

RESOLUTION 2012-84

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO ADOPTING A COMPLIMENTARY TICKET DISTRIBUTION POLICY PURSUANT TO FAIR POLITICAL PRACTICES COMMISSION REGULATION 18944.1

WHEREAS, on November 8, 2011, Fair Political Practices Commission (“FPPC”) Regulation 18944.1 was amended by the FPPC, and these amendments were effective as of January 1, 2012; and

WHEREAS, Regulation 18944.1 describes the circumstances in which the distribution of tickets or passes to a City Official does not result in a gift to the City Official who accepts such ticket or pass; and

WHEREAS, if a local agency wishes to take advantage of the exception to the gift rules identified under FPPC Regulation 18944.1, the FPPC requires the legislative body of the local agency to adopt a written policy governing the distribution of “complimentary tickets or passes”; and

WHEREAS, the City Council would like to adopt such a policy and take advantage of the exemptions provided by FPPC Regulation 18944.1.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of El Cerrito does hereby resolve as follows:

Section 1. The foregoing recitals are true and correct and are hereby incorporated by reference.

Section 2. The City Council hereby adopts the policy regarding the distribution of complimentary tickets pursuant to the Fair Political Practices Commission Regulation 18944.1, attached hereto and incorporated herein as Exhibit A.

I CERTIFY that at a regular meeting on November 20, 2012 the City Council passed this resolution by the following vote:

AYES:	Councilmembers Abelson, Benassini, Lyman and Mayor Jones
NOES:	None
ABSTAIN:	None
ABSENT:	Councilmember Cheng

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on November 27, 2012.


Cheryl Morse, City Clerk

APPROVED:



William C. Jones, III, Mayor

Exhibit A

CITY OF EL CERRITO POLICY REGARDING THE DISTRIBUTION OF COMPLIMENTARY TICKETS PURSUANT TO FAIR POLITICAL PRACTICES COMMISSION REGULATION 18944.1

Section 1. Purpose of Policy.

The purpose of this Policy is to establish a fair and equitable process for the distribution of complimentary tickets or passes provided to the City in compliance with the requirements of Section 18944.1 of the Fair Political Practices Commission Regulations. This Policy is subject to all applicable FPPC Regulations and the Political Reform Act, as they now exist or may hereafter be added or amended. These regulations can be found at Title 2 of the California Code of Regulations (“FPPC Regulations”).

Section 2. 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 Sections 81000, et seq., as may be amended from time to time) and FPPC Regulations.

A. “City” means the City of El Cerrito, and any other affiliated agency created or activated by the City Council, and any departments, boards and commissions thereof.

B. “City Official” means every officer, agent and employee of the City who is obligated to file an Annual Statement of Economic Interests (“FPPC Form 700”) under state law or the City’s current conflict of interest code.

C. “City Venue” means any facility owned, controlled or operated by the City, or any City department, commission or board.

D. “FPPC” means the California Fair Political Practices Commission.

E. “Family” means spouse, registered domestic partner, children and dependent children as defined in FPPC Regulation 18943.

F. “Policy” means this Policy Regarding the Distribution of Complimentary Tickets Pursuant to FPPC Regulation 18944.1.

G. “Ticket” means 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 privileges to a facility, event, show or performance for an entertainment, amusement, recreational, or similar purpose. If other benefits, such as food, beverages or other items, are provided to the City Official at the event and such benefits are not included as part of the admission to the event, those benefits are not covered by this Policy.

Section 3. Application of Policy.

A. Generally, this Policy applies to the distribution of all Tickets received by the City that provide admission to a facility, event, show, or performance for an entertainment, amusement, recreational or similar purpose.

B. This Policy shall be applicable to every officer, agent and employee of the City who is obligated to file a FPPC Form 700 under state law or the City's Conflict of Interest Code.

C. This Policy governs the distribution of complimentary Tickets received by the City that are either:

1. Gratuitously provided to the City by an outside source;
2. Purchased by the City;
3. Acquired by the City as consideration pursuant to the terms of a contract for the use of a City venue; or
4. Acquired and distributed by the City in any other manner.

D. This Policy does not apply to:

1. Any other item of value provided to the City or any City Official, regardless of whether received gratuitously or for which consideration is provided;
2. Tickets provided by sources other than the City;
3. Tickets received by a City Official from the City where both the City Official and the City treat and report the value of the Ticket as income consistent with applicable state and federal income tax laws and the Ticket is reported as income pursuant to the provisions of this Policy; or
4. Tickets provided to public officials directly by third parties (these tickets must be disclosed on the FPPC Form 700).

Section 4. General Provisions.

A. 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.

B. Limitation on Transfer of Tickets: Tickets distributed to a City Official pursuant to this Policy shall not be transferred to any other person, except to members of the City Official's Family solely for their personal use. If a City Official transfers a Ticket he or she has received from the City to another person, as opposed to returning the Ticket to the City for redistribution, then the value of the Ticket or Tickets he or she transfers shall

constitute a gift to him or her and shall be reportable as provided by the FPPC Regulations.

C. Prohibition Against Sale of or Receiving Reimbursement for Tickets: No person who receives a Ticket pursuant to this Policy shall sell or receive reimbursement for the value of such Ticket.

Section 5. Ticket Administrator.

A. The City Council delegates the authority to the City Manager or his/her designee to be the Ticket Administrator for purposes of implementing the provisions of this Policy.

B. The Ticket Administrator shall have the authority, in his or her sole discretion, to establish procedures for the distribution of Tickets in accordance with this Policy. Such authority includes the power to distribute a Ticket to the City Manager provided that doing so is otherwise consistent with this Policy. All requests for Tickets that fall within the scope of this Policy shall be made in accordance with the procedures established by the Ticket Administrator.

C. The Ticket Administrator shall determine the face value of Tickets distributed by the City for purposes of Sections 6.A. and 6.B. of this Policy.

D. The Ticket Administrator, in his or her sole discretion, may revoke or suspend the Ticket privileges of any person who violates any provision of this Policy or the procedures established by the Ticket Administrator for the distribution of Tickets.

E. For the purpose of implementing this Policy, and completing and posting the FPPC Tickets Provided by Agency Report ("FPPC Form 802"), the Ticket Administrator shall be the "Agency Head."

Section 6. Conditions Under Which Tickets May be Distributed.

A. The distribution of any Ticket by the City to, or at the behest of, a City Official must accomplish a "public purpose", which includes one or more of the following:

1. Facilitating the performance of a ceremonial role or function by a City Official on behalf of the City at an event, for which the City Official may receive enough Tickets for each member of the City Official's Family.

2. Facilitating the attendance of a City Official at an event where the job duties of the City Official require his or her attendance at the event, for which the City Official may receive enough Tickets for each member of the City Official's family.

3. Promotion of inter-governmental relations and/or cooperation and coordination of resources with other governmental agencies, including, but not limited to, attendance at an event with or by elected or appointed public officials from other jurisdictions, their staff members and their guests.

4. Economic or business development purposes on behalf of the City.
5. Promotion of City resources and/or facilities available to City residents.
6. Promotion of City-run, sponsored or supported community events, activities or programs.
7. To monitor and evaluate the value of City-run, sponsored or supported community events, activities or programs to the City, including but not limited to evaluation of the venue, quality of performances and compliance with City policies, agreements and other requirements.
8. Promotion and evaluation of events, activities or programs at City venues, including but not limited to evaluation of the venue, quality of performances and compliance with City policies, agreements and other requirements.
9. Promoting, supporting and/or showing appreciation for programs or services rendered by charitable and non-profit organizations benefiting City residents.
10. Promotion of City tourism on a local, state, national or worldwide scale.
11. Business retention or attraction on a local, state, national or worldwide scale.
12. Promotion of City recognition, visibility, and/or profile on a local, state, national or worldwide scale.
13. Encouraging City resident and business support for and attendance at local events.
14. Encouraging participants in City sponsored programs to attend local events.
15. Attracting or rewarding volunteer public service.
16. Encouraging or rewarding significant academic, athletic, or public service achievements by City students, residents or businesses.
17. Attracting and retaining highly qualified City employees.
18. Recognizing or rewarding meritorious service by a City employee.
19. Promoting enhanced City employee performance or morale.
20. As an incident to the above public purposes, allowing for the Family of the City Official to accompany the City Official to events to accomplish any of the purposes listed in this Policy.

Section 7. Tickets Distributed at the Behest of a City Official.

- A. Only the following City Officials shall have authority to behest Tickets: City Council Members, the City Manager, and Department Heads.
- B. Tickets shall be distributed at the behest of a City Official only for one or more public purposes set forth in Section 6.A. above.
- C. If Tickets are distributed at the behest of a City Official, such City Official shall not use one of the Tickets so distributed to attend the event.

Section 8. Other Benefits.

- A. The distribution of Tickets pursuant to this Policy shall not constitute a “gift” to the City Official receiving the Ticket, however, other benefits, such as food or beverage or other gifts provided to the City Official that are not part of the admission provided by the complimentary Ticket, will need to be accounted for as gifts.
- B. If the City receives complimentary Tickets that are earmarked for particular City Officials, then the Tickets are considered gifts to that particular City Official. If these Tickets are not returned unused to the provider within thirty (30) days of receipt, then the City Official must comply with the applicable FPPC gift limit regulations and reporting regulations.

Section 9. Posting and Disclosure Requirements.

- A. The distribution of Tickets pursuant to this Policy shall be documented in a completed FPPC Form 802. Within thirty (30) calendar days of the distribution of a Ticket, the Ticket Administrator shall prepare and certify a FPPC Form 802. The completed FPPC Form 802 must be maintained as a public record, and be forwarded to the FPPC for posting on its website. Such postings shall include the following information (in addition to any other information required by the FPPC):
 - 1. The name of the person receiving the Ticket, except that if the recipient is an organization, the City may post the name, address, description of the organization and number of Tickets provided to the organization in lieu of posting the names of each recipient;
 - 2. A description of the event;
 - 3. The date of the event;
 - 4. The face value of the Ticket;
 - 5. The number of Tickets provided to each person;
 - 6. If the Ticket is distributed at the behest of a City Official, the name of the City Official who made such behest; and

7. A description of the public purpose(s) under which the distribution was made, or alternatively, the City Official is treating the Ticket as income.

B. The City may post the name of the department or other unit of the City and the number of Tickets or passes provided to the department or other unit in lieu of posting the name of the individual employee as required in Section 9.A.1 above.

Section 10. Alternative to Above Policy

A. As an alternative to complying with Sections 4 through 9 of this Policy, a City Official may:

1. Ask that the City report the distribution of the Ticket as income and treat the Ticket(s) as income consistent with applicable federal and state income tax laws;

2. Reimburse the City for the face value of the Ticket; or

3. Report the receipt of the Ticket or pass on the City Official's FPPC Form 700, if the value of the Ticket is over \$50 and the aggregate value of the Ticket from a single source in a calendar year is \$410 or less.

Policy adopted by the City Council on _____, 2012.

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