

**CITY OF MISSION VIEJO
REQUEST FOR PROPOSAL**

FOR:

- (1) PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT (EIR) TO
UPDATE THE LAND USE, CONSERVATION / OPEN SPACE, AND
CIRCULATION ELEMENTS OF THE CITY GENERAL PLAN; AND (2)
PREPARATION OF AN AIR QUALITY/GREEN HOUSE GAS REDUCTION
ELEMENT/CLIMATE ACTION PLAN (CAP)**

Introduction

The City of Mission Viejo, hereinafter referred to as "City", is a planned community located in south Orange County. Incorporated in 1988, Mission Viejo became the 27th City in Orange County, and is 17.4 sq. miles with a current population of 100,242. The City is primarily built-out with a few remaining undeveloped parcels. It is bounded by the City of Lake Forest to the north, the City of Rancho Santa Margarita and the unincorporated communities of Las Flores and Ladera Ranch to the east, City of San Juan Capistrano to the south, and the Cities of Laguna Hills and Laguna Niguel to the west. Major employers in the City include South Orange County Community College District (Saddleback College,) Mission Hospital Regional Medical Center, Unisys, Saddleback Valley Unified School District and the Shops at Mission Viejo regional mall.

The City of Mission Viejo is requesting written proposals for professional environmental services from qualified consultants and firms to prepare an Environmental Impact Report (EIR) for an update of the Land Use, Conservation / Open Space, and Circulation Elements of the City's General Plan, and to prepare a new Air Quality/ Greenhouse Gas Reduction Element and /or Climate Action Plan.

The City's Noise Element and Public Safety Element were recently updated with a Negative Declaration in compliance with the California Environmental Quality Act. The City's Housing Element has also been recently updated and was certified by California Department of Housing and Community Development in August 2009.

The City's draft Land Use, Conservation / Open Space, and Circulation elements have been updated by staff. In order to address the environmental impacts associated with the General Plan update, the city would like the EIR to be complete by June 2010 for submittal to the State Governor's Office of Planning and Research by August 2010. The primary objectives of the update to the Land Use, Conservation / Open Space, and Circulation elements are to: 1) correct outdated references in the elements' narrative; 2) update and correct outdated text, tables and maps; 3) review and revise as appropriate the goals and policies of the elements; and 4) make editorial revisions. The updated elements are available upon request, and a copy of the City's current General Plan can be obtained from the Community Development Department or viewed on the City's website at the following link:

http://cityofmissionviejo.org/depts/cd/general_plan.html. A copy of the 1990 EIR for the City's first General Plan is also available upon request.

Scope of Work

Under the overall project management of the Community Development Director, the selected consultant shall prepare a full and legally defensible EIR, providing full disclosure of the General Plan's effects on Greenhouse Gas Emissions (GHG's), and in compliance with the statutes and guidelines of the California Environmental Quality Act (CEQA). The selected consultant shall also prepare a new Air Quality/ Greenhouse Gas Reduction Element and /or Climate Action Plan to evaluate and address greenhouse gas emissions. The scope of work shall include the following services:

1. Prepare/ assist City with the Initial Study/ Notice of Preparation/ Scoping Meeting.
2. Prepare a Screencheck EIR, Draft EIR, and Final EIR
3. Attend public hearings associated with the discussion and certification of the EIR.
4. Assist with preparation and mailing of public hearing notices, and with the publication of advertisement in the newspaper and notification of agencies and surrounding cities.
5. Prepare and mail environmental documents (Initial Study, Notice of Preparation, Draft EIR, Responses to Comments on Draft EIR, and Notice of Determination).
6. Greenhouse gas assessment – Assess the goals and policies of the General Plan elements and City programs and operations, and provide an assessment of how these contribute to greenhouse gas emissions.
7. Prepare a new Air Quality/ Greenhouse Gas Reduction element and /or Climate Action Plan (CAP) to evaluate and address the Global Warming Solutions Act (AB32) addressing global climate change, address and evaluate greenhouse gas emissions (emissions inventory), and recommend mitigation and implementation measures for greenhouse gas reduction.
8. Discuss and recommend specific, feasible, and enforceable mitigation.
9. Assist with the preparation of staff reports and exhibits for the Planning and Transportation Commission and City Council.
10. Preparation of miscellaneous letters, memos or other documents as required by City staff.
11. Coordination with City staff and state agencies as necessary.

The above is a general outline of the scope of work to be provided by the consultant. While it is believed that this scope includes essential elements necessary to prepare the EIR for the City's update to its General Plan Land Use, Conservation / Open Space, and Circulation Elements, and to prepare a new Air Quality/ Greenhouse Gas Reduction Element and /or Climate Action Plan, consultants submitting proposals are advised and encouraged to exercise their judgment and expertise in:

- identifying and including any additional items in their scope of work which they believe have been overlooked in this Request for Proposal; and/or
- identifying and including modifications to the City's scope of work, with an associated explanation for any proposed modifications.

The cost of these additional items should be separately noted in the Cost Estimate.

Deliverables

All documents, notices, reports mentioned above in the "Scope of Services" section. In addition, all written documents (notices, reports, Initial Study, EIR etc.) shall be prepared and completed

in Microsoft Word format and/or Excel format for any data. Regular updates of the documents shall be provided to City staff as drafts and revised and finalized as required by the City. Furthermore, the consultant shall provide a project schedule that shows the anticipated time frame for completing each task. The City anticipates a six month schedule, with the EIR and General Plan Update submitted to OPR in a timely manner.

Proposal and Qualifications

The proposal shall include the following information:

1. Letter of transmittal signed by an individual authorized to bind the proposing entity.
2. General information about the consultant (i.e., company size, location of office(s), years in business, organization chart, number and position titles of staff). Include name, address, telephone number, facsimile number, and e-mail address of the firm.
3. List references of at least three cities where the consultant has prepared an EIR for a general Plan or General Plan Update. The references shall identify the client, a contact name, telephone number, description of the service provided, and the location where the service was performed.
4. The names and telephone numbers of the consultant's project team, including the name of the project manager, and the sub-consultants to be retained by the consultant. Submit the resumes of all personnel (including sub-consultants) to be involved with the project and their specific experiences relative to the preparation of the environmental documents. The consultant shall also submit an organization chart that shows the reporting relationships of all involved personnel.
5. Consultant's understanding of the project and a description of how the consultant will approach the project.
6. Consultant's knowledge of CEQA and AB 32.
7. Scope of Services to be provided with a breakdown of tasks and timing to complete the project and a detailed description of the methods of information gathering and analysis to be used in preparing the EIR to meet the City's objectives. Also, indicate which members of the project team will be responsible for the various task(s) and attendance at meetings. The submittal should also provide a detailed description of any requested material needed from the City.
8. Consultant's estimated fee for the project, with a not-to-exceed amount. The cost estimates shall reflect detailed projected man hours per the Scope of Services to be provided, including the cost for attendance at meetings, mileage, and projected reproduction costs. This should be accompanied by a list of the hourly rates for each member of the project team, including clerical, and expected subcontractor rates. Cost estimates shall also include contingencies.
9. Proposed work program to complete the project.
10. A statement that consultant agrees to provide proof of insurance as required.

Addenda

If any person contemplating submitting a proposal for the preparation of an EIR for the update of the Land Use, Conservation / Open Space, and Circulation Elements of the City's General Plan is in doubt as to the true meaning of any part of this Request for Proposal, that person may submit to the City's Director of Community Development a written request for an interpretation or correction.

Any interpretation or correction of the specifications will be made only by addendum issued by the City's Director of Community Development. Copies of addenda will be mailed or delivered to those persons who have received an RFP.

Evaluation Process and Selection Criteria

Evaluation of the proposals will be based upon a competitive selection process. It will not, however, be limited to price alone. The following factors will be evaluated by the City during the selection process:

- The degree to which the proposal achieves the objectives for the project.
- The qualifications and experience of the lead consultant and subcontractors.
- The consultant's ability to successfully carry out the project.
- The consultant's understanding of City and South Orange County area housing issues.
- Cost
- Compliance with CEQA and AB32, (and other applicable laws).
- Oral and written communication abilities.
- References.
- Completeness relative to submittal requirements.

Consultant must satisfy the City of its ability to perform the services required. Consultant must demonstrate and document a history of timely and satisfactory performance of similar projects in a manner which addresses the stated evaluation criteria. Consultant shall be responsible for the accuracy of the information supplied concerning references. In addition, the City may consider evidence of untimely and unsatisfactory performance on prior similar projects or litigation by the Consultant on previous contacts to disqualify any Consultant.

The City reserves the right to reject any or all proposals, or to request and obtain, from one or more consulting firms, supplementary information as may be necessary for City staff to analyze the proposal pursuant to the consultant selection criteria. Upon completion of the evaluation phase, City staff will select those consultants for interviews whose proposals and qualifications most closely conform to the requirements of this RFP. The consultant, by submitting a response to this RFP, waives all right to protest or seek any legal remedies whatsoever regarding any aspect of this RFP. The City may choose to interview one or more of the firms responding to this RFP.

The selected consultant will be required to enter into a "Consulting Services Agreement" for the consultant services with the City. The Agreement will include a detailed scope of work and payment of services schedule. The City of Mission Viejo City Council is the authorizing entity to issue a contract award to the top-ranked consultant. Upon receipt of the executed Agreement, it will be submitted to the City Council for approval.

Specifications Not Contractual

Nothing contained in this Request for Proposal shall create any contractual relationship between the Consultant and the City. The City accepts no financial responsibility for costs incurred by any Consultant regarding this RFP.

Proof of Authority

If the Consultant is a corporation, formal proof of the authority of the officer signing the proposal to bind the corporation must be submitted with said proposal. A copy of the corporate resolution, or minutes or letter may be adequate proof.

Reservations

The City reserves the right to reject any and all proposals, and to waive any non-conformity of proposals with this RFP, whether of a technical or substantive nature, as the interest of the City may require.

Instructions and Questions

City representative from whom the Consultant will receive instructions:

Charles E. Wilson, AICP
Director of Community Development
City of Mission Viejo
200 Civic Center
Mission Viejo, California 92691
(949) 470-3053

Questions regarding this Request for Proposal should be directed to Charles Wilson or Elaine Lister at the above phone number. Do not contact any other City employee, City official or City consultant regarding this RFP.

Withdrawal of Proposal

Consultant may withdraw its proposal, either personally or by telegraphic or written request; it should; however, do this prior to the time set for the opening of proposals.

Firm Commitment of Availability of Service

The City shall have two months from the date required for submission of all proposals within which to evaluate the proposals received and to decide which proposal, if any, to accept. During such period, the Consultant shall remain ready, willing, and able to begin work as set forth in the proposal if accepted by the Council.

Independent Contractor

The Consultant is as to the City a wholly independent contractor. The Consultant shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the City.

Legal Responsibilities

The Consultant shall keep itself informed of all local, State and Federal laws and regulations, including, but not limited to, those pertaining to conflict of interest, which in any manner affect those employed by it or in any way affect the performance of its building plan check and inspection service. The Consultant shall at all times observe and comply with all such laws and regulations.

Consultant Accounting Records

Records of Consultant's direct personnel, consultants, and reimbursable expenses pertaining to the work and records of accounts between City and Consultant shall be kept on a generally recognized standard accounting basis and shall be available to City or its authorized representatives at mutually convenient times.

Liability Insurance Requirements for Consultants

Please refer to Exhibit A, Insurance Requirements, which is attached to this RFP.

Term

The term for the agreement will be one year. The agreement will have a 30-day termination clause.

Proposal Submission

Three (3) copies of the proposal must be received by the City no later than:

4:00 P.M., November 13, 2009

No faxed copies

Mark envelopes containing proposal "RFP – EIR - TO UPDATE THE CITY'S GENERAL PLAN/ AIR QUALITY/GREEN HOUSE GAS REDUCTION ELEMENT/CLIMATE ACTION PLAN

Address all proposals to:

Charles E. Wilson, AICP
Director of Community Development
City of Mission Viejo
200 Civic Center
Mission Viejo, California 92691

Attachments:

1. Exhibit A, Insurance Requirements
2. Letter dated January 2, 2008, from State of California Attorney General's Office pertaining to the City's General Plan Update.

EXHIBIT A

INSURANCE REQUIREMENTS

The following coverages will be provided by Consultant and maintained on behalf of the City and in accordance with the requirements set forth herein.

Commercial General Liability/Umbrella. Primary insurance shall be provided on ISO-CGL form No. CG 00 01 11 85 or 88. Total limits shall be no less than one million dollars per occurrence for all coverages and one million dollars general aggregate. City and its employees and agents shall be added as additional insureds using ISO additional insured endorsement form CG 20 10 11 85 (in no event will City accept an endorsement form with an edition date later than 1990). Coverage shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to City or any employee or agent of City. Coverage shall not be limited to the vicarious liability or supervisory role of any additional insured.

Umbrella Liability Insurance (if necessary to meet limits requirements) shall apply to bodily injury/property damage, personal injury/advertising injury, at a minimum, and shall include a "drop down" provision providing primary coverage above a maximum \$25,000.00 self-insured retention for liability not covered by primary policies but covered by the umbrella policy. Coverage shall be following form to any underlying coverage. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusion. Policies shall have concurrent starting and ending dates.

Business Auto/Umbrella Liability Insurance. Primary coverage shall be written on ISO Business Auto Coverage form CA 00 01 06 92 including symbol 1 (Any Auto). Limits shall be no less than one million dollars per accident. Starting and ending dates shall be concurrent. If Consultant owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

Workers' Compensation/Employer's Liability shall be written on a policy form providing workers' compensation statutory benefits as required by law. Employer's liability limits shall be no less than one million dollars per accident or disease. Employer's liability coverage shall be scheduled under any umbrella policy described above. Unless otherwise agreed, this policy shall be endorsed to waive any right of subrogation as respect to the City, its employees or agents.

Professional Liability Insurance. Coverage shall be written on a policy form that provides professional liability insurance, errors and omissions or equivalent coverage appropriate to the Consultant's occupation or service. The policy limit shall be no less than one million dollars per claim and in the aggregate.

Consultant and City further agree as follows:

1. This Exhibit supercedes all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Exhibit.
2. Nothing contained in this Exhibit is to be construed as affecting or altering the legal status of the parties to this Agreement. The insurance requirements set forth in this Exhibit are intended to be separate and distinct from any other provision in this Agreement and shall be interpreted as such.
3. All insurance coverage and limits provided pursuant to this agreement shall apply to the full extent of the policies involved, available or applicable. Nothing contained in this Agreement or any other agreement relating to the City or its operations limits the application of such insurance coverage.
4. Requirements of specific coverage features or limits contained in this Exhibit are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only and is not intended by any party to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.
5. For purposes of insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards, performance of this Agreement.
6. All general or auto liability insurance coverage provided pursuant to this Agreement, or any other agreements pertaining to the performance of this Agreement shall not prohibit Consultant, and Consultant's employees, or agents, from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against City.
7. Unless otherwise approved by City, Consultant's insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best's" Insurance Guide rating of "A:VII+." Self-insurance will not be considered to comply with these insurance specifications.
8. In the event any policy of insurance required under this Agreement does not comply with these requirements or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Consultant.
9. Consultant agrees to provide evidence of the insurance required herein, satisfactory to City, consisting of certificate(s) of insurance evidencing all of the coverages required and an additional insured endorsement to Consultant's general liability and umbrella liability policies (if any) using ISO form CG 20 10 11 85. Consultant shall also provide a waiver of subrogation endorsement to Consultant's workers' compensation policy applicable to the City. Certificate(s) are to reflect that the insurer will provide 30 days notice of any

cancellation of coverage and all policies must be endorsed accordingly. Consultant agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation and to delete the word "endeavor" with regard to any notice provisions. Consultant agrees to provide complete copies of policies to City upon request.

10. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages.
11. Consultant's insurance presented in compliance with these specifications shall not include self-insured retentions or deductibles unless declared to the City and approved by the City Manager. The City may require evidence of financial security if deductibles or self-insured are part of the Consultant's liability program.
12. Any actual or alleged failure on the part of City or any other additional insured under these requirements to obtain proof of insurance required under this Agreement or to inform Consultant of noncompliance with any insurance requirements in no way waives any right or remedy of City or any additional insured, in this or any other regard.
13. Consultant agrees to require all subconsultants or other parties hired for this project to provide general liability insurance naming as additional insureds all parties to this Agreement. Consultant agrees to obtain certificates evidencing such coverage and make reasonable efforts to ensure that such coverage is provided as required here. Consultant agrees to require that no contract used by any subconsultant or contracts Consultant enters into on behalf of City, will reserve the right to charge back to City the cost of insurance required by this agreement. Consultant agrees that upon request all agreements with subconsultants or others with whom Consultant contracts with on behalf of City, will be submitted to City for review. Failure of City to request copies of such agreement will not impose any liability on City, or its employees.
14. If Consultant is a Limited Liability Company, general liability coverage must be amended so that the Limited Liability Company and its Managers, Affiliates, employees, agents, and other persons necessary or incidental to its operation are insureds.
15. Consultant agrees to provide immediate notice to City of any claim or loss against Consultant that includes City as a defendant. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.
16. It is agreed that insurance provided pursuant to these requirements will not be limited to coverage for the vicarious liability or supervisory role of any additional insured. All insurance coverage and limits provided are intended to apply to the full extent of the policies. Nothing contained in this agreement limits the application of such insurance coverage.

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE



1515 CLAY STREET, 20TH FLOOR
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January 2, 2008

Elaine Lister, AICP
City of Mission Viejo
200 Civic Center
Mission Viejo, CA 92691

RE: Negative Declaration for City of Mission Viejo General Plan Comprehensive Update

TRANSMITTED BY FACSIMILE AND U.S. MAIL

Dear Ms. Lister:

The Attorney General of the State of California submits the following comments regarding the adequacy of the Negative Declaration for the City of Mission Viejo General Plan Comprehensive Update ("General Plan Update").¹ As set forth below, because there is a fair argument that the project may have significant impacts on the environment, a Negative Declaration is not appropriate under the California Environmental Quality Act ("CEQA") and an Environmental Impact Report ("EIR") is required.

As set forth in the Negative Declaration:

The project consists of an amendment to the City's General Plan to provide a comprehensive update to elements in compliance with State law. Five (5) of the seven (7) mandatory elements of the City's General Plan require updating.... The elements that are proposed to be updated include: Land Use, Conservation/Open Space, Circulation and Public Safety.

¹The Attorney General provides these comments pursuant to his independent power and duty to protect the natural resources of the State from pollution, impairment, or destruction in furtherance of the public interest. (See Cal. Const., art. V, § 13; Cal. Gov. Code, §§ 12511, 12600-12; *D'Amico v. Board of Medical Examiners* (1974) 11 Cal.3d 1, 14-15.) These comments are made on behalf of the Attorney General and not on behalf of any other California agency or office. While these comments focus on some of the global warming and land use issues raised by the Negative Declaration, they are not an exhaustive discussion of all issues.

ATTACHMENT 2

Elaine Lister
City of Mission Viejo
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(Negative Declaration ("ND") at 1.)²

The General Plan Update is no small project. Mission Viejo covers 17.4 square miles in Orange County with a population that is projected to grow from its current level of 98,483 to 106,176 by 2035.³ The updated General Plan will guide the City's "future growth and development." (ND at 1). The General Plan is the City's fundamental land use regulation, and all zoning and land use decisions must conform to the plan, as amended. (See e.g., *Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 541.)

A negative declaration is appropriate only where there is no fair argument that a project may have a significant effect on the environment. (*Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1993) 6 Cal.4th 1112, 1123.) If a project may cause a significant effect on the environment, the lead agency must prepare an EIR. (Pub. Res. Code, §§ 21100, 21151; 14 Cal. Code Regs., §§ 15064(a)(1), (f)(1).) "Significant effect upon the environment" is defined as "a substantial or potentially substantial adverse change in the environment." (Pub. Res. Code, § 21068; 14 Cal. Code Regs., § 15382 [emphasis added].)

Common sense suggests that an EIR is generally appropriate for a comprehensive general plan update and, in fact, a search of the CEQAnet database⁴ establishes that it is standard practice. There is nothing in the Negative Declaration or Initial Study that supports departing from this practice. The cursory 25-page Negative Declaration offers little more than conclusory statements that the project will have no impact on the environment and lacks any substantive discussion of the basis for its findings. The Initial Study does not remedy these deficiencies as it contains no supporting discussion, documentation or references to information relied upon by the City to reach its determination that a Negative Declaration is appropriate for this General Plan Update. (ND at Appendix A.)

An examination of a number of the potential impacts establishes that the General Plan Update may have a significant impact on the environment. While Mission Viejo's Negative Declaration acknowledges the Global Warming Solutions Act of 2006 (AB 32) and lists "a few examples that help reduce greenhouse gas emissions linked to Global Warming," the document does not quantify the emissions from the proposed project or adopt any of the listed actions as

²The Housing Element is not part of the current update; it will be updated under a separate process.

³City of Mission Viejo Demographics, available at <http://cityofmissionviejo.org/depts/cd/demographics.pdf>, last visited December 22, 2007.

⁴See <http://www.ceqanet.ca.gov>.

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January 2, 2008
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mitigation measures. (ND at 7.)

Global warming is perhaps the most serious environmental threat currently facing California and the world. The recent Bali accord recognized that we must cut greenhouse gas emissions from 25 to 40% below 1990 levels by 2020 to avoid the most catastrophic impacts of climate change, which is even more aggressive than the reductions required in California under AB 32. And we have a limited time to take decisive action. In the words of Rajendra Pachauri, a scientist and economist who heads the Intergovernmental Panel on Climate Change, "What we do in the next two to three years will determine our future. This is the defining moment." In light of the importance and urgency of addressing climate change, the City must provide full environmental disclosure of the effects on greenhouse gas emissions that the General Plan Update will cause, and adopt mitigation measures for those effects and emissions. (We have attached a sheet setting forth examples of global warming mitigation measures that may be appropriate to consider and adopt, and suggest further that you visit the Attorney General's website addressing CEQA and global warming at <http://ag.ca.gov/globalwarming/ceqa.php>.)

The Negative Declaration's cumulative impacts analysis is also more generally flawed. Under CEQA, an EIR is required when the possible effects of a project are individually limited but cumulatively considerable. (Pub. Res. Code, §21083(b)(2).) "[C]umulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." (*Id.*)

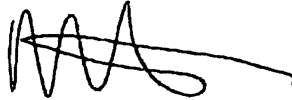
The Negative Declaration states in part, "The project will not result in environmental effects which are cumulatively considerable since the proposal pertains to updating the City's General Plan and does not propose any specific project and/or development of land." (ND at 24.) However, the General Plan Update need not propose a specific project or land development to have cumulative impacts. In fact, the Land Use Element that is part of the Update has more potential to cause cumulatively considerable impacts than would an individual development project. As the Negative Declaration recognizes, "The Land Use Element contains policies on the location and character of land uses necessary for orderly growth and development. This element contains the City's land use objectives, policies, and land use patterns. The element represents the City's desire for long-range changes and enhancements of land uses." (ND at 16.) In a city the size of Mission Viejo, there is a fair argument that the policies set forth in the Land Use Element update will have a cumulatively considerable impact on the environment.

In sum, the General Plan Update will become part of a document that serves as the blueprint for future growth and development in the City. CEQA requires that the City fully disclose, both to decision makers and the public, the environmental impacts that may result from this blueprint. The Negative Declaration prepared for the General Plan Update fails to clearly disclose or evaluate these impacts, much less to mitigate them. We urge the City to withdraw the Negative Declaration and to prepare an EIR for this project in compliance with CEQA.

Elaine Lister
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Thank you for the opportunity to offer these comments. Any questions may be directed to the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read 'MEGAN H. ACEVEDO', with a long horizontal stroke extending to the right.

MEGAN H. ACEVEDO
Deputy Attorney General

For EDMUND G. BROWN JR.
Attorney General

MHA:

cc: William Curley, Esq., Richards Watson & Gershon

Mitigation Measures and Global Warming Resources
California Attorney General's Office

(1) Global Warming Mitigation Measures

The following are some examples of the types mitigation that local agencies may consider under the California Environmental Quality Act (CEQA) to offset or reduce global warming impacts. The list, which is by no means exhaustive or obligatory, includes measures and policies that could be undertaken directly by the local agency, incorporated into the agency's own "Climate Action Plan,"¹ or funded by "fair share" mitigation fees; measures that could be incorporated as a condition of approval of an individual project; and measures that may be outside the jurisdiction of the local agency to impose or require but still appropriate for consideration in an agency's environmental document.

While the lead agency must determine which particular mitigation measures, or suite of measures, is appropriate and feasible for a particular project, proponents of individual private projects are encouraged to take an active role in developing and presenting to lead agencies new and innovative ways to address the impacts of global warming.

Transportation

- Coordinate controlled intersections so that traffic passes more efficiently through congested areas.
- Set specific limits on idling time for commercial vehicles, including delivery and construction vehicles.
- Promote ride sharing programs *e.g.*, by designating a certain percentage of parking spaces for high-occupancy vehicles, providing larger parking spaces to accommodate vans used for ride-sharing, designating adequate passenger loading and unloading and waiting areas, and providing electronic message board space for coordinating rides.
- Create car-sharing programs. Accommodations for such programs include providing parking spaces for the car-share vehicles at convenient locations accessible by public transportation.²
- Create and/or expand existing vehicle buy-back programs to include vehicles with high greenhouse gas emissions.
- Require clean alternative fuels and electric vehicles.
- Develop the necessary infrastructure to encourage the use of alternative fuel vehicles (*e.g.*, electric vehicle charging facilities and conveniently located alternative fueling stations).³
- Increase the cost of driving and parking private vehicles by imposing tolls, parking fees, and residential parking permit limits.

- Develop transportation policies that give funding preference to public transit.⁴
- Design transportation centers where various public transportation modes intersect.
- Encourage the use of public transit systems by enhancing safety and cleanliness on vehicles and in and around stations.
- Assess transportation impact fees on new development in order to facilitate and increase public transit service.⁵
- Provide shuttle service to public transit.
- Offer public transit incentives.
- Incorporate bicycle lanes into street systems in regional transportation plans, new subdivisions, and large developments.
- Create bicycle lanes and walking paths directed to the location of schools and other logical points of destination and provide adequate bicycle parking.⁶ Ensure that non-motorized transportation systems are connected and not interrupted by impassable barriers, such as freeways.⁷
- Restore and/or expand school bus services. Where possible, use an alternative fuel school bus fleet.
- Require commercial projects to include facilities on-site to encourage employees to bicycle or walk to work.
- Provide public education and publicity about public transportation services.⁸
- Conduct a public information campaign on all options for individuals to reduce transportation emissions.
- Organize and lead a formal telecommute work program involving public agencies and private businesses. Provide information, training, and incentives to encourage participation. Provide incentives for equipment purchases to allow high-quality teleconferences

Energy Efficiency and Renewable Energy

- Require energy efficient design for buildings.⁹ This may include strengthening local building codes for new construction and renovation to require a higher level of energy efficiency.¹⁰
- Adopt a "Green Building Program" to promote green building standards.¹¹
- Provide permitting incentives for energy efficient building projects, *e.g.*, by giving green projects priority in plan review, processing and field inspection services.¹²
- Fund and schedule energy efficiency audits of existing buildings by checking, repairing, and readjusting heating, ventilation, air conditioning, lighting, hot

water equipment, insulation and weatherization. (Facilitating or funding the improvement of energy efficiency in existing buildings could offset in part the global warming impacts of new development.) Offer financial incentives for adoption of identified efficiency measures.¹³

- Provide individualized energy management services for large energy users.
- Require the use of energy efficient heating and cooling systems, appliances and office equipment.¹⁴
- Fund incentives and technical assistance for lighting efficiency.¹⁵
- Require that projects use efficient lighting. (Fluorescent lighting uses approximately 75% less energy than incandescent lighting to deliver the same amount of light.)
- Require the use of Light Emitting Diode (LED) for traffic and street lighting.¹⁶
- Incorporate on-site renewable energy production (through, e.g., participation in the California Energy Commission's New Solar Homes Partnership). Require project proponents to install solar panels, water reuse systems, and/or other systems to capture energy sources that would otherwise be wasted.¹⁷
- Streamline permitting and provide public information to facilitate accelerated construction of solar and wind power systems, solar and tankless hot water heaters, and energy-efficient heating, ventilation and air conditioning systems in existing buildings.¹⁸
- Provide innovative financing for energy efficiency and alternative energy projects. For example, allow property owners to pay for energy efficiency improvements and solar system installation through long-term assessments on individual property tax bills.¹⁹
- Fund incentives to encourage the use of energy efficient equipment and vehicles.
- Provide public education and publicity about energy efficiency and available programs and incentives.²⁰

Land Use Measures

- Encourage mixed-use, infill, and higher density development to reduce vehicle trips, promote alternatives to individual vehicle travel and promote efficient delivery of services and goods. Infill development generates fewer vehicle miles traveled (VMT) per capita and reduced emissions of greenhouse gases, and denser development is associated with increased public transit use.²¹ For example, a city or county could promote "smart" development by reducing developer fees or granting property tax credits for qualifying projects.²²
- Discourage development that will increase passenger vehicle VMT. Enact ordinances and programs to limit or prohibit sprawl – development that requires additional or longer passenger vehicle commutes between workplaces and residences.²³
- Incorporate public transit into project design.²⁴

- Require measures that take advantage of shade, prevailing winds, landscaping and sun screens to reduce energy use.
- Preserve and create open space and parks. Preserve existing trees and require the planting of replacement trees for those removed in construction.
- Impose measures to address this "urban heat island" effect by, *e.g.*, requiring light-colored and reflective roofing materials and paint; light-colored roads and parking lots; shade trees in parking lots; and shade trees on the south and west sides of new or renovated buildings.²⁵ Darker colored roofs, pavement, and lack of trees may cause temperatures in urban environments to increase by as much as 6-8 degrees Fahrenheit as compared to surrounding areas.²⁶
- Facilitate "brownfield" development located near existing public transportation and jobs.
- Require pedestrian-only streets and plazas within developments, and destinations that may be reached conveniently by public transportation, walking, or bicycling.²⁷

Water Conservation and Efficiency²⁸

- Design and implement a comprehensive water conservation strategy. The strategy may include many of the specific items that follow, plus other innovative measures that are appropriate for the location.
- Require water efficient landscapes.²⁹ Adopt a strong landscape ordinance with water budgets to assure efficient landscape design, installation, and maintenance in new construction.
- Encourage the use of reclaimed water for landscape irrigation in new developments and on public property. Provide necessary infrastructure to deliver and use reclaimed water.
- Require water efficient design for buildings. This may include strengthening local building codes for new construction and implementing a program to renovate existing buildings to require a higher level of water efficiency.
- Adopt a retrofit ordinance that will require installation of water-efficient fixtures upon the sale of homes.³⁰
- Adopt and enforce restrictions on watering methods (*e.g.*, prohibiting systems that apply water to non-vegetated surfaces) and controls on runoff.
- Require water efficiency training and certification for irrigation designers, installers and managers.
- Provide individualized water audits for large water users to identify conservation opportunities. Offer financial incentives for adoption of identified efficiency measures.
- Provide water audits for large landscape accounts. Offer financial incentives for efficient irrigation controls and other efficiency measures.
- Fund incentives and technical assistance for water efficiency.
- Adopt standards that prescribe the maximum allowable effective impervious area

for all new development and redevelopment projects. Require preservation of the existing hydrologic character of developed sites to manage storm water and protect the environment. (Retaining storm water runoff onsite can drastically reduce the need for energy-intensive imported water at the site.)

- Adopt conservation pricing to encourage efficient water use.³¹

Solid Waste Measures

- Require projects to reuse and recycle construction and demolition waste.
- Implement or expand city or county-wide recycling and composting programs for residents and businesses.
- Increase areas served by recycling programs
- Extend the types of recycling services offered (e.g., to include food and green waste recycling).
- Establish methane recovery in local landfills, wastewater treatment and animal operations plants to generate electricity.³²
- Provide public education and publicity about recycling services.

Carbon Offsets

- In some instances, a lead agency may find that measures that will directly reduce a project's emissions are insufficient. A lead agency may consider whether carbon offsets would be appropriate. The project proponent could, for example, fund off-site projects (e.g., alternative energy projects) that will reduce carbon emissions, or could purchase "credits" from another entity that will fund such projects. The lead agency should ensure that any mitigation taking the form of carbon offsets is specifically identified and that such mitigation will in fact occur.

(2) General Resources

The following web sites and organizations provide general information about mitigating global warming impacts at the local level. These sites represent only a small fraction of the available resources. Local agencies are encouraged to conduct their own research in order to obtain the most current and relevant materials.

- The U.S. Conference of Mayors' Climate Protection Agreement contains valuable information for the many local agencies that are joining the fight against global warming. The Agreement is available here:
http://www.coolcities.us/resources/bestPracticeGuides/USM_ClimateActionHB.pdf
 Nearly one hundred California cities have joined the "Cool Cities" campaign, which means they have signed the U.S. Mayor' Climate Protection Agreement and are taking concrete steps toward addressing global warming. These steps include preparing a city-wide greenhouse gas emissions inventory and creating and implementing a local Climate

Action Plan. Additional resources, including various cities' Climate Action Plans, are located at the Cool Cities website: <http://www.coolcities.us/resources.php>.

- In July 2007, Alameda County became one of twelve charter members of the "Cool Counties" initiative. Participating counties sign a Climate Stabilization Declaration, which is available at the website for King County (Washington State): <http://www.metrokc.gov/exec/news/2007/0716dec.aspx>. Participating counties agree to work with local, state, and federal governments and other leaders to reduce county geographical greenhouse gas emissions to 80% below current levels by 2050 by developing a greenhouse gas emissions inventory and regional reduction plan. Current member counties are recruiting new members and are committed to sharing information. Cool Counties contact information is available at: <http://www.kingcounty.gov/exec/coolcounties/Joinus.aspx>.
- Local Governments for Sustainability, a program of International Cities for Local Environmental Initiatives (ICLEI), has initiated a campaign called Cities for Climate Protection (CCP). The membership program is designed to empower local governments worldwide to take action on climate change. Many California cities have joined ICLEI. More information is available at the organization's website: <http://www.iclei.org/>.
- The Institute for Local Government, an affiliate of the California State Association of Counties and the League of California Cities, recently launched a program called the California Climate Action Network (CaliforniaCAN!). The program will provide information about the latest climate action resources, best practices, and case studies. More information is available at the CaliforniaCAN! website: <http://www.cacities.org/index.jsp?displaytype=§ion=climate&zone=ilsg>.
- The Governor's Office of Planning and Research provides valuable resources for lead agencies related to CEQA and global warming at <http://opr.ca.gov/index.php?a=ceqa/index.html>. Among the materials available are a list of environmental documents addressing climate change and greenhouse gas emissions and a list of local plans and policies addressing climate change.

(3) **Notes**

1. For example, the County of Marin adopted a Greenhouse Gas Reduction Plan in October, 2006 that sets reduction targets for government operations and for the County as a whole. See http://www.co.marin.ca.us/depts/CD/main/pdf/final_ghg_red_plan.pdf.
2. There are a number of car sharing programs operating in California, including City CarShare <http://www.citycarshare.org/>, Zip Car <http://www.zipcar.com/> and Flexcar <http://www.flexcar.com/>.

3. See the City of Santa Monica's Green Building Program at <http://www.greenbuildings.santa-monica.org/transportation/parkingcharging.html>.
4. San Francisco's "Transit First" Policy is listed in its Climate Action Plan, available at <http://www.sfenvironment.org/downloads/library/climateactionplan.pdf>.
5. San Francisco assesses a Downtown Transportation Impact Fee on new office construction and commercial office space renovation within a designated district. The fee is discussed in the City's Climate Action plan. See Note 4.
6. See Marin County's Safe Routes to Schools program at <http://www.saferoutestoschools.org/>.
7. The City of La Mesa has a Sidewalk Master Plan and an associated map that the City uses to prioritize funding. As the City states, "The most important concept for sidewalks is connectivity. For people to want to use a sidewalk, it must conveniently connect them to their intended destination." See <http://www.ci.la-mesa.ca.us/index.asp?NID=699>.
8. The U.S. Conference of Mayors' Climate Action Handbook, cited above, lists education and outreach as key components to taking action against global warming.
9. Leadership in Energy and Environmental Design (LEED) administers a Green Building Ratings program that provides benchmarks for the design, construction, and operation of high-performance green buildings. More information about the LEED ratings system is available at <http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>. Build it Green is a non-profit, membership organization that promotes green building practices in California. The organization offers a point-based, green building rating system for various types of projects. See <http://www.builditgreen.org/guidelines-rating-systems>.
10. Public Resources Code Section 25402.1(h)2 and Section 10-106 of the Building Energy Efficiency Standards establish a process which allows local adoption of energy standards that are more stringent than the statewide Standards. More information is available at the California Energy Commission's website. See http://www.energy.ca.gov/title24/2005standards/ordinances_exceeding_2005_building_standards.html.
11. The City of Santa Monica, for example, has instituted a Green Building Program. See Note 4 and <http://www.greenbuildings.santa-monica.org/>. The City of Pasadena also has a green building ordinance that applies to public and private buildings. See <http://www.ci.pasadena.ca.us/permitcenter/greencity/building/gbprogram.asp> and http://ordlink.com/codes/pasadena/index.htm?Search_Code=Begin+Searching+Municipal+Code. The City of San Francisco is considering adopting green building performance requirements that would apply to public and private buildings. See <http://www.sfenvironment.org/downloads/library/gbtfrrreleasev1.3.pdf>.

12. See "Green County San Bernardino," <http://www.greencountysb.com/> at p. 6.
13. Under Southern California Gas Company's Energy Efficiency Program for Commercial/Industrial Large Business Customers, participants are eligible to receive an incentive based upon 50% of the equipment cost, or \$0.50 per therm saved, whichever is lower, up to a maximum amount of \$1,000,000 per customer, per year. Eligible projects require an energy savings of at least 200,000 therms per year. See <http://www.socalgas.com/business/efficiency/grants/>.
14. Energy Star is a joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy that certifies energy efficient products and provides guidelines for energy efficient practices for homes and businesses. More information about Energy Star certified products is available at <http://www.energystar.gov/>. The Electronic Product Environmental Assessment Tool (EPEAT) is a system that ranks computer products based on their conformance to a set of environmental criteria, including energy efficiency. More information about EPEAT is available at <http://www.epeat.net/AboutEPEAT.aspx>.
15. As described in its Climate Action Plan, the City of San Francisco uses a combination of incentives and technical assistance to reduce lighting energy use in small businesses such as grocery stores, small retail outlets, and restaurants. The program offers free energy audits and coordinated lighting retrofit installation. In addition, the City offers residents the opportunity to turn in their incandescent lamps for coupons to buy fluorescent units. See Note 4.
16. For a discussion of the use of LED traffic lights, see the City of Berkeley's Resource Conservation and Global Warming Abatement Plan at <http://www.baaqmd.gov/pln/GlobalWarming/BerkeleyClimateActionPlan.pdf>.
17. At the direction of Governor Schwarzenegger, the California Public Utilities Commission (CPUC) approved the California Solar Initiative on January 12, 2006. The initiative creates a \$3.3 billion, ten-year program to install solar panels on one million roofs in the State. See <http://www.gosolarcalifornia.ca.gov/nshp/index.html>.
18. As part of its "Green County San Bernardino" program, the County is waiving permit fees for alternative energy systems and efficient heating and air conditioning systems. See <http://www.greencountysb.com/> at p. 3.
19. The City of Berkeley is in the process of instituting a "Sustainable Energy Financing District." See <http://www.cityofberkeley.info/Mayor/PR/pressrelease2007-1021.htm>.
20. See "Green County San Bernardino," <http://www.greencountysb.com/> at pp. 4-6.

21. See US EPA, Our Built and Natural Environments, A Technical Review of the Interactions between Land Use, Transportation, and Environmental Quality (Jan. 2001) at pp. 46-48 <http://www.epa.gov/dced/pdf/built.pdf>.
22. The City of Berkeley has endorsed this strategy in its Resource Conservation and Global Warming Abatement Plan. See Note 16.
23. Samples of local legislation to reduce sprawl are set forth in the U.S. Conference of Mayors' Climate Action Handbook, cited above.
24. The U.S. Conference of Mayors cites Sacramento's Transit Village Redevelopment as a model of transit-oriented development. More information about this project is available at <http://www.cityofsacramento.org/planning/projects/65th-street-village/>.
25. See the website for Lawrence Berkeley National Laboratory's Urban Heat Island Group at <http://eetd.lbl.gov/HeatIsland/LEARN/> and U.S. EPA's Heat Island website at www.epa.gov/heatisland/. To learn about the effectiveness of various heat island mitigation strategies, see the Mitigation Impact Screening Tool, available at <http://www.epa.gov/heatisd/resources/tools.html>.
26. Some local agencies have implemented a cool surfaces programs in conjunction with measures to address storm water run off and water quality. See, for example, The City of Irvine's Sustainable Travelways/Green Streets program at http://www.cityofirvine.org/depts/redevelopment/sustainable_travelways.asp; The City of Los Angeles's Green Streets LA program at <http://water.lgc.org/water-workshops/la-workshop/GreenStreetsDaniels.pdf/view>; see also The Chicago Green Alley Handbook at http://egov.cityofchicago.org/webportal/COCWebPortal/COC_EDITORIAL/GreenAlleyHandbook_Jan.pdf.
27. Palo Alto's Green Ribbon Task Force Report on Climate Protection recommends pedestrian streets under its proposed actions. See <http://www.city.palo-alto.ca.us/knowzone/agendas/grtf.asp>.
28. The California Energy Commission has found that the State's water-related energy use – which includes the conveyance, storage, treatment, distribution, wastewater collection, treatment, and discharge – consumes about 19 percent of the State's electricity, 30 percent of its natural gas, and 88 billion gallons of diesel fuel every year, and this demand is growing. See <http://www.energy.ca.gov/2007publications/CEC-999-2007-008/CEC-999-2007-008.PDF>. Accordingly, reducing water use and improving water efficiency can help reduce energy use and associated greenhouse gas emissions.

29. The Water Conservation in Landscaping Act of 2006 (AB 1881) requires the Department of Water Resources (DWR), not later than January 1, 2009, to update the Model Water Efficient Landscape Ordinance. The draft of the entire updated Model Water Efficient Landscape Ordinance will be made available to the public in December 2007. See <http://www.owue.water.ca.gov/landscape/ord/updatedOrd.cfm>.
30. See the City of San Diego's plumbing retrofit ordinance at <http://www.sandiego.gov/water/conservation/selling.shtml>.
31. The Irvine Ranch Water District in Southern California uses a five-tiered rate structure that rewards conservation. The water district has a baseline charge for necessary water use. Water use that exceeds the baseline amount costs incrementally more money. While "low volume" water use costs \$.082 per hundred cubic feet (ccf), "wasteful" water use costs \$7.84 per ccf. See http://www.irwd.com/AboutIRWD/rates_residential.php.
32. San Diego's Metropolitan Wastewater Department installed eight "digesters" at one of its wastewater treatment plants. Digesters use heat and bacteria to break down the organic solids removed from the wastewater to create methane. See <http://www.sandiego.gov/mwwd/facilities/ptloma.shtml>.