

**PETITION FOR SUBMISSION TO VOTERS OF PROPOSED AMENDMENT
TO THE CHARTER OF THE CITY OF IRVINE**

The City Attorney has prepared the following title and summary of the chief purposes and points of the proposed measure:

**RESTRICTIONS ON IRVINE OFFICIALS' RECEIPT OF PERSONAL OR CAMPAIGN ADVANTAGES
FROM SPECIFIED PERSONS AND ENTITIES**

This ballot measure would amend the Irvine Charter to prohibit any City official who participates in the approval of a "public benefit" from receiving specified "personal or campaign advantages" from the person or entity receiving the public benefit.

Existing state law prohibits any public official from receiving gifts from any source aggregating more than \$300 per year, and from participating in any governmental decision which has a foreseeable, material financial effect on the official. State law does not limit the amount of campaign contributions a city candidate may receive from any source. An adopted initiative limits the amount of campaign contributions that any person may contribute to an Irvine City Council candidate to \$320 in an election cycle.

This measure would prohibit any elected or appointed City official who acts or votes to approve a "public benefit" for any person or entity from receiving from that person or entity a "campaign or personal advantage" (defined as personal gifts in excess of \$50, campaign contributions of any amount, or any offer of employment). The measure defines "public benefit" to include service and supply contracts exceeding \$25,000 over any twelve month period; contracts to buy or sell real property with a value in excess of \$25,000, or real property leases with a value in excess of \$25,000 over any twelve month period; the receipt of a franchise award under specified circumstances where the business activity exceeds \$50,000 in any twelve month period; the receipt of a land use variance, special use permit or exception where the decision has a value in excess of \$25,000; the receipt of a tax benefit where the decision has a value in excess of \$5,000 in any twelve month period; and the receipt of in excess of \$10,000 cash in any twelve month period.

The measure covers officers, partners, trustees, directors, and owners of more than 10% of entities receiving a "public benefit", as well as City officials acting in their official capacities on behalf of a redevelopment agency or other public agency of Irvine. The restrictions upon an official receiving "personal and campaign advantages" extends until the earlier of five years after approval of the "public benefit"; one year after the expiration of the official's term of office during which the "public benefit" was approved; or, where there is no term of office, one year after the official's departure from office.

The measure provides that violations of its provisions are punishable criminally as misdemeanors, or civilly by any Irvine resident. Civil penalties include restitution, penalties of up to five times the value of the personal or campaign advantage, injunctive relief, and disqualification from office for willful, egregious and repeated violations. A resident prevailing in a civil enforcement action shall receive an award of attorneys fees and 10% of any penalties assessed against the official.

If approved by the voters, the measure would take effect 10 days after the official election results are declared by the Irvine City Council.

To the City Council of the City of Irvine:

We, the undersigned, registered and qualified voters of the State of California, residents of the City of Irvine, pursuant to Section 3 of Article XI of the California Constitution and Chapter 2 (commencing with Section 34450) of Part 1 of Division 2 of Title 4 of the Government Code, present to the City Council of Irvine this petition and request that the following proposed amendment to the charter of the City be submitted to the registered and qualified voters of the City for their adoption or rejection at an election on a date to be determined by the City Council.

The proposed charter amendment reads as follows:

The Irvine City Charter shall be amended by the addition of Article XIII, to read as follows:

**ARTICLE XIII.
TAXPAYER PROTECTION**

Section 1300. Title

This Article shall be known as the City of Irvine Taxpayer Protection Amendment of 2000.

Section 1301. Findings and Declarations

(a) The people of the City of Irvine ("City") find that the use or disposition of public assets are often tainted by conflicts of interest among local public officials entrusted with their management and control. Such assets, including publicly owned real property, land use decisions conferring substantial private benefits, conferral of a franchise without competition, public purchases, taxation, and financing, should be arranged strictly on the merits for the benefit of the public, and irrespective of the separate personal or financial interests of involved public officials.

(b) The people find that public decisions to sell or lease property, to confer cable, trash hauling and other franchises, to award public construction or service contracts, or to utilize or dispose of other public assets, and to grant special land use or taxation exceptions have often been made with the expectation of, and subsequent receipt of, private benefits from those so assisted to involved public 'decision makers'. The people further find that the sources of such corruptive influence include gifts and honoraria, future employment offers, and anticipated campaign contributions for public officials who are either elected or who later seek elective office. The trading of special favors or advantage in the management or disposal of public assets and in the making of major public purchases compromises the political process, undermines confidence in democratic institutions, deprives meritorious prospective private buyers, lessees, and sellers of fair opportunity, and deprives the public of its rightful enjoyment and effective use of public assets.

(c) Accordingly, the people declare that there is a compelling state interest in reducing the corruptive influence of emoluments, gifts, and prospective campaign contributions on the decisions of public officials in the management of public assets and franchises, and in the disposition of public funds. The people, who compensate public officials, expect and declare that as a condition of such public office, no gifts, promised employment, or campaign contributions shall be received from any substantial beneficiary of such a public decision for a reasonable period, as provided herein.

Section 1302. Definitions

(a) As used herein, the term public benefit does not include public employment in the normal course of business for services rendered, but includes a contract, benefit, or arrangement between the City and any individual, corporation, firm, partnership, association, or other person or entity to:

(continued on reverse side)

- (1) provide personal services of a value in excess of \$25,000 over any 12 month period,
- (2) sell or furnish any material, supplies or equipment to the City of a value in excess of \$25,000 over any 12 month period,
- (3) buy or sell any real property to or from the City with a value in excess of \$25,000, or lease any real property to or from the City with a value in excess of \$25,000 over any 12 month period,
- (4) receive an award of a franchise to conduct any business activity in a territory in which no other competitor potentially is available to provide similar and competitive services, and for which gross revenue from the business activity exceeds \$50,000 in any 12 month period,
- (5) confer a land use variance, special use permit, or other exception to a pre-existing master plan or land use ordinance pertaining to real property where such decision has a value in excess of \$25,000,
- (6) confer a tax abatement, exception, or benefit not generally applicable of a value in excess of \$5,000 in any 12 month period,
- (7) receive cash or specie of a net value to the recipient in excess of \$10,000 in any 12 month period.

(b) Those persons or entities receiving public benefits as defined in Section 1302(a)(1)-(7) shall include the individual, corporation, firm, partnership, association, or other person or entity so benefiting, and any individual or person who, during a period where such benefit is received or accrues,

- (1) has more than a ten percent (10%) equity, participation, or revenue interest in that entity, or
- (2) who is a trustee, director, partner, or officer of that entity.

(c) As used herein, the term personal or campaign advantage shall include:

- (1) any gift, honoraria, emolument, or personal pecuniary benefit of a value in excess of \$50;
- (2) any employment for compensation;
- (3) any campaign contributions for any elective office said official may pursue.

(d) As used herein, the term public official includes any elected or appointed public official acting in an official capacity.

Section 1303. City Public Official Shall Not Receive Personal or Campaign Advantage From Those To Whom They Allocate Public Benefits

(a) No City public official who has exercised discretion to approve and who has approved or voted to approve a public benefit as defined in Section 1302(a) may receive a personal or campaign advantage as defined in Section 1302(c) from a person as defined in Section 1302(b) for a period beginning on the date the official approves or votes to approve the public benefit, and ending no later than

- (1) one year after the expiration of the term of office that the official is serving at the time the official approves or votes to approve the public benefit;
- (2) one year after the official's departure from his or her office whether or not there is a pre-established term of office; or
- (3) five years from the date the official approves or votes to approve the public benefit;

whichever is first.

(b) Section 1303(a) shall also apply to the exercise of discretion of any such public official serving in his or her official capacity through a redevelopment agency, or any other public agency, whether within or without the territorial jurisdiction of the City either as a representative or appointee of the City.

Section 1304. Applicable Public Beneficiaries Section. Responsibilities of City Public Officials and Advantage Recipients

(a) City public officials shall practice due diligence to ascertain whether or not a benefit defined under Section 1302(a) has been conferred, and to monitor personal or campaign advantages enumerated under Section 1302(c) so that any such qualifying advantage received is returned forthwith, and no later than ten days after its receipt.

(b) City public officials shall provide, upon inquiry by any person, the names of all entities and persons known to them who respectively qualify as public benefit recipients under the terms of Sections 1302 and 1303.

Section 1305. Disclosure of the Law

The City shall provide any person, corporation, firm, partnership, association, or other person or entity applying or competing for any benefit enumerated in Section 1302(a) with written notice of the provisions of this Article and the future limitations it imposes. Said notice shall be incorporated into requests for 'proposal', bid invitations, or other existing informational disclosure documents to persons engaged in prospective business with, from, or through the City.

Section 1306. Penalties and Enforcement

(a) In addition to all other penalties which might apply, any knowing and willful violation of this Article by a public official constitutes a criminal misdemeanor offense. (b) A civil action may be brought under this Article against a public official who receives a personal or campaign advantage in violation of Section 1303. A finding of liability shall subject the public official to the following civil remedies:

- (1) restitution of the personal or campaign advantage received, which shall accrue to the general fund of the City;
- (2) a civil penalty of up to five times the value of the personal or campaign advantage received;
- (3) injunctive relief necessary to prevent present and future violations of this Article;
- (4) disqualification from future public office or position within the jurisdiction, if violations are willful, egregious, or repeated.

(c) A civil action under subdivision (b) of this section may be brought by any resident of the City. In the event that such an action is brought by a resident of the City and the petitioner prevails, the respondent public official shall pay reasonable attorney's fees and costs to the prevailing petitioner. Civil penalties collected in such a prosecution shall accrue 10% to the petitioner, and 90% to the City's general fund.

Section 1307. Severability

If any provision of this Article is held invalid, such invalidity or unconstitutionality shall not affect other provisions or applications which can be given effect without the invalidated provision, and to this end the provisions of this Article are severable.

NOTICE OF INTENT TO CIRCULATE PETITION

December 1, 1999

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of Irvine for the purposes of amending the City Charter. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

There is a compelling state interest in reducing the corruptive influence of emoluments, gifts, and prospective campaign contributions on the decisions of public officials in the management of public assets and franchises, and in the disposition of public funds. The people, who compensate public officials, expect and declare that as a condition of such public office, no gifts, promised employment, or campaign contributions shall be received from any substantial beneficiary of such a public decision for a reasonable period.

Respectfully submitted,

Susan Sayre

Margaret Strubel

