

INFORMATION TO CANDIDATES FOR CITY BOARDS AND COMMISSIONS

IMPLEMENTATION OF THE OAKS INITIATIVE

The Oaks Initiative, also known as the "Taxpayer Protection Act," was adopted by Santa Monica voters on November 2000, and amends the City Charter. Its requirements affect all City-elected and appointed officials, including Council-appointed board and commission members. Related litigation on this matter recently concluded, and accordingly, the City is implementing the Initiative. The City Attorney prepared the following information about the Initiative that may affect you if you are appointed to a Santa Monica Board or Commission. Please read it carefully before completing your application.

PERSONS SUBJECT TO THE INITIATIVE

“City public officials” must comply with the Initiative. The Initiative partially defines “public official” as including any elected or appointed public official acting in an official capacity.” This would include:

- City Council members
- Planning Commission members
- City Manager and Department heads and designees who confer “public benefits” (e.g., contracts, purchase orders, and discretionary permits, variances or text amendments)

WHAT THE INITIATIVE REQUIRES

The Initiative prohibits City public officials who have approved or voted to approve a “public benefit”¹ from receiving a “personal or campaign advantage”² from the recipient of the “public benefit” for one year from the time the City public official leaves office, or five years after conferring the “public benefit,” whichever is shorter. The “recipient” of the public benefit includes the applicant and anyone who is an officer in or has more than a 10% interest in the applicant entity. Example 1: A Councilmember/Commissioner who voted to approve a land use

¹ “Public benefits” include:

1. Personal services contracts in excess of \$25,000 over any 12 month period;
2. Sale of material, equipment or supplies to the City in excess of \$25,000 over a 12 month period;
3. Purchase, sale or lease of real property to or from the City in excess of \$25,000 over a 12 month period;
4. Non-competitive franchise awards with gross revenue of \$50,000 or more in any 12 month period;
5. Land use variance, special use permit, or other exception to an established land use plan, where the decision has a value in excess of \$25,000;

6. Tax “abatement, exception, or benefit” of a value in excess of \$5,000 in any 12 month period; or

7. Payment of “cash or specie” of a net value to the recipient of \$10,000 in any 12 month period.

² “Personal or campaign advantage” includes:

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

project valued in excess of \$25,000 cannot thereafter receive from the “recipient” employment, a gift valued at \$50 or more, or any campaign contribution for the designated time period.

Example 2: An employee of the City or an operating company who approves a contract valued over \$25,000 cannot thereafter receive a gift valued at \$50 or more for the designated period.

DUTIES OF CITY PUBLIC OFFICIALS UNDER THE INITIATIVE

The City is working on the logistics of maintaining lists of persons or entities receiving “public benefits” from the City. Tracking will be required for qualifying “public benefits” conferred after May 12, 2005. “Public officials” have the following duties under the Initiative:

1. Keep track of all actions by which you confer a “public benefit.”

The City will assist with this duty by tracking the conferring of “public benefits” on list(s) maintained by the City. Appropriate staff will assist Board members in tracking this information. Public officials may also wish to maintain their own records of their actions conferring benefits.

2. Keep track of all campaign contributions for any elective office you may pursue.

Public officials should keep track of contributions for any office they pursue, including those outside the City (such as state or federal office). Since officials cannot receive campaign contributions from those upon whom they have conferred a “public benefit,” they should monitor whether campaign contributors are on the list(s) of qualifying “public benefits” they have conferred. The Initiative does not prohibit receiving campaign contributions/gifts **before** officials approve or vote to approve the “public benefit.”

3. Return any “personal or campaign advantages” you may receive within 10 days of its receipt.

Officials must return any of these advantages to the donor if they have also conferred a “public benefit” on the donor. For example, if an official approves purchases of \$25,000 of equipment and the vendor thereafter gives the official two \$30 tickets to a concert, the official must return the tickets in 10 days.

4. Provide, upon inquiry, the names of all recipients of “public benefits” you voted to confer or otherwise conferred.

You may provide your own list or refer the person making the request to the City Clerk or other appropriate City workers.

PENALTIES

A civil action may be brought against the City public official and a civil monetary penalty may be imposed. Knowing or willful violations may result in a misdemeanor prosecution.

Copies of the Initiative are available from the Office of the City Clerk. Questions may be directed to the City Attorney or the City Clerk.

City Clerk's Office

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