



September 30, 2016

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Irvine, CA 92606
Via Email: bjacobs@ci.irvine.ca.us

Cc: Mayor Steven S. Choi, Ph.D. and Irvine City Council

Subject: Recommendations for Irvine Climate Action Plan (CAP)

Dear Mr. Jacobs,

Thank you for taking the time to discuss climate planning with representatives from Orange County for Climate Action (OCCA) and Climate Action Campaign (CAC) in recent months. CAC is committed to helping cities in Southern California pass and implement successful climate plans that protect the people and places we love for generations to come. OCCA is an alliance of organizations to address climate change throughout Orange County.

Our organizations commend the City of Irvine for its efforts to think proactively about climate, mobility and quality of life as it creates the Irvine 2035 Plan. The following letter outlines our recommendations for the City of Irvine to create a legally binding Climate Action Plan (CAP) in conjunction with its General Plan Update process.

Much has changed in the political landscape of climate change in the past seven years since Irvine created its 2009 Draft CAP. Cities like San Diego have shown that ambitious, 100% Clean Energy climate plans can pass with unanimous, bipartisan support and a hearty endorsement from business and labor communities. SB 32, signed just last month, commits the state to achieving statewide greenhouse gas (GHG) reductions of 40% below 1990 levels by 2030 (codifying Governor Brown's Executive Order B-30-15 last year and consistent with Executive Order S-3-05 goal of 80% GHG reduction by 2050).

Further, Irvine's General Plan Update process presents an exciting opportunity for the City of Irvine to show environmental leadership by creating a CAP that fulfills the City's legal requirements under the California Environmental Quality Act (CEQA) to mitigate the expected GHG impacts of its General Plan.

Below are our initial recommendations for the City of Irvine to create a CAP that fulfills CEQA mitigation requirements and passes legal muster. Please consider our organizations a resource to help with policy recommendations, research and answering any questions about Climate Action Plans or your climate planning process generally.

Climate Action Plans are the Best Way to Achieve Required CEQA Greenhouse Gas Mitigation for the City's General Plan Update

As a requirement under CEQA, Irvine will need to mitigate GHG impacts expected to result from the planned growth and development in the City's General Plan Update. CEQA and case law make clear that mitigation conditions must be enforceable and "[m]itigation conditions are not mere expressions of hope." (*Lincoln Place Tenants Assn. v. City of Los Angeles*, 130 Cal. App. 4th 1491, 1508 (2005)).

The clearest and most comprehensive way to achieve this required mitigation is by creating a CAP. Creating a CAP will also bolster Irvine's policy goals by integrating GHG emissions targets into the long-range vision of the GP to ensure the City maintains its high quality of life. A CAP will serve as the City's roadmap to achieve emissions targets using strategies that have co-benefits and shared goals with the GP, including reduced traffic congestion, a cleaner environment, extended biking and walking infrastructure for residents, increased green job opportunities and improved neighborhoods.

We recommend developing a CAP simultaneously with the Irvine 2035 Plan to fulfill the City's mitigation requirements under CEQA. To accomplish this, we recommend explicitly stating in the GP and in its GP Environmental Impact Report that the CAP will be an enforceable plan intended to mitigate the expected GHG impacts of the City's GP and will reach state targets for 2020 and 2030. Such certainty on the ground rules is ultimately a benefit to all stakeholders. This is consistent with what the City of San Diego did in the creation of its nationally lauded CAP, passed in December 2015.

Climate Action Plans That Serve as CEQA Mitigation for a General Plan Must Include Enforceable Measures

CEQA mitigation measures must be enforceable and once adopted, cannot be defeated by ignoring them. (Cal. Pub. Res. Code § 21081.6(b); *Sierra Club v. County of San Diego*, 231 Cal. App. 4th 1152, 1167 (2014).) Where a CAP is mitigation for the activities in the planning horizon of a GP, there must be enforceable standards with detailed deadlines, as well as

substantial evidence that each mitigation measure will achieve the GHG reduction numbers assigned to each strategy. *Id.* By including enforceable, detailed measures in a CAP, the City can help ensure that the plan meets legal muster and fulfills its requirements under CEQA.

The Planning Horizon of a CAP Should Be Consistent with the City's General Plan and with State Goals

We recommend developing a CAP concurrently with the General Plan Update so that these documents are congruent in terms of their goals, objectives, policies and strategies to reduce the City's GHG emissions and achieve the GP mission of maintaining a high quality of life for residents.

The CAP's planning horizon should match the 2035 planning horizon of Irvine's General Plan Update. Consistency between timetables on climate goals and strategies in both documents makes practical planning sense. Strategies for policies such as smart growth, transit and mobility, urban forestry, waste and energy are relevant to both documents and should be based around the same time frame in each document.

Importantly, courts have found fault in climate plans that did not have a sufficient planning horizon to meet state targets. The Court struck down a climate plan that did not extend past 2020 in *Cleveland Nat'l Forest Foundation v. SANDAG* (Case No. 2011-00101593, Final Ruling, p. 12). In contrast, the City of San Diego CAP is in good legal standing and is based on a 2035 planning horizon to mirror the planning horizon of San Diego's GP as well as achieve emissions reductions consistent with AB32 and California Executive Orders B-30-15 *and* S-3-05.

Climate Action Plan Best Practices

We are available as a resource on best practices for CAP drafting, passage and implementation, including how to make a CAP structurally and legally sound. For example, we suggest creating a CAP task force of citizens and experts to advise the City and engage stakeholders. We recommend creating a CAP implementation timeline and implementation plan, designating who will be responsible for putting the plan into action, and publishing annual CAP monitoring reports and regular GHG inventory updates.

We recommend including ambitious CAP policies like 100% Clean Energy, as San Diego has done. Not only is 100% Clean Energy becoming the new nation-leading standard, but it closely

aligns with state GHG targets and is often the only way to meet these goals. Community Choice Energy is a popular tool in California to achieve clean energy goals while creating more localized control over energy decisions.

Additionally, we recommend including ambitious transportation mode shift goals, like San Diego's goal of a 50% increase in transit, biking and walking in the urban core. Zero Waste and Tree Planting goals are also important CAP policies. Including a Social Equity and Jobs section helps to ensure that overburdened communities are prioritized for CAP actions and that the CAP helps to create good-paying, middle class jobs that benefit all City residents.

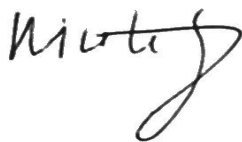
We are happy to provide comprehensive information on these and other policies as you move forward with your climate planning process.

Conclusion

According to the most recently available data and climate scientists, there is no greater threat to the future of humanity than climate change. We commend you for your work to create a citywide GP that will maintain a high quality of life for all residents of Irvine, and we look forward to working with you to help you achieve the City's climate planning goals.

Please do not hesitate to reach out to us with questions, and thank you for the opportunity to weigh in on the City's General Plan Update process.

Sincerely,



Nicole Capretz
Executive Director, Climate Action Campaign



Roger Gloss
Orange County for Climate Action