

PATIENCE MILROD

LAWYER/LICENCIADA EN LEYES

March 24, 2025

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

Sent by email: [longrangeplanning@fresno.gov](mailto:longrangeplanning@fresno.gov)

RE: Public Comment on 2025 Recirculated draft Program Environmental Impact Report for Southeast Development Area Plan

Dear Ms. Pagoulatos:

On behalf of the Fresno Madera Tulare and Kings Counties Central Labor Council and Regenerate California Innovation (RCI), I respectfully request the City incorporate the following comments, and attachments, regarding the Southeast Development Area Specific Plan and Recirculated draft Program Environmental Impact Report into the record of this matter. We look forward to substantive responses to these comments.

**NOTE: Due to the fact that the infrastructure plan, budget, and public facilities financing plan have not yet been released for public review or comment, these commenters respectfully request an extension of 45 days from the date they are released for public comment on the SEDA Recirculated draft EIR. See section 7.e, infra.**

**1. The City's contract with HCD does not require that the City Council adopt the SEDA Plan, nor that it approve the SEDA EIR.**

The City's application for the grant that funded the SEDA EIR<sup>1</sup> includes Schedule F, which identifies Council adoption as a "deliverable" under the grant. The Grant Agreement itself,<sup>2</sup>

---

<sup>1</sup> Attached hereto as Exhibit 1.

<sup>2</sup> Attached hereto as Exhibit 2. See specifically, Exhibit D, Section 4 (Remedies of [sic] Non-performance), subsection E. Similarly, Senate Bill 2 Planning Grant Program Year 1 Guidelines (<https://www.hcd.ca.gov/grants-funding/active-funding/planning-grants/docs/sb2-planning-grant->

---

985 NORTH VAN NESS AVENUE  
FRESNO, CALIFORNIA 93728  
559.246.7239  
PM@PATIENCEMILROD.COM



however, while requiring a “strong implementation component,” recognizes that the locality may only formally adopt the completed planning document “where appropriate.”

In this case, for the reasons set out in this letter, adoption of the SEDA Plan and approval of the Recirculated Program Environmental Impact Report would not be an appropriate exercise of the City Council’s legislative discretion, nor can the SB2 grant award contract compel the City Council to exercise its sovereign legislative discretion in such a fashion.

**2. If the language of Section 4 of the Grant Agreement were to be interpreted as requiring the City Council to adopt the SEDA Plan and associated documents, it would be null, void *ab initio*, and unenforceable.**

At Section 17, the General Terms and Conditions applicable to the grant award contract provide for severability “[i]n the event that any provision of this Agreement is unenforceable or held to be unenforceable.” Standard Grant Conditions also provide for severability of unenforceable provisions, at Section 10.A.

However, “[t]he California Constitution provides that a county or city may make and enforce within its limits ‘all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.’ (Cal. Const., art. XI, § 7.) From this police power, a California city derives its power to control land use and enact comprehensive land use and zoning laws.” *Discovery Builders, Inc. v. City of Oakland*, 92 Cal.App.5th 799, 810, 310 Cal.Rptr.3d 241, 249 (2023) [citations omitted].

Since land use regulations involve the exercise of police power (*Summit Media LLC v. City of Los Angeles*, 211 Cal.App.4th 921, 934, 150 Cal.Rptr.3d 574 (2012)), any agreement that functions to divest a municipality of its ability to exercise its police power with respect to land use laws is invalid. *Discovery Builders, supra*, 92 Cal.App.5th at 812. This responsibility extends to a city’s consideration of an environmental impact report: “CEQA confers the duty upon the local lead agency to produce an adequate EIR” and this “statutory obligation may not be the consideration for a contract or promise, nor may the County bargain away its constitutional duty to regulate development.” *Mission Oaks Ranch, Ltd. v. County of Santa Barbara*, 65 Cal.App.4th 713, 723 (1998), quoted in *Discovery Builders, supra*, 92 Cal.App.5th at 812.

Thus, the City of Fresno could not have obligated itself as a condition of grant approval to adopt the SEDA Plan, nor to approve the SEDA EIR. In this situation in particular, the EIR is so inadequate across multiple functions, chapters, and analyses that approval would constitute an abuse of discretion.

**3. The City has violated material terms of its SB 2 agreement with HCD in the following respects:**

---

guidelines.pdf) include plan adoption among Program Objectives (Section 101, subd. (a) and (b)), Eligible Uses for the funding (Section 302, subd. (a) and (b)). However, among Remedies of [sic] Non-performance, Section 603(c) suggests only that “Localities that do not formally adopt the funded activity could be subject to repayment of the grant.” [emphasis added]

**a. The City has failed to produce a Public Review Draft of the Infrastructure Plan, Infrastructure Financing Plan, and Fee Nexus Study.**

At Section C, subsection 3 of the City’s application for the planning grant that funded the SEDA Plan and PEIR, the City commits to using the funding in support of a State Priority Policy Area, specifically “Housing Related Infrastructure Financing and Fee Reduction Strategies.” Under Section D, Proposed Activities Checklist, the City commits to item 15, “infrastructure financing plans.” At Section E, Project Description, the City acknowledges that “an infrastructure assessment [and] fiscal nexus study must be completed prior to adoption [of a SEDA Specific Plan].” At Appendix A, the City recognizes explicitly that:

“To implement a large-scale master planned community including infrastructure improvements and annexation, an analysis of the currently existing infrastructure, the infrastructure necessary to support development, and the gap is required. Additionally, the General Plan of the City of Fresno requires that all new annexations are fiscally neutral expansions to the City’s General Fund budget. This requires a fiscal nexus study to show the anticipated costs and revenues associated with the annexation and mechanisms to fund any needed infrastructure gaps.”

The costs of preparing the Infrastructure Assessment, Financing Plan, and Fee Nexus Study were built into the grant application, at a cost of \$87,500.<sup>3</sup> The 2020 Consultant Services Agreement between the City and HCD incorporated these items as deliverables<sup>4</sup>. Nevertheless, as of the date of this writing, the studies, plans, budget, etc. are not available. In 2023, in response to requests for information from members of the public, the City admitted that it had such documents, but refused to make them public, claiming (without evidence or justification) that they were “privileged,” that the public interest in keeping them secret outweighed the public interest in disclosing them, because the studies were “ongoing” (even though the Plan and its PEIR had already been released for public comment), and that disclosure of infrastructure cost estimates would provide “incomplete information.”

Given the complexity of the SEDA planning project, and the fact that an infrastructure analysis, budget, plan, nexus study, and financing mechanisms are integral components of the SEDA Specific Plan *and have environmental impact ramifications*, the City’s failure to release these documents with the Specific Plan and PEIR is a material breach of the City’s commitments to HCD in accepting SB2 grant funding.

**b. The SEDA Plan and Recirculated DPEIR show the City’s grant application misrepresented that it would use SB 2 grant funding to “accelerate housing production.”**

---

<sup>3</sup> City SB2 Planning Grants Application, Schedule F.

<sup>4</sup> Consultant Service Agreement between City of Fresno (City) and FirstCarbon Solutions (Consultant), Southeast Development Area Specific Plan, executed November 4, 2020, Scope of Services, Subtask 1.1.2, 1.1.3 – 1.1.7, 1.1.8 – 1.1.9, and Task 2.

The City's grant application, Section D, subsection 3, claimed the Plan would include "environmental analyses that eliminate the need for project-specific review." At Section E, Project Description, the City promised to deliver a Program EIR under which "future development will also utilize an expanded exemption under Government Code Section 65457 that will apply to certain residential, commercial, and mixed-use projects that are consistent with a specific plan adopted pursuant to Government Code, Article 8, Chapter 3 and would be exempt from CEQA."

The Government Code § 65457 exemption would create a no-new-EIR presumption for all projects within SEDA, unless somebody happens to become aware of and can make the case that the proposed development project requires "substantial changes" to the PEIR, that there have been "substantial changes" in circumstances requiring major revisions to the PEIR, and/or that there is new information unknown (and unknowable) at the time of PEIR certification. Public Resources Code § 21166.

This is all well and good when the Plan-level PEIR has accurately analyzed the environmental impact data, and has created the Plan-level coordinated mitigation structures that will realistically minimize cumulative impacts, either through Plan-level design and land use decisions or through enforceable conditions of project approvals. But the SEDA Plan EIR does not deliver on the promised "environmental analyses that eliminate the need for project-specific review."

Generally, the SEDA draft PEIR unlawfully abdicates its responsibility to calculate impacts, disclaiming capacity to calculate impacts of the SEDA Specific Plan because site- and project-level planning have not yet been done. The PEIR essentially takes the position that Plan-level mitigation is impossible, as exemplified by its approach to air quality impacts: "*there is currently not enough information to quantify emissions of specific project development that may occur under the proposed project. ... [D]ue to the size of the proposed {SEDA Plan} project, there is not sufficient feasible mitigation available to reduce the potential criteria pollutant emissions associated with the proposed project to levels that would not exceed the Valley Air District thresholds of significance.*" PEIR, p. ES-6 [emphasis added].

In fact, the PEIR appears indifferent to the concept of plan-level mitigation. As drafted, impact analysis and mitigation either would occur on a piecemeal basis, as discretionary projects within the SEDA footprint come up for approval, or would not occur at all, as future SEDA development projects get a pass, falsely claiming approval of the PEIR means impacts have already been considered and mitigated, and using § 65457 to "tier" off phantom environmental impact analyses and nonexistent mitigation measures. This approach defeats one of the essential functions of a Program EIR, to "ensure consideration of cumulative impacts that might be slighted in a case-by-case analysis." CEQA Guidelines, § 15168(b)(2).

Here, the Plan promotes case-by-case environmental impacts analyses, as each SEDA development project is proposed. Similarly, determination and application of missing mitigation measures are deferred to environmental reviews of discretionary projects (if such environmental reviews are ever done), again one by one. The result at the Specific Plan level is

fatally deficient cumulative impact analyses, no (or illusory) mitigation to address cumulative impacts, and very few additional-analysis conditions on project-level entitlements. These failures of analysis show the City has failed to fulfill its commitment to create a Specific Plan that “accelerates housing production.”

**c. The City has failed to produce the streamlining checklist promised in its grant application.**

The City’s grant application, Section E, Project Description, promised that the Program EIR to be funded with SB2 grant monies “will include a detailed programmatic evaluation of activities to be carried out through [the] Specific Plan and will allow the City to incorporate feasible mitigation measures including a streamlining checklist to evaluate site specific operations within the scope of the program EIR. This use of streamlining will fast-track the production of much-needed housing for the City and the region.”

This concept of streamlining meshes well with a Specific Plan calling for tens of thousands of units over 9,000 acres, to be implemented in a largely greenfield geography ten miles from the city’s center. Such a checklist could incorporate many standard mitigation measures to reduce the massive environmental impacts that implementation of such a plan unavoidably entails. If the City had followed through on its commitment to include “environmental analyses that eliminate the need for project-specific review,” deploying those analyses in a checklist format would have been an excellent strategy for expediting new-home construction.

However, neither the SEDA Plan, nor any of the three versions of the draft PEIR released to date, provides any such “streamlining checklist.” Instead, both the Plan and the EIR repeatedly admit that the City will only evaluate “site specific” impacts within SEDA on a project-by-project basis, and will with each project start from scratch on whether there will be environmental review, whether there are impacts that meet the threshold of Public Resources Code 21166, and whether mitigation measures will be imposed, and if so which ones. (Please see comments, *infra*, regarding mitigation measures and the EIR as a tiering document.)

This approach is the very opposite of a “fast-track” to production of new housing, building both delays and expensive environmental reviews into discretionary development projects within the SEDA footprint.

**4. The City cannot approve the SEDA Plan and EIR until it has a valid General Plan.**

In its now-invalidated<sup>5</sup> 2021 Greenhouse Gas Reduction Plan, the City acknowledged that its 2014 General Plan was no longer compliant with new laws and regulations.<sup>6</sup> A general plan

---

<sup>5</sup> *South Fresno Community Alliance v. City of Fresno*, 2024 WL 3663122, August 6, 2024.

<sup>6</sup> City of Fresno GHG Reduction Plan Update, March 2021, pp. 1-1 (General Plan’s Greenhouse Gas Appendix must be updated to comply with SB 32, CARB’s Climate Change Scoping Plan, and the California Supreme Court’s Newhall Ranch decision); and 1-2 (General Plan update required in order to bring it into conformance with current local and State law. CLC and RCI join, and incorporate by this reference, the portions of the March 24, 2025, comment letter submitted by Douglas Carstens and

must be reviewed and revised as circumstances warrant. Gov't Code § 65103, subd. (a); *DeVita v. County of Napa*, 9 Cal.4th 763, 792 (1995) (“the [planning] agency ... is *required* periodically to review and *revise* the general plan to ensure that its elements remain integrated and internally consistent.” [emphasis in original]). Above all, “the status of a general plan as the ‘constitution’ for the City's development requires that the plan be reasonably complete and current.” *Camp v. Board of Supervisors*, 123 Cal.App.3d 334, 351, 176 Cal.Rptr. 620 (1981).

The level of housing need, and demand, is a crucial component of a city’s land use planning decisions, and flows directly from the rate at which the city’s population is growing. The City of Fresno’s 2014 General Plan was based on an average annual growth rate of 1.24%<sup>7</sup>. However, the city is no longer growing at that robust pace. The City’s March 2025 draft EIR for the West Area Neighborhood Specific Plan acknowledges this new reality, citing U.S. Census Bureau and California State Department of Finance data showing Fresno’s growth at one-sixth the 2014 rate—0.2%—as of 2024.<sup>8</sup> Population growth out to 2035 for the whole City of Fresno is thus reduced from 2014 projections by approximately 184,000 residents<sup>9</sup>—well over the anticipated population of SEDA alone.

Approval of SEDA’s 45,000-unit plan based on the 2014 General Plan’s materially outdated and erroneous population projections and housing demand assumptions would be consistent with the 2014 General Plan, but also an abuse of discretion because contradicted by more recent and more accurate record evidence. This is the very reason a planning agency must keep its General Plan “reasonably complete and current.”

**5. If the 2014 General Plan is not invalidated by failure to comply with State mandates, changed circumstances, and new information, the SEDA EIR would have to be consistent with that General Plan. It is not.**

**a. The SEDA Plan’s Consistency analysis is fatally flawed.**

The Draft PEIR offers a General Plan Consistency Analysis at p. 3.11-24 to -37, Table 3.11-1. However, many of the consistency determinations sound more like Orwellian double

---

Michelle Black on behalf of the Sierra Club, Central Valley Partnership, and League of Women Voters that relate to the General Plan’s failures to comply with AB 170 (Gov’t. Code § 65302.1—General Plans must incorporate specified air pollution information) and SB 1000 (Gov’t. Code § 65302(h)(2)—General Plans must incorporate an Environmental Justice element).

<sup>7</sup> City of Fresno 2014 General Plan, p. 1-24.

<sup>8</sup> Recirculated Draft EIR – West Area Neighborhoods Specific Plan, p. 3.12-1, Table 3.12.1 – Environmental Setting – Demographics--Population Trends.

<sup>9</sup> The 2014 General Plan projects 226,000 new residents by 2035 (p. 1-23); Department of Finance growth projections would result in only about 22,877 new city residents during that period (calculated from Department of Finance’s predicted 41,594 County population growth, multiplied by historical City of Fresno 55% share of county population increases). See also, fn. 11, *infra*.

speak<sup>10</sup> than planning professionals' analysis. A few examples (of many) follow. They have in common that they rely on unquantified assertions unsupported by record evidence, and/or in fact contradicted by the evidence in the record.

**UF-12:** "Locate roughly one-half of future residential development in infill areas – defined as being within the City on December 31, 2012 – including the Downtown core area and surrounding neighborhoods, mixed-use centers and transit-oriented development along major BRT corridors, and other noncorridor infill areas, and vacant land. *Consistency Determination:* Consistent. The proposed project is consistent with the City's strategy to focus on infill development within existing City limits. The proposed project would minimize the City's outward expansion while promoting vibrant, sustainable communities." SEDA EIR, p. 3.11-26.

**IN FACT:** Not consistent. Approval of SEDA would torpedo the General Plan's goal of ensuring approximately one-half of future residential development would occur in infill areas. (See, UF-13, *infra*.) Moreover, the proposed project itself is the very antithesis of "infill," since it is not located within the City limits and does not in any other way resemble infill. Its siting outside the very farthest southeast rim of the City *maximizes* outward expansion, and the massive additional infrastructure that must be built to serve it will create a growth-inducing dynamic far from the infill areas that are the focus of the 2014 General Plan. Finally, the expenditures on those SEDA-serving infrastructure projects will suck resources away from the billions of dollars in infrastructure construction, replacement, improvement, and repair that would "promot[e] vibrant, sustainable communities" within the City limits.

**UF-13** "Locate roughly one-half of future residential development in the Growth Areas – defined as unincorporated land as of December 31, 2012 SOI – which are to be developed with Complete Neighborhoods that include housing, services, and recreation; mixed-use centers; or along future BRT corridors. *Consistency Determination:* Consistent. The proposed project is a comprehensive plan for the nearly 9,000-acre Southeast Growth Area. The proposed project concentrates residential development in Neighborhood Town Centers, consistent with the General Plan concept of complete neighborhoods." SEDA EIR, p. 3.11-26.

**IN FACT:** Not consistent. Approval of SEDA would torpedo the General Plan's goal of limiting development in Growth Areas to one-half of new residential construction. Due to reduced population projections, and concomitant reduced housing demand, the

---

<sup>10</sup> "**Doublespeak** is language that deliberately obscures, disguises, distorts, or reverses the meaning of words. Doublespeak may take the form of euphemisms (e.g., 'downsizing' for layoffs and 'servicing the target' for bombing), in which case it is primarily meant to make the truth sound more palatable. It may also refer to intentional ambiguity in language or to actual inversions of meaning. In such cases, doublespeak disguises the nature of the truth. Doublespeak is most closely associated with political language used by large entities such as corporations and governments." Wikipedia, <https://en.wikipedia.org/wiki/Doublespeak>, accessed March 19, 2025 [bolded emphasis in original; internal links and footnotes omitted].

whole city of Fresno will need only about 7,600 new housing units by 2035. The SEDA's 2035 target is 14,900, almost twice the number needed<sup>11</sup> for the entire city during that period, and perversely incentivizing suburban sprawl<sup>12</sup> over the infill development the General Plan seeks to promote.

**LU-2** "Plan for infill development that includes a range of housing types, building forms, and land uses to meet the needs of both current and future residents. *Consistency Determination*: Consistent. The proposed project provides for the development of a range of housing types, building forms, and land uses to meet the needs of both existing and future residents." SEDA EIR, p. 3.11-26.

**IN FACT:** Not consistent. As is apparent from the Project Description<sup>13</sup>, SEDA is a greenfield plan, not an infill plan. However well-planned they may be, SEDA's 9,000 acres are located far from the portions of the City that could reasonably meet the 2014 General Plan's definition of "infill" in UF-12, *supra*.

**LU-4** "Enhance existing residential neighborhoods through regulations, code enforcement, and compatible infill development. *Consistency Determination*: Consistent. The proposed project would design and implement a vision that would allow new growth to occur without negatively affecting existing neighborhoods.

**IN FACT:** Not consistent. The SEDA Specific Plan and EIR include no analyses, policies, or provisions that could conceivably affect regulations, code enforcement, or infill development in existing neighborhoods in the City of Fresno, except negatively. Far more likely, adoption of the Plan would extinguish possibilities for new infill development, including by sapping resources needed for infill-supporting infrastructure

---

<sup>11</sup> Assuming, based on state Department of Finance 2035 projections: Fresno County population increase of 41,594 people x 55% (historical City of Fresno share of population growth) = 22,877 people, ÷ 3 (average number of persons/dwelling unit) = 7,626, total dwelling units needed to accommodate population growth in the entire City of Fresno by 2035.

<sup>12</sup> This dynamic has been well documented. See, e.g., *Patterns of Sprawl in Fresno and the Central San Joaquin Valley*, Freemark, Fu, Rosenow, Su, May 2024, p.8 (copy attached): "As sprawl redirects growth from one part of a metropolitan area to another, one additional consequence is that housing development becomes rare in jurisdictions and neighborhoods with low incomes and low demand, since developers can respond to demand for homes by building at the far edge of regions, where there are low land costs and high demand (Freemark 2022). This may lead to low-income neighborhoods experiencing disinvestment and decay, while high-income, suburban neighborhoods benefit from the majority of private and public investment." Accord, *Fresno Urban Decay Analysis*, ECONorthwest, 2023 (copy attached).

<sup>13</sup> "The predominant existing use in the Plan Area (approximately 5,000 acres) is agriculture, primarily vineyards, orchards, and vegetable farms. The average parcel size is approximately 25 acres and is typically used for growing a range of crops. The Plan Area also contains agriculture-related and commercial operations, such as plant nurseries, wineries, and other various agricultural businesses." SEDA Recirculated Draft PEIR, p. 2-4.



improvements and for the repairs and maintenance that legacy neighborhoods need to avoid falling into blight and decay.

**LU-5** “Plan for a diverse housing stock that will support balanced urban growth, and make efficient use of resources and public facilities. *Consistency Determination:* Consistent. The proposed project would design and implement a vision that would allow the City to grow in ways that equitably expand the economy and housing stock while protecting public health. The proposed project represents an opportunity to meet emerging market demands, provide much-needed diversity in housing stock, and enrich communities with safe, walkable, and inspiring urban environments.”

**IN FACT:** Not consistent. The SEDA Plan, proposing intensive development of a 9,000-acre greenfields site, will require massive new construction of public facilities, whereas “efficient use” of resources and public facilities would dictate that the City satisfy its future housing needs in an area where such facilities already exist, such as the West Area Neighborhood Plan area, or the thousands of infill sites within the city limits. The effect of new growth into SEDA will not promote equity nor “enrich” existing neighborhoods (where Fresno’s low-income housing stock is located), but will deprive those neighborhoods of resources they need to fight blight and decay. The Plan does not impose conditions of entitlement on SEDA developments that would be at all likely to supplement the City’s stock of low-income housing. Finally, the public health protection claim here flies directly in the face of the air quality impacts data in the PEIR Appendix B, which show huge unmitigated increases in air pollutants, toxic air contaminants, and diesel particulate matter. Notwithstanding CEQA and California Supreme Court mandates, the EIR fails to calculate the ozone pollution that Plan development would generate, or to provide a human health impact analysis. A claim that the plan protects human health, on this record, is facially false.

**LU-9** “Plan land uses, design, and development intensities to supplement and support, and not compete with, the Downtown. *Consistency Determination:* Consistent. The proposed project is a comprehensive plan for the nearly 9,000-acre Southeast Growth Area, located to the east of the Downtown. The proposed project concentrates residential development in Neighborhood Town Centers, consistent with the General Plan concept of complete neighborhoods. These uses would support the Downtown but would not compete with the Downtown.”

**IN FACT:** Not consistent. The SEDA Plan area is ten miles from Fresno’s Downtown. *At best* it will compete with Downtown, drawing away the private investments and public institutions that give an urban downtown core its crucial role in a city’s life. More likely, the SEDA development will make it impossible for the City to supplement state grants to ensure completion of downtown infrastructure upgrades, essential to a thriving downtown.

**b. The SEDA Specific Plan violates California’s Planning and Zoning Law in that its leapfrog approach to growth fundamentally contradicts the 2014 General Plan objectives, violating consistency requirements.**

California Government Code § 65454 provides that “[n]o specific plan may be adopted or amended unless the proposed plan or amendment is consistent with the general plan.” As of 2018, the Legislature’s amendment of Government Code § 65700 applied this consistency requirement also to charter cities such as Fresno. *Kennedy Commission v. City of Huntington Beach*, 91 Cal.App.5th 436, 443, 308 Cal.Rptr.3d 461, 468 (2023), reh’g denied (June 7, 2023), review denied (July 19, 2023).

Apart from and in addition to the many errors in the PEIR’s General Plan Consistency Analysis (see section 5.a., *supra*), the SEDA Plan is inconsistent in that it upends the 2014 General Plan’s proposed growth trajectory, which calls for SEDA development to occur last, after Development Areas 1 and 2.<sup>14</sup> The General Plan explains that “[t]he pace of new development in the Development Areas needs to be balanced with the City’s goals for achieving significant reinvestment within the 2012 City Limits.”<sup>15</sup>

In its 2014 General Plan, unusually for Fresno, the City Council purposefully declined to expand the City’s Sphere of Influence based on a reasoned analysis of the effects suburban sprawl had created and would create into the future if not curbed. The 2014 General Plan explicitly chose a different path:

Continued growth outwards creates transportation and air quality issues, as well. The continued siting of major retail and commercial uses, as well as jobs, at Fresno’s urban fringe is lengthening travel times and increasing traffic levels (and air pollution) disproportionately faster than the rate of population growth, due to inefficient location selection. Given the restrictions on and impacts of increasing Fresno’s land area, the Plan promotes the highest and best use of land within Fresno’s current city limits, phases growth into unincorporated areas of the SOI, and avoids de-investment in Downtown and established neighborhoods. Furthermore, certain patterns of land development can increase costs to the City in excess of related revenues and essentially reduce fiscal resources. The Plan seeks to discourage this type of development and, at the least, ensure that all development covers its fair share of public costs.<sup>16</sup>

The SEDA draft PEIR attempts to explain away its inconsistency with these goals and objectives, acknowledging that “SEDA was intended to be developed once other infill initiatives were given time to gain momentum,” and that “there is still ample residential capacity within the current city limits and in Growth Area I (which includes the Southwest Fresno and the West Area Neighborhoods Specific Plan areas).” But then the PEIR goes on to argue that “there is a

---

<sup>14</sup> 2014 General Plan, Figure I-3, Residential Capacity Allocation, which shows Development Areas (“DA”s) in order of priority; SEDA comprises DA-3 Southeast and DA-4 East, the City’s fifth- and sixth-level development priorities. The West Area Neighborhoods Specific Plan Area is labeled DA-1 North, and is the first-level priority for new development.

<sup>15</sup> *Id.* at p. 3-19.

<sup>16</sup> 2014 General Plan, Ch.7, Resource Conservation & Resilience – §7.2 Use of Infrastructure & Resources, p.7-7

sense of urgency about the current housing crisis and the City’s ability to provide housing for the existing population and its natural growth as well as the unanticipated in-migration occurring at this time.”<sup>17</sup>

But the facts do not support a “sense of urgency” – population growth has plummeted, taking with it the demand for new housing, and the City is already on track to adopt the proposed West Area Neighborhoods Specific Plan sometime in summer 2025.<sup>18</sup> The West Area Plan is likely to result in housing units long before SEDA, since the West Area Plan will be implemented upon a platform of already-existing (if still incomplete) infrastructure, whereas SEDA will require construction of all significant urban-supporting public improvements.<sup>19</sup> The West Area Plan alone will accommodate over 50,000 new housing units; when added to the 43,512 units<sup>20</sup> on parcels zoned and appropriate for housing within existing City limits, the City will not need SEDA to meet its housing needs for many decades.

To allow SEDA to jump the line into first place is antithetical to how the City has planned its growth. Such reorganizing of development priorities is inconsistent with the General Plan, and creates significant adverse fiscal and environmental consequences for the City and its existing neighborhoods that the 2014 General Plan specifically intends to avoid by its new-growth priorities hierarchy.

**c. CLC and RCI incorporate comments submitted on behalf of County of Fresno.**

In support of their comment that the draft PEIR cannot be adopted under the 2014 General Plan, CLC and RCI hereby join, and incorporate by this reference, the portion of the September 4, 2023 comment letter on the 2023 draft SEDA PEIR, submitted by Jeffrey Reid on behalf of the County of Fresno, Department of Public Works and Planning, at pages 5 through 6 (Section C).

**6. The City cannot approve the SEDA Specific Plan until it has complied with the prerequisites imposed via LAFCO Resolution USOI-144.**

CLC and RCI join, and hereby incorporate by this reference, the portions of the September 4, 2023 comment letter on the 2023 draft SEDA PEIR submitted by Jeffrey Reid, on behalf of the County of Fresno, Department of Public Works and Planning, pages 1 through 3 (Section A),

---

<sup>17</sup> SEDA Recirculated Draft PEIR, p. 2-1. The PEIR neither documents nor otherwise refers to “in-migration,” anticipated or otherwise.

<sup>18</sup> The West Area Plan was released for public comment on March 12, 2025, and is expected to go to the City Council during the summer. <https://www.fresno.gov/planning/plans-projects-under-review/#west-area-neighborhoods-specific-plan>.

<sup>19</sup> One of the important reasons the 2014 Plan put SEDA area last in line as a site for new housing was precisely that the area lacks public infrastructure to support extensive residential and commercial development. 2014 General Plan, p. 1-19.

<sup>20</sup> Fresno Multi-Jurisdictional Housing Element, December 2024, Table 1E-3.23: Housing Capacity by Community Plan/Specific Plan Area, p.1E-3-145.

and pages 10-11 (Section H).

**7. The SEDA Specific Plan violates California Planning and Zoning Law CEQA in that it omits components required by statute, and fails to meet standards for public involvement by failing to timely circulate for public comment an infrastructure plan and infrastructure financing plan.**

**a. Essential components are missing from the SEDA Plan documents.**

California Government Code § 65451 mandates that every specific plan include certain “Required contents.” Subsection (a) of the statute requires that a specific plan “include a text and a diagram or diagrams which specify all of the following in detail ...

“(2) The proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.

...

“(4) A program of implementation measures including regulations, programs, public works projects, and financing measures necessary to carry out paragraphs (1), (2), and (3).”

Neither the Specific Plan, nor the Recirculated Draft PEIR released for public comment on February 7, 2025 includes the text or diagrams specifying the “essential facilities proposed” for the Plan as required by § 65451(a)(2), nor the implementation and financing measures required by § 65451(a)(4).

**b. The City has failed to release timely for public comment the missing components of the SEDA Plan proposal.**

In adopting Title 7, Division 1, Chapter 3 of the Government Code, addressing Local Planning and Zoning, the California Legislature declared its intent “to provide an opportunity for each city and county to coordinate its local budget planning and local planning for federal and state program activities, such as community development, with the local land use planning process...” Cal. Gov’t Code § 65300.9.

The SB2 Planning Grants Application included, at Schedule F, a Project Timeline and Budget, which called for release of the Public Review Draft of the Infrastructure Financing Plan and the Nexus Study at least three months in advance of City Council consideration of the Plan and associated documents. Nevertheless, and notwithstanding the explicit strictures of the statute, and promises made throughout the Specific Plan and its PEIR, the City has failed to release either an infrastructure plan disclosing the details required by § 65451(a)(2), or an infrastructure budget, nexus study, and financing plan, as required by § 65451(a)(4).

Especially pertinent to the fiscal wisdom of City investment in SEDA infrastructure: the Consultant Service Agreement required a Qualitative Fiscal Review, but as of this writing, in the last few days of the public comment period for the Recirculated draft PEIR, no such review has been made public. Such a review should clarify “whether or not the existing targeted tax

sharing parameters will remain feasible with the development of the SEDA Specific Plan.”<sup>21</sup>

Withholding from the public such critical information is inconsistent with provisions of both the Planning and Zoning Law, and of CEQA. See, e.g., Cal. Gov’t Code § 65351,<sup>22</sup> Pub. Res. Code § 21000, et seq. (“If CEQA is scrupulously followed, the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees. The EIR process protects not only the environment but also informed self-government.” *Golden Door Properties, LLC v. Superior Court of San Diego County*, 53 Cal.App.5th 733, 763, 267 Cal.Rptr.3d 32, 55 (2020), as modified on denial of reh’g (Aug. 25, 2020) [citations omitted].)

**c. Failure to timely disclose documents related to SEDA infrastructure expenditures defeats CEQA’s requirement that all environmental impacts be disclosed, considered, and mitigated where possible.**

**i. Environmental impacts of construction and operation of infrastructure are neither disclosed nor mitigated.**

Constructing utilities and other needed infrastructure for 9,000 acres’ worth of residences, schools, businesses, parks, etc., will require grading, excavating, paving, and other soil-disturbing activities that beyond peradventure will generate air pollution and greenhouse gases, among other impacts. Operation of the infrastructure will entail still further impacts. The PEIR simply claims that project-level construction mitigation measures will be adequate to mitigate all impacts. However, given that the PEIR fails to mitigate air quality impacts for non-infrastructure activities, the additional impacts infrastructure construction will have on air quality must be analyzed in terms of the extent to which they will cumulatively contribute to air pollution. Operational impacts must also be evaluated.

**ii. The PEIR Project Description fails to include information now known about infrastructure needs, or to calculate the environmental effects of those parts of the project.**

The PEIR Project Description represents that at the time of circulation the City had already done infrastructure analyses, referencing a “Public Facilities Financing Plan” (p.2-3), and an Infrastructure Plan with “more closely specified” details about types of infrastructure to be constructed in the Specific Plan area.<sup>23</sup> But the Recirculated PEIR includes none of the descriptive information required by Government Code § 65451(a)(2), nor analysis either of the

---

<sup>21</sup> Consultant Service Agreement between City of Fresno (City) and FirstCarbon Solutions (Consultant), Southeast Development Area Specific Plan, executed November 4, 2020, Exhibit A, Attachment A: Scope of Services, Task 1.2.

<sup>22</sup> Addressing public involvement in proceedings related to a general plan, and made applicable to Specific Plan preparation, adoption, and amendment by Government Code § 65453(a).

<sup>23</sup> See, p.2-8, roads; p.2-17, “sustainable infrastructure,” not otherwise specified; p.2-18, “holistically coordinated infrastructure,” not otherwise specified.

construction or the operational impacts of supplying that infrastructure, violating CEQA's express purpose that agencies "give 'major consideration' to preventing damage to the environment when conducting their regulatory functions. (Pub.Resources Code, § 21000(g).)" See, *Santiago County Water Dist. v. County of Orange*, 118 Cal.App.3d 818, 829-831, 173 Cal.Rptr. 602, 607-609 (1981) [failure to account for impacts related to project water delivery facilities]. See also, *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus*, 27 Cal.App.4th 713, 730, 32 Cal.Rptr.2d 704 (1994), as modified (Sept. 12, 1994) [omission of reference to wastewater treatment plant recognized as necessary to the project resulted in an improperly "curtailed" and "distorted" project description.]

**iii. The draft PEIR neither discloses nor mitigates environmental impacts of directing billions of dollars into SEDA infrastructure, forcing scarce city resources away from existing neighborhoods.**

Although one of the claimed Project Objectives of the SEDA Plan is "fiscal responsibility," including "self-financing for the development and ongoing maintenance of the SEDA that does not reduce City of Fresno resources dedicated to other areas of the City or burden Fresno residents outside of the SEDA,"<sup>24</sup> the Plan provides no evidence of such a "self-financing" approach to infrastructure. On the contrary, the Plan repeatedly promises that when infrastructure capacity falls short, the City will step in and pay.<sup>25</sup> The as-yet-undisclosed documentation of infrastructure needs and funding mechanisms must either substantiate the fiscal responsibility of the Plan, or not. As of this moment, the public has no idea because there is no evidence in the record for the City's claim that development and ongoing maintenance will be "self-financing."

Unless there is proof of the "self-financing" claim, SEDA commits the City to massively expensive infrastructure that is not needed to accommodate Fresno's housing needs, and that directly conflicts with the General Plan by privileging new growth over strengthening established neighborhoods. In addition, it foreseeably, substantially, contributes to physical blight and decay, with resulting economic decline, in all non-SEDA areas of the City.<sup>26</sup>

As in *Bakersfield Citizens for Local Control v. City of Bakersfield*, 124 Cal.App.4th 1184, 1208, 22 Cal.Rptr.3d 203, 222 (2004), the SEDA PEIR has failed to comply with the information disclosure provisions of CEQA because it has omitted any meaningful consideration of the question whether the diversion of funding for infrastructure improvements could trigger a series of events that ultimately cause urban decay. Nor does the PEIR even contain a statement indicating that such a possibility had been considered, or reasons why it had been determined

---

<sup>24</sup> SEDA Recirculated Draft EIR, passim, including pp. ES-2, 2-18.

<sup>25</sup> For example, mitigation measures HYD-2b and HYD-2c require the City to "secure additional water supplies by securing additional water sources" where a proposed SEDA development would exceed existing water supply capacity.

<sup>26</sup> See, Fresno Urban Decay Analysis, ECONorthwest, 2023 (copy attached); see also, Patterns of Sprawl in Fresno and the Central San Joaquin Valley, 2024, p.8 (copy attached).

that urban decay was not a significant effect of the proposed project.

**d. CLC and RCI incorporate comments submitted on behalf of County of Fresno**

In support of their comment that the draft PEIR fails to include adequate planning details (including regarding public infrastructure) to permit a sufficient degree of analysis and public information regarding the environmental consequences of such a large greenfield development, CLC and RCI hereby join, and incorporate by this reference, the portions of the September 4, 2023 comment letter on the 2023 draft SEDA PEIR, submitted by Jeffrey on behalf of the County of Fresno, Department of Public Works and Planning, at pages 3 through 5 (Section B), and page 7 (Section D).

**e. City must extend the public comment period on the SEDA Plan for 45 days after the infrastructure plan, infrastructure budget, nexus study, and financing plan have been released for review.**

Failure to timely release the infrastructure-related studies and analyses for public comment deprives the public of a meaningful opportunity to comment upon substantial adverse environmental impacts of the proposed project or a feasible way to mitigate or avoid such an effect that the project's proponents have declined to implement. CEQA Guidelines, § 15203, requires the lead agency to "provide adequate time for other public agencies and members of the public to review and comment on a draft EIR or negative declaration that it has prepared."

It may be that the disclosure of the infrastructure documents constitutes significant new information within the meaning of Pub. Res. Code § 21092.1 or CEQA Guidelines § 15088.5(a) that requires recirculation of the PEIR. Even if not, the infrastructure information is crucial to evaluation of SEDA's environmental impacts. Therefore, the infrastructure documents are also subject to the 45-day public review period required by CEQA Guidelines, § 15105(a).

**8. The SEDA Recirculated draft PEIR's Existing Conditions description is fatally inaccurate.**

In its Introduction chapter, the SEDA draft PEIR includes a current city population figure, but no population projections. (p. 2-3 – 2.21) Projected population growth data appears, instead, in an "Existing Conditions" segment of the Population and Housing chapter. There, the PEIR describes historical population increases in the City and the County, using 2022 Census Bureau Quick Facts figures. (SEDA PEIR, pp. 3.14-1 – 2, fn. 1, 2.) It relies on California Department of Finance for Fresno's average household size. (*Id.*, p.3.14-2, fn. 3.)

However, on the crucial question of projected population growth, the Recirculated PEIR continues to rely on Fresno Council of Governments' (FCOG) 2021 Fresno County growth projections to 2050, apparently last accessed May 20, 2022. (p.3.14-2, fn. 5.) The City's use of the FCOG figures in 2022 may have been the best information available at the time; there is no way to know, as the PEIR does not explain its choice of data sources.

But the PEIR has now been recirculated twice since the July 2023 release of the first version of the draft, once in October of 2023, and again in February of 2025 (current version). Well prior to the October 3, 2023 partial recirculation of the draft PEIR, the City was aware that the SEDA

EIR's population assumptions were materially inaccurate.<sup>27</sup> As of August 2023, the California Department of Finance (DOF) had issued updated data very different from that cited in the July 2023 draft EIR.<sup>28</sup> However, the October 2023 Partial Recirculated draft PEIR did not incorporate any corrections to its population projections.

In August of 2024, the Fifth District's *South Fresno Community Alliance* decision invalidated the City's General Plan update and Greenhouse Gas plan, requiring the current recirculation of the SEDA PEIR. By September of 2024, DOF had again updated its data to incorporate a finer-grained analysis, and as of October of 2024, FCOG had corrected its own data based on the new information issued by the state.

In December of 2024, the City paid First Carbon Solutions an additional \$153,636 to author a second Recirculated draft PEIR; at that point, the accurate DOF and FCOG population data were readily available. In fact, when one now follows the link provided in the Recirculated PEIR at footnote 5 on page 3.14-2, one finds FCOG's October 2024 updated data, which show a Fresno population in 2025 of 595,370 (not the PEIR's 621,540<sup>29</sup>). FCOG's updated data report a 2050 Fresno City population of 646,260 (not the PEIR's 728,200). The accurate, FCOG, data show a Fresno City increase of 50,890 people between 2025 and 2050, not the almost 107,000 predicted in the PEIR. The accurate, FCOG, data yield only an additional 16,963 households by 2050, well under half of the 35,553 households the PEIR's figures would project.<sup>30</sup>

These errors in growth projections are fundamental: According to SEDA, its plans for 45,000 new housing units would comprise planned growth of only 31% percent of the total planned capacity for the City.<sup>31</sup> However, using accurate, FCOG, growth figures, it is clear that SEDA development would amount to almost *three times* (265%) the actual housing needs for all of Fresno City by 2050. Such a glut of new homes on the market, and the public investment necessary to launch it, would shatter the General Plan's goals for infill development and revitalization of Fresno City existing neighborhoods.

In its Reasons for Recirculation, the SEDA document describes *South Fresno Community Alliance's* invalidation of prior planning documents as constituting "substantial changes to the environmental setting," and therefore "significant new information" requiring recirculation (p. ES-9); but the PEIR does not include corrected data nor otherwise respond to commenters'

---

<sup>27</sup> CLC and RCI hereby incorporate by this reference the comment letter submitted by Keith Bergthold, dated August 28, 2023, and those portions of the August 28, 2023, comment letter submitted by Patience Milrod on behalf of CLC, IAF, and RCI, at pages 3 through 5. (copies attached)

<sup>28</sup> Please see Keith Bergthold August 28, 2023, comment letter.

<sup>29</sup> SEDA PEIR, at p. 3.14-2.

<sup>30</sup> At 3 persons per household, the SEDA PEIR Fresno City population growth figures would yield 35,553 new households.

<sup>31</sup> PEIR, p. 3.14-13 – Section 3.14.4 - Project Impacts and Mitigation Measures.



critique of population projections.<sup>32</sup> Nor does the Recirculated draft PEIR explain why it relies on outdated and inaccurate data, except to say (using circular reasoning) that “This approach is consistent with requirements to maintain consistency with the General Plan.” (p. 3.14-2.) This statement can only be read as an acknowledgement that the draft PEIR incorporates erroneous data into its environmental impact analyses – not only affecting calculations of housing demand, but also other impacts such as water quality, air quality, transportation, greenhouse gases, and infrastructure design, sequencing, and cost.

A knowing use of false data is antithetical to CEQA’s purpose of accurately informing decision makers and the public, especially when the plan in question creates such extensive unmitigated impacts on the environment as this one.

### **9. The SEDA draft PEIR fails to address Fresno’s documented housing needs, proposing instead a more than doubling of the oversupply of single-family detached units.**

The Plan itself does not commit to any particular number of homes at any particular price point; nor does it require as a mitigation measure that developers build so as to ensure any proportion of affordable-to-market-rate homes. But based on the SEDA proposed zoning map<sup>33</sup>, and on the City’s application for the SEDA planning grant<sup>34</sup>, the SEDA Plan anticipates at most 9,000 potentially affordable multifamily units<sup>35</sup> and 35,200 single-family units.

As it happens, the City’s own One Fresno Housing Strategy acknowledges that the City’s pressing needs are not for the single-family market-rate housing SEDA will supply, but for housing affordable to low-income residents: “Historic poor land use planning, inequitable fair housing practices and the basic imbalance of supply and demand have all led Fresno to its current state of needing approximately 15,000 new and converted affordable housing units between now and 2025 to meet our residents’ needs.” One Fresno Housing Strategy, April 2022, Mayor’s Message, p. 2.

The One Fresno Housing Strategy makes clear that “Fresno needs 21,001 units for households who can afford no more than \$500 on monthly housing costs,” and “the City of Fresno has a glut of 28,310 single-family detached units over and above what Fresno households need based on household size.” *Id.* at p. 38. These are not housing needs that SEDA’s 35,200 additional

---

<sup>32</sup> In the 2025 West Area Neighborhoods Specific Plan draft EIR, the City acknowledged the new population reality of 0.2% growth, a small fraction of the growth assumed in the SEDA PEIR. See, Recirculated Draft EIR – West Area Neighborhoods Specific Plan, p. 3.12-1, Table 3.12.1 – Environmental Setting – Demographics – Population Trends.

<sup>33</sup> Southeast Development Area Specific Plan, Map 2.5 – SEDA Proposed Land Use, p. 22.

<sup>34</sup> [Fresno City SB 2 Planning Grants Application](#), Section E, Project Description, p. 6.

<sup>35</sup> Based on HCD’s zoning standard of at least 16 units per acre (see, [HCD By-Right Program Minimum Densities Table](#)). However, density standards are only a rough proxy for affordability; at this point – since the PEIR includes no enforceable mitigation measures imposed as conditions of entitlement – it is possible that not a single unit to be built in SEDA will be affordable to low-income families.

single-family market rate homes will meet.

The City's own quantified assessment of Fresno's housing needs<sup>36</sup> over most of the next decade shows more than adequate inventory for that new housing; not a single parcel from SEDA is needed to meet those goals.<sup>37</sup>

The SEDA Specific Plan's claim that "the acceleration of the current housing crisis has created a 'substantial shortage' of homes and therefore prioritized completion of the SEDA Plan"<sup>38</sup> is demonstrably untrue. This claim cannot therefore be the basis for legitimate, evidence-based findings of overriding consideration.

#### **10. The SEDA draft PEIR fails to analyze or to mitigate foreseeable and avoidable impacts on farmland.**

CLC and RCI hereby join, and incorporate by this reference, the portions of the September 4, 2023, comment letter on the 2023 draft SEDA PEIR, submitted by Jeffrey Reid on behalf of the County of Fresno, Department of Public Works and Planning, found at pages 7 through 10 (Sections E, F, and G).

CLC and RCI hereby join, and incorporate by this reference, the portion of the March 24, 2025, comment letter submitted by Douglas Carstens and Michelle Black on behalf of the Sierra Club, Central Valley Partnership, and League of Women Voters entitled "Agricultural Resources and Forestry Resources Impacts are Not Sufficiently Mitigated."

#### **11. Traffic impacts**

##### **a. The Recirculated SEDA draft PEIR materially underestimates VMT by significantly overestimating trip capture within SEDA.**

##### **i. At the time of recirculation, the City was aware of the PEIR's failure to accurately estimate VMT.**

In support of their comment that the draft PEIR fails to accurately estimate VMT, CLC and RCI hereby incorporate by this reference the following comment letters submitted on the 2023 draft

---

<sup>36</sup> See, FRESNO MULTI-JURISDICTIONAL HOUSING ELEMENT, July 2023: Figure 1E-2.2 Sites Inventory, Fresno 2023, p. 1E-2-33; and Table 1E-1.1, Summary of Quantified Objectives, 2023-2031, p. 1E-1-35.

<sup>37</sup> The SEDA PEIR admits as much at p. 2-1: "While there is still ample residential capacity within the current city limits and in Growth Area I (which includes the Southwest Fresno and the West Area Neighborhoods Specific Plan areas), there is a sense of urgency about the current housing crisis and the City's ability to provide housing for the existing population and its natural growth as well as the unanticipated in-migration occurring at this time." The PEIR includes no evidence justifying this supposed "urgency," and California Department of Finance population growth figures flatly contradict it. Moreover, they do not reflect any "unanticipated in-migration occurring at this time," and the EIR offers no evidence in support of this apparently fictitious phenomenon.

<sup>38</sup> Draft SEDA Specific Plan, p. 9.

## SEDA PEIR:

- California Department of Transportation, David Padilla, submitted August 25, 2023.
- California Department of Transportation, David Padilla, submitted November 17, 2023.
- Victoria Transport Policy Institute, Todd Litman, submitted August 21, 2023.
- Sunnyside Property Owners Association, Sue Williams, submitted August 25, 2023.
- County of Fresno, Department of Public Works and Planning, Jeffrey Reid, submitted November 7, 2023.
- CLC, IAF, and RCI, Patience Milrod, submitted August 28, 2023.
- CLC, IAF, and RCI, Patience Milrod, submitted November 6, 2023.

### **ii. VMT figures must be recalculated.**

Notwithstanding multiple comments submitted after the release of each of the two 2023 PEIR drafts, the Recirculated draft PEIR has failed to correct the counterfactual assumptions it makes about internal trip capture within SEDA, fails to provide VMT per service population data for years prior to 2035, and continues simply to assert that VMT per service population will drop from 45.72 to 5.07 without addressing or explaining omission of interim-years data. Moreover, it incorrectly identifies a 2035 buildout horizon – though such a timeline conflicts with the General Plan estimate of only new 14,900 units in SEDA by that date, is not physically feasible, and inaccurately reflects the Specific Plan’s buildout timeframe.<sup>39</sup>

Professionally adequate analysis would recognize that realistically only second-generation SEDA residents will be able to work, go to school, shop, and recreate within SEDA’s boundaries to the extent claimed, since commercial and employment centers will lag a decade or two behind housing development and occupancy. This serious analytic error in turn generates drastically underestimated traffic impacts, which in turn results in material undercounting of air quality impacts, which in turn would invalidate any human health impact analysis based on these data, if such an analysis had been done.

As Victoria Transport Policy Institute points out, “the Plan’s current analysis significantly underestimates vehicle traffic congestion, crash, emission and resulting air quality impacts. Until more accurate travel modeling can be completed, and air quality impacts adjusted, this PEIR fails to predict the project’s significant social and environmental impacts and so fails to provide the information that policy makers, practitioners and the general public need to make informed decisions.” (August 25, 2023 comment letter, p.2.)

CalTrans’ letter notes that SEDA will create a VMT impact because it cannot accurately claim trip capture for decades after the project begins to be built out, as residential uses (which produce trips) are followed, “slowly over time,” by commercial uses (trip attractors). CalTrans

---

<sup>39</sup> See, e.g., Recirculated SEDA draft PEIR at p. ES-1, anticipating “approximately 45,000 homes and 37,000 jobs within the nearly 9,000-acre planning area by the year 2050.”

quantifies the net VMT increase from No Project Conditions as 162% and contradicts the PEIR's claimed VMT per service population claim.

CEQA Guidelines, § 15064.3(b)(4) allows a lead agency to choose a methodology by which to evaluate vehicle miles traveled but requires that "[a]ny assumptions used to estimate vehicle miles traveled and any revisions to model outputs should be documented and explained in the environmental document prepared for the project." The PEIR's choice of a 2035 horizon is unreasonable. In addition, the PEIR does not inform the reader how it calculates VMT either for the years between the project's initiation and its 2035 horizon, nor provide any data out through the (more realistic) 2050 actual buildout period. The PEIR's analysis is subject to Guidelines § 15151's standard of adequacy: "An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible." The missing calculations are reasonably feasible but have not been incorporated into the PEIR and their omission is unexplained.

**b. Traffic mitigation measures must be updated based on corrected data and analysis.**

The 2025 PEIR does acknowledge, as the 2023 draft did not, that the Specific Plan "could conflict" with a program or policy related to transportation. (p. 3.17-31.) It claims the Specific Plan "is a comprehensive planning document" that "addresses wide-ranging infrastructure and community challenges" related to future growth. But, while noting that "[p]lanning at this scale allows design and phasing of infrastructure improvements that are more efficient, environmentally sensitive, and cost-effective," the Plan in fact incorporates no such design or phasing information.

Notwithstanding the almost one million daily trips the project will generate,<sup>40</sup> and commenters' requests for quantifiable and enforceable mitigation measures, the Recirculated draft PEIR identifies exactly the same mitigation measures as the original draft PEIR. There is no evidence of effort to plan comprehensively, or at scale, to design and phase infrastructure so as to mitigate environmental impacts from VMTs. Instead, all mitigation measures defer mitigation to the implementing project level, except possibly MM TRANS-1d (bus service). The cumulative impacts analysis is likewise deferred to project-level approvals. (SEDA draft PEIR, pp.3.17-44 - 45.)

In its Executive Summary Matrix, the draft PEIR claims that the SEDA Specific Plan "would not conflict or be inconsistent with CEQA Guidelines, § 15064.3(b)" (Table ES-1, p.ES-51), and lists that Guideline's criteria for assessing significance of transportation impacts at p.3.17-34. However, the PEIR fails to provide sufficient accurate information to establish whether, or how, the rebuttable presumption of no significant transportation impacts would legitimately apply to the SEDA Specific Plan: The Plan imposes no enforceable mitigation measures as conditions of project-level approvals to ensure siting within 0.5 miles of transit; and, the claim that SEDA planning would reduce VMT below existing conditions is unsustainable on the evidence in the

---

<sup>40</sup> Plan Area VMT with the project build out in 2035 is expected to be 974,369. SEDA Recirculated draft PEIR, p.3.17-32

draft PEIR.

What the draft PEIR does not give us is a reasoned explanation of why it has not adopted, at the Plan level, the many recommended mitigation measures that could make accurate the Plan's claim to comprehensive planning. These include the mitigation measures suggested in CalTrans' August 2023 letter, the Emission Reduction Clean Air Measures recommended by the San Joaquin Valley Air Pollution Control District (copy attached), and the City's own 2020 VMT threshold guidelines document, which points out that "regional VMT mitigation is considered the most effective method for large-scale VMT reduction," and provides multiple mitigation options for community and general plans.<sup>41</sup> As required by Section 15126.4 of the State CEQA Guidelines, "Where several measures are available to mitigate an impact, *each should be discussed* and the basis for selecting a particular measure should be identified. *Formulation of mitigation measures shall not be deferred until some future time.*" [emphasis added]. This draft PEIR fails to fulfill this function.

## **12. The SEDA Recirculated draft PEIR fails to adequately analyze or mitigate greenhouse gas emissions from the SEDA project**

CLC and RCI hereby join, and incorporate by this reference the portions of the March 24, 2025 comment letter submitted by Douglas Carstens and Michelle Black on behalf of the Sierra Club, Central Valley Partnership, and League of Women Voters that relate to the PEIR's assessment, analysis, disclosure, and mitigation of greenhouse gas emissions due to SEDA projects' construction and operation activities.

## **13. The SEDA Recirculated draft PEIR fails to adequately identify, quantify, or mitigate air quality impacts.**

### **a. The draft PEIR must include ozone calculations.**

The draft PEIR's Air Pollution Description and Health Effects discussion lists criterion pollutants, generally describes their adverse effects on human health, and identifies the regulatory programs intended to curb air pollution, including the ozone reduction/prevention plans for the San Joaquin Valley Air Basin nonattainment area. However, there is no discussion of the human health impacts of the additional pollution load this project contributes to Fresno's already-dirty air.

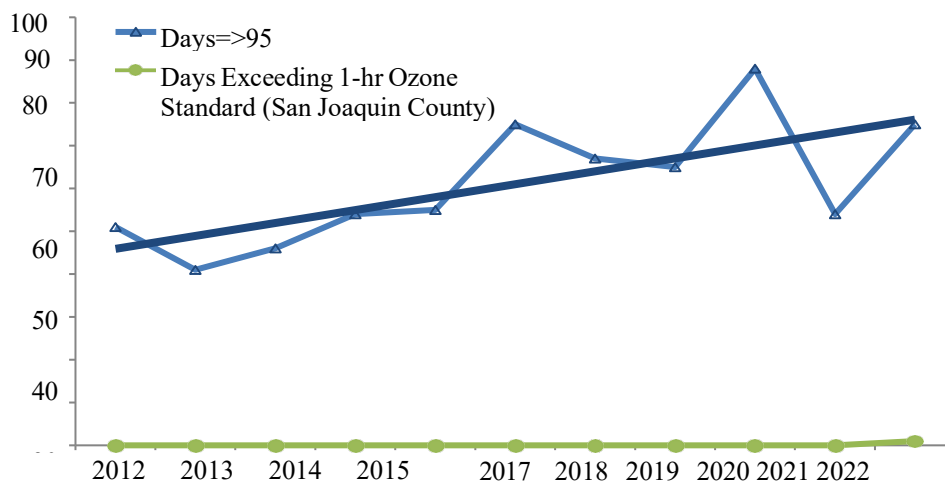
The PEIR does not calculate the anticipated parts per million (ppm) of ozone resulting from SEDA construction and operations; although NO<sub>x</sub> and ROG are estimated, the reader has no idea how much ozone will be produced (i.e., whether the amount of ozone resulting from the ROG and NO<sub>x</sub> pollution will bring the ozone ppm within the 0.10 to 0.40 range). Given that the measures for both the precursor pollutants exceed their respective thresholds of significance,

---

<sup>41</sup> CEQA Guidelines for Vehicle Miles Traveled Thresholds (Fresno CEQA VMT Guide), adopted June 25, 2020, City of Fresno, p.40; for mitigation measures, see, Appendix C, Vehicle Miles Traveled Mitigation Measures for Community Plans and General Plans.

this omission renders the draft PEIR's air quality analysis inadequate. *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 520.

The ozone discussion must, of course do more than calculate the NO<sub>x</sub> + ROG figure but must also factor in the rising temperatures being experienced and expected to increase over the project implementation period. See SJVAPCD Redesignation Request, Appendix B: Analysis of Meteorology Affecting Ozone Levels, p. B-8:



**Figure B-7 Number of Days per Year with High Temperatures  $\geq 95^{\circ}\text{F}$  at Stockton Airport (May-October) and Days Exceeding the 1-hour Ozone NAAQS (2012-2022)**

As importantly, ozone calculations must be based on an accurate VMT figure derived from realistic, evidence-based VMT projections that correct for the excessively optimistic internal trip capture assumptions of this Draft PEIR.

**b. The draft PEIR must include a human health impact analysis**

The PEIR fails to include an analysis that correlates the project's emissions of air pollutants to its impacts on human health, rendering the draft PEIR's air quality analysis inadequate. *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, at pp. 517-520.

Because ozone is not confined to the site where it is generated, piecemealing human health impact analyses on a development-by-development basis, as the draft PEIR proposes, both grossly understates the health impacts, and makes their mitigation effectively impossible.

Moreover, the draft PEIR deliberately misleads the public and decision makers about the seriousness of the air quality impacts SEDA will create, by discussing ROG separately from NO<sub>x</sub>, and asserting that "direct exposure to ROG would not ... result in health effects." See, p. 3.3-58. There is no mention of the toxic cocktail that ROG creates when it combines with NO<sub>x</sub> in the heat of a Central Valley summer afternoon. But ozone's effects on humans, especially children, are not trivial:

SJVAPCD describes ozone impacts in its Community Emission Reduction Program

approved for SEDA-adjacent South Central Fresno<sup>42</sup>: “Breathing ozone can trigger a variety of health problems, including chest pain, coughing, throat irritation, and congestion. It can reduce lung function and inflame the linings of the lungs. Repeated exposure may permanently scar lung tissue. Children are at a greater risk of experiencing negative health impacts because their lungs are still developing and they are more likely to be active outdoors when ozone levels are high, thus increasing their exposure. Studies have linked rising hospital admissions and emergency room visits to higher ozone levels.” Appendix G: Health Impacts of Air Pollution, p. G-17.

Fresno State University’s Central Valley Health Policy Institute studied emergency room and hospital admissions in Fresno, Bakersfield, and Modesto on a daily basis for selected conditions, such as asthma and acute myocardial infarction (MI), that had been previously linked to air pollution in other studies. They determined that ozone was strongly linked to increased risk for asthma ER visits in children during the hottest summer months. Moreover, asthma ER admissions are also strongly linked to increasing PM<sub>2.5</sub> across the Valley, with a higher risk in children. Further, risk for asthma hospitalizations increased dramatically with PM<sub>2.5</sub> in children and adults across the region. A moderate increase in risk of acute MI (heart attack) was also linked to PM<sub>2.5</sub> levels regionally, as were pneumonia ER visits in children and acute bronchitis ER visits in adults.<sup>43</sup>

Dr. Emanuel Alcalá advised in his September 6, 2023, comment letter (copy attached and incorporated by this reference) that “incremental increases in ozone levels alone – independent of the other pollutants the project will create – will have the following human health impacts: decreased lung function, decreased lung function growth in children, increased asthma-related emergency visits and hospital admissions, and mortality among older adults.”

The PEIR is inadequate because, as in *Bakersfield Citizens*, “After reading the EIR[], the public would have no idea of the health consequences that result when more pollutants are added to a nonattainment basin.” (*Bakersfield Citizens, supra*, at p. 1220.) The PEIR does not explain why it includes no quantified health impact projections “to inform the public how its bare numbers translate to create potential adverse impacts,” nor to “explain what the agency *does* know and why, given existing scientific constraints, it cannot translate potential health impacts further.” (*Friant Ranch, supra*, 6 Cal.5th at p. 521 [emphasis in original].) The PEIR offers no “explanation why it was not feasible to provide an analysis that connected the air quality effects to human health consequences.” *Id.*, 6 Cal.5th at p. 522.

In fact, such analysis is feasible, and should have been conducted here. In 2020, after the *Friant Ranch* decision, the Sacramento Metropolitan Air Quality Management District adopted

---

<sup>42</sup> <http://community.valleyair.org/selected-communities/south-central-fresno>, incorporated by this reference.

<sup>43</sup> Capitman & Tyner, *The Impacts of Short-Term Changes in Air Quality on Emergency Room and Hospital Use in California's San Joaquin Valley*, California State University, Fresno, June 2011.

*Guidance to Address the Friant Ranch Ruling for CEQA Projects in the Sacramento Metro Air District* (copy attached), which sets out procedures for conducting a health effects analysis that would meet the Supreme Court’s standard for disclosure of adverse health effects resulting from a CEQA project. The procedures rely on the Benefits Mapping and Analysis Program (BenMAP), a U.S. Environmental Protection Agency (USEPA) tool that estimates health impacts from ozone and PM<sub>2.5</sub>. At Section 6 and Appendix A. the Guidance provides technical procedures and details; at Appendix G it correlates emissions levels and pollutants with “health endpoints”<sup>44</sup> by geographic region and age range for strategic area projects.

As Dr. Alcalá pointed out to the City in September of 2023, “the tools with which to conduct [a human health effects analysis] are readily available. For example, the Environmental Benefits Mapping and Analysis Program – Community Edition (BenMAP-CE) – not only estimates health impacts but also estimates economic values associated with health morbidity events.” BenMAP, or some similar program, should and could have been used here to provide the information the public and decisionmakers need – including an assessment of ozone impacts on human health.

**c. The PEIR is inconsistent with air quality attainment status, and conflicts with and obstructs implementation of the applicable air quality plan.**

While the draft PEIR acknowledges as “a significant and unavoidable impact” that implementation of SEDA will conflict with and obstruct applicable air quality plans, it does not specify which plans, nor does it quantify the degree to which SEDA will obstruct their implementation. (See, p.3.3-42 – 43.)

A review however of the draft PEIR’s Appendix B can garner some idea of how SEDA air quality impacts will harm efforts to ensure healthy air in the Fresno Region. One example is comparing the PEIR’s air quality impacts analysis with the San Joaquin Valley Air Pollution Control District’s “Proposed 2023 Maintenance Plan and Redesignation Request for the Revoked 1-Hour Ozone Standard” (SJVAPCD Redesignation Request) adopted by the Air District Board on June 15, 2023.<sup>45</sup> The purpose of that document is to persuade the federal Environmental Protection Agency to terminate anti-backsliding provisions for the revoked 1-hour ozone standard, including Section 185 nonattainment fees. Toward that end, the document includes both proofs of compliance and a maintenance plan. It clearly does not factor in the ozone contributions SEDA would make to the Valley’s pollution load.

Specifically, SJVAPCD’s Redesignation Request, Appendix A: Emissions Inventory (pp. A-1 through A-4), projects annual anticipated pollution levels for NO<sub>x</sub> through 2036. A layperson – including a member of the public, the Planning Commission, or the City Council – gets a

---

<sup>44</sup> These include: hospital admissions, all respiratory; mortality, non-accidental; emergency room visits, asthma; hospital admissions, asthma; mortality, all cause; hospital admissions, all cardiovascular (less myocardial infarctions); acute myocardial infarction, nonfatal.

<sup>45</sup> See, SJVAPCD 2023 Maintenance Plan and Redesignation Request for the Revoked 1-Hour Ozone Standard – see <https://ww2.valleyair.org/rules-and-planning/air-quality-plans/ozone-plans/>.



graphic idea of SEDA’s impact just by comparing the Air District’s *all-Valley* numbers in identified years to the numbers *this project alone* will generate.

**NO<sub>x</sub> – summer average in tons/day<sup>46</sup>**

Year	Entire San Joaquin Valley, per SJVAPCD	SEDA, per PEIR	SEDA % increase over total SJV
2026	119.50	180.529	151.07%
2031	97.49	170.8218	175.22%
2036	84.13	168.2333	199.97%

This chart illustrates SEDA’s huge and negative effect on Valley air quality: by 2036, SEDA alone is projected to produce double the amount of NO<sub>x</sub> being produced *across the entire rest of the San Joaquin Valley*. The document provides changes in VOC over time and does not sum up ROG separately; it will therefore be important for an adequate SEDA ozone analysis to determine, and to include as a point of comparison, how SEDA ROG emissions will compare to regionwide ROG production during the identified years, in order to report accurately the extent to which SEDA will impede achievement of regionwide air quality improvement goals.

The PEIR must acknowledge these data, explain them in the context of the SEDA proposal, and provide fact-based analysis of the proposal’s air quality impacts that take these data into account. The draft PEIR’s passing confession that “Emissions of VOC and NO<sub>x</sub> that exceed the Valley Air District regional threshold would cumulatively contribute to the ozone nonattainment designation of the SJVAB” (p. 3.3-56) is inadequate. Exceedances at this scale require some effort beyond falling back on General Plan mitigation measures that never anticipated impacts of this magnitude.

**d. Plan level and project level mitigation measures are inadequate, amounting to piecemealing of SEDA’s regional air quality impacts.**

The draft PEIR fails to propose plan-level mitigation measures that will have any mitigating effect on air quality impacts, although many tools and other resources are available for this purpose. The PEIR takes the position that plan-scale mitigations are infeasible, but this is inaccurate: the City’s own 2020 VMT threshold guidelines document provides multiple mitigation options for community and general plans.<sup>47</sup> It is objectively unreasonable, and an invitation to piecemealing that will defeat the whole purpose of a mitigation program, to

---

<sup>46</sup> See, SJVAPCD *Adopted 2023 Maintenance Plan and Redesignation Request for the Revoked 1-Hour Ozone Standard*, Appendix A: Emissions Inventory, p. A-4. Copy attached; available at <https://www.valleyair.org/Workshops/postings/2023/06-15-23/maintenance-plan.pdf>; last accessed March 24, 2025.

<sup>47</sup> See, e.g., Fresno CEQA VMT Guide, and SJVAPCD Emission Reduction Clean Air Measures – among many others.

suggest that it is impossible to impose plan-scale mitigation measures as enforceable conditions of development in SEDA.

The draft PEIR falsely claims that it has adequately canvassed and incorporated available air quality mitigation measures, but that “due to the magnitude of emissions generated by the residential, office, and commercial land uses proposed as part of the proposed project, no mitigation measures are available that would reduce cumulative impacts below the Valley Air District’s thresholds.” That the PEIR cannot find measures to reduce (for example) 2026 NO<sub>x</sub> emissions from 180 tons per year to 10 does not mean there are *no* possible mitigations that would reduce NO<sub>x</sub> emissions to (for example) 50: “Mitigation measures need not include precise quantitative performance standards, but they must be at least partially effective, even if they cannot mitigate significant impacts to less than significant levels.” *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 404; §§ 21051, 21100; Guidelines, § 15370. It is not an option in 2025 to effectively abandon the effort, when air pollution from this project would so massively exceed the entire total NO<sub>x</sub> output for the rest of the San Joaquin Valley, creating avoidable illness and death, and dooming City efforts to reduce climate change impacts.

Such specific mitigation measures as the plan does include are to be implemented at the project level; only AIR-1a imposes use of low-VOC paints (“super-compliant architectural coatings”) as a condition of approval. The others (AIR-1b through AIR-4) do not impose mitigation obligations unless preconditions are met. For AIR-1b and -1c (respectively, construction- and operation-related air impacts), there is no need for air quality mitigation measures unless the *project* impacts exceed the Air District threshold of significance. By definition, project-level emissions will have (relative to the SEDA Plan as a whole) minimal potential impact on the environment.

For AIR-1d, mitigation for emission of Toxic Air Contaminants (TAC) or Diesel Particulate Matter (DPM) pollutants is only required at the project level, and only if *both* of two conditions are met: 1) if such emissions will occur within 1000 feet of a sensitive receptor; *and* 2) if a Health Risk Assessment shows incremental health risks for those sensitive receptors exceed Air District levels. Thus, a development project within SEDA could freely emit unmitigated TAC and/or DPM so long as it is not sited near a sensitive receptor. This is a perverse outcome, defeating the purpose of SEDA, increasing in an unmeasured and unmitigated manner the toxic contaminants to which the general public will be exposed, and putting even non-sensitive receptors at unnecessary risk.<sup>48</sup>

Not surprisingly, though the PEIR acknowledges significant cumulative air quality impacts, the

---

<sup>48</sup> It is also contrary to best practices, according to the Air District. SJVAPCD comments on a Fresno community plan did *not* recommend limiting mitigation to uses near sensitive receptors, but rather prescribed one of two types of health impact analysis for *every* development project within the plan area. See, comments on Recirculated Notice of Preparation of an Environmental Impact Report for Revisions to the Fresno South Central Specific Plan, May 14, 2021, p. 6, available at <https://community.valleyair.org/media/1ywkd01a/district-comments-20210313-nop-fresno-south-central-specific-plan-5-14-21.pdf>

project-by-project approach to the issue would allow many projects to avoid air quality mitigation entirely, thus precluding effective mitigation of cumulative impacts. Thus, the Specific Plan’s cumulative air quality impacts remain, according to the PEIR, “significant and unavoidable.”

Piecemealing a project such as SEDA to avoid imposing mitigation is no more defensible than piecemealing to avoid environmental review. As the Fifth District pointed out in *Los Angeles Dep’t of Water & Power v. Cnty. of Inyo*, 67 Cal. App. 5th 1018, 1035, 283 Cal.Rptr. 3d 119, 130 (2021), “CEQA contemplates consideration of environmental consequences at the earliest possible stage, even though more detailed environmental review may be necessary later. [Citation.] Consistent with this view, CEQA’s requirements cannot be avoided by chopping a large project with significant adverse consequences into many little ones – each with a minimal potential impact on the environment. [Citation.] Piecemeal review is contrary to CEQA’s requirements.” The PEIR fails to demonstrate an honest effort to accurately calculate and to reduce VMTs, or an honest effort to apply any of the many available technologies, mechanisms, and strategies to mitigate air quality impacts. It fails as the informational document CEQA requires.

Moreover, the draft PEIR does not sufficiently account for its lack of specificity by assurances that a “Health Risk Assessment” (HRA) will be prepared later in the CEQA process, in connection with development-specific EIRs. (See, e.g., MM AIR-3.1, -3.2.) *Sierra Club v. County of Fresno*, supra, 6 Cal.5th at p. 521. For one thing, an HRA is required by the California Health & Safety Code, § 44306, only to evaluate and predict the dispersion of hazardous substances. Secondly, a project-specific HRA is inadequate for assessing plan-scale impacts or for devising plan-scale mitigation measures – the very purpose of a Program Environmental Impact Report, but not remotely achieved by the SEDA draft PEIR.

The draft PEIR also fails to propose mitigation measures that will significantly reduce transportation impacts, including dangerous levels of air pollution. Although the project triples vehicle miles traveled to almost 1 million per day, mitigation measures are absent or illusory. For the first two decades of the project’s operation, its transportation and consequent air quality impacts are huge, both as a result of the concept itself – a new city of 145,000 planted in rural Fresno, 10 miles from the city’s urban center – and of an apparent determination to impose no mitigation that might inconvenience or cost SEDA developers and builders.

#### **14. The PEIR is inconsistent with the Housing Element of the City’s General Plan.**

The draft PEIR undermines the Housing Element’s corrective approach to decades of poor planning. Fresno’s 6<sup>th</sup> cycle draft Housing Element acknowledges that “growth in the City of Fresno over the past few decades has traditionally been low density suburban development, which has resulted in conditions of sprawl in various areas of the city.” Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, p.1E-4-1.

The Housing Element therefore proposes to fill a perennial critical gap in the City’s capacity to provide and upgrade housing in legacy neighborhoods: “As part of the implementation of the

Housing Element, programs are identified to upgrade the city’s infrastructure as needed in low- and moderate-income neighborhoods with the greatest needs. *Priority for infrastructure projects will be given to serving established neighborhoods, including generally south of Herndon Avenue as shown in Figure 1E-3.41: Priority Areas for Development Incentives, along BRT and enhanced transit corridors, and in the Downtown Planning Area, consistent with General Plan policies.*” Housing Element, p.1E-3-119 [emphasis added].

A City decision to invest billions of dollars in SEDA infrastructure is inconsistent with the Housing Element’s commitment to correct the City’s history of neglecting older neighborhoods. In the zero-sum game of municipal finance, and especially in the absence of a SEDA infrastructure financing plan, there is no way to ensure adequate resources to fund “Priority Investments in Established Neighborhoods” as already identified in the General Plan.<sup>49</sup>

Again, consistently with the General Plan, the 6<sup>th</sup> Cycle Housing Element inventory does not identify parcels in SEDA as necessary to meet Regional Housing Needs between now and 2031. See, Figure 1E-2.7 at p. 1E-2-67. Instead, the Housing Element identifies SEDA as Development Area 3, as does the General Plan – the last in priority for development on the fringe areas. See, Housing Element, Figure 1E-3.42, which shows Growth Area 2 to include SEDA, labeled “DA-3” for Development Area 3. “Growth Area 2 has significantly less access to completed infrastructure. Any development in these areas would require all infrastructure costs to be borne by the new development.” 1E-3-121.

## **15. The SEDA draft PEIR fails to adequately analyze or mitigate project water impacts.**

### **a. Water impacts are badly underestimated.**

It appears the City has not factored drought conditions or climate change projections into its water supply sustainability calculations. Figure ES-2, Projected Water Supplies<sup>50</sup>, shows an increase of almost 21,000 AFY in available groundwater between 2025 and 2045, plus another 6,500 AFY increase in surface water over the same period.

However, the draft PEIR recognizes that across California, climate change will effect a “reduction in the quality and supply of water from the Sierra snowpack,”<sup>51</sup> a source on which the City of Fresno is heavily reliant for both surface water and groundwater recharge. The Draft PEIR reports that by 2050, such impacts in the Fresno area will reduce the average water supply from snowpack to two-thirds historical levels, and “If emissions reductions do not occur, water from snowpack could fall to less than one-third of historical levels by 2100.”<sup>52</sup>

Not only are these concerns not discussed in the Plan or the draft PEIR, but they are explicitly

---

<sup>49</sup> See summary in December 2024 draft Housing Element, p. 1E-3-119.

<sup>50</sup> Draft PEIR, Appx. F, p. ES-7.

<sup>51</sup> Draft PEIR, p. 3.8-9 (warmer temperatures could reduce the Sierra Nevada spring snowpack “by as much as 70 to 90 percent.”)

<sup>52</sup> *Id.*, p. 3.8-10.

minimized in the discussion of hydrology and water quality. There, the PEIR proposes a cheerful water outlook, repeating in multiple places the phrases “during normal water years” and “assuming groundwater characteristics are not altered due to climatic events or regulatory influences from SGMA.”<sup>53</sup> These are objectively unreasonable assumptions, but there is no discussion of a fallback position in the (likely) event the PEIR’s sunny projections are inaccurate.

**b. Mitigations for hydrology impacts are inadequate; City taxpayers will bear the cost.**

Not only are the projections unreasonably optimistic, but this is yet another place where the City’s failure to do the program-level work of infrastructure planning, accurate environmental assessment, and imposition of mandatory, system-wide, coordinated mitigation measures predictably exacerbates environmental impacts.

Mitigation measures HYD-2b and HYD-2c require the City to refuse to approve proposed SEDA developments that would exceed “existing water supply capacity,” and to “secure additional water supplies by securing additional water sources” prior to any such development approvals. This post-facto proposed mitigation – the costs of which are scheduled to be borne by City taxpayers and not by SEDA’s developers or ultimate residents – is far inferior to plan-level mitigations prescribed in a Program EIR.

To achieve plan-level efficiencies and effectiveness, the City must disclose, and the draft PEIR must discuss, the “EIR-related water infrastructure planning tasks.”<sup>54</sup> An intention to develop this vital information after SEDA approvals would violate CEQA.

**c. CLC and RCI incorporate comments submitted on behalf of County of Fresno.**

In support of their comment that mitigations of water supply impacts are inadequate, CLC and RCI hereby join, and incorporate by this reference, the portions of the September 4, 2023, comment letter (copy attached) submitted by Jeffrey Reid on behalf of the County of Fresno, Department of Public Works and Planning, pages 11 through 12 (Section I).

**16. The PEIR piecemeals assessments of environmental impacts, and mitigations.**

The City’s 2020 application to HCD for the SEDA planning grant committed to project streamlining as one of the SEDA plan’s deliverables by incorporating “environmental analyses that eliminate the need for project-specific review.”<sup>55</sup> This would have been a good idea, in light of the City’s claim that it needs SEDA in order to expedite thousands of urgently needed new homes.

If the City *had* conducted the environmental analyses it promised to do, it would also have been able to keep another of the promises it made to HCD: a Program EIR under which “future development will also utilize an expanded exemption under Government Code Section 65457

---

<sup>53</sup> *Id.*, p. 3.10-8.

<sup>54</sup> SEDA Specific Plan, pp. 100-109, *passim*.

<sup>55</sup> [Fresno City SB 2 Planning Grants Application](#), Section D, Proposed Activities Checklist, item 3, p. 5.

that will apply to certain residential, commercial, and mixed-use projects that are consistent with a specific plan adopted pursuant to Government Code, Article 8, Chapter 3 and would be exempt from CEQA.”<sup>56</sup>

The Plan pays lip service to streamlining, promising “Fiscal Responsibility” by “holistically coordinat[ing] infrastructure to integrate efficiencies that piecemeal planning cannot,” and otherwise coordinating systems and networks for efficiency and economy.<sup>57</sup>

But the Plan and the draft PEIR fail to provide either plan-scale impact analysis or plan-scale mitigation measures; the draft PEIR itself repeatedly prescribes both environmental assessment and imposition of mitigation measures only during the City’s approval process for subsequent discretionary projects within the SEDA footprint – for air quality impacts (see section 13.d, *supra*), transportation impacts, water supply impacts, etc. That is, if SEDA is approved as proposed, the City will need to subject every new project to environmental review in order to determine if its impacts are potentially significant, and what mitigation measures should be imposed – exactly the process streamlining is intended to avoid.

Statements by City officials have made this intention clear, most explicitly from City spokesman Brandon Johansen, whose email to a reporter admitted “As individual projects are filed within the Southeast Development Area, they will be evaluated under CEQA to determine project impacts and mitigation measures.”<sup>58</sup> Such an approach makes streamlining impossible (unless the idea is to use the PEIR to evade environmental review and mitigation for follow-on projects, which has been known to happen in Fresno). Absent streamlining, the City cannot accomplish its claimed goal of expediting housing production.

As importantly, this approach renders impossible “holistic coordination of infrastructure to integrate efficiencies that piecemeal planning cannot,” much less creating systems and networks for efficiency and economy.

Finally, a project-by-project evaluation of air quality, water supply, and transportation impacts makes effective mitigation of SEDA’s large-scale environmental degradations illusory at best. A 9,000-acre project area, planted at such a remove from the city’s center, requires creative and transformative approaches to the environmental consequences of its placement and its population. Piecemealing precludes effective mitigation.

#### **17. The SEDA draft PEIR’s alternatives analysis fails to satisfy CEQA requirements.**

CEQA Guidelines, § 15126.6, provides guidance for conducting an adequate alternatives analysis. A reasonable alternative to a project may involve implementing it at a different

---

<sup>56</sup> SB 2 Planning Grants Application, Section E, Project Description.

<sup>57</sup> Draft PEIR at pp. ES-2, 2-18, and 5-11.

<sup>58</sup> Greg Weaver, *Another Clovis, but in southeast Fresno? City moves forward on mega-development plans, FresnoLand*, August 25, 2023; <https://fresnoland.org/2023/08/25/city-of-fresno-eyes-seda/>; accessed August 27, 2023.

location, as long as it “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.” § 15126.6(a).

Subdivision (c) of the Guideline can make consideration of a different location mandatory:

“The range of potential alternatives to the 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.*” [Emphasis added.]

Except for developers with inventory in the SEDA area, it should be a matter of indifference where exactly the City lawfully exercises its planning and zoning powers to incentivize adequate production of needed housing. Although “the housing crisis” is the putative justification for this Specific Plan at this time (see, fn. 37, *supra*), the Plan does not propose solutions to the housing crisis Fresno actually has: too few homes affordable to those at low and very low incomes, and an oversupply of detached single-family homes for above-moderate income buyers.<sup>59</sup> Section 9, *supra*. While the SEDA Plan pays lip service to providing housing at all income levels, without question a plan serious about ensuring production of even some low-income housing must actively require and incentivize it, not just hope it appears if the plan is adopted; this plan makes no such provisions. Moreover, population growth has dropped significantly (see, section 8, *supra*); logically, housing demand is also dropping<sup>60</sup> and will likely continue to drop.

This is the *accurate* description of the Environmental Setting/Existing Conditions within which SEDA is being proposed. Whether SEDA is wise public policy is not a CEQA question. But CEQA does require that decisionmakers seriously consider the tradeoffs even when acting foolishly, and that the public be fully aware of the costs of the choices their electeds are making for them.

Here, the Objectives of the Plan are set forth at pp. 5-11 – 5-12 of the EIR, a dreamy litany of smart-growth measures that conserve resources and foster community. Sadly, when subjected to comparative scrutiny, not one of these objectives can be better accomplished in a sprawl-inducing greenfields project like SEDA than in an already-urban part of the city. It certainly appears to the lay observer that the Plan’s resource-oriented objectives (coordinated infrastructure, resource-conserving techniques for public facilities, efficient use of energy, water and other resources, and reduction of energy and water consumption) are more likely in a location where infrastructure has already been built, and which can be improved or converted

---

<sup>59</sup> The office of Fresno Mayor Jerry Dyer issued in April of 2022 a report entitled *One Fresno Housing Strategy*, which concluded that, *as of that date*, “Fresno needs 21,001 units for households who can afford no more than \$500 on monthly housing costs,” and “the City of Fresno has a glut of 28,310 single-family detached units over and above what Fresno households need based on household size.” *Id.* at p. 38.

<sup>60</sup> Since the City has not responded to the Public Records Act request for the housing market study it apparently commissioned in connection with SEDA, these commenters are reduced to trawling the internet for pertinent data. According to one internet site, as of the end of February 2025, home sales had dropped 8.4% year over year, and were on average on the market 8 more days than for the same period last year. See, <https://www.redfin.com/city/6904/CA/Fresno/housing-market>, last accessed March 24, 2025.

to new uses depending on the project's needs. The SEDA alternative, to the contrary, will require billions of dollars in new infrastructure – the very opposite of resource conservation, and incompatible with the Plan's "fiscal responsibility" objective.

Other objectives, such as fostering healthy activity by providing walking and bicycling routes to activity centers, convenient transit service, walkable neighborhoods, mixed use town centers, and innovative employment areas, are geography-neutral: there is no need to create a new town on greenfields to provide these amenities for Fresno residents. In fact, the Housing Element commits the City "to upgrade the city's infrastructure as needed in low- and moderate-income neighborhoods with the greatest needs. *Priority for infrastructure projects will be given to serving established neighborhoods.*" December 2024 draft Housing Element, p. 1E-3-119 [emphasis added].

The housing-related objectives are, likewise, geography-neutral – theoretically provision of housing affordable to all income levels and a wide variety of housing choices could be accomplished anywhere. However, unless the still-missing infrastructure financing plan calls for the City itself to fully absorb the expense, the massive cost of providing infrastructure to SEDA will make these objectives much harder to accomplish than they already are: these expenditures will inflate costs-per-square-foot; recouping those costs from SEDA homebuyers, renters, and business owners will create at least some drag on marketability, or will reduce the developers' return on investment. The possibility that lower-income housing could emerge from such a scenario is wildly unrealistic.

Finally, even if the SEDA Plan could create the perfect new town at the southeast corner of Fresno's sphere of influence, it would do so at a huge environmental cost to the region as a whole – including but not limited to the air quality, traffic, and water quality/access concerns itemized here and in other comment letters. It is unlikely that the SEDA Plan would be the environmentally superior alternative when compared to housing provision in existing urban areas of the city.

**a. The City must consider an Infill/No-Project Alternative.**

The City already has in hand a recent inventory of a sufficient number of suitable parcels to meet Fresno's housing needs in its December 2024 Housing Element draft. Facilitating housing development using the Housing Element as a blueprint is likely to yield all of the benefits and significantly reduced environmental impacts from construction and especially from operation.

An Infill Alternative is far likelier to meet many of the Plan's objectives, including creating housing affordable to the Fresnans who really need it. Recent state statutes privileging infill and low-income housing development, combined with a baseline of existing infrastructure, also create a pathway to expedited housing development – which is what you need in a crisis.

The SEDA draft PEIR must include an evaluation of this alternative, which *could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects* (§ 15126.6(a) [emphasis added]), to allow decision makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed



project. CEQA Guidelines, § 15126.6(e)(1).

**b. The City must consider a West Area Neighborhood/No-Project Alternative.**

On March 12, 2025, the City finally released a Recirculated Specific Plan draft EIR for the West Area Neighborhoods. Again, this Plan provides for over 50,000 new homes, in an area already at least partially built out, with at least a baseline of existing infrastructure, and where at least some development would qualify under state procedures for expediting affordable housing.

Again, the West Area Neighborhoods Alternative is far likelier than the SEDA Plan itself to meet all of its objectives, with significantly reduced environmental impacts from both construction and operation. Environmentally, this is a second-best alternative to the Infill Alternative, since the West Area is a new growth area and will be developed less-densely than housing under an Infill concept.

The SEDA draft PEIR must include an evaluation of this alternative, which *could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects* (§ 15126.6(a) [emphasis added]), to allow decision makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project. CEQA Guidelines, § 15126.6(e)(1).

**18. On this record, a statement of overriding considerations to approve the PEIR would be an abuse of discretion.**

On the basis of the current record, it will be impossible for the City Council to make evidence-based findings that “specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment” (Public Resources Code, § 21081 (b)), or that the “unmitigated effects are outweighed by the project’s benefits.” (Laurel Heights, *supra*, 47 Cal.3d at p. 391.)

**Conclusion**

There is no emergency requiring immediate approval of this development plan. The City’s own draft Housing Element establishes that there is more than adequate site inventory within the existing City to accommodate anticipated housing demand for at least eight years. More importantly, adoption of this plan at this time will utterly defeat its claimed principal purpose, to facilitate streamlined housing production by anticipating and mitigating at a program scale the environmental impacts of such development.

The City must correct erroneous population projections and otherwise gather corrected data, use the correct tools to assess impacts, identify effective and enforceable plan-scale mitigations, and fully disclose those facts and analyses. Given the size and scale of the SEDA proposal, and the need to bring the General Plan into conformity with statutory and judicial mandates, it may make most sense to roll its environmental assessment into a General Plan update.

Please include my clients (see cc’s, below) and me on the notification list for next steps in this process. Thanking you for your attention to these matters, I remain,

Very truly yours,

PATIENCE MILROD  
Attorney for Fresno Madera Tulare and Kings  
Counties Central Labor Council, and Regenerate  
California Innovation

cc: Dillon Savory, Fresno Madera Tulare and Kings Counties Central Labor Council, by email to [dsavory@myunionworks.com](mailto:dsavory@myunionworks.com)

Keith Bergthold, Regenerate California Innovation (RCI), by email to [keith@regenerateca.org](mailto:keith@regenerateca.org)

Jennifer Clark, Development Director, by email to [Jennifer.Clark@fresno.gov](mailto:Jennifer.Clark@fresno.gov)

Sophia Pagoulatos, Manager of Long-Range Planning, by email to [Sophia.Pagoulatos@fresno.gov](mailto:Sophia.Pagoulatos@fresno.gov)

Andrew Janz, City Attorney, by email to [Andrew.Janz@fresno.gov](mailto:Andrew.Janz@fresno.gov)