# City Council Policy / Procedure

Subject:

**City Council Travel** 

Reference: Resolution No. 01-139

Minute Order 2-14-06

The policy provides that the City shall pay all allowable expenses for travel on City business, including transportation, lodging, registration fees, meals, and other incidental expenses, if they are for official City business and fit within the City's policy guidelines. City business is defined as conferences, training sessions, meetings and other official City business, which is a direct result of employment with, or representation of, the City of Irvine.

City Council travel utilizes the following criteria for official City business: a) the conference or meeting is being held by an organization or agency of which the City is a member; b) the purpose of the travel is City representation in support of a City Council approved program, or at the direction of the City Council; and c) adequate funds are available within the approved City Council Business Expense budget.

In conformance with the California Fair Political Practices Commission (FPPC) Code of Regulations section 18944.2, in situations where travel expenses for City officials are paid for by outside parties, it is the City's policy that these payments be made directly to the City and remain under control of the City. Such travel must be reasonably related to a legislative or governmental purpose, or to an official City program or service. The City Manager or the City Manager's designee determines in his or her sole discretion, which official(s) shall use the payment. The person or entity contributing the payment may not designate the specific official(s) who may use the payment. The payment must be used for official City business and may only be reimbursed for expenses incurred by the Councilmembers. Expenses for spouses and guests may not be reimbursed by the City. (City Council Resolution No. 01-139)

City Council members shall provide a brief report, in either written or verbal form, on meetings attended at City expense at the next regularly scheduled meeting of the City Council.

Refer to City Council Policy/Procedure "Compensation and Expense Policy" for further clarification on allowable travel expenses.

#### CITY COUNCIL RESOLUTION NO. 01-139

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRVINE ADOPTING A POLICY FOR PAYMENT OF TRAVEL EXPENSES STANDARD FORM TO BE USED WHEN ACCEPTING A GIFT TO A PUBLIC AGENCY.

WHEREAS, Officials of the City of Irvine may from time to time travel to personally observe equipment, installations, public works, services, and other items of interest to the City, or to meet with persons or entities on matters relating to the City; and

WHEREAS, the expenses for such travel may be paid for or reimbursed by persons or entities other than the City; and

WHEREAS, the City and its Officials desire to comply with the Political Reform Act and the regulations of the Fair Political Practices Commission; and

WHEREAS, it is the intent of this resolution to comply with and implement the provisions of section 18944.2 of Title 2 of the California Code of Regulations.

NOW, THEREFORE, the City Council of the City of Irvine DOES HEREBY RESOLVE as follows:

SECTION 1. Payments made by persons or entities not affiliated with the City for travel expenses or travel expense reimbursements of City Officials ("Payments") shall be made directly to the City and remain under the control of the City.

SECTION 2. The payment must be used for official City business.

SECTION 3. The City Manager, or the City Manager's designee, shall determine, in his or her sole discretion, which Official(s) shall use the Payment. The person or entity contributing the Payment may not designate the specific Official(s) who may use the Payment.

SECTION 4. The "City of Irvine Gift to a Public Agency Compliance Form" is adopted as the appropriate form to be completed in order to assure compliance with the written record requirement of Section 18944.2 of Title 2 of the California Code of Regulations.

SECTION 5. The completed form shall be filed by the City Manager or his or her designee with the City Clerk within 30 days of receipt by a Payment by the City.

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PASSED AND ADOPTED by the City Council of the City of Irvine at a special meeting held on the 11th day of December 2001.

MAYOR OF THE CITY OF IRVINE

ATTEST:

CITY CLERK OF THE CITY OF KVINE

STATE OF CALIFORNIA )
COUNTY OF ORANGE ) SS
CITY OF IRVINE )

I, JERI L. STATELY, City Clerk of the City of Irvine, DO HEREBY CERTIFY that the foregoing Resolution was duly adopted at a special meeting of the City Council of the City of Irvine, held on the 11th day of December 2001, by the following vote:

AYES:

5 COUNCILMEMBERS:

Krom, Mears, Smith, Ward

and Agran

NOES:

0 COUNCILMEMBERS:

None

ABSENT:

0 COUNCILMEMBERS:

None.

Y CLERK OF THE CITY OF RVINE

### EXHIBIT 1

# City of Irvine Gift to a Public Agency Compliance Form

This form should be completed in full and filed with the City Clerk to ensure compliance with section California Code of Regulations 18944.2, "Gifts to an Agency." The term "Payment" is not limited to cash or money but also includes distributions, transfers, loans, advances, deposits, gifts, property and services or anything else of value.

For a payment to be exempt from the definition as a "Gift," the payment must be made to the City of Irvine. Otherwise it may qualify as a "gift," which may be disclosed on the recipient's Statement of Economic Interests, and may not exceed \$320.00 (for the period of Jan. 1, 2001 to Dec. 31, 2002) in value. All of the following requirements must be met for the payment to be exempt:

1). The City of Irvine must receive and control the paym	ient.
2). The payment must be used for official City business.	e de la companya del companya de la companya del companya de la co
3). The City Manage or the City Manager's designee mudiscretion, which Official(s) shall use the payment. The I Official(s) that may use the payment.	ast determine, in his or her sole  Oonor may not designate the specific
The City must make a written record of the above three	conditions. The written record must:
Identify the Donor:	
Identify the Official designated to use the payment:	
Describe the official City use to which the payment is put:	
Describe the nature and the amount of the payment:	
Comments (optional):	
This record must be filed with the City Clerk within 30 day City.	es of receipt of the payment by the
Prepared By (Name and Title):	Date:

#### California Code of Regulations section 18944.2:

- (a) A payment, which is a gift as defined in Government Code Section 82028, shall be deemed a gift to a public agency, and not a gift to a public official, if all of the following requirements are met:
- (1) The agency receives and controls the payment.
- (2) The payment is used for official agency business.
- (3) The agency, in its sole discretion, determines the specific official or officials who shall use the payment. However, the donor may identify a specific purpose for the agency's use of the payment, so long as the donor does not designate the specific official or officials who may use the payment.
- (4) The agency memorializes the payment in a written public record which embodies the requirements of subdivisions (a)(1) to (a)(3) of this regulation set forth above and which:
- (A) Identifies the donor and the official, officials, or class of officials receiving or using the payment;
- (B) Describes the official agency use and the nature and amount of the payment; and
- (C) Is filed with the agency official who maintains the records of the agency's statements of economic interests where the agency has a specific office for the maintenance of such statements, or where no specific office exists for the maintenance of such statements, at a designated office of the agency, and the filing is done within 30 days of the receipt of the payment by the agency.
- (b) Notwithstanding subdivisions (a)(3) and (a)(4) of this regulation, a donation to a California public college or university for a specific research project which is received consistent with the requirements of California Code of Regulations, Title 2, Section 18702.4(c) and for meals received in the course of an official fundraising activity, which qualify under federal and state law for a deduction as a charitable contribution for educational purposes, will be deemed a gift to the college or university.

## California Government Code section 82028:

- (a) "Gift" means, except as provided in subdivision (b), any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value.
- (b) The term "gift" does not include:
- (1) Informational material such as books, reports, pamphlets, calendars, or periodicals. No payment for travel or reimbursement for any expenses shall be deemed "informational material."
- (2) Gifts which are not used and which, within 30 days after receipt, are either returned to the donor or delivered to a nonprofit entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code without being claimed as a charitable contribution for tax purposes.
- (3) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person; provided that a gift from any such person shall be considered a gift if the donor is acting as an agent or intermediary for any person not covered by this paragraph.
- (4) Campaign contributions required to be reported under Chapter 4 of this title.
- (5) Any devise or inheritance.
- (6) Personalized plaques and trophies with an individual value of less than two hundred fifty dollars (\$250).

# A Public Document

This form is for use by all state and local government agencies to disclose payments made to the agency when the payments provide a personal benefit to an official of the agency. Examples may include travel, meals or other benefits. Under certain circumstances, these payments will not result in a gift to the official, but will be considered a gift to the agency. The payments must be used for official agency business and must meet other requirements that are set out in FPPC Regulation 18944.2, which is available on the FPPC website www.fppc.ca.gov.

#### When to File

This form must be filed within 30 days of the use of the payment. Reports may be faxed, mailed, personally delivered or e-mailed.

#### Where to File

**State Agencies:** File this form with the Fair Political Practices Commission ("FPPC"), 428 J Street, Suite 620, Sacramento, CA 95814. Fax: 916-322-0886 E-mail: Form 801@fppc.ca.gov

**Local Agencies:** File this form with the official that maintains the agency's statements of economic interests (Form 700).

**Website Posting**: Each agency that maintains a website must also post the form or the information contained on the form on its website within 30 days of the use of the payment. Local agencies that do not maintain a website must forward the form to the FPPC for posting on its website.

#### Part 1. Agency Identification

List the agency's name and address and the name of an agency contact. Mark the amendment box if changing any information on a previously filed form and include the date of the original filing.

#### Part 2. Donor Information

Disclose the name and address of the donor. If the donor is not an individual, identify the business activity or nature and interests of the entity.

If the donor received payments from other sources that were used in connection with the activity, disclose the name and payment information for each source.

# Part 3. Payment Information

Report the date and amount of each payment. For travel payments, also disclose the location(s), and a breakdown of the expenses. Provide a specific description of the use of the payment and the intended purpose. List each agency official for whom the payment was used.

Example: A business entity paid for an agency employee to travel to attend an informational seminar on solar energy projects in Washington D.C. The description should read: "Travel to attend an EPA cosponsored solar energy seminar held in Washington, D.C."

#### Part 4. Verification

The agency head or his or her designee must sign the form.

#### **General Information**

Gifts to agencies must meet the following requirements:

- The agency head or designee must determine and control the agency's use of the payment.
- The payment must be used for official agency business.
- The donor may identify a purpose for the gift but may not designate by name, title, class or otherwise, an official who may use the payment.
- The agency official who determines who will use the payment may not select himself or herself.

Travel payments must also meet these requirements:

- A payment for travel may not be used by a state or local elected officer or by the state, county, and city officials who hold positions listed in Government Code Section 87200.
- A payment for travel may not exceed the agency's own reimbursement rates for travel, or the State per diem or IRS reimbursement rates if the agency has no policy.
- The agency head or designee must preapprove travel paid for by a third party before travel commences.

Travel payments made by a federal government agency in connection with education, training, or other interagency programs are not reportable.

For further information on filing this report or for general information, contact the FPPC.

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