by failing to account for seven years of construction in one scenario and accounting for only a small fraction of emissions in the second scenario. Baseline Report at 2-4. The DEIR employs the same faulty method to estimate GHG emissions. The result is that actual GHG emissions during construction would be

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substantially higher than disclosed in the DEIR. In addition, the DEIR provides the Project's maximum and average annual GHG emission levels, but does not state which of these two metrics is being compared to the significance threshold of 1,100 MTCO<sub>2</sub>/year. *Id.* at 4.8-13. The Project's maximum annual GHG emissions falls above the significance threshold, while the average annual GHG emissions falls below the threshold, resulting in ambiguity. Because the DEIR fails to make a significance determination, and one metric falls above the threshold while the other falls below it, it is impossible to ascertain the Project's construction-related impacts. *Id.* at 4.8-13. It is insufficient to merely state the threshold without providing the final significance determination and the analytical steps taken to reach it. *Sierra Watch*, 69 Cal.App.5th at 101–102 (holding that “an agency's conclusion as to whether a given impact is significant is not enough” and “there must also be a disclosure of the analytic route the ... agency traveled”). Moreover, the EIR's ambiguity defeats the core purpose of CEQA: informing the public. *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 391 as modified on denial of reh'g (Jan. 26, 1989) (“The Legislature has made clear that an EIR is ‘an informational document’ and that ‘[t]he purpose of an environmental impact report is to provide ... the public [] with detailed information about the effect which a proposed project is likely to have on the environment.’”).

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The analysis is similarly unclear in the section on wasteful use of energy. An EIR's energy impact analysis should include a project's “energy requirements and [] energy use efficiencies by amount and fuel type for each stage of the project.” CEQA Guidelines, Appx. F § II.C.<sup>5</sup> The DEIR lays out the expected energy needs for each stage of the Project, but fails to ascertain what levels of energy use would be wasteful. It merely states the project “would result in the wasteful, inefficient, or unnecessary use of energy.” DEIR at 4.6-11. Because the EIR never determines the amount of energy use that will be “wasteful” before mitigation, it cannot reasonably conclude that mitigation measures will make it less than significant. *California Clean Energy Committee*, 225 Cal.App.4th at 210 (CEQA's “requirements are not satisfied by saying an environmental impact is something less than some previously unknown amount”). But the DEIR does exactly that: it omits this analytical step and jumps straight to the conclusion that the impact from wasteful energy use would be less than significant after mitigation. To comply with CEQA, the agency must make its analytical route clear in the EIR. *Sierra Watch*, 69 Cal.App.5th at 101–102.

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<sup>5</sup> EIRs must address applicable considerations from Appendix F. *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 211.

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**2. The DEIR's GHG and Energy analyses rely on improperly deferred mitigation and inadequate measures.**

An EIR must “identify mitigation measures for each significant environmental effect”; it cannot defer “formulation of mitigation measures ... until some future time.” CEQA Guidelines § 15126.4(a)-(b). The specific details of a mitigation measure can be developed after project approval only where 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.” CEQA Guidelines § 15126.4(b).

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Here, the EIR's GHG analysis improperly defers mitigation and fails to comply with the above requirements. For example, measure 4.8-1a merely states that future construction will “use low-carbon concrete, minimize the amount of concrete used, and produce concrete on-site if it is more efficient and lower emitting than transporting ready-mix.” DEIR at 4.8-17. The goal to “minimize” concrete is not specific enough to commit the agency to any particular mitigation or to allow an objective measurement of success. *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 93. Further, the measure fails to set forth any specific performance standards on what constitutes “low-carbon” or “more efficient” concrete. *Sierra Watch*, 69 Cal.App.5th at 110 (mitigation measure inadequate because it provided no specific details on how to achieve the goal of “quieter” construction procedures). Because the measure is “entirely vague,” it “offers no instruction on how [any] of these determinations are to be made.” *Id.* CEQA demands more than a generalized goal: the EIR must commit to specific mitigation goals by setting performance standards and identifying actions to meet those standards. *King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 856 (“Simply stating a generalized goal for mitigating an impact does not allow the measure to qualify for the exception to the general rule against the deferred formulation of mitigation measures.”).

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Other mitigation measures in the GHG analysis cross-reference measures from other sections, which similarly fall short. For example, measure 4.6-1b<sup>6</sup> requires that new development “incorporate strategies to cool the urban heat island, reduce energy use and ozone formation, and maximize air quality benefits” by implementing “four key strategies: plant trees, selective use of vegetation for landscaping, install cool roofing, and install cool pavements.” DEIR at 4.6-11. The DEIR fails to elaborate or provide any further detail on its vague strategy of planting trees or using selective vegetation, which

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<sup>6</sup> The DEIR cross references to mitigation measure “4.6-2b,” which does not exist. This was presumably intended to reference mitigation measure 4.6-1b, and this comment is based on that assumption.

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can vary greatly in its effectiveness depending on the species of plants. *See*, Exh. J, “Cooling Effect of Trees with Different Attributes and Layouts on the Surface Heat Island of Urban Street Canyons in Summer.” In other words, the “mitigation measure merely proposes a generalized goal of [cooling the urban heat island] and then sets out a handful of cursorily described mitigation measures for future consideration.” *Golden Door Properties, LLC*, 50 Cal.App.5th at 520 quoting *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 93. This cursory description is insufficient, and the EIR must set forth specific performance criteria that allow for evaluating the efficacy of the mitigation measures.

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Measure 4.3-1m is another example of a measure that is inadequate due to its vague description. The measure states that the Project requires “the development of new or participation in existing off-site emissions reduction strategies/programs (e.g., urban forestry programs, local building retrofit programs, off-site EV charger funding, public transit subsidies).” DEIR at 4.3-24. Again, this mitigation measure impermissibly proposes a generalized goal of “off-site emission reduction” and then briefly references potential strategies without further explanation. Moreover, it is impossible to “determine the efficacy” of hypothetical programs in reducing GHG emissions because they have yet to be developed. *POET, LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4th 681, 738 as modified on denial of reh'g (Aug. 8, 2013). In sum, the DEIR violates CEQA by deferring mitigation without providing the requisite detail and performance standards. A revised DEIR must provide further specificity and performance criteria to avoid improperly deferring mitigation.

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When a lead agency relies on mitigation measures to find that project impacts will be reduced to a level of insignificance, there must be substantial evidence that the measures will be effective. *Sacramento Old City Assn. v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1027; *Kings County*, 221 Cal.App.3d at 726-29; *Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1168. In addition to being effective, mitigation measures proposed in an EIR must be “fully enforceable” through permit conditions or other agreements. Pub. Res. Code § 21081.6(b); CEQA Guidelines § 15126.4(a)(2). An EIR may only rely on measures to mitigate environmental impacts under CEQA if they set forth firm, enforceable commitments to implement those measures. *See, Napa Citizens for Honest Gov't v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 358 (citing *Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal.App.4th 351, 377 ). Enforceability is vital because CEQA requires that mitigation measures actually be implemented—not merely adopted and then disregarded. *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1186-87;

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*Fed'n of Hillside & Canyon Ass'ns v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261.

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The DEIR fails to show that its mitigation measures will be enforceable. For example, measure 4.6-1c requires “proposed industrial land uses ... to source renewable natural gas.” DEIR at 4.6-11. But it later admits that “the City cannot guarantee future industrial businesses would source their natural gas from renewable resources due to limitations regarding enforceability.” *Id.* at 4.6-12. The DEIR claims that the other mitigation measures are sufficient and therefore energy impacts will be insignificant, even if the so-called “requirement” for renewable natural gas is not followed. *Id.* In other words, the measure is meaningless: the DEIR touts it as a measure to promote renewable energy and reduce GHG emissions, but concedes and expects its unenforceability and non-compliance.

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In addition CEQA requires that an EIR analyze whether a proposed mitigation would itself result in significant impacts. CEQA Guidelines section 15126.4(a)(1)(D); *Stevens v. City of Glendale* (1981) 125 Cal.App.3d 986. Some sources of renewable gas contribute to air pollution in their production. For example, policies that promote sourcing gas from livestock operations contribute to air pollution by increasing the intensity of those operations. Dairy operations in the San Joaquin Valley contribute to ozone and particulate matter pollution. For example, large livestock operations account for 57% of ammonia emissions in the San Joaquin Valley air basin. *See*, Environmental Protection Agency, Technical Support Document, EPA Evaluation of PM<sub>2.5</sub> Precursor Demonstration, San Joaquin Valley PM<sub>2.5</sub> Plan for the 2006 PM<sub>2.5</sub> NAAQS.<sup>7</sup> In addition to the health risks of ammonia exposure on its own, ammonia reacts with nitrogen oxides (e.g., NO<sub>x</sub>) and contributes to the formation of ammonium nitrate, a fine particulate matter (“PM<sub>2.5</sub>”). Ammonium nitrate comprises a large portion of the PM<sub>2.5</sub> in the San Joaquin Valley. For example, ammonium nitrate comprises 38 percent of the PM<sub>2.5</sub> mass on an annual average basis in Bakersfield, and 61 percent on high PM<sub>2.5</sub> days. *See*, San Joaquin Valley Air Pollution Control Dist., 2018 Plan for the 1997, 2006, AND 2012 PM<sub>2.5</sub> Standards at 3-2 to 3-3 (Nov. 15, 2018).<sup>8</sup> As large dairy operations continue to grow in the San Joaquin Valley air pollution from those facilities will similarly increase. Therefore, a revised DEIR must evaluate the potential impacts of this proposed measure.

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Moreover, the DEIR fails to show that its mitigation measures will be effective. In the case of measure 4.6-1c, as discussed above, its effectiveness cannot be substantiated

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<sup>7</sup> Available at <https://www.regulations.gov/document/EPA-R09-OAR-2019-0318-0005>.

<sup>8</sup> Available at <https://perma.cc/6GMN-J3MC>.

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at all given that it cannot be enforced. And the other measures similarly lack support. For example, measure 4.6-1b describes planting trees, landscaping, cool roofing, and cool pavements as “key strategies” to reduce energy use. *Id.* at 4.6-11. But it provides no evidence, let alone substantial evidence, on the efficacy of those strategies in reducing energy. Despite lacking evidence for the effectiveness of several mitigation measures, the DEIR nonetheless concludes that the impacts of energy consumption will be less than significant after mitigation. *Id.* at 4.6-13. The DEIR’s hollow and unsupported measures fail to meet CEQA’s standard of enforceable and effective mitigation.

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Where a project will have significant environmental impacts, the EIR must adopt any “feasible mitigation measure available that [will] substantially lessen” the severity of the impact. Pub. Res. Code § 21002; CEQA Guidelines § 15126(a). Here, the DEIR finds that energy consumption will have a significant impact, but it leaves feasible mitigation on the table. For example, measure 4.6-1d requires only 50% of on-site energy to come from renewable sources for buildings under 400,000 square feet. DEIR at 4.6-11; SCSP at 75. But a greater level of renewable energy would further reduce the severity of the impact from energy consumption. It is feasible to require 100% of on-site energy to be renewable, as evidenced by mitigation measures for other recent development projects. *See, e.g.* Mariposa Industrial Park Final EIR<sup>9</sup> at 2-9 (requiring all buildings to have sufficient solar panels to provide 100% of the operation’s base and future power demand). Yet the DEIR stops short of such feasible mitigation, requiring only half of the energy demand in new developments under 400,000 square feet to be supplied by on-site renewable energy. By leaving such a large gap in feasible mitigation, the Project unnecessarily increases the environmental impact from emissions. To comply with CEQA, the EIR must increase the minimum level of renewable energy to the highest feasible amount.

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### **C. The DEIR fails to adequately disclose the Project’s increase in VMT.**

An EIR is an informational document at its core. *See* CEQA Guidelines § 15002(a)(1) (one of the “basic purposes” of CEQA is to “[i]nform governmental decision makers and the public about the potential, significant environmental effects of proposed activities”); *Laurel Heights Improvement Assn. v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1123 (“Laurel Heights II”). Accordingly, the EIR must reflect a good faith effort at full and accurate disclosure of a project’s impacts. CEQA Guidelines

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<sup>9</sup> Available at

[https://www.stocktonca.gov/Documents/Business/Planning%20&%20Engineering/Other%20Projects%20Environmental/Mariposa\\_Revised\\_Final\\_Environmental\\_Impact\\_Report\\_FEIR\\_-\\_12622.pdf](https://www.stocktonca.gov/Documents/Business/Planning%20&%20Engineering/Other%20Projects%20Environmental/Mariposa_Revised_Final_Environmental_Impact_Report_FEIR_-_12622.pdf).

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§ 15151. The EIR must clearly explain and support its conclusions; the information should not need to be “painstakingly ferreted out” by the public and decisionmakers. *Environmental Planning and Information Council of Western El Dorado County v. County of El Dorado* (1982) 131 Cal.App.3d 350, 357 (finding an EIR inadequate where the document did not make clear the effect on the physical environment).

The DEIR’s discussion of VMT fails to meet this goal. The DEIR repeatedly states that the Project would result in a “decrease in VMT” (DEIR at 4.6-9, 11, 12, 13; 4.8-12, 16) but this assertion is misleading. Any claimed VMT reduction is only on a per capita basis, while the total VMT in the Plan Area will dramatically increase. DEIR Appx. D at 41. The DEIR’s misleading VMT conclusion infects other areas of the DEIR. For example, it claims a decrease in VMT to assert that the Project will result in a less than significant impact from VMT-related GHG emissions. DEIR at 4.8-15 to 4.8-16. In doing so, it fails to disclose how the increase in total VMT will lead to increased GHG emissions. Indeed, the DEIR’s energy analysis calculates how increased VMT is expected to increase energy use in the Plan Area. DEIR at 4.6-10. There is no reason why the EIR could not perform a similar GHG analysis.

The DEIR’s VMT analysis also relies on an improper baseline. An EIR must evaluate a project’s environmental impacts using an existing conditions baseline, which typically means the conditions “as they exist at the time the notice of preparation is published.” CEQA Guidelines § 15125; *Woodward Park Homeowners Assn., Inc. v. City of Fresno* (2007) 150 Cal.App.4th 683, 706-07. Although there is some flexibility in selecting the “baseline,” the agency must support its selection with substantial evidence. CEQA Guidelines § 15125; *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 328. Here, the DEIR uses an outdated baseline in its VMT analysis. The Notice of Preparation was published in 2021, yet the Fresno ABM model used “has a base year of 2015.” DEIR Appx. D at 9. Thus, in determining the significance of the VMT impacts, the DEIR compared the Project’s projected VMT to estimates that are now nearly a decade old. DEIR at 4.6-11; 4.8-12 (asserting the Project would result in a “less-than-significant VMT impact” because VMT would be “33 percent lower than 2015 existing conditions”). During these intervening years, per capita VMT may have decreased, meaning the Project’s VMT “reductions” are likely smaller than the DEIR claims. Moreover, the DEIR fails to provide substantial evidence showing that its 2015 baseline allows for an accurate reflection of the Project’s VMT impact. While the DEIR states that the model was adjusted with 2018 data, that data was still outdated at the time of the NOP. *Id.* By using an unsupported and outdated baseline, the DEIR artificially inflates its VMT reductions and does not allow “the public to . . . intelligently weigh the environmental consequences of [the agency’s] contemplated

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action.” *Environmental Planning & Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350, 355.

The DEIR’s per capita VMT analysis fails to disclose the actual VMT impacts of the Project. As an initial matter, the VMT analysis is opaque, making it difficult to determine how the agency reached the final numerical figures listed. The DEIR states, without further explanation, that “the SCSP project area was overlaid on the Fresno ABM loaded vehicle assignment network and the total VMT for the SCSP project area was calculated by multiplying daily volumes by distance traveled.” DEIR Appx. D at 29. From this description, it is impossible to determine how VMT was calculated for trucks and passenger vehicles, and how these assumptions compare to average VMT in the City and County.

Even with this opacity, it appears that the DEIR improperly understates the Project’s per capita VMT impact. It calculates per capita VMT under Project conditions using a future projected service population for the Plan area, but excludes roughly half of this population from its calculation of “existing” per capita VMT. DEIR Appx. D at 29, 41. Instead, the “existing” VMT calculation only includes the VMT of current residents and employees in the Plan area. *Id.* at 29. The DEIR does not disclose the existing VMT of the additional 19,093 members of the service population that are expected to use the Plan area in the future. *Id.* at 41. Instead, the DEIR simply assumes these future users of the Plan Area currently have zero VMT, without providing any evidence to support this assumption.

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To accurately compare Project conditions to existing conditions, the EIR must compare the VMT of the service population during Project implementation to the current VMT of that same population before the Project. Without any information regarding how the Project will change the existing VMT for the Plan area’s future service population, it is impossible to determine whether the DEIR’s assertion of a per capita VMT reduction is correct.

#### **D. The DEIR Fails to Sufficiently Analyze Impacts Related to Bicyclist and Pedestrian Safety**

Residents of South Central Fresno have long called for the City to encourage the development of more housing and walkable streets in and around their neighborhoods. Instead, industrial development proposed in the SCSP would inevitably bring more truck traffic to the Plan area. This increase in traffic would present substantial safety issues to residents of South Central Fresno—which already lacks consistent and safe infrastructure for pedestrians and cyclists.

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The City has a duty under CEQA to consider whether a project would . . . “create[s] risks to pedestrians in and around the project site.” *City of Maywood v. Los Angeles Unified School Dist.* (2012) 208 Cal.App.4th 362, 391. The SCSP DEIR, however, does not adequately analyze the Plan’s potential danger to pedestrians, cyclists, or other residents who may be vulnerable to traffic hazards. It neglects to examine the impact of increased truck traffic near sensitive existing uses in or around the Plan Area, such as around Orange Center Elementary School. The DEIR then concludes—without sufficient evidence or analysis—that the SCSP’s traffic safety impacts would be less-than-significant.

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The residents of South Central Fresno know better. The SCSP continues the City’s trend of pushing industrial uses and related truck traffic onto South Central Fresno, a community long-overburdened by pollution. Residents of South Central Fresno already feel unsafe due to heavy truck traffic and poor pedestrian infrastructure, especially in certain areas of the Plan. Continued industrialization only increases threats to residents’ safety. By summarily claiming that the SCSP will have a less-than-significant effect on traffic hazards, the DEIR ignores residents’ lived experiences.

#### **I. The DEIR Must Examine How Implementation of the SCSP Would Impact Bicyclist, Pedestrian, and Traffic Safety.**

The City’s DEIR should have described how it anticipated the SCSP to impact bicyclist, pedestrian, and motorist safety. It did not. For an EIR to find that a potential environmental impact is not significant, it must contain an adequate analysis of the magnitude of the impact and the degree to which it is mitigated by mitigation measures. *See, Sundstrom*, 202 Cal.App.3d at 306-07. If an agency fails to investigate a potential impact, its finding of significance cannot stand. *Id.* An EIR that incompletely or inaccurately considers how it would impact bicyclist, pedestrian, and traffic safety is legally insufficient. *City of Maywood*, 208 Cal.App.4th at 391.

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The DEIR does not meet its legal mandate to provide an intelligent evaluation of potential traffic safety harms. *See, San Joaquin Raptor Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730. Industrial facilities, such as warehouses, are known to bring heavy truck traffic.<sup>10</sup> This traffic presents a known risk of substantial

<sup>10</sup> Bureau of Environmental Justice, Cal. Atty. Gen., Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act

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safety issues—especially where trucks may pass through residential areas, school zones, or other places that pedestrians frequent and may be most vulnerable.<sup>11</sup> However, the DEIR is vague in its contemplation of traffic safety. Of the four potential impacts it addresses, none directly assess potential harm due to increased truck traffic.

The impact discussions in the DEIR's Transportation and Circulation section only obliquely references traffic safety. Impact 1 examines whether the SCSP conflicts with existing general policies and programs. It concludes that the goals for pedestrian and cyclist safety are consistent between the plans, and thus there is no conflict. DEIR at 4.15-14. However, this purported analysis comes with no attempt of assessing what the SCSP's truck traffic impacts would actually be for the community. It thus fails to conduct a sufficient analysis of traffic safety impacts under *City of Maywood*, 208 Cal.App.4th at 362. Nor do Impacts 2 (VMT), 3 (geometric design features) or 4 (emergency vehicle access) consider how increased truck traffic from increased industrialization may pose safety hazards. This omission is particularly troubling because the City is aware that traffic safety is an "area of controversy" for the Plan. DEIR at 2-4. The DEIR should have included an analysis of this potential impact.

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Additionally, the DEIR also should have—but did not—discuss where in the Plan Area increased truck traffic is most likely to create unsafe conditions for pedestrians, cyclists, and others. There is no excuse for this lack of analysis as the City knows the location of existing truck routes in and around the Plan area, and the DEIR and SCSP acknowledge that existing pedestrian facilities are inadequate. *See*, DEIR at 4.15-12 ("[T]here are currently very limited pedestrian facilities in the vicinity of the project site. Sidewalks do exist on portions of East Avenue, North Avenue, Central Avenue, Church Avenue, and Jensen Avenue but are disconnected from one another or are disjointed"); SCSP at 120 ("there is a lack of complete sidewalks, which results in hazards to

(Sept. 2022) at 11, online at <https://oag.ca.gov/system/files/media/warehouse-best-practices.pdf>.

<sup>11</sup> In fact, earlier this year, a 10-year-old boy in Fresno County was killed after being struck by truck traffic. Gajarian, *10-year-old boy killed in Sanger crash identified*, Fox 26 News (Mar. 8, 2024), available online at: <https://kmph.com/news/local/10-year-old-boy-killed-in-sanger-crash>. And last year, a 12-year-old girl was hit by a truck on her walk home from school. Meza, *Girl hit by truck while walking home from school, police say*, Your Central Valley (Aug. 31, 2023), online at: <https://www.yourcentralvalley.com/news/local-news/girl-hit-by-truck-while-walking-home-in-fresno-police-say/>.

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pedestrians, particularly to children around neighborhood schools that there are incomplete bicycle and pedestrian facilities within the Plan Area”).

Neither the DEIR nor Plan identify how the Plan’s end uses will impact users of the Plan Area’s already-precarious bicycle and pedestrian facilities. Rather, the DEIR simply states that “the Plan would substantially increase industrial uses in the Plan Area and implement commercial and minor residential development. Thus, the industrial and other uses would substantially increase traffic, including truck traffic, in the Plan Area.” DEIR at 4.15-16.

The mere acknowledgement that the Plan’s industrial uses would substantially increase truck traffic is insufficient. The Plan must also disclose the extent of increased truck traffic and identify where there are cyclists, pedestrians, or other sensitive receptors who would be impacted by them. Courts have determined that “recognition of the characteristics of the [plan’s] tenants is a necessary prerequisite to accurate identification and analysis of the environmental consequences that will result from approval of the proposed project[.]” *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App. 4th 11841213. And in the *City of Maywood*, the court invalidated an EIR for a parallel problem as here—the EIR lacked sufficient detail and analysis to provide a basis on which to assess risks to pedestrians. 208 Cal.App.4th at 387. While the *Maywood* EIR and accompanying safety study expressly contemplated some traffic safety hazards, it crucially failed to evaluate the issue in detail, and “[t]he record [did] not contain any evidence that the [planner] considered or otherwise addressed these issues.” *Id.* at 395.

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Similarly, here, the SCSP DEIR should have reasonably described the Plan’s features and how they would impact pedestrian and traffic safety—particularly for areas where safety considerations were most pressing. That the SCSP DEIR is a program-level DEIR does not excuse it from undergoing such analysis. “[D]esignating an EIR as a program EIR . . . does not by itself decrease the level of analysis otherwise required.” *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 17 Cal.App.5th 413, 426. Instead, “[t]he level of specificity of an EIR is determined by the nature of the project and the ‘rule of reason’ . . . rather than any semantic label.” *Id.* Even if “more precise information may be available during [later] environmental review,” an EIR must, at minimum, “provid[e] what information it reasonably can now.” *Id.* at 440 (citing CEQA Guidelines § 15144).

If community members had been adequately consulted, the DEIR might have noted the following traffic safety hot spots, where residents feel the most acute danger from truck traffic. For instance, Orange Center Elementary School is located within the

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Plan Area, on South Cherry Avenue between East Central Ave and East North Avenue. The school is a block from the CA-41 freeway. Elementary-age students and their guardians walking to and from school are particularly vulnerable to safety issues brought by increased truck traffic. The DEIR only mentions Orange Center Elementary in the context of traffic safety to say that the school would be subject to City programs and “potential safety improvements.” DEIR at 3-23. It does not, as required, provide an analysis of the safety risk that the increased SCSP traffic might cause.

In addition, residential communities exist in close proximity to industrial uses throughout the Plan Area. These communities already face danger from truck traffic brought by warehouse development within the past decade. Residents report that trucks pass right in front of their homes, and that the increase in traffic has led them to feel unsafe walking or driving in their neighborhoods. For a number of communities in South Central Fresno, the SCSP zones light and heavy industrial uses and business park uses are located immediately adjacent to known residential areas. The DEIR entirely fails to contemplate how residents of these communities will be impacted by truck and other traffic the SCSP’s uses will inevitably bring.

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The DEIR’s current acknowledgement of potential traffic safety harms is an unreasonably bare assessment of how the SCSP would impact traffic safety in the Plan area. It is thus legally deficient.

**2. The DEIR Improperly Relies On Proposed Policies To Conclude That The SCSP’s Traffic Safety Impacts Would Be Less Than Significant.**

The DEIR’s traffic safety analysis also attempts to shortcut CEQA procedures by saying that proposed plan policies will render the vaguely discussed impacts to pedestrians and cyclists “less than significant.” However, pointing to these policies does not substitute for an actual analysis of whether Plan impacts may be significant and require mitigation. *See, Lotus*, 223 Cal.App.4th 645.

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The DEIR barely discusses traffic safety impacts to begin with, but even when it does, it fails to meet CEQA requirements. In a proper analysis, an EIR would examine the significance of an environmental impact, *then*, for each significant impact, discuss proposed mitigation. Pub. Res. Code, § 21100(b). However, the SCSP DEIR circumvents this process by neglecting to reach a conclusion about the significance of traffic safety impacts separately from its discussion of policies intended to mitigate such impacts. DEIR at 4.15-14. This approach is not permissible under CEQA. In *Lotus*, the court held that “avoidance, minimization and/or mitigation measures,” are not “part of the project,”

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and could thus not be used to justify a finding that an environmental impact was not significant. (2014) 223 Cal.App.4th 645, 655-6 .

Here, the DEIR attempts to engage in the same practice that the court invalidated in *Lotus*. In Impact 4.15-1, the DEIR suggests that “[p]roposed SCSP policies would encourage the construction of bicycle and pedestrian safety improvements and transportation demand management strategies for employees to support the use of alternative modes of transportation.” DEIR at 4.15-14. However, merely gesturing towards proposed policies as de facto mitigation is not an analysis of traffic safety impacts. “By compressing the analysis of impacts and mitigation measures into a single issue, the EIR disregards the requirements of CEQA.” *Lotus*, 223 Cal.App.4th at 656.

Furthermore, SCSP policies that the DEIR claims will automatically mitigate possible impacts are too vague to suffice as mitigation. And the formulation of mitigation measures cannot be developed after project approval unless the agency “commits” itself to “specific performance standards.” *League to Save Lake Tahoe Mountain etc. v. County of Placer* (2022) 75 Cal.App.5th 63, 122.

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For instance, Policy MT-5-d merely states: “Pedestrian Safety. Minimize vehicular and pedestrian conflicts on both major and non-roadways through implementation of traffic access design and control standards addressing street intersections, median island openings and access driveways to facilitate accessibility while reducing congestion and increasing safety.” And Policy MT-6-c says: “Link Paths and Trails and Recreational Facilities. Strive to provide path or trail connections to recreational facilities, including parks and community centers where appropriate, and give priority to pathway improvements within neighborhoods characterized by lower vehicle ownership rates and lower per capita rates of parks and public open space.” None of these policies commit the City to specific mitigation or performance standards. They are thus inadequate substitutes for real mitigation plans. *League to Save Lake Tahoe*, 75 Cal.App.5th at 122.

### **3. The DEIR Fails To Adequately Analyze the Cumulative Affects Related to Bicyclist and Pedestrian Safety.**

The DEIR also erroneously relies on the Truck Reroute Study,<sup>12</sup> discussed in prior sections, to justify its claim that traffic safety impacts will be less than significant. The DEIR states: “The [Truck Reroute Study] is designed to address, among other things,

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<sup>12</sup> City of Fresno, South Central Fresno AB617 Community Truck Reroute Study and related Health Assessment (Apr. 2024), online at <https://www.fresno.gov/publicworks/south-central-truck-re-route-study/>.



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truck transportation conflicts, accidents, and residential and school impacts . . . it is anticipated that its recommendations will be implemented by the City and would further reduce the potential for such hazards.” SCSP DEIR at 4.15-16. However, the DEIR cannot summarily assume that the study will mitigate potential truck traffic impacts the SCSP’s proposed industrialization would bring. In fact, the DEIR must conduct an analysis of the SCSP and Truck Reroute Study’s cumulative safety risks, as both plans will affect traffic safety in South Central Fresno. Failure to consider these closely related plans in tandem renders the SCSP’s cumulative impact analysis deficient. *See, Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1213-14.

Contrary to the DEIR’s assumptions, residents have cause for concern that the Truck Reroute Study will *increase*, rather than reduce, truck safety hazards in the Plan area and near sensitive receptors. A closer read of the Study shows that, while it plans to divert truck traffic from some areas of Fresno, it will push heavy duty trucks *into* the SCSP Plan area. For instance, the Truck Reroute Study includes truck routes on Cedar Avenue between American and Central Avenues, and on North Avenue between Maple and Peach Avenues near existing residents. The Truck Reroute Study also designates “Truck Regulated Areas” (“TRAs”) where truck traffic is to be limited—but the map of proposed TRAs leaves a massive gap where much of the SCSP is located. Key sensitive receptors within the SCSP Plan Area are not even covered; Orange Center Elementary School is not currently in a TRA. Therefore, the Truck Reroute Study is likely to cause more safety risks—bringing more dangerous truck traffic into places where people in South Central Fresno live and go to school. By failing to conduct an analysis of truck traffic impacts from the Study and SCSP, the DEIR fails its CEQA mandate to consider cumulative impacts.

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Because the DEIR failed to adequately examine SCSP’s impact on traffic safety, it cannot reasonably conclude that traffic safety impacts would be less than significant. It likewise cannot say that mitigation for its insufficiently analyzed Plan is unnecessary. The DEIR’s determination that traffic safety impacts will be less than significant and require no mitigation is thus legally invalid.

#### **E. The DEIR’s Analysis of Hydrology and Water Quality is Inadequate.**

The DEIR’s description of the environmental setting for hydrology and water quality is inadequate. The DEIR discloses that groundwater quality is a concern in the Plan Area due to several major contaminant plumes. DEIR at 4.10-12 and 4.10-21. The DEIR indicates that the plumes contain organic and inorganic compounds, solvents,

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pesticides and other contaminants. *Id.* “Known contaminants include dibromo-3-chloropropane (DBCP), ethylene dibromide (EDB), trichloropropane (TCP), volatile organic compounds (VOCs) such as trichloroethylene (TCE) and tetrachloroethylene (PCE), nitrate, manganese, radon, chloride, and iron.” *Id.* Despite these concerns, the DEIR analysis of the Project’s impact on groundwater supply and quality is cursory and incomplete.

The DEIR states that most contaminants in groundwater are being addressed, yet it fails to indicate existing pollutant levels to disclose the extent and severity of the pollution. This information is key to understanding the existing condition of water quality in the area. The DEIR also fails to disclose information about the number and locations of domestic wells in the Plan Area. Many residents on portions of East Central, Malaga, and Britten Avenues, among other residential areas, rely on groundwater via domestic wells. Therefore, information on groundwater quality at these well sites as well as the status of groundwater generally are important data points to establish a baseline for water quality in the area from which to measure potential impacts.

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Likewise, the DEIR analysis fails to analyze the potential for the vast increase in industrial and business park uses to result in further contamination of groundwater. Instead the DEIR, relies solely on future project compliance with existing regulations to conclude that any related impacts would be less-than-significant. DEIR at 4.10-19. However, the fact that development may comply with existing regulations does not mean that its impacts will be less than significant. *See, Kings County Farm Bureau*, 221 Cal.App.3d 692.

Despite concerns about the existing quality of groundwater in the area, the DEIR analysis of the Project’s impact on groundwater supply and quality is cursory and incomplete so that the document’s conclusions that impacts to groundwater supplies and recharge would be less than significant are unsupported.

#### **F. The DEIR Fails to Adequately Analyze and Mitigate for the SCSP’s Noise Impacts**

In evaluating the effects of noise on sensitive receptors, the DEIR states that “the plan is designed to buffer residentially designated areas with less intensive land uses (e.g., Business Park) such that new industrial uses would not be located within distances that could expose existing sensitive receptors to excessive stationary noise levels.” DEIR at 2-48. As an initial matter, this assertion is misleading because the Business Park designation still permits warehouses and other uses that could still generate substantial noise. In any event, the DEIR concedes that “it is possible that new stationary noise

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sources could result in excessive noise at sensitive receptors and exceed applicable City of Fresno standards.” *Id.* Therefore, any reasonable person can see that, because the plan would result in excessive noise in exceedance of standards, the plan cannot be said to buffer residents from the harmful effects of noise.

While in this instance the DEIR accurately concludes that related impacts would be significant, it fails to identify measures to minimize these impacts. The DEIR only proposes requiring development applicants to prepare an acoustical analysis to identify project-specific noise effects and noise abatement measures, thus deferring analysis and mitigation. Moreover, this measure only perpetuates the City’s approach over the last decade, which has resulted in allowing development that has added significant stationary and mobile noise sources (e.g., large truck fleets) immediately adjacent to residential areas. For example, recently approved Amazon facilities are located approximately 500 feet from a residential neighborhood along Central Avenue. Hundreds of heavy duty trucks travel through the intersection at Central and Orange daily and enter the facility nearby on Orange Avenue, and area residents experience noise disturbance from truck traffic 24 hours a day, seven days a week. Instead, the DEIR should have included a measure that expressly prohibits new development that results in noise exceeding the City’s standards.

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A revised DEIR should include additional mitigation to ensure that new development will not result in excessive noise to sensitive receptors.

**G. The DEIR Fails to Provide an Adequate Analysis of the Project’s Potentially Significant Cumulative Impacts..**

CEQA requires lead agencies to disclose and analyze a project’s “cumulative impacts,” defined as “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.” Guidelines § 15355. Cumulative impacts may result from a number of separate projects, and occur when “results from the incremental impact of the project [are] added to other closely related past, present, and reasonably foreseeable probable future projects,” even if each project contributes only “individually minor” environmental effects. Guidelines §§ 15355(a)-(b). A lead agency must prepare an EIR if a project’s possible impacts, though “individually limited,” prove “cumulatively considerable.” CEQA § 21083(b); Guidelines § 15064(i). A proper cumulative impact analysis is “absolutely critical,” *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1217, as it is a mechanism for controlling “the piecemeal approval of several

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projects that, taken together, could overwhelm the natural environment,” *Las Virgenes Homeowners Fed’n, Inc. v. County of Los Angeles* (1986) 177 Cal.App.3d 300, 306.

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As discussed above, the DEIR repeatedly fails to analyze the Project’s cumulative impacts. Additionally, the DEIR’s cumulative analysis fails to include the Caltrans South Fresno State Route 99 (“SR 99”) Corridor Project, which will implement operational changes at the North Avenue interchange and American Avenue interchange. The North Avenue interchange is located in the center of the SCSP area and the American Avenue interchange is approximately one mile to the southeast of the SCSP area. See, <https://dot.ca.gov/-/media/dot-media/district-6/documents/d6-environmental-docs/06-0h240/sr99-sth-fre-sr99-crrdr-f-060h240-0223-a11y.pdf> The EIR for the SR 99 Corridor Project was finalized in January 2023, well in advance of release of this project DEIR.

The DEIR’s omission of this project is a serious flaw because the interchange reconfiguration project will add significant traffic capacity to the interchanges. See, comments submitted by Friends of Calwa, Inc. and Fresno Building Healthy Communities dated July 14, 2024, attached as Exh. K. The SR 99 Corridor Project will expand capacity by construct new additional bridge overcrossings, ramps, and additional structures to facilitate increased traffic flow and will expand SR 99 from six to eight lanes. *Id.* at 1. This project will more than double capacity for heavy duty trucks and cars to travel between an expanding SR 99 and local South Fresno roadways and add thousands of daily truck trips to the area. *Id.* at 2. Yet, the EIR fails to evaluate how increased heavy duty truck and automobile traffic entering the SCSP area from these interchanges will combine with the Project’s environmental impacts and contribute to already significant impacts related to air quality, public health, climate change, public safety, and noise.

10-51

In addition, the DEIR fails to adequately address the cumulative noise impacts of anticipated development in the SCSP area. The DEIR concedes that the Project’s construction and operational noise impacts would both be significant and unmitigable to levels less than significant. DEIR at 4.12-13 to 4.12-18. The DEIR also concedes that cumulative construction and operational noise impacts would be cumulatively considerable. DEIR at 5-13 to 5-14. However, because it does not include noise impacts from increased heavy duty truck traffic due to the SR 99 Corridor Project, the DEIR fails to disclose the extent and severity of cumulative impacts, both in the short- and long-term. Most egregiously, the DEIR concludes that “no additional mitigation is available beyond what is identified” in the document. *Id.* This conclusion is incorrect. The City can propose additional SCSP policies to address these impacts, such as: requiring *real* protective buffers to prohibit any new industrial and business park uses from locating near residential areas; prohibiting uses from exceeding external noise standards near

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residential areas, and establishing a prohibition on truck traffic travelling through residential areas. The DEIR simply fails to propose such common sense mitigation that could help relieve the noise burden on residents in the Plan area.

10-52  
 cont.

Because DEIR fails to provide any meaningful analysis of or mitigation for these potentially significant impacts, the DEIR must be recirculated.

#### **H. The DEIR Fails to Adequately Analyze Alternatives to the Proposed Specific Plan**

Under CEQA, a proper analysis of alternatives is essential to comply with the Act's mandate that significant environmental damage be avoided or substantially lessened where feasible. Pub. Res. Code § 21002; CEQA Guidelines §§ 15002(a)(3), 15021(a)(2), 15126(d); *Citizens for Quality Growth v. City of Mount Shasta* (1988) 198 Cal.App.3d 433, 443-45. As the California Supreme Court has stated, "[w]ithout meaningful analysis of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process . . . [Courts will not] countenance a result that would require blind trust by the public, especially in light of CEQA's fundamental goal that the public be fully informed as to the consequences of action by their public officials." *Laurel Heights Improvement Ass'n*, 47 Cal.3d at 404.

10-53

Critically, an EIR must consider a "reasonable range" of alternatives "that will foster informed decision-making and public participation." CEQA Guidelines § 15126.6(a); *Laurel Heights Improvement Assn*, 47 Cal.3d at 404 ("An EIR's discussion of alternatives must contain analysis sufficient to allow informed decision making."). The discussion of alternatives must focus on alternatives to the project or its location that are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly. CEQA Guidelines § 15126.6(b). The DEIR fails to meet CEQA's mandates for an adequate alternatives analysis.

#### **I. The DEIR's Failure to Adequately Describe the Existing Setting and Analyze Project Impacts Undermines the Alternatives Analysis.**

As a preliminary matter, as described throughout this letter, the DEIR's failure to describe the existing setting and to disclose the extent and severity of the Project's broad-ranging impacts necessarily distorts the document's analysis of Project alternatives. As a result, the alternatives are evaluated against an inaccurate representation of the Project's impacts. Proper identification and analysis of alternatives is impossible until Project

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impacts are fully disclosed. To take one example, once the DEIR reveals the full extent of the air pollutant emissions and related public health impacts in the planning area, the City should consider additional alternatives and/or reduced industrial uses, that would help lessen such impacts.

10-54  
 cont.

## 2. The DEIR's Dismissal of the Community Plan Option Alternative Is Unsupported.

The DEIR presents two additional "options" to the alternatives: the Community Plan Option and the Business Plan Option. Of these two options the Business Plan is a straw man alternative because a) it fails to reduce *any* of the SCSP's significant impacts and (see, CEQA Guidelines § 15126.6(b)) and b) fails to meet several of the City's stated objectives (e.g. minimize environmental and neighborhood impacts and protect against incompatible uses). By contrast, the Community Plan Alternative, proposed by the community, reduces impacts in several topic areas, and as discussed below, would reduce impacts even further if the amount of non-residential development was reduced while keeping the number of jobs the same as provided by the proposed project. Lastly, the DEIR provides no explanation or analysis as to why the Community Plan alternative is relegated to the apparent lesser status of an "option" rather than being considered as an "alternative" to the project.

As discussed above, inexplicably, the Community Plan Alternative is assumed to have the same amount of non-residential development as the SCSP. DEIR at 6-26. The two alternatives to the project (the Farmland Conservation Alternative and the Reduced Plan Area Alternative (i.e., no lands in the SOI) have a significantly reduced amount of non-residential development due to a reduction in the geographic area considered for development. See, Table 1 below. Given that the Community Plan was proposed by area residents, largely due to their concerns about air quality impacts, and public health and safety of residents overall, it would make sense that the Community Plan alternative would also include a reduced amount of non-residential development. The Community Plan is shown to result in a greater number of jobs than the proposed SCSP (11,644 additional jobs, or 25,955, compared to the proposed project, 14, 311). DEIR at 6-29. Therefore, it appears to be feasible to consider the Community Plan with a reduced amount of non-residential development that would still yield the same number of jobs as the proposed SCSP. Such an alternative would not only meet the City's objectives, it would also result in reduced impacts in key issue areas for the community, such as reduced criteria pollution emissions, a reduced number of residents being exposed to polluting emissions, reduced health risks, and reduced exposure to safety risks and noise

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sources due to reduced truck traffic associated with industrial and regional business park uses.

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 cont.

Table I: Comparison of proposed alternatives.

	Existing	Prop Plan	No Project/ GP Alt	Farmland Conserv	Reduced Plan Area	Community Plan Option	Business Plan Option
Residential units/persons		91 / 313	0		53	739 / 2,262	0
Jobs		14,311	13,702	11,709	8,300	25,955	13,657
Non-Residential		12,021,744		9,857,830	6,972,612	12,021,744	12,021,744
Aesthetics			Sim	<	<	Sim	Sim
Agriculture		992	Sim	<Avoids	<	Sim	Sim
Air Quality			>	<	<	<	>
Biology			Sim	<	<	Sim	Sim
Cultural			Sim	Sim	Sim	Sim	Sim
Energy			Sim	<	<	Sim	Sim
Geology			Sim	<	<	Sim	Sim
GHG			>	<	<	<	>
Hazards			Sim	<	<	Sim	Sim
Hydrology			Sim	<	<	Sim	Sim
Land Use			Sim	Sim	Sim	Sim	Sim
Noise			Sim	<	<	Sim (< trucks)	Sim
Pop/ House			Sim	Sim	Sim (<)	>	<
Pub Serv/Rec			Sim	<	<	Sim	Sim
Transportation			>	Sim	Sim	Sim	>
Utilities			>	<	<	>	>

### III. The DEIR Must Be Revised and Recirculated.

Under California law, the present DEIR cannot properly form the basis of a final EIR. CEQA and the CEQA Guidelines describe the circumstances that require recirculation of a DEIR. Such circumstances include: (1) the addition of significant new information to the EIR after public notice is given of the availability of the DEIR but before certification, or (2) the DEIR is so “fundamentally and basically inadequate and

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conclusory in nature that meaningful public review and comment were precluded.”  
 CEQA Guidelines § 15088.5.

Here, as this letter explains, the DEIR fails to adequately reveal or describe the true extent of numerous of the Project’s significant environmental impacts, which clearly requires extensive new information and analysis. This analysis will likely result in the identification of new, substantial environmental impacts or substantial increases in the severity of significant environmental impacts. Once the DEIR reveals the full extent of the Specific Plan’s impacts, the City should consider land use designation changes that prohibit high-pollutant emitters in the buffer around residential areas to lessen such health hazards.

10-56  
 cont.

#### IV. Conclusion

As described above, the DEIR violates CEQA in numerous respects. Unfortunately, the impact of the CEQA violations will be felt most acutely by the City’s most vulnerable residents; low-income residents and communities of color. If not remedied, this disproportionate impact on area residents, will result in violations of state law. Through the environmental review process, the City has an opportunity to develop a Specific Plan that minimizes the Project’s significant impacts and complies with CEQA, while at the same time ensuring that the most disadvantaged neighborhoods in South Central Fresno do not bear the burdens of the City’s growth.

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Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



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**Exhibits:**

- Exhibit A: Baseline Environmental, Inc. Report
- Exhibit B: “Health effects of volatile organic compounds,” Medical News Today
- Exhibit C: CARB’s Low Emission Diesel Study Final Report
- Exhibit D: California Air Resources Board, Air Quality and Land Use Handbook: A Community Health Perspective
- Exhibit E: Nature Communications, Kerr et. al. “Air pollution impacts from warehousing in the United States uncovered with satellite data”, July 24, 2024
- Exhibit F: OEHHA February 2015 Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments
- Exhibit G: UC Merced Fresno Community Environmental Health Impact Assessment
- Exhibit H: Executive Order B-30-15
- Exhibit I: Assembly Bill 1279
- Exhibit J: *Atmosphere* 2023, 14(5), 857; <https://doi.org/10.3390/atmos14050857>, Yan et al, Cooling Effect of Trees with Different Attributes and Layouts on the Surface Heat Island of Urban Street Canyons in Summer
- Exhibit K: Comments submitted by Friends of Calwa, Inc. and Fresno Building Healthy Communities dated July 14, 2024

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**Letter 10 Leadership Council for Justice & Accountability,  
Edward T. Schexnayder, SMW Law**  
7/30/24

**Response 10-1**

The comment consists of prefatory remarks introducing detailed comments that appear later in the comment letter. The comment alleges inadequacies in specific technical topic assessments, the specifics of which are addressed in later comments. Please refer to subsequent responses to comments contained in this letter.

**Response 10-2**

The comment consists of prefatory remarks introducing detailed comments that appear later in the comment letter. The comment alleges deficiency under CEQA in several areas, the specifics of which are addressed in later comments. Counter to the comment's assertion, the Draft EIR is comprehensive and was prepared in accordance with CEQA and the State CEQA Guidelines. Please refer to subsequent responses to comments contained in this letter and to Master Response 2, Recirculation. Health impacts from exposure to criteria air pollution are described in the Draft EIR at pages 4.3-7 through 4.3-9. Please refer to response to Comment 1-5 for additional information pertaining to the SCSP's consistency with the CERP.

**Response 10-3**

The comment recommends recirculation and expresses general concern about the alternatives analysis. The comment recommends the SCSP be revised to incorporate changes suggested by the Leadership Council for Justice and Accountability. Please refer to subsequent responses to comments contained in this letter and to Master Response 2, Recirculation.

**Response 10-4**

The comment refers to an air quality report attached as Exhibit A to the comment letter. The primary comment letter (Letter 10) refers to that air quality report throughout, so responses to the attachment are provided in that manner. (See Responses to Comments 10-12, 10-16, 10-17, 10-21, 10-23, 10-24, 10-25, 10-26, 10-27, and 10-31.) Moreover, the air quality report contains analysis and methods that purport to discredit the analysis in the Draft EIR, which contains analysis and conclusions based on substantial evidence. Even if the attachment contains substantial evidence to question the approach and conclusions of the air quality analysis, as stated in Section 15151 of the CEQA Guidelines, "(d)isagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among experts." These responses to comments, which constitute an element of the EIR, summarize those points of disagreement.

**Response 10-5**

The comment describes certain requirements for an EIR's project description, expresses the opinion that the Draft EIR falls short, and identifies a discrepancy between the EIR and SCSP. The EIR inadvertently omitted "near zero" from the footnote in the development standard referenced in the comment. This is a typographical error. The cited EIR section refers to, and but for the typo excerpts verbatim, SCSP development regulations. The cited text at Draft EIR page 3-30 is revised as follows:

3. Require a Conditional Use Permit (CUP) for the following use classifications that fall within 1,000 feet of a sensitive use:
  - ▶ Motorcycle/Riding Club
  - ▶ Construction and Material Yards
  - ▶ Limited Industrial
    - Dry cleaning plants would not be permitted
  - ▶ Warehousing, Storage, and Distribution: Indoor Warehousing and Storage\*

- ▶ Warehousing, Storage, and Distribution: Outdoor Storage\*
- ▶ Warehousing, Storage, and Distribution: Wholesaling and Distribution\*

\*Must meet CARB criteria for zero or near zero emission facilities, as defined in CA Sustainable Freight Action Plan (July 2016)

#### **Response 10-6**

The comment goes on to note that the State's Sustainable Freight Action Plan (SFAP) does not include criteria for facilities to be considered zero or near zero emission. This lack of definition does not render the project description inadequate. It is reasonable for the SCSF to refer to the State's SFAP. The SFAP was prepared pursuant to Executive Order B-32-15 and provides a framework to transition the state's freight system to a more efficient and less polluting freight transport system. Zero emission facilities refer to electric or renewable technologies that would not result in tailpipe or on-site emissions; near-zero emission facilities describe alternative forms of fuel-powered vehicles such as hydrogen fuel cell technologies. These descriptors are widely used in several CARB regulations, plans, and programs including, but not limited to, the Advanced Clean Cars II Program, the Advanced Clean Fleets Regulation, and the 2022 State SIP Strategy. Zero and near-zero facilities would not generate on-site emissions and would therefore not contribute to off-site impacts related to pollution exposure.

#### **Response 10-7**

The comment expresses the opinion that the Draft EIR's project description should include the total number of estimated vehicle trips and truck trips (by truck category) potentially generated by plan-related development. The Draft EIR's description of the SCSF complies with CEQA and the State CEQA Guidelines and provides a level of detail sufficient to evaluate and review environmental impacts (CEQA Guidelines Section 15124). Because the SCSF is a plan and no specific development projects are yet proposed, the number of vehicle trips, truck trips, and truck trips by truck category cannot be known. Moreover, vehicle and truck trips generated by a plan or project are an outcome of the plan or project and not a proposal by the lead agency. In accordance with established practice, the EIR uses transportation planning and assessment tools to disclose and evaluate environmental effects. In this instance, the traffic analysis uses the Fresno COG Travel Demand Model to programmatically estimate the number of trips generated by the SCSF. These data are, in turn, used in the environmental analysis (e.g., Section 4.3, "Air Quality").

#### **Response 10-8**

The comment expresses concern about SCSF policies and standards. Refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

The comment states that "the SCSF as proposed would allow many polluting uses near residents and sensitive uses." As an initial matter, the uses cited in the comment, including warehousing uses, are currently allowed under existing land use designations and zoning. In fact, more of the plan area is designated for Heavy Industrial uses under the existing General Plan than under the SCSF.

Regarding the 100-foot setback cited in the comment, this is a building setback identified in the SCSF Development Standards. Other use classifications require setbacks of 1,000 feet or require a conditional use permit within 1,000 feet. The comment offers no evidence to suggest that a 100-foot building setback is inappropriate. Moreover, future warehouses meeting the definition of a logistics center would be required to comply with the setback requirements of AB 98.

#### **Response 10-9**

The comment suggests that the colors used to distinguish Regional Mixed Use and Regional Business Park are too similar and not easily distinguishable. The comment is acknowledged, and the exhibit has been revised accordingly. See revised figures 3-5, 3-6, and 3-16 in Chapter 3, Draft EIR Revisions. There is only one parcel that is designated as Neighborhood Mixed Use and there is a note on the figure noting where that parcel is located.



**Response 10-10**

The comment takes issue with the Draft EIR's characterization of the SCSP proposal to rezone areas around sensitive uses from Heavy Industrial to Business Park. The SCSP proposes to reduce the intensity of land uses allowed adjacent to sensitive uses as compared to existing allowable uses. The land use designations (e.g., Heavy Industrial, Regional Business Park, Medium Density Residential) are sufficient to characterize the types of land uses accommodated in each zone. Specific uses are numerous and are described in the City's Zoning Code. See also Master Response 4, Downzoning to Create Transitional or Buffer Areas.

**Response 10-11**

The comment is prefatory to more detailed comments that follow. It describes CEQA principles and requirements pertaining to evaluation of environmental impacts, significant and unavoidable impacts and statements of overriding consideration, feasible mitigation, and program EIRs. The comment takes issue with the Draft EIR analysis in several technical areas and suggests recirculation. Please refer to subsequent responses to comments contained in this letter and to Master Response 2, Recirculation and Master Response 3, Program versus Project-Level Analysis.

**Response 10-12**

The comment is general in nature and prefatory to more detailed comments 10-13 through 10-27. It summarizes existing air quality; introduces CARB's Community Air Protection Program, including community monitoring and community emissions reduction program; and expresses concerns regarding the effect of the project on local and regional air quality. See responses to comments 10-13 through 10-27.

**Response 10-13**

The comment describes the background of AB 617, its applicability to the project area, and cites the Draft EIR text that reiterates the intent of the SCSP to build upon, among other things, the policy framework established by the CERP, a program developed and adopted by the SJVAPCD to reduce emissions in the South Central Fresno Community. The comment suggests that adoption of the Specific Plan could negate CERP benefits. Please refer to response to Comment 1-5 for information pertaining to the SCSP's consistency with the CERP.

**Response 10-14**

The comment asserts that the Draft EIR uses the SCSP boundary as the study area for air quality impacts. This statement is inaccurate. The degree to which impacts are evaluated, identified, and mitigated are dependent on the resource area evaluated. Section 4.3, "Air Quality," evaluates potential adverse air pollution impacts for receptors located within the SCSP, adjacent to the SCSP boundary, and regionally (i.e., the SJVAB). To minimize potential adverse air quality impacts to receptors located in the SCSP and the SJVAB, as well as receptors found directly adjacent to the SCSP boundary, Mitigation Measures 4.3-1a through 4.3-3d were recommended to minimize the generation of on-site air pollution while also providing design standards to reduce potential impacts to planned and existing receptors. Section 4.8, "Greenhouse Gas Emissions and Climate Change," uses a global study area in consideration of the global nature of anthropogenic climate change. Therefore, the Draft EIR already considers the receptors of the CERP in its evaluation of potential air quality impacts.

**Response 10-15**

The comment alleges deficiency in the description of the project setting but fails to identify or provide an example of what impacts outside the project boundary are missing. With respect to air pollution, the existing environmental setting is described in Section 4.3.2, "Environmental Setting," and Figure 4.3-1 provides a graphic with the findings of the CalEnviroScreen 4.0 mapping program. The environmental setting is adequately described in Section 4.3.2. Cumulative impacts, which include effects outside the project boundary, are assessed in Chapter 5.

**Response 10-16**

The comment notes that the Draft EIR (released in May 2024) does not reflect the findings of the Truck Reroute Study (released in April 2024). The Truck Reroute Study was prepared by the City in partnership with SJVAPCD to identify existing truck patterns within the South Central Fresno community and associated adverse health effects from truck-generated emissions to receptors within the community. The Truck Reroute Study evaluates potential rerouting of

existing and future trucks, and identifies strategies to mitigate negative freight impacts, improve air quality, and improve the quality of life for members of the South Central Fresno community. The findings of the Truck Reroute Study were released at nearly the same time as the Draft EIR. While the Draft EIR refers to the Truck Reroute Study, then in progress, the strategies and conclusions of the Truck Reroute Study, which are yet to be considered for acceptance by the City Council, do not affect the conclusions of the Draft EIR. At this programmatic stage, the Draft EIR does not attempt to quantify the number of new trucks that could be added to any one existing roadway as individual development projects are yet to be proposed. Section 4.3, "Air Quality," provides a suite of mitigation measures that may be applied to future development once project-level design proposals have been developed. Moreover, the findings of the Draft EIR do not prohibit the City from implementing the strategies of the Truck Reroute Study, which include investments in new sidewalks, crosswalks, bike lanes, roadway repaving, traffic calming, signage, signaling, and roadway reconfiguration. These investments are not limited to existing truck activity within the South Central Community and would serve to reduce impacts of future trucking from future development including, but not limited to, the SCSP. See also Master Response 6, Relationship to the Truck Reroute Study.

#### **Response 10-17**

The comment summarizes the conclusions of a health risk assessment prepared for the Downtown Neighborhoods Community Plan, adjacent to the SCSP area, and recommendations in that report and by the City of San Francisco to reduce health risks. The comment suggests that by not including these data and recommendations in the SCSP Draft EIR, it is deficient. As discussed previously, Section 4.3 characterizes the existing air pollution within the SCSP area (Section 4.3.3 and Figure 4.3-1). Moreover, potentially significant TAC impacts were identified for existing and future receptors and Mitigation Measure 4.3-3d was proposed to minimize these impacts. Mitigation Measure 4.3-3d directs new sensitive land uses to incorporate separation/setbacks, landscaping, barriers, ventilation systems, air filters/cleaners, and other effective measures to minimize pollution exposure. These measures are reflective of the suggested Minimum Efficiency Reporting Value ventilation system recommended in the comment.

#### **Response 10-18**

See responses to comments 10-16 and 10-17. See Master Response 2, Recirculation and Master Response 6, Relationship to the Truck Reroute Study.

#### **Response 10-19**

The comment asserts that the EIR should be revised to include the Truck Reroute Study/HIA and its 1,000-foot setback recommendation from major roadways. A setback distance of 500 feet has been recommended pursuant to Mitigation Measure 4.3-3d; however, in consideration of this comment and the findings of the Truck Reroute Study, the language of Mitigation Measure 4.3-3d and the following concluding paragraph has been revised as follows on pages 4.3-32 through 4.3-33:

##### **Mitigation Measure 4.3-3d: Protect New and Existing Sensitive Land Uses**

To minimize impacts from TAC exposure, for future subsequent development under the proposed plan, the following measures shall be implemented:

- ▶ Avoid siting new sensitive land uses within ~~500~~ 1,000 feet from the centerline of a freeway, unless such development contributes to smart growth, open space, or transit-oriented goals, in which case the development shall include feasible measures such as separation/setbacks, landscaping, barriers, ventilation systems, air filters/cleaners, and/or other effective measures to minimize potential impacts from air pollution.
- ▶ Require new sensitive land uses to include feasible measures such as separation/setbacks, landscaping, barriers, ventilation systems, air filters/cleaners, and/or other effective measures to minimize potential impacts from air pollution.
- ▶ For future development requiring the use of heavy-duty trucks, designate truck routes that avoid sensitive land uses.

- ▶ Require that zoning regulations provide adequate separation and buffering between existing and proposed residential and industrial uses (i.e., a minimum of 1,000 feet).
- ▶ Designate truck routes to avoid residential areas including low-income and minority neighborhoods.

#### Significance after Mitigation

Implementation of Mitigation Measure 4.3-3a would require future development under the proposed plan to prepare a project-level construction HRA to assess the potential significance of diesel PM generated during construction on nearby sensitive receptors. If a project cannot demonstrate that mitigation or project design commitments are sufficient to reduce cancer risk to below SJVAPCD's threshold of 20 in 1 million, the development would not be permitted. Similarly, Mitigation Measure 4.3-3b would require a future development to evaluate its operational contribution of TACs through the preparation of an HRA. If the findings of the HRA demonstrate that emissions would exceed SJVAPCD's cancer and noncancer thresholds of significance, that development would not be permitted. Mitigation Measure 4.3-3c would ensure that a truck loading/unloading facility would not be located within 1,000 feet of a sensitive receptor (e.g., residence, school, daycare facility), which is the CARB-recommended setback distance (CARB 2005: 15), unless a site-specific, SJVAPCD-approved HRA shows that the associated level of cancer risk at the sensitive receptors would not exceed 20 in 1 million. Implementation of Mitigation Measure 4.3-3d would ensure that new residences would not be located within ~~500~~ 1,000 feet of freeways adjacent to the Plan Area, which is the CARB-recommended setback distance (CARB 2005: 10), unless a site-specific, SJVAPCD-approved HRA shows that the associated level of cancer risk at the sensitive receptors would not exceed 20 in 1 million. In addition, as the projects continue to develop over time within the Plan Area, new TAC sources (stationary and mobile) would likely increase the background risk levels in the area, thus potentially exposing receptors to levels greater than 20 in 1 million. Mitigation Measure 4.3-3d provides guidance for siting new sensitive receptors near truck routes and existing sources of TACs. Additionally, Mitigation Measures 4.3-1b, 4.3-1c, 4.3-1e, 4.3-1h, and 4.3-1i include performance standards that would reduce diesel PM emissions from project construction and operation through the prohibition of diesel-powered generators, limiting construction exhaust emissions, and electrification of trucks and vehicles. Mitigation Measure 4.3-3a and 4.3-3b would require project-level HRAs for construction and operation and includes the requirement that projects resulting in an exceedance of SJVAPCD's thresholds not be approved. Nevertheless, at this programmatic stage, it cannot be assured that future TAC emissions from new development in the Plan Area would not expose receptors to a substantial level of pollution. Therefore, while Implementation of Mitigation Measure 4.3-3a through 4.3-3d could substantially reduce TAC emissions, at this programmatic stage and in consideration of the proposed plan's potential to cumulatively combine with its own proposed development and other existing development, this impact would be **significant and unavoidable**.

#### Response 10-20

The comment is prefatory to more detailed comments provided. See responses to comments 10-21 through 10-32.

#### Response 10-21

The comment asserts that the methodology used to estimate emissions of criteria air pollutants underestimates these emissions. To the contrary, as discussed on page 4.3-17, the methodology used to estimate construction-related criteria air pollution assumes a worst-case scenario of construction of 25 percent of the SCSP's total proposed acreage occurring within one year. This is a conservative assumption because construction of the assumed land uses under the SCSP would likely be built out over decades as project-level development proposals are submitted and approved by the City. Using this very conservative assumption, construction-generated emissions during the first year of construction were found to less than SJVAPCD's annual mass emissions thresholds; however, maximum daily emissions would exceed SJVAPCD's 100 lb/day screening criteria. Because emissions would exceed these screening criteria, emissions were found to be potentially significant and Mitigation Measures 4.3-1a through 4.3-1f are recommended. Mitigation Measure 4.3-1a directs future development to conduct project-level air quality assessments to determine whether the a project's emissions would require an ambient air quality assessment; Mitigation Measure 4.3-1b requires construction fleets to meet SJVAPCD's "clean fleet" standard; Mitigation Measure 4.3-1c prohibits the

use of diesel engines during project construction; Mitigation Measure 4.3-1d requires measures to reduce fugitive dust PM; Mitigation Measure 4.3-1e includes control measures to minimize exhaust emissions; and Mitigation Measure 4.3-1f provides standards for VOC content for architectural coatings.

The aforementioned modeling assumptions were derived from guidance provided by SMAQMD for plan level development assuming that the majority of heavy-duty equipment would be used during the grading and site preparation phases. During these phases, grounded infrastructure (e.g., electrical lines, natural gas and water pipelines) would be installed. This represents a conservative scenario yielding higher emissions estimates than would likely be realized on a yearly basis for full project buildout. Modeling was performed using the CalEEMod Computer Program Version 2022.1 as recommended by SJVAPCD and other air districts throughout the state and is considered the best available emissions estimator program in the state.

### **Response 10-22**

The comment states that the language of Mitigation Measure 4.3-1a, 4.3-1b, 4.3-1d, 4.3-1f, 4.3-1h, 4.3-1i, and 4.3-1m are “unclear and inadequate.”

Mitigation Measure 4.3-1a directs future development to prepare project-level air quality assessments to determine whether a significant air quality impact could occur. Prior to reliance on a VERA, as described in Mitigation Measure 4.3-1a, project applicants must implement all relevant and applicable on-site mitigation measures enumerated in Mitigation Measures 4.3-1b through 4.3-1m. See response to Comment 7-4 for proposed text edits to Mitigation Measure 4.3-1a.

The comment suggests that the language of Mitigation Measure 4.3-1b require the use of Tier 4 Final engines. The comment states that the language of Mitigation Measure 4.3-1b should be amended to specify a renewable diesel blend for use in Tier 4 engines. Please refer to Response to Comment 7-6 for a summary of the proposed text edits to Mitigation Measure 4.3-1b in response to this comment and others.

The comment asserts that the language of Mitigation Measure 4.3-1d is a regulatory requirement of SJVAPCD and that the components of Mitigation Measure 4.3-1c should be submitted to SJVAPCD in a dust control plan. The language of Mitigation Measure 4.3-1d has been revised as follows in response to this comment:

#### **Mitigation Measure 4.3-1d: Implement Dust Control Measures**

To reduce impacts from construction-related fugitive dust emissions resulting from plan-related development, construction contractors shall be required to implement the following dust control measures in accordance with SJVAPCD’s Regulation VIII including additional dust reducing measures:

- ▶ All soil being actively excavated or graded shall be sufficiently watered to prevent excessive dust. Watering shall occur as needed with complete coverage of disturbed soil areas. Watering shall take place a minimum of three times daily on disturbed soil areas with active construction activities operations unless dust is otherwise controlled by rainfall or use of a dust suppressant.
- ▶ After active construction activities, soil shall be stabilized with a non-toxic soil stabilizer or soil weighting agent, or alternative soil stabilizing methods.
- ▶ All unpaved construction and operation/maintenance site roads, as they are being constructed, shall be stabilized with a non-toxic soil stabilizer, water, or soil weighting agent.
- ▶ All clearing, grading, earth moving, and excavation activities shall cease during periods of winds greater than 20 miles per hour (averaged over one hour), or when dust plumes of 20 percent or greater opacity impact public roads, occupied structures, or neighboring property or as identified in a plan approved by the SJVACD.
- ▶ All trucks leaving construction sites will cover all loads of soils, sands, and other loose materials, or be thoroughly wetted with a minimum freeboard height of six inches.
- ▶ Areas disturbed by clearing, earth moving, or excavation activities shall be minimized at all times.



- ▶ Stockpiles of soil or other fine loose material shall be stabilized by watering or other appropriate method to prevent wind-blown fugitive dust.
- ▶ All soil storage piles and disturbed areas that remain inactive for longer than 10 days shall be covered or shall be treated with appropriate dust suppressant compounds.
- ▶ Prior to construction, wind breaks (such as chain-link fencing including a wind barrier) shall be installed where appropriate.
- ▶ Where applicable, mowing will be utilized to clear construction areas instead of disking or grading.
- ▶ The proponents/operators of future projects shall use GPS or lasers to level posts, generally avoiding grading except when elevation changes exceed design requirements.
- ▶ When grading is unavoidable, grading is to be phased and done with the application of a non-toxic soil stabilizer or soil weighting agent, or alternative soil stabilizing methods.
- ▶ Where feasible, plant roots shall be left in place where possible to stabilize the soil.
- ▶ Reduce and/or phase the amount of the disturbed area (e.g., grading, excavation) where possible.

After active clearing, grading, and earth moving is completed within any portion of the site, the following dust control practices shall be implemented:

- ▶ Dust suppressant should be used on the same day or day immediately following the cessation of activity for a particular area where further activity is not planned.
- ▶ All unpaved road areas shall be treated with a dust suppressant or graveled to prevent excessive dust.
- ▶ The proponents/operators of future projects shall use dust suppression measures during road surface preparation activities, including grading and compaction.
- ▶ During all phases of construction, the following vehicular control measures shall be implemented:
- ▶ On-site vehicle speed shall be limited to 15 miles per hour on unpaved areas within individual project sites. Vehicles may travel up to 25 miles per hour on paved roads.
- ▶ Visible speed limit signs shall be posted at main ingress point(s) on site.
- ▶ Streets used by projects during construction shall be kept clean, and project-related accumulated silt shall be removed a minimum of once daily, or as necessary to prevent substantial off-site fugitive dust releases. The use of dry rotary brushes (unless prior wetting) and blower devices is prohibited.
- ▶ If site soils cling to the wheels of the vehicles, then a track out control device, or other such device shall be used on the road exiting the project site, immediately prior to the pavement, to remove most of the soil material from vehicle tires.

This shall be enforced by the City in the form of a Dust Control Plan with verification by SJVAPCD.

The comment questions the enforceability of Mitigation Measure 4.3-1f. Mitigation Measure 4.3-1f would be enforced through specification within future construction bids to require low-VOC content use for future development under the SCSP.

The comment asserts that Mitigation Measure 4.3-1i lacks performance standards and enforceability. As stated in Mitigation Measure 4.3-1i, Class 2–6 heavy-duty trucks domiciled at a future project site shall meet the following benchmark targets: (i) 33 percent of the fleet shall be zero emission vehicles at start of operations, (ii) 65 percent of the fleet shall be zero emission vehicles by December 31, 2027, (iii) 80 percent of the fleet shall be zero emission vehicles by December 31, 2029, and (iv) 100 percent of the fleet will be zero emission vehicles by December 31, 2031. The City shall oversee the implementation of this measure through specific language either as conditions of project approval or contained in the contractual lease agreement for future tenants/lessees.

The comment states that Mitigation Measure 4.3-1m's direction for future developers to mitigate emissions using off-site opportunities should be revised. The comment states that Mitigation Measure 4.3-1m should only be relied upon once all on-site mitigation has been exhausted. As stated on page 4.3-24, once all on-site reduction measures (i.e., Mitigation Measure 4.3-1a through 4.3-1i) have been exhausted or for uses where further on-site emissions reductions are deemed infeasible, based on environmental review, the development of new or participation in existing off-site emissions reduction strategies/programs (e.g., urban forestry programs, local building retrofit programs, off-site EV charger funding, public transit subsidies) shall be required. This can be implemented in conjunction with Mitigation Measure 4.3-1a through the VERA process, if needed, as overseen by SJVAPCD. Mitigation Measure 4.3-1m currently contains language that satisfies the commenters request. Consistent with direction by SJVAPCD, off-site mitigation may only be used once all feasible on-site mitigation has been exhausted to ensure that localized air pollution may be avoided.

With regard to the comment that mitigation measures should be applied to ministerial projects, CEQA applies only to those projects over which the City has discretion and does not apply to ministerial projects (see Public Resources Code Section 21080(a) and 21080(b)(1). Pursuant to Table 15-4907, Planning Permits and Actions, in the Fresno Municipal Code, ministerial projects are extremely limited and include such things as minor changes to approved plans, single-family homes and small housing projects, and interpreting the language of the Code.

#### **Response 10-23**

The comment asserts that the Draft EIR does not adequately analyze the SCSP's impact to public health. Please refer to response to Comment 1-2 regarding the limitation of conducting plan-level HRAs, the approach taken to analyze impacts from TAC exposure, and revisions to Mitigation Measures 4.3-3a and 4.3-3b.

#### **Response 10-24**

The comment asserts that the Draft EIR incorrectly concludes that construction of the SCSP would result in less-than-significant construction TAC impacts. This assertion is incorrect. As stated on page 4.3-30, "if multiple construction projects were to occur in proximity to each other and to sensitive receptors, TAC emissions could cumulatively combine to generate cancer risk greater than 20 in 1 million or a hazard index greater than 1.0" and mitigation is recommended. Mitigation Measure 4.3-3a requires future development located within 1,000 of an existing sensitive receptor to conduct a project-level construction HRA to determine whether a future development project would subject receptors to TAC concentrations exceeding SJVAPCD's cancer risk threshold. At this programmatic stage, where site specific data inputs are unavailable, a construction HRA would not produce estimates of high accuracy; therefore, the Draft EIR takes the conservative approach in concluding that construction of the SCSP could expose receptors to substantial emissions of diesel PM and Mitigation Measure 4.3-3a was recommended. Moreover, as stipulated in Mitigation Measure 4.3-3a, projects that generate diesel PM resulting in a significant TAC impact following the application of all feasible mitigation would be prohibited. Thus, potential project-level TAC impacts would be avoided. Nevertheless, in its post-mitigation significance conclusion, the Draft EIR concludes that TAC exposure from implementation of the SCSP would be significant and unavoidable. See also Response to Comment 1-2 for revisions to Mitigation Measure 4.3-3a.

#### **Response 10-25**

The comment states that the Draft EIR acknowledges that implementation of the SCSP would result in an increase in industrial uses, truck traffic, and VMT which would introduce new sources of TACs exacerbating an existing adverse condition in the South Central community. The Draft EIR discusses increases in TAC emissions from implementation of the SCSP on pages 4.3-28 through 4.3-31 and Mitigation Measure 4.3-3a through 4.3-3d are recommended to reduce impacts. See also Response to Comment 1-2 for revisions to Mitigation Measure 4.3-3a and 4.3-3b.

#### **Response 10-26**

The comment states that the Draft EIR concludes significant TAC impacts using a project-level threshold, which is incorrect. The comment suggests that the approach taken should use a cumulative threshold of significance. The Draft EIR applies SJVAPCD's numerical threshold of significance for determining cancer and noncancer risk of 20 in one million. SJVAPCD does not endorse a cumulative threshold of significance (SJVAPCD 2015b). The comment notes

that other air districts, such as the Bay Area Air Quality Management District, support the use of a cumulative health risk threshold. The Draft EIR does not attempt to estimate the cumulative health risk of implementation of the SCSP because of the programmatic nature of the analysis. At the time of writing the Draft EIR, project-specific information was, and remains, unknown. As a plan-level analysis, site-specific data are unavailable. Mitigation Measures 4.3-3a and 4.3-3b directs future development located within 1,000 feet of a receptor to conduct project-level construction and operational HRAs to determine if TAC emissions would exceed SJVAPCD's threshold of 20 in one million. Future environmental coverage of development projects within the SCSP could assess the cumulative impacts of TAC exposure in future CEQA documents; however, SJVAPCD currently does not endorse a cumulative health risk threshold. The cumulative impacts of the SCSP with respect to TAC emissions is discussed on pages 5-5 through 5-6 and impacts are considered cumulatively considerable. See also Response to Comment 1-2 for revisions to Mitigation Measure 4.3-3a and 4.3-3b.

#### **Response 10-27**

The comment states that the cumulative analysis of TACs is deficient because it did not properly evaluate the health risk for receptors located within the proximity of highways. The comment also asserts that the TAC analysis limits the scope of impacts to the mapped boundary of the SCSP area. As discussed in response to Comment 10-26, a quantitative HRA was not prepared for the construction or operation of the SCSP because of the programmatic nature of the analysis. Construction duration, location, phasing, intensity, and timing are unknown at this programmatic stage. Moreover, the location and magnitude of operational stationary or mobile sources of TACs is uncertain. A plan-level HRA would require such a high degree of speculation that results/findings would not be meaningful. The SCSP provides a suite of land use designations with many allowable uses within each designation, which would be determined at a later date wherein project-specific HRAs would be prepared to evaluate impacts. Additionally, the comment's assertion that the TAC analysis is limited to SCSP area is incorrect. As stated on page 4.3-28, the SCSP "is located in an environmental justice community as shown in Figure 4.3-1. The California Environmental Protection Agency's CalEnviroScreen tool identifies the surrounding as a high-pollution burdened area within the 90-100 percentile for disadvantaged communities. The proposed plan would introduce new sources of TACs (truck and vehicle traffic, industrial facilities) that could exacerbate the already adverse conditions of the Plan Area." The TAC analysis is not limited to receptors within the SCSP area and identifies existing receptors located in adverse environmental conditions.

#### **Response 10-28**

The comment states that the Draft EIR must make a significance determination regarding the SCSP's construction-related climate change impacts. Construction-generated GHG emissions are disclosed on pages 4.8-12 through 4.8-13. As discussed on page 4.8-13, neither CARB nor SJVAPCD have recommended thresholds for determining the significance of construction-related GHG emissions. In the absence of a construction-related numerical GHG threshold endorsed by the local air district (i.e., SJVAPCD), SMAQMD's 1,100 MTCO<sub>2</sub>e/year threshold was applied in the analysis. As shown in Table 4.8-3, the maximum amount of construction GHGs would be 2,999 MTCO<sub>2</sub>e/year in 2024 assuming that 25 percent of the SCSP would be constructed within the first year of construction and impacts were found to be significant (page 4.8-13). Therefore, the commenter erroneously claims that the Draft EIR did not reach a significance determination for construction-related GHG emissions. Moreover, climate change is an inherently cumulative, global issue resulting from the global warming potential of a suite of pollutants that range in terms of their atmospheric lifetime. Emissions occurring from construction activities could generate global warming pollutants that may exist within the atmosphere from decades to centuries. Therefore, in recognition of the SCSP's construction emissions exceeding the threshold applied in the analysis (i.e., SMAQMD's 1,100 MTCO<sub>2</sub>e/year for construction) and the understanding that construction emissions may have a lasting effect on the acceleration of global climate change, Mitigation is recommended to reduce construction-related GHG impacts including Mitigation Measures 4.3-1b, 4.3-1c, 4.8-1a, and 4.8-1b. Regardless of these measures, climate change impacts were found to be significant and unavoidable.

**Response 10-29**

The comment states that SMAQMD's 1,100 MTCO<sub>2</sub>e/year threshold of significance is improper and not tied to the state's most recent GHG reduction targets of AB 1279. SMAQMD's 1,100 MTCO<sub>2</sub>e/year was developed in consideration of the target of SB 32 (i.e., a 40 percent reduction in a 1990 statewide inventory by 2030). While the comment is correct that AB 1279 (i.e., an 85 percent reduction in a 1990 statewide inventory and carbon neutrality by 2045) has superseded the previous statewide target of Executive Order B-30-15 (i.e., an 80 percent reduction in a 1990 statewide inventory by 2050), AB 1279 does not supersede the state's legislative target of SB 32. The analysis provides a worst-case construction scenario for the year 2024 assuming that 25 percent of the total SCSP would be built out and construction emissions are compared to SMAQMD's threshold of significance. As 2024 would occur prior to 2030, use of the 1,100 MTCO<sub>2</sub>e/year threshold continues to be an applicable and appropriate threshold for determining whether a project would contribute its "fair share" in meeting the state's long-term GHG reduction targets under SB 32 and AB 1279. Unlike operational emissions, construction emissions are not emitted into perpetuity; therefore, it is unnecessary to assess construction GHGs emitted prior to 2030 with targets extending beyond this year. Also shown in Table 4.8-3, based on the modeling conducted for the SCSP, over a 25-year period, construction of the SCSP would generate approximately 507 MTCO<sub>2</sub>e/year until 2040. At this programmatic level, site-specific information is unavailable. Therefore, the Draft EIR takes a conservative approach in its conclusion that construction of the whole of the SCSP would be significant and unavoidable following the application of all mitigation measures recommended.

**Response 10-30**

The comment notes that the Draft EIR does not use SJVAPCD's thresholds of significance. The Draft EIR does not use SJVAPCD's GHG guidance in consideration of the direction provided in the California Supreme Court case *Center for Biological Diversity, et al. v. California Department of Fish and Wildlife* (2015) 62 Cal.4th 204 (Newhall Ranch Case), which dismissed the business-as-usual (BAU) approach applied in the litigated analysis. The Court deemed the BAU approach used in the environmental document insufficient to demonstrate that the project was doing its "fair share" in assisting the state in meeting its long-term GHG reduction targets. Therefore, in light of the Newhall Ranch Case, the Draft EIR did not use SJVAPCD's BAU GHG threshold. Please refer to response to Comment 10-29 for details regarding the threshold applied to evaluate construction-generated GHG emissions.

**Response 10-31**

The comment asserts that the Draft EIR does not make a definitive conclusion regarding construction-related GHG emissions. On page 4.8-13, the Draft EIR states, "SMAQMD's thresholds comprise a reasonable threshold for evaluating the magnitude of the proposed plan's construction GHG emissions. In the absence of a district-specific or statewide threshold, 1,100 MTCO<sub>2</sub>e/year is a reasonable metric by which to define significance as it is tied to meeting the state's long-term GHG reduction targets set by EO B-30-15. While construction-related development standards would serve to reduce GHG emissions during the construction of future projects, it is unknown whether they would be sufficient to reduce emissions below this applicable threshold." As discussed on page 4.8-13, the maximum amount of construction GHGs would be 2,999 MTCO<sub>2</sub>e/year in 2024 which exceeds 1,100 MTCO<sub>2</sub>e/year. The Draft EIR reasonably compares these emissions to SMAQMD's 1,100 MTCO<sub>2</sub>e/year threshold and construction-specific mitigation is recommended (i.e., Mitigation Measures 4.3-1b, 4.3-1c, 4.8-1a, and 4.8-1b. Contrary to the comment's assertion, the Draft EIR does not dismiss the need to mitigate construction-generated GHG emissions and concludes that following implementation of Mitigation Measures 4.3-1b, 4.3-1c, 4.8-1a, and 4.8-1b, GHG impacts would be significant and unavoidable.

**Response 10-32**

The comment asserts that the Draft EIR's evaluation of the wasteful, inefficient, or unnecessary use of energy associated with the SCSP is unclear. The comment claims that the Draft EIR's post-mitigation conclusion of less than significant with mitigation cannot be reasonably assumed. Appendix G of the CEQA Guidelines provides lead agencies with two factual inquiries: would the project (a) result in a wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during project construction or operation or (b) conflict with or obstruct a state or local plan for renewable energy or energy efficiency. Neither Appendix G, Appendix F, SJVAPCD, nor any other responsible agency, provide a numerical threshold upon which to base an energy significance



determination. Therefore, a qualitative assessment is appropriate and was performed for the SCSP. Based on the state's long-term GHG reduction targets, which are inherently tied to energy conservation and renewable energy generation, it can be reasonably assumed that projects that do not promote project design features that lead to building decarbonization, high energy efficiency, electric vehicle (EV) infrastructure, and on-site renewable energy could result in the wasteful, inefficient, or unnecessary use of energy. Because the SCSP would allow for natural gas infrastructure and does not include any performance standards pertaining to EV chargers or on-site renewable energy generation, the Draft EIR concludes that prior to mitigation, energy impacts would be significant and Mitigation Measures 4.3-1b, 4.3-1c, 4.3-1g, 4.3-1h, 4.3-1i, 4.3-1j, 4.3-1k, 4.3-1l, 4.6-1a, 4.6-1b, 4.6-1c, and 4.6-1d are recommended. Through these mitigation measures, total energy expenditure of the SCSP would be greatly reduced if otherwise not prescribed. Therefore, energy impacts were concluded to be less than significant with mitigation.

**Response 10-33**

The comment cites the requirements for appropriate deferral of mitigation per Section 15126.4(a)-(b). The comment is introductory in nature. Please refer to responses to Comments 10-34 through 10-41.

**Response 10-34**

The comment alleges deferred CEQA mitigation in Section 4.8, "Greenhouse Gases and Climate Change" citing the direction in Mitigation Measure 4.8-1a to use low-carbon concrete. Mitigation Measure 4.8-1a does not provide specifics pertaining to the brand of low-carbon concrete and provides the City with the opportunity to make this determination at a later date. Moreover, while Mitigation Measure 4.8-1a would ultimately result in fewer construction-related GHG emissions as compared to the use of conventional concrete, the analysis does not rely upon Mitigation Measure 4.8-1a to conclude that climate change impacts would be less than significant. As stated on page 4.8-17, implementation of Mitigation Measure 4.8-1a, in addition to all other measures recommended, would not be sufficient to reduce impacts to a less-than-significant level. Therefore, impacts are determined to be significant and unavoidable.

**Response 10-35**

The comment asserts that Mitigation Measure 4.6-1b does not provide sufficient detail to minimize the effects of the urban heat island effect (UHIE). Mitigation Measure 4.6-1b provides a broad suite of cooling strategies including trees, cooling vegetation, cool roofing, and cool pavements. The analysis taken in the Draft EIR is inherently programmatic, and site-specific information is unknown at this programmatic stage. The effectiveness of these measures for a given project would be determined once project-level information is available. It is foreseeable that a combination of these cooling elements could be applied to minimize the GHG emissions associated with on-site electricity demand; however, the analysis does not rely upon Mitigation Measure 4.6-1b to conclude that climate change impacts would be less than significant. As stated on page 4.8-17, implementation of Mitigation Measure 4.6-1b, in addition to all other measures recommended, would not be sufficient to reduce impacts to a less-than-significant level. Therefore, impacts are concluded to be significant and unavoidable.

**Response 10-36**

The comment alleges that Mitigation Measure 4.3-1m lacks necessary performance standards. Mitigation Measure 4.3-1m provides for project proponents of future development proposal to invest in various local and regional programs to offset additional emissions if, following the implementation of the strategies enumerated in Mitigation Measures 4.3-1b through 4.3-1l have been exhausted. The analysis prepared in Section 4.3 inherently programmatic, and the details in Mitigation Measure 4.3-1m are intended to be comprehensive. The type of local or regional program that may be funded by Mitigation Measure 4.3-1m is contingent upon the availability, cost, and need of SJVAB communities. The degree to which investments in local or regional programs is dependent on the magnitude of emissions for future projects.

**Response 10-37**

The comment summarizes CEQA principles of appropriate mitigation deferral.

**Response 10-38**

The comment alleges that the mitigation measures recommended in the Draft EIR fail to show enforceability citing Mitigation Measure 4.6-1c. The comment also suggests that the post-mitigation measures in Section 4.6 and 4.8 are in conflict. The post-mitigation significance determinations in Sections 4.6 and 4.8 are appropriate in that different thresholds of significance apply to the different resource areas. As discussed in response to Comment 10-32, Appendix G of the CEQA Guidelines provides two inquiries to assess a project's potential energy impacts; however, no numerical threshold has been developed by the City, SJVACPD, or any other responsible agency. Therefore, Section 4.6 uses a qualitative approach to determine that the SCSP would result in a significant impact prior to mitigation. As noted in the comment, the analysis in Section 4.6 concludes that following the application of recommended mitigation measures, energy impacts would be less than significant with mitigation because, if not otherwise prescribed, the SCSP would be in conflict with the state's overarching goals of improved energy efficiency and use of renewable energy. In contrast, Section 4.8 uses the direction provided in Appendix D of the 2022 Scoping Plan as a framework for assessing the SCSP's contribution of emissions. One priority area of Appendix D of the 2022 Scoping Plan is building decarbonization (i.e., all electric development). As a primarily industrial plan, it is anticipated that future industrial uses will be reliant upon natural gas for manufacturing and/or engineering processes and Mitigation Measure 4.6-1c is recommended. In Section 4.8, it is acknowledged that use of renewable natural gas (RNG) may be limited due to economic constraints and availability and is therefore not relied upon to conclude that impacts would be less than significant with mitigation. However, Section 4.6 concludes that impacts would be less than significant with mitigation from the implementation of a combination of mitigation measures that would ultimately result in improved energy and fuel efficiency and renewable energy sources than if otherwise prescribed.

**Response 10-39**

The comment asserts that CEQA requires that an EIR analyze whether a proposed mitigation would itself result in significant impacts and cites potential air quality impacts associated with the use of RNG. The comment cites statistics regarding ammonium nitrate emissions originating from dairies within the SJVAB. Mitigation Measure 4.6-1c, which directs future tenants of industrially zoned areas of the SCSP to use RNG, would not individually alter the production of RNG. It is not anticipated that use of RNG within the SCSP would result in an expansion of existing dairies or other sources of RNG. Several statewide mechanisms and plans such as the Low Carbon Fuel Standard and Short Lived Climate Pollutant Strategy target these sources of fugitive methane to generate RNG and offset fossil natural gas. Therefore, implementation of Mitigation Measure 4.6-1c alone would not result in an increase in localized ammonium nitrate emissions nor contribute to the nonattainment designation of the SJVAB with respect to PM<sub>2.5</sub>.

**Response 10-40**

The comment asserts that the Draft EIR fails to show how mitigation would ultimately be effective, citing Mitigation Measures 4.6-1b and 4.6-1c. Mitigation Measure 4.6-1b entails implementation of on-site cooling strategies including the planting of trees and vegetation and use of cool roofs and pavements. These elements serve to reduce the UHIE and direct electricity needed to run HVAC systems to cool indoor climates. Mitigation Measure 4.6-1c would require future industrial projects to source natural gas from renewable resources if available and economically viable. The use of renewable natural gas would result in indirect GHG reductions from the capture of fugitive methane emissions originating from wastewater treatment plants, dairies, and landfills that perpetuate global climate change. Moreover, use of RNG offsets the need to extract fossil natural gas which generates CO<sub>2</sub> during the extraction process and has been found to release fugitive methane. Contrary to the comment's assertion, measures such as tree and vegetation planting, use of cool roofs and pavements, and sourcing natural gas from renewable sources are well-known methods of reducing the UHIE (EPA 2008).

**Response 10-41**

The comment suggests that it is feasible for 100 percent of the SCSP's electricity to be sourced from renewable energy. Please refer to response to comment 8-12.

**Response 10-42**

The comment asserts that the VMT analysis is misleading. The VMT analysis prepared for the SCSP DEIR uses the *CEQA Guidelines for Vehicle Miles Traveled Thresholds*, prepared by LSA for the City of Fresno, to determine the

methodology and VMT thresholds. Because the SCSP is a land use plan, significance thresholds for land use plans, located on page 37 of the aforementioned document was followed. The guidelines state, “*recommended methodology for conducting VMT assessments for land use plans is to compare the existing VMT per capita and/or VMT per employee for the region with the expected horizon year VMT per capita and/or VMT per employee for the land use plan. If there is a net increase in the VMT metric under horizon year conditions, then the project will have a significant impact*”. The SCSP DEIR analyzed VMT per Service Population, which divides the SCSP’s total VMT over the sum of population and employment within the plan area as the SCSP is comprised of both residential and commercial land uses. The guidelines call for comparing the *horizon* year of the plan, not the base year vs horizon year.

The SCSP DEIR utilized the latest version of the Fresno COG ABM, which has a base year of 2015. There has been no significant update to the travel demand model when the DEIR was being prepared and released; therefore, the latest model assumptions were used.

SB 743 is primarily concerned with automobile/on-road passenger vehicles. State CEQA Guidelines Section 15064.3 was added December 28, 2018, to address the new method of determining significance for transportation impacts (i.e., VMT instead of congestion). Relevant to calculating trips, Section 15064.3(a) states, “For the purposes of this section, ‘vehicle miles traveled’ refers to the amount and distance of automobile travel attributable to a project.” Here, the term “automobile” refers to on-road passenger vehicles, specifically cars and light trucks (OPR 2018). Heavy-duty truck VMT could be included for modeling convenience and ease of calculation (for example, where models or data provide combined auto and heavy truck VMT), but need not be. Therefore, larger on-road vehicles that do not fall within the categories of cars and light trucks do not need to be considered in calculations of trips or VMT. Heavy-duty trucks are addressed in other CEQA sections (i.e., air quality, greenhouse gas, noise, and health risk assessment analysis). The VMT per Service Population figures use automobile assignment volumes multiplied by distance traveled from the FresnoCOG ABM in the SCSP area, which align with SB 743 guidelines provided by the City of Fresno.

#### **Response 10-43**

The comment consists of introductory remarks to comments about bicycle and pedestrian safety. Subsequent projects associated with the SCSP would be required to comply with the guidelines established in the City of Fresno Active Transportation Plan to provide for a safe environment for pedestrians and bicyclists.

#### **Response 10-44**

The comment expresses concern with bicycle, pedestrian, and traffic safety and takes issue with the EIR analysis. Contrary to the comment’s assertion, the EIR provides a thorough analysis of transportation hazards based on the level of project detail available, and stops short of speculation, as required by CEQA. The EIR discloses that implementation of development under the SCSP would substantially increase industrial uses in the plan area, resulting in considerable increases in traffic, including truck traffic. Project specific development would be required to comply with all applicable design standards, subject to review and approval by City staff. Traffic control plans would be required during construction to reduce potential hazards. The SCSP is a land use plan; therefore, individual project-specific details are not available. Notwithstanding, the comment offers no evidence to suggest that implementation of development under the SCSP would result in significant adverse impacts relative to bicycle, pedestrian, and traffic safety. Subsequent projects proposed to be built within the plan area would be required to conduct a transportation safety analysis to identify impacts from transportation hazards at the project level, including those associated with increased automobile and/or truck traffic, and implement appropriate design standards to address such hazards. Moreover, for future industrial projects meeting the definition of a logistics center, AB 98 design standards will require that loading docks and points of entry be located on arterials that currently support commercial spaces. This requirement would further reduce the potential for the SCSP to introduce a transportation hazard to bicycle or pedestrian safety.

Note: the tragic death of the boy in Sanger, California, cited in the letter was caused by a passenger truck, not a heavy-duty truck, and the primary cause of the collision was yet to be determined. The second accident cited in the footnote describes a girl hit by a truck while on her way home from school. “The driver tried to avoid the pedestrian, but the *car* collided with her.” [Emphasis added.] The article is silent about whether this was a heavy-duty truck, but

likely not as it was described as a “car.” While any increase in traffic in a region can increase the potential for safety incidents, the comment is specifically about heavy truck traffic.

**Response 10-45**

The comment notes particular traffic safety concerns relative to the Orange Center Elementary School on South Cherry Avenue and residential communities. See Response to Comment 10-44.

**Response 10-46**

The comment suggests that the Draft EIR points to proposed policies to render traffic safety impacts less than significant. This is incorrect. The Draft EIR analysis does list SCSP policies, development standards, and other City requirements that are aimed at precluding adverse safety impacts. In addition, the EIR cites the AB 617 Truck Reroute Study and Health Impact Assessment, then underway. While not yet considered for acceptance by the City Council, the Truck Reroute Study and Health Impact Assessment was undertaken by the City and the SJVAPCD to identify, analyze, and evaluate potential strategies to reduce potential impacts of truck traffic in the industrial areas of South Fresno. The EIR analysis did not rely on the Truck Reroute Study because the two studies were in progress at virtually the same time, but nonetheless, the Reroute Study recommends strategies including new sidewalks, new crosswalks, new bike lanes, road repaving, traffic calming, truck-focused signage, traffic signalization improvements, roadway reconfiguration, and truck regulated areas. While these strategies will serve to improve safety and reduce the air quality, noise, and other impacts of truck traffic on the community of South Fresno, the EIR determined that there is no evidence to suggest that approval of the SCSP would result in significant adverse safety impacts. See also Master Response 6, Relationship to the Truck Reroute Study.

**Response 10-47**

The comment suggests that the EIR relies on the Truck Reroute Study to claim that traffic safety impacts will be less than significant. This is incorrect. Please see Response to Comment 10-46. The comment goes on to assert that implementation of the Truck Reroute Study would divert truck traffic into the SCSP area. Master Response 6, Relationship to the Truck Reroute Study.

**Response 10-48**

The comment alleges that the Draft EIR analysis of impacts on hydrology and water quality is insufficient because the EIR does not indicate existing pollutant levels in known contaminated groundwater plumes that are currently being treated and because the EIR does not identify the number and locations of existing domestic wells in the plan area. (The EIR does identify existing and future municipal wells. See Figure 4.10-1.) While these items do relate to existing conditions, the comment suggests a level of detail that is unnecessary to assess the impacts of adoption of the SCSP by City decisionmakers. There is no evidence to suggest that any element of the SCSP or subsequent development would result in exacerbation of existing contaminated groundwater plumes, nor would the SCSP result in additional domestic wells. Development under the proposed plan would be required to comply with applicable requirements related to water quality, including on-site stormwater detention/retention, implementation of best management practices, and materials handling, during construction and operation. As described in the Draft EIR at page 4.10-20, “[t]he Plan Area would continue to support similar industrial land uses that are currently allowed under the General Plan. Industrial projects would be required to obtain an Industrial General Stormwater Permit (NPDES No. CAS000001), which is similar to the Statewide NPDES CGP. Some industrial and other uses that require water for processing may discharge treated wastewater to land or surface waters. These projects would be required to obtain a separate and additional wastewater NPDES permit through the Central Valley RWQCB. Wastewater NPDES permits contain facility-specific water discharge requirements that protect beneficial uses, ensure that discharges meet the water quality objectives of the water body to which wastewater is discharged, and meet federal and state nondegradation policies in instances in which existing water quality is better than required by law.”

**Response 10-49**

The comment mischaracterizes the quoted EIR statement. The EIR does not claim that redesignating lands that surround sensitive land uses from Heavy Industrial to Business Park would prevent significant noise impacts. While it is true that the proposed redesignation would be beneficial relative to existing land use designations and zoning, as



noted in the comment, the Draft EIR concludes that noise levels generated by development in the plan area could result in exceedance of standards and significant noise effects, requiring mitigation. See also Master Response 4, Downzoning to Create Transitional or Buffer Areas.

The comment goes on to suggest that the EIR defers noise analysis and mitigation. The comment inaccurately characterizes mitigation deferral. Because the Draft EIR is a program-level analysis, site-specific details that would be required to conduct a detailed noise analysis at each location of future development is not possible. The mitigation recommended in the EIR contains all the requirements necessary to achieve CEQA's standards for mitigation, namely that the analysis and significance determinations are conducted, that clear performance standards are identified, the City of Fresno commits to the mitigation, and feasible options are presented that can achieve the stated performance standards. The EIR also identifies when the mitigation would apply (i.e., at the time of development application review), the responsible party (i.e., development applicant), and enforcement metric or standard by which should be achieved (i.e., City noise standards). Therefore, the mitigation is adequate and would be enforced by the City at the time of individual development applications. No revisions to the Draft EIR are necessary.

#### **Response 10-50**

The comment defines cumulative impacts, describes CEQA requirements, and cites case law.

#### **Response 10-51**

The comment asserts that the cumulative impact analysis is flawed because the cumulative project list omits the Caltrans South Fresno State Route 99 Corridor Project. The project proposes to reconstruct two existing half interchanges to create full interchanges at American Avenue and North Avenue on SR 99, with closure of the ramps at Cedar Avenue which would move the existing southbound onramp and northbound off ramp to North Avenue. According to the Caltrans project website, the purpose of the SR 99 Corridor Project is to improve traffic operations at the existing interchanges and bring them up to current Caltrans design standards. (It is acknowledged that the Secretary of Transportation has ordered reevaluation of the FHWA decision to exempt the project from a Clean Air Act analysis, a decision based, presumably, on Caltrans' determination that the project would result in reduced air pollutant emissions. Notably, a federal court granted reevaluation without vacating the initial exemption.)

As described in the Draft EIR, State CEQA Guidelines Section 15130 identifies two basic methods for establishing the cumulative environment in which a project is considered: the use of a list of past, present, and probable future projects or the use of development projections from an adopted general plan, other regional planning document, or a certified EIR for such a planning document. The cumulative analysis for the SCSP uses the "plan" approach to identify the cumulative setting. The cumulative analysis considers the development anticipated to occur in accordance with the Fresno General Plan, encompassing the Plan Area and beyond. As such, individual projects, including the State Route 99 Corridor Project, are not identified. The cumulative impact analysis is fully compliant with CEQA.

#### **Response 10-52**

The comment summarizes the EIR's conclusions relative to noise impacts, and notes they were found to be significant and unavoidable at both the project (plan) and cumulative levels. The comment goes on to suggest that the cumulative noise analysis is incomplete because it does not include the SR 99 Corridor Project, and that additional mitigation should be considered, including protective buffers between industrial/ business park uses and residential uses; prohibiting exceedance of noise standards near residential areas; and prohibiting truck traffic through residential areas. As described throughout the Draft EIR, the SCSP is a land use plan applicable to a large region. Moreover, no specific developments are yet proposed under the plan. Mitigation measures recommended to reduce potential noise impacts are appropriate at the plan level and include those suggested by the commenter: require acoustic studies for project- and site-specific developments that include noise abatement measures to ensure compliance with the City's General Plan and Noise Ordinance; require findings of consistency for future development with the City's policies, development standards, goals, objectives, and ordinances relative to noise; require noise-reducing design; and minimize stationary noise and parking lot noise near sensitive uses (see Draft EIR at page 4.12-18). As project-specific developments are proposed, more detailed measures may be developed.

With regard to the SR 99 Corridor Project specifically, according to the Caltrans project website, the purpose of that undertaking is to improve traffic operations of the existing interchanges at American and North Avenues to bring the interchanges up to current Caltrans design standards. No element of the project would generate additional truck traffic. See also Response to Comment 10-51.

#### **Response 10-53**

The comment describes CEQA requirements relative to alternatives and cites case law and takes issue with the EIR's alternatives analysis. No specific comments on the analysis are provided in the comment and no response is required.

#### **Response 10-54**

The comment makes a general allegation as to deficiency in the description of the existing setting and impact analysis and asserts that, because of that, proper identification of alternatives is impossible. The comment cites air pollutant emissions and public health impacts as an example. With respect to air quality, the existing environmental setting is described in Section 4.3.2, "Environmental Setting," and Figure 4.3-1 provides a graphic with the findings of the CalEnviroScreen 4.0 mapping program. The environmental setting is adequately described in Section 4.3.2 and is fully compliant with CEQA. See also Response to Comments 10-12 through 10-27. The comment does not provide any additional specific evidence that the alternative analysis is incomplete.

#### **Response 10-55**

The comment takes issue with the alternatives analysis and suggests that the Community Plan Option could be modified to reduce the non-residential development (reduced industrial and regional business park uses) while keeping the number of jobs the same as the proposed plan and be considered in the EIR as an alternative to the project. The comment asserts that a modified Community Plan Alternative would further reduce impacts as compared to the proposed project and would meet the City's objectives. However, the comment offers no evidence that a modified Community Plan Alternative would avoid or substantially reduce impacts compared to the SCSP. In fact, by adding residential development to a plan area that already supports substantial industrial development, impacts could be exacerbated. Moreover, by reducing industrial uses in favor of retail and commercial uses, the City's objective to stimulate economic development and attract development that focuses on emerging markets and new technologies could be jeopardized.

As discussed in Section 6.4, Alternatives, of the Draft EIR, the alternatives section includes analysis of two project options put forward by various community members and businesses. Because the Community Plan Option includes the same development footprint, it would require a similar amount of construction and would result in similar conversion of undeveloped land to urban use, compared with the proposed plan. However, this option would involve a different mix of land uses, with substantially more retail and office uses and substantially less industrial use. Further, this option would generate substantially more residential and job growth than the proposed plan. The job growth is greater than the proposed plan because the mix of land uses are different, office and retail uses create more jobs per square foot, as compared to industrial uses.

Section 15126.6 (c) of the CEQA Guidelines addresses the selection of a range of reasonable alternatives. The range of potential alternatives to a proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects. "[T]here is no ironclad rule governing the nature or scope of the alternatives to be discussed in an Environmental Impact Report (EIR or EIA in this case), other than the rule of reason." (Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 576; In re Bay-Delta etc. (2008) 43 Cal.4th 1143, 1162–1164; CEQA Guidelines, § 15126.6, subd. (a).) Section 15126(a) states the "EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather, it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives."

Additional information explaining the choice of alternatives may be included in the administrative record. Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are: (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts.” These guidelines were followed and complied with in Section 6, Alternatives, of the Draft EIR and identifies three alternatives to the proposed plan.

Ultimately, the Draft EIR presents a reasonable range of alternatives, evaluates their potential to achieve most of the basic project objectives, and evaluates whether the respective alternative would avoid or reduce the potentially significant environmental impacts of the Proposed Plan in compliance with CEQA requirements. Therefore, no revisions to the EIR are necessary.

**Response 10-56**

The comment suggests that the Draft EIR needs to be revised and recirculated. See Master Response 2, Recirculation.

**Response 10-57**

The comment consists of concluding remarks. No response is required.



Letter  
11

July 30, 2024

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

**Subject:** Comments on DRAFT South Central  
 Specific Plan and EIR

**Dear Sophia,**

Thank you for the opportunity to submit a comment letter related to the Draft South Central Specific Plan and EIR.

We applaud the City of Fresno for diligently attempting to thread the needle between the urgent need for moving industrial development forward with high paying job creation in south Fresno, and the critical need for dramatically improved environmental quality and protection of proximate communities and existing and future residents from any harmful activities or impacts in south Fresno.

However, there are some deficiency issues with data used for demand projections in the Market Study supporting plan and EIR conclusions and some contextual frameworks related to Fresno County's clean energy transition and opportunities for long-term mitigation that we believe should be considered. See the three points on these topics below:

**1. Projected population and employment growth in DRAFT South Central Specific Plan and EIR are overstated based on 2023 State Population Revisions – Such that another look at related data and analyses is required**

The population demand assumptions for the plan/EIR and its proposed mix of land uses have not been updated with July 2023 State of California Department of Finance P-2: County Population Projections 2020-2060 (<https://dof.ca.gov/forecasting/demographics/projections>) which are a fraction of those

11-1

11-2

stated in the plan and its supporting Market Study, suggesting a deficiency in the draft EIR analyses as well. **See notes about population projections below.**

**Notes on population projections:** The projections and related statements in EPS Market Study - about population and jobs - appear significantly inflated given State DOF population projections for whole County released last July, 2023 that suggest the addition of 64,000 in total population growth 2024-2040 for whole county that adjusted for the approximately 56% share City of Fresno has historically represented of county population equals about a 36,000 population addition for City area - versus the 176,000 to 216,000 population addition by 2040 that study notes below and uses for its projections.

**Page 4 of attached Market Study for DRAFT South Central Specific Plan and EIR:**

**The City is projected to add up to 216,000 residents and nearly 70,000 employees by 2040.** Total population change, which encompasses a combination of births, deaths, and net migration in the City, is estimated to range from an addition of 176,000 to 216,000 new residents between 2022 and 2040.<sup>5</sup> This level of growth translates into about 9,800 to nearly 12,000 residents added per year, on average. For comparison, in the period between 2002 and 2019, the City added approximately 106,000 new residents for an average annual growth of about 5,900 residents. That is, population growth between 2022 and 2040 is projected to be 1.5 to 2.0 times the City's long-term average annual population growth, suggesting that there will be significant increases in in-migration to achieve this level of growth. While recent trends suggest intrastate migration from coastal California to inland counties could lead to increased rates of in-migration, various economic factors including recessionary conditions, interest rates, supply chain challenges, and labor shortages may result in a lower level of in-migration.

**Projected employment growth in the City is estimated to range between 50,100 and 69,700 new jobs through 2040,** translating into an average of about 2,800 to 3,900 new jobs added annually. These employment projections appear to be reasonable estimates, bracketing historical, long-term employment gains, where the City added an average of about 3,400 new jobs annually between 2002 and 2019.

11-2  
cont.

**2. Notwithstanding questions about efficacy of population projections used for demand analyses – Situating the DRAFT South Central Specific Plan and EIR fully within the context of massive prospective clean energy opportunities in Fresno County can expand demand for even more eco-industrial and circular manufacturing**

The larger context of rapidly emerging significant clean energy production potential in Fresno County represented by the Valley Clean Infrastructure Plan (<https://valleycleaninfrastructureplan.com/>) proposed for the Westlands Water District area, and the prospective addition of clean energy access and innovation, new sources of

11-3



clean industrial development demand, mitigation of some anticipated industrial development and transportation impacts, and the unique possibility for cross-sector agreements on allowable transitional period impacts through incremental impact reduction milestones while getting to 100% clean energy industry deployment and transport systems, are not considered or referenced in the DRAFT South Central Specific Plan and EIR.

Ultimately, we believe, the coexistence of important integrated industry, jobs and environmental goals can only feasibly be achieved at scale by focused implementation of new and exemplary renewable energy powered eco-industrial/circular manufacturing industrial parks with concomitant clean transportation systems. See the **San Joaquin Sierra Jobs Draft Investment Plan – Circular Manufacturing Chapter** (<https://www.s2i2initiative.org/news-resources>). Also see: **'GROWING CLEAN AND EFFICIENT MANUFACTURING'** by Reimagining Appalachia ([https://reimagineappalachia.org/wp-content/uploads/2020/10/Reimagine-Appalachia\\_Manufacturing\\_10-28-2020-1.pdf](https://reimagineappalachia.org/wp-content/uploads/2020/10/Reimagine-Appalachia_Manufacturing_10-28-2020-1.pdf)), and **'Driving clean industrial innovation across the U.S.'** by the Clean Air Task Force (<https://www.catf.us/2024/06/driving-clean-industrial-innovation-across-us/>).

These desirable outcomes noted above would need to be facilitated not only by enlightened land use policies, but through the advent of superordinate local government based clean energy acquisition and generation oriented JPAs and related industry and community partnerships that form and work closely together for these purposes. See attached **Gigawatts for Good Jobs** slide deck (and paper) presented to Fresno COG Policy Board 7-25-24. Also see article **'Inside Look at Fresno County Westside Solar Plan to Power 9 Million Homes'** attached. Land use plans such as the South Central Specific Plan, contextualized and informed by new exemplary renewable energy powered circular manufacturing/eco-industrial park concepts, may have some additional and different policy prescriptions and create new intergovernmental and cross-sector partnerships.

**3. We believe it would be appropriate to reconsider and recalibrate the DRAFT South Central Specific Plan proposals and EIR analyses with more current state population projections, and to also bring the plan fully into the broader context of the clean energy transition and opportunities uniquely emerging in Fresno County with the potential for broad-based local government, industry and community partnerships that were previously inconceivable.**

Regards,

*KR Bergthold*

Keith Bergthold, CEO and Board Chair, Regenerate California Innovation, Inc.

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11-3  
cont.

11-4

## **Letter 11    Regenerate California Innovation (RCI), Keith Bergthold**

7/30/24

### **Response 11-1**

The comment consists of prefatory remarks and introduces comments that appear in more detail later in the comment letter. Please refer to subsequent responses to comments contained in this letter.

### **Response 11-2**

The comment suggests population and employment growth are overstated. Growth projections are estimates only. The EIR used double that estimated in the market study to be appropriately conservative.

### **Response 11-3**

The comment is promoting clean energy opportunities. The EIR is a program-level assessment of development projected to occur in the plan area through 2040. The EIR does not presuppose the nature, size, type, and location of development. The comment pertains to the SCSP itself and not to the environmental analysis. Please see Master Response 1, Comments Pertaining to the South Central Specific Plan. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

### **Response 11-4**

The comment requests the City reconsider population and employment projections, and consider clean energy opportunities with public private partnerships. This comment is a summary of the detailed comments made in the letter. Please see responses to the specific comments above.



We create special places. We plant, care, inspire.  
We are a voice, a teacher, a steward.

Letter  
12

July 17, 2024

Sophia Pagoulatos, Planning Manager  
Long Range Planning, Planning & Development  
City of Fresno  
2600 Fresno St  
Fresno CA 93721

**Subject:** South Central Specific Plan EIR Comments

Ms. Pagoulatos:

Tree Fresno has reviewed the Draft South Central Specific Plan and Draft EIR with respect to the role our organization may play in the implementation of the Plan and mitigation of impacts identified in the EIR.

Although the Draft Plan and Draft EIR envision a policy and mitigation responsibility for Tree Fresno, neither document includes a discussion of Tree Fresno, its role in increasing the urban canopy, and the many benefits of trees. We recommend the following discussion be added to both documents:

Founded in 1985, Tree Fresno is a 501 (c)(3) non-profit organization that has planted over 53,000 trees throughout the central San Joaquin Valley. Trees have been planted by a variety of community partnerships including grants from Cal Fire, the California High-Speed Rail Authority, the California Air Resources Board, the San Joaquin Valley Air Pollution Control District, and many individual donors and volunteers.

Trees provide a multitude of benefits, including shade which can reduce the urban heat island effect. Mature trees increase community aesthetics as well as property values. Trees absorb carbon and sequester it in their leaves, branches, trunks and roots. Trees also facilitate the storage of carbon in soils. Trees improve air quality by absorbing pollutants such as ozone, smoke, dust and other particulate matter. Finally, trees intercept and divert rainfall with their leaves and their roots absorb water, holding the soil and slowing erosion.

Maximizing these benefits requires proper tree selection, placement, planting and maintenance. This is especially pertinent since the majority of our organization's planting work at this time is targeted in South Central Fresno. For example, Tree Fresno has planted five vegetative barriers in Fresno County as part of a California Air Resources Board Supplemental Environmental Project (SEP), called Fresno TREES. The project is designed to reduce pollution from busy roadways.

In Spring 2023, the [Valley Air District](#) awarded Tree Fresno \$2 million in grants to implement an urban greening project and vegetative barrier project throughout South Central Fresno in what

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12-1



is known as the AB 617 boundary area. All of the South Central Specific Plan area is included within the larger AB 617 boundary (see p. 17 of the Draft Plan). The greening project is part of California Climate Investments, a statewide initiative that puts Cap-and-Trade dollars to work reducing greenhouse gas, strengthening the economy, and improving public health – particularly in disadvantaged communities. The project will fund 1,200 5-gallon trees for private residents living in the AB 617 Boundary of South Central Fresno. In addition to residential trees, 500 community 15-gallon trees will be planted in public areas, along with even more trees serving as critical components of vegetative barriers.

12-1  
cont.

The Draft Plan contains the following policy references with regard to Tree Fresno.

General Plan Policy (p. 15): D-2-c Highway Beautification. Work with Caltrans, the Fresno Council of Governments, *Tree Fresno*, neighboring jurisdictions, and other organizations to obtain funding for highway beautification programs.

Draft Specific Plan Policy (p. 44): GB-5: Coordinate with *Tree Fresno* on a Community Landscapes Plan. (This policy is repeated in the Draft EIR on p. 3-18 as draft Plan policies, “intended to reduce environmental harm, increase quality of life, and encourage sustainable practices.”)

12-2

Tree Fresno will continue to have an important role in partnering with the City in planting trees. We request, however, that policies in the Draft Plan and Draft EIR clearly state that Tree Fresno will act as a resource and participate with the City and other stakeholders only as resources allow. As a non-profit entity, Tree Fresno is not in a position to take the lead on policy implementation.

More important is the need for greater discussion of the Urban Forestry Management Plan (adopted by the Council on May 23, 2024). This is understandable given the release of the Draft Plan and Draft EIR on May 31, but both documents should be revised to include important policy issues contained in the UFMP as they affect the plan area and address historical context and controversy (see for example the recommendation from the Attorney General’s Office in the 2021 NOP response to improve and maintain vegetation and tree canopy for residents in and around the project area).

12-3

The UFMP contains an “aspirational” goal of achieving 20% canopy coverage in the City over the next 40 years. The current canopy coverage is 14.6% overall, but less than 5% in the Specific Plan area. Areas with higher pollution burden and vulnerability have lower tree canopy cover and proportionally more low-income and marginalized community members. A June 2022 City Council resolution committed to plant at least 1,000 trees annually. But to achieve the 20% canopy coverage goal, planting to up to 4,600 trees annually would be needed.

Expanding canopy cover requires a continuing commitment by the City and Tree Fresno can play an important role in support of these objectives. In particular, Section 5-3 of the UFMP (p. 81) contains actions which support this partnership.

12-4

Action 1A: Apply for state grants and increase nonprofit and other partnerships to increase funding for tree planting and care establishment.

Action 1B Continue to pursue tree planting opportunities through community volunteer events or collaborating with local organizations to reduce the cost of tree planting.

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Action 3B: Achieve a 20% City-wide canopy cover over the next 40 years Prioritize planting throughout Fresno census tracts based on the Priority Planting Score and map to increase canopy cover equitably throughout the City.

12-4  
cont.

Tree Fresno also strongly supports the designation of a City Arborist and City Urban Forester to oversee all urban forest activities in the City. (Action 1I)

Other concerns with the Draft EIR are:

- While the Draft EIR contains a mitigation measure requiring vegetative buffers between truck loading facilities and nearby residents (measure 4.3-3.c on p. 4.3-32), there is no corresponding measure requiring vegetative buffers adjacent to Highways 41 and 99 to reduce air quality impacts to adjacent sensitive uses.
- There is no discussion of Measure P, the City's sales tax initiative for parks and open space, as a funding source for urban greening.

12-5

Thank you for the opportunity to comment. If you have any questions or need clarification on our comments, please contact the Tree Fresno office.

Sincerely,

*Mona Nyandoro Cummings*

Mona N. Cummings, CEO of Tree Fresno



**Letter 12 Tree Fresno,  
Mona N. Cummings**  
7/17/24

**Response 12-1**

The comment provides a narrative about Tree Fresno and its role in the region and suggests incorporating specific text into the SCSP and EIR. While the City acknowledges the important work of Tree Fresno, including the urban greening grant program for the AB 617 area, neither the SCSP nor EIR envision a direct role that would burden the financial or staff resources of Tree Fresno. By its comment, the narrative offered by Tree Fresno is included in the project record under consideration by City decisionmakers. Please see also Master Response 1, Comments Pertaining to the South Central Specific Plan.

**Response 12-2**

Tree Fresno expresses concern about its resources available to partner with the City in tree funding and planning and requests specificity in the SCSP and EIR regarding those limitations. Refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

**Response 12-3**

The comment suggests greater discussion in the EIR of the UFMP as it pertains to the plan area, and of historical context and controversy (e.g., AG comment to improve and maintain tree canopy). Refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

**Response 12-4**

The comment cites UFMP actions that can support the City's partnership with Tree Fresno. It also expresses support for designation of a City Arborist and City Urban Forester. The City acknowledges these suggestions and expressions of support from Tree Fresno.

**Response 12-5**

The comment suggests addition of vegetative buffers adjacent to Highways 41 and 99 to reduce air quality impacts on adjacent sensitive uses and discussion of Measure P and a funding source for urban greening. As noted in Master Response 4, Downsizing to Create Transitional or Buffer Areas, the Specific Plan requires a 1,000 buffer from sensitive receptors and Mitigation Measure 4.3.3-c in the EIR also requires a buffer from sensitive receptors. The measures are specific to reducing impacts related to any future development on sensitive receptors. As discussed in Master Response 3, Program Versus Project-Level Analysis, the EIR is a program level analysis and any future development within the Plan area will require project level analysis. If during project level analysis, other mitigation requirements such as the need to include additional buffers, as suggested in this comment, the City would require additional feasible mitigation at that time.

## 2.3.4 Companies, Business Associations, Labor, Other Organizations



Letter  
13

AffinityTruck.com

July 30, 2024

City of Fresno  
Planning & Development Department  
2600 Fresno Street, Room 3065  
Fresno, CA 93721

Attn: Sophia Pagoulatos, Planning Manager

Re: South Central Specific Plan (SCSP)

This letter is being submitted on behalf of Affinity Truck Center. We are a Volvo, Mack and Autocar dealership with expert knowledge of both combustion engines and electric vehicles in this industry. Our intent in writing this is to express our concerns relating to the SCSP as currently drafted.

Affinity Truck Center has been located in the heart of California's Central Valley since 1980. We carry a wide variety of Class 6-8 heavy duty trucks to handle a vast array of trucking needs. We offer a complete line of Mack, Volvo and Autocar heavy duty trucks. We have always placed the needs and interests of our customers first with our first-class sales, parts and service departments. Being in the South Central Fresno area for the last 44 years has allowed us to be of exceptional service to individuals and businesses that farm and transport goods along our stretch of the Valley as well as keep goods moving throughout the entire State and Nation. In addition, many of our long-time employees reside in this and our neighboring communities. Affinity Truck Center places a high importance on giving back to our community by donating our time and resources to charitable organizations such as the Boys & Girls Clubs, Tree Fresno and Beautify Fresno, which directly and positively impact our neighborhood, as well as offering volunteer opportunities to our employees.

With regard to the SCSP document as drafted, as well as the Environment Impact Report (EIR), we take issue with some of the following points. I cannot tell from the draft of the SCSP whether the regulations only apply to new construction or anyone in the area pulling a permit to remodel.

### Required Transition to Zero Emissions Trucks:

- All future tenants of new and redeveloped commercial and industrial land uses must ensure all Class 7 and 8 trucks are "model year 2014 or later . . ." After December 31, 2026, all trucks must be transitioned to "zero-emission vehicles," subject to the Planning Director's discretion. (SCSP EIR, Mitigation Measure 4.2-1h.) The developer or the business is also responsible for ensuring "that adequate electrical infrastructure is provided to allow for the transition to electric heavy-duty trucks." (*Id.*)
  - This is far more aggressive than CARB's Advanced Clean Fleets ("ACF") regulation, which allows high-priority fleets to purchase at least some trucks other ZEVs until 2035.

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- Moreover, unlike the ACF regulation, which only applies to some fleets, the City's Mitigation Measure applies to **all** discretionary permits for commercial and industrial land uses within the SCSP.

13-3

- The City requires an equally aggressive phase-in schedule (more aggressive than CARB's ACF regulation) for Class 2-6 Trucks, requiring full electrification of the fleet by December 31, 2031. (SCSP EIR, Mitigation Measure 4.3-1i.)

13-4

I sit as the Volvo Board of Line rep and the California Truck Dealer board seat representing all brands. We have sold Class 8 electric vehicles for 3 years. The CARB regulations of today are unattainable, let alone the overly aggressive timelines in this draft. See the Ryder Charge Logistics cost comparisons.

We have been attempting to install charging stations for Electric Vehicles in our two dealerships for 3 years. Our Fresno project is stuck in permitting again with the City of Fresno and we have had the 480 amp power in our yard for 20 years. As of today, without the use of grants, most chargers take 18 months to 2 years from conception to installation. Any grants delay the process further.

13-5

The cost of a Class 8 electric vehicle ranges from \$400,000 to \$700,000. The total cost of ownership of an electric vehicle is not yet affordable to all operators. The range is limited. If a business uses any commercial trucks with a body on the chassis that does work of any kind, there is not an electric version available as yet. Boom truck, dump truck, walking floor anything with a power take off unit does not have an electric option available from an OEM.

Follow the CARB regulations at a minimum and push back if they push back.

Mandate the use of renewable diesel effective today in current diesel internal combustion engines. It has a -99 carbon footprint and requires no new equipment or modification. The has a tremendous impact until owners fall in line with CARB regulations.

13-6

#### **Promotion of Passenger EVs for Customers/Employees:**

- "At least 10% of all passenger vehicle parking spaces shall be electric vehicle (EV) ready," and at "least 5% of all passenger vehicle parking shall be equipped with working Level 2 Quick charge EV charging stations installed and operational, prior to building occupancy," regardless of employee or customer demand for such spaces. (SCSP at 75.)

13-7

There are no car buying mandates and it remains consumer choice to purchase EV vs. gas/diesel or hybrid. Read the industry trades on all the pull back on interest and production in EVs. Installation is delayed. Maintenance is late to repair malfunction. The arms of chargers are cut off for the copper value. In these neighborhoods for the coming years, you do not want people alone at businesses charging, so do not make these 24 hour public access. Do all of these

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chargers have sophisticated software systems that allow for customers to pay to charge, as it is not appropriate to have businesses pay for this charging?

13-7  
cont.

**Zero Emissions Equipment:**

- "On-site motorized operational equipment shall be ZE (zero emission)." (SCSP at 75.)

Forklifts, yard goats, stationary engines, Calls 2b vehicles all operate exceptionally well as electric and require smaller charging infrastructure to operate. This seems reasonable if it is a fully new business. If it is an existing business pulling a permit, they should only have to follow CARB regulations.

13-8

**Construction Fleets/Equipment/Materials:**

- All "construction contractors shall demonstrate that they shall use the cleanest available fleet of heavy-duty equipment" after submitting "Construction Clean Fleet" paperwork to the San Joaquin Valley Air Pollution Control District. And "[a]ll on-site yard trucks and forklift shall be powered by electricity." (SCSP EIR, Mitigation Measure 4.3-1B.)
- The SCSP requires an applicant to "deploy the highest rated CARB Tier Technology that is available at the time of construction," subject to discretionary waivers by the Planning Director. (SCSP at 76.)
- The required use of "electric-powered hand tools, forklifts, and pressure washers." (SCSP at 76.)
- Prohibition of diesel-powered generators for construction. (SCSP at 76.)
- Required to use at least 20% locally sources or recycled materials for construction materials, and wood products used should be certified through a sustained forestry program. (SCSP EIR, Mitigation Measure 4.8-1b.)

13-9

If the building is not yet constructed, how will all the equipment charge at the construction site? Heavy machinery with moving arms do not have an electric version. Have you done a cost analysis on the construction cost if contractors have to be in compliance in advance of CARB regulations. The bids will be incredibly inflated to cover the cost of this equipment that is purchased before there is cost parity.

I must sell 1 electric vehicle to earn the right to sell one diesel vehicle. Where are these construction companies going to purchase these Tier 1 CARB compliant diesel trucks if the OEMs and dealers have not sold enough Class 8 electric vehicles? There is a devastating shortage of diesel vehicles (90% reduction of inventory) for sale in the State of California from any brand of dealer. We have not sold one 2025 Teir 1 CARB compliant vehicle in the first 7 months of this calendar year.

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#### Other Infrastructure Improvements:

- Unless a property owner records a covenant stating the property prohibiting refrigerated warehouse space, “a conduit shall be installed during construction of the building shell from the electrical room to 100% of the loading dock doors that have the potential to serve refrigerated space.” In addition, all dock doors serving TRU units must include “electric plug-in units.” (SCSP at 75.)
- The construction of a secondary electrical room (or sizing one electrical room 25% larger than required) to accommodate additional electrical panels. (SCSP at 76.)
- For all industrial land uses that do not use natural gas as part of a manufacturing process, “no natural gas infrastructure shall be permitted.” (SCSP EIR, Mitigation Measure 4.3-1k.)

13-10

The world and the nation (EPA) are all pursuing research and development into the most cost effect and environmentally friendly solutions for transportation. CARB has hitched their regulations to only Battery Electric and it is failing at this initial stage. What if CARB pushes back to Federal Regulations (EPA) which are technologically agnostic? What will be done with all those underutilized chargers at the warehouses?

#### Solar Infrastructure:

- Buildings over 400,000 square feet must “ensure rooftop solar panels are installed and operated in such a manner that they will supply 100% of the power needed to operate [the non-refrigerated] portions of the facility including the parking areas.” (SCSP at 75.)
  - All other buildings shall have solar-ready roofs, “which includes designing and constructing buildings in a manner that facilitates and optimizes the installation of a rooftop solar photovoltaic (PV) system at some point after the building has been constructed.” (SCSP at 75.)
  - All other buildings must “demonstrate their capacity to include energy production and storage features on-site, including” on-site solar panels. The amount of renewable energy needed is based on the needs of the development, serving at a minimum 50% of the energy demand. (SCSP EIR, Mitigation Measure 4.6-1d.)

13-11

Our dealerships have solar on their roof as well as on a custom solar structure under which our technicians repair vehicles. In spite of 25 year warranty roof material and joint working arrangements with the solar installers and roofers, every winter we have emergency roof leaks. Many roof repairs and replacements require the solar to be removed and reset at great expense. I would encourage over parking or on ground solar wherever possible.

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**Further Studies:**

- Business owners and/or their consultants must perform noise studies for any new development, regardless of how close they are to sensitive receptors. (SCSP EIR, Mitigation Measure 4.12-2a.)

I encourage you to stand at an EV charging site with 1-10 kWh chargers. Do you know that the engine fan on the Class 8 trucks must run while the trucks charge? We think of electric trucks as quiet, but while charging they create incredible noise pollution.

Please understand that Battery Electric vehicles run hot. They lose function and range when the environment it operates in is too cold or too hot. Much of the software and function of these Electric Vehicles is set to derate and shut down when temperatures exceed 110 degrees.

The chargers themselves shut down in the heat.

Think how hot it has been in Fresno over the past month alone. The vehicles and chargers failed when air temps, let alone tarmac temps hit 113.

I am not anti EV. There are incredible use cases where you would not want anything else. This is primarily in light and medium duty at this time 2b-Class 6.

Do not put Fresno in a box where they are handicapped to grow or attract new business because the EV technology is unaffordable, unavailable, or under engineered.

I am free for any clarification or follow-up questions you may have on electric vehicle technology.

Sincerely,

Kim Mesfin  
President

559-262-1502

13-12

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## **Letter 13     Affinity Truck Center, Kim Mesfin, President**

7/30/24

### **Response 13-1**

The comment consists of prefatory remarks introducing the company and prefacing concerns with the plan and EIR. Please refer to responses below for specific comments.

### **Response 13-2**

The comment states that the requirements of Mitigation Measure 4.3-1h are more aggressive than the CARB's Advanced Clean Fleets (ACF) regulation. The commenter is correct that the benchmark targets to achieve a 100 percent zero or near-zero Class 7 and 8 truck fleet under Mitigation Measure 4.3-1h by December 1, 2026, which is a more stringent, nearer term target. The objective for fleet turnover is in response to ambient air quality conditions and that the existing community has been identified as a high-pollution burdened community by AB 617 and CalEPA's CalEnviroScreen tool. As such, the recommendation of a stringent standard for Class 7 and 8 trucks operated in the SCSP, if feasible, to minimize the SCSP's contribution of mobile-source air pollution would support a community already experiencing a high level of air pollution.

All mitigation measures that directly relate to criteria air pollutants, TACs, and GHG emissions were developed in consideration of comments submitted during the NOP scoping period, as well as direct input provided by CARB and SJVAPCD, during the preparation of the Draft EIR. The mitigation measures provided in the Draft EIR, and discussed and revised throughout this document, reflect the opinions and recommendations of CARB and SJVAPCD, among other public stakeholders including the Attorney General's Office. Several measures are also similar to mitigation practices recommended in the Mariposa Industrial Park EIR (SCN 2020120283), certified by the City of Stockton in 2022 (City of Stockton 2022). The comment does not address the adequacy of the Draft EIR and no further response is required.

### **Response 13-3**

The comment states that unlike the ACF regulation, Mitigation Measure 4.3-1h applies to all discretionary permits for commercial and industrial land uses within the SCSP. The comment is correct in its understanding of the applicability of Mitigation Measure 4.3-1h. See Response 13-2 above. The comment does not address the adequacy of the Draft EIR and no further response is required.

### **Response 13-4**

The comment states that Mitigation Measure 4.3-1i has a more aggressive target for Class 2-6 trucks as compared to CARB's ACF regulation. The comment is correct in its understanding of the applicability of Mitigation Measure 4.3-1i. See Response 13-2 above. The comment does not address the adequacy of the Draft EIR and no further response is required.

### **Response 13-5**

The comment states that the CARB regulations are unattainable, let alone the overly aggressive timelines of the required transition to zero emission trucks proposed by the project. The comment also states that electric vehicles are not affordable to all operators and not all commercial trucks have an electric option available. The comment suggests complying with the CARB regulations at a minimum. Please refer to Response 13-2 for an explanation why the project has more stringent requirements than CARB. The comment does not address the adequacy of the Draft EIR and no further response is required.

### **Response 13-6**

The comment suggests that mandating the use of renewable diesel would have a tremendous impact until owners fall in line with CARB regulations. The comment does not address the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

**Response 13-7**

The comment is related to the Plan's promotion of passenger EVs for customers/employees. Refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

**Response 13-8**

The comment is related to Plan and infeasibility of on-site motorized operational equipment. Refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

**Response 13-9**

The comment provides a summary of the proposed construction fleets, equipment, and materials requirements and the requirements of Mitigation Measure 4.3-1b, Mitigation Measures 4.8-1b. The comment raises questions regarding the logistics of meeting these requirements. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comments are included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. Please refer to Master Responses 1, Comments Pertaining to the South Central Specific Plan, and 5, Economic Feasibility of Mitigation.

**Response 13-10**

The comment provides a summary of the proposed electrification requirements and Mitigation Measure 4.3-1k and questions what would be done with the underutilized chargers if CARB pushes back on EPA. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. Please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

**Response 13-11**

The comment provides a summary of the proposed solar infrastructure requirements and suggests parking or on ground solar structures instead of rooftop structures. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. Please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

**Response 13-12**

The comment indicates that electric trucks charging causes noise pollution. Mitigation Measure 4.12-2a requires an acoustical study to be performed which would determine anticipated noise levels for new noise sources as well as ways to reduce noise exposure to achieve City standards. In the specific example provided by the commenter regarding noise from charging EV trucks, potential noise reduction strategies could incorporate the use of nearby buildings as barriers or adequate distance buffers. Nonetheless, the specific noise source proposed at the time of development would be required to be evaluated and appropriate measures be incorporated into the project design. No revisions to the DEIR are necessary.



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Letter  
14

City of Fresno  
Planning and Development Department  
2600 Fresno Street, Room 3065  
Fresno, CA 93721  
Attention: Sophia Pagoulatos, Planning Manager

Subject: Opposition to the South-Central Specific Plan as Drafted

Dear Ms. Pagoulatos:

Betts Company began the journey from the Bay Area to Fresno between 1990 and 2008. We worked closely on property selection with the City of Fresno Economic Development Department. Today Fresno serves as our corporate headquarters. We have three business units located at 2843 and 2867 South Maple Ave; Betts Spring Manufacturing, Betts Truck Parts and Betts HD. Our company received a benefit package from the City of Fresno where both the City and Betts Company benefit financially, a true win/win. When we came our properties were both in an enterprise and empowerment zone. We benefited greatly from both programs until they were taken away. The city has been a great partner over the years as we proudly call Fresno our home. We employ approximately 350 people in our three business units. A not well-known fact in the manufacturing world is for every manufacturing job there are 3 to 5 more jobs created within the community. The additional jobs are a combination of businesses in the supply chain as well as professional services, the likes of accountancy, legal services, marketing, advertising and more.

14-1

My comments today are on behalf of Betts Company and our 350 Team members and their families. Collectively we have great concern on the South-Central Specific Plan and the related Environmental Impact Report as drafted. Our concerns about this report are many.

Betts Company is celebrating its 156<sup>th</sup> year doing business in California. Making us the oldest family-owned manufacturer in California. To say we have experience doing business in California would be an understatement. We have participated since 2014 in several meetings where the general plan has been on the table for discussion. Frankly, we have witnessed behavior that we feel has been detrimental in bringing the community together. We have witnessed industry being vilified and falsely accused of negatively impacting the community and environment. Many people are not aware that in the Central Valley we have the most stringent air quality requirements anywhere in the world. Manufacturers in the Central Valley are required to employ what is called BACT "Best Available Control Technology". The San Joaquin Valley Air Quality District oversees this process to ensure the technologies that are employed are the very best in the world. Betts Company has invested millions of dollars in new technologies as we are doing our part to make Fresno air quality the best it can be. Since 2014 the air quality has dramatically improved, and it continues to improve. It is unfortunate the City of Fresno does not share data with the community and certain zero growth groups how much industry and the entire area has improved.

14-2

We are shocked and dismayed with many of the mandates the City of Fresno is recommending in the SCSP as presented. Many of the recommendations are overreaching, unfair, likely illegal, and costly. Many from business question where the mandates came from as we do not see other cities in the Central Valley moving in this direction.

14-3

Simply put, the City of Fresno does not have the data needed to recommend such mandates. For example, at a recent SCSP community meeting at the Orange Community School, City of Fresno employees when asked what they thought the new diesel NOX levels today are from all class eight truck manufacturers answered somewhere

14-4

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between 10 and 40% reduced. They were shocked when the industry shared, they are now 98.5% reduced, almost zero. So why enforce mandates forcing business to employ BEV technology when it costs four times that of a 98.5% reduced diesel.

14-4  
cont.

The same lack of knowledge seems to apply to solar. While solar projects have been significant the City of Fresno is again going overboard mandating solar today when the payback ROI has increased from 4 to 5 years to 11 years or more.

14-5

Trying to understand the justification by the City of Fresno to downzone or back zone businesses when the SCSP area for over 100 years has been designated Heavy Industrial is shocking and confrontational and unfriendly. Has the City of Fresno forgotten these are businesses that invested here and created the jobs and growth most have benefited from. Also, many are some of our most generous philanthropists and committed civic stewards.

One of greatest concerns remains with the way the City of Fresno has managed the community meetings. The facilitation of the meetings left a lot of businesses and community members frustrated and at odds with one another. The misinformation and lack of factual data was troubling and divisive. The City could have done a better job sharing the true facts and reminding everyone we are one community.

At Betts Company we have many more concerns with the SCSP as drafted. If this plan were to be approved, it would have devastating effects on our businesses and our ability as a community to be competitive and grow. Some of these concerns are as follows:

14-6

- Downzoning: The proposed downzoning from Heavy Industrial to Light Industrial and Business Park severely limits the operational capabilities of businesses serving essential sectors like agriculture and construction
- Buffers: The introduction of 1,000-foot buffer zones from "sensitive uses" imposes unfair restrictions on industrial activities, converting many to conditional uses and requiring extensive Health Risk Assessments.
- Mitigation Requirements: The SCSP mandates costly and potentially infeasible requirements, such as solar installations and zero emission equipment which significantly increase operational costs without sufficient justification.

14-7

14-8

Betts Company is an ISO 9001 and ISO 14001 certified company. In 2022 we were awarded the coveted Evergreen Certificate through the Tugboat Institute. To earn the Evergreen Certificate your company focuses on proactively implementing new projects to improve the culture and environment. Since 1986 and today we have implemented over 100 projects that have helped improve the environment. We have completed these projects without government intervention and onerous mandates. Industry is aware of so many new technologies and machines that can help leapfrog our businesses to the next level. Every day we are working to improve. Our employees are proud to be part of these efforts.

14-9

Betts Company urges the City of Fresno to reconsider the SCSP's proposed mandates. We recommend a collaborative approach that acknowledges the significant improvements industry has already made. It is crucial to strike a balance between environmental goals and economic sustainability. By working together, we can ensure Fresno remains a thriving industrial hub, attracting and retaining businesses, fostering economic growth, and continuing to improve our community's quality of life.

We are very fortunate to have agriculture and manufacturing diversity in the Central Valley. We should be doing all we can to help our industries thrive and grow and to want to continue investing in our region.

2843 South Maple Avenue | Fresno, California 93725 | Phone 559.498.3304 | Fax 559.445.9129 | 800.227.2192 | Betts1868.com



Thank you for considering our comments.

Sincerely,

Mike Betts  
CEO

2843 South Maple Avenue | Fresno, California 93725 | Phone 559.498.3304 | Fax 559.445.9129 | 800.227.2192 | [Betts1868.com](http://Betts1868.com)

## **Letter 14    Betts Company, Mike Betts**

No date

### **Response 14-1**

The comment consists of prefatory remarks introducing the company and prefacing concerns with the plan and EIR. Please refer to responses below for specific comments.

### **Response 14-2**

The comment provides an opinion about the air quality conditions and does not address the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

### **Response 14-3**

The comment provides an opinion about the adverse effects of the recommendations in the SCSP. The comment pertains to the specific plan itself and its economic effects and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. Please also refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

### **Response 14-4**

The comment states that the City does not have data to support the recommended mandates. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

### **Response 14-5**

The comment expresses an opinion about the economic effects of solar facilities. The comment pertains to the specific plan itself and its economic effects and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. Please also refer to Master Response 5, Economic Feasibility of Mitigation.

### **Response 14-6**

The comment claims that the City provided misinformation in the community meetings and does not provide evidence to support the claim. The comment lacks sufficient specificity to enable the City to prepare a good faith, reasoned response.

The comment also provides an opinion about the adverse effects of downzoning. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

### **Response 14-7**

The comment expresses an opinion about the proposed 1,000-foot buffer zones. Please refer to Master Response 4, Downzoning to Create Transitional or Buffer Areas.

### **Response 14-8**

The comment expresses an opinion about the cost of the mitigation requirements. Please refer to Master Response 5, Economic Feasibility of Mitigation.

### **Response 14-9**

The comment urges the City to reconsider the proposed mandates in the SCSP. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.



## BUILDING & CONSTRUCTION TRADES COUNCIL, AFL-CIO

### FRESNO, MADERA, KINGS AND TULARE COUNTIES

Letter  
15

Dear Honorable Mayor and City Council Members;

On behalf of the Fresno Building Trades Council (representing over 15,000 local working families), we are excited to share the new and forward-looking South Central Specific Plan. The smart focus on the development of employment-generating land use complements other City planning documents to help create a vibrant and balanced strategy for growth over the next two decades.

15-1

While we are in support of the Plan, we are concerned the Plan (as currently written) fails to ensure that Fresno residents gain significant workforce-related community benefits. The new Specific Plan will result in several thousand new construction jobs needed to build the projects enabled by it. It would be irresponsible for us not to consider what additional workforce-related community benefits could result from the approval of the Plan.

- Several thousand Fresno residents support their families by working in the construction trades. Will they help build the new Fresno? Will the hundreds of millions in construction wages be reinvested into local businesses where these families shop? Will the City lose millions in sales tax revenue if these wages are spent elsewhere?
- Will these construction wages be sufficient to support working families who live in our community? Conversely, will a “low road” development business plan result in wages well below the median family income?
- Will the potential promise of hundreds of apprentice opportunities be realized so that our region’s training programs can accept more Fresno youth and at-risk workers?

15-2

To help ensure our community gains the necessary benefits with the passage of the Plan, we are proposing the following modifications to the Plan. We hope to speak with planning staff to confirm that these recommendations are best placed as suggested below:

#### Chapter 3: Vision, Guiding Principles and Policies

15-3

E-1: Coordinate a regional economic development strategy that monitors trends, emerging markets, new technologies and **the region’s workforce preparedness programs.**

#### Chapter 8: Implementation, Job Training and Employment

E-5: Promote job-training programs such as career technical education, adult education, internships, mentoring, and **State of California approved Joint Apprenticeship Training Committee programs.**

15-4

E-7: Connect residents to existing training programs and jobs in their neighborhoods. **Support local and/or targeted hiring for construction jobs (including pathways to apprenticeships for local residents) for implementation of the Plan**

15-5

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**E-10: Encourage consideration of Project Labor Agreements (PLAs) for private projects that involve City subsidies.** 15-6

**E-11: Encourage the use of local workforce and business development sourcing in the plan area to: generate quality construction and service jobs; provide career pathways and job-training opportunities for the local workforce; and pay area standard wages for construction so that expenditures used in the construction of these developments are reinvested into the local economy.** 15-7

**E-12: Maximize the City's public financing tools and opportunities for enhancement to fund various economic development initiatives. This could include ensuring sufficient construction workforce community benefits are secured from any sale or lease of publicly-owned land for development purposes.** 15-8

We look forward to discussing these proposed changes in the Plan with you. Communities throughout California have placed similar language in the planning documents to promote and sustain a vibrant local economy and grow America's working class. 15-9

In Solidarity,

Financial Secretary-Treasurer

**Letter 15    Building and Construction Trades Council, AFL-CIO,  
Chuck Riojas, Financial Secretary-Treasurer**

No date

**Responses 15-1 through 15-9**

The comments pertain to the specific plan itself not to the environmental analysis or adequacy of the EIR. The comments are included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. See also Master Response 1, Comments Pertaining to the South Central Specific Plan.



Letter  
16

City of Fresno  
Planning and Development Department  
2600 Fresno Street, Room 3065  
Fresno, CA 93721  
Attention: Sophia Pagoulatos, Planning Manager

City of Fresno Planning and Development Department:

I am submitting comments on behalf of Central California Food Bank on the South Central Specific Plan ("SCSP") and the related Environmental Impact Report ("EIR"). I am writing today because I have serious concerns about how the SCSP is currently drafted and the negative impacts it will have in South Central Fresno and the greater Fresno area.

Central California Food Bank is the region's largest hunger relief organization in Central California. From our distribution center, located at 4010 E. Amendola Drive, Fresno, within the boundaries of SCSP, we provide over 60 million pounds of food annually to over 320,000 individuals each month. We do this work through a network of 220+ distribution sites, partnering with other community stakeholders including non-profit organizations, schools, churches and community centers, throughout Central California. We purchased our industrial property in 2018 due to its proximity to Highway 99. This main artery enables us to provide services across Central California. In 2020, we opened an onsite grocery pick-up that positively impacts 2,000 neighbors per month within the SCSP and beyond.

We have 68 employees, many of whom live within the SCSP. We also have an average of 8 workforce development team members in our Workforce Development Program. Individuals within our Workforce Development Program have triumphed over addiction and incarceration. After a short time on our team, we have very high success rates placing them in full-time employment opportunities.

The mitigation strategies within the SCSP would fundamentally change the way we do business and would drastically reduce our community impact. We are particularly concerned with the following mitigation measures.

- Mitigation Measure 4.3-1b: Use Clean Fleets during Construction- this mitigation measure would drastically increase construction/renovation costs making future expansion to meet the need in our community cost prohibitive.
- Mitigation Measure 4.3-1h: Use Low- or Zero-Emission Heavy-Duty Trucks and Equipment- this mitigation measure has an unrealistic timeline (City Planning, PG&E, Construction and truck manufacturer, could not collectively meet this timeline even if costs were not an issue). Zero-Emission trucks do not currently meet our daily route needs. We would need to eliminate routes/distributions with Zero-Emission Heavy-Duty Trucks. To convert our fleet by 2026 is cost prohibitive and is considerably faster and aggressive than state mandates.

Central California Food Bank | 4010 E. Amendola Dr. Fresno, CA 93725 | 559-237-3663  
[www.ccfoodbank.org](http://www.ccfoodbank.org)

16-1



- Mitigation Measure 4.3-1i: Use Low- or Zero-Emission Vehicles- the same concerns apply

1 in 4 Central California residents struggle with hunger on a daily basis. Prior to the pandemic, we were serving approximately 280,000 people each month, meeting their needs on a sporadic basis. Today, we are serving over 320,000 people, who identify as having chronic hunger. More people, are seeking our services, more often. In order to meet this growing demand, Central California Food Bank has plans for expansion and renovation on our property. The SCSP would prevent our ability to meet community need in this critical time.

16-1  
cont.

Thank you for taking the time to review our concerns and strongly urge you to decline to adopt the SCSP as it is currently written.

Sincerely,

A handwritten signature in black ink that reads "Kym Dildine". The signature is fluid and cursive.

Kym Dildine  
Co-CEO  
Central California Food Bank  
559-237-3663 x1124  
[kdildine@ccfoodbank.org](mailto:kdildine@ccfoodbank.org)

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[www.ccfoodbank.org](http://www.ccfoodbank.org)



**Letter 16    Central California Food Bank,  
Kym Dildine, Co-CEO**  
No date

**Response 16-1**

The comment consists of prefatory remarks introducing the company and expresses concerns regarding the economic effects of mitigation requirements. Please refer to Master Response 5, Economic Feasibility of Mitigation.



Letter  
17

**ALL THINGS PROTEIN®**

City of Fresno  
Planning and Development Department  
2600 Fresno Street, Room 3065  
Fresno, CA 93721  
Attention: Sophia Pagoulatos, Planning Manager

Dear Ms. Pagoulatos:

My name is Jimmy Maxey and I am submitting these comments on behalf of Certified Meat Products on the South-Central Specific Plan (SCSP) and the related Environmental Impact Report (EIR). I am writing to you because we have significant concerns about this report as it is currently written.

Certified Meat Products (CMP) is a USDA Meat Processor located in South-Central Fresno. My family has been doing business in Fresno since 1954 when my father opened our first company, King-O-Meat. Today, my two sons operate CMP and we have had the privilege to employ many people who call Fresno their home. Many of our people live right here in South Fresno. Our company takes pride in contributing to our community by providing competitive compensation and by financially supporting the needs around our community through donations and support of the many agencies, nonprofits, and churches that are in the trenches every day.


There are several concerns that we have with this report as it is currently written. Some of these concerns are as follows:

- Downzoning
- Buffers
- Mitigation Requirements for new development
- Solar Infrastructure
- Zero Emission Trucks and Equipment
- Several Infrastructure Improvements

Downzoning from Heavy industrial to Light Industrial would be very problematic for our business. It not only devalues an asset, which has a direct impact on our financial health, but it limits our ability to expand and grow, forcing us to look at other alternatives. Since we are located in the food capital of the world, the city should be encouraging manufacturers and other businesses that support the agricultural industries and not artificially limiting the land within which they can locate. We are also concerned with several requirements that the plan states dealing with infrastructural improvements. These requirements call out items that are cost prohibitive and would limit our ability to be competitive outside the state of California. If this plan is adapted as it is written, it would take away our competitive edge of being located in our agricultural heartland.

It is our desire to continue growing our business in the City of Fresno and calling this our home. We need your help to allow us to operate in a community that supports us and helps us succeed. Thank you for considering our comments and I urge you to not adopt the South-Central Specific Plan as it is currently drafted.

Sincerely,

  
Jimmy Maxey  
Founder and Chairman

*Physical*  
4586 E. Commerce Ave.  
Fresno, CA 93725

*Mailing*  
P.O. Box 12502  
Fresno, CA 93778-2502

*Contact*  
Phone: (559) 256-1433  
Fax: (559) 256-1434

*Web*  
**CERTIFIEDMEATPRODUCTS.COM**

**Letter 17    Certified Meat Products,**  
**Jimmy Maxey**  
No date

**Response 17-1**

The comment consists of prefatory remarks introducing the company and does not address the environmental analysis or adequacy of the EIR. Therefore, no further response is required.

**Response 17-2**

The comment consists of a list of concerns related to the SCSP. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. Please also refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

**Response 17-3**

The comment expresses an opinion about downzoning. Please refer to Master Response 4, Downzoning to Create Transitional or Buffer Areas.

**Response 17-4**

The comment expresses opposition to the SCSP. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.



Letter  
18

City of Fresno  
Planning and Development Department  
2600 Fresno Street, Room 3065  
Fresno, CA 93721  
Attention: Sophia Pagoulatos, Planning Manager  
Telephone: (559) 621-8062  
Email: [scsp@fresno.gov](mailto:scsp@fresno.gov)

July 18, 2024

Dear Sophia,

I am writing on behalf of the Fresno Chamber of Commerce to submit comments on the South-Central Specific Plan ("SCSP") and the related Environmental Impact Report ("EIR"). We have several concerns regarding the SCSP as currently drafted and would like to outline them below.

The Fresno Chamber of Commerce represents a diverse group of businesses within the City and County of Fresno. Our members include long-standing local businesses that have chosen Fresno, particularly South-Central Fresno, as their base of operations. These businesses provide employment to many residents, contribute significantly to the local economy through taxes, and engage in various charitable endeavors. The Chamber has consistently advocated for policies that foster a business-friendly environment, driving economic growth and community development in Fresno.

18-1

#### Downzoning Concerns

The SCSP and the SCSP EIR do not adequately quantify how many properties or the total acreage of land use/zoning changes. The proposed downzoning from Heavy Industrial to Light Industrial, and from Light Industrial to Business Park or Regional Business Park, could significantly impact businesses that serve the agricultural and construction industries. For instance, downzoning could restrict critical uses like "Animal Food Manufacturing" and "Chemical Manufacturing," which are not permitted in Light Industrial zoning. This could severely limit the locations available for these essential operations.

18-2

Moreover, the downzoning proposals could disrupt existing businesses and future plans without prior notice to affected property owners. This lack of notification undermines trust and could deter future economic investments in Fresno. Businesses need stability and predictability to make substantial investments, and arbitrary downzoning decisions threaten this stability.

#### Buffer Zones

The introduction of "buffers" within the SCSP, which restrict or eliminate certain types of developments within 1,000 feet of "sensitive uses," covers nearly half of the SCSP area. This could prohibit warehousing and distribution uses, convert other uses to conditional, and require extensive Health Risk Assessments for all industrial processes. These buffers impose significant burdens on local businesses without clear benefits, potentially driving new industrial developments and jobs to other municipalities. This is counterproductive to Fresno's goal of being an industrial hub.

18-3

To promote the success of the regional business community through effective advocacy, education and relationship building.

2551 Fresno Street • Fresno, CA 93721 • (559) 495-4800 • [www.fresnochamber.com](http://www.fresnochamber.com)





### Improvements/Mitigation Requirements

The SCSP imposes expensive and potentially infeasible mitigation measures on landowners seeking permits. These include:

- **Solar Infrastructure:** Requiring buildings over 400,000 square feet to install rooftop solar panels to supply 100% of their power needs, and other buildings to be solar-ready. 18-4
- **Zero Emissions Trucks:** Mandating that all Class 7 and 8 trucks be zero-emission by 2026, a more aggressive timeline than the CARB Advanced Clean Fleets regulation. 18-5
- **Promotion of Passenger EVs:** Requiring 10% of all passenger vehicle parking spaces to be EV-ready and 5% to have Level 2 Quick charge EV stations. 18-6
- **Zero Emissions Equipment:** Mandating all on-site motorized operational equipment to be zero-emission. 18-7
- **Construction Fleets/Equipment:** Requiring the cleanest available fleet of heavy-duty equipment, electric-powered hand tools, forklifts, and prohibiting diesel-powered generators. 18-8
- **Other Infrastructure Improvements:** Including various other requirements such as additional electrical room space and prohibiting natural gas infrastructure for non-manufacturing processes. 18-9

These measures add significant costs and operational challenges for businesses, potentially stifling economic development and innovation.

We urge the City to reconsider the SCSP as currently drafted. The proposed downzoning, buffer zones, and mitigation requirements impose undue burdens on businesses and could have far-reaching negative impacts on Fresno's economy. Thank you for considering our comments. We hope the City will take our concerns into account and revise the SCSP to better support the local business community. 18-10

Sincerely,

Scott Miller, President & CEO  
Greater Fresno Area Chamber of Commerce

To promote the success of the regional business community through effective advocacy, education and relationship building.

2331 Fresno Street • Fresno, CA 93721 • (559) 495-4800 • [www.fresnochamber.com](http://www.fresnochamber.com)

## **Letter 18 Chamber of Commerce, Scott Miller**

7/18/24

### **Response 18-1**

The comment consists of prefatory remarks introducing the company and does not address the environmental analysis or adequacy of the EIR. Therefore, no further response is required.

### **Response 18-2**

The comment states that the SCSP and the SCSP EIR do not adequately quantify how many properties or the total acreage of land use/zoning change. The proposed net change for each land use designation under the SCSP is summarized in Tabel 3-4 of the Draft EIR (page 3-14 of the Draft EIR). As shown in Table 3-4, the SCSP would reduce the Heavy Industrial and Regional Business Park land uses by 836 and 17 acres, respectively. The SCSP would increase the Light Industrial, Business Park, Public, Single Family Residential, and General Commercial land uses by 30, 509, 36, 240, and 37 acres, respectively.

The comment also expresses an opinion about the adverse effects of downzoning. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

### **Response 18-3**

The comment expresses an opinion about the adverse effects of the proposed buffer zones. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comments are included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. Please also refer to Master Responses 1, Comments Pertaining to the South Central Specific Plan, and 4, Downzoning to Create Transitional or Buffer Areas.

### **Response 18-4**

The comment provides a summary of the proposed solar infrastructure mandate. Please refer to Master Response 5, Economic Feasibility of Mitigation.

### **Response 18-5**

The comment provides a summary of the proposed zero emissions mandate. Please refer to Master Response 5, Economic Feasibility of Mitigation.

### **Response 18-6**

The comment provides a summary of the proposed promotion of passenger electric vehicles mandate. Please refer to Master Response 5, Economic Feasibility of Mitigation.

### **Response 18-7**

The comment provides a summary of the proposed zero emissions equipment mandate. Please refer to Master Response 5, Economic Feasibility of Mitigation.

### **Response 18-8**

The comment provides a summary of the proposed construction fleets/equipment mandate. Please refer to Master Response 5, Economic Feasibility of Mitigation.

### **Response 18-9**

The comment provides a summary of the proposed mandate for other infrastructure improvements. Please refer to Master Response 5, Economic Feasibility of Mitigation.

### **Response 18-10**

The comment consists of closing remarks and expresses an opinion about the economic effects of the proposed mitigation requirements. Please refer to Master Response 5, Economic Feasibility of Mitigation.

**DIRK POESCHEL**

Land Development Services, Inc.

923 Van Ness Avenue, Suite 200 • Fresno, California 93721

559/445-0374 • Fax: 559/445-0551 • email: dirk@dplds.com

<b>Letter 19</b>
----------------------

July 30, 2024

Ms. Sophia Pagoulatos, Planning Manager  
 City of Fresno  
 Planning and Development Department  
 2600 Fresno Street, Room 3065  
 Fresno, CA 93721

SUBJECT: South Central Specific Plan - 3641 S. Cherry Ave. Fresno

Dear Ms. Pagoulatos:

I am writing on behalf of my client Mr. Daniel Barandalla dba D & I Farms. Mr. Barandalla owns the subject 11.50 +/- acre property (property) on the west side of S. Cherry Ave. in the unincorporated portion of Fresno County. The property is within the City of Fresno Sphere of Influence and is within the South Central Specific Plan (Plan).

Mr. Barandalla purchased the property designated and zoned for *industrial* uses in the adopted City of Fresno General Plan. The purchase price Mr. Barandalla paid for the property reflected the extra value of the industrial zoning and opportunity for development consistent with that zone.

The following are my comments on the Plan, Draft Environmental Impact Report (DEIR, SCH. No. 2019079022) and proposed Community Truck Reroute Study: Truck Routing and Implementation Strategies Report. Plan is used interchangeably in this correspondence to describe the three aforementioned documents.

- Figure 4-5 entitled Specific Plan Proposed Planned Land Use designates the property for *Business Park* but designates a small portion of the property for *Low Density Residential* uses. A small residential building existed on the site that Mr. Barandalla converted with permits to an office. Therefore, no residential uses exist on the site.

Please remove the *Low Density Residential* designation and replace the designation with *Business Park* making the entire site designated for *Business Park* and make the corresponding changes to the project EIR. Numerous and continual conflicts will occur if a residential use is allowed in the middle of a business park.

- Mr. Barandalla reluctantly does not oppose the property being designated as a *Business Park*. However, the *Business Park* designation is not his preference.

19-1

19-2

19-3

Ms. Sophia Pagoulatos  
 July 30, 2024  
 Page 2

3. John Kinsey, Esq. of the law firm Wanger Jones Helsey in Fresno has submitted a comprehensive analysis of the issues associated with the proposed Plan, associated Community Truck Reroute Study: Truck Routing and Implementation Strategies Report and related DEIR. But for my client's reluctant concurrence with the proposed recommended *Business Park* designation, he agrees with Mr. Kinsey's conclusions and recommendations regarding the proposed onerous and impractical development standards such as setbacks and sees no reason to recite them and incorporates Mr. Kinsey's comments herein by reference.

19-4

4. The effort to reduce impacts of industrial land use in the subject area should be placed in context. Much of the area within the Plan was designated for industrial uses for decades due to the proximity to rail, state highways, a work force and raw products.

Most of the objections to industrial uses cite projects that were approved prior to the adoption of stringent environmental regulations that protect communities and the environment. Some of the uses being cited as objectionable existed prior to the adoption of a zoning ordinance by the City or County of Fresno. As you are aware, zoning ordinances provide substantial regulatory authority to protect public health, safety and welfare.

19-5

The Plan's proposed adoption of special zoning standards is unnecessary in light of the comprehensive review that all projects must undergo as mandated by the California Environmental Quality Act (CEQA). Further, modern industrial uses are subject to various land use permits that provide another level of regulatory scrutiny to assure, among other things, compatibility with surrounding properties.

Modern industrial parks are operated by employees who rightfully expect to work in a safe, clean and healthy environment. In fact, specific state and federal agencies are charged with assuring that a safe, clean and healthy environment is maintained at the workplace.

The transportation of goods and materials from a modern industrial park shares few similarities with industrial development of even 30 years ago. Federal, state and local regulations protect the drivers of the transport vehicles and the communities in which the transport vehicles travel. Regular and unannounced inspections by law enforcement also play a key role in assuring the safe transportation of goods. Said monitoring and enforcement includes driver training, special driver and vehicle licensing, materials packaging and handling standards, mandatory fire and prevention measures and materials identification for environmental and fire protection purposes.

19-6

Leakage of harmful gaseous and liquid materials is also highly regulated by agencies prepared to address spillage and ruptures and other similar hazardous events in a responsible manner. Liabilities for environmental degradation are severe.



Ms. Sophia Pagoulatos  
 July 30, 2024  
 Page 3

Modern industrial buildings must adhere to strict building and fire code regulations to assure public and worker safety. Hazardous material must be segregated, rated for toxicity and stored and handled according to various federal and state health and safety protocols.

19-6  
 cont.

Obnoxious odors, fugitive dust and other air born emissions are also strictly monitored in a modern industrial park as is storm water with collection and filtration prior to being allowed to enter a drainage basin. These characteristics of a modern industrial park are applicable in any location in California.

Creating unnecessary barriers to economic competition with other parts of the city or region directs the valuable industrial business base out of or away from the city thwarting a decades long effort to expand the area's economy so it is not solely reliant on agriculture. Many urban economists have long argued that residential uses underpay their share of municipal services costs. In fact, the revenue from industrial commercial uses allows municipalities to fund adequate police, fire, parks and other services citizens demand.

An unintended and secondary consequence of this Plan and its unnecessary regulation of industrial uses is the reduced demand of industrial users to operate in the City of Fresno. This reduced industrial demand will generate lower tax revenues from industrial users creating a larger gap between the city's needs and its ability to fund the services citizens demand. The city's jobs housing balance is also adversely affected as industrial jobs simply go elsewhere.

No attempt was made in the Plan or its EIR to quantify these adverse impacts to the city's economic base from an environmental or cost benefit perspective. The proposed Plan is contrary to the principle goal of the City of Fresno General Plan ECONOMIC DEVELOPMENT AND FISCAL SUSTAINABILITY section which begins with this statement:

19-7

*Fresno's economy plays a crucial role in the physical development of the Planning Area and the City's ability to support implementation of General Plan policies and programs. The City is committed to economic development and fiscal sustainability. In fact, the outcome of many other General Plan initiatives is tied to the city's economic success. More specifically, to further this commitment, this element focuses on improving the business climate, retaining local businesses, developing a high skilled labor force, attracting new industries, supporting the tax base, and sustaining the City's ability to provide public services for current and future residents*

Please consider allowing a more reasoned solution to protecting Fresno neighborhoods and its economic base. Thank you for the opportunity to comment on the Plan, associated Community Truck Reroute Study: Truck Routing and Implementation

Ms. Sophia Pagoulatos  
July 30, 2024  
Page 4

Strategies Report, and related environmental impact report. If you have any questions, please feel free to contact me.

19-7  
cont.

Sincerely,



Dirk Poeschel, AICP

cc: Mr. Daniel Barandalla  
Mr. Amir Dehlan  
Ms. Jennifer Clark  
John Kinsey, Esq.

<https://dplds.sharepoint.com/shared documents/current clients/d & i famns- s cherry ave -23-43/correspondence/deir comments.docx>

**Letter 19 D & I Farms, Daniel Barandalla,  
Dirk Poeschel**  
7/30/24

**Response 19-1**

The comment consists of prefatory remarks introducing the subject property and prefacing concerns with the plan and EIR. Please refer to responses below for specific comments

**Response 19-2**

The comment pertains to the specific plan itself not to the environmental analysis or adequacy of the EIR. The comments are included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. See also Master Response 1, Comments Pertaining to the South Central Specific Plan

**Response 19-3**

The comment pertains to the specific plan itself not to the environmental analysis or adequacy of the EIR. The comments are included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. See also Master Response 1, Comments Pertaining to the South Central Specific Plan

**Response 19-4**

The comment expresses support for Comment Letter 31. Please refer to responses to Comment Letter 31 below.

**Response 19-5**

The comment states that the existing industrial uses were designated prior to the adoption of stringent environmental regulations and the proposed plan's special zoning standards are unnecessary in light of mandated CEQA review for all projects. In addition, the comment states that land use permits requirements provide regulatory scrutiny to ensure modern industrial uses are consistent with surrounding properties. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

**Response 19-6**

The comment provides examples of regulatory requirements regarding industrial parks operation. The comment does not address the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

**Response 19-7**

The comment expresses an opinion about the economic effects of the plan. Please refer to Master Response 5, Economic Feasibility of Mitigation.



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donaghysales.com

City of Fresno  
Planning and Development Department  
2600 Fresno Street, Room 3065  
Fresno, CA 93721  
Attention: Sophia Pagoulatos, Planning Manager  
Telephone: (559) 621-8062  
Email: [scsp@fresno.gov](mailto:scsp@fresno.gov)

**Letter  
20**

Dear Planning Manager Pagouloatos:

Thank you for the opportunity to submit comments on the City of Fresno's proposed South Central Specific Plan and the related Draft Environmental Impact Report. I am writing to submit comments on behalf of Donaghy Sales as its President.

#### Who We Are

Donaghy is the leading beverage distributor of Central California, selling over 1,000 brands of beer, wine, spirits, and non-alcoholic beverages. We are the exclusive distributor of a diverse portfolio representing 95 suppliers, including global leaders as well as small batch local producers. Founded in 1969, we are a third generation, family-owned and -operated company, proudly providing exceptional service and quality products to valued customers across our 26-county territory, which extends from Butte County in the north down to Tulare County in the south. Central California is our home. While our main warehouse and company headquarters is located in the Plan Area at 2623 South Cedar Avenue, we also maintain warehouses in Stockton, Watsonville, and Sacramento. Since our founding, we have made community involvement and employee welfare top priorities, providing no cost health insurance to over 850 full-time employees and thousands of dependents, consistently supporting local charities across our service area, and sponsoring hundreds of multicultural events in the communities where we operate.

20-1

We have been operating out of South Central Fresno since 1969. In addition to being the home of our founder, Ed Donaghy, Fresno's central location and close proximity to key Central California transportation corridors make it an attractive option for a company like ours. Additionally, hundreds of our employees are Fresno residents, including many residing in the Plan Area. As such, we have made significant investments to improve conditions for our Fresno employees and to enhance the local community. Our Fresno facility is a clean, state-of-the-art operation with a long track record without community complaints. This is due in part to Donaghy's similarly long track record of giving back to the Calwa community, including its contributions to the renovation of the recreational facilities at Calwa Community Park. Indeed, we are deeply committed to supporting local charities and nonprofit organizations, making annual contributions to over 50 organizations, including African American Historical and Cultural Museum, Arte Americas, Association of Mexican Educators, Breaking the Chains, Catholic Charities, Fresno Food Bank, Friends of Calwa, Habitat for Humanity, Hispanic Business Foundation, Marjaree Mason Center, Poverello House, Leukemia and Lymphoma Society, CSUF Chicano Association, Central California Hispanic Chamber of Commerce, Consulate of Mexico – Fresno, Knights of





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Columbus, Central California Women's Conference, and Fresno Metro Black Chamber of Commerce—just to name a few.

20-1  
cont.

### **Concerns Regarding the South Central Specific Plan and the Draft EIR**

Donaghy has significant concerns regarding the City's proposal to add "buffers" that restrict or eliminate certain types of development on properties within 1,000 feet of "sensitive uses," defined as "residences, schools, religious institutions, playgrounds, child-care centers, hospitals, retirement homes, and convalescent homes."

20-2

**Areas Affected by Buffer Zone Requirements.** Initially, it is unclear how the proposed buffer concept affects properties like Donaghy's headquarters, which is located in the Plan Area within 1,000 feet of a sensitive use located *outside* the Plan Area. Figure 5-2 of the South Central Specific Plan Public Review Draft appears to suggest Donaghy's property will *not* be subject to a buffer zone. Yet, at the same time, the definition of "sensitive uses" on page 68 does not appear to be limited to uses within the Plan Area, suggesting Donaghy's property *will be* subject to a buffer zone. Adopting the proposed buffer zone concept without providing clear notice to Donaghy how its property will be impacted is not only unfair, it denies Donaghy a meaningful opportunity to comment on the proposed plan, as we are left to guess whether our property will be subjected to the heightened requirements for properties within a buffer area. Making matters worse, Donaghy cannot be the only property owner in this situation. Others may have reasonably relied on Figure 5-2 to conclude that their properties will not be subject to the heightened requirements for buffer areas. The lack of clarity could also lead to inconsistent and arbitrary enforcement of the buffer area requirements among City staff.

20-3

To address these issues, the City should decline to adopt the South Central Specific Plan, as proposed. Instead, the City should clarify the definition of "sensitive uses" and confirm that the buffer area requirements *do not* apply to properties like Donaghy's. To the extent the City does intend to apply the buffer area requirements to properties like Donaghy's, then to avoid depriving Donaghy of a meaningful opportunity to comment on the proposed plan, as well as other landowners who may have reasonably relied on Figure 5-2 to conclude they will not be affected by the buffer zone requirements, the City must clarify how it intends to apply the buffer concept with respect to uses located outside the Plan Area and allow for an additional public comment on the proposed plan, as clarified.

**Heightened Requirements in Buffer Zones.** Assuming Donaghy *would* be subject to the heightened requirements for buffer zones, contrary to what is indicated in Figure 5-2, Donaghy is concerned that the buffer zone requirements are in many cases excessive or unnecessary and would make new or expanded uses at Donaghy's Fresno facility infeasible. Our understanding is that if the proposed plan is adopted and Donaghy later desires to expand its existing facilities, to engage in a new warehousing, distribution, or storage use, or to construct new facilities for such uses, then it will be required:

20-4

- To obtain a conditional use permit from the City;

20-5



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- To meet the California Air Resources Board's criteria for zero or near zero emissions facilities as defined in the July 2016 California Sustainable Freight Action Plan; and
- To comply with a number of other costly and time-consuming requirements, including using the cleanest construction equipment available on the market, ensuring all on-site motorized operational equipment is zero emissions, using only electric fleets during construction, converting truck fleets to all electric vehicles sooner than required by the California Air Resources Board, payment of substantial fees for all emissions above the San Joaquin Valley Air Pollution Control District thresholds of significance, prohibitions on use of natural gas, prohibitions against having loading/unloading areas within 1,000 feet of sensitive receptors, and solar power mandates, among other things.

20-5  
cont.

These requirements would impose a significant financial and procedural burden and would significantly undermine the feasibility and desirability of proceeding with any such projects at Donaghy's Fresno facility. The requirement to obtain a conditional use permit would inject significant expense and uncertainty into potential projects while also drastically increasing the time needed to complete them and the risks associated with project opponents.

20-6

Additionally, while there can be little doubt that compelling compliance with the 2016 Sustainable Freight Action Plan would be costly and time-consuming, it appears the 2016 Sustainable Freight Action Plan does not actually specify many concrete standards. As a result, it is unclear what the requirement to comply with this document actually means and whether it will impose more or less demanding standards than what is required under the California Air Resources Board's existing zero emissions regulations. Complying with more onerous electrification requirements would obviously increase an already-significant financial burden. Moreover, it seems imprudent to mitigate perceived environmental impacts based on as-yet undefined standards and requirements that may ultimately impose a substantial financial burden in exchange for a relatively minor environmental benefit.

20-7

The various other construction and operational requirements would be similarly costly and would also likely render many new or expanded uses infeasible at our Fresno location—independent from the issues described above. In addition to being extremely costly, these requirements are novel. No similar requirements exist in the other jurisdictions where our facilities are located. It is therefore difficult to imagine any circumstances in which a reasonable business case could be made to proceed with new or expanded uses at our Fresno facility rather than at our locations in Stockton, Watsonville, and Sacramento, or in other Central Valley jurisdictions, such as Madera County or the City of Visalia, that lack buffer zones or onerous development standards such as those proposed here.

20-8

That the new requirements may not apply to Donaghy's existing operations ultimately does little to improve the situation. Our business is not static. To continue to be competitive, it is imperative that we remain dynamic and adaptable—able to meet new challenges and opportunities as and when they arise, such as expanding or altering our existing operations to meet increased demand or changing market conditions. However, the limitations and uncertainty created by the

20-9





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buffer zone requirements would make this very difficult. Among other things, our company would struggle to compete with other large distributors, particularly with respect to securing new suppliers and products. This would be very harmful to our business, and could even necessitate downsizing our Fresno operation and instead expanding our existing facilities in Stockton, Watsonville, and Sacramento, or finding new facilities in other business-friendly climates to the north and south of Fresno. Either scenario would of course also have the unintended consequence of transferring many high quality jobs out of Fresno.

In light of the above, the City should decline to adopt the South Central Specific Plan as proposed. The City should instead eliminate or substantially limit the geographic scope of the buffer zone concept, remove the requirement for a conditional use permit for new or expanded warehousing, distribution, or storage uses on properties in a buffer zone, remove the requirement to comply with the 2016 Sustainable Freight Action Plan, and remove or substantially reduce the host of construction and operational requirements for facilities located in a buffer zone.

20-9  
 cont.

#### Conclusion

For all of the reasons mentioned above, Donaghy urges the City not to adopt the South Central Specific Plan as currently proposed. The proposed plan is unclear in key respects and threatens to make many new or expanded uses infeasible in the Plan Area moving forward without giving appropriate consideration to how the proposed plan will impact businesses or the extent to which it will incentivize businesses to pursue employment-generating projects in other markets rather than the City of Fresno.

20-10

Thank you for the opportunity to comment on the proposed plan.

Sincerely,

Ryan Donaghy  
 President  
 Donaghy Sales

## **Letter 20 Donaghy Sales, Beverage Distributor, Ryan Donaghy**

No date

### **Response 20-1**

The comment consists of prefatory remarks introducing the company and does not address the environmental analysis or adequacy of the EIR. Therefore, no further response is required.

### **Response 20-2**

The comment expresses concern regarding the proposed 1,000-foot buffer. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comments are included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. Please refer to Master Responses 1 and 4.

### **Response 20-3**

The comment expresses confusion as to whether the commenter's property is located within or outside of a proposed buffer zone. Figure 3-16 of the Draft EIR (at page 3-35) identifies the proposed 1,000-foot buffer zones intended to protect sensitive uses. Importantly, Figure 3-16 has been revised to depict the 1,000-foot buffer zones necessary to protect sensitive uses that lie outside the Plan Area (see revised figure in Chapter 2, Revisions to Draft EIR). The comment also requests clarification of the term "sensitive uses." In accordance with City Council Resolution 2019-235, these are defined as residential, school, park, day care, religious institution, hospital, retirement home, and convalescent home uses. Please refer also to Master Response 4, Downzoning to Create Transitional or Buffer Areas. With regards to noticing, please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

### **Response 20-4**

The comment expresses concerns that the buffer zones requirements are excessive or unnecessary. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comments are included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. Please also refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

### **Response 20-5**

The comment summarizes the regulations applicable to future activities within the buffer zones. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comments are included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. Please also refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

### **Response 20-6**

The comment expresses an opinion about the economic effects of the proposed requirements. Please refer to Master Response 5, Economic Feasibility of Mitigation.

### **Response 20-7**

The comment expresses an opinion about the economic effects of complying with electrification requirements. Please refer to Master Response 5, Economic Feasibility of Mitigation.

### **Response 20-8**

The comment expresses an opinion about the economic effects of the proposed construction and operation requirements. The comment also states that no similar requirements exist in other jurisdictions. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comments are included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. Please also refer to Master Response 5, Economic Feasibility of Mitigation.



**Response 20-9**

The comment expresses opposition to the SCSP. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comments are included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

**Response 20-10**

The comment expresses opposition to the SCSP. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comments are included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.



DUMONTprinting

Letter  
21

July 29, 2024

Sophia Pagoulatos, Planning Manager  
 City of Fresno  
 Planning and Development Department  
 2600 Fresno Street, Room 3065  
 Fresno, CA 93721  
 Telephone: (559) 621-8062  
 Email: [scsp@fresno.gov](mailto:scsp@fresno.gov)

Dear Ms. Pagoulatos,

I am writing on behalf of Dumont Printing to submit comments on the South-Central Specific Plan ("SCSP") and the related Environmental Impact Report ("EIR"). The SCSP's imposition of zoning downsizing, buffer zones, and improvement/mitigation requirements are a serious concern for our continued operation in the City of Fresno.

Our company has operated at 1333 G Street in Fresno since 1984. When we chose to establish our company, Fresno offered us tremendous value and opportunity, access to a quality workforce, affordable space, logistical advantages, etc. These advantages have enabled us to provide quality job opportunities, contribute significant taxes to bolster the City's revenue, assist with various charitable efforts, etc..

As a manufacturing company, the proposed downzoning of our property from current zoning to proposed zoning could result in us being considered a legal non-compliant use. This would significantly hamper our ability to expand our operations and leave us uncertain of our ability to operate in Fresno going forward.

The SCSP's implementation of buffer zones could convert our use to conditional; require extensive Health Risk Assessments, leaving us unsure of our ability to operate at our location long-term while significantly increasing operational costs, resulting in possible financial instability.

Moreover, the imposition of requirements to install or purchase [Solar Infrastructure, Zero Emissions Fleet, Promotion of Passenger EVs, Zero Emissions Equipment, Construction Fleets/Equipment, Other Infrastructure Improvements] is not economically feasible for our company at this time.

21-1

21-2

21-3

21-4

PO Box 12726 | Fresno, CA 93779 • 1333 G Street | Fresno, CA 93706  
 559-485-6311 phone | 800-248-6311 toll-free | 559-485-6357 fax

DUMONTPRINTING.COM



Page 2

The above-mentioned actions will result in a substantial increase in operational costs, limit our ability to access capital or insurance, and jeopardize our ability to provide consistent, competitive pricing to our customers; expand our operations and workforce opportunities and compensation.

We are proud to have operated in Fresno for as long as we have, but the proposed changes in the SCSP bring into question whether we can retain and grow our business in the long-term. We urge the City to reconsider the proposed changes [downzoning, buffer zones, etc] as it could significantly compromise our ability to continue operating in the City of Fresno. Thank you for considering our comments.

21-5

Sincerely,

A handwritten signature in blue ink that reads "Susan D. Moore".

Susan D. Moore

President & Owner

PO Box 12726 | Fresno, CA 93779 • 1333 G Street | Fresno, CA 93706  
559-485-6311 phone | 800-248-6311 toll-free | 559-485-6357 fax

DUMONTPRINTING.COM

**Letter 21 Dumont Printing,  
Susan D. Moore, President & Owner**  
7/29/24

**Response 21-1**

The comment consists of prefatory remarks introducing the company and prefacing concerns with the plan. Please refer to responses below for specific comments.

**Response 21-2**

The comment expresses an opinion about the effects of downzoning to the subject property. Please refer to Master Response 4, Downzoning to Create Transitional or Buffer Areas.

**Response 21-3**

The comment expresses an opinion about the economic effects of implementing the buffer zones. Please refer to Master Response 5, Economic Feasibility of Mitigation.

**Response 21-4**

The comment expresses an opinion about the economic effects related to electrification and zero emissions requirements. Please refer to Master Response 5, Economic Feasibility of Mitigation.

**Response 21-5**

The comment expresses an opinion about the economic effects of implementing the SCSP. Please refer to Master Response 5, Economic Feasibility of Mitigation.





**Physical address**  
**4586 E. Commerce Ave.**  
**Fresno, CA 93725**

**Phone number**  
**(559) 269 - 5935**

**Letter  
22**

City of Fresno  
 Planning and Development Department  
 2600 Fresno Street, Room 3065  
 Fresno, CA 93721  
 Attention: Sophia Pagoulatos, Planning Manager

Dear Ms. Pagoulatos:

My name is Paul Gillum and I am submitting these comments on behalf of Formax LLC on the South-Central Specific Plan (SCSP) and the related Environmental Impact Report (EIR). I am writing to you because we have significant concerns about this report as it is currently written.

22-1

Formax LLC is a family business that owns several pieces of property in South Fresno. These properties have businesses on them that employ hundreds of individuals, many who live in the City of Fresno. We have been able to watch these businesses grow over the years and contribute to our community in great ways.

There are several concerns that we have with this report as it is currently written. Some of these concerns are as follows:

- Downzoning
- Buffers
- Mitigation Requirements for new development
- Solar Infrastructure
- Several Infrastructure Improvements

22-2

Downzoning from Heavy industrial to Light Industrial would have a very large negative impact for our properties. When we decided to make Fresno our home and purchase these properties, we did it because of the zoning and the location near major interstates. It has been a great location for many years. However, this would not only take an asset and devalue it, but it would directly impact our ability to sell our properties in the future or to move them to the next generation. There are other requirements that are stated in these reports that would make our properties less attractive, and to be honest with you, make doing any business in the City of Fresno less attractive. This would have a direct impact on our ability to grow, attract new employees as well as new opportunities.

22-3

It is our desire to continue to call the City of Fresno our home. We need your help to allow us to attract companies to our community and help them prosper. Thank you for considering our comments and I urge you to not adopt the South-Central Specific Plan as it is currently written. It would be harmful to the future of our city.

22-4

Sincerely,

Paul Gillum  
 Managing Member

**Letter 22 Formax, LLC,  
Paul Gillum, Managing Member**  
No date

**Response 22-1**

The comment consists of prefatory remarks introducing the company and does not address the environmental analysis or adequacy of the EIR. Therefore, no further response is required

**Response 22-2**

The comment consists of a list of concerns related to the SCSP. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

**Response 22-3**

The comment expresses an opinion about downzoning. Please refer to Master Response 4, Downzoning to Create Transitional or Buffer Areas.

**Response 22-4**

The comment expresses opposition to the SCSP. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.



## Fresno Business Council

Letter  
23

July 24, 2024

City of Fresno  
Planning and Development Department  
2600 Fresno Street, Room 3065  
Fresno, CA 93721  
Attention: Sophia Pagoulatos, Planning Manager  
Telephone: (559) 621-8062  
Email: [scsp@fresno.gov](mailto:scsp@fresno.gov)

Dear Ms. Pagoulatos,

On behalf of the Fresno Business Council and the Fresno Stewardship Foundation, we are writing to share our comments on the South-Central Specific Plan (SCSP) from both a historical and future perspective. While we concur with the specific concerns offered by the Fresno Chamber of Commerce, we wish to emphasize the broader implications for our community.

We urge you to recognize the significant strides many businesses have made in addressing environmental and social equity concerns. It is vital to consider the reputation our community holds regarding its treatment of the private sector. Business thrives where it is welcomed, and a supportive environment is crucial for attracting and retaining quality companies.

The Fresno Business Council was founded in 1993 in response to a crisis characterized by rampant crime and a prevailing sense of hopelessness. Our mission has been to diversify and strengthen our economy, ensure education prepares youth for life, career, and citizenship, and encourage collaboration among nonprofits and government programs to foster self-reliance and community contribution. These goals remain central to our efforts.

Advanced manufacturing and ag tech industries are pivotal for our community's prosperity. They produce essential goods and services, offer a wide range of jobs, support numerous professions, and generate the revenue necessary for funding government services, infrastructure, and nonprofits. These industries are the backbone of our community's economic health.

We acknowledge historical grievances that have led some stakeholders to advocate for increased barriers and property rezoning. However, it is essential to recognize the substantial changes businesses have implemented to address these concerns. Critical decisions must be made with the entire community's welfare in mind, not just specific parts.

We urge you to create supportive conditions that allow our current employers to thrive and attract more quality companies to our community. The economy and culture are evolving rapidly, with younger generations bringing innovations and older generations offering wisdom from experience. Leadership must unite to devise strategies that consider the impacts on all stakeholders, focusing on a brighter future for everyone.

It is also important to note that those who claim to be speaking for the disenfranchised may inadvertently be adversely impacting one of the most critical social determinants of health: family income. Restricting

23-1

23-2

P.O. Box 26807 • Fresno, CA 93720

[fresnobc.org](http://fresnobc.org)



## Fresno Business Council

business growth and imposing onerous regulations can reduce job opportunities and wages, directly affecting the economic wellbeing of families in our community.

We call on our elected officials, public servants, and fellow residents to step back from immediate concerns and consider the broader community's long-term wellbeing. When discussions are limited to those directly impacted, the big picture and the interests of the entire community are often neglected. Inclusive prosperity and wellbeing require a holistic and forward-thinking approach, not a reactive one.

We urge the City of Fresno to reassess the SCSP's proposed changes and engage in a more inclusive, collaborative planning process. Ensuring the thriving of local businesses is essential for providing good-paying jobs and sustaining our community's overall prosperity. By working together, we can create a business-friendly environment that supports economic growth and improves the quality of life for all residents.

Thank you for considering our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Genelle".

Genelle Taylor Kumpe  
CEO, Fresno Business Council  
& San Joaquin Valley Manufacturing Alliance

A handwritten signature in black ink, appearing to read "Deborah Nankivell".

Deborah Nankivell  
CEO, Fresno Stewardship Foundation

CC: Mayor Jerry Dyer  
Members of the Fresno City Council

23-2  
cont.



**Letter 23    Fresno Business Council,  
Genelle Taylor Kumpe, CEO and Deborah Nankivell, CEO, Fresno  
Stewardship Foundation**

7/24/24

**Response 23-1**

The comment consists of prefatory remarks introducing the Fresno Business Council and does not address the environmental analysis or adequacy of the EIR. Therefore, no further response is required.

**Response 23-2**

The comment expresses an opinion about the social and economic effects of the SCSP. The comment pertains to the specific plan itself and its economic effects and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. Please also refer to Master Response 5, Economic Feasibility of Mitigation.

Letter  
24



July 30, 2024

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

**Submitted Electronically**

**RE: South Central Specific Plan and Draft Environmental Impact Report –  
as proposed May 31, 2024**

Dear Ms. Pagoulatos:

I write today on behalf of INVEST Fresno and the undersigned organizations and businesses to express our strong concern with the South Central Specific Plan (SCSP) and the related Draft Environmental Impact Report (DEIR), as released for public comment on May 31, 2024.

24-1

INVEST Fresno is aligned in our position with the letter and recommendations submitted by John Kinsey, with Wanger Jones Helsley PC.

As currently proposed, the SCSP contains several provisions that are highly concerning to the continued operation and future expansion of existing businesses in South Central Fresno, including, but not limited to, the downzoning of various properties and the inclusion of 1,000-foot buffer zones. The consequences of these changes could destroy living wage jobs and significantly reduce vital tax revenue in Fresno.

24-1  
cont.

### **DOWNZONING**

The SCSP proposes downzoning numerous properties from Heavy Industrial to Light Industrial and other properties from Light Industrial to Business Park, Regional Business Park, or even residential. The proposed downzoning will have wide-ranging impacts on the current and future operations of existing businesses as well as the ability of Fresno to attract new businesses.

Downzoning severely affects landowners and employers by making their properties inconsistent with the new zoning regulations. This change reduces Fresno's attractiveness to reputable and well-capitalized businesses who want to invest in Fresno. Rezoning that creates non-conformities makes obtaining conventional financing nearly impossible — impacting capital improvements necessary for maintenance, beautification, and clean energy upgrades.

24-2

Furthermore, legal non-conforming uses make it incredibly difficult for landowners to change tenants even in favorable conditions, and during an economic downturn, it almost guarantees the loss of legal non-conforming status. Additionally, landowners cannot switch from one legal non-conforming use to another. Any enlargement of a legal non-conforming use requires a conditional use permit (CUP), which hampers the ability to attract reputable, national industrial tenants and further reduces the potential to re-let industrial properties.

### **BUFFER ZONES**

The inclusion of 1,000-foot buffer zones in the SCSP is highly concerning. The proposed downzoning of numerous properties, combined with the proposed buffer zones, results in nearly 50% of the SCSP area being impacted.

The buffers would prohibit certain warehousing and distribution activities, such as chemical and mineral storage and freight/truck terminals, and reclassify other activities, including "Limited Industrial" and most warehousing and distribution uses, as conditional uses. Additionally, Health Risk Assessments would be required for all industrial processes, construction, and operations of businesses, regardless of the land use intensity or the probability of adverse health impacts. This will substantially increase costs and, as a result, drive businesses out of Fresno or drive up prices for consumers.

24-3

A 1,000-foot buffer zone far outside the norm and three times greater than the standard endorsed by California Attorney General Rob Bonta. In 2022, the California Department of Justice reached a settlement agreement with the City of Fontana relative to their approval of warehouse developments, requiring warehouses that are 400,000 square feet or larger to establish a setback of 300

feet from the property line of the nearest sensitive receptor. In a statement announcing the agreement, Attorney General Bonta stated, "... the City of Fontana has adopted the most stringent environmental standards in California for new warehouse projects. This ordinance should serve as a model for other local governments across the state to build upon."

Additionally, the 2022 agreement with the City of Stockton required that logistics uses and their associated loading docks are no closer than 300 feet from sensitive receptors. In a statement announcing the agreement, California Attorney General Rob Bonta stated, "I hope this serves as a model for future warehouse projects across the state."

Finally, the California State Legislature has repeatedly rejected recent efforts (AB 1000, Reyes, 2023 and AB 2840, Reyes, 2022), which would have prohibited public agencies in San Bernardino and Riverside Counties from approving the development or expansion of a warehouse of 100,000 square feet or more within 1,000 feet of a sensitive receptor.

We are currently unaware of any city or county near Fresno that has implemented 1,000-foot buffers. Given the significant demand for industrial development within the city and the limited available locations for such projects, adopting these buffers would likely push new industrial developments—and the jobs and tax revenue they bring—to neighboring municipalities. We cannot support any policy that would jeopardize Fresno's success as an industrial hub or encourage our workforce to relocate.

#### **SCSP ECONOMIC & COMMUNITY BENEFITS**

South Central Fresno is the city's economic engine and delivers an outsized impact for the entire city, while fewer than a quarter of one percent of residents live within the 5,629-acre planning area. In 2022, this area, that represents 7.5% of the city's land, generated approximately \$13 billion in economic activity (35% of the city's total economic output) and more than \$102 million in tax revenue (21% of the city's general fund).

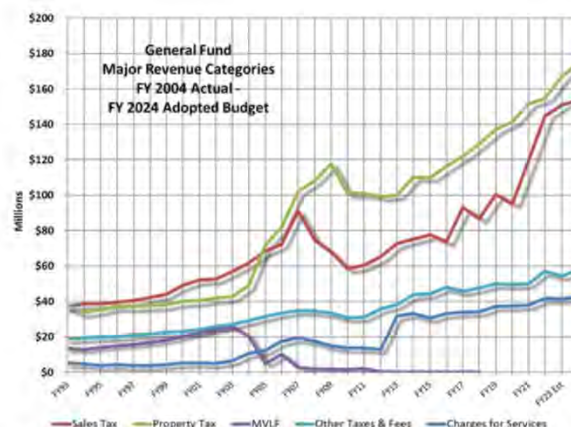
Home to more than 440 businesses, the SCSP directly provides approximately 22,070 full-time equivalent (FTE) jobs and creates nearly 48,000 FTE jobs citywide (25% of the City's FTE employment). Additionally, the average annual wage for the provided FTE jobs is slightly higher than the rest of the city at \$68,000.

In the past six years, Fresno's new retail distribution economy has taken flight — increasing the city's sales tax revenue at unprecedented levels. It took the preceding 20 years for Fresno to experience a similar amount of growth in sales tax revenue. Unlike traditional sales tax revenue that is only generated from purchases within the city, Fresno receives sales tax revenue from items that are shipped from local retail distribution centers regardless of whether the shopper lives in Fresno, Los Angeles, or another state.

24-3  
cont.

24-4





Source: [City of Fresno, FY 2025 Mayors Proposed Budget](#)

24-4  
cont.

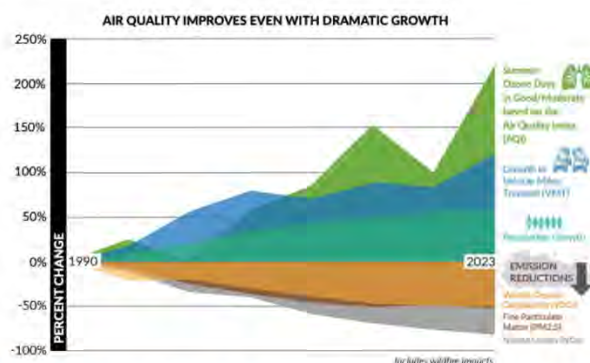
Bolstering the City's General Fund provides benefits for all Fresno residents – all of which support essential city and community services like public safety, parks, infrastructure improvements, and numerous other critical programs that residents rely on every day.

### AIR QUALITY IMPROVEMENTS

There is no denying that the air we breathe in the Central Valley is dirtier than elsewhere in the state and nation (except for the LA basin). Due to the Valley's topography and meteorology, surrounded by mountains and subject to frequent temperature inversions, pollutants become trapped, and, as a result, cities like Fresno, Visalia, and Bakersfield wind up at the top of the state's most polluted cities. While ominous, this is not the end of the story.

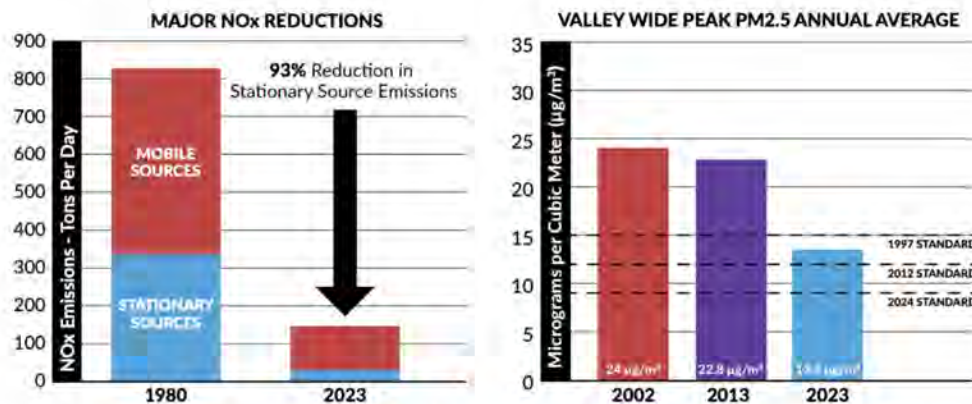
The primary pollutants of concern in the Central Valley are ground-level ozone, and fine particulate matter (PM<sub>2.5</sub>), including diesel particulate matter (DPM). Since 1980, the Central Valley has reduced emissions of these pollutants from stationary sources (i.e., oil production and refining, boilers, and other stationary equipment) by 85%. According to the EPA, regulations on mobile sources such as cars and light trucks have reduced emissions by 99 percent since 1970. Heavy-duty trucks are roughly 99 percent cleaner than 1970 models.

24-5



Source: [San Joaquin Valley Air Pollution Control District, 2023 Annual Report](#)

Whereas, Valley residents' exposure to elevated ozone and fine particulate matter (PM2.5), often cited as one of the most harmful to the lungs, has also fallen by 90% and 85% respectively. In total, this has led to a 95% reduction in cancer risk for Valley residents from exposure to air pollutants according to the San Joaquin Valley Air Pollution Control District.



Source: [San Joaquin Valley Air Pollution Control District, 2023 Annual Report](#)

These historic reductions in air pollution over the past 40 years were accomplished at the same time Fresno's population grew 2.5 times larger and our local economy more than doubled in size.

Since 1992, San Joaquin Valley Air Pollution Control District has implemented roughly 650 rules and regulations that along with California's nation-leading regulations on cars and trucks are helping to steadily improve the air quality in the Valley.

All this illustrates that the key to clean air and a healthy community is a strong and growing economy.

### CONCLUSION

Downzoning, buffers, and limited protection from legal non-conforming use provisions will result in existing businesses abandoning the City and repelling new businesses from entering – along with the countless jobs and significant tax revenue they provide.

As the community of Fresno, if we are going to continue the progress we are making and redouble our commitment to raising the standard of living for low-income families, then we must do all that we can to support a diverse and growing economy. A pivot away from a growth-oriented economy here in Fresno would reverse the incredible success our community has seen and risk more families falling into poverty.

A growing economy and sensible air quality regulations have to work in tandem. The transition to zero-emission heavy-duty trucks cannot be achieved if policies are enacted that discourage and limit Fresno's economic growth, which is necessary to afford this new technology.

24-5  
cont.

24-6

24-7

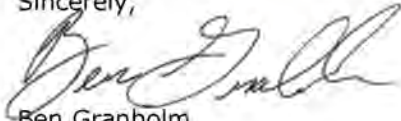
24-8

We appreciate your time and consideration and respectfully urge the City to reject the SCSP as currently proposed and implement policies that support and encourage investment in Fresno's infrastructure that result in community improvement, encourage economic development, and ensure that Fresno can continue to thrive for generations to come.

24-9

If you would like to discuss this matter further, please do not hesitate to contact Ben Granholm at [info@INVESTFresnoCA.com](mailto:info@INVESTFresnoCA.com). We look forward to working with you and staff to help keep Fresno's economy moving.

Sincerely,



Ben Granholm  
INVEST Fresno

Advanced Emission Control Solutions, LP	JD Food
Betts Company	La Tapatia
Buzz Oates	Legacy Construction
Cedar Avenue Recycling & Transfer Station	Newmark Pearson Commercial
Central Valley Business Federation	North Pointe Business Park
Certified Meat Products	Pickett Solar
Cossette Investments	Precision Civil Engineering, Inc.
Don Pickett & Associates	Robert V. Jensen, Inc.
Diversified Development Group	San Joaquin Valley Manufacturing Alliance
Fowler Packing	Strategic Freight Network
Fresno Business Council	Sunnyland Mills
Fresno Chamber of Commerce	Tank Specialties of California
Fresno County Farm Bureau	Valley Wide Beverage

cc: Jerry Dyer, Mayor  
Councilmembers, City of Fresno  
Jennifer Clark, Director, Planning and Development Department  
Lance Lippincott, Director, Economic Development Department



**Letter 24 INVESTFresno et al.,  
Ben Granholm**  
7/30/24

**Response 24-1**

The comment includes prefatory remarks conveying concerns with the plan and expresses support for Comment Letter 31. Please refer to the responses below for specific comments and refer to responses to Comment Letter 31.

**Response 24-2**

The comment expresses an opinion about the effects of downzoning. Please refer to Master Response 4, Downzoning to Create Transitional or Buffer Areas.

**Response 24-3**

The comment expresses an opinion about the proposed 1,000-foot buffer zones and provides example of 300-foot buffer zones from other jurisdictions. Please refer to Master Response 4, Downzoning to Create Transitional or Buffer Areas.

**Response 24-4**

The comment provides a summary of the economic and social benefits of the existing businesses in South Central Fresno. The comment does not address the environmental analysis or adequacy of the EIR. The comments are included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. Please also refer to Master Response 5, Economic Feasibility of Mitigation.

**Response 24-5**

The comment provides a summary of the air quality conditions in the Central Valley but does not address the environmental analysis or adequacy of the EIR. The comments are included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

**Response 24-6**

The comment expresses an opinion about the effects of the proposed downzoning, buffers and the provision of legal non-conforming use. The comment pertains to the specific plan itself and its economic effects and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

**Response 24-7**

The comment expresses an opinion about the effects of implementing the SCSP but does not address the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

**Response 24-8**

The comment expresses an opinion about the economic effects of the proposed zero-emissions policies. Please refer to Master Response 5, Economic Feasibility of Mitigation.

**Response 24-9**

The comment expresses opposition to the SCSP. The comment pertains to the specific plan itself and its economic effects and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.





*fresh.local.honest.food.™*

Letter  
25

City of Fresno  
Planning and Development Department  
2600 Fresno Street, Room 3065  
Fresno, CA 93721  
Attention: Sophia Pagoulatos, Planning Manager

Dear Ms. Pagoulatos:

My name is Mark Ford and I am submitting these comments on behalf of JD Food on the South-Central Specific Plan and the related Environmental Impact Report. I am writing to you because we have significant concerns about this report as it is currently drafted.

JD Food is celebrating our 50 Year anniversary this year and we are proud to call Fresno our home. We distribute food and food related products to restaurants, schools, retail stores, hospitals, and camps in Northern California. We are an independent family-owned company that is extremely invested in our community. We take great pride in being part of the solutions to many of the challenges that our community faces by supporting the nonprofits and agencies throughout our city and beyond. Also, many of our employees live in the City of Fresno and specifically South-Central Fresno.

There are several concerns that we have with this report as it is currently drafted. If this were to be approved, it would have devastating effects on our business and our ability to be competitive and grow. Some of these concerns are as follows:

- Downzoning
- Buffers
- Mitigation Requirements for new development
- Solar Infrastructure
- Zero Emission Trucks and Equipment
- Several Infrastructure Improvements

25-1

Since we are a distribution company, we are already subject to strict CARB requirements for the state of California. We have invested thousands of dollars in updating our equipment, so it meets the state's requirements. This has certainly resulted in improvements in greenhouse gas emissions. Over the past 10 years we have improved our emission systems by 98.5%. Although this is great news, it has come at a great cost to our business. The EV requirements as stated in the SCSP ask for technologies that either do not exist or that the infrastructure cannot support. The plan puts an undue burden on our company by investing in technologies that do not have the capacity to support our needs at a very high cost.

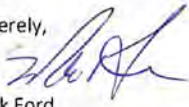
We are also concerned with this plan causing more stress on the ability to get permits. The permit process in our city is extremely difficult to navigate. This plan could make it almost impossible to move through this process and have a successful development. This will result in future jobs moving to outlying communities, refusal to upgrade older establishments, and a rise in working outside the boundaries of the process.

25-2

It is our desire to continue growing our business in the City of Fresno and calling this our home. We need your help to allow us to operate in a community that supports us and helps us succeed. Thank you for considering our comments and I urge you to not adopt the South-Central Specific Plan as it is currently drafted.

25-3

Sincerely,

  
Mark Ford  
CEO

4671 E. Edgar Ave  
Fresno, CA 93725

P.O. Box 12051  
Fresno, CA 93776-2051

Phone: (559) 445-1123  
Toll Free: (800) 464-6144  
Fax: (559) 445-1044

[jdfood.com](http://jdfood.com)

**Letter 25 JD Food,  
Mark Ford, CEO**  
No date

**Response 25-1**

The comment provides overview of company and concerns regarding the Plan and mitigation measures, including the cost associated with implementation of mitigation measure. Refer to Master Response 1, Comments Pertaining to the South Central Specific Plan, and Master Response 5, Economic Feasibility of Mitigation.

**Response 25-2**

The comment identifies a concern with the ability to get permits. Please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

**Response 25-3**

The comment urges the plan not be adopted. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.



Plan Review Team  
Land Management

PGEPanReview@pge.com

Letter  
26

July 3, 2024

Sophia Pagoulatos  
City of Fresno  
2600 Fresno St  
Fresno, CA 93721

Ref: Gas and Electric Transmission and Distribution

Dear Sophia Pagoulatos,

Thank you for submitting the South Central Specific plans for our review. PG&E will review the submitted plans in relationship to any existing Gas and Electric facilities within the project area. If the proposed project is adjacent/or within PG&E owned property and/or easements, we will be working with you to ensure compatible uses and activities near our facilities.

Attached you will find information and requirements as it relates to Gas facilities (Attachment 1) and Electric facilities (Attachment 2). Please review these in detail, as it is critical to ensure your safety and to protect PG&E's facilities and its existing rights.

Below is additional information for your review:

1. This plan review process does not replace the application process for PG&E gas or electric service your project may require. For these requests, please continue to work with PG&E Service Planning: <https://www.pge.com/en/account/service-requests/building-and-renovation.html>.
2. If the project being submitted is part of a larger project, please include the entire scope of your project, and not just a portion of it. PG&E's facilities are to be incorporated within any CEQA document. PG&E needs to verify that the CEQA document will identify any required future PG&E services.
3. An engineering deposit may be required to review plans for a project depending on the size, scope, and location of the project and as it relates to any rearrangement or new installation of PG&E facilities.

Any proposed uses within the PG&E fee strip and/or easement, may include a California Public Utility Commission (CPUC) Section 851 filing. This requires the CPUC to render approval for a conveyance of rights for specific uses on PG&E's fee strip or easement. PG&E will advise if the necessity to incorporate a CPUC Section 851 filing is required.

This letter does not constitute PG&E's consent to use any portion of its easement for any purpose not previously conveyed. PG&E will provide a project specific response as required.

Sincerely,

Plan Review Team  
Land Management

26-1

**Letter 26 Pacific Gas and Electric Company,  
Plan Review Team, Land Management**

7/30/24

**Response 26-1**

The comment provides information and requirements related to gas and electric facilities. The comment does not address the environmental analysis or adequacy of the EIR. Future projects occur within the SCSP would be required to coordinate with PG&E to ensure compatible uses and activities near PG&E facilities.



**Penny Newman Grain Co.**

<b>Letter</b> <b>27</b>
----------------------------

**To:**

City of Fresno  
 Planning and Development Department  
 2600 Fresno Street, Room 3065  
 Fresno, CA 93721  
 Attention: Sophia Pagoulatos, Planning Manager  
 Telephone: (559) 621-8062  
 Email: [scsp@fresno.gov](mailto:scsp@fresno.gov)

**Date:**

7/29/24

**From:**

Penny Newman Grain Co.  
 2691 S. Cedar Ave, Fresno, CA  
 David Meeker  
 Phone: 559-448-8800  
[dmeeker@penny-newman.com](mailto:dmeeker@penny-newman.com)

**Subject:**

South Central Specific Plan (SCSP), Environmental Impact Report (EIR)-Concerns

Dear Sophia,

Penny Newman Grain Co. has been operating our facility within the SCSP area since 2001. I would like to express concerns with the SCSP and the unintended negative impacts of the EIR as currently drafted.

Our company has been continuously in operation within the Fresno area since 1878. The Fresno facility receives feed products for livestock by rail and truck. These products are stored and shipped by truck out to our customers. When searching for a location to operate our company was pleased to find an under utilized facility with rail service and near a major highway. An added benefit of having our business in Fresno is the number of employees we have residing within the City, and allowing for a short commute to work.

The SCSP poses substantial impacts for our company not only for our land use, but to our daily operations as well.

- The rezoning map reduces our currently zoned Heavy Industrial property to Light Industrial on the north and west sides. Not only does this reduce the value of the property by limiting the use, it also creates a reduction of possible operational activity and restricted permitting of facility improvements.
- The proposal of this reduction in zoning is additionally concerning as it targets "Animal Food Manufacturing" as not allowed in Light Industrial.
- Down zoning of business properties discourages businesses from wanting to invest in Fresno due to the risk of the rules being changed and negatively affecting the investment and commitment made within the City. The driving away of businesses, in turn results in a loss of employment for the residents of the City.
- Our facility has been in the Heavy Industrial category for many years with residential property across the street since the 1950's.

**Environmental Mitigation Goals.**

- The SCSP introduces the concept of "buffers," which restricts or eliminates certain types of developments within the SCSP that are within 1,000 feet of "sensitive uses." According to the City's

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### Penny Newman Grain Co.

maps, these buffers cover nearly half of the entire SCSP area. The City should not consider but decline to incorporate buffers into the SCSP.

- We are also unaware of any city or county near Fresno that has adopted 1,000-foot buffers. Because there is significant demand for industrial development in the City, and few places in the City to build, the adoption of buffers would simply mean that new industrial developments and the jobs they create will go to other nearby municipalities. As a longtime Fresno business, we cannot support any policy that would undermine the success of Fresno as an industrial hub or that would incentivize our workforce to move elsewhere.

27-3  
cont.

### Improvements/Mitigation Infeasibility

- The SCSP also seeks to require landowners seeking permits from the City to adopt expensive, unproven, and wasteful mitigation. If applicable, these requirements would apply for new construction. They would likely also apply to future permits and approvals received from the City, potentially requiring the upgrade of the entire facility to the standards below.
- The following are some examples of the more onerous permitting conditions that will add significant cost to new development/improvements requiring discretionary approvals.

27-4

#### 1. Solar Infrastructure:

- Buildings over 400,000 square feet must "ensure rooftop solar panels are installed and operated in such a manner that they will supply 100% of the power needed to operate [the non-refrigerated] portions of the facility including the parking areas." (SCSP at 75.)
- All other buildings shall have solar-ready roofs, "which includes designing and constructing buildings in a manner that facilitates and optimizes the installation of a rooftop solar photovoltaic (PV) system at some point after the building has been constructed." (SCSP at 75.)
- All other buildings must "demonstrate their capacity to include energy production and storage features on-site, including" on-site solar panels. The amount of renewable energy needed is based on the needs of the development, serving at a minimum 50% of the energy demand. (SCSP EIR, Mitigation Measure 4.6-1d.)

27-5

#### a

- All future tenants of new and redeveloped commercial and industrial land uses must ensure all Class 7 and 8 trucks are "model year 2014 or later." After December 31, 2026, all trucks must be transitioned to "zero-emission vehicles," subject to the Planning Director's discretion. (SCSP EIR, Mitigation Measure 4.2-1h.) The developer or the business is also responsible for ensuring "that adequate electrical infrastructure is provided to allow for the transition to electric heavy-duty trucks." (Id.)
- This is far more aggressive than CARB's Advanced Clean Fleets ("ACF") regulation, which allows high-priority fleets to purchase at least some trucks other ZEVs until 2035.
- Moreover, unlike the ACF regulation, which only applies to some fleets, the City's Mitigation Measure applies to all discretionary permits for commercial and industrial land uses within the SCSP.
- The City requires an equally aggressive phase-in schedule (more aggressive than CARB's ACF regulation) for Class 2-6 Trucks, requiring full electrification of the fleet by December 31, 2031. (SCSP EIR, Mitigation Measure 4.3-1i.)
- The reality of this proposal is you are asking businesses to purchase new technology that currently cannot operate more than 150 loaded miles. These trucks cost more than twice the amount of a CARB compliant diesel truck and have an operational range of less than half of a diesel truck. If implemented, a business would need to own twice the number of trucks to complete the same amount of work. The truck traffic would double within the city.

27-6

#### 3. Promotion of Passenger EVs for Customers/Employees:

- "At least 10% of all passenger vehicle parking spaces shall be electric vehicle (EV) ready," and at "least 5% of all passenger vehicle parking shall be equipped with working Level 2 Quick charge EV charging

27-7

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**Penny Newman Grain Co.**

- stations installed and operational, prior to building occupancy," regardless of employee or customer demand for such spaces. (SCSP at 75.) 27-7 cont.
4. Zero Emissions Equipment:
- "On-site motorized operational equipment shall be ZE (zero emission)." (SCSP at 75.)
  - Due to the limitations of cycle times and charging durations this is not feasible for our industry. When and where the operational capacity electric equipment improves and becomes competitively priced it will be entertained as an option. The "free market" should be the determining factor, not by force or rule. 27-8
5. Construction Fleets/Equipment/Materials:
- All "construction contractors shall demonstrate that they shall use the cleanest available fleet of heavy-duty equipment" after submitting "Construction Clean Fleet" paperwork to the San Joaquin Valley Air Pollution Control District. And "on-site yard trucks and forklift shall be powered by electricity." (SCSP EIR, Mitigation Measure 4.3-1B.)
  - The SCSP requires an applicant to "deploy the highest rated CARB Tier Technology that is available at the time of construction," subject to discretionary waivers by the Planning Director. (SCSP at 76.)
  - The required use of "electric-powered hand tools, forklifts, and pressure washers." (SCSP at 76.)
  - Prohibition of diesel-powered generators for construction. (SCSP at 76.)
  - Required to use at least 20% locally sources or recycled materials for construction materials, and wood products used should be certified through a sustained forestry program. (SCSP EIR, Mitigation Measure 4.8-1b.)
  - The above items are being forced into the market and may not be suitable for all applications. Although these should be offered as options, the "free market" should be the determining factor, not by force or rule. 27-9
6. Other Infrastructure Improvements:
- Unless a property owner records a covenant stating the property prohibiting refrigerated warehouse space, "a conduit shall be installed during construction of the building shell from the electrical room to 100% of the loading dock doors that have the potential to serve refrigerated space." In addition, all dock doors serving TRU units must include "electric plug-in units." (SCSP at 75.)
  - The construction of a secondary electrical room (or sizing one electrical room 25% larger than required) to accommodate additional electrical panels. (SCSP at 76.)
  - For all industrial land uses that do not use natural gas as part of a manufacturing process, "no natural gas infrastructure shall be permitted." (SCSP EIR, Mitigation Measure 4.3-1k.)
  - This requirement increases development cost or limits the properties potential, if a building changes use it can be retrofitted with additional utilities once needed. 27-10
- Please consider the unintended consequences of what is being proposed within the proposed changes. There is a considerable financial burden being forced upon businesses that will cause negative effects to the City, businesses, and the residents. We are the second oldest business in Fresno, and proud to have been a part of the City of Fresno for 146 years, our hope is the City will consider our position as a long-standing partner. 27-11

Sincerely,

David Meeker  
Penny Newman Grain Co

2691 S. Cedar Ave, Fresno, CA 93725

559-448-8800

## **Letter 27 Penny Newman Grain Company, David Meeker**

7/29/24

### **Response 27-1**

The comment consists of prefatory remarks introducing the company and prefacing concerns with the plan and EIR. Please refer to responses below for specific comments.

### **Response 27-2**

Please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

### **Response 27-3**

Please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

### **Response 27-4**

The comment expresses an opinion about the applicability and economic effects of the mitigation requirements. Please refer to Master Response 5, Economic Feasibility of Mitigation.

### **Response 27-5**

The comment provides a summary of solar infrastructure requirements and does not address the environmental analysis or adequacy of the EIR. Therefore, no further response is required.

### **Response 27-6**

The comment expresses an opinion about the effects of the zero-emissions vehicles requirements. Please refer to Master Response 5, Economic Feasibility of Mitigation.

### **Response 27-7**

Please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

### **Response 27-8**

Please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

### **Response 27-9**

The comment provides a summary of the construction fleets, equipment, and materials requirements and states that these requirements should be offered as options. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comments are included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

### **Response 27-10**

The comment provides a summary of the other requirements related to infrastructure improvements and expresses an opinion about the economic effects of these requirements. Please refer to Master Response 5, Economic Feasibility of Mitigation.

### **Response 27-11**

The comment is a concluding comment and concerns with the financial burdens associated with the SCSP. The comment pertains to the specific plan itself and its economic effects and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.





Letter  
28

City of Fresno  
Planning and Development Department  
2600 Fresno Street, Room 3065  
Fresno, CA 93721  
Attention: Sophia Pagoulatos, Planning Manager  
Telephone: (559) 621-8062  
Email: [scsp@fresno.gov](mailto:scsp@fresno.gov)

P.O. BOX 12907 • FRESNO, CA 93779-2907  
PHONE: (559) 485-8210 • FAX: (559) 485-8503  
TOLL FREE: (800) 366-8210

Dear Planning Manager Pagoulatos:

Thank you for the opportunity to submit comments on the City of Fresno's proposed South Central Specific Plan and the related Draft Environmental Impact Report. My name is William Jensen and I am writing to submit comments on behalf of Robert V. Jensen, Inc. (RV Jensen) as its Chief Executive Officer.

### Who We Are

RV Jensen is a family-owned and -operated business serving wholesale and retail clients with high quality bulk lubricants, bulk fuel delivery, fleet fueling, and emission solutions for nearly 75 years. Robert V. Jensen began operations in 1952 as a Chevron Commissioned Agent serving Fresno wholesale commercial business and farm owners. However, when Chevron converted its highest yielding agents to independent petroleum jobbers in 1979, the business expanded to offer multiple brands of oil products and emission solutions for customers across California. Today, RV Jensen is an industry leader that provides innovative and environmentally friendly products from national brands like Chevron, Shell, Pennzoil, Quaker State, 76, and Valero to customers in counties across California, including Fresno, Madera, Kings, Tulare, Kern, Stanislaus, Monterey, Merced, Mariposa, and Santa Barbara.

In recent years, we have leveraged our success with traditional petroleum fuel to become among the first in Fresno to offer a wide range of high quality, low- and zero-emission products and services. For instance, we offer renewable diesel fuel and biodiesel, which are derived solely from agricultural waste and eliminate dependency on petroleum diesel fuel while improving operational efficiency and reducing impacts to air quality. Further, in association with Advanced Emission Control Solutions (AECS), we offer California Air Resources Board compliant emissions solutions, including regulatory consultation, diesel particulate filter cleaning, maintenance, and diagnostics, and emergency generator service, among other things. But this is just the beginning. We also have plans to provide electric charging stations, renewable natural gas, hydrogen, and more. RV Jensen will continue to research additional fuel alternatives to help California to a net-zero carbon emission standard and to provide its customers with cost effective and efficient solutions to all of their fueling needs.

Our main office and headquarters are located at 4029 South Maple Avenue. We also own property at 4021 and 4033 South Maple, which we use for RVJ's Truck Stop, a warehouse, shop, and office. Most recently, we purchased 4335 South Maple to support our expansion of low- and zero-emission fuel product offerings and services. These parcels, which are all within the South

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28-1

Central Specific Plan (SCSP) area, were an ideal location for our business due to their Heavy Industrial zoning, close proximity to key Central California transportation corridors, and close proximity to the Kinder Morgan Fresno Pipeline Terminal—part of a 3,300 mile-long refined products pipeline system transporting gasoline, diesel, and turbine fuel to California, Arizona, Nevada, Oregon, and Washington.

28-1  
cont.

RV Jensen has 87 employees consisting primarily of Fresno residents, including residents of the SCSP area. In 2023 the company generated approximately \$9 million in sales tax, consisting of \$2 million in local taxes and \$7 million in state taxes. Our company has a history of charitable donations throughout the San Joaquin Valley and continues to support public safety within SCSP by supporting organizations such as Crime Stoppers.

### **Concerns Regarding the South Central Specific Plan and the Draft EIR**

RV Jensen has significant concerns regarding the SCSP, including the lack of notice provided to affected landowners, its seemingly arbitrary downzoning of certain parcels, and its creation of “buffers” that restrict or eliminate certain types of development on properties within 1,000 feet of “sensitive uses”—i.e., “residences, schools, religious institutions, playgrounds, child-care centers, hospitals, retirement homes, and convalescent homes.”

28-2

**Arbitrary Downzoning of Certain Parcels.** As noted above, RV Jensen purchased 4335 South Maple to support our expansion of low- and zero-emission fuel product offerings and services, including a hydrogen fueling station and, eventually, an alternative fuel production facility. The parcel is currently zoned Heavy Industrial and is adjacent to the Kinder Morgan Fresno Pipeline Terminal. Its longstanding Heavy Industrial zoning and proximity to several other longstanding Heavy Industrial uses, including several other parcels owned and used by RV Jensen, make it an ideal location to support our low- and zero-emission fuel expansion efforts.

Using the parcel in this manner would also advance six of SCSP’s eight objectives without interfering or in any way compromising the remaining two. Using the parcel to support RV Jensen’s low- and zero-emission expansion efforts would “promote inclusive and sustainable economic growth and attract development that focuses on emerging markets and new technologies,” help “create diverse employment opportunities,” “preserve the viability of existing industrial and manufacturing operations in the Plan Area,” “protect existing and future development from adverse impacts associated with incompatible uses,” “improve Plan Area infrastructure,” and “improve visual quality when entering the Plan Area.” At the same time, it would in no way compromise the City’s objectives related to the consideration of “project-specific environmental effects . . . on existing and potential future sensitive receptors” or providing “residents with clear and transparent access to information regarding community development and assist in addressing disputes and concerns.”

28-3

Under these circumstances, one might expect the City and the SCSP to support RV Jensen’s plans to develop the parcel to support the company’s low- and zero-emission fuel expansion efforts. However, that has not been the case. When we submitted a site plan to the City’s Development Review Committee in February of 2019, we were advised that “IN NO EVENT WILL COMMERCIAL OR INDUSTRIAL DEVELOPMENT BE PERMITTED” because the

28-4

parcel is “BEYOND THE THREE-MILE RUNNING DISTANCE OF AN EXISTING AND OPERATING FIRE STATION.” According to City staff, Section 12-4-4.508 of the Fresno Municipal Code prohibited any commercial or industrial development not within 3 miles of a fire station. Since the parcel was 3.2 miles from the nearest fire station—.2 miles farther than permitted under Section 12-4-4.508—all commercial and industrial development was prohibited. This development was a massive setback for our company’s planned expansion into the alternative fuel space and a huge disappointment personally.

Then in 2020 we learned that the SCSP proposed to change the parcel’s zoning from Heavy Industrial to Residential. Certain that there must have been some mistake, I contacted City staff to inquire. Summer Cecil, a Project Manager in the City’s Planning and Development Department, informed me that in proposing residential uses for purposes of the SCSP, “staff reviewed the entire plan area and proposed zoning parcels that had existing uses to match those uses” and that “after reviewing the subject parcel, we did see a home on the land which is why we proposed this change to residential.” Presumably, staff’s “review” of the parcel consisted of locating it on Google Maps without conducting any in-person visual inspection or otherwise attempting to confirm the parcel was actually being used for residential purposes, as **the “home” prompting the proposed downzoning is an abandoned and boarded house that has not been used for residential purposes in at least 20 years.** Pictures of the “home” are enclosed with this letter. As you will see, it is abundantly clear that **the parcel has not been used for residential purposes in many years and is not even remotely fit for human habitation.** Although at the time staff appeared to acknowledge that the proposed rezoning of this parcel was an “error,” no changes have ever been made. The SCSP still proposes to rezone the parcel from Heavy Industrial to Residential.

28-4  
cont.

Obviously, the rezoning of this parcel to Residential would have significant implications for my business. Not only would it prevent our planned expansion of low- and zero-emission offerings, it would also subject our other properties to the heightened development requirements for uses within the 1,000 foot buffer zone. Why? Because a dilapidated and abandoned residential structure has not yet been demolished due the Fresno Municipal Code’s effectively prohibiting the parcel’s development for any purpose. **This makes no sense whatsoever and is completely contrary to the City’s stated objectives for the SCSP.** If the City is serious about promoting development associated with emerging technologies, preserving existing and future industrial uses, avoiding adverse impacts associated with incompatible uses, improving infrastructure and visual quality within the SCSP area, then the City absolutely should not make 4335 South Maple a residential use. Instead, it should retain the parcel’s existing Heavy Industrial zoning and exempt it from the requirement that a fire station be located within 3 miles if the parcel is to be used for commercial or industrial uses.

**Heightened Requirements in Buffer Zones.** RV Jensen is also concerned that the buffer zone requirements are in many cases excessive and/or unnecessary and would make new or expanded uses at its existing facilities completely infeasible, including planned uses to promote low- and zero-emission products, services, and infrastructure.

28-5

Our understanding is that if the proposed plan is adopted and RV Jensen later desires to expand its existing facilities or uses, then it will be required to obtain a conditional use permit from the City, to meet the California Air Resources Board’s criteria for zero or near zero emissions



facilities as defined in the July 2016 California Sustainable Freight Action Plan, and to comply with a number of other costly and time-consuming construction and operational requirements. While RV Jensen is a proud supporter of low- and zero-emission technologies and the transition to such technologies, the SCSP's requirements would impose a significant financial and procedural burden and would significantly undermine the feasibility and desirability of proceeding with any such projects at RV Jensen's existing Fresno facilities. The requirement to obtain a conditional use permit, in particular, would inject significant expense and uncertainty into potential projects while also drastically increasing the time needed to complete them and the risks associated with project opponents.

Additionally, the 2016 Sustainable Freight Action Plan does not actually specify many concrete standards. As a result, it is unclear what the requirement to comply with this document actually means and whether it will impose more or less demanding standards than what is required under the California Air Resources Board's existing zero emissions regulations. Complying with more onerous electrification requirements would obviously increase an already-significant financial burden. Moreover, it seems imprudent to mitigate perceived environmental impacts based on as-yet undefined standards and requirements that may ultimately impose a substantial financial burden in exchange for a relatively minor environmental benefit.

The various other construction and operational requirements would be similarly costly and would also likely render many new or expanded uses infeasible at our Fresno location—independent from the issues described above. In addition to being extremely costly, these requirements are novel. No similar requirements exist in the other jurisdictions where our facilities are located. It is therefore difficult to imagine any circumstances in which a reasonable business case could be made to proceed with new or expanded uses at our Fresno facility. Instead, we would be forced to consider relocating some or all new or expanded operations to other Central Valley jurisdictions, such as Madera County or the City of Visalia, that lack buffer zones or onerous development standards such as those proposed here.

To address these issues, the City should decline to adopt the South Central Specific Plan as proposed. The City should instead eliminate or substantially limit the geographic scope of the buffer zone concept, remove the requirement for a conditional use permit for new or expanded uses on properties in a buffer zone, remove the requirement to comply with the 2016 Sustainable Freight Action Plan, and remove or substantially reduce the host of construction and operational requirements for facilities located in a buffer zone.

**Lack of Notice.** It is disappointing and unfair that the City declined to provide affected landowners notice that the SCSP might alter the zoning of their properties. Despite owning four parcels that are proposed to be downzoned, neither I, nor my business, received notice from the City regarding the publication of the draft SCSP, the circulation of the DEIR, or the public comment period on the DEIR. It should not be necessary to hire a land use specialist, such as an attorney, to learn about a potential action that could directly affect my business's property and, by extension, my livelihood. It seems unlikely that my company is the only affected landowner who did not receive notice. Others may have reasonably relied on the City's failure to provide notice

28-5  
cont.

28-6



to affected landowners as indicating that their property would not be unilaterally downzoned against their wishes, as I likely would have had I not learned of the SCSP through non-official channels.

Before approving the SCSP or the DEIR, the City should first provide notice to affected landowners to ensure that they are afforded a meaningful opportunity to comment on the project and its potential environmental impacts. Landowners within the SCSP area obviously have an interest in this project and its potential to impact their properties, their businesses, and the community and therefore their participation in the decisionmaking process should be encouraged—not only to protect their legitimate property interests but also to improve the quality and integrity of the City’s decisionmaking.

28-6  
cont.

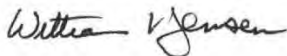
### Conclusion

For all of the reasons mentioned above, RV Jensen urges the City not to adopt the South Central Specific Plan as currently proposed. The proposed plan will be catastrophic for my business and, in particular, our plans to expand our offerings of low- and zero-emission fuel products and services. The proposed rezone of 4335 South Maple makes no sense whatsoever and is completely contrary to the City’s stated objectives for the SCSP. Further, the buffer zone concept threatens to make many new or expanded uses infeasible without giving appropriate consideration to how this will impact businesses or the extent to which it will incentivize businesses to pursue employment-generating projects in other competitive markets.

28-7

Thank you for the opportunity to comment on the proposed plan.

Sincerely,



William V. Jensen  
Chief Executive Officer  
Robert V. Jensen, Inc.

Enclosures

**Letter 28 Robert V. Jensen, Inc.,  
William V. Jensen**  
No date

**Response 28-1**

The comment consists of prefatory remarks introducing the company and does not address the environmental analysis or adequacy of the EIR. Therefore, no further response is required.

**Response 28-2**

The comment expresses concern about the SCSP, including the lack of notice and the creation of buffer zones.. Please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan and Master Response 4, Downzoning to Create Transitional or Buffer Areas. Regarding noticing, please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

**Response 28-3**

The comment states that the existing use of the Robert V. Jensen's parcel would meet six of the eight SCSP objectives. The comment does not address the environmental analysis or adequacy of the EIR. Therefore, no further response is required

**Response 28-4**

The comment provides a summary of the development application history of the Robert V. Jensen parcel. The comment also expresses an opinion about the effects of rezoning the Robert V. Jensen parcel but does not address the environmental analysis or adequacy of the EIR. Therefore, no further response is required. Please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

**Response 28-5**

The comment expresses an opinion about the economic effects of the proposed buffer zone requirements and expresses opposition to the SCSP. The comment pertains to the specific plan itself and its economic effects and not to the environmental analysis or adequacy of the EIR. The comments are included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. Please also refer to Master Response 5, Economic Feasibility of Mitigation.

The comment states that the City failed to notify the affected landowner about the SCSP and the Draft EIR. Please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

**Response 28-7**

The comment expresses an opinion about the adverse effects of the SCSP and expresses opposition to the SCSP. The comment pertains to the specific plan itself and its economic effects and not to the environmental analysis or adequacy of the EIR. The comments are included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.



## SAN JOAQUIN VALLEY MANUFACTURING ALLIANCE

**Letter  
29**

July 24, 2024

City of Fresno Planning and Development Department  
2600 Fresno Street, Room 3065  
Fresno, CA 93721  
Attention: Sophia Pagoulatos, Planning Manager  
Telephone: (559) 621-8062  
Email: [scsp@fresno.gov](mailto:scsp@fresno.gov)

Dear Ms. Pagoulatos,

On behalf of the San Joaquin Valley Manufacturing Alliance (SJVMA), I am writing to submit our comments on the South-Central Specific Plan (SCSP) and the related Environmental Impact Report (EIR). As a representative voice of the manufacturing industry in the San Joaquin Valley, we have serious concerns about the potential adverse impacts of the SCSP as currently drafted.

### Who We Are and What We Do

The SJVMA is a robust coalition with over 1,450 members, including manufacturers and those that support the industry such as suppliers, educational institutions, government agencies, and nonprofits, making it the strongest organization of its kind in California. Our members have chosen Fresno for its strategic advantages, including access to a skilled workforce, affordable industrial space, and logistical benefits. These factors have enabled our members to provide quality job opportunities, contribute significant tax revenue, and support various community initiatives.

29-1

Our manufacturing businesses are integral to the local economy, serving essential industries such as agriculture, construction, and logistics. In Fresno, manufacturing companies employ over 25,000 people, accounting for approximately 10% of the city's total workforce. This diverse workforce includes a significant percentage of minority groups, reflecting the community's demographics. Moreover, the manufacturing sector contributes nearly \$4 billion annually to Fresno's economy, highlighting its critical role in sustaining local economic health.

### Comments on the SCSP

#### 1. Downzoning Concerns

The SCSP proposes downzoning several properties from Heavy Industrial to Light Industrial and from Light Industrial to Business Park or Regional Business Park. This shift is problematic for manufacturers serving critical industries. For example, "Animal Food Manufacturing" and "Chemical Manufacturing," essential for the agricultural sector, are not permitted in the Light Industrial zoning district. This restriction severely limits operational locations for these critical uses.

29-2

Additionally, the lack of notification to affected property owners about these zoning changes undermines trust and deters future investment. It is essential for the City to maintain a stable and predictable regulatory environment to encourage economic growth.

#### 2. Buffer Zones

The SCSP introduces 1,000-foot buffer zones from "sensitive uses," covering nearly half of the SCSP area. These buffers prohibit certain industrial activities, convert others to conditional uses, and require extensive Health Risk Assessments. This imposes significant operational and financial burdens on businesses without clear benefits, potentially driving new industrial developments and jobs to neighboring municipalities.

29-3

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[sjvma.org](http://sjvma.org)



## SAN JOAQUIN VALLEY MANUFACTURING ALLIANCE

### 3. Mitigation Requirements

The SCSP imposes costly and potentially infeasible mitigation measures on landowners seeking permits. These include mandatory rooftop solar installations, zero-emission truck and equipment requirements, and various infrastructure upgrades. These measures add substantial costs and operational challenges, stifling economic development and innovation. For instance, requiring all buildings over 400,000 square feet to install rooftop solar panels to supply 100% of their power needs is economically burdensome and technologically challenging.

29-4

### 4. Generally Applicable Requirements

The SCSP mandates numerous generally applicable requirements, such as zero-emission operational equipment and the use of locally sourced or recycled construction materials. While these goals are commendable, the practical implementation poses significant challenges. For example, transitioning all Class 7 and 8 trucks to zero-emission by 2026 is more aggressive than CARB's Advanced Clean Fleets regulation, imposing an undue burden on businesses.

29-5

The proposed SCSP, as currently drafted, imposes numerous onerous and economically infeasible requirements on the manufacturing industry. These measures threaten the viability of existing businesses, deter new investments, and ultimately harm Fresno's economic growth.

We urge the City of Fresno to reconsider the SCSP's proposed zoning changes, buffer zones, and mitigation requirements. It is crucial to strike a balance between environmental goals and economic sustainability, ensuring that Fresno remains a thriving industrial hub.

29-6

Thank you for considering our comments.

Sincerely,

Genelle Taylor Kumpe  
Chief Executive Officer

[genelle@sjvma.org](mailto:genelle@sjvma.org)  
559.250.0453

Mario Persicone  
Chair, SJVMA  
President/CEO, Pro Laser Graphics  
Director of Operations, PNM Company



## **Letter 29 San Joaquin Valley Manufacturing Alliance, Genelle Taylor Kumpe, CEO and Mario Persicone, Chair**

7/24/24

### **Response 29-1**

The comment consists of prefatory remarks introducing the San Joaquin Valley Manufacturing Alliance and prefacing concerns with the plan and EIR. Please refer to responses below for specific comments.

### **Response 29-2**

The comment expresses an opinion about the adverse effects of the proposed downzoning. The comment also indicates that there is lack of notification to affected property owners. The comment pertains to the specific plan itself and its economic effects and not to the environmental analysis or adequacy of the EIR. Please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan. The comments are included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

### **Response 29-3**

The comment expresses an opinion about the adverse effect of the proposed buffer zones. The comment pertains to the specific plan itself and its economic effects and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. Please also refer to Master Response 4, Downzoning to Create Transitional or Buffer Areas.

### **Response 29-4**

The comment expresses an opinion about the economic effects and feasibility of the proposed mitigation requirements. Please refer to Master Response 5, Economic Feasibility of Mitigation.

### **Response 29-5**

The comment states that the proposed requirements are more aggressive than CARB's ACF regulations. Please refer to Response to 13-2 above.

### **Response 29-6**

The comment consists of closing remarks and urges the City to reconsider the proposed SCSP. The comment pertains to the specific plan itself and its economic effects and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.



Valley Iron Inc.  
3114 S. Cherry Ave  
Fresno, CA 93706

Letter  
30

City of Fresno  
Planning and Development Department  
2600 Fresno Street, Room 3065  
Fresno, CA 93721  
Attention: Sophia Pagoulatos, Planning Manager  
Telephone: (559) 621-8062  
Email: scsp@fresno.gov

Sophia Pagoulatos, Planning Manager,

My name is Noel Briscoe and I am submitting comments on behalf of my family business, Valley Iron Inc. and our related entities - VI Properties and Briscoe Land Development Group LP on the South Central Specific Plan (SCSP) and the related Environmental Impact Report (EIR). I am writing because I am very concerned about the SCSP as currently drafted.

Valley Iron Inc. is a metal distribution company that has been in business in the City of Fresno since 1958. We operated at 2717 S. Cherry Ave from 1958-2005 and have been operating at 3114 S. Cherry Ave. from 2005 to the present day. We sell metal products – steel, stainless steel & aluminum to many industries, including OEM manufacturers, construction companies (commercial & residential), food processing plants and the general public. Many of our customers operate in the City of Fresno. Valley Iron Inc. employees approximately 130 people at the Fresno location and approximately 70% of our employees reside in the City of Fresno. Valley Iron has contributed millions in tax dollars to the City of Fresno over the last 65 years and grown from a small company of less than 10 employees to 130 employees in 2024. Valley Iron Inc. has consistently supported/donated to the following community organizations over the 65 years operating in Fresno: Fresno State University, State Center Community College District, Fresno Pacific University, Many of the High Schools Robotics Programs, Boys & Girls Club, Big Brother/Big Sisters, Hinds Hospice, Children's Hospital, Terry's House @ Community Regional Medical Center, Fresno Mission/City Center, Catholic Charities, Fresno art Museum, Habitat for Humanity, People's Church, San Joaquin Valley Town Hall, Valley PBS, Youth for Christ, Lighthouse Recovery Center, Poverello House, Building Better Communities and the Fresno Business Council.

My concerns/comments regarding the current draft of the SCSP are as follows:

### ***Downzoning***

30-1

30-2



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Although the SCSP and the SCSP EIR provide a total inventory of existing and proposed land uses and zoning designations under the SCSP, there is nothing in either document that specifically quantifies how many properties would be affected by these land use and zoning changes (or what the total acreage of land use/zoning changes might be).

30-2  
cont.

This is of particular concern because the SCSP contemplates downzoning numerous properties from Heavy Industrial to Light Industrial and other properties from Light Industrial to Business Park or Regional Business Park. This downzoning can have wide-ranging adverse impacts to landowners who are seeking national manufacturing clients to serve the agricultural and constructions industries.

For example, Downzoning from Heavy Industrial to Light Industrial can be extremely problematic for manufactures serving the ag industry. This is because "Animal Food Manufacturing" and "Chemical Manufacturing" are not allowed in the Light industrial zoning district (or any other district in the SCSP, for that matter). These uses are critical to the ag industry, and it makes little sense to artificially limit the locations where manufacturers can engage in these operations, especially given the dearth of Heavy Industrial zoned land in the City.

30-3

Downzoning from Light Industrial to Regional Business Park or Business Park is equally troubling. For example, despite the importance of building materials and services uses to the City's construction industry, that use is not permitted in either the Regional Business Park or the Business Park zoning districts. Downzoning from Light Industrial will also result in far more difficult permitting conditions, as most manufacturing (i.e., "General Industrial"), as well as Food and Beverage Processing and Agricultural Processing uses, are allowed in the Light Industrial zoning district, but not in Reginal Business Park or Business Park zoning districts.

The City should be *encouraging* manufacturers and other businesses that serve the agricultural and construction industries, not artificially limiting the land within which they can locate.

Even though the SCSP contemplates changing the zoning of Valley Iron's property, we never received any notice from the City that its property rights were going to be changed. This undoubtedly means numerous other businesses and property owners were likewise not provided notice. It is unfair to property owners to change a landowners' zoning without giving them actual notice. This is especially true given that these changes could disrupt their future plans or result in existing land uses, businesses, or facilities that are inconsistent with the zoning.

30-4





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These proposals also interfere with the investment-backed expectations of persons who have invested in the City over the last 50 years. Equally important, such drastic changes thwart future economic investment because they signal to prospective businesses that the City is an unstable place to invest. Indeed, many manufacturers would think twice about constructing a multi-million dollar facility in a City that actively downzones properties without notifying the underlying landowners.

30-5

Valley Iron Inc. operates at 3114 S. Cherry Ave on approximately 23 acres with 250,000 square feet of warehouse and office space. Currently we are zoned Heavy Industrial and we need this designation to stay the same.

We also own approximately 14.5 acres of land directly across Cherry Ave. from Valley iron Inc. This land is in the County, but is included in the SCSP and is slated to be changed to Commercial General, which will not be conducive to our future development. The following parcel numbers make up the property:

329-180-09

329-080-10

329-180-11

329-180-12

329-180-16

329-180-30

329-180-32

329-180-30

30-6

Valley Iron Inc. has made significant investments at 3114 S. Cherry since 2005 to develop the property to support our business operation under the Heavy Industrial zoning. The current draft of the SCSP shows our facility being downzoned - we would not have purchased & developed the property had it not been zoned Heavy Industrial. If our current property is downzoned it will negatively impact our ability to further develop our facility to support our future business plans.

Valley Iron Inc. purchased the 14.5 acres on the west side of Cherry Ave. in 2018 with the intent to develop and use it to grow our metal distribution business under the Heavy Industrial Zoning shown in the General Plan. Under the current draft of the SCSP this property would be down zoned to Commercial General, which would not support or allow our future growth plans.

### **Buffers**

The SCSP introduces the concept of "buffers," which restricts or eliminates certain types of developments within the SCSP that are within 1,000 feet of "sensitive uses." According to

30-7





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3114 S. Cherry Ave  
Fresno, CA 93706

the City's maps, these buffers cover nearly half of the entire SCSP area. The City should decline to incorporate buffers into the SCSP.

We are very concerned about the buffer concept. The buffers would prohibit certain warehousing and distribution uses (chemical and mineral storage; freight/truck terminals), and convert other uses ("Limited Industrial" and most warehouse and distribution uses) to conditional uses. In addition Health Risk Assessments must be prepared for any and all industrial processes, construction, and operations, regardless of the intensity of the land use or the likelihood of adverse health impacts. (SCSP EIR, Mitigation Measures 4.3-3a, 4.3-3b, 4.3-3c.)

30-7  
cont.

All land uses within the buffer must also "meet CARB criteria for zero or near zero emissions facilities," imposing a significant burden on local businesses, without actually describing or alerting the public what that actually means.

We are also concerned about the size of the proposed buffers. If buffers are incorporated, they should be the exception, not the rule. According to the maps, however, the proposed buffers would take up nearly half the space of the SCSP. Moreover, the buffers appear to have been artificially inflated because the SCSP contemplates changing the zoning of numerous properties from Light Industrial to Residential (simply due to the presence of an isolated house). For example, an entire buffer area has been created in the center of the industrial triangle due to 1-2 isolated residences on Annadale Avenue. It is unclear how the City could spot zone a small number of isolated parcels to residential and then use that rezoning to impose restrictions on a much larger group of landowners.

30-8

We are also unaware of any city or county near Fresno that has adopted 1,000-foot buffers. Because there is significant demand for industrial development in the City, and few places in the City to actually build, the adoption of buffers would simply mean that new industrial developments—and the jobs they create—go to other nearby municipalities. As a longtime Fresno business, we cannot support any policy that would undermine the success of Fresno as an industrial hub or that would incentivize our workforce to move elsewhere.

The buffers proposed in the current draft of the SCSP would have a negative impact on Valley Iron's operation and future growth. There are 6 residential houses directly across the street (west) from Valley Iron, 2 of which we already own and could demolish once the tenants have been properly vacated. The other 4 houses could be purchased by us and be demolished, so the residences that might impact us could go away and neutralize the buffering requirement. Other businesses in the SCSP may not have the ability to remove the residences around them, but they should not be affected by a buffer. The City of Fresno allowed all the businesses in the SCSP to start up and grow with the residences in place - changing the rules now is not acceptable.

30-9



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There is also a religious Sikh temple on the corner of North & Cherry Ave. that could potentially impact Valley Iron Inc because of the potential buffering. The City of Fresno has approved the Sikh temple to expand their facility several times over the last couple decades knowing that the temple is surrounded by Heavy Industrial businesses. To now penalize the neighboring businesses for the temple's location is just wrong. The temple chose their location, Valley Iron and other businesses chose their location – the City approved ALL (businesses & the Temple) of the facilities, operations and growth projects, therefore the current draft of the SCSP regarding a buffer around the Temple to the north of Valley Iron is unjust and should not be allowed. Changing the rules after development has been completed is unacceptable.

30-10

***Improvements/Mitigation that May Be Practically Infeasible.***

**Solar Infrastructure:**

- Buildings over 400,000 square feet must “ensure rooftop solar panels are installed and operated in such a manner that they will supply 100% of the power needed to operate [the non-refrigerated] portions of the facility including the parking areas.” (SCSP at 75.)
  - All other buildings shall have solar-ready roofs, “which includes designing and constructing buildings in a manner that facilitates and optimizes the installation of a rooftop solar photovoltaic (PV) system at some point after the building has been constructed.” (SCSP at 75.)
  - All other buildings must “demonstrate their capacity to include energy production and storage features on-site, including” on-site solar panels. The amount of renewable energy needed is based on the needs of the development, serving at a minimum 50% of the energy demand. (SCSP EIR, Mitigation Measure 4.6-1d.)

30-11

This part of the current draft of the SCSP is complete overreach – Adding solar equipment to a facility/project is strictly the developer's choice, not something that should be mandated by the City of Fresno. Valley Iron has solar equipment on top of its warehouses because we analyzed it and it made financial sense for us to install. The City of Fresno has





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no business mandating solar equipment for commercial development as solar does not always make financial sense to a business.

30-11  
cont.

**Required Transition to Zero Emissions Trucks:**

- All future tenants of new and redeveloped commercial and industrial land uses must ensure all Class 7 and 8 trucks are “model year 2014 or later . . .” After December 31, 2026, all trucks must be transitioned to “zero-emission vehicles,” subject to the Planning Director’s discretion. (SCSP EIR, Mitigation Measure 4.2-1h.) The developer or the business is also responsible for ensuring “that adequate electrical infrastructure is provided to allow for the transition to electric heavy-duty trucks.” (*Id.*)
- This is far more aggressive than CARB’s Advanced Clean Fleets (“ACF”) regulation, which allows high-priority fleets to purchase at least some trucks other ZEVs until 2035.
- Moreover, unlike the ACF regulation, which only applies to some fleets, the City’s Mitigation Measure applies to **all** discretionary permits for commercial and industrial land uses within the SCSP.
- The City requires an equally aggressive phase-in schedule (more aggressive than CARB’s ACF regulation) for Class 2-6 Trucks, requiring full electrification of the fleet by December 31, 2031. (SCSP EIR, Mitigation Measure 4.3-1i.)

30-12

This part of the current draft of the SCSP is complete overreach. This type of regulation is already handled by CARB – The City of Fresno has no business getting involved in this type of regulation and attempting to adopt stricter regulation than what the State of California is mandating.

**Promotion of Passenger EVs for Customers/Employees:**

- “At least 10% of all passenger vehicle parking spaces shall be electric vehicle (EV) ready,” and at “least 5% of all passenger vehicle parking shall be equipped with working Level 2 Quick charge EV charging stations installed and operational, prior to building occupancy,” regardless of employee or customer demand for such spaces. (SCSP at 75.)

30-13



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This part of the current draft of the SCSP is overreach. The % of EV parking is way too aggressive and will drive cost up significantly on the developer. Technology is changing quickly and it is not The City of Fresno's place to mandate EV charging stations for private businesses – what if Hydrogen turns out to be the fuel of the future and we have millions of dollars of EV charging stations going unused?

30-13  
cont.

**Zero Emissions Equipment:**

- “On-site motorized operational equipment shall be ZE (zero emission).” (SCSP at 75.)

30-14

Again – SCSP draft overreach. This is CARB's decision, NOT the City of Fresno.

**Construction Fleets/Equipment/Materials:**

- All “construction contractors shall demonstrate that they shall use the cleanest available fleet of heavy-duty equipment” after submitting “Construction Clean Fleet” paperwork to the San Joaquin Valley Air Pollution Control District. And “[a]ll on-site yard trucks and forklift shall be powered by electricity.” (SCSP EIR, Mitigation Measure 4.3-1B.)
- The SCSP requires an applicant to “deploy the highest rated CARB Tier Technology that is available at the time of construction,” subject to discretionary waivers by the Planning Director. (SCSP at 76.)
- The required use of “electric-powered hand tools, forklifts, and pressure washers.” (SCSP at 76.)
- Prohibition of diesel-powered generators for construction. (SCSP at 76.)
- Required to use at least 20% locally sources or recycled materials for construction materials, and wood products used should be certified through a sustained forestry program. (SCSP EIR, Mitigation Measure 4.8-1b.)

30-15

ALL the above is overreach as currently drafted in the SCSP. CARB/State of CA & SJVAPCD already regulates all the trucks, powered equipment and tools, etc. The City of Fresno has no business attempting to enforce stricter regulation than the State level.

The last bullet point regarding sourcing of materials and sustainability would create added cost and more unnecessary paperwork to prove sourcing and sustainability. The

30-16





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State of CA already has programs in place to govern construction materials depending on public vs private nature of the project,

30-16  
cont.

**Other Infrastructure Improvements:**

- Unless a property owner records a covenant stating the property prohibiting refrigerated warehouse space, "a conduit shall be installed during construction of the building shell from the electrical room to 100% of the loading dock doors that have the potential to serve refrigerated space." In addition, all dock doors serving TRU units must include "electric plug-in units." (SCSP at 75.)
- The construction of a secondary electrical room (or sizing one electrical room 25% larger than required) to accommodate additional electrical panels. (SCSP at 76.)
- For all industrial land uses that do not use natural gas as part of a manufacturing process, "no natural gas infrastructure shall be permitted." (SCSP EIR, Mitigation Measure 4.3-1k.)

30-17

This is overreach as currently drafted in the SCSP. The City of Fresno has no business mandating the scope of the electrical plans and or the use of natural gas for every new building being constructed. The owners/developers/engineers & architects design the building for their intended use – NOT The City of Fresno.

**Further Studies:**

- Business owners and/or their consultants must perform noise studies for any new development, regardless of how close they are to sensitive receptors. (SCSP EIR, Mitigation Measure 4.12-2a.)

30-18

This part of the current draft of the SCSP is unnecessary. If there is no sensitive receptor near the project, the City of Fresno is simply mandating the developer to waste money on a noise study that is not going to result in any mitigation needs.

The current draft of the SCSP should be scrapped and completely reworked. My family has built Valley Iron Inc into one of the largest metal distributors in California over many decades and we have invested heavily in the City of Fresno. We pay our taxes, we have increased the number of jobs we provide, and we give back to the community in many, many ways throughout every year. The SCSP as drafted would have a negative impact on our ability to continue to operate and grow our business in the City of Fresno.

30-19



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The City of Fresno must create and implement a version of the SCSP that firmly supports existing businesses, as well as attracts new businesses. As currently drafted, the SCSP is full of overreach and will penalize many of the existing businesses that have been investing in Fresno for decades and it will certainly make the City of Fresno very unattractive to new investors/developers. There are several other Cities along the 99 corridor that are competing for new business, and they are not implementing plans like the current draft of the SCSP.

30-19  
cont.

Thank you for your consideration,

Noel Briscoe  
President & CEO  
Valley Iron Inc

**Letter 30 Valley Iron, Inc.,  
Noel Briscoe**  
No date

**Response 30-1**

The comment consists of prefatory remarks introducing the company and prefacing concerns with the plan and EIR. Please refer to responses below for specific comments.

**Response 30-2**

The comment states that the SCSP and the Draft EIR did not specifically quantify how many properties would be affected by the plan or the total acreage of land use/zoning change. The acreage of proposed land use change is summarized in Tabel 3-4 of the Draft EIR (page 3-14 of the Draft EIR). As summarized in Table 3-4, the SCSP would reduce the Heavy Industrial and Regional Business Park land uses by 836 and 17 acres, respectively. The SCSP would increase the Light Industrial, Business Park, Public, Single Family Residential, and General Commercial land uses by 30, 509, 36, 240, and 37 acres, respectively.

**Response 30-3**

The comment expresses an opinion about the adverse effects of the proposed downzoning. Please refer to Master Response 4, Downzoning to Create Transitional or Buffer Areas.

**Response 30-4**

The comment indicates that the City failed to notify affected property owners regarding the proposed zoning change. Please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

**Response 30-5**

The comment expresses an opinion about the economic effects of the proposed downzoning. Please refer to Master Response 5, Economic Feasibility of Mitigation.

**Response 30-6**

The comment expresses an opinion about the effects the proposed downzoning would have on the future growth of the Valley Iron Inc. The comment pertains to the specific plan itself and its economic effects and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. Please also refer to Master Response 5, Economic Feasibility of Mitigation.

**Response 30-7**

The comment expresses concerns and opposition to the proposed buffer zones and associated zero emission requirements. Please refer to Master Responses 4, Downzoning to Create Transitional or Buffer Areas, and 5, Economic Feasibility of Mitigation.

**Response 30-8**

The comment expresses concern about the size of the proposed buffer zones. Please refer to Master Response 4, Downzoning to Create Transitional or Buffer Areas.

**Response 30-9**

The comment expresses an opinion about the adverse effects of the proposed buffer zones. Please refer to Master Response 4, Downzoning to Create Transitional or Buffer Areas.

**Response 30-10**

The comment expresses concern about the Sikh temple's potential impacts to the development of the Valley Iron Inc. due to the buffering. As a religious institution, the temple is considered a sensitive use per City Council Resolution 2019-235. Therefore, the SCSP includes a 1,000-foot buffer zone around the Sikh temple. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

**Response 30-11**

The comment provides a summary of the proposed solar infrastructure requirements and expresses an opinion that adding solar equipment should be the developers' choice. The comment pertains to the specific plan itself and its economic effects and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. Please also refer to Master Response 5, Economic Feasibility of Mitigation.

**Response 30-12**

The comment summarizes the proposed zero emissions trucks requirements and expresses concern that the requirement is more aggressive than CARB regulations. The comment suggests complying with the CARB regulations at a minimum. Please refer to Response 13-2 for an explanation why the project has more stringent requirements than CARB. The comment does not address the adequacy of the Draft EIR and no further response is required.

**Response 30-13**

The comment summarizes the proposed passenger electric vehicles requirements and expresses concern about the economic effects of the requirements. The comment also expresses an opinion about the potential technology change that could lead to unused electric vehicle charging stations in the future. The comment pertains to the specific plan itself and its economic effects and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. Please also refer to Master Response 5, Economic Feasibility of Mitigation.

**Response 30-14**

The comment takes issue with the zero-emission equipment requirement. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

**Response 30-15**

The comment summarizes and expresses concern about the proposed construction fleet, equipment, and materials requirements. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

**Response 30-16**

The comment expresses an opinion about the proposed recycled material requirement. The comment pertains to the specific plan itself and its economic effects and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. Please also refer to Master Response 5, Economic Feasibility of Mitigation.

**Response 30-17**

The comment summarizes and expresses concern about other requirements related to infrastructure improvements. The comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.



**Response 30-18**

The comment summarizes and expresses concern about the proposed noise studies requirement. The comment pertains to the specific plan itself and its economic effects and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

**Response 30-19**

The comment expresses opposition to the SCSP. The comment pertains to the specific plan itself and its economic effects and not to the environmental analysis or adequacy of the EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

# WANGER JONES HELSLEY PC

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Letter  
31



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July 30, 2024

## VIA EMAIL [scsp@fresno.gov] & UNITED STATES MAIL

Sophia Pagoulatos, Planning Manager  
Planning and Development Department  
CITY OF FRESNO  
2600 Fresno Street, Room 3065  
Fresno, CA 93721

### **Re: Comments on South Central Specific Plan**

Dear Ms. Pagoulatos:

Thank you for providing the opportunity to submit comments on the City of Fresno's (the "City") Draft South Central Specific Plan (the "SCSP") and the related Draft Environmental Impact Report (the "DEIR"). As you are aware, my law firm represents numerous businesses and landowners located within the boundaries of the South Central Specific Plan (the "SCSP").

31-1

In short, the SCSP and the DEIR would downzone numerous industrial properties—even though the SCSP area has been an industrial reserve for over a century;<sup>1</sup> impose onerous, infeasible, and unusual requirements on property owners and tenants unlike those of any other city in the Central Valley; effectuate impermissible spot zoning by rezoning isolated properties to residential districts; create restrictive 1,000-foot buffers from sensitive receptors that

31-2

<sup>1</sup> SCSP, 2 ["Beginning as early as 1918, the City of Fresno has recognized the area's economic importance and from 1956 onward has planned for industrial development through several iterations of the Fresno General Plan . . . ."]

**WANGER JONES HELSLEY PC**

Sophia Pagoulatos, Planning Manager

July 30, 2024

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would apply to roughly half the properties within the SCSP; and continue the practice of reducing and eliminating employment-generating industrial zoning across the City.

31-2  
cont.

Due to its central location and proximity to transportation corridors, the City has long been the preferred destination in the Central Valley for economic investment. Over the past several years, however, developers, investors, and national tenants have instead chosen other communities—primarily the City of Visalia, the City of Madera, and the County of Tulare. As explained in the accompanying expert report prepared by Ethan H. Smith of Newmark, this shift has largely been driven by the perception of the City as an exceptionally challenging permitting and business environment. (See generally Attachment A.)

31-3

The SCSP will only reinforce these trends, and it should not be adopted as currently envisioned. The City should instead seek to build consensus with its job creators. The City should reach out to landowners to determine whether they want their properties downzoned. The City should meaningfully engage with industry regarding feasible mitigation measures. And it certainly should not consider policies or practices that will drive jobs and investment away from the City.

**A. The City Should Not Downzone Properties Without Notice to, or Approval of, Affected Landowners and Businesses**

For over a century, the area within the SCSP (“Plan Area”) has been designated primarily for industrial land uses, reflecting sound planning principles. The area is adjacent to transportation corridors and is located on the southmost, sparsely populated periphery of the City. The residents within the Plan Area “are located primarily in pockets of development along the outer edges of the area.” (DEIR, 5-12.) This longstanding vision of the Plan Area as an industrial reserve has allowed it to thrive as the City’s primary economic engine.<sup>2</sup> While it comprises less than 7.5% of land in the City, and includes only 0.34% of the City’s population, it contributes roughly 21% of the City’s tax revenue; \$102.7 million annually. The area’s 440 businesses, representing 124 different sectors of the economy, account for approximately 25% of the City’s jobs and more than \$13 billion in annual economic activity.

31-4

Despite this, one of the primary planned consequences of the SCSP is to downzone properties away from heavy and light industrial land uses. These efforts are especially prevalent in the undeveloped eastern, western, and southern peripheries of the SCSP—exactly where new development would occur. (See SCSP, Figures 4-3, 4-7.) The City should not limit potential uses in exactly those areas where development is likely to occur.

In addition to the adverse consequences for economic development, the City should also decline to authorize any rezones in the SCSP because the City declined to provide affected landowners with notice that the zoning of their properties would be changing. It is unclear why this did not occur. I frequently attend City Council, Planning Commission, and Project Review Committee meetings. At virtually every one of those meetings, the elected and appointed

31-5

<sup>2</sup> <https://www.investfresno.com/economicimpact>

**WANGER JONES HELSLEY PC**

Sophia Pagoulatos, Planning Manager

July 30, 2024

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representatives of the City stress the importance of early and persistent outreach by both the City and project applicants to the community. Here, however, although the SCSP contemplates the rezoning of numerous properties within the Plan Area, I am unaware of a single affected landowner or business that received notice directly from the City regarding the publication of the draft SCSP, the circulation of the DEIR, or the public comment period on the DEIR—much less a communicating stating their underlying zoning and land use designation would change.

31-5  
cont.

Landowners should not be required to hire a land use specialist, such as an attorney, to learn about a potential action that could directly affect their property. The City should instead directly advise landowners that their zoning will change. And this notice should not simply be a one-page document providing notice of a plan amendment. Rather, since most lay people are not familiar with technical planning principles, or understand that such a plan amendment could affect their property rights, the City should instead directly advise landowners and businesses—in plain language that a lay person can understand—that the City’s actions would impact their zoning.

Direct notice in plain language is critically important. Downzoning can have a devastating impact on landowners and employers whose properties are rendered inconsistent with the underlying zoning. (Attachment A, p. 4.) Downzoning diminishes the ability to attract the reputable, responsible, and well-capitalized businesses. (*Id.*) It can likewise result in an event of default on existing loans. (*Id.*) Moreover, rezoning that results in non-conformities makes it nearly impossible to receive conventional financing (including capital improvements necessary for ongoing maintenance, beautification, and clean energy improvements). (*Id.*) And it is far more difficult to sell properties with legal non-conforming uses.) (*Id.*)

Although the Legal Non-Conforming Use provisions of the City’s Development Code provide some limited protections for legal non-conforming uses, those protections are exceptionally limited for industrial landowners. For example, if an industrial legal non-conforming use ceases for more than 90 days, the use is no longer legal. This is insufficient for a landowner to change tenants even under the best of circumstances; during an economic downturn, however, it virtually ensures the legal non-conforming status will be lost. (See City of Fresno, Development Code, § 15-404(F)(2); Attachment A, p. 4.) Similarly, a landowner cannot change from one legal non-conforming use to another (such as converting manufacturing space to warehouse space). (See *id.* at § 15-404(D).) Further, enlargement of a legal non-conforming use can only occur subject to a conditional use permit (“CUP”), which eliminates the ability to attract reputable, national, industrial tenants and further diminishes the ability to re-let industrial properties. (See *id.* at § 15-404(B); Attachment A, p. 4.)

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This issue is not limited to developed properties or nonconformities. Landowners acquire land with an investment-backed expectation based largely on the property’s zoning. By eliminating potential uses, or changing the possible uses, for a property, or making certain uses subject to a CUP, rezoning property carries a strong likelihood of interfering with landowners’ investment-backed expectations, especially when the rezone is against their will. (See Attachment A, p. 4.) Further, by changing the zoning of a property without landowner/business approval, the City sends the message to all those seeking to invest in Fresno that the City’s zoning process is

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unstable and their investments are not safe. (*Id.*) Because California's unemployment rate is among the highest in the nation,<sup>3</sup> and the County of Fresno's rate is among the highest in California,<sup>4</sup> the City should be encouraging—not discouraging—investment and job creation.

31-7  
cont.

**B. Because the City Has Been Eliminating Light and Heavy Industrial Zoning Across the City, Very Little Land Remains Available for Industrial Development**

Over the past several years, the City has been gradually eliminating industrial zoning districts throughout the City and its planning area. For example, the 2017 Southwest Specific Plan (“SWSP”) eliminated all industrially-zoned property from the plan area.<sup>5</sup> The Central South Area Specific Plan (“CSASP”) likewise does not include any properties zoned industrial within the relevant plan area.<sup>6</sup> The West Area Neighborhoods Specific Plan land use map shows less than five small properties—all adjacent to S.R. 99 and containing existing development—as zoned light industrial, with no heavy industrial zoning.<sup>7</sup> The Southeast Development Area Specific Plan includes no proposed industrially-zoned properties.<sup>8</sup> And aside from a small handful of properties along the S.R. 180 corridor in West Fresno, along Golden State Boulevard in Northwest Fresno, and within the Palm Bluffs area, there are no undeveloped industrial-zoned properties elsewhere in the City. There is currently little room for industrial growth or expansion within the City's jurisdictional boundaries. The only land available for industrial development is within the SCSP. Yet the SCSP now contemplates downzoning most undeveloped land within the Plan Area. The dearth of land available for heavy and light industrial development in the City will not only reduce economic investment in the City, it will steer economic investment elsewhere. (See Attachment A, pp. 4–8.)

31-8

<sup>3</sup> <https://apnews.com/article/california-highest-unemployment-slower-job-growth-b1e4c822b33f29f819dbb024103cc843>

<sup>4</sup> [https://edd.ca.gov/en/about\\_edd/news\\_releases\\_and\\_announcements/unemployment-may-2024/](https://edd.ca.gov/en/about_edd/news_releases_and_announcements/unemployment-may-2024/)

<sup>5</sup> [https://opr.ca.gov/docs/20200624-Southwest\\_Fresno\\_Plan-case-study.pdf](https://opr.ca.gov/docs/20200624-Southwest_Fresno_Plan-case-study.pdf) [“Key outcomes of the SWSP development process include a new zoning map that prohibits further industrial development in the community”].

<sup>6</sup> [https://www.fresno.gov/wp-content/uploads/2023/03/Fresno\\_Central\\_Southeast\\_Area\\_Subsequent\\_MND\\_signed.pdf](https://www.fresno.gov/wp-content/uploads/2023/03/Fresno_Central_Southeast_Area_Subsequent_MND_signed.pdf)

<sup>7</sup> <https://www.fresno.gov/wp-content/uploads/2023/05/2023-Planned-Land-Use-Map.pdf>

<sup>8</sup> <https://www.fresno.gov/darm/wp-content/uploads/sites/10/2022/03/SEDA-Landuse-Map.pdf>

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**C. Further Assessment of the SCSP's Impacts on Local Businesses is Required****1. The City's Market Demand Assumptions Are Not Supported by Substantial Evidence**

The City retained Economic & Planning Systems, Inc. ("EPS") to prepare a nonresidential real estate market analysis (the "Market Analysis") to support planning efforts and environmental review. (DEIR, Appx. A, p. 1.) The Market Analysis was intended to "provide context for the EIR related to the scale and type of land uses that can be supported through the study horizon (2040)," thereby "ensuring that development totals allow for appropriate environmental analysis and mitigation measures, as necessary," and to "inform land use regulations" so that the Project could "develop according to the vision described in the Specific Plan while aligned with market demand." (*Id.* at 2.) The Market Analysis relied on projected employment growth and long-term historical growth of non-residential development to estimate development demand over the planning horizon, (*id.* at 35), assuming that "foundational market conditions fall within normal parameters" during that time. (*Id.* at 38 fn. 41.) Based on this methodology, the Market Analysis estimated "demand for approximately 350 acres (about 6.0 million square feet of new [nonresidential] development) through 2040" within the Plan Area. (*Id.* at 45.)

31-9

In reaching this conclusion, the Market Analysis acknowledged that development in the Project Area would be "heavily influenced" by "individual landowner decisions and investor objectives" and therefore "there is every possibility that the specific actions of one or more development interests may contribute to outcomes that vary from the land use demand estimates in th[e] [Market] Analysis." (*Id.* at 35.) To account for this uncertainty, EPS recommended application of a 30% contingency factor to the base non-residential demand estimate, finding this "would be appropriate to allow for a conservative evaluation of environmental impacts and identification of mitigation measures." (*Id.*) This resulted in estimated non-residential development demand in the Project Area "for about 456 acres (about 7.8 million square feet of new development) through 2040." (*Id.* at 45.) The City, however, declined to use this figure, and instead directed its environmental consultant "to recalibrate a target buildout to reflect *twice* the market demand estimated by EPS in order to capture the level of demand the City anticipates could happen with the adoption of this Plan." (SCSP, p. 10 [emphasis added].) Nor did the City take into consideration the challenging permitting conditions industrial applicants face in the City.

31-10

There is no substantial evidence to support the City's assumed market demand. It is important that the estimate be correct. If too high, it could overstate the potential environmental effects of the SCSP, resulting in unnecessary mitigation without a nexus or substantial relation to any environmental impact. (See DEIR, Appx. A, p. 45 ["EPS recommends a 30 percent contingency factor would be appropriate to allow for a conservative evaluation of environmental impacts and identification of mitigation measures."].) If too low, it could understate the environmental and economic consequences of employment generating land uses moving outside the City, as explained below. Under any circumstance, the City should endeavor to use a figure

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for market demand that is supported by the evidence. Because that did not occur, the DEIR is flawed. (See *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1197 [“[An] EIR must contain facts and analysis, not just the bare conclusions of the agency.”].)

31-10  
cont.

## 2. The SCSP if Adopted Will Frustrate the City’s Ability to Capture Market Demand

Although the City has long been the preferred destination in the Central Valley for investment in new industrial land uses, the last several years have seen the City’s industrial inventory stagnate and the inventories in other nearby cities skyrocket. According to the Market Analysis, the inventory of industrial space in the Plan Area has remained static since 2018. (See DEIR, Appx. A, p. 28, Table 9; see also DEIR, p. 4-2 [“conditions in the Plan Area have not changed substantially since” the NOP was circulated in 2019].) This is not due to a lack of demand; to the contrary, the vacancy rate for industrial properties has been less than 5% since 2018, and it was only 1% in 2021. (See *id.*) It is likewise not due to a dearth of land zoned for industrial uses; rather, Figure 4-3 in the SCSP shows a large number of undeveloped properties within the City zoned industrial.

The simple truth is the City is a difficult permitting environment for employment-generating land uses. (See Attachment A, pp. 5–6.) The Market Analysis directly acknowledges the causal connection between land use policies and demand absorption, finding the City’s “policies and strategies also affect the types of industries that locate in the City and the real estate they demand.” (DEIR, Appx. A, p. 22.) The Market Study likewise finds “land demand estimates” are “informed by land use regulations that support desired development,” as well as “streamlined permitting requirements, the availability of ‘shovel-ready’ land, and, in the case of large-scale office and industrial users, an interest among corporate decision makers in the area to locate in the Project (as opposed to the competitive markets discussed previously) . . .” (*Id.* at 35.)

31-11

Both internal and external issues unique to the City directly affect its ability to absorb demand for industrial uses. For example, there is little to no “shovel-ready” land in the City, as the City characterizes virtually any development permit as “discretionary” and thus subject to both CEQA and appeal to the City Council. (See Fresno Municipal Code, §§ 15-5206, 15-5207, 15-5208.) Even for land uses that are technically “permitted,” those land uses are not “by right.” (See *id.* at § 15-5207.) This attracts project opponents, and this requires industrial applicants to be overly conservative with respect to their choice of environmental documents. The result has been that, over the past decade, most industrial projects within the City result in the preparation of an environmental impact report.<sup>9</sup>

<sup>9</sup> See <https://ceqanet.opr.ca.gov/Search?StartRange=2014-07-18&EndRange=2024-07-18&LeadAgency=Fresno%2c+City+of&City=Fresno&DevelopmentType=Industrial>; see also <https://fresnochamber.com/news/unraveling-fresnos-industrial-development-from-warm-welcome-to-present-challenges-economic-growth-expansion-businesses-operational->



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Further, the California Attorney General's office has appointed counsel to oversee the City's land use decisions, objected to *existing* industrial developments,<sup>10</sup> and hired local advocates who previously objected to industrial development in the City.<sup>11</sup> Since 2018, virtually any land use decision perceived as furthering the interests of industrial development has attracted litigation by a wide range of interests.<sup>12</sup> And the City has recently made zoning decisions to convert new industrial developments into legal nonconforming uses.<sup>13</sup>

31-11  
cont.

[comparative-advantages-fresno-fresnocounty/](#) [observing that "[f]rom the early 2000s to the mid-2010s, developers encountered no problem in obtaining city approval for building projects in areas appropriately zoned to accommodate spaces for light to heavy industrial"].)

<sup>10</sup> <https://oag.ca.gov/system/files/media/2022-10-12-ago-ltr-southwest-fresno-rezone-project.pdf>

<sup>11</sup> <https://gvwire.com/2024/02/07/leading-fresno-environmental-justice-attorney-joins-state-ags-office/>

<sup>12</sup> The following links provide just a handful of examples:

<https://leadershipcounsel.org/south-fresno-residents-take-historic-action-against-caltrans-and-federal-highway-administration-over-toxic-highway-interchange-expansions/>

<https://www.fresnobee.com/news/local/article203120414.html>

<https://sjvsun.com/news/fresno/100mil-southwest-fresno-warehouse-development-faces-environmental-lawsuit/>

<https://fresnochamber.com/news/industrial-zoning-dispute-continues-for-some-elm-avenue-properties/>

<https://fresnoland.org/2022/10/13/city-council-approves-location-of-busseto-food-plant-in-southwest-fresno/>

[https://leadershipcounsel.org/wp-content/uploads/2021/11/Verified-Petition-Complaint\\_South-Fresno-Community-Alliance-v.-City-of-Fresno.pdf](https://leadershipcounsel.org/wp-content/uploads/2021/11/Verified-Petition-Complaint_South-Fresno-Community-Alliance-v.-City-of-Fresno.pdf)

<https://leadershipcounsel.org/wp-content/uploads/2022/06/MC3-Draft-Plans-Comment-Letter-1.pdf>

<https://leadershipcounsel.org/city-of-fresno-remove-light-industrial-zoning-in-the-proposed-plan-amendment/>

[https://leadershipcounsel.org/press-release-south-fresno-residents-fight-back-against-warehouse-development-secure-protections/?utm\\_source=rss&utm\\_medium=rss&utm\\_campaign=press-release-south-fresno-residents-fight-back-against-warehouse-development-secure-protections](https://leadershipcounsel.org/press-release-south-fresno-residents-fight-back-against-warehouse-development-secure-protections/?utm_source=rss&utm_medium=rss&utm_campaign=press-release-south-fresno-residents-fight-back-against-warehouse-development-secure-protections)

<sup>13</sup> <https://thebusinessjournal.com/southwest-fresno-industrial-rezone-project-pushed-back/>

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The City's competitors have directly benefitted from the City's inability to entitle additional industrial projects—all of whom have enjoyed rapid growth in available industrial space since 2018. (See, e.g., DEIR, Appx. A, p. 30 ["Since 2018, development in the area [of the Visalia Industrial Park] has intensified rapidly, with several developments each containing more than 1 million square feet currently under construction or seeking planning entitlements, largely consisting of logistics and distribution hubs for national firms such as Amazon and UPS."]; *id.* ["As of May 2022, existing industrial buildings in the [Madera Industrial District] area contained approximately 2.5 million square feet of floor area."]; Attachment B [finding "tenant and buyer demand has slowed" in Fresno whereas Visalia has become "the development capital of Central California" with "five consecutive year[s] of over 1 million square feet of commercial space constructed, most of it industrial" and "Madera County's industrial momentum remains positive"].)<sup>14</sup> As the Market Analysis explains:

Within approximately 30 miles or less of the SCSP area, there is at least 27.4 million square feet of industrial development, with an estimated 49.6 million square feet of industrial development capacity in these areas. Including developments over 30 miles from the SCSP along SR-99, there is at least 43.5 million square feet of existing industrial development with capacity for 103.9 [million] further square feet. With [one] exception . . . , all of these developments are within close proximity to SR-99, and all allow a variety of office and industrial uses, enabling them to compete with the SCSP for a wide variety of business, including manufacturing, warehousing, and logistics and distribution centers.

(DEIR, Appx. A, p. 27.)

In the comment period on the Notice of Preparation for the DEIR, the City received comments demonstrating that, to be an adequate document, the DEIR should evaluate the potential impacts associated with industrial businesses locating outside the City.<sup>15</sup> Despite (i) having received these comments, (ii) the Market Study's acknowledgement that the City's ability to absorb demand is directly affected by adverse permitting conditions, and (iii) the fact that the City's industrial inventory has stagnated during a time of one percent vacancy rates while other

31-11  
cont.

31-12

<https://gvwire.com/2023/06/01/fresno-companies-say-theyve-been-left-out-of-citys-rezoning-discussions/>

<sup>14</sup> See also <https://fresnochamber.com/news/unraveling-fresnos-industrial-development-from-warm-welcome-to-present-challenges-economic-growth-expansion-businesses-operational-comparative-advantages-fresno-fresnocounty/> [stating that "recent opportunities that could have greatly benefited Fresno's economy instead found their way to the cities of Madera and Visalia"].

<sup>15</sup> <https://www.fresno.gov/wp-content/uploads/2023/03/Comments-Received-SCSP-EIR-Scoping-Period-20210324-20210514.pdf>

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cities have admittedly captured that demand, neither the DEIR nor the Market Study endeavor to assess the likelihood that the City's competitors will continue to capture that demand.

This is of significant concern because the SCSP and the DEIR interfere with the investment-backed expectations of industrial landowners and businesses, and seek to impose unusual and infeasible requirements on industrial land uses that are far more onerous than those applied by the City's competitors, as shown below:

<b>SCSP &amp; DEIR Requirements</b>	<b>City of Madera</b>	<b>City of Visalia</b>	<b>County of Tulare</b>
The SCSP contemplates the downzoning of properties from IH/IL to more restrictive zoning districts. (SCSP, Figure 4-7.)	N/A	N/A	N/A
The SCSP contemplates the creation of buffers for approximately half the plan area that would restrict certain land uses, and make others subject to CUPs. (SCSP, Figure 5-2; see also Attachment C	No buffers; just 10 foot setbacks	No buffers; just 10 to 20 foot setbacks and 7 to 8 foot solid wall for industrial properties adjoining residential uses	No buffers; just 5 to 20 foot setbacks and six foot solid wall for industrial properties adjoining residential uses
In buffer areas, compliance with CARB "zero or near zero emission facility" requirements in the California Sustainable Freight Action Plan	N/A	N/A	N/A
Buildings over 400,000 square feet must have a truck operator lounge with amenities. (SCSP, Policy (m).)	N/A	N/A	N/A
Building over 400,000 square feet must install rooftop solar sufficient to power 100% of the non-refrigerated areas of the facility, including parking areas. (SCSP Policy (q).	N/A	N/A	N/A
For other buildings, inclusion of on-site clean energy commensurate			

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with at least 50% of the demand needed for future development. (DEIR, Mitigation Measure (“MM”) 4.6-1d.)			
All motorized operational equipment must be zero emissions. (SCSP, Policy (n).)	N/A	N/A	N/A
All rooftops must be designed to be capable of accommodating rooftop solar. (SCSP, Policy (o).)	N/A	N/A	N/A
Cool/Low VOC surfaces are required for new construction. (SCSP, Policies (u), (w).)	N/A	N/A	N/A
Construction of redundant warehouse electrical rooms. (SCSP, Policy (v).)	N/A	N/A	N/A
Requires highest available CARB tier technology for construction equipment. (SCSP, Policy (y).)  Requirement to use cleanest available construction equipment. (DEIR, MM 4.3-1b.)	N/A	N/A	N/A
Obligation to reduce emissions through Voluntary Emissions Reduction Agreements (VERAs) with the SJVAPCD. (DEIR, MM 4.3-1a.)	N/A	N/A	N/A
Class 7-8 vehicles domiciled on property must be fully electrified by December 31, 2026. (DEIR, MM 4.3-1h.)  Infrastructure to support ZEVs must also be installed. ( <i>Id.</i> )	N/A	N/A	N/A

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cont.

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Landowners must begin to convert Class 2-6 vehicles domiciled on property to ZEVs at the start of operations, and transition the entire fleet to ZEVs by December 31, 2031. (DEIR, MM 4.3-1i.)	N/A	N/A	N/A
Prohibition of natural gas except for processing. (DEIR, MM 4.3-1k.)	N/A	N/A	N/A
Mandatory Health Risk Assessments within buffer areas. (DEIR, MM 4.3-3a, 3b.)  Prohibition of loading/unloading within 1,000 feet of sensitive receptors, depending on the results of the HRA. (DEIR, MM 4.3-1c.)	N/A	N/A	N/A
Mandated use of low-carbon concrete. (DEIR, MM 4.8-1a.)	N/A	N/A	N/A
Mandated use of locally sources or recycled construction materials. (DEIR, MM 4.8-1b.)	N/A	N/A	N/A
Site characterization, investigation, and remediation as a condition of development. (DEIR, MM 4.9-1d, 1e, 1i.)	N/A	N/A	N/A
Mandatory noise studies, regardless of likelihood of potential impacts. (DEIR, MM 4.12-2a.)	N/A	N/A	N/A

31-12  
cont.

Individually and cumulatively, these measures will continue the outward drift of businesses and jobs to other communities. From a policy perspective, the City should not allow this to occur. At the very least, however, the DEIR must assess the impacts associated with the City's market demand being captured by other nearby cities so that decision makers can make an informed decision regarding the tradeoffs inherent in the proposed project.

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**3. The DEIR Fails to Assess the Environmental Consequences of Other Cities Capturing the City's Market Demand**

“The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.” (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 937; see Pub. Res. Code, §§ 21061, 21002.1(a).) Thus, “CEQA procedures ‘are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.’” (*Id.* [quoting Pub. Res. Code, § 21002]; see also CEQA Guidelines, §§ 15126.4, 15126.6, 15131(c).)

The downzoning of numerous properties and the imposition of infeasible requirements far more onerous than those of the City’s competitors makes it highly likely that other local communities will not only continue to capture the demand for industrial development within the Central Valley but do so at an increasing rate. (See Attachment A, pp. 5–8.) This would not only have permanent and severe economic consequences, it would also have serious environmental consequences. For instance:

**Vehicle Miles Traveled.** The Market Study concludes that the “City is projected to add up to 216,000 residents and nearly 70,000 employees by 2040,” and that the demand for industrial land uses in the Plan Area would account for over 10% of those jobs: approximately 7,100 additional jobs. (DEIR, Appx. A, pp. 4–5.)<sup>16</sup> If the City remains unable to entitle industrial projects and does not increase its available inventory of industrial space—which is reasonably foreseeable, and highly likely, given the SCSP plans to make development even more difficult than it already is—*those jobs will go elsewhere*. (See Attachment A, pp. 3–8.) That means City residents who would have otherwise enjoyed a short commute to South Central Fresno would instead be required to drive an additional 30 miles each way to Madera, Visalia, or Goshen. This

<sup>16</sup> Notably, the projected population growth assumed in the Market Analysis and DEIR is inconsistent with positions the City has previously taken on this issue. (See <https://gwire.com/2024/01/29/is-fresno-done-growing-mayor-dyer-calls-for-halt-to-city-support-of-southeast-expansion/> [reporting that City officials put approval of Southeast Development Area Plan on hold, citing “lagging population forecasts [that] don’t justify the outward growth”]; see also

<https://www.fresnobee.com/opinion/readers-opinion/article287210260.html>;

<https://www.fresnobee.com/opinion/readers-opinion/article284875172.html>.)

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would result in an additional 426,000 daily vehicle miles traveled and, assuming 260 work days/year, **over 110 million additional vehicle miles traveled annually**. Despite this, there is no analysis of this potential impact in the DEIR.

**Air Quality/Greenhouse Gas Impacts.** Employees being required to travel daily from Fresno to communities such as Madera, Visalia, and Goshen for work would likewise increase criteria pollutant emissions and greenhouse gas emissions. Despite this, there is no analysis of the impacts associated with Fresno residents being required to drive to these locations.

**Agricultural and Forestry Resources.** Impact 4.2-1 concludes that development within the Plan Area would “likely . . . result in conversion of existing Prime Farmland and Farmland of Statewide Importance to non-agricultural uses” and that this would result in a significant impact. (DEIR, 4.2-7.) While there are some agricultural uses in the Plan Area, many of the undeveloped properties are not active farms. This is in contrast to the land available for industrial development by the City’s competitors—virtually all of which are comprised of existing agricultural uses. In other words, by driving industrial development elsewhere, the City will actually **increase** the conversion of farmland at a regional and particularly a cumulative level. Despite this, there is no analysis of this potential impact in the DEIR.<sup>17</sup>

31-14  
cont.

#### 4. The SCSP Does Not Meet the Project Objectives and the Project Description is Inadequate

“Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal’s benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal and weigh other alternatives in the balance.” (*South of Market Community Action Network v. City and County of San Francisco* (2019) 33 Cal.App.5th 321, 332.) Thus, “[a]n accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR.” (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185; see *Southwest Regional Council of Carpenters v. City of Los Angeles* (2022) 76 Cal.App.5th 1154, 1173 [same].) “A project description that gives conflicting signals to decision makers and the public about the nature of the project is fundamentally inadequate and misleading.” (*South of Market, supra*, 33 Cal.App.5th at 321.) Similarly, “[a] curtailed, enigmatic or unstable project description draws a red herring across the path of public input.” (*County of Inyo, supra*, 71 Cal.App.3d at 198.) A project description must include, among other things, “a statement of the objectives sought by the proposed project.” (*Id.*; see CEQA Guidelines, § 15124, subds. (b), (c).) A clear statement of objectives is crucial to “develop a reasonable range of alternatives” and to “aid the decision makers in preparing findings or a statement of overriding

31-15

<sup>17</sup> The fact that some of the requirements that would continue the outward migration of industry is “mitigation” identified in the DEIR is immaterial. CEQA requires the discussion and evaluation of potentially significant environmental effects caused by mitigation measures themselves. (CEQA Guidelines, § 15126.4(a)(1)(D); *Stevens v. City of Glendale* (1981) 125 Cal.App.3d 986.)

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considerations.” (CEQA Guidelines, § 15124(b); see also *id.* at §§ 15126.6(a), 15021(d); Pub. Res. Code, § 21081.)

The DEIR includes several Project Objectives, most of which concern the stimulation of economic development and the creation of jobs. (See DEIR, pp. 2-1–2-2 [objectives include to “[s]timulate economic development . . . [by] attract[ing] development,” to “provide diverse employment,” to “[p]reserve the viability of existing industrial and manufacturing operations in the Plan Area,” and to “improve Plan Area infrastructure . . . [by] expand[ing] the supply of ‘shovel-ready’ sites”].) The SCSP, however, does not meet the Project Objectives for the following reasons:

- Because the SCSP and the DEIR impose requirements that are far more drastic and unlike any requirements adopted by any local governments that compete with the City for industrial development, substantial evidence does not support the conclusion that the SCSP would stimulate economic development. In fact, the SCSP would continue and exacerbate existing low vacancy rates and stagnated industrial development.
- Because the SCSP and the DEIR impose requirements that are far more drastic and unlike any requirements adopted by any local governments that compete with the City for industrial development, substantial evidence does not support the conclusion that the SCSP would provide diverse employment opportunities for local workers.
- Because the SCSP and the DEIR will drive business to nearby communities, and the ZEV mandate will create its own environmental impacts, substantial evidence does not support the finding that the SCSP will minimize environmental impacts.
- Because the SCSP and the DEIR impose a buffer requirement that will restrict existing uses and create nonconformities, substantial evidence does not support the conclusion that the SCSP will preserve existing operations.
- Because the SCSP contemplates the creation of new, isolated residential zoning districts, substantial evidence does not support the conclusion that the SCSP would protect against incompatible uses; rather, it would exacerbate such conflicts.
- Because the SCSP and the DEIR impose requirements that are far more drastic and unlike any requirements adopted by any local governments that competes with the City for industrial development, substantial evidence does not support the conclusion that the SCSP would “expand the supply of ‘shovel-ready’ sites.”

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cont.

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Because the SCSP does not meet the Project Objectives, it should not be considered for approval. In fact, a comparison of the SCSP with the Business Plan Option (“BPO”) shows that the BPO would likely better promote the Project’s Objectives than the SCSP while actually **reducing significant potential impacts**. (Compare DEIR, pp. 6-11–6-14 [analyzing SCSP impacts relative to no-project alternative] with 6-39–6-41 [analyzing BPO impacts relative to SCSP impacts].) According to the DEIR, the BPO would have “less” impact with respect to population and housing and “similar” impacts with respect to most other categories. (See *id.*) While the DEIR finds the BPO would have a “slightly greater” impact with respect to air quality, greenhouse gas emissions, and transportation, substantial evidence does not support these findings.<sup>18</sup>

To the extent the SCSP may be argued to meet the Project Objectives, it is only because the DEIR employs an enigmatic and unstable project description that sends conflicting signals to decision makers and the public about the nature of the proposed project, effectively treating the SCSP’s adoption as a foregone conclusion. The DEIR identifies eight Project Objectives.<sup>19</sup> While no explicit prioritization is assigned to the Project Objectives, the focus appears to be on promoting economic development, as five of the eight objectives relate to that goal. In contrast, the DEIR devotes comparatively little attention to the Project’s other

<sup>18</sup> The DEIR finds a supposedly “greater” impact to air quality because operational emissions would be “slightly greater” but also incongruously finds that, “unlike the [SCSP], the [BPO] would not place sensitive receptors near high-volume roadways or other substantial sources of TACs.” (DEIR, p. 6-39.) Similarly, with respect to greenhouse gas emissions the DEIR finds operational emissions would be “slightly greater” due to higher industrial development even though it acknowledges “the same mitigation measures [might] apply” to industrial development as other types. (*Id.* at 6-40.) As to transportation, both the SCSP and the BPO would reduce impacts relative to existing conditions, according to the DEIR, but the BPO’s reduction would be approximately 4% less than the SCSP’s. This indicates the transportation impacts of the BPO are “similar” to those of the SCSP, not “greater.” (See *id.* at 6-41.) Thus, substantial evidence does not support these findings. (See also *supra* at § C.3.)

<sup>19</sup> Five are directed at promoting or preserving economic growth and development in the Plan Area: (i) to “[p]romote inclusive and sustainable economic growth and attract development that focuses on emerging markets and new technologies;” (ii) to “[c]reate diverse employment opportunities, including an accessible and resilient employment zone;” (iii) to “[p]reserve the viability of existing industrial and manufacturing operations in the Plan Area;” (iv) to “[p]rotect existing and future development from adverse impacts associated with incompatible uses;” and (v) to “[i]mprove Plan Area infrastructure . . . to expand the supply of ‘shovel-ready’ sites.” (See DEIR, pp. 2-1–2-2.) Two are focused on enhancing residential uses in the Plan Area: (i) to “[c]onsider project-specific environmental effects . . . on existing and potential future sensitive receptors and impose measures to minimize such impacts” and (ii) to “provide residents with clear and transparent access to information regarding community development and assist in addressing disputes and concerns.” (*Id.*) And one is focused on improving visual character—*i.e.*, to “[t]ransform State Routes 99 and 41 as Gateways into the City . . . to improve visual quality when entering the Plan Area.” (*Id.*)

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objectives—*i.e.*, enhancing visual quality and residential uses—which together account for just three objectives. The DEIR appears to acknowledge this at times, stating, for instance, that the “primary impetus for the SCSP is economic development and job growth.” (*Id.* at 2-2; see also *id.* at 6-6 [“[O]ne of the primary project objectives is to create diverse employment opportunities.”]) Yet, elsewhere the various objectives are described as though they are all equal. (See *id.* at 2-1 [stating that the Project’s “overarching vision . . . is to improve the City’s overall economic competitiveness, support employment opportunities for residents, and maintain and improve community livability”], 3-5 [describing “vision and guiding principles centered around balancing the needs of industrial users, ensuring a diverse employment base, and minimizing impacts on the environment and neighborhoods”].) Complicating matters further, the SCSP contains an entire chapter titled “Vision, Guiding Principles, & Policies” and, while there is overlap with the Project Objectives, in many cases the SCSP’s stated objectives are different than the Project Objectives described in the DEIR. (Compare *id.* at 2-1–2-2 with SCSP, pp. 38–42.) Despite this, the DEIR does not address the relationship between the SCSP’s objectives and the Project Objectives nor explain the role, if any, the SCSP’s objectives play with respect to environmental review. Rather, the DEIR appears to pick and choose as necessary to support the desired outcome: adoption of the SCSP.

31-16  
cont.

The lack of a clear, accurate, and stable project description in the DEIR as well as the conflicting signals arising from inconsistencies between the objectives set forth in the DEIR and those described in the SCSP undermine the DEIR’s environmental impact analyses and mitigation measures, foreclose a meaningful alternatives analysis, and inhibit the DEIR’s use as an informational document, contrary to CEQA.

**5. The City Must Perform a Holistic Evaluation of its Efforts  
Across the City to Downzone or Rezone Industrial Properties**

“CEQA contemplates consideration of environmental consequences at the ‘earliest possible stage, even though more detailed environmental review may be necessary later.’” (*Rio Vista Farm Bureau v. County of Solano* (1992) 5 Cal.App.4th 351, 370 [quoting *Leonoff v. Monterey County Bd. of Supers.* (1990) 222 Cal.App.3d 1337, 1346].) CEQA therefore prohibits the piecemealing—or segmentation—of environmental review. In other words, the “requirements of CEQA cannot be avoided by piecemeal review which results from chopping a large project into many little ones—each with a minimal potential impact on the environment—which cumulatively may have disastrous consequences.” (*Env’t Prot. Info. Ctr. v. Calif. Dept. of Forestry & Fire Prot.* (2008) 44 Cal.4th 459, 503; *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1208-09; *Bozung v. LAFCo* (1975) 13 Cal.3d 263, 283-84.)

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As explained above, the SCSP is one of many actions where the City has limited or downzoned industrial properties within the City. These actions are all related since they concern the same subject matter (industrial zoning), the same location (the City), and achieve the same result (less industrial zoning in the City). Further, such actions have, and will continue to, incentivize industrial development in other Central Valley jurisdictions, such as the City of Visalia, the County of Madera, and the County of Tulare, rather than the City. (See Attachment A, pp. 4–

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8.) This has the potential to cause significant impacts to air quality, greenhouse gas emissions, agricultural resources, and transportation. (See *supra* at § C.3.) Therefore, until the City addresses its reduction of industrial zoned property as a whole, the City will not comply with CEQA.

At the very least, the City should assess this impact as a cumulative impact. CEQA “require[s] a finding that a project may have a ‘significant effect on the environment’ if . . . [t]he possible effects of a project are individually limited but cumulatively considerable.” (Pub. Res. Code, § 21083.) A project’s cumulative impacts are significant if the project’s incremental contribution to the impact is “cumulatively considerable.” (CEQA Guidelines, § 15130(a).) A Project’s incremental contribution is cumulatively considerable if the incremental effects of the project are significant “when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” (*Id.* at § 15065(a)(3).)

The fact that a particular project’s incremental impact is not alone significant, or is relatively small when compared to the greater overall problem, does not mean the project does not have significant cumulative impacts. The courts have rejected this theory because it would allow “the approval of projects which, when taken in isolation, appear insignificant, but when viewed together, appear startling.” (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 720-21.) The proper standard for a cumulative impacts analysis is therefore whether the impacts are “collectively significant.” (*Id.* at 721 [citing CEQA Guidelines, § 15355].) An EIR must also “establish the geographic scope of the area affected by the cumulative impacts.” (*League to Save Lake Tahoe Mountain etc. v. County of Placer* (2022) 75 Cal.App.5th 63, 148.) “The geographic scope to be analyzed must be reasonably defined.” (*Id.*) It “cannot be so narrowly defined that it necessarily eliminates a portion of the affected environmental setting.” (*Bakersfield, supra*, 124 Cal.App.4th at 1216.) “Nor may it be defined so broadly as to dilute the significance of a project’s cumulative impact.” (*League to Save Lake Tahoe, supra*, 75 Cal.App.5th at 148.)

31-17  
cont.

If a project’s incremental contribution to the impact is “cumulatively considerable”—i.e., if the project’s impacts, taken together with those of similar projects, are “collectively significant,” (*Kings County Farm Bureau, supra*, 221 Cal.App.3d at 721)—the lead agency must examine reasonable, feasible options for reducing or avoiding the project’s contribution to those significant impacts. (CEQA Guidelines, § 15130(b)(5); see also Pub. Res. Code, §§ 21064.5, 21080(c)(2); CEQA Guidelines, § 15064(f)(2), 15070(b).) “If the lead agency finds either that the combined impact is insignificant or the project’s contribution is not cumulatively considerable, the EIR must briefly explain the basis for the agency’s finding and, where the impact is found to be insignificant, identify facts and analysis supporting the agency’s conclusion.” (*League to Save Lake Tahoe, supra*, 75 Cal.App.5th at 148.)

Substantial evidence shows the ongoing reduction of industrial zoned property in the City has caused, and will continue to cause, increased industrial development in other Central Valley markets. (See Attachment A, pp. 4–8; Market Analysis at 22–23, 27–31, 35–38; Attachment B; Attachment D.) Further, increased industrial development in other Central Valley markets has the potential to cause significant environmental impacts to agricultural resources, air quality, greenhouse gas emissions, and transportation, among other things. (See, e.g., DEIR, §§

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4.2.2, 4.3.3, 4.8.3, 4.15.3.) While specific details regarding the exact location and extent of development in other Central Valley markets may be uncertain to some extent, a general trend of increased development in competitive Central Valley markets is reasonably foreseeable and historical data regarding general market trends in the Central Valley provides sufficient information for meaningful environmental review. Under these circumstances, CEQA requires a proper cumulative impact analysis be performed to enable the public and decision makers to understand and consider meaningfully the issues raised by the proposed project.

31-17  
cont.

Accordingly, the DEIR must assess the impacts resulting from the City's ongoing efforts to reduce industrial zoned property in the City, determine whether the Project makes a "cumulatively considerable" incremental contribution to those impacts, and if so, examine reasonable, feasible options for reducing or avoiding the Project's contribution to those significant impacts.

**D. Several Proposed Mitigation Measures Are Infeasible**

When imposing mitigation, lead agencies must ensure there is a "nexus" and "rough proportionality" between the measure and the significant impacts of the project. (CEQA Guidelines, § 15126.4(a)(4)(A)–(B) [citing *Nollan v. Calif. Coastal Comm'n* (1987) 483 U.S. 825; *Dolan v. City of Tigard* (1994) 512 U.S. 374].) Mitigation measures must also be feasible to be effective. (CEQA Guidelines, § 15041.) Several of the mitigation measures described in the DEIR are infeasible and/or bear no rough proportionality to development within the SCSP area:

- The DEIR requires that Class 7-8 vehicles domiciled on property must be fully electrified by December 31, 2026. (DEIR, MM 4.3-1h.) The DEIR likewise requires that businesses must begin to convert Class 2-6 vehicles domiciled on property to ZEVs at the start of operations, and transition the entire fleet to ZEVs by December 31, 2031. (*Id.* at MM 4.3-1i.) In addition, new projects will require the installation of infrastructure to support ZEVs. Heavy duty ZEVs are a nascent technology that are generally unreliable, over twice as expensive as combustion engines, and not widely available. Due to this reality, stakeholders have argued CARB's Advanced Clean Fleets and Advanced Clean Truck regulations are infeasible. Yet the DEIR seeks to impose requirements that are vastly more aggressive than those regulations. There is simply no evidence the ZEV purchase mandate is feasible as a general matter—let alone feasible consistent with the Project Objectives related to stimulating economic development and creating employment opportunities, and preserving the viability of industrial operations.
- Mitigation Measure 4.6-1d requires the installation of solar sufficient to power at least 50% of the amount of energy needed for future development. This is not only an expensive investment, and there is no evidence in the record to suggest this requirement is feasible, generally or consistent with

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the Project Objectives. Indeed, it would be virtually impossible to have enough rooftop solar to offset 50% of the demand of many types of manufacturing, which is the most frequently cited type of industrial job that qualifies as a “good job.”

31-19  
cont.

- Mitigation Measure 4.3-1b requires the use of clean fleets during construction. The problem is that the cleanest levels of construction equipment are not widely available, and developers often must wait several months before they can be used on a project site.
- Mitigation Measure 4.3-1a contemplates that applicants would be required to fund Voluntary Emissions Reduction Agreements (VERA) with the SJVAPCD. There is no evidence this requirement is feasible. Under a VERA, an applicant must pay \$9,350/ton for construction NOx/VOC emissions and \$93,500/ton for operational NOx/VOC emissions, and similar amounts for particulate matter, plus a 4% administrative fee. This is a generally applicable requirement, and there is simply no evidence to suggest this mitigation measure is generally feasible or would not obstruct the Project Objectives.

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31-21

The DEIR’s failure to properly analyze the feasibility of mitigation measures is exacerbated by the lack of any analysis regarding the economic and social impacts of the SCSP’s adoption. As the Guidelines explain, “[e]conomic, social, and [] housing factors *shall* be considered by public agencies together with technological and environmental factors in deciding whether changes in a project are feasible to reduce or avoid the significant effects on the environment identified in the EIR.” (CEQA Guidelines, § 15131(c) [emphasis added].) Thus, if such information is not included in the DEIR, it “*must* be added to the record in some other manner to allow the agency to consider the factors in reaching a decision on the project.” (*Id.* [emphasis added].) The DEIR, however, fails to analyze economic and social factors arising from SCSP’s adoption and therefore such information cannot be accounted for when evaluating the feasibility of proposed mitigation measures, contrary to the requirements of CEQA. (See Pub. Res. Code, § 21081(a)(3); see also *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 948.) This deficiency not only compromises the development of adequate mitigation measures as a general matter, it also renders ineffective, unenforceable, and/or improperly deferred mitigation measures that expressly incorporate the concept of feasibility, as many do. (See, e.g., MM 4.2-1, 4.3-1a, 4.3-1m, 4.3-3d, 4.5-2b-c, 4.6-1d.)

31-22

**E. The DEIR Fails to Assess Environmental Effects Associated with the Requirement to Transition to Electric Vehicles**

An environmental impact report is not only required to assess the potential impacts of the Project. To be adequate under CEQA, the DEIR must also discuss and evaluate the potentially significant environmental effects caused by mitigation measures themselves. (CEQA Guidelines, § 15126.4(a)(1)(D); *Stevens v. City of Glendale* (1981) 125 Cal.App.3d 986.) Here,

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the DEIR includes purchase mandates for ZEVs at a rate far exceeding that imposed by CARB. The DEIR, however, includes no discussion of the potential impacts that the early transition to ZEVs might create:

31-23  
cont.

- The DEIR does not address increased electricity demand associated with the accelerated transition to electric vehicles. This is particularly important due to the unreliability of PG&E and the fact that many neighborhoods within the City regularly experience power outages.<sup>20</sup> The lack of electrical infrastructure to support the anticipated increases in the Plan Area is a major near- and medium-term issue because it will increase energy demands, complicate PG&E approvals, necessitate locking down tenants much earlier in the development process, and require them to wait even longer before commencing operations. (See Attachment A, pp. 7–8.) This means additional risk and longer delays for both developers and tenants, and further reduces the City's competitiveness relative to other markets. (*Id.*)
- The DEIR does not analyze the emissions associated with the operation of ZEVs. For example, the DEIR does not analyze or include an assessment of the impacts on ZEV weight on particular PM emissions from tire wear and entrained road dust, even though it is reasonably foreseeable that ZEVs will be heavier than the internal combustion engine vehicles (ICEVs) currently on the road. (See Attachment E, pp. 24–25.)
- ZEVs have a smaller hauling capacity than trucks with internal combustion engine vehicles (ICEVs). The performance of ZEVs also degrades in the heat. Despite this, the DEIR contains no discussion of the additional vehicle miles traveled that would result from the early transition to ZEVs.
- The transition to electric vehicles at a rate far exceeding that imposed by CARB would accelerate the recognized environmental impacts associated with the need to develop electric infrastructure and new/modified facilities to meet the demand for ZEVs. In the environmental analysis performed for the ACF Regulation, CARB found the construction of infrastructure and the new/modified facilities would result in significant and unavoidable environmental effects. (See generally Attachment F.) The SCSP would accelerate the need for this infrastructure and new/modified facilities,

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<sup>20</sup> See <https://data.usatoday.com/national-power-outage-map-tracker/area/fresno-county-ca/06019/>;

<https://www.yourcentralvalley.com/news/local-news/pg-e-may-shut-off-power-to-areas-of-fresno-county-merced-county-this-weekend/>.

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exacerbating those effects. The DEIR should therefore be augmented to include an analysis of these impacts and recirculated for public review.

31-27  
cont.

**F. The SCSP is Inconsistent with the Goals and Policies of the City's General Plan**

California's Planning and Zoning Law ("PZL") requires that all municipalities adopt a general plan. (Govt. Code, § 65300.) While charter cities are not subject to *some* of the PZL's consistency requirements, the Government Code expressly requires that a charter city's general plan to be *internally* consistent. (See *id.* at § 65300.5; see also Fresno General Plan ("FGP"), pp. 1-3–1-4.)

Moreover, a subsequent project that is not consistent with a charter city's general plan gives rise to a presumption that the project approval constitutes an abuse of discretion. (See, e.g., *City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401, 414–415.) A "project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment." (*Corona-Norco, supra*, 17 Cal.App.4th at 994.) While perfect conformity may not be required, "a project *must* be compatible with the objectives and policies of the general plan." (*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 782 [emphasis added] [citing *Families Unafraid to Uphold Rural etc. County v. Board of Supers.* (1998) 62 Cal.App.4th 1332, 1336].) "A project is inconsistent if it conflicts with a general plan policy that is fundamental, mandatory, and clear." (*Id.* at 782.)

31-28

The SCSP conflicts with several objectives and policies of the City of Fresno's General Plan. For instance, ED-1 emphasizes the need to support economic development by "maintaining a strong working relationship with the business community and improving the business climate for current and future business." (FGP, p. 2-21.)<sup>21</sup> Indeed, expanding and retaining industrial industries within the City of Fresno is the "bread and butter" of a solid economic development program. . . ." (*Id.* at 2-13.)

31-29

To implement this objective, ED-1-d directs the City to "[e]xplore increasing the amount of land properly zoned, consistent with the General Plan, and ready to be expeditiously developed, redeveloped, and/or revitalized for *economic development and job creation purposes*." (*Id.* at 2-21 [emphasis added].) Not only is the SCSP inconsistent with the general plan it requires the City to concurrently amend the general plan if it is adopted.<sup>22</sup> (See, e.g., SCSP,

<sup>21</sup> The existence of this letter, authored on behalf of several business and landowners within the SCSP, demonstrates the lack of a strong working relationship with the business community as envisioned by the FGP.

<sup>22</sup> In addition to foreseen amendments to the general plan, the SCSP also acknowledges that the City will need to adopt concurrent amendments to the Development Code, repeal the existing

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p. 134; DEIR, pp. 2-46, 2-47 [“Implementing the proposed plan would require a general plan amendment to allow for the proposed land use changes, as some of the proposed land uses differ from the general plan. *With the approval of the amendment*, the SCSP would be consistent with the City of Fresno General Plan.”][emphasis added].)

Instead of increasing land zoned for economic development and job creation purposes the SCSP reduces it. As discussed above, the downzoning of properties away from heavy and light industrial land uses within the peripheries of the SCSP combined with the City’s limited opportunities for industrial growth or expansion will steer existing and potential economic investment elsewhere. (See Attachment A, pp. 5–8; *supra* at § C.3.)

31-29  
cont.

Such results conflict with other General Plan policies and objectives as well, including:

- ED-3: “Attract and recruit businesses and offer incentives for economic development.” (FGP p. 2-23.) To implement this objective, ED-3-a directs the City to adopt and implement programs to expand existing businesses and attract new businesses. Downzoning, buffers, and limited protection from Legal Non-Conforming Use provisions will cause existing businesses to abandon the City and repel new businesses from entering the City.
- LU-7 “Plan and support industrial development to promote job growth.” (*Id.* at 3-54.) The City is intended to “[p]romote industrial land use clusters to maximize the operational efficiency of similar activities.” (*Id.* at LU-7-c.) The General Plan notes a need to provide relatively high-income jobs to promote economic development. Several industrial businesses, including manufacturing, provide generally high paying jobs and opportunities for advancement. (*Id.* at Table 2.5.) To foster these job opportunities, industrial development is critical. The only planning area within the City that includes land available for industrial development is the area within the SCSP, yet with the SCSP’s intended downzoning, opportunities for industrial development further wane. If industrial development dissipates, the opportunities for job growth also disappear. Most manufacturing uses require Heavy Industrial zoning, which is virtually eliminated from the parts of the Plan area that are undeveloped.

31-30

**G. The SCSP Effectuates Spot Zoning**

“Spot zoning occurs where a small parcel is restricted and given lesser rights than the surrounding property, as where a lot in the center of a business or commercial district is limited to uses for residential purposes thereby creating an “island” in the middle of a larger area devoted

31-31

North Avenue Industrial Triangle Specific Plan and replace the overlapping portion of the Roosevelt Community Plan to “allow for consistency.” (SCSP at pp. 16, 68.)

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to other uses.” (*Foothill Communities Coal. v. Cnty. of Orange* (2014) 222 Cal.App.4th 1302, 1311 [citing *Arcadia Development Co. v. City of Morgan Hill* (2011) 197 Cal.App.4th 1526, 1536].) The SCSP would cause spot zoning by creating small, isolated clusters of properties that are zoned residential, even though they are surrounded by industrial properties and the owners of the clusters of property intend to develop those properties to industrial land uses. While the City may assert that the residential zoning is necessary to avoid nonconformities, this assumes the individual landowners want their properties zoned residential. Moreover, the creation of small, isolated clusters of residential zoned properties is not in the public interest, especially since those properties will result in a buffer area where adjacent land uses will be severely restricted, and the buffers themselves will create an even greater number of nonconformities than an isolated residence.

31-31  
cont.**H. The AB 617 Truck Reroute Study is Deeply Flawed**

The conclusions in the SCSP and the DEIR appear to be based in part on the South Central Fresno AB 617 Community Truck Reroute Study: Truck Routing and Implementation Strategies Report (April 2024) (the “Reroute Study”). For the reasons stated in my May 22, 2024, letter on the Reroute Study, the City should not take action on that document or use it in connection with either the SCSP or the DEIR. (See Attachment G.)

31-32

**I. The SCSP Is Preempted by the Clean Air Act**

Section 209(a) of the Clean Air Act, 42 U.S.C. § 7543(a), provides that states and their political subdivisions are preempted from adopting or attempting to enforce “any standard relating to the control of emissions from new motor vehicles . . . .” (See *Engine Mfrs. Ass’n v. S. Coast Air Quality Mgmt. Dist.* (2004) 541 U.S. 246 (“*EMA*”); *Jensen Family Farms, Inc. v. Monterey Bay Unified Pollution Control Dist.* (2011) 644 F.3d 934, 938; *In re Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation* (9th Cir. 2020) 959 F.3d 1201, 1217 [“*Volkswagen*”] [“Section 209(a) precludes a local government from enforcing ‘any standard relating to the control of emissions from new motor vehicles.’”].) Likewise, Section 209(e) preempts states and their political subdivisions from adopting or attempting to enforce standards or requirements related to non-road mobile sources. (42 U.S.C. § 7543(e); see *Jensen Family Farms, supra*, 644 F.3d at 938.)

31-33

The SCSP proposes mitigation measures preempted by the CAA, including Mitigation Measures 4.3-1h and 4.3-1i. Mitigation Measure 4.3-1h requires, in pertinent part, future tenants of new and redeveloped commercial and industrial land uses to ensure that all heavy-duty trucks (Class 7 and 8 vehicles) domiciled on the project site are model year 2014 or later from start of operations and to expedite a transition to zero-emission vehicles, with the fleet fully zero-emission by December 31, 2026 or when commercially available for the intended application, whichever date is later. It also requires that all heavy-duty truck fleets associated with operational activities for industrial uses or uses that require deliveries to and from the site to utilize the cleanest available heavy-duty trucks, including zero and near-zero that meet 0.02 gram per brake

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horsepower-hour NOx technologies. Finally, all operational on-site equipment, including cargo handling, yard hostlers, forklifts and pallet jacks, must be zero-emission.

31-33  
cont.

Mitigation Measure 4.3-1i in turn mandates future tenants of new and redeveloped commercial and industrial land uses within the SCSP to use a “clean fleet” of vehicles, delivery vans, and trucks (Class 2 through 6 vehicles) in their business operations pursuant to the following schedule:

- 33 percent of the fleet shall be zero emission at the start of operations;
- 65 percent of the fleet shall be zero emission vehicles by December 31, 2027;
- 80 percent of the fleet shall be zero emission vehicles by December 31, 2029; and
- 100 percent of the fleet shall be zero emission vehicles by December 31, 2031.

31-34

Mitigation Measures 4.3-1h and 4.3-1i create a generally-applicable requirement that fleet operators expedite transition to zero-emission vehicles and zero-emission on-site equipment, including forklifts, cargo-handling vehicles, and yard hostlers. (SCSP, MM 4.3-1h, 4.3-1i.) In effect, these measures essentially operate as purchase mandates.

A standard broadly includes that which was “established by authority, custom, or general consent, as a model or example; criterion; test.” (*EMA, supra*, 541 U.S. at 252–253 [opinion by Justice Scalia striking down as preempted a rule that effectively required the purchase of lower emission vehicles].) Standards may denote “not only ‘numerical emission levels with which vehicles or engines must comply...’ but also ‘emission-control technology with which they must be equipped...’” (*Volkswagen, supra*, 959 F.3d 1201 at 1218, [quoting *EMA, supra*, 541 U.S. 246 at 253].)

In *EMA*, the United States Supreme Court determined that a series of regulations promulgated by the South Coast Air Quality Management District, which contained detailed prescriptions regarding the types of vehicles that fleet operators must purchase or lease when adding or replacing fleet vehicles qualified as standards under the meaning of Section 209. (*EMA, supra*, 541 U.S. at 252–255.) Because the proposed mitigation measures require certain emission-control technology (*i.e.*, zero-emissions technology) be used amongst fleet operators’ motor vehicles, these measures effectively operate as a purchase mandate which constitute emissions standards under the CAA. (*EMA, supra*, 541 U.S. at 255–256.) These standards, therefore, require a waiver. (See 42 U.S.C. § 7543(b), (c)(2).)

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Although CARB has received various waivers for certain regulations, including the Advanced Clean Trucks regulation, Mitigation Measures 4.3-1h and 4.3-1i propose *more* stringent regulations of vehicle fleets and non-road vehicles. No waiver issued to date authorizes the adoption or enforcement of the regulations proposed by the SCSP as they are even more onerous than CARB's own regulations. Further, EPA cannot grant a waiver to the City of Fresno because the City of Fresno has no authority to request a waiver under either § 209(b) or § 209(e). (See U.S.C. § 7543(b), (c).) Accordingly, the Mitigation Measures, to the extent the proposed regulations are more stringent than those CARB currently has received waivers to adopt and enforce, are preempted under section 209 of the CAA.

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**J. Several Mitigation Measures Are Preempted By the California Health & Safety Code**

**1. SCSP Mitigation Measures Are Preempted Because the California Legislature Has Fully Occupied the Field**

Article XI, section 7 of the California Constitution provides that “a county or city may make and enforce within its limits all local, police, and other ordinances and regulations not in conflict with general law.” However, if an “otherwise valid local legislation conflicts with state law, it is preempted by such law and is void.” (*Chevron v. U.S.A. Inc. v. County of Monterey* (2023) 15 Cal.5th 135, 140 [quoting *Sherwin-Williams Co. v. City of Los Angeles* (1993) 4 Cal.4th 893, 897].) A conflict with general law arises when local legislation

enters an area that is “fully occupied” by general law when the Legislature has expressly manifested its intent to “fully occupy” an area [citation], or when it has impliedly done so in light of one of the following indicia of intent: (1) the subject matter has been so fully and completely covered by general law as to clearly indicate that it has become exclusively a matter of state concern; (2) the subject matter has been partially covered by general law couched in such terms as to indicate clearly that a paramount state concern will not tolerate further or additional local action; or (3) the subject matter has been partially covered by general law, and the subject is of such a nature that the adverse effect of a local ordinance on the transient citizens of the state outweighs the possible benefit to the locality.

31-37

(*Id.* [some internal quotations omitted].)

California's air resources are governed by Division 26 of the Health and Safety Code and regulations implemented by CARB. In Division 26, the Legislature expressed its intent to fully occupy the field of air pollution control and preempted local and regional authorities from regulating air pollution related to vehicular sources. Section 39002 of the Health and Safety Code provides that “[l]ocal and regional authorities have the primary responsibility for control of air pollution from all sources *other than vehicular sources*. *The control of vehicular sources*, except

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as otherwise provided in this division, ***shall be the responsibility of the State Air Resources Board.***” (Health & Saf. Code, § 39002 [emphasis added].)

The Legislature further indicated its intent to occupy the field by providing CARB the exclusive authority to “adopt standards, rules, and regulations...necessary for the proper execution of the powers granted and imposed upon, [CARB] by [Division 26] and by any other provision of law.” (Health & Saf. Code, § 39601 (a); see also *id.* at § 39602 [“The state board is designated as the state agency responsible for the preparation of the state implementation plan required by the Clean Air Act . . . and, to this end, shall coordinate the activities of all districts necessary to comply with the act.”].) Amongst its promulgated responsibilities, CARB is charged with preparing the state implementation plan required by the Clean Air Act, (*id.* at § 39602); providing summaries of actions taken by CARB or the air quality districts, (see *id.* at § 39604); and, in some instances, adopting a market-based incentive program as an element of an air quality districts’ attainment plan for state or federal ambient air quality standards, provided that the program “will not result in a greater loss of jobs or more significant shifts from higher to lower skilled jobs . . . .” (*Id.* at §§ 39616(b)(1), 39616(b)(4).) Conspicuously absent from the relevant air quality statutes is the inclusion or grant of any authority to localities, like the City of Fresno, to regulate air quality, again evidencing the Legislature’s intent to fully occupy this area of law. (See *Sherwin-Williams Co. v. City of Los Angeles* (1993) 4 Cal.4th 893, 898; see also *Chevron, supra*, 15 Cal.5th 135 at 145–146.)

California law also fully occupies the more narrow field of vehicular air pollution control, including motor vehicles emissions, for “[i]t is the intent of the Legislature that the State Air Resources Board shall have the responsibility, except as otherwise provided in this division, for control of emissions from motor vehicles...” (Health & Saf. Code, § 39500; see also *id.* at §§ 43000.5 [“The state board should take immediate action to implement both short- and long-range programs of across-the-board reductions in vehicle emissions and smoke, including smoke from heavy-duty diesel vehicles...”], 43101 [“The state board shall adopt and implement emissions standards for new motor vehicles for the control of emissions from new motor vehicles that the state board finds to be necessary and technologically feasible to carry out the purposes of this division.”], 43013(a) [“The state board shall adopt or implement motor vehicle emission standards, in-use performance standards, and motor vehicle fuel specifications for the control of air contaminants and sources of air pollution], 43013(b) [“The state board shall... adopt standards and regulations for light-duty *and heavy-duty* vehicles...and off-road or nonvehicle engine categories...”], 43013(h) [“It is the intent of the Legislature that the state board act as expeditiously as is feasibly to reduce nitrogen oxide emissions from diesel vehicles... and other categories of vehicular or mobile sources which significantly contribute to air pollution problems.”].)

It is clear the Legislature intended for CARB’s standards to occupy the motor vehicle emissions field to promote consistency. (See *id.* at § 43000 [“The state has a responsibility to establish ***uniform procedures*** for compliance with standards which control or eliminate those air pollutants [from motor vehicles].” [emphasis added].) Implementation of Mitigation Measure 4.3-1h and 4.3-1i would directly affect emissions of air pollutants from motor vehicles, threatening

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cont.

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the very uniformity the Legislature sought in adopting Part 5 of Health and Safety Code Division 26.

Mitigation Measures 4.3-1h and 4.3-1i require fleet vehicle operators of motor vehicles, including non-road motor vehicles, to purchase zero-emission vehicles within the SCSP. However, even if the Legislature did not intend to fully occupy the entire field of motor vehicle emissions, it plainly intended to occupy the area covered by these Mitigation Measures. The Health and Safety Code requires CARB to “adopt standards and regulations including but not limited to . . . requiring the purchase of low-emission vehicles by state fleet operators.” (*Id.* at § 43018(c)(3).) Pursuant to its authority under this provision CARB promulgated a series of regulations, including Advanced Clean Trucks, Advanced Clean Fleets, and the Zero-Emission Forklift regulations, which set forth standards requiring fleet vehicle operators to transition their fleets to zero-emission. The Mitigation Measures regulate the same motor vehicles and, in some cases, apply more stringent standards. Therefore, the Mitigation Measures Encroach on an area of law the Legislature intended to occupy and do so in a manner that prohibits conduct that would otherwise be permitted under state law. (See *infra* § J.2.)

31-37  
cont.

## **2. SCSP Mitigation Measures Are Preempted Because they Contradict General Law**

A conflict with general law also arises when local legislation local legislation is contradictory to general law. (*Sherwin-Williams Co.*, *supra*, (1993) 4 Cal.4th at 897.) A law is contradictory to general law where it is inimical thereto. (*Id.* at 898; see also *Chevron*, *supra*, 15 Cal.5th at 142.) A local law is inimical to—and therefore conflicts with—a state law in two situations: where the local law directly prohibits what the state enactment demands or the local ordinance prohibits what the state enactment permits or authorizes. (See *AIDS Healthcare Foundation v. Bonta* (2024) 101 Cal.App.5th 73, 86–87; *City of Riverside v. Inland Empire Patients Health & Wellness Center* (2013) 56 Cal.4th 729, 743; *Chevron*, *supra*, 15 Cal.5th at 149.) The latter situation is applicable here.

The Mitigation Measures are generally applicable requirements providing that no internal combustion engine vehicles (“ICEVs”) may be added to a fleet after a certain date and requiring ICEVs’ complete replacement by 2031. These provisions prohibit acts permitted by Section 43021 of the Health & Safety Code.

31-38

Section 43021 was enacted “to provide owners of self-proposed commercial motor vehicles . . . certainty about the useful life of engines certified by” CARB and other agencies “to meet required environmental standards for sale in the state.” (Health & Saf. Code, § 43021 (d).) As the Senate Bill Analysis for S.B. 1 explains, Section 43021 “[s]ets a ‘useful life’ period where truckers subject to future, undefined regulations can get a return on their investment before being asked to replace or modify the vehicle. Thus, if CARB adopts future in-use regulations, trucks will not be required to turnover until they have reached 13 years from the model year the engine and emission control systems are first certified or until they reach 800,000 vehicle miles traveled.

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(California Bill Analysis, S.B. 1 Sen., 4/3/2017.)<sup>23</sup> Accordingly, Section 43021 provides that, with limited exceptions inapplicable here, “the retirement, replacement, retrofit, or repower of a self-propelled commercial motor vehicle . . . *shall not be required* until the later of . . . [t]hirteen years from the model year the engine and emission control system are first certified” or when “the vehicle reaches the earlier of either 800,000 vehicle miles traveled or 18 years” from the certification of the engine and emission control system. (Health & Saf. Code, § 43021(a) [emphasis added].)

31-38  
cont.

Mitigation Measures 4.3-1h requires the use of Class 7 and 8 ZEVs by December 31, 2026 and 4.3-1i requires the complete use of Class 2 through 6 ZEVs by December 31, 2031. In effect, both measures prohibit the use of any ICEVs by December 31, 2031. These measures therefore foreclose business owners’ ability to operate newer model ICEVs which would otherwise be permissible under Section 43021 for 13 years from the model year the engine and emission control systems are first certified within the SCSP. Accordingly, both Mitigation Measures directly contradict Section 43021 of the Health & Safety Code and are preempted. (See *AIDS Foundation, supra*, 101 Cal.App.5th at 87.)

**K. Conclusion**

The SCSP and the DEIR are deeply flawed documents. At a foundational level, if adopted they would undermine the City’s ability to compete with nearby communities for industrial development. They likewise seek to impose infeasible requirements not found in other competitor cities, while at the same time declining to evaluate the impacts of those requirements. Due to these and other concerns, the SCSP should not be adopted as currently proposed. The City should instead decline to adopt the SCSP, and direct staff to work with industrial stakeholders in good faith to strike a meaningful and achievable balance between industrial development and nearby communities that does not undermine the City’s competitiveness.

31-39

Respectfully submitted,



John P. Kinsey

Enclosures

<sup>23</sup> As noted in Section J(2) of this letter, the Legislature has expressly and impliedly occupied the field of vehicular emissions. CARB, not the City, has the express authority to adopt future in-use regulations which would be directly affected by Section 43021. As a result, the mitigation measures are preempted by Section 43021.

**Letter 31 Wanger Jones Helsley,  
John P. Kinsey**  
7/30/24

Note: Comment letter 31 contains numerous footnotes throughout. The City has reviewed the footnotes and finds that they are largely general in nature (i.e., not project specific) and included to support or underscore the comments and assertions in the letter. Because of this, they are not bracketed separately for purposes of responses to comments.

**Response 31-1**

The comment consists of prefatory remarks expressing gratitude for the opportunity to provide comments on the Draft EIR.

**Response 31-2**

The comment summarizes the commenters' concerns and introduces the subsequent comments raised. Please refer to responses below for specific responses to the concerns raised.

**Response 31-3**

The comment expresses perspectives about the economic effects of the proposed SCSP and references Comment Letter 31 - Attachment A, a letter from Newmark Pearson Commercial regarding their Site Selection Methodology. The comment does not address the environmental analysis or adequacy of the Draft EIR so no environmental response can be provided. Additionally, please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan; Master Response 4, Downzoning to Create Transitional or Buffer Areas; and Master Response 5, Economic Feasibility of Mitigation. The comment also states that the SCSP should not be adopted as currently envisioned. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

**Response 31-4**

The comment provides information about the economic value of the plan area and expresses economic concern related to downzoning. Please refer to Master Response 4, Downzoning to Create Transitional or Buffer Areas. Additionally, the comment pertains to the specific plan itself and not to the environmental analysis or adequacy of the Draft EIR. Please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

**Response 31-5**

The comment states that the City failed to notify affected property owners regarding the proposed zoning change. The comment also indicates that there was lack of notification to affected property owners of the availability of the Draft EIR. Regarding noticing, please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

**Response 31-6**

The comment expresses views about the effects of the proposed downzoning and Legal Non-Conforming Use provisions of the City's Development Code in addition to a lack of notification regarding zoning changes. Regarding notification, please see Response to Comment 31-5. The comment does not refer to the environmental analysis or adequacy of the Draft EIR, so no environmental response can be provided. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. Please also refer to Master Response 4, Downzoning to Create Transitional or Buffer Areas.

**Response 31-7**

The comment expresses landowner perspectives on future economic investment in the city and the impact of downzoning. Additionally, the comment pertains to the specific plan itself and not to the environmental analysis or

adequacy of the Draft EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. See Master Response 1, Comments Pertaining to the South Central Specific Plan and Master Response 4, Downzoning to Create Transitional or Buffer Areas.

#### **Response 31-8**

This comment introduces the nonresidential real estate market analysis undertaken by Economic & Planning Systems, Inc. ("EPS"). The comment pertains wholly to that analysis and not to the environmental analysis or adequacy of the Draft EIR, so no environmental response is provided.

#### **Response 31-9**

The comment asserts that there is no substantial evidence to support the City's assumed market demand. As specified in Chapter 2 of the Draft EIR "Project Description", Section 3.3, Background, while development levels considered within the Draft EIR may be higher than what may actually occur by 2040, they are reasonable for the purposes of environmental evaluation and to ensure that the analysis is appropriately conservative. As stated in CEQA Guidelines Section 15064 (f) (5), 'Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion support by facts.' As such, the conservative assessment used in the Draft EIR was based upon EPS' market analysis and constitutes reasonable assumptions predicated upon EPS' expert opinion. While the comment notes that the potential market demand could overstate or understate the potential environmental and economic effects if set too high or too low respectively, per CEQA Guidelines Section 15064 (e) 'Economic and social changes resulting from a project shall not be treated as significant effects on the environment'. Therefore, to ensure that the environmental effects were not understated, a conservative assessment was undertaken. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

#### **Response 31-10**

The comment opines that the City is a difficult permitting environment for employment-generating land uses noting that most industrial projects within the City result in the preparation of an environmental impact report. The comment pertains to city-specific issues regarding lack of suitable land for industrial uses, competition from neighboring cities, and not to the environmental analysis or adequacy of the Draft EIR. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

#### **Response 31-11**

The comment asserts that during the comment period on the Notice of Preparation (NOP) for the Draft EIR, the City received comments requesting evaluation of the impacts associated with industrial businesses locating outside the City and that these were not assessed within the Draft EIR and that neither the Draft EIR nor the market analysis assess the likelihood that the City's competitors will continue to capture that demand. The commentor also provides a comparison table between SCSP and Draft EIR requirements and those at nearby cities such as Madera, Visalia and Tulare. It should be noted that per CEQA Guidelines Section 15064 (e) 'Economic and social changes resulting from a project shall not be treated as significant effects on the environment'. Additionally, each of these cities are considerably smaller in both area and population than Fresno, and the City of Fresno has no jurisdiction over how other cities choose to implement their land use and zoning policies and incentivize development within their city boundaries.

Furthermore, prior to the recirculated SCSP NOP being released for public review, the project was previously known as the South Industrial Priority Area Specific Plan (SIPA). As part of the NOP comment period for the SIPA project, (see Appendix A of the Draft EIR) the City received a comment letter from the Department of Justice's Office of the Attorney General noting that the SIPA area had communities "suffering from the highest pollution burdens in Fresno and indeed in the State," noting the communities adjacent bore a disproportionate share of industrial pollution. A review of the Office of Environmental Health Hazard Assessment's (OEHHA) California Communities Environmental Health Screening Tool (CalEnviroScreen 4.0) undertaken on September 12, 2024, shows that some of those communities are in the 100th percentile for pollution burden, which is not the case for any of the communities within

Visalia, Madera or Tulare. As recommended by the Office of the Attorney General, for compliance with Assembly Bill (AB) 617's air quality improvement requirements, a series of mitigation measures were requested to be considered, which were based on CARB's Technical Advisory and Handbook. As such, in consideration of the Office of the Attorney General's recommendations, the City included mitigation measures to help combat the existing extreme air pollution burden in the SCSP plan area. These measures are also consistent with strategies and considerations set forth in the South Central Fresno Community Emissions Reduction Program (SCFCERP). Therefore, in agreement with the commentor's assertion that the measures "are far more onerous than those applied by the City's competitors", that is by design to reduce the undue burden on disadvantaged communities in the SCSP plan area.

In addition, the EIR acknowledges that some measures are based on emerging technologies, but the mitigation measures recommended in this EIR have been determined to be feasible based on examples in other contexts (e.g., CARB 2022 Scoping Plan Update, City of Fontana Municipal Code Amendment No. 21-001R1 to Revise Sustainability Standards for Industrial Commercial Centers, Mariposa Industrial Park Project #2 EIR, Attorney General guidance, and other sources). In accordance with Section 15126.4 of the CEQA Guidelines, "an EIR shall describe feasible measures which could minimize significant adverse impacts..." and in these instances, the measures must be adopted unless they are otherwise shown to be infeasible by decisionmakers and are documented as part of CEQA findings (CEQA Guidelines Sections 15091) and, as applicable, a statement of overriding considerations (CEQA Guidelines Section 15093). However, no information has been provided to suggest that implementation of the proposed mitigation measures in the EIR would result in a significant change to the physical environment or that the mitigation measures are infeasible. Please also see Master Response 5, Economic Feasibility of Mitigation. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

#### **Response 31-12**

The comment opines that imposed mitigation measures would result in businesses relocating elsewhere and that the Draft EIR must assess the impacts associated with the City's market demand being captured by other nearby cities. Chapter 5 of the Draft EIR, "Cumulative Impacts", assesses the cumulatively considerable environmental effects in accordance with CEQA Guidelines Section 15130(a). The geographic scope of the cumulative impact assessment varies by topic, but ranges from larger areas such as Fresno County/Central Valley Region of California and the San Joaquin Valley Air Basin to local service areas. As mentioned in Response to Comment 31-9, 'economic and social changes resulting from a project shall not be treated as significant effects on the environment', thus market demand being captured by other nearby cities is not within the purview of CEQA. Please also see Response to Comment 31-11 and Master Response 5, Economic Feasibility of Mitigation. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

#### **Response 31-13**

The comment expresses opinion on the economic effects of downzoning and implementing mitigation measures. See Responses to Comments 31-6 and 31-11, Master Response 4, Master Response 4, Downzoning to Create Transitional or Buffer Areas, and Master Response 5, Economic Feasibility of Mitigation.

The comment conjectures there would be agricultural, VMT and air quality/GHG emissions impacts regarding Fresno residents having to travel farther to find alternative employment in cities outside of Fresno should industrial companies locate or relocate elsewhere, and that this was not analyzed within the Draft EIR. As detailed in Chapter 2, "Project Description," implementation of the SCSP would facilitate opportunities for economic growth and job creation and promote development of underutilized lands. While total development of the Plan Area would not change substantially from what would occur under the City's General Plan, the proposed plan would alter land uses in portions of the Plan Area, generally resulting in less acreage of heavy industrial uses and more acreage of light industrial, commercial and retail. Although heavy industrial uses would have a decrease in acreage available as compared to the General Plan, the future workforce in the city would have opportunities to work in alternate uses such as light industrial, business parks and general commercial uses. Additionally, the 7,100 additional jobs mentioned in the comment letter would be spread over the 2022-2040 planning timeframe, so to suggest that all 7,100 potential future employees would seek employment in surrounding cities resulting in an additional 426,000 daily VMT would



appear to be an unreasonable and speculative statement given that anticipated growth occurs over a 18 year timeframe. The comment does not include evidence to support this statement. Additionally, as explained in Chapter 4.15 of the Draft EIR, "Transportation," the City's recommended methodology for conducting VMT assessments for land use plans is to compare the existing VMT per capita and/or VMT per employee for the region with the expected horizon year VMT per capita and/or VMT per employee for the land use plan. As such, the VMT analysis undertaken for the Draft EIR is in line with the city's CEQA Guidelines for VMT Thresholds (Adopted June 25, 2020) and the cumulative transportation assessment included regional and local roadways and freeways where the project could contribute traffic that could alter traffic conditions.

As identified in Chapter 5 of the Draft EIR, "Cumulative Impacts", the San Joaquin Valley Air Basin, which comprises the counties of San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare and a portion of Kern (western Kern County) was the geographic area used in the cumulative assessment, for air quality which determined cumulative impacts from both construction and operation would be significant and unavoidable. For GHG emissions, this was a global geographic scope and again it was determined operational impacts would be significant and unavoidable. Thus, the Draft EIR analysis considers the cumulative impacts on a much wider scale than the commentor's assertion that the Draft EIR didn't assess these impacts.

With regard to agricultural resources, and the assertion that through driving industrial development elsewhere, the City will increase the conversion of farmland at a regional and particularly a cumulative level is, to a large degree, conjectural. The City of Fresno has no jurisdiction over decisions by other cities whether or not to allow the conversion of farmland for industrial use. However, the cumulative agricultural resources assessment undertaken for the Draft EIR noted the regional conversion of Important Farmland by urban development and regional conflicts with Williamson Act contracts are significant cumulative impacts. Through implementation of Mitigation Measure 4.2-1, which would require future development to mitigate the loss of Important Farmland on a project-by-project basis before construction or ground-disturbing activities, would help address the cumulative impact of conversion of farmland to non-farmland uses. However, as identified in the cumulative assessment, the SCSP's contribution to cumulative impacts related to farmland conversion and conflicts with Williamson Act contracts would be cumulatively considerable and significant and unavoidable.

The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

#### **Response 31-14**

The comment asserts that the SCSP does not meet the project objectives and that the project description is inadequate. The comment opines that the SCSP would exacerbate existing low vacancy rates and stagnate industrial development; would not provide diverse employment opportunities for local workers; would drive business to nearby communities, and the ZEV mandate will create its own environmental impacts; buffer requirements would not preserve existing operations; would not protect against incompatible uses; and would not "expand the supply of 'shovel-ready' sites."

Please see Response to Comment 31-11 with regard to the rationale behind the chosen mitigation measures, economic effects not considered a significant effect under CEQA, and Master Response 5, Economic Feasibility of Mitigation. The City also notes that within Attachment A of the commentor's letter, it is stated:

"In the Central Valley, proximity and access to a transportation corridor, such as Highway (HWY.) 99, is often a determining factor of whether a developer elects to build or pass on a site. Over time, it has become difficult to secure sites, especially those that are near Highway 99 and an interchange. There are only so many options available in this part of the state and often the City of Fresno is the initial, preferred location."

Thus, the assertion by the commentor that substantial evidence does not support the conclusion that the SCSP would stimulate economic development and provide employment opportunities seems to be contrary to the statement provided by the expert report submitted by the commentor, given the proximity of the SCSP to Highway 99 access. While potentially more-polluting heavy industrial facilities would have less acreage within the SCSP, this would be replaced largely by light industrial, business park, and general commercial uses, providing a greater range of

employment opportunities in industries that might not otherwise locate there. The desirability of the location, or as specified within the commentor's letter, Attachment A, "The adage, "location, location, location" is true", is therefore naturally going to attract development, especially from environmentally conscious companies that are aware of the high pollution burden faced by the local communities.

In addition, please see Master Response 5, Economic Feasibility of Mitigation, and Responses to Comments 1-5, 31-11, 31-12 and 31-13 regarding Zero Emission Vehicles, rationale behind the recommended mitigation measures, and cumulative assessment undertaken in the Draft EIR. Please see Master Response 4, Downzoning to Create Transitional or Buffer Areas regarding buffers and downzoning.

For the reasons outlined above, no edits to the Draft EIR are needed in response to this comment.

### **Response 31-15**

The comment asserts that the SCSP does not meet the project objectives, that the Business Plan Alternative option would be preferential, and that the project description is not clear, accurate, or stable. The project objectives were derived from the SCSP as well as discussion with the City. CEQA Guidelines Section 15124(b) requires that the description of the project in an EIR include a clearly written statement of a proposed project's objectives to help a lead agency develop reasonable range of alternatives and aid its decision making body when preparing Findings of Fact and a Statement of Overriding Considerations, if necessary. CEQA does not provide guidance on the type of objectives or how an agency should develop them. The project objectives were established by the City based on its vision for the plan area and through engagement with the community. The commentor does not suggest any specific objectives that should be included in the project description. The project description meets the requirements of CEQA, and no revisions are necessary.

Regarding the comment on alternatives, an EIR must describe a reasonable range of alternatives to the project, or to its location, that could feasibly attain the project's basic objectives while reducing or avoiding any of its significant impacts, including the comparative merits of each alternative (CEQA Guidelines Section 15126.6(a)—(e)), which the Draft EIR comprehensively describes in Chapter 6, "Project Alternatives". Additionally, per CEQA Guidelines Section 15126.6(a):

"An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation."

As described in Chapter 6, "Project Alternatives", three alternatives were evaluated in the Draft EIR, No Project/General Plan Land Use Alternative, Farmland Conservation Alternative, and Reduced Plan Area Alternative, together with an additional two project options put forward by certain community members and businesses, the Community Plan Alternative and Business Plan Alternative, respectively. The project objectives are consistent and ensure the alternatives analysis considers a reasonable range of alternatives that would meet the project objectives. As the lead agency decision-making body, before approving the project, the City Council must certify the Final EIR as adequate and completed in accordance with CEQA. The City must also review and consider the information contained in the Final EIR, including all supporting documents, before considering approval of the project. The City will certify the Final EIR using independent judgment and analysis. In consideration of the findings of the Final EIR, the City will either approve the project or an alternative thereof (approval of No Project would constitute denial) through a written Finding of Fact for each identified significant adverse environmental impact and a Statement of Overriding Considerations in light of significant and unavoidable impacts identified in the Final EIR.

While the commentor asserts the project description was not clear or stable, the commentor is referred to Chapter 3, "Project Description" and both of the NOPs within Appendix A of the Draft EIR, noting that it was in response to community feedback received on the initial concept for the SIPA Specific Plan that the City initiated a new planning process and retitled the plan area the South Central Specific Plan. While there is a difference between the original project in the 2019 NOP and the project assessed in the Draft EIR, the project has been consistent since issuance of

the recirculated NOP. The outcome of the community engagement process since the original SIPA Specific plan was the development of three alternative land use maps: one reflecting a plan focused on residential and community-serving development (Community Alternative), a second focused almost exclusively on industrial development (Business Alternative), and a third that represents a blending of the Community and Business alternatives (Blended Alternative and SCSP, the proposed plan). In accordance with CEQA case law (see *Washoe Meadows Community v. Department of Parks & Recreation* (2017) 17 Cal.App.5th 277 [*“Washoe Meadows”*]), in which the EIR identified five vastly different alternatives as potential projects and did not identify a preferred or proposed project, the City did identify a proposed plan and undertook alternatives analysis in accordance with CEQA. In addition, as discussed in Chapter 6, Alternatives, of the EIR, the Business Plan Option results in greater environmental impacts than the Proposed Plan and does not reduce any environmental impacts below those of the Plan.

The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

#### **Response 31-16**

The comment addresses downzoning. Please see Master Response 4, Downzoning to Create Transitional or Buffer Areas and Responses to Comments 31-11, 31-12, and 31-13.

In addition, the comment requests that the City assess the cumulative impacts and the economic impact of downzoning. Please see Master Response 3, Program Versus Project-Level Analysis, and Master Response 4, Downzoning to Create Transitional or Buffer Areas, and Response to Comments 31-11, 31-12, and 31-13. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

#### **Response 31-17**

The comment asserts that several mitigation measures are infeasible including Mitigation Measure 4.3-1h and Mitigation Measure 4.3-1i regarding Zero Emission Vehicles. Please see Master Response 5, Economic Feasibility of Mitigation, and Responses to Comments 1-5, 13-2, 31-11, 31-12, and 31-13 regarding Zero Emission Vehicles and rationale behind the chosen mitigation measures. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

#### **Response 31-18**

The comment asserts that Mitigation Measure 4.6-1d is infeasible. Please see Master Response 5, Economic Feasibility of Mitigation. Please refer to Response to Comment 8-12..

The revisions made do not alter the findings of the Draft EIR and no further response is required. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

#### **Response 31-19**

The comment asserts that Mitigation Measure 4.3-1b is infeasible. Please see Master Response 5, Economic Feasibility of Mitigation, and Response to Comments 1-5, 1-8, and 7-6. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

#### **Response 31-20**

The comment asserts that Mitigation Measure 4.3-1a is infeasible. Please see Master Response 5, Economic Feasibility of Mitigation, and Responses to Comments 1-8 and 7-4, noting that the language of Mitigation Measure 4.3-1a has been amended on page 4.3-30. Please refer to Response to Comment 1-2 for a summary of the proposed text edits to Mitigation Measure 4.3-1a.

#### **Response 31-21**

The comment asserts that the Draft EIR did not adequately assess the feasibility of mitigation measures. Please see Master Response 5, Economic Feasibility of Mitigation. The comment does not provide any specific evidence that the

mitigation measures are socially or economically infeasible. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

### **Response 31-22**

The comment states that the Draft EIR fails to assess environmental effects associated with the requirement to transition to electric vehicles, such as through increased electricity demand, emissions associated with the operation of Zero Emission Vehicles, and that there is no discussion of the additional vehicle miles traveled that would result from the early transition to Zero Emission Vehicles and that the transition to electric vehicles at a rate exceeding that imposed by CARB would accelerate the recognized environmental impacts associated with the need to develop electric infrastructure and new/modified facilities to meet the demand for Zero Emission Vehicles.

As an initial matter, it is well known that electric vehicles play a key in California's efforts to reduce greenhouse gas (GHG) emissions and achieve its climate goals. A detailed analysis of increased electrical demand, emissions associated with ZEVs, ZEV performance, and development of electrical infrastructure are not only unnecessary given the statewide efforts to establish such infrastructure and that such infrastructure would already be required to support development of the plan area but would also be infeasible given the program level analysis of the SCSP. As specified in Master Response 3, Program Versus Project-Level Analysis, the Draft EIR addresses a regional-scale, policy-level plan and it is, therefore, not feasible to provide details on yet-unknown site-specific projects or activities. As described in the Draft EIR, the broad geography and long timeframe to which the SCSP applies, and the policy-oriented nature of its guidance, is such that the EIR's impact analysis is prepared at a policy level—that is, a more general analysis with a level of detail and degree of specificity commensurate with that of the plan itself. As such, the EIR focuses on the potential effects of land use changes and policies, which—because they are to be implemented through as-yet-undefined projects over the duration of the Plan—are inherently less precise. The EIR is not intended to take the place of all project-specific environmental documentation that will be needed to implement actions anticipated to occur following approval of the SCSP, nor does it contain sufficient analytical detail for the City to approve site-specific projects that may be proposed in the future consistent with the SCSP without some level of subsequent project-specific review.

Furthermore, CEQA Guidelines Section 15126.2(b), regarding a project's energy impacts, state: "This analysis is subject to the rule of reason and shall focus on energy use that is caused by the project." It is entirely speculative to assess the increased electricity demand associated with the transition to an unknown number of electric vehicles, as there are far too many variables that go far beyond the remit of the EIR. Similarly, it is speculative to assess the impacts of the weight of an unknown number of Zero Emission Vehicles on particulate matter (PM) emissions from tire wear and entrained road dust, from the emissions savings that would be gained from using Zero Emission Vehicles in the first place, as by definition, Zero Emission Vehicles emit zero (or near-zero) emissions. Please see Master Response 3, Program Versus Project-Level Analysis, and note that air quality, greenhouse gas and energy use impacts for individual discretionary projects under the SCSP would be subject to their own independent CEQA review and analysis. In addition, many of these same comments were raised by the commentor in response to CARB's environmental analysis for the Advanced Clean Fleets Regulation (Attachment E). Rather than repeat the responses, the reader is referred to the *Response to Comments on the Draft Environmental Analysis prepared for the Advanced Clean Fleets Regulation*, and the responses to Comment Letter 290, which are CARB's responses to the commentor's letter. As outlined in the *Response to Comments on the Draft Environmental Analysis prepared for the Advanced Clean Fleets Regulation* document, a 2020 study undertaken by the Pacific Northwest National Laboratory on behalf of the U.S. Department of Energy "Electric Vehicles at Scale – Phase I Analysis: High EV Adoption Impacts on the Western U.S. Power Grid" identified that under a "high-penetration" scenario with national electric fleets of approximately 24 million Light Duty Vehicles, 200,000 Medium Duty Vehicles, 150,000 Heavy Duty Vehicles for a 2028 time frame, no resource adequacy issues were expected (Pacific Northwest National Laboratory 2020). The report also identified that with managed charging strategies, resource adequacy can be doubled. It is therefore likely that as more electrical distribution upgrades are brought online, the electric grid would have adequate capacity to support the uptake of Zero Emission Vehicles as new electricity load from Zero Emission Vehicles is accounted for in the California Energy Commission's (CEC) electricity demand forecast.



The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

**Response 31-23**

The comment consists of prefatory remarks introducing California's Planning and Zoning Laws and does not address the environmental analysis or adequacy of the Draft EIR. Therefore, no further response is required.

**Response 31-24**

The comment asserts that the SCSP conflicts with several objectives and policies of the City of Fresno's General Plan and does not address the environmental analysis or adequacy of the Draft EIR. Refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

**Response 31-25**

The comment asserts that the SCSP conflicts with several objectives and policies of the City of Fresno's General Plan and does not address the environmental analysis or adequacy of the Draft EIR. Refer to Master Response 1, Comments Pertaining to the South Central Specific Plan. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

**Response 31-26**

The comment asserts that the SCSP would cause spot zoning. Refer to Master Response 1, Comments Pertaining to the South Central Specific Plan.

**Response 31-27**

The comment states that the conclusions in the SCSP and the Draft EIR are based in part on the South Central Fresno AB 617 Community Truck Reroute Study: Truck Routing and Implementation Strategies Report (April 2024), states that the City should not use the document in the Draft EIR analysis, and references a comment letter raised about the study (Attachment G). Upon review of the comment letter, there do not appear to be any assertions that the study is deeply flawed, but instead the letter requests that a number of elements in the study be amended. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination. Please also see Master Response 6, Relationship to the Truck Reroute Study.

**Response 31-28**

The comment states that the City of Fresno is preempted by the Clean Air Act from adopting or attempting to enforce any standards relating to the control of new motor vehicles and cites Mitigation Measures 4.3-1h and 4.3-1i as examples. The comment goes on to summarize the requirements of Mitigation Measure 4.3-1h to specify years by which late-model and zero-emission trucks will be used. This measure does not, as the comment purports, preempt the Clean Air Act nor relate to enforcing the emissions allowed from new motor vehicles. The measure relates to the timing of use of available vehicles, not to the emissions of those vehicles. Even if the identified mitigation measure may require a waiver from the Clean Air Act, in April, 2023 the EPA granted the California Air Resources Board (CARB) a waiver from the Clean Air Act for its Advanced Clean Truck (ACT) regulations. These mitigation measures are consistent with the purpose and intent of CARB's ACT regulations. Furthermore, the City engaged in extensive consultation efforts with CARB regarding the contents of this EIR. At no point during that consultation process did CARB raise any concerns related to the City's ability to require these mitigation measures. Notwithstanding, the comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

**Response 31-29**

The comment opines that Mitigation Measure 4.3-1i operates as a purchase mandate but does not address the environmental analysis or adequacy of the Draft EIR. Therefore, no further response can be provided. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

**Response 31-30**

The comment opines that the mitigation measures constitute emissions standards under the Clean Air Act, which is incorrect. The comment does not address the adequacy of the Draft EIR and no further response is required. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

**Response 31-31**

This comment states that the mitigation measures are more stringent than those for which CARB has received waivers to adopt and enforce, and are preempted under section 209 of the CAA. These mitigation measures are consistent with the purpose and intent of CARB's ACT regulations for which the EPA granted a waiver from the Clean Air Act. Furthermore, the City engaged in extensive consultation efforts with CARB regarding the contents of this EIR. At no point during that consultation process did CARB raise any concerns related to these mitigation measures impermissibly exceeding the requirements of CARB's ACT regulations. City's ability to require these mitigation measures. Please see Response to Comment 13-2 for an explanation why the project has more stringent requirements than CARB. The comment does not address the adequacy of the Draft EIR, and no further response is required.

**Response 31-32**

This comment asserts that the Mitigation Measures are preempted by and conflict with several pieces of legislation such as the Health and Safety Code. The comment also incorrectly states that "Mitigation Measures 4.3-1h and 4.3-1i require fleet vehicle operators of motor vehicles, including non-road motor vehicles, to purchase zero-emission vehicles within the SCSP." The mitigation measures do not enforce any purchase, although they do require the use of Low- or Zero-Emission Vehicles including Heavy-Duty Trucks and Equipment. How future companies operating within the SCSP determine whether to purchase or lease those vehicles is entirely within their control and outside the jurisdiction of the City. In addition, CEQA case law provides examples in which it was determined that more stringent local regulations are not preempted by State Acts (see *D'Egidio v. City of Santa Clarita (2016) 4 Cal.App.5th 515*). Another example would be regarding VMT and Public Resources Code Section 21099(e) which notes "This section does not affect the authority of a public agency to establish or adopt thresholds of significance that are more protective of the environment." Thus, in light of the extreme air pollution burden to communities in the SCSP plan area, it is just that the mitigation measures are more stringent as they offer greater protection to the environment and the communities therein. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

**Response 31-33**

This comment alleges SCSP Mitigation Measures contradict General Law. Please see Response to Comment 13-2, 31-23, and 31-32, noting that in light of the extreme air pollution burden to communities in the SCSP plan area, it is reasonable that the mitigation measures are stringent and offer ample protection to the environment and the communities therein. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.

**Response 31-34**

The comment consists of closing remarks and summarizes the opposition letter. Please see previous responses to comments.

## 2.3.5 Individuals

8/9/24, 10:14 AM

South Central Specific Plan and Environment Impact Report Comments - Kathie Washington - Outlook

### South Central Specific Plan and Environment Impact Report Comments

DePew, Rosa@EDD &lt;Rosa.DePew@edd.ca.gov&gt;

Tue 7/30/2024 3:09 PM

To:SCSP &lt;SCSP@fresno.gov&gt;

**Letter**  
**32**

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

To whom it may concern:

Thank you for accepting comments on the South Central Specific Plan and Environment Impact Report. Below is my list of comments/concerns.

- Wat Brahmachariyakaram, located on Orange Ave between Central Ave and American Ave is not listed on the report
- Orange Center Elementary School is listed as being built in 1980. The school has been located on Cherry Ave for decades. Maybe even a century.
- Transformative Climate Communities Program is listed on a map and legend. No explanation of it's purpose.
- No explanation of the changes made to areas now zoned as Regional Business Park and Neighborhood Mixed Use (what are the changes?, what will be able to be built in these zones)
- No explanation of the proposed roundabouts planned on North Ave and American Ave
- A simpler explanation of the truck study and what it means is needed
- No mention of the Cherry Auction. Although the Cherry Auction is located in Fresno County, the majority of traffic crosses Central Ave and Cherry Ave every Tuesday and Saturday. This traffic affects all four stops. The streets are jammed with cars and trucks.

32-1

32-2

32-3

32-4

32-5

32-6

32-7

The reports were too long and too complicated to truly understand. The residents of the area want less traffic, less pollution, less growth, or if growth is unavoidable then growth where the residents' health and safety and well-being are a top priority. The residents deserve to be taken into account without their health and safety being collateral damage to the City of Fresno and to people who don't live in the area. Thank You!

32-8

Sincerely,

*Rosa DePew*  
 521 E. Britten Ave  
 Fresno CA 93706  
 (559) 790-3233

## Letter 32 Rosa DePew

7/30/24

### Response 32-1

The comment states that Wat Brahmachariyakaram is not listed on the report. Wat Brahmachariyakaram is located on the eastside of Orange Avenue between E Central Ave and E American Avenue, which is outside of the plan area. Therefore, it is not included in the SCSP or discussed in the SCSP Draft EIR.

### Response 32-2

The comment states that the Orange Center Elementary School is listed as being built in 1980 but it has been on Cherry Avenue for decades. The City confirmed that the School was erected in 1952, the City has revised the Plan to update this date. The comment does not address the environmental analysis or adequacy of the EIR. However, according to the California Department of Education's School Directory (<https://www.cde.ca.gov/schooldirectory/details?cdscode=10623316007009>), Orange Center Elementary was opened on July 1, 1980, which was over four decades ago. No further response is required.

### Response 32-3

The comment states that Transformative Climate Communities Program is listed on a map and legend with no explanation. The comment does not address the environmental analysis or adequacy of the EIR. Please refer to Master Response 1, Comments Pertaining to the South Central Specific Plan. Therefore, no further response is required.

### Response 32-4

The comment states that the changes made to areas currently zoned as Regional Business Park and Neighborhood Mixed-Uses were not explained. The proposed net change for each land use is summarized in Table 3-4 of Draft EIR (page 3-14 of the Draft EIR). Implementation of the SCSP would result in a modest decrease in Regional Business Park from 350 acres to 333 acres. No change to the Neighborhood Mixed-Use land use designation would occur.

The description of each land use designation, including allowable uses, is summarized in Table 3-3 of the Draft EIR (pages 3-11 and 3-12). The Regional Business Park designation is intended for large or campus-like office and technology development that includes office, research and development, manufacturing, and other large-scale, professional uses, with limited and properly screened outdoor storage. The Neighborhood Mixed-Use designation provides for mixed-use residential uses that include local-serving, pedestrian-oriented commercial development, such as convenience shopping and professional offices in two- to three-story buildings. Please refer to Tables 3-3 and 3-4 for information regarding the description of each land use designation and the proposed net change for each land use designation, respectively.

### Response 32-5

The comment states that the proposed roundabouts planned on North Avenue and American Avenue were not explained. Refer to Master Response 1, Comments Pertaining to the South Central Specific Plan. The comment does not address the environmental analysis or adequacy of the EIR. Therefore, no further response is required.

### Response 32-6

The comment states that a simpler explanation of the truck study and what it means is needed. Refer to Master Response 1, Comments Pertaining to the South Central Specific Plan. The comment does not address the environmental analysis or adequacy of the EIR. Therefore, no further response is required.

### Response 32-7

The comment states that the Cherry Auction was not mentioned, leading to congestion and circulation issues. Please see Appendix D of the Draft EIR for a detailed description of the SCSP Transport Impact Assessment methodology.

**Response 32-8**

The comment states that the reports were too long and too complicated to understand and the residents want less traffic, less pollution, and less growth. An EIR is required to be prepared with a sufficient degree of analysis to provide decision-makers with information, which enables them to make a decision that intelligently takes account of environmental consequences. The comment does not specify the complication of the Draft EIR that needs to be explained. Therefore, a reasoned response cannot be provided. One of the project objectives is to minimize environmental and neighborhood impacts. Air quality pollution impacts related to implementation of the SCSP are included in Section 4.3, "Air Quality," of the Draft EIR. As discussed in Section 4.3, the air quality impacts from the SCSP would be reduced to less-than-significant levels with implementation of Mitigation Measures 4.3-1a through 4.3-1m. Impacts related to traffic are discussed in Section 4.15, "Transportation," of the Draft EIR. As analyzed in Impact 4.15-2 of Section 4.15, the proposed plan would result in a 33 percent decrease in vehicle miles traveled. Therefore, the SCSP would result in less traffic impact than existing conditions. Please refer to Sections 4.3 and 4.15 of the Draft EIR for detailed discussion of air quality and traffic impacts, respectively. The comment is included herein as part of the project record and will be considered by the decision-making body in its deliberation and determination.



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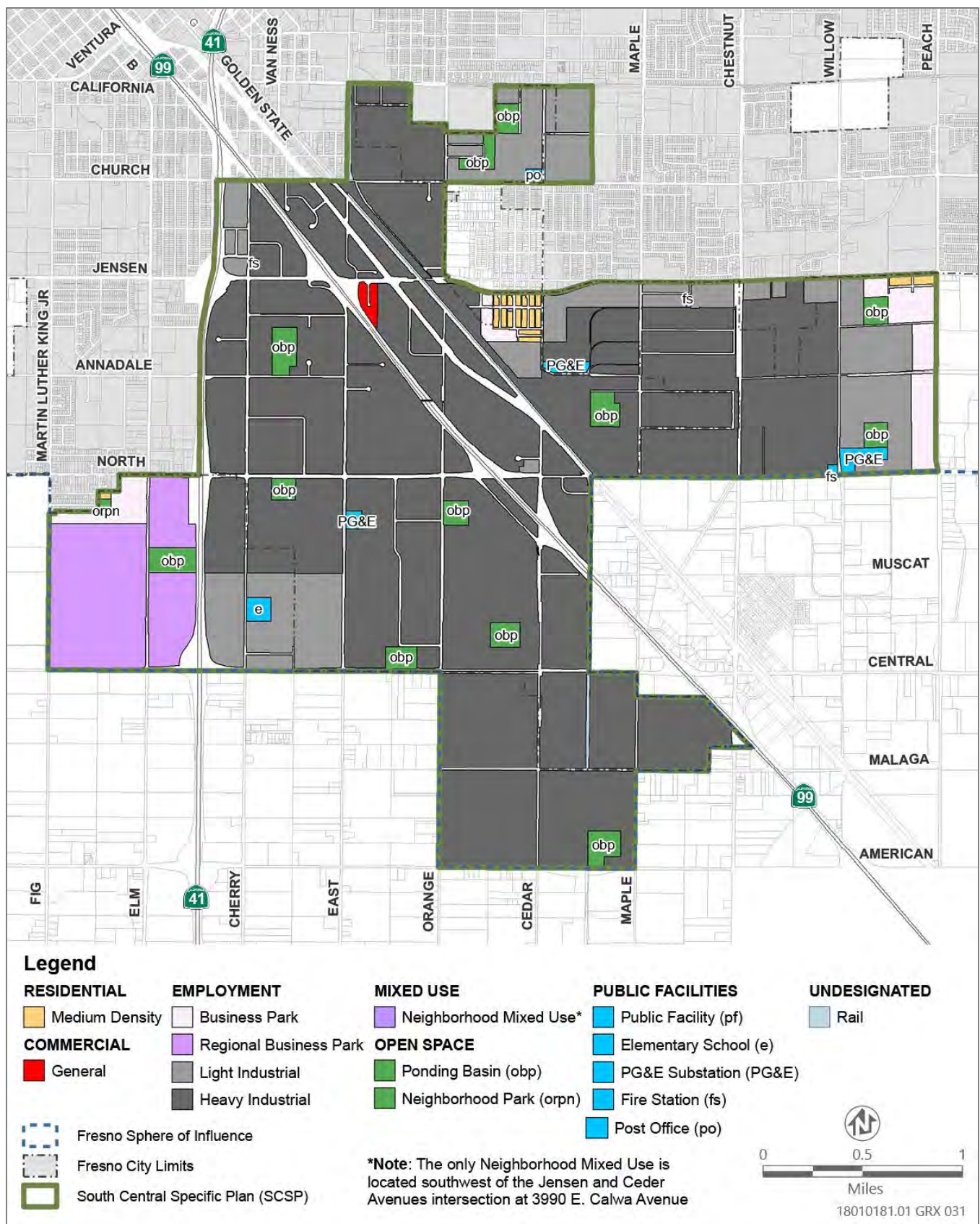
## 3 REVISIONS TO THE DRAFT EIR

This chapter presents specific text changes made to the Draft EIR since its publication and public review. The changes are presented in the order in which they appear in the original Draft EIR and are identified by the Draft EIR page number. Text deletions are shown in ~~strike through~~, and text additions are shown in underline.

The information contained within this chapter clarifies and expands on information in the Draft EIR, or identifies changes made to Draft EIR text in response to comments. None of the revisions included herein constitute "significant new information" requiring recirculation. (See the Master Response regarding recirculation; see also Public Resources Code Section 21092.1; CEQA Guidelines Section 15088.5.)

### 3.1 REVISIONS TO CHAPTER 3, PROJECT DESCRIPTION

Figures 3-5, 3-6, and 3-16 on pages 3-9, 3-XX, and 3-XX of the Draft EIR are revised as follows:

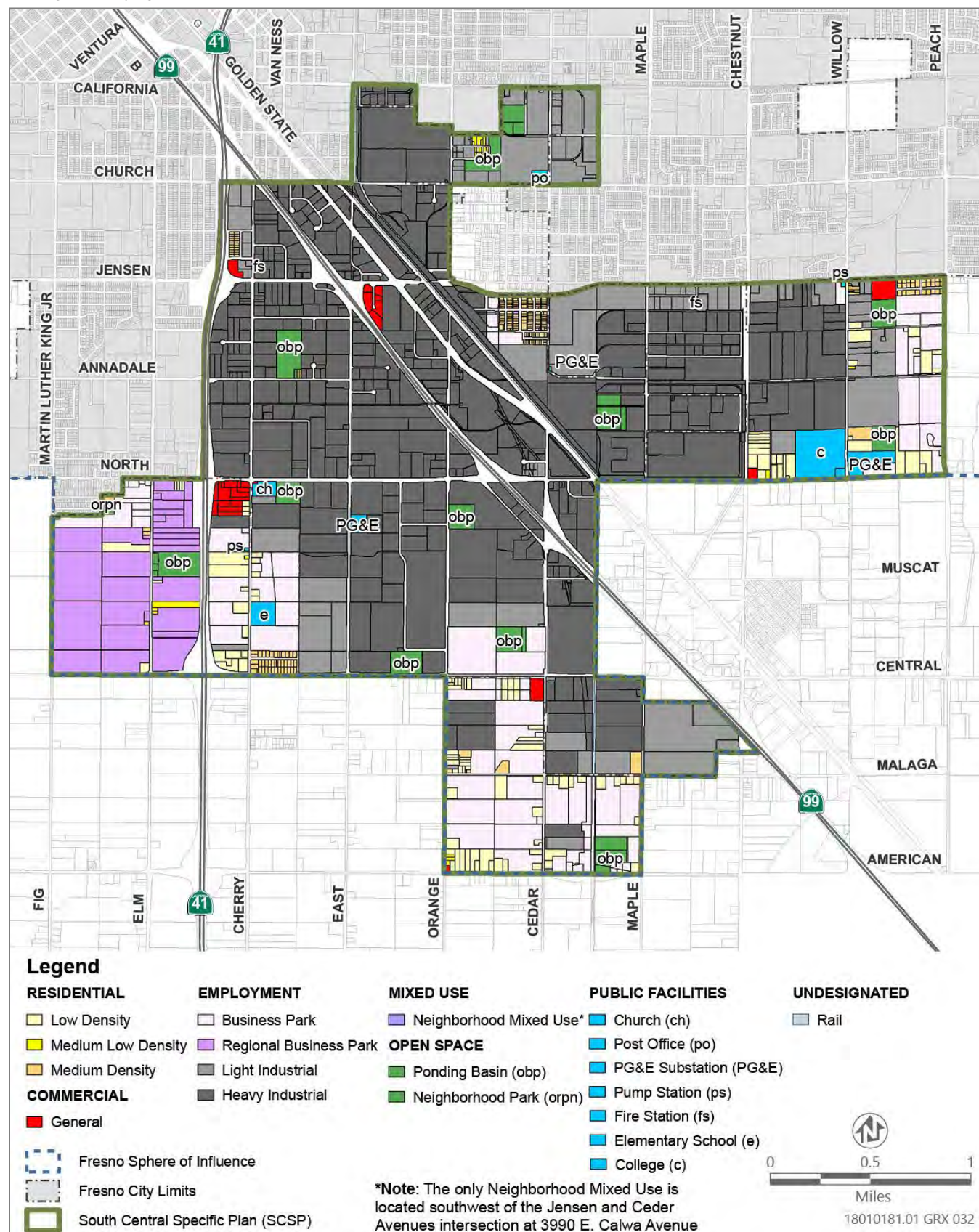


Source: 2023 City of Fresno South Central Specific Plan, adapted by Ascent in 2023.

[Revised] Figure 3-5 Adopted General Plan Planned Land Use



The figure on page 3-13 of the Draft EIR is revised as follows:



Source: 2023 City of Fresno South Central Specific Plan, adapted by Ascent in 2023.

[Revised] Figure 3-6 Proposed Land Use



**Legend**

RESIDENTIAL	EMPLOYMENT	MIXED USE	PUBLIC FACILITIES	UNDESIGNATED
Low Density	Business Park	Neighborhood Mixed Use*	Church (ch)	Rail
Medium Low Density	Regional Business Park	OPEN SPACE	Post Office (po)	
Medium Density	Light Industrial	Ponding Basin (obp)	PG&E Substation (PG&E)	
COMMERCIAL	Heavy Industrial	Neighborhood Park (orpn)	Pump Station (ps)	
General			Fire Station (fs)	
			Elementary School (e)	
			College (c)	

1,000 Foot buffer Sensitive Uses  
Fresno Sphere of Influence  
Fresno City Limits  
South Central Specific Plan (SCSP)

**\*Note:** The only Neighborhood Mixed Use is located southwest of the Jensen and Cedar Avenues intersection at 3990 E. Calwa Avenue

[Revised] Figure 3-16 SPLU Proposed Buffers



The paragraph of Section 3.6.5, "Proposed Utilities," in subsection "Stormwater" on page 3-27 of the Draft EIR is revised as follows:

The Fresno Metropolitan Flood Control District (FMFCD) is a special-~~purpose~~sewer district that acquires and constructs facilities for flood control and the drainage of flood and storm waters, and conserves waters within the City....

The cited text of Section 3.6.6, "Development Standards," on page 3-30 of the Draft EIR is revised as follows:

3. Require a Conditional Use Permit (CUP) for the following use classifications that fall within 1,000 feet of a sensitive use:

- ▶ Motorcycle/Riding Club
- ▶ Construction and Material Yards
- ▶ Limited Industrial
  - Dry cleaning plants would not be permitted
- ▶ Warehousing, Storage, and Distribution: Indoor Warehousing and Storage\*
- ▶ Warehousing, Storage, and Distribution: Outdoor Storage\*
- ▶ Warehousing, Storage, and Distribution: Wholesaling and Distribution\*

\*Must meet CARB criteria for zero or near zero emission facilities, as defined in CA Sustainable Freight Action Plan (July 2016)

The following text of Section 3.8, "Subsequent Entitlements and Approvals," on page 3-36 of the Draft EIR is revised as follows:

Other agencies may be consulted during the adoption process, however, their approval is not required for adoption of the proposed plan. Any subsequent development under the proposed plan may require approval of State, federal and Responsible Trustee Agencies that may rely on the analysis in this Draft EIR. These agencies may include but are not limited to:

- ▶ California Department of Transportation,
- ▶ California State Water Resources Control Board (State Water Board),
- ▶ California Department of Fish and Wildlife (CDFW),
- ▶ Central Valley Regional Water Quality Control Board (Central Valley RWQCB),
- ▶ Fresno Local Agency Formation Commission,
- ▶ San Joaquin Valley Air Pollution Control District (Valley Air District),
- ▶ Fresno ~~Municipal~~Metropolitan Flood Control District, and
- ▶ Fresno Irrigation District.

The following text of Section 3.8.1 "Discretionary and Ministerial Actions," on page 3-36 and 3-37 of the Draft EIR is revised as follows:

- ▶ ~~Replace overlapping portion of the plan areas~~ Repal the 3,888 acre portion of the Roosevelt Community Plan that overlaps the Plan Area.

## 3.2 REVISIONS TO SECTION 4.3, AIR QUALITY

The text of Mitigation Measure 4.3-1a has been revised as follows on page 4.3-20 of the Draft EIR:

### **Mitigation Measure 4.3-1a: Prepare an Ambient Air Quality Analysis and Mitigation Plan or Voluntary Emissions Reduction Agreement**

Prior to future individual discretionary project approval, and once all feasible on-site reduction measures have been incorporated, development project applicants shall prepare and submit to the Director of the Fresno Planning and Development Department, or designee, an ~~AAQA~~ air quality assessment to determine whether any SJVAPCD annual mass emissions thresholds are exceeded or if a future project's emissions may result in the violation of an AAQS. If no thresholds are exceeded, no further action is necessary. If one or more thresholds are exceeded, ~~prior to the issuance of Certificates of Occupancy,~~ future individual development projects will engage in a voluntary emissions reduction agreement (VERA) prior to applying for project-level approval from the City through coordination with SJVAPCD to reduce emissions to ~~meet below~~ SJVAPCD's annual mass emissions thresholds for any pollutant that exceeds the respective threshold. The project applicant shall engage in a discussion with SJVAPCD prior to the adoption of the VERA to ensure that feasible mitigation has been identified to reduce emissions to a less-than-significant level consistent with the direction given in SJVAPCD's GAMAQI. ~~As allowed by SJVAPCD, the~~ The project applicant shall be provided the opportunity to perform an additional quantification of the project's operational emissions to estimate the type of reduction needed to reduce emissions to ~~meet below~~ SJVAPCD's annual significance thresholds ~~of significance~~. Engagement in the VERA shall be monitored by SJVAPCD in perpetuity with oversight by the City.

The language of Mitigation Measure 4.3-1b has been revised on page 4.3-20 of the Draft EIR:

### **Mitigation Measure 4.3-1b: Use Clean Fleets during Construction**

Prior to issuance of future construction contracts, to reduce impacts from construction-related diesel exhaust emissions resulting from development under the SCSP, construction contractors for individual development projects within the SCSP shall demonstrate that they shall use the cleanest available fleet of heavy-duty equipment. This can be accomplished through submitting Construction Clean Fleet paperwork to SJVAPCD in accordance with the requirements of Rule 9510. All on-site yard trucks and forklifts shall be powered by electricity where such equipment is readily available in the marketplace as reasonably determined by the City. Electric forklifts will continue to become more available as the requirements of CARB's proposed Zero-Emissions Forklifts Regulation stimulate the production of these forklifts over time. For any on-site equipment that cannot be electric-powered, and diesel-powered equipment is the only available option, construction contractors shall use equipment that either uses only high-performance renewable diesel (R100 or a similar diesel blend) or meets EPA Tier 4 Final emissions standards.

The language of Mitigation Measure 4.3-1e of the Draft EIR on page 4.3-22 has been amended as follows:

### **Mitigation Measure 4.3-1e: Implement Exhaust Control Measures**

To reduce impacts from construction-related exhaust emissions, for all construction activities occurring from projects under the proposed plan, construction contractors shall implement the following measures, as recommended by the Sacramento Metropolitan Air Quality Management District, among other air districts:

- ▶ Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 3 minutes, ~~[CCR Title 13, Sections 2449(d)(3) and 2485]~~ as enforced by an identified compliance officer within the construction crew. Idling restrictions shall be enforced by highly visible posting at the site entry, posting at other on-site locations frequented by truck drivers, conspicuous inclusion in employee training and guidance material and owner, operator or tenant direct action as required.
- ▶ Maintain construction equipment and provide current certificate(s) of compliance for CARB's In-Use Off-Road Diesel-Fueled Fleets Regulation [CCR Title 13, Sections 2449 and 2449.1] to SJVAPCD.

- ▶ Maintain all construction equipment in proper working condition according to manufacturer's specifications. The equipment must be checked by a certified mechanic and determined to be running in proper condition before it is operated. Documentation of a certified mechanic's inspection and determinations shall be maintained by the Construction Manager and available for City inspection upon reasonable request.

This shall be enforced by the City.

The language of Mitigation Measure 4.3-1d of the Draft EIR on pages 4.3-21 and 4.3-22 has been amended as follows:

#### **Mitigation Measure 4.3-1d: Implement Dust Control Measures**

To reduce impacts from construction-related fugitive dust emissions resulting from plan-related development, construction contractors shall be required to implement the following dust control measures in accordance with SJVAPCD's Regulation VIII including additional dust reducing measures:

- ▶ All soil being actively excavated or graded shall be sufficiently watered to prevent excessive dust. Watering shall occur as needed with complete coverage of disturbed soil areas. Watering shall take place a minimum of three times daily on disturbed soil areas with active construction activities operations unless dust is otherwise controlled by rainfall or use of a dust suppressant.
- ▶ After active construction activities, soil shall be stabilized with a non-toxic soil stabilizer or soil weighting agent, or alternative soil stabilizing methods.
- ▶ All unpaved construction and operation/maintenance site roads, as they are being constructed, shall be stabilized with a non-toxic soil stabilizer, water, or soil weighting agent.
- ▶ All clearing, grading, earth moving, and excavation activities shall cease during periods of winds greater than 20 miles per hour (averaged over one hour), or when dust plumes of 20 percent or greater opacity impact public roads, occupied structures, or neighboring property or as identified in a plan approved by the SJVACD.
- ▶ All trucks leaving construction sites will cover all loads of soils, sands, and other loose materials, or be thoroughly wetted with a minimum freeboard height of six inches.
- ▶ Areas disturbed by clearing, earth moving, or excavation activities shall be minimized at all times.
- ▶ Stockpiles of soil or other fine loose material shall be stabilized by watering or other appropriate method to prevent wind-blown fugitive dust.
- ▶ All soil storage piles and disturbed areas that remain inactive for longer than 10 days shall be covered or shall be treated with appropriate dust suppressant compounds.
- ▶ Prior to construction, wind breaks (such as chain-link fencing including a wind barrier) shall be installed where appropriate.
- ▶ Where applicable, mowing will be utilized to clear construction areas instead of disking or grading.
- ▶ The proponents/operators of future projects shall use GPS or lasers to level posts, generally avoiding grading except when elevation changes exceed design requirements.
- ▶ When grading is unavoidable, grading is to be phased and done with the application of a non-toxic soil stabilizer or soil weighting agent, or alternative soil stabilizing methods.
- ▶ Where feasible, plant roots shall be left in place where possible to stabilize the soil.
- ▶ Reduce and/or phase the amount of the disturbed area (e.g., grading, excavation) where possible.

After active clearing, grading, and earth moving is completed within any portion of the site, the following dust control practices shall be implemented:

- ▶ Dust suppressant should be used on the same day or day immediately following the cessation of activity for a particular area where further activity is not planned.
- ▶ All unpaved road areas shall be treated with a dust suppressant or graveled to prevent excessive dust.
- ▶ The proponents/operators of future projects shall use dust suppression measures during road surface preparation activities, including grading and compaction.

During all phases of construction, the following vehicular control measures shall be implemented:

- ▶ On-site vehicle speed shall be limited to 15 miles per hour on unpaved areas within individual project sites. Vehicles may travel up to 25 miles per hour on paved roads.
- ▶ Visible speed limit signs shall be posted at main ingress point(s) on site.
- ▶ Streets used by projects during construction shall be kept clean, and project-related accumulated silt shall be removed a minimum of once daily, or as necessary to prevent substantial off-site fugitive dust releases. The use of dry rotary brushes (unless prior wetting) and blower devices is prohibited.
- ▶ If site soils cling to the wheels of the vehicles, then a track out control device, or other such device shall be used on the road exiting the project site, immediately prior to the pavement, to remove most of the soil material from vehicle tires.

This shall be enforced by the City in the form of a Dust Control Plan with verification by SJVAPCD.

The language of Mitigation Measure 4.3-1f of the Draft EIR has been revised as follows on page 4.3-22:

#### **Mitigation Measure 4.3-1f: Reduce Emissions from Architectural Coatings**

During construction, to reduce impacts from construction-related ROG emissions leading to ozone formation, for all construction activities occurring from development under the proposed plan, construction contractors shall use low-VOC (i.e., ROG) coatings (no greater than 10 grams per liter) beyond SJVAPCD's mandatory requirement (i.e., Regulation VIII, Rule 3, "Architectural Coatings"). This shall be enforced by the City with verification by SJVAPCD.

The text of Mitigation Measure 4.3-1h on page 4.3-22 through 4.3-23 of the Draft EIR has been revised as follows:

#### **Mitigation Measure 4.3-1h: Use Low- or Zero-Emission Heavy-Duty Trucks and Equipment**

Future tenants of new and redeveloped commercial and industrial land uses (those over which the City will have discretionary approval) shall ensure that all heavy-duty trucks (Class 7 and 8) domiciled on the project site are model year 2014 or later from start of operations and shall expedite a transition to zero-emission vehicles, with the fleet fully zero-emission by December 31, 2026, or when commercially available for the intended application (as determined by the City based on substantial evidence), whichever date is later. For industrial uses or uses that would require deliveries to/from the site (i.e., at loading docks), all heavy-duty truck fleets associated with operational activities must utilize the cleanest available heavy-duty trucks, including zero and near-zero that meet 0.02 gram per brake horsepower-hour NO<sub>x</sub> technologies. For industrial uses or any other use that requires operational on-site equipment (cargo handling, yard hostlers, forklifts, pallet jacks), zero-emissions technologies shall be used. "Domiciled at the project site" shall mean the vehicle is either (i) parked or kept overnight at the project site more than 70 percent of the calendar year or (ii) dedicated to the project site (defined as more than 70 percent of the truck routes (during the calendar year) that start at the project site even if parked or kept elsewhere). Zero-emission, heavy-duty trucks which require service can be temporarily replaced with model year 2014 or later trucks. Replacement trucks shall be used for only the minimum time required for servicing fleet trucks.

Future tenants of commercial and industrial land uses shall ensure that adequate electrical infrastructure is provided to allow for the transition to electric heavy-duty trucks.

Owners, operators, or tenants shall prohibit the use of diesel generators, except in emergency situations, in which case such generators shall have Best Available Control Technology (BACT) that meets ARB Tier 4 emission standards, or the most current and strict BACT available prior to the issuance of an Authority to Construct, as determined by SJVAPCD.

This shall be enforced through oversight by the City and shall be included as part of contractual lease agreement language to ensure the tenants/lessees are informed of all ongoing operational responsibilities.

The language of Mitigation Measure 4.3-3a and 4.3-3b have been revised as follows on pages 4.3-31 of the Draft EIR:

#### **Mitigation Measure 4.3-3a: Require Construction Health Risk Assessment**

A site-specific HRA shall be required for all construction projects anticipated to last more than ~~six~~ two months and located within 1,000 feet of sensitive receptors (as defined by SJVAPCD) regardless of intensity of construction. In addition to project-level health risk from construction, future construction HRAs must evaluate cumulative health risk levels from project implementation. All recommendations from the HRA shall be enforced as conditions of approval of the development. If the recommendations of the HRA are insufficient to reduce impacts to levels at or below SJVAPCD's threshold of 20 in one million, such development with significant cancer risk (i.e., that exceed that threshold) shall be prohibited.

#### **Mitigation Measure 4.3-3b: Require Operational Health Risk Assessment**

A site-specific HRA shall be required for the operation of projects that propose the use of TAC-emitting equipment or industrial processes ~~located within 1,000 feet of sensitive receptors (as defined by SJVAPCD).~~ In addition to project-level health risk from operation, future operation HRAs must evaluate cumulative health risk levels from project implementation. All recommendations from the HRA shall be enforced as conditions of approval of the development. If the recommendations of the HRA are insufficient to reduce impacts to levels at or below SJVAPCD's threshold of 20 in one million, such development with significant cancer risk shall be prohibited.

The language of Mitigation Measure 4.3-3d has been revised as follows on pages 4.3-31 through 4.3-32 of the Draft EIR:

#### **Mitigation Measure 4.3-3c: Incorporate Design Features at Truck Loading Areas to Reduce Health Risk Exposure at Sensitive Receptors**

Future developments under the plan shall be designed so that truck loading/unloading facilities shall be located at an appropriate setback distance from sensitive receptors. Project-level design, including setback distance, shall be informed by the findings of ~~not be located within 1,000 feet of any sensitive receptor unless~~ a qualified, site-specific HRA, conducted in accordance with SJVAPCD guidance and approved by SJVAPCD that shows that the associated level of cancer risk at the sensitive receptors would not exceed 20 in 1 million. A truck loading/unloading facility is defined as any truck distribution yard, truck loading dock, or truck loading or unloading area where more than one truck with three or more axles will be present for more than 10 minutes per week, on average; and sensitive receptors include residential land uses, campus dormitories and student housing, residential care facilities, hospitals, schools, parks, playgrounds, and daycare facilities. If the HRA determines that a nearby sensitive receptor would be exposed to an incremental increase in cancer risk greater than 20 in 1 million then design measures shall be incorporated to reduce the level of risk exposure to less than 20 in 1 million. Design measures may include but are not limited to the following:

- ▶ All truck loading/unloading facilities to be equipped with one 110/208-volt power outlet for every two-truck loading/unloading facility. A minimum 2-foot-by-3-foot sign shall be clearly visible at each loading dock that indicates, "Diesel engine idling limited to a maximum of 2 minutes." The sign shall include instructions for diesel trucks idling for more than 2 minutes to connect to the 110/208-volt power to run any auxiliary equipment.



- ▶ All loading docks shall be oriented to minimize direct exposure to sensitive receptors.
- ▶ The use of electric-powered “yard trucks” or forklifts to move truck trailers around a truck yard or truck loading/unloading facility.
- ▶ All truck entries shall be located on streets supporting commercial or industrial development (serving more than 50 percent commercial or industrial properties according to the local zoning ordinance), as feasible.
- ▶ The use of buildings or walls to shield commercial activity from nearby residences or other sensitive land uses.
- ▶ The use of EPA-rated Tier 4 Final engines in diesel-fueled construction equipment when construction activities are adjacent to existing sensitive receptors.
- ▶ The planting and maintenance of vegetative buffers between truck loading/unloading facilities and nearby residences, schools, daycare facilities, and any other sensitive receptors. As part of detailed site design, a landscape architect licensed by the California Landscape Architects Technical Committee shall identify all locations where trees should be located, accounting for areas where shade is desired such as along pedestrian and bicycle routes, the locations of solar photovoltaic panels, and other infrastructure.
- ▶ For warehouses larger than 50,000 sf, a 10-foot wide landscaping buffer shall be required measured from the property line to adjacent sensitive receptors; for warehouses larger than 400,000 sf, a 20-foot wide landscaping buffer shall be required measured from the property line to adjacent sensitive receptors.
- ▶ The use of all electrical-powered Transportation Refrigeration Units (TRUs) including access to electrical infrastructure to power TRUs while at a project site.
- ▶ The use of all electric heavy-duty trucks.

The language of Mitigation Measure 4.3-3d and the following concluding paragraph of the Draft EIR on pages 4.3-32 through 4.3-33 has been revised as follows:

#### **Mitigation Measure 4.3-3d: Protect New and Existing Sensitive Land Uses**

To minimize impacts from TAC exposure, for future subsequent development under the proposed plan, the following measures shall be implemented:

- ▶ Avoid siting new sensitive land uses within ~~500~~ 1,000 feet from the centerline of a freeway, unless such development contributes to smart growth, open space, or transit-oriented goals, in which case the development shall include feasible measures such as separation/setbacks, landscaping, barriers, ventilation systems, air filters/cleaners, and/or other effective measures to minimize potential impacts from air pollution.
- ▶ Require new sensitive land uses to include feasible measures such as separation/setbacks, landscaping, barriers, ventilation systems, air filters/cleaners, and/or other effective measures to minimize potential impacts from air pollution.
- ▶ For future development requiring the use of heavy-duty trucks, designate truck routes that avoid sensitive land uses.
- ▶ Require that zoning regulations provide adequate separation and buffering between existing and proposed residential and industrial uses (i.e., a minimum of 1,000 feet).
- ▶ Designate truck routes to avoid residential areas including low-income and minority neighborhoods.

#### **Significance after Mitigation**

Implementation of Mitigation Measure 4.3-3a would require future development under the proposed plan to prepare a project-level construction HRA to assess the potential significance of diesel PM generated during construction on nearby sensitive receptors. If a project cannot demonstrate that mitigation or project design

commitments are sufficient to reduce cancer risk to below SJVAPCD's threshold of 20 in 1 million, the development would not be permitted. Similarly, Mitigation Measure 4.3-3b would require a future development to evaluate its operational contribution of TACs through the preparation of an HRA. If the findings of the HRA demonstrate that emissions would exceed SJVAPCD's cancer and noncancer thresholds of significance, that development would not be permitted. Mitigation Measure 4.3-3c would ensure that a truck loading/unloading facility would not be located within 1,000 feet of a sensitive receptor (e.g., residence, school, daycare facility), which is the CARB-recommended setback distance (CARB 2005: 15), unless a site-specific, SJVAPCD-approved HRA shows that the associated level of cancer risk at the sensitive receptors would not exceed 20 in 1 million. Implementation of Mitigation Measure 4.3-3d would ensure that new residences would not be located within ~~500~~ 1,000 feet of freeways adjacent to the Plan Area, which is the CARB-recommended setback distance (CARB 2005: 10), unless a site-specific, SJVAPCD-approved HRA shows that the associated level of cancer risk at the sensitive receptors would not exceed 20 in 1 million. In addition, as the projects continue to develop over time within the Plan Area, new TAC sources (stationary and mobile) would likely increase the background risk levels in the area, thus potentially exposing receptors to levels greater than 20 in 1 million. Mitigation Measure 4.3-3d provides guidance for siting new sensitive receptors near truck routes and existing sources of TACs. Additionally, Mitigation Measures 4.3-1b, 4.3-1c, 4.3-1e, 4.3-1h, and 4.3-1i include performance standards that would reduce diesel PM emissions from project construction and operation through the prohibition of diesel-powered generators, limiting construction exhaust emissions, and electrification of trucks and vehicles. Mitigation Measure 4.3-3a and 4.3-3b would require project-level HRAs for construction and operation and includes the requirement that projects resulting in an exceedance of SJVAPCD's thresholds not be approved. Nevertheless, at this programmatic stage, it cannot be assured that future TAC emissions from new development in the Plan Area would not expose receptors to a substantial level of pollution. Therefore, while Implementation of Mitigation Measure 4.3-3a through 4.3-3d could substantially reduce TAC emissions, at this programmatic stage and in consideration of the proposed plan's potential to cumulatively combine with its own proposed development and other existing development, this impact would be **significant and unavoidable**.

### 3.3 REVISIONS TO SECTION 4.4, BIOLOGICAL RESOURCES

Mitigation Measure 4.4-1a on page 4.4-19 of the Draft EIR has been revised as shown below:

#### **Mitigation Measure 4.4-1a: Conduct Project-Level Biological Reconnaissance Sensitive Species and Habitats Survey**

During the early planning stages of projects under the SCSP, the following measure shall apply:

- ▶ If a project site has natural land cover and is not within existing development with an urban landscape, a data review and biological reconnaissance survey will be conducted within a project site by a qualified biologist prior to project activities (e.g., ground disturbance, vegetation removal, staging, construction). The survey will be conducted no more than one year prior to project implementation. The qualified biologist must be familiar with the life histories and ecology of species in the City of Fresno and must have experience conducting field surveys of relevant species or resources, including focused surveys for individual species, if applicable. The data reviewed will include the biological resources setting, species tables, and habitat information in this EIR. It will also include review of the best available, current data for the area, including vegetation mapping data, species distribution/range information, CNDDDB, CNPS Inventory of Rare and Endangered Plants of California, relevant Biogeographic Information and Observation System (BIOS) queries, and relevant general plans. BIOS is a web-based system that enables the management and visualization of biogeographic data collected by CDFW and partner organizations. The qualified biologist will assess the habitat suitability of the project site for all special-status plant and wildlife species as well as sensitive habitats identified as having potential to occur in the SCSP area (refer to Section 4.4.2, "Environmental Setting"), and will identify bat maternity roosts within the SCSP area. The qualified biologist will also assess the potential for aquatic resources (e.g., wetlands, streams, seeps) or

sensitive natural communities to be present within the project site. The biologist will provide a report to the City of Fresno with evidence to support a conclusion as to whether special-status species and sensitive habitats are present or are likely to occur within the project site.

- The reconnaissance survey will include a habitat assessment for Crotch's bumble bee based on the habitat assessment guidance in the *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species* (CDFW 2023) or other updated guidance from CDFW. If the habitat assessment determines that habitat suitable for Crotch bumble bee is present within a project area, then Mitigation Measure 4.4-1g will be implemented.
- If the reconnaissance survey identifies no potential for special-status plant or wildlife species, and no potential sensitive habitats including riparian habitat or wetlands, the City of Fresno will not be required to apply any additional mitigation measures under Impact 4.4-1b through ~~4.4-1f~~ 4.4-1g, 4.4-2, or 4.4-3.
- If the qualified biologist determines that there is potential for special-status species or sensitive habitats to be present within the project site, the appropriate biological mitigation measures, identified herein shall be implemented.
- ▶ All special-status species detected during surveys will be reported to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at <https://wildlife.ca.gov/Data/CNDDDB/Submitting-02Data> and the completed form can be mailed to [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov).

Mitigation Measure 4.4-1d on pages 4.4-21 and 4.4-22 of the Draft EIR is revised as follows:

#### **Mitigation Measure 4.4-1d: Conduct Burrowing Owl Survey, Implement Avoidance Measures, and Compensate for Loss of Occupied Burrows**

If it is determined through implementation of Mitigation Measure 4.4-1a that habitat suitable for burrowing owl is present within a particular project site, the following measures shall be implemented:

- ▶ If proposed projects within the Plan Area are implemented in habitat suitable for burrowing owls, a qualified biologist shall conduct ~~a focused~~ surveys for burrowing owls in areas of habitat suitable for the species on and within 1,640 feet (500 meters) of the Plan Area ~~no less than 14 days before initiating ground disturbance activities~~ using survey methods described in Appendix D of the 2012 Staff Report on Burrowing Owl Mitigation prepared by the California Department of Fish and Game (now CDFW) (CDFG 2012) or any subsequent updated guidance. A minimum of four surveys shall be conducted to determine whether burrowing owls occupy the site. If feasible, at least one survey should be conducted between February 15 and April 15 and the remaining surveys should be conducted between April 15 and July 15, at least three weeks apart. Because burrowing owls may recolonize a site after only a few days, one of the surveys, or an additional survey, shall be conducted no less than 14 days before initiating ground disturbance activities to verify that take of burrowing owl would not occur.
- ▶ If no occupied burrows are found, the qualified biologist shall submit a report documenting the survey methods and results to the City of Fresno, and no further mitigation shall be required.
- ▶ If a ~~non-active~~ burrow occupied by a burrowing owl is found during the surveys, ~~within 1,640 feet of pending construction activities during the nonbreeding season (September 1 through January 31), the project proponent shall establish and maintain a minimum protection buffer of 164 feet (50 meters) around the occupied burrow and any identified satellite burrows (i.e., non-nesting burrows that burrowing owls use to escape predators or move young into after hatching) to prevent take of burrowing owls.~~
- ▶ During the non-breeding season (September 1 through January 31), the minimum buffer distance shall be 164 feet (50 m). During the breeding season (February 1 through August 31), the minimum buffer distance shall be increased to 1,640 feet (500 m).

- ▶ ~~The protection~~ buffer may be adjusted if, in consultation with CDFW, a qualified biologist determines that an alternative buffer shall not disturb burrowing owl adults, young, or eggs because of particular site features (e.g., topography, natural line-sight-barriers), level of project disturbance, or other considerations. If the buffer is reduced, a qualified biologist shall monitor the behavior of the burrowing owls during all project activities within 1,640 feet of the burrow. If the owls are disturbed or agitated (e.g., vocalizations, bill snaps, fluffing feathers to increase body size appearance, drooping wings and rotating them forward, crouching and weaving back and forth) by the project activities, the biologist shall have the authority to halt the activities and re-establish a buffer consistent with the first bullet until the agitated behavior ceases and normal behavior resumes.
- ▶ The buffer shall remain in place around the occupied burrow and associated satellite burrows until a qualified biologist has determined through noninvasive methods that the burrows are no longer occupied by burrowing owl. A previously occupied burrow will be considered unoccupied if surveys demonstrate that no owls have used the burrow for seven consecutive days.
- ▶ Locations of burrowing owls detected during surveys shall be reported to the CNDDDB.
- ▶ If implementation of a buffer to prevent take of burrowing owl is not feasible, the project applicant shall consult with CDFW and obtain an Incidental Take Permit (ITP) prior to commencing project related ground-disturbing activities. The impacts of taking burrowing owl shall be minimized and fully mitigated.
- ▶ The project applicant shall compensate for the loss of burrowing owl by establishing permanent protection and perpetual management on land that provides burrowing owl habitat. Habitat management lands for burrowing owl may be established by conservation easement or fee title or credits may be purchased from a CDFW-approved conservation or mitigation bank. The compensatory mitigation shall satisfy permit conditions and all other permit conditions shall be implemented.
- ▶ ~~use of the burrow because of particular site features or other buffering measures. If occupied burrows are present that cannot be avoided or adequately protected with a no-disturbance buffer, a burrowing owl exclusion plan shall be developed, as described in Appendix E of the 2012 Staff Report. Burrowing owls shall not be excluded from occupied burrows until the project burrowing owl exclusion plan is approved by CDFW. The exclusion plan shall include a compensatory habitat mitigation plan (see below).~~
- ▶ ~~If an active burrow is found during the breeding season (February 1 through August 31), occupied burrows shall not be disturbed and shall be provided with a protective buffer at a minimum of 164 feet unless a qualified biologist verifies through noninvasive means that either:~~
  - ~~(1) the birds have not begun egg-laying, or~~
  - ~~(2) juveniles from the occupied burrows are foraging independently and are capable of independent survival.~~
- ▶ ~~The size of the buffer may be adjusted depending on the time of year and level of disturbance as outlined in the 2012 Staff Report. The size of the buffer may be reduced if a broad-scale, long-term, monitoring program acceptable to CDFW is implemented so that burrowing owls are not adversely affected. Once the fledglings are capable of independent survival, the owls can be evicted, and the burrow can be destroyed per the terms of a CDFW-approved burrowing owl exclusion plan developed in accordance with Appendix E of 2012 Staff Report.~~
- ▶ ~~If burrowing owls are evicted from burrows and the burrows are destroyed by implementation of project activities, the project proponent shall mitigate the loss of occupied habitat in accordance with guidance provided in the 2012 Staff Report, which states that permanent impacts on nesting, occupied, and satellite burrows, and burrowing owl habitat (i.e., grassland habitat with suitable burrows) shall be mitigated such that habitat acreage and number of burrows are replaced through permanent conservation of comparable or better habitat with similar vegetation communities and burrowing mammals (e.g., ground squirrels) present to provide for nesting, foraging, wintering, and dispersal. The~~

project proponent shall retain a qualified biologist to develop a burrowing owl mitigation and management plan that incorporates the following goals and standards:

- ~~Mitigation lands shall be selected based on comparison of the habitat lost to the compensatory habitat, including type and structure of habitat, disturbance levels, potential for conflicts with humans, pets, and other wildlife, density of burrowing owls, and relative importance of the habitat to the species throughout its range.~~
- ▶ ~~If feasible, mitigation lands shall be provided adjacent or proximate to the project site so that displaced owls can relocate with reduced risk of injury or mortality. Feasibility of providing mitigation adjacent or proximate to the project site depends on availability of sufficient habitat to support displaced owls that may be preserved in perpetuity.~~
- ▶ ~~If habitat suitable for burrowing owl is not available for conservation adjacent or proximate to the project site, mitigation lands can be secured offsite and shall aim to consolidate and enlarge conservation areas outside of planned development areas and within foraging distance of other conservation lands. Mitigation may be also accomplished through purchase of mitigation credits at a CDFW-approved mitigation bank, if available. Alternative mitigation sites and acreages may also be determined in consultation with CDFW.~~
- ▶ ~~If burrowing owl habitat mitigation is completed through permittee-responsible conservation lands, the mitigation plan shall include mitigation objectives, site selection factors, site management roles and responsibilities, vegetation management goals, financial assurances and funding mechanisms, performance standards and success criteria, monitoring and reporting protocols, and adaptive management measures. Success shall be based on the number of adult burrowing owls and pairs using the site and if the numbers are maintained over time. Measures of success, as suggested in the 2012 Staff Report, shall include site tenacity, number of adult owls present and reproducing, colonization by burrowing owls from elsewhere, changes in distribution, and trends in stressors.~~

The language of Mitigation Measure 4.4-1e on pages 4.4-22 and 4.4-23 of the Draft EIR is revised as follows:

#### **Mitigation Measure 4.4-1e: Conduct Focused Surveys for Special-Status Birds, Nesting Raptors, and Other Native Nesting Birds, and Implement Protective Buffers**

If it is determined through implementation of Mitigation Measure 4.4-1a that habitat for special-status birds, nesting raptors, or other native nesting birds is present within a particular project site, the following measures shall be implemented:

- ▶ To minimize the potential for loss of special-status bird species, raptors, and other native birds (including Swainson's hawk, tricolored blackbird, and white-tailed kite), project activities (e.g., tree removal, vegetation clearing, ground disturbance, staging) shall be conducted during the nonbreeding season (approximately September 16 ~~September 1~~ January 31, as determined by a qualified biologist), if feasible. If project activities are conducted during the nonbreeding season, no further mitigation shall be required. This measure applies to project activities that occur where habitat suitable for nesting is present, as determined by a qualified biologist. Birds may nest on the ground, in bushes, in trees, in structures, and in cavities; therefore, habitat suitable for bird nesting may include portions of the Plan Area that qualify as annual grassland, agricultural land, or riparian habitat.
  - Guidelines provided in *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in the Central Valley* (Swainson's Hawk Technical Advisory Committee 2000) shall be followed for surveys for Swainson's hawk. This protocol includes early season surveys.
  - For other birds, ~~W~~within 14 days before the onset of project activities during the breeding season (approximately February 1 through September 15, as determined by a qualified biologist), a qualified biologist familiar with birds of California and with experience conducting nesting bird surveys shall conduct focused surveys for special-status birds, other nesting raptors, and other native birds.



Surveys shall be conducted in accessible areas within 500 feet of the project site for other raptor species (white-tailed kite) and special-status birds (tricolored blackbird), and within 50 feet of the project site for non-raptor common native bird nests, unless determined otherwise by a qualified biologist.

- If no active nests are found, the qualified biologist shall submit a report documenting the survey methods and results to the applicant and the City of Fresno, and no further mitigation shall be required.
- If active nests are found, impacts on nesting birds shall be avoided by establishing appropriate buffers around active nest sites identified during focused surveys to prevent disturbance to the nest. Project activity shall not commence within the buffer areas until a qualified biologist has determined that the young have fledged, the nest is no longer active, or reducing the buffer would not likely result in nest abandonment.
- Buffers typically shall be ~~0.25 mile (or increased to 0.5 mile in areas away from urban development)~~ for Swainson's hawk, and 500 feet for other raptors. Buffer size for non-raptor bird species shall typically be 250 feet. Variance from these no-disturbance buffers may be possible at the recommendation of the qualified biologist when there is a compelling biological or ecological reason to do so. Factors to be considered for determining buffer size shall include presence of natural buffers provided by vegetation or topography, nest height above ground, baseline levels of noise and human activity, species sensitivity, and proposed project activities. Generally, buffer size for these species shall be at least 20 feet. The size of the buffer may be adjusted if a qualified biologist determines that such an adjustment shall not be likely to adversely affect the nest. Any buffer reduction for a special-status species shall require consultation with CDFW.
- If an active Swainson's hawk nest is detected for project tiered from this plan, and a 0.5-mile no-disturbance buffer is not feasible, the project proponent shall consult with CDFW to discuss how to implement the project and avoid take. If take cannot be avoided, take authorization through the acquisition of an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081 subdivision (b) would be necessary to comply with CESA.
- If active nests are detected, the qualified biologist shall monitor the nest prior to initiation of work to determine a baseline activity level for the nesting birds. If a buffer has been reduced below 250 feet at the recommendation of the qualified biologist, then the nest shall be continuously monitored at the initiation of work inside of the 250 feet to detect behavioral changes resulting from the project. If behavioral changes occur, CDFW shall be consulted for additional avoidance and minimization measures, and work shall be halted and the buffer shall be extended until the nesting birds are confirmed by the qualified biologist to have resumed regular nesting behaviors.
- Periodic monitoring of the nest by a qualified biologist during project activities shall be required if the activity has potential to adversely affect the nest, the buffer has been reduced, or if birds within active nests are showing behavioral signs of agitation (e.g., standing up from a brooding position, flying off the nest) during project activities, as determined by the qualified biologist.

Mitigation Measure 4.4-1g has been added to the project Draft EIR as follows:

**Mitigation Measure 4.4-1g: Conduct Crotch's Bumble Bee Protocol Survey and Avoidance**

If habitat suitable for Crotch's bumble bee is detected in the project area during the reconnaissance survey conducted pursuant to Mitigation Measure 4.4-1a, the following measure shall apply:

- ▶ Surveys for Crotch's bumble bee will be conducted in areas with habitat suitable for Crotch's bumble bee following the protocol in the *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species* (CDFW 2023) or other updated guidance from CDFW. This protocol requires that a qualified biologist conduct three on-site surveys to detect foraging bumble bees and

potential nesting sites (nesting surveys) during the colony active period and when peak floral resources are present (April–August). Each survey should ideally be spaced 2–4 weeks apart. Surveys are only valid for the year in which they are conducted. If more than 1 year passes between survey completion and initiation of ground disturbing project activities, presence surveys must be repeated.

- If surveys are conducted and no Crotch's bumble bee are detected, results shall be reported to CDFW, and work may proceed during that year.
- If surveys indicate the presence or potential presence of Crotch's bumble bee, the project proponent shall consult with CDFW on development of take avoidance and minimization measures. Measures may include avoidance of small mammal burrows and thatched or brunch grasses, onsite biological monitoring during vegetation removal or ground-disturbing activities, or seasonal avoidance of activities during the queen flight period (February – March), the gyne flight period (September – October), and/or the colony active period (April – August).
- ▶ If take of Crotch's bumble bee cannot be avoided, take authorization through acquisition of an Incidental take permit (ITP) pursuant to the Fish and Game Code section 2081, subdivision (b) shall be sought to comply with the California Endangered Species Act (CESA).

The language of Mitigation Measure 4.4-2 of the Draft EIR on pages 4.4-24 and 4.4-25 has been revised as follows to add contact and website reference information, to clarify when an LSAA is required, and to better reflect CDFW's preferred language regarding issuance of an LSAA:

#### **Mitigation Measure 4.4-2: Conduct Surveys for Riparian Habitat and Implement Avoidance Measures**

If it is determined through implementation of Mitigation Measure 4.4-1a that riparian habitat is present within a particular project site, the following measures shall be implemented before implementation of project activities:

- ▶ Activities for projects tiered from the Plan that substantially change the bed, bank, and channel of any river, stream, or lake are subject to CDFW's regulatory authority pursuant to Fish and Game Code 1602. If it is determined that disturbance or fill of state protected streams or riparian habitat cannot be avoided, the project proponent will notify CDFW before commencing activity that may substantially divert or obstruct the natural flow of any river stream or lake; ~~or otherwise~~ substantially change or use materials from the bed, bank, or channel of any river, stream, or lake (including removal of riparian vegetation); or otherwise deposit debris, waste, or other materials that could pass into any river, stream or lake. ~~riparian corridor of any waterway that supports fish or wildlife resources.~~ If project activities trigger the need for a Streambed Alteration Agreement, the proponent will obtain an agreement from CDFW before the activity commences. More information on notification requirements may be found on CDFW's website, <https://wildlife.ca.gov/Conservation/LSA>. Project proponents may also contact CDFW staff in the Central Region Lake and Streambed Alteration Program at (550)243-4593. The applicant will conduct project construction activities in accordance with the agreement, including implementing reasonable measures in the agreement necessary to protect fish and wildlife resources, when working within the bed or bank of waterways or in riparian habitats associated with those waterways. These measures may include demarcation of the construction area, biological monitoring, environmental awareness training for construction crews, and compensatory measures (e.g., restoration, long-term habitat management). If riparian habitat is determined to be present within a particular project site and the habitat cannot be avoided, the following measures shall be implemented: A Streambed Alteration Notification will be submitted to CDFW, pursuant to Section 1602 of the California Fish and Game Code. If proposed project activities are determined to be subject to CDFW jurisdiction, the project proponent will abide by the measures to protect fish and wildlife resources required by any executed agreement prior to any vegetation removal or activity that may affect the resource. Measures to protect fish and wildlife resources shall include, at a minimum, a combination of the following mitigation.

...

The language has been added under the description of the CNDDDB on page 4.4-9 of the Draft EIR and the paragraph is revised as follows:

...CDFW's CNDDDB (CNDDDB 2023), a statewide inventory of the locations and conditions of the State's rarest plant and animal taxa and vegetation types, was also reviewed for specific information on documented observations of special-status species previously recorded in the Plan Area vicinity... The CNDDDB is based on actual recorded occurrences and does not constitute an exhaustive inventory of every resource. As a result, special-status species may be absent from the CNDDDB while still occupying those areas, if habitat suitable for those species is present.

### 3.4 REVISIONS TO 4.10, HYDROLOGY AND WATER QUALITY

The heading of Section 4.10-1, "Regulatory Setting," in subsection "Local" on page 4.10-7 of the Draft EIR is revised as follows:

#### **Fresno ~~Municipal~~ Metropolitan Flood Control District Post-Development Standards Technical Manual**

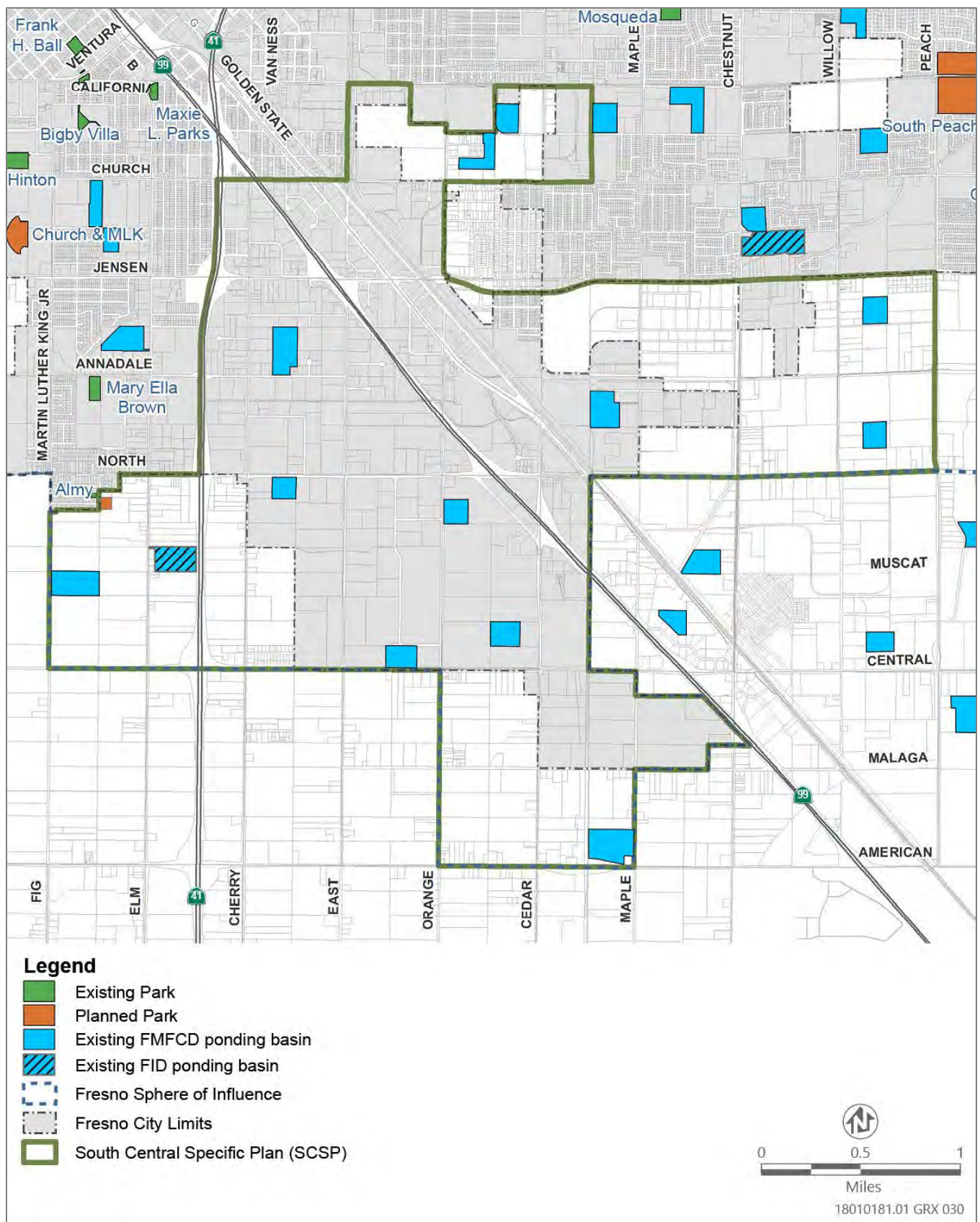
Water quality treatment for post-construction discharges to stormwater in the FMFCD Master Plan Area is provided by detention and retention basins (henceforth referred to as retention basins) that are parts of FMFCDs stormwater drainage system.

The second paragraph on page 4.10-23 in Impact 4.10-3 of the Draft EIR is revised as follows:

The drainage pattern in the Plan Area would remain similar to current conditions but would be expanded over time in compliance with the FMFCD Storm Drain Master Plan as development occurs over the planning period. Surface runoff from the area would be managed via ~~parcel-based LID measures~~, detention/retention basins, and flow reducing BMPs to prevent local flooding within the site.

### 3.5 REVISIONS TO 4.14, PUBLIC SERVICES AND RECREATION

The figure on page 4.14-9 of the Draft EIR is revised as follows:



Source: 2023 City of Fresno South Central Specific Plan, adapted by Ascent in 2023.

[Revised ]Figure 4.14-4 Existing and Planned Parks and Ponding Basins

### 3.6 REVISIONS TO 4.16, UTILITIES AND SERVICE SYSTEMS

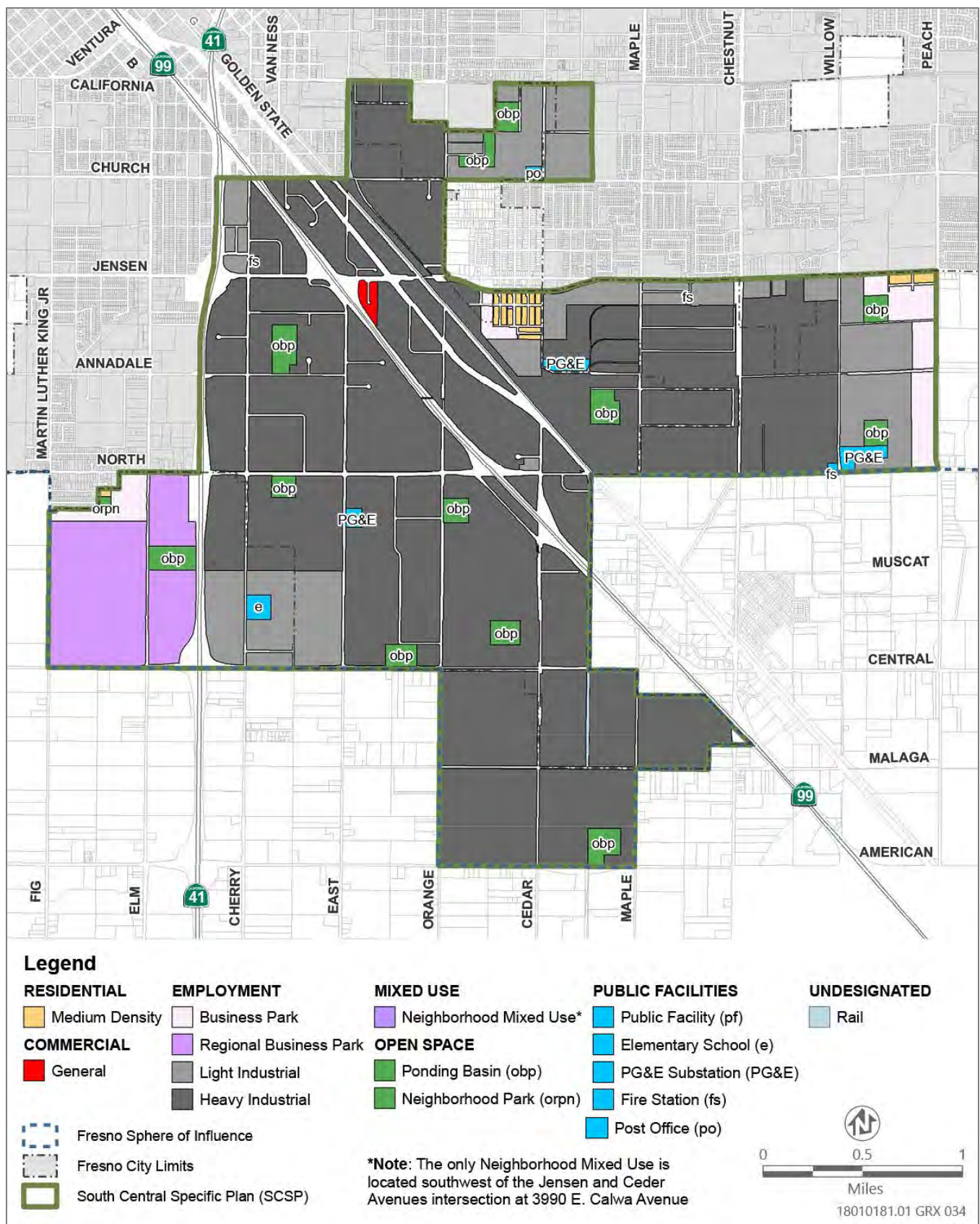
The first sentence of subsection "Stormwater" of Section 4.16.2, "Environmental Setting," on page 4.16-14 of the Draft EIR is revised as follows:

The Fresno Metropolitan Flood Control District (FMFCD) provides stormwater collection and disposal, and flood control to the north-central portion of Fresno County, between the San Joaquin and Kings Rivers, covering ~~164~~<sup>165</sup> adopted or proposed drainage areas.

### 3.7 REVISIONS TO CHAPTER 6, ALTERNATIVES

The figure on page 6-10 of the Draft EIR is revised as follows:





Source: Image produced and provided by the city of Fresno, Adapted by Ascent Environmental in 2023.

[Revised] Figure 6-1 No Project/General Plan Land Use Alternative: Planned Land Use

### 3.8 REVISIONS TO CHAPTER 9, REFERENCES

The following reference has been added to the "Section 4.4, Biological Resources" subsection of Chapter 9, "References," of the Draft EIR:

California Department of Fish and Wildlife. 2023 (June 6). *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species*. Accessed August 22, 2024. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>.

Swainson's Hawk Technical Advisory Committee. 2000 (May 31). *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley*. Accessed August 22, 2024. Available: <https://wildlife.ca.gov/Conservation/Survey-Protocols>.

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California Air Resources Board. 2005. *Air Quality and Land Use Handbook: A Community Health Perspective*. Available: <https://sfmohcd.org/sites/default/files/20%20-%20CARB%2C%20Air%20Quality%20and%20Land%20Use%20Handbook%202005.pdf>. Accessed August 21, 2024.

California Department of Fish and Wildlife. 2023 (June 6). *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species*. Accessed August 22, 2024. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>.

CDFG. See California Department of Fish and Game.

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California Natural Diversity Database. 2023. Results of electronic records search. Sacramento: California Department of Fish and Wildlife, Biogeographic Data Branch. Accessed May 1, 2023.

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California Department of Fish and Game. 1994 (November 8). *Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California*. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83992>.

City of Stockton. 2022. *Final Environmental Impact Report for the Mariposa Industrial Park*. Available: [https://cms3.revize.com/revize/stockton/Documents/Business/Planning%20&%20Engineering/Other%20Projects%20Environmental/Mariposa\\_Final\\_Environmental\\_Impact\\_Report.pdf](https://cms3.revize.com/revize/stockton/Documents/Business/Planning%20&%20Engineering/Other%20Projects%20Environmental/Mariposa_Final_Environmental_Impact_Report.pdf). Accessed October 25, 2024.

EPA. See U.S. Environmental Protection Agency.

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FHWA Highway Statics. See Federal Highway Administration Highway Statics.

Pacific Northwest National Laboratory 2020. *Electric Vehicles at Scale – Phase I Analysis: High EV Adoption Impacts on the Western U.S. Power Grid*. Kintner-Meyer, Michael, et al. Pacific Northwest National Laboratory, 2020 on behalf of U.S. Department of Energy. Available: [https://www.pnnl.gov/sites/default/files/media/file/EV-AT-SCALE\\_1\\_IMPACTS\\_final.pdf](https://www.pnnl.gov/sites/default/files/media/file/EV-AT-SCALE_1_IMPACTS_final.pdf). Accessed September 9, 2024.

Swainson's Hawk Technical Advisory Committee. 2000 (May 31). *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley*. Accessed August 22, 2024. Available: <https://wildlife.ca.gov/Conservation/Survey-Protocols>.

SJVAPCD. See San Joaquin Valley Air Pollution Control District.

San Joaquin Valley Air Pollution Control District. 2015a. *Guidance for Assessing and Mitigating Air Quality Impacts*. Available: <https://www.valleyair.org/transportation/GAMAQI-2015/FINAL-DRAFT-GAMAQI.PDF>. Accessed August 20, 2024

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- TJKM. 2023. *South Central Specific Plan Transportation Impact Analysis*. Fresno, CA. Prepared for the City of Fresno.
- U.S. Environmental Protection Agency. 2008. Reducing urban heat islands: Compendium of strategies. Draft. <https://www.epa.gov/heat-islands/heat-island-compendium>.



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