

**The following city charter section resulted from the passage by voters of the Measure S (Greenlight Initiative) in 2000:**

**Section 423 Protection from Traffic and Density.**

**Voter approval is required for** any major amendment to the Newport Beach General Plan. A “major amendment” is one that significantly increases the maximum amount of traffic that allowed uses could generate, or significantly increases allowed density or intensity.

“Significantly increases” means **over 100 peak hour trips (traffic), or over 100 dwelling units (density), or over 40,000 square feet of floor area**

**(intensity)**; these thresholds shall apply to the total of: 1) Increases resulting from the amendment itself, plus 2) Eighty percent of the increases resulting from other amendments affecting the same neighborhood and adopted within the preceding ten years. “Other amendments” does not include those approved by the voters. “Neighborhood” shall mean a Statistical Area as shown in the Land Use Element of the General Plan, page 89, in effect from 1988 to 1998, and new Statistical Areas created from time to time for land subsequently annexed to the City.

“Voter approval is required” means that the amendment shall not take effect unless it has been submitted to the voters and approved by a majority of those voting on it. Any such amendment shall be submitted to a public vote as a separate and distinct ballot measure notwithstanding its approval by the city council at the same time as one or more other amendments to the City’s General Plan. The city council shall set any election required by this Section for the municipal election next following city council approval of the amendment, or, by mutual agreement with the applicant for the amendment, may call a special election for this purpose with the cost of the special election shared by the applicant and the City as they may agree. In any election required by this Section, the ballot measure shall be worded such that a YES vote approves the amendment and a NO vote rejects the amendment; any such election in which the ballot measure is not so worded shall be void and shall have no effect.

This section shall not apply if state or federal law precludes a vote of the voters on the amendment. (Added effective December 15, 2000)

On Nov. 7, the residents of Newport Beach face a ballot measure that will have a significant and long-term impact on the quality of life of our city. At issue is whether Measure S should be approved or rejected by the voters.

The Irvine Company and the community have been partners for over 50 years in planning and creating what is clearly one of California's finest cities. Working in partnership with the city and its residents, we have created a special community that, because of thoughtful and careful planning, has a high quality of life. This quality of life is enjoyed by every resident and business in our city today.

It is this quality of life that all of us strive to preserve and protect for generations to come. In September, after careful review, The Irvine Company stated its opposition to Measure S. As we stated, Measure S, the Greenlight initiative, eliminates the city planning process and replaces it with a process that encourages piecemeal development and subjects complicated planning issues to political slogans with no long-term planning structure for maintaining Newport Beach's quality of life.

There are those who believe that our opposition to Measure S is based on self interest. They claim our position originates solely from a desire to seek future additional general plan amendments in Newport Beach without having to submit future plans to the voters.

To correct this inaccurate view and to ensure that all Newport Beach voters consider Measure S based on facts, not fear, we wish to inform the residents of Newport Beach that The Irvine Company will not seek any future amendments to the General Plan of Newport Beach. Further, we will not build any more high-rise office buildings in Newport Beach. Given this commitment, Measure S will have no impact on the future plans for The Irvine Company properties in Newport Beach, whether it passes or not.

The Irvine Company makes this commitment for one very important reason. We care very much about the long-term quality of life and preservation of property values of all residents and landowners in Newport Beach, whether they are a homeowner, a small-business owner, or a corporate owner.

It is our sincere hope that in removing the public discussion of additional high-rise office buildings and applications for future general plan amendments in Newport Center, residents will be able to base their decisions on Nov. 7 not on simple campaign slogans and fear tactics, but rather on a thoughtful analysis of what the long-term implications of Measure S will be on a planning process that has served the residents and businesses of Newport Beach well for more than 50 years.

After careful analysis by our company, we are joining many civic leaders in our city, including The Firefighters Association, the Police Employees Association, the Orange County Taxpayers Association, and the Newport Harbor Chamber of Commerce in opposing Measure S.

The Irvine Company has a long history of providing financial support to local organizations and campaign efforts. The recent Newport-Mesa School Bond effort is an example. It is in this spirit that The Irvine Company has supported the efforts of these groups that oppose Measure S, and we plan to continue to do so.

As an organization with a 50-year commitment to professional planning and quality of life in Newport Beach, it is our opinion that Measure S, if approved, will have a negative effect on property values and, more importantly, a negative effect on the quality of life that the residents of Newport Beach have all come to value and appreciate.

We urge the residents of Newport Beach to carefully review Measure Sand to cast their vote based on a complete and informed understanding of its effects.

\* GARY HUNT is executive vice president of The Irvine Company.

This table is from the "Newport Beach Annual Monitoring Report" from The Irvine Company presented to the City August 05, 2013.

ATTACHMENT 3

COMMUNITY-WIDE INFORMATION  
2011 ANNUAL MONITORING REPORT  
COMMUNITY/PROJECT NAME: Newport Coast  
**ESTIMATED BUILDOUT YEAR: 2015**

	AS OF 12/31/02	AS OF 12/31/11	AT BUILDOUT
<b>A. Developed Acres by Land Use</b>			
Residential - Detached	785.6	1,439.5	1,632.6
Residential - Attached	242.2	242.2	242.2
Commercial	0.0	10.0	10.0
Commercial Square Footage	0	125,000	125,000
Industrial	0.0	0.0	0.0
Office	0.0	0.0	0.0
Other - Open Space and Recreation	7,407.8	7,407.8	7,407.8
Other - <b>Tourist Commercial Resort</b>	10.7	<b>201.3</b>	<b>201.3</b>
<b>TOTAL DEVELOPED ACRES</b>	<b>8,446.3</b>	<b>9,300.8</b>	<b>9,493.9</b>
<b>B. Residential Population <sup>1</sup></b>			
	3,843	5,357	5,850
<b>C. Dwelling Units/Accommodations</b>			
Single-Family Detached	1,195	1,868	2,087
Attached (Including Rental)	513	513	513
Other - <b>Tourist Commercial Resort Accommodations</b>	117	<b>1,104</b>	<b>1,104</b>
<b>TOTAL DWELLING UNITS</b>	<b>1,825</b>	<b>2,381</b>	<b>2,600</b>
<b>TOTAL ACCOMMODATIONS</b>	<b>117</b>	<b>1,104</b>	<b>1,104</b>
<b>D. Employees</b>			
Commercial <sup>2</sup>	0	283	283
Industrial	0	0	0
Office	0	0	0
Other - Open Space and Recreation	75	75	75
Other - Tourist Commercial Resort <sup>3</sup>	50	994	994
<b>TOTAL EMPLOYEES</b>	<b>125</b>	<b>1,352</b>	<b>1,352</b>

<sup>1</sup> Residential population based on 2.25 PPDU

Source: CA Dept of Finance and Center for Demographic Research, CSU Fullerton as of June 2001

<sup>2</sup> The maximum allowable number of residential units is 2,600. The current number of approved residential units is 2,599

<sup>3</sup> The maximum allowable number of tourist commercial accommodations is 2,150. The current number of approved tourist commercial accommodations is 1,108

<sup>4</sup> Employees based on existing count for golf course

<sup>5</sup> Employees based on 0.9/accommodation

Source: General Employment Generation Factors - County of Orange

### **7.3 Termination of Agreement.**

**7.3.1 Termination of Agreement for Default of OWNER.** CITY in its discretion may terminate this Agreement as to any non-annexed portions of the Property for any failure of OWNER to perform any material duty or obligation of OWNER hereunder or to comply in good faith with the terms of this Agreement related to its annexation (hereinafter referred to as "default"); provided, however, CITY may terminate this Agreement pursuant to this Section only after following the procedure set forth in Section 6.3 and thereafter providing written notice to OWNER of the default setting forth the nature of the default and the actions, if any, required by OWNER to cure such default and, where the default can be cured, OWNER has failed to take such actions and cure such default within 30 days after the effective date of such notice or, in the event that such default cannot be cured within such 30 day period, the failure of CITY to commence to cure such default within such 30 day period and to diligently proceed to complete such actions and to cure such default.

**7.3.2 Termination of Agreement for Default of CITY.** OWNER in its discretion may terminate this Agreement by written notice to CITY after the default by CITY in the performance of a material term of this Agreement and only after following the procedure set forth in Section 6.3 and thereafter providing written notice by OWNER thereof to CITY and, where the default can be cured, the failure of CITY to cure such default within 30 days after the effective date of such notice or, in the event that such default cannot be cured within such 30 day period, the failure of CITY to commence to cure such default within such 30 day period and to diligently proceed to complete such actions and to cure such default.

**7.3.3 Rights and Duties Following Termination.** Upon the termination of this Agreement, no party shall have any further right or obligation hereunder except with respect to (i) any obligations to have been performed prior to said termination, (ii) any default in the performance of the provisions of this Agreement which has occurred prior to said termination, or (iii) obligations that have vested through the annexation of the Property, or any annexed portion thereof.

### **7.4 OWNER's Right To Terminate Upon Specified Events.**

Notwithstanding any other provisions of this Agreement to the contrary, OWNER retains the right to terminate this Agreement (but not the provisions of Section 3) upon thirty (30) days written notice to CITY in the event that OWNER reasonably determines that continued Development of the Project consistent with the Development Plan has become economically infeasible due to changed market conditions, increased Development costs, burdens imposed as conditions to future discretionary approvals of the Project consistent with this Agreement, or similar factors.



(c) If CITY timely receives a request from a Mortgagee requesting a copy of any notice of default given to OWNER under the terms of this Agreement, CITY shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to OWNER. The mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed such party under this Agreement.

(d) Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of OWNER's obligations or other affirmative covenants of OWNER hereunder, or to guarantee such performance; except that (i) to the extent that any covenant to be performed by OWNER is a condition precedent to the performance of a covenant by CITY, the performance thereof shall continue to be a condition precedent to CITY's performance hereunder, and (ii) in the event any Mortgagee seeks to develop or use any portion of the Property acquired by such Mortgagee by foreclosure, deed of trust, or deed in lieu of foreclosure, such Mortgagee shall strictly comply with all of the terms, conditions and requirements of this Agreement and the Development Plan applicable to the Property or such part thereof so acquired by the Mortgagee.

## **10 MISCELLANEOUS PROVISIONS.**

This Annexation and Development Agreement went into effect at the end of 2001 or beginning of 2002.

**10.1 Term of Agreement.** Following completion of the annexation of the Property, or any portion thereof, to the CITY within the preceding time periods, this Agreement shall continue in full force and effect with respect to such annexed land for a period of fifteen (15) years from the effective date of that annexation.

**10.2 Recordation of Agreement.** This Agreement shall be recorded with the County Recorder by the City Clerk upon annexation of the Property to CITY within the period required by Section 65868.5 of the Government Code. Similarly, amendments approved by the parties, and any cancellation, shall also be recorded.

**10.3 Entire Agreement.** This Agreement sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.