RESOLUTION 12-52

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF MISSION VIEJO ADOPTING A GIFT, TICKET AND GRATUITY POLICY AND AMENDING THE CITY COUNCIL POLICY MANUAL

WHEREAS, the City Council of the City of Mission Viejo is charged with the responsibility of establishing municipal polices to guide the various functions of the City, and where necessary, establishing procedures by which functions are performed; and

WHEREAS, on October 22, 1990, the City Council of the City of Mission Viejo established procedures for the preparation and distribution, and maintenance of a Council Policy Manual; and

WHEREAS, the City Council desires to adopt a Council Policy regarding gifts, tickets and gratuity and to amend the Council Policy as set forth in Exhibit "A" attached and incorporated by reference;

WHEREAS, the policy is applicable to all city officials and employees and applies to tickets which provide admission to an event for an entertainment, amusement, recreational or similar purpose, and are: (a) gratuitously provided to the City by an outside source; or (b) acquired by the City by purchase; or (c) acquired by the City as consideration pursuant to the terms of a contract for the use of a City venue; or (d) acquired and distributed by the City in any other manner.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MISSION VIEJO DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. That all of the above recitals are true and correct;

SECTION 2. That attached as Exhibit "A" and incorporated by reference is the Council Policy for Gifts, Tickets and Gratuity.

SECTION 3. This Resolution shall take effect upon its adoption by this City Council

PASSED, APPROVED AND ADOPTED this 20th of August, 2012.

[redacted]

Frank Ury
Mayor

I, Karen Hamman, hereby certify that the foregoing Resolution was duly adopted by the City Council of the City of Mission Viejo at a regularly scheduled meeting thereof, held on the 20th day of August, 2012, by the following vote of the Council:

AYES: Kelley, Leckness, Reardon, Schlicht, and Ury
NOES: None
ABSENT: None

ATTEST:

[redacted]

Karen Hamman
City Clerk

City of Mission Viejo

COUNCIL POLICY

SUBJECT	RES. NO.	POLICY NO.	EFF. DATE	PAGE
GIFT, TICKET AND GRATUITY POLICY	**12-52**	**0400-14**	**8-20-12**	**1 of 5**

A. Purpose. This Gift, Ticket and Gratuity Policy ("Policy") is adopted by the City Council of the City of Mission Viejo and is intended to be both effective immediately upon adoption and to supercede any inconsistent, duplicative or unmemorialized policies of the City of Mission Viejo addressing the same subject matter.

This Policy is further intended to apply to all employers, officers, and officials of the City of Mission Viejo as is consistent with local, State of California, and United States laws. This City Council intends this Policy to be deemed amended, from time to time, to incorporate any change to local, State of California, or United States law addressing the same subject matter, without further action by the City Council of the City of Mission Viejo.

This City Council acknowledges that California State Law requires the City to adopt, by ordinance, a local ticket use policy and intends this enactment to satisfy the legal requirement.

B. Adoption and Incorporation by Reference of the Gift and Ticket Policies Promulgated by the State of California and the Fair Political Practices Commission of the State of California.

In all matters, the City of Mission Viejo and its employees, officers, and officials, shall be subject to and regulated by the limitations on gifts, the reporting of gifts and disclosure of the receipt of gifts as adopted by, and amended from time to time, the Fair Political Practices Commission of the State of California, and by the State of California, by and through the Legislature and Executive Officers of the State of California.

Each employee, officer or official of the City of Mission Viejo, regardless of title, job duties or tenure shall be bound by this Policy and shall act in conformance with it at all times.

The City Manager is hereby directed to conform all current Personnel Policies, Purchasing Policies and all other policies adopted or enforced by the City of Mission Viejo to conform to this Policy, without further action by this City Council and to ensure the Policy is disclosed to and adhered to by all City employees, officers and officials at all times.

C. Complimentary Ticket Policy.

Purpose. This Policy governs the distribution of complimentary tickets received by the City. The purpose of this Policy is to establish a fair and equitable process for the distribution of complimentary tickets to the City in compliance with the requirements of Section 18944.1 of the Fair Political Practices Commission ("FPPC") Regulations. This Policy is subject to all applicable FPPC Regulations and the Political Reform Act of 1974 (Government Code Section 81000 et seq., as the same may from time to time be amended).

Authority. FPPC Regulation 18944.1

Assigned Responsibility. City Council, City Manager

Applicability. All City officials, officers, and employees

General Policy.

A. Application of Policy and Public Purposes.

1. This Policy applies to tickets which provide admission to an event for an entertainment, amusement, recreational or similar purpose, and are:

   (a) Gratuitously provided to the City by an outside source; or

   (b) Acquired by the City by purchase; or

   (c) Acquired by the City as consideration pursuant to the terms of a contract for the use of a City venue; or

   (d) Acquired and distributed by the City in any other manner.

This distribution of any and every ticket shall be made solely to accomplish a public purpose that furthers the goals and intent of the City of Mission Viejo. For purposes of this policy the public agency purposes attendant to the distribution of tickets include: (i) involvement of city employees, officers, and officials in noteworthy community events to reflect the City's support and involvement in community, non-governmental and governmental events; (ii) to educate City employees, officers, and officials as to the interests, expectations and support of the public for the event being attended; (iii) to allow City employees, officers, and officials the opportunity to review and evaluate the presentation, management, operation and community support for the type and nature of the event for use in programming City events; (iv) to demonstrate City support for events that are socially or community oriented and as such anticipate involvement by and with City employees, officers, and officials; (v) to support local, State and national holidays, celebrations and similar festivals where the involvement of City employees, officers, and officials is a traditional and common expectation; (vi) to support the economic development opportunities available to the City; (vii) to encourage participation and attendance by members of the public or other agencies; and (viii) to satisfy the goals, policies, and objectives of the City of Mission Viejo General Plan and policies adopted by the City.

2. This Policy does not apply to:

   (a) A single ticket provided to and used by a City official or employee to an event at which the official or employee performs a ceremonial role or function on behalf of the City.

(b) Any other item of value provided by the City or any City official or employee, regardless of whether received gratuitously or for which consideration is provided;

(c) Tickets provided by sources other than the City; or

(d) Tickets for which the City official or employee pays the City the value of the tickets.

B. Definitions.

Unless otherwise expressly provided herein, words and terms used in this Policy shall have the same meaning as that ascribed to such words and terms in the California Political Reform Act of 1974 (Government Code Section 81000 et seq., as the same may from time to time be amended) and the FPPC Regulations (Title 2, Division 6 of the California Code of Regulations, Section 18110 et seq., as the same may from time to time be amended).

1. "City" or "City of Mission Viejo" means and includes the City of Mission Viejo, any other affiliated agency created or activated by the Mission Viejo City Council, and any departments, boards, and commissions thereof.

2. "City venue" means and includes any facility owned, controlled, or operated by the City of Mission Viejo.

3. "Ticket" means and includes any form of admission privilege to a facility, event, show, or performance for entertainment, amusement, recreation, or similar purposes, and excludes working credentials.

4. 'Ticket Administrator" shall be the person with the authority, in his or her sole discretion, to establish procedures for the distribution of tickets in accordance with this policy, and to implement the policy. The City Manager shall be the Ticket Administrator.

C. General Provisions.

1. No Right to Tickets: The use of complimentary tickets is a privilege extended by the City and not the right of any person to which the privilege may from time to time be extended.

2. Limitation on Transfer of Tickets: Unless otherwise provided herein, tickets distributed to a City official or employee pursuant to this policy shall not be transferred to any other person, except to members of such City official's or employee's immediate family solely for their personal use.

3. Prohibition Against Sale of Tickets: No person who receives a ticket pursuant to this policy shall sell the ticket or receive payment for such ticket from any other person.

D. Distribution of Complimentary Tickets by the City.

The Ticket Administrator shall have sole discretion to determine who shall receive the Tickets consistent with this Policy and in conformance with satisfying the public purposes applicable to this Policy.

1. The Ticket Administrator may provide two (2) Tickets to each Council Member.

(a) The Tickets shall be used by the Council Member and his or her spouse or dependent children solely for their personal use.

(b) The public and governmental purpose of providing the Tickets to Council Members is to enable them to (i) advertise and promote the City of Mission Viejo, and (ii) monitor and evaluate events held at City venues and their compliance with City policies, agreements and other requirements.

(c) Council Members may purchase at face value additional Tickets, but no more than two (2) Tickets will be provided as described in this Section.

2. The Ticket Administrator may distribute one (1) Ticket to a City employee on an equitable basis, with the option that such employee may be allowed to purchase at face value a second Ticket for use by the employee's immediate family or personal guest.

(a) The purpose of providing the Ticket to a City employee is to enable the employee to (i) advertise and promote the City of Mission Viejo, (ii) monitor and evaluate the value of events held at City venues and their compliance with City policies, agreements and other requirements, and (iii) enhance employee morale.

3. The Ticket Administrator may distribute Tickets to non-profit community service groups in the City if there is a public purpose for doing so.

4. The Ticket Administrator may distribute complimentary tickets or passes to persons participating in recreational, educational or cultural programs administered by the City or for other lawful purposes; provided, however, that Tickets shall only be distributed to City Council Members and City employees or their spouses and dependent children in accordance with this Policy.

5. Tickets shall be distributed to City officials and employees under procedures designated by the

Ticket Administrator, provided the manner of distribution conforms to this Policy and can be documented and reported as required by this Policy.

E. Tickets Under this Policy Not Subject to Gift Regulations: Other Benefits Could Be Gifts.

1. The distribution of Tickets pursuant to this Policy shall not constitute a "gift" to the City Council Member or City employee pursuant to the terms of FPPC Regulation 18744.1. However, the City Council member or City employee must treat the Ticket as income consistent with applicable state and federal income tax laws. Other benefits, such as food or beverage or items provided or presented to the City official or employee that are not included with the admission provided by the Ticket must be accounted for as gifts.

2. If the City receives Tickets that are earmarked for a particular City official or employee, such Tickets are considered gifts to that particular official or employee. If the Tickets are not returned unused to the provider within thirty (30) days of receipt, the official or employee must comply with the applicable FPPC gift limit and reporting regulations.

F. Reporting of Tickets/Posting.

The distribution and use of Tickets pursuant to this Policy shall be documented on FPPC Form 802 (Tickets Provided by Agency Report). Within thirty (30) calendar days of the distribution of a ticket or the use of a pass the Ticket Administrator, or his or her designee, shall prepare and certify Form 802 and shall post it on the City's website in a prominent fashion.