



City of Long Beach

Working Together to Serve

Office of the City Attorney

Memorandum

DATE: February 21, 2023

To: City Commissioners

FROM: Taylor Anderson, Deputy City Attorney

SUBJECT: City Policy on the Use of Tickets and Passes

Please find a memorandum sent to the Mayor and City Council regarding the City's policy on the use of tickets and passes enclosed. This policy does apply to all members of City advisory bodies.

If you have questions regarding this memo, please let us know.

TMA:KAD

A23-00450
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DATE: February 21, 2023

To: Mayor and Members of the City Council

FROM: Taylor Anderson, Deputy City Attorney

SUBJECT: City Policy on the Use of Tickets and Passes

The Fair Political Practices Commission (“FPPC”) requires cities to adopt a written policy governing the use and distribution of tickets and passes, and to require various disclosures by the City. The City adopted such a policy (the “Policy,” attached), in 2008 and subsequently updated. This memo is intended as periodic “refresher” on this topic.

Purpose

The primary purpose of the Policy is to satisfy the requirements of FPPC Regulation 18944.1. The Policy establishes a procedure that, if utilized, will result in the tickets not qualifying as gifts under the Political Reform Act, where the official may accept the ticket if there is a public purpose achieved through that official’s use of the ticket.

In particular:

- The use of the ticket must further a governmental or public purpose.
- The City must complete a form for each distribution that must be maintained as a public record, subject to inspection and copying; and
- The form for each distribution must be forwarded to the FPPC for posting.

Tickets distributed under the policy, including tickets distributed at the behest of a public official, must be identified on the FPPC’s Form 802 and posted on the City’s website.

Where the distribution is made pursuant to the public purpose exception, that purpose must also be described on the form.

Significant Provisions

- The ticket policy applies to all City Officials (defined as the City Attorney, City Auditor, City Prosecutor, Mayor, City Council Members, City Manager, Assistant

City Manager, City Clerk, Department heads and any City employees required to file an annual Statement of Economic Interests (“Form 700”).

- The ticket policy applies to all tickets **donated to or acquired by** the City from any source, whether received by the City or directly by a City Official. It does not apply to tickets acquired by the City Official at face value using personal or fund-raised funds.
- The ticket policy lists acceptable public purposes for which tickets may be used or distributed.

Role of Ticket Administrator

The Policy designates the City Manager as the Ticket Administrator. The FPPC emphasizes that tickets distributed under the Policy must not be earmarked by the outside source for use by a particular official, and that the City must retain its discretion under the Policy. Care should be exercised in seeking suggestions from officials regarding recipients of extra tickets not to run afoul of “behesting” rules. This means behested tickets will be attributed to the official on Form 802, stating the public purpose.

Reporting Requirements

The use of tickets or passes under the Policy must be reported using the FPPC Form 802, provided to the FPPC and posted on the City’s website within 30 days of distribution of the ticket.

Distribution of Tickets to Groups

The Policy clarifies that if a City Official desires to direct (“behest”) tickets to an eligible group (a school or non-profit), the Ticket Administrator must take the action. The “behesting” City Official’s name will be disclosed on the Form 802, along with the number of tickets distributed and the public purpose.

Elected Officials May Still Receive and Report Tickets as Gifts on their Form 700

Elected officials and their staff may receive tickets and declare them on their Form 700s without going through the City Manager’s office and the Ticket Administrator. If tickets are accepted by the elected official or employee, they must be declared the tickets to avoid fines and penalties from the FPPC; otherwise, they must be returned to the source. In that case, the total value of the tickets may not exceed the current gift limit of \$590. Please note that elected officials and their staff may not accept any gift, including tickets, that is intended to influence them in the performance of their official duties.

Mayor and Members of the City Council

February 21, 2023

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Application of Policy to Charter Commissions

Both the Harbor Department and the Water Department are subject to the City's Ticket Policy. The Harbor Department administers the policy through its Director of Communications. The Water Department administers the policy through its General Manager.

If you have questions regarding this memo, please let us know.

TMA:KAD

A23-00450

01/30/2023

cc Dawn McIntosh, City Attorney
Gary Anderson, Assistant City Attorney
Thomas B. Modica, City Manager
Linda Tatum, Assistant City Manager

ATTACHMENT

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 RESOLUTION NO. RES-19-0098

2
3 A RESOLUTION OF THE CITY COUNCIL OF THE
4 CITY OF LONG BEACH AMENDING THE CITY'S POLICY
5 REGARDING TICKETS OR PASSES TO EVENTS
6

7 WHEREAS, the California Fair Political Practices Commission ("FPPC")
8 requires that the distribution and use of tickets and passes to events by public officials
9 must be made pursuant to an adopted written policy containing certain elements required
10 by the FPPC; and

11 WHEREAS, on December 24, 2008, the City of Long Beach ("City")
12 adopted such a written policy, and amended and restated the policy in 2015; and

13 WHEREAS, on May 6, 2019, the FPPC adopted additional regulations,
14 prohibiting City officials from using a "disproportionate" number of event tickets and
15 passes, and specifying requirements for tickets used as the facility inspection portion of
16 the public purpose exception; and

17 WHEREAS, the City now desires to amend the policy in order to comply
18 with the FPPC's changes;

19 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
20 follows:

21 Section 1. The City Council of the City of Long Beach hereby amends its
22 Policy Regarding Tickets and Passes as set forth in Attachment "A" for the distribution
23 and receipt of tickets and passes, pursuant to state law.

24 Section 2. The policy attached hereto as Attachment "A" is incorporated
25 herein by this reference as if fully set forth.

26 Section 3. This resolution shall take effect immediately upon its adoption
27 by the City Council, and the City Clerk shall certify to the vote adopting this resolution.

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I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of July 2, 2019, by the following vote:

Ayes: Councilmembers: Pearce, Price, Mungo, Austin, Uranga, Richardson.

Noes: Councilmembers: None.

Absent: Councilmembers: Supernaw, Andrews.



City Clerk

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Lana Beach, CA 90802-4664

EXHIBIT "A"

CITY OF LONG BEACH POLICY
REGARDING THE USE AND DISTRIBUTION OF
TICKETS AND PASSES PROVIDED TO THE CITY
FOR ENTERTAINMENT PURPOSES

I. APPLICATION OF POLICY

- A. Consistent with Fair Political Practices Commission ("FPPC") Regulation 18944.1, this policy is intended to establish a procedure for the City to provide tickets and passes to City Officials which will result in the tickets and passes not qualifying as gifts under the Political Reform Act (California Government Code section 81000 et seq.).
- B. This policy applies to all departments of the City.
- C. This policy applies to tickets and passes which provide admission to any facility or event for an entertainment, amusement, recreational or similar purpose and are either:
 - 1. gratuitously provided to the City by any outside source; or
 - 2. acquired by the City; or
 - 3. acquired by the City as consideration pursuant to the terms of any contract; or
 - 4. acquired and distributed by the City in any other manner.
- D. This policy does not apply to:
 - 1. a single ticket provided to and used by a City Official to an event at which the official performs, on behalf of the City, a ceremonial role or function, as those terms are defined in FPPC Regulations, Section 18942.3 (Title 2, Division 6, California Code of Regulations);
 - 2. any other item of value provided to the City or any City Official, regardless of whether received gratuitously or for which consideration is provided;
 - 3. tickets for which the City Official pays the City the value of the ticket.

- E. This policy, and procedures established to implement this policy, shall supersede and replace any other City policies and procedures relating to tickets and passes provided to the City or to City Officials.

II. 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 (California Government Code section 81000 et seq., as the same may be amended from time to time) and the FPPC Regulations (Title 2, Division 6 of the California Code of Regulations, Sections 18110 et seq., as the same may be amended from time to time).

- A. "City" or "City of Long Beach" shall mean and include the City of Long Beach, the Harbor Department, the Long Beach Housing Authority, the Water Department, the Successor Agency to the City of Long Beach Redevelopment Agency, and any other affiliated agency created or activated by the Long Beach City Council, and all departments, boards and commissions thereof.
- B. "City Official" means every elected official, officer, employee, commissioner, or consultant of the City of Long Beach required to file an annual Statement of Economic Interests (FPPC Form 700).
- C. "Fair Value." For a ticket offered for sale to the general public, the "fair value" means the face value of the ticket or pass. The "fair value" of a ticket or pass that does not have a face value indicated, or has a face value that is not available to the general public, is the price at which the ticket or pass would otherwise be offered for sale to the general public by the operator of the venue or host of the event who offers the ticket for public sale. Where the price indicated on the ticket does not reflect the actual cost for a ticket in a luxury box or suite, the face value is determined by dividing the total cost of the box or suite by the number of tickets available for that box or suite.
- D. "Immediate Family" means the spouse or registered domestic partner and any dependent children as defined in California Government Code section 82089 and Family Code section 297.5.
- E. "Pass" means a ticket that provides repeated access, entry, or admission to a facility or series of events and for which similar passes are sold to the public.
- F. "Ticket" means anything that provides access, entry, or admission to a specific future event or function and for which similar tickets are sold to the public to view, listen to, or otherwise take advantage of

the attraction or activity for which the ticket is sold and includes any benefits that the ticket provides.

- G. "Ticket Administrator" shall be the City Manager or designee who in his or her sole discretion has the authority to establish procedures for the distribution of tickets in accordance with this policy, and to implement the policy.

III. 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 the Transfer of Tickets.** Unless otherwise provided herein, tickets distributed to a City Official pursuant to this policy shall not be transferred to any other person, except to members of such City Official's Immediate Family solely for their personal use or no more than one guest solely for their attendance at the event.
- C. **Prohibition Against Sale of Tickets.** No person who receives a ticket pursuant to this policy shall sell or receive reimbursement for the value of such ticket.
- D. **Prohibition Against Disproportionate Use.** The disproportionate use of tickets or passes by any City elected or appointed official or City employee is prohibited.
- E. **Public Record.** This policy shall be maintained as a public record and is subject to inspection and copying under Government Code Section 81008. The City shall post the policy on its website within 30 days of adoption or amendment and send to the FPPC by e-mail the City's website link that displays the policy so that the FPPC may post the link.

IV. TICKET ADMINISTRATOR.

- A. The City Manager or designee shall be the Ticket Administrator for purposes of implementing the provisions of this policy.
- B. All requests for tickets which 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 Fair Value of tickets distributed by the City as necessary to implement this policy.

- D. The Ticket Administrator, in his or her sole discretion, may revoke or suspend the ticket privileges of any person who violates the provisions of this policy or the procedures established by the Ticket Administrator for the distribution of tickets in accordance with this policy.
 - E. The Ticket Administrator shall determine in his/her sole discretion what constitutes the prohibited disproportionate use of tickets or passes
- V. CONDITIONS UNDER WHICH TICKETS MAY BE DISTRIBUTED.

Subject to the provisions of this policy, complimentary tickets may be distributed by the Ticket Administrator, as available, to City Officials under the following conditions:

- A. The City Official reimburses the City for the Fair Value of the ticket(s).
 - 1. Reimbursement shall be made at the time the ticket is distributed to the City Official.
 - 2. The Ticket Administrator shall, in his or her sole discretion, determine which event tickets, if any, shall be available under this Section.
- B. The City Official treats the tickets as income consistent with applicable federal and state income tax laws; or
- C. The City Official uses or behests such tickets for one or more of the following public purposes:
 - 1. If performing a ceremonial role or function representing the City at the event, the City Official may receive enough tickets for him/herself and each member of his or her immediate family.
 - 2. If conducting oversight or inspection of facilities, the City Official receiving the ticket or pass shall promptly provide a written inspection report of findings and recommendations.
 - 3. 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 the City Official and his or her immediate family.
 - 4. Promoting city businesses, industries, resources, programs, facilities, and economic development.

5. Intergovernmental relations purposes, 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.
6. Attracting or rewarding volunteer service.
7. Supporting or showing appreciation for programs or services rendered by non-profit organizations benefitting Long Beach residents.
8. Encouraging or rewarding significant academic, athletic or public service achievements by Long Beach students, residents or businesses.
9. Attracting and retaining highly qualified employees in City service.
10. As special recognition or reward for meritorious service by a City employee.
11. For use in connection with a City employee or resident competition or drawing.
12. Recognition of contributions made to the City by former City Council members, City Managers or City Officials.
13. Encouraging Long Beach resident and business support for and attendance at local events.
14. Encouraging participants in City sponsored programs to attend local events.
15. Encouraging City Officials and employees to attend local events on City-recognized holidays by being accompanied by their parents, children, grandchildren, siblings, nieces or nephews.

VI. TICKETS DISTRIBUTED AT THE DIRECTION ("BEHEST") OF A CITY OFFICIAL

- A. Subject to Section VIII, below, tickets and passes subject to this policy must be received and distributed by the Ticket Administrator.
- B. Only the following City Officials shall have authority to request distribution of tickets: City Attorney, City Auditor, City Prosecutor, Mayor, City Council Members, City Manager, Assistant City Manager, City department heads.

- C. Tickets shall be distributed at the request of a City Official only for one or more public purposes as set forth in Section V.C, above.
- D. If tickets are distributed at the behest of a City Official, such Official shall not use one of the tickets to attend the event.

VII. DISCLOSURE REQUIREMENTS.

- A. Tickets distributed by the City to any City Official either: i) which the City Official treats as income pursuant to Section V. B, above, or ii) for one or more public purposes described in Section V. C, above, shall be posted on a form provided by the FPPC in a prominent fashion on the City's website ("Ticket Policy Report Page") within thirty (30) days after distribution. Such posting shall include the following information:
 - 1. The name of the recipient, except that if the recipient is an organization, the City may post the name, address, description of the organization and number of tickets provided in lieu of posting the names of each recipient; and
 - 2. a description of the event; and
 - 3. the date of the event; and
 - 4. the Fair Value of the ticket; and
 - 5. the number of tickets provided to each person or organization; and
 - 6. if the ticket was distributed at the direction ("behest") of a City Official, the name of the City Official who provided such direction; and
 - 7. a description of the public purpose(s) under which the distribution was made, or alternatively, that the City Official is treating the ticket as income; and
 - 8. a written inspection report of findings and recommendations by the official receiving the ticket or pass if received for oversight or inspection of facilities.
- B. Tickets distributed by the City for which the City receives reimbursement from the City Official as provided under Section V.A, above, shall not be subject to the disclosure provisions of this Section VII.

VIII. DISPOSITION OF TICKETS RECEIVED.

Tickets received by a City Official other than pursuant to this Ticket Policy must, within 30 days of receipt, either be:

- A. Returned to the source unused; or
- B. Provided to a 501(c)(3) organization for which the City Official does not take a tax deduction; or
- C. Delivered to the Ticket Administrator for distribution and use consistent with this policy.
- D. If tickets are disposed of pursuant to this Section VIII A or B, the City Official must notify the Ticket Administrator of their disposition, including the name of the 501 (c)(3) organization, the number of tickets and the date of return or delivery.

IX. INCOME TAX CONSIDERATIONS.

Tickets which are provided free of charge or at a price below the fair market value may have tax consequences for the recipient and may be reportable and taxable as regular income or as taxable fringe benefits to a recipient. Recipients of tickets must consult with their tax advisors to determine the reporting requirements for income tax purposes, as well as the tax consequences of any tickets received.

X. CAUTION:

This policy and any implementing guidelines are not a substitute for legal advice. Only the FPPC can provide immunity from prosecution for the legal advice that it offers. Please consult the City Attorney's Office if you have questions about reporting, disclosure and disqualification requirements regarding tickets and passes, and the City Attorney's Office can assist in obtaining advice from the FPPC.