

RESOLUTION NO. 2009-61

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
POMONA APPROVING A TICKETS AND PASSES
DISTRIBUTION POLICY**

WHEREAS, every California city by and through its governing body and other public officials, is empowered to exercise all powers necessary or appropriate to a municipal corporation for the general welfare of its inhabitants which are not prohibited by the California Constitution;

WHEREAS, the California Fair Political Practices Commission (“FPPC”) recently amended Section 18944.1 of the California Code of Regulations relating to tickets or passes to facilities or events for entertainment purposes distributed by the City to, or at least at the behest of, public officials to further restrict the use of event tickets and passes by City officials and employees; and

WHEREAS, from time to time the City of Pomona (the “City”) receives event tickets and/or passes from public and private entities and individuals; and

WHEREAS, the City, on occasion from time to time, may purchase tickets and/or passes to entertainment events for its officials and employees for public purposes; and

WHEREAS, the City finds that the receipt of all such tickets and/or passes are public resources;

WHEREAS, in accordance with the recently amended FPPC Regulation Section 18944.1, the City desires to use such tickets and/or passes to further public purposes, such as the promotion of City businesses, resources, programs, and facilities;

WHEREAS, the furtherance of public purposes may require the distribution of said tickets and/or passes to “public officials,” as that term is defined by Government Code Section 82048 and FPPC Regulation Section 18701;

WHEREAS, FPPC Regulation Section 18944.1(b)(2) pertains to the City’s receipt of equal or greater value in exchange for the distribution of a ticket and/or pass to its officials;

WHEREAS, FPPC Regulation Section 18944.1 provides for the circumstances and procedures under which the receipt of tickets and/or passes by a public official would need to be disclosed by the City and also the circumstances under which such tickets and/or passes distributed to public officials will not trigger disclosure requirements for the purpose of the public official’s Statement of Economic Interests, also known as Form 700;

WHEREAS, pursuant to FPPC Regulation Section 18944.1 these tickets and/or passes are not gifts to public officials if the City distributes these tickets and/or passes in accordance with a duly adopted written policy, when distributed under Section 18944.1(b)(2);

WHEREAS, consistent with the foregoing recitals and according to FPPC Regulation Section 18944.1, such tickets and/or passes distributed in accordance with a duly adopted written policy are, when so distributed under FPPC Regulation Section 18944.1(b)(2), not considered gifts to public officials; and

WHEREAS, the FPPC recognizes and has stated that the City has discretion to determine whether the distribution of tickets and/or passes serves a legitimate public purpose of the City, provided that the determination is consistent with State law.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Pomona, California hereby adopts as follows:

SECTION 1. The City Council of the City of Pomona hereby adopts the City of Pomona Tickets and Passes Distribution Policy, attached hereto as “Exhibit A.”

SECTION 2. That, consistent with the requirements of California Code of Regulations Section 18944.1, the City Council hereby directs the City Clerk to post the Tickets and Passes Distribution Policy in a prominent fashion on the City’s Website.

SECTION 3. The City Clerk shall attest and certify to the passage and adoption of this resolution, and it shall become effective immediately upon its approval.

APPROVED AND ADOPTED THIS 4TH DAY OF MAY, 2009.

ATTEST:



APPROVED AS TO FORM:



Attorney

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF POMONA

I, MARIE MICHEL MACIAS, CITY CLERK of the City of Pomona do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council of the City of Pomona held on the 4th day of May, 2009 by the following vote:

AYES: COUNCILMEMBERS: Soto, Rodriguez, Lantz, Saunders, Atchley, Rothman
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: Carrizosa
ABSTAIN: COUNCILMEMBERS: None



CITY OF POMONA
TICKETS AND PASSES DISTRIBUTION POLICY

1. Purpose of the Policy. The purpose of this Policy is to ensure that all tickets and/or passes the City receives from public and private entities and individuals are distributed in furtherance of governmental and/or public purposes as required pursuant to FPPC Regulation 18944.1.

2. Definitions.
 - a. “City” shall mean the City of Pomona.
 - b. “City Official” shall mean and refer to the City’s “public officials” as that term is defined by Government Code Section 82048 and FPPC Regulation Section 18701, as these sections are amended from time to tome.
 - c. “FPPC” shall mean the California Fair Political Practices Commission.
 - d. “FPPC Regulations” shall mean the regulations of the FPPC set forth in Title 2, Division 6, of the California Code of Regulations.
 - e. “Immediate Family” shall have the same meaning as set forth in Government Code Section 82029 as the same may be amended from time to time. As of the date of adoption of this Policy, the term “Immediate family” is defined in Section 82029 as the official’s spouse and dependent children.
 - f. “Policy” shall mean this Tickets and Passes Distribution Policy.
 - g. “Ticket” shall mean a “ticket or pass” as that term is defined in FPPC Regulation 18944.1, as amended from time to time, but which currently defines a “ticket or pass” as admission to a facility, event, show or performance for an entertainment, amusement, recreational, or similar purpose.

3. Tickets Covered by this Policy. Tickets covered by this Policy include those:
 - a. Gratuitously provided to the City by an outside source;
 - b. Acquired by the City by purchase;
 - c. Acquired by the City as consideration pursuant to the terms of a contract for the use of a City venue, or the use of a venue incorporating services provided by the City.

4. Limitations and Exclusions.
 - a. This Policy shall only apply to the City’s distribution of Tickets to, or at the behest of, a City Official. Consideration of equal or greater value shall be presumed if the Tickets are distributed pursuant to this Policy.
 - b. This Policy shall apply only if the Ticket is (i) not earmarked by the original source of the Ticket for use by the specific City Official who uses the Ticket and (ii) the City Manager or authorized designee determines in his/her sole discretion, which official may use the Ticket.
 - c. This Policy shall not apply to any other item of value provided to the City or City Official regardless of whether received gratuitously or for which consideration is provided as part of admission, such as food and beverages. Any such item other than a Ticket may be reportable on Form 700 and be subject to state law and FPPC regulations related to gifts to public officials.

- d. This Policy does not apply to any Ticket received by a City Official that:
 - i. The City Official treats as income consistent with applicable state and federal income tax laws and regulations and the City reports the distribution of the Ticket as income to the City Official; or
 - ii. For which the City Official pays the fair market value, or for which the City Official reimburses the original source of the Ticket in accordance with FPPC Regulations, or for which the City Official pays or reimburses the City for the fair market value; or
 - iii. Is a “gift” to the City Official in accordance with FPPC Regulations whether or not the City Official reports the gift on the City Official’s Form 700.
 - e. This Policy does not apply to a Ticket provided to a City Official for his or her admission to an event at which the City Official performs a ceremonial role or function on behalf of the City. Such Tickets are exempt from disclosure or reporting requirements under FPPC Regulations in effect as of the date of the adoption of this Resolution.
5. Ticket Distribution Public Purposes. The distribution of any Ticket by the City to, or at the behest of, a City Official shall be accomplished through a public purpose as defined below, or as otherwise considered and approved by the City Council where not listed herein. The City may accomplish one or more of the following public purposes through the distribution of Tickets to, or at the behest of, a City Official:
- a. Promotion of local and regional businesses, economic development and tourism activities within the City, including conventions and conferences.
 - b. Promotion of City-controlled or sponsored events, activities, or programs.
 - c. Promotion of community programs and resources available to City residents, including nonprofit organizations and youth programs.
 - d. Marketing promotions highlighting the achievements of local residents and businesses.
 - e. Promotion and marketing of private facilities available for City resident use, including charitable and nonprofit facilities.
 - f. Promotion of public facilities available for City residents and other public uses.
 - g. Promotion of City growth and development, including economic development and job creation opportunities.
 - h. Promotion of City landmarks and/or community events.
 - i. Promotion of special events in accordance with any City contract.
 - j. Exchange programs with foreign officials and dignitaries.
 - k. Promotion of City recognition, visibility, and/or profile on a local, state, national or worldwide scale.
 - l. Promotion of open government by City official appearances, participation and/or availability at business and community events.
 - m. Sponsorship agreements involving private events where the City specifically seeks to enhance the City’s reputation both locally and regionally by serving as hosts providing the necessary opportunities to meet and greet visitors, dignitaries, public officials, residents and their guests.

- n. All written contracts where the City as a form of consideration has required that a certain number of Tickets or suites be made available for City use.
 - o. Employment retention programs.
 - p. Special outreach programs for veterans, teachers, emergency services, medical personnel, and other civil service occupations.
 - q. Spouses of or immediate dependents of public officials in order to accompany or represent him or her to any of the items listed above.
6. Designation of Agency Head. For the purpose of implementing this Policy, and completing and posting the FPPC California Form 802, the City Manager or his/her authorized designee shall be the "Agency Head." In such cases where the City Manager or his/her authorized designee desires to use a Ticket, the City Council hereby authorizes the City Manager and his/her authorized designee to exercise the City's sole discretion in determining whether the City Manager's use or behest of Tickets is in accordance with the terms of this Policy.
7. Transfer, Sale, and Reimbursement Prohibitions. The transfer by any City Official of any Ticket, distributed to such City Official pursuant to this Policy, to any other person, except to members of the City Official's Immediate Family for their personal use, is prohibited. No person receiving a Ticket pursuant to this Policy shall be permitted to sell, receive reimbursement for the value of, or further transfer any Ticket.
8. Return of Tickets. Any City Official or any member of the City Official's Immediate Family, or any person or entity receiving a Ticket at the behest of any City Official, may return any unused Ticket to the City Manager or authorized designee for redistribution pursuant to this Policy, provided such Ticket(s) is/are returned prior to the event taking place. A City Official is not required to report on Form 802 any Ticket returned pursuant to this Section prior to the event taking place. Any Ticket returned unused but after the event has taken place shall be deemed to have been used by the recipient and reported as such on Form 802.
9. Website Posting. This Policy shall be posted on the City website in a prominent fashion.
10. Website Disclosure. The distribution of a Ticket pursuant to this Policy shall be posted on the City website in a prominent fashion within thirty (30) days after the Ticket distribution. Such posting shall use FPPC California Form 802 or such alternate form as form time to time the FPPC may designate, and in accordance with the reporting requirements specified under FPPC Regulation Section 18944.1(d).