

RESOLUTION 2010-024

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO ESTABLISHING POLICY REGARDING RECEIPT OF TICKETS AND PASSES FOR PUBLIC PURPOSES BY THE CITY

WHEREAS the State Political Reform Act and the Fair Political Practices Commission (FPPC) amended several provisions concerning the receipt of tickets and passes by public officials effective July 1, 2008; and

WHEREAS a "ticket or pass" means admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose; and

WHEREAS from time to time the City may purchase tickets or passes for officials and employees for public purposes, or may receive tickets or passes from third party public or private sources; and

WHEREAS the City finds that such tickets and/or passes may be public resources which should be distributed accordingly; and

WHEREAS the City desires to use these public resources in a manner that furthers the City's governmental and public purposes as described herein, including the promotion of local businesses and the development of community resources, programs, and facilities; and

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

WHEREAS according to FPPC Regulation 18944.1 these tickets and/or passes are not considered gifts to public officials that would be subject to certain limitations and disclosure requirements so long as the City distributes these tickets and/or passes in accordance with a written policy that conforms with section 18944.1; and

WHEREAS the FPPC recognizes the discretion of this City Council to determine whether the distribution of tickets and/or passes serves legitimate public purposes of the City, provided that the determination is consistent with state law.

NOW, THEREFORE, the City Council of the City of San Pablo does resolve as follows:

1. The City Council establishes by this Resolution a policy regulating ticket distribution to public officials.
2. The purpose of this policy is to ensure that tickets and passes distributed by the City are issued in furtherance of public purposes of the City as required under FPPC Regulation 18944.1.

3. This policy applies to every officer, agent, and employee of the City who is obligated to file an Annual Statement of Economic Interests (Form 700) under state law.
4. Limitations and Exclusions. When the City provides a ticket or pass to a public official that otherwise meets the definition of gift and is not exempt under applicable FPPC regulations, the official will meet the burden under Government Code section 82048 that equal or greater value has been provided in exchange therefore, provided that all of the following requirements are met:
 - a. Tickets and passes provided to a public official by a source other than the city so that the public official may perform a ceremonial role or function on behalf of the City are not gifts and are exempt from any disclosure or reporting requirements under Section 18944.1 and this policy.
 - b. Tickets and passes provided to a public official by the City that the official treats as income consistent with applicable state and federal tax laws are not subject to this policy so long as the City reports the distribution as income to the official and complies with the disclosure requirements of Section 7 of this policy.
 - c. Tickets and passes from an outside source provided to a public official by the City if (i) the tickets or passes are not earmarked by the source for use by the official to whom the tickets or passes are given, (ii) the City Manager or designee determines in his or her discretion which official may use the tickets or passes, and (iii) the tickets or passes are distributed in accordance with the public purpose requirements of Section 5 of this policy.
 - d. This policy shall apply only to the City's distribution of tickets and passes to a public official for which no consideration of equal or greater value is provided by that official.
 - e. Tickets and passes provided by the City to an official which the City obtains (i) pursuant to terms of a contract for use of public property, (ii) because the City controls the event, or (iii) through purchase at fair market value shall be considered to be made with a public purpose in accordance with Section 5 of this policy. However, the City must still comply with the disclosure requirements of Section 7 of this policy for these tickets and passes.
5. Public purpose provision
 - a. Tickets or passes distributed by the City to, or at the behest of, a public official must accomplish a public purpose of the City.
 - b. The City may provide tickets or passes to officials subject to this policy for any of the following City purposes provided that the City Manager or designee determines that providing the tickets or passes benefits the City in accordance with Section 18944.1 by accomplishing one or more of the following:

- i. Promotion of local and regional businesses and economic activities within the City, including conventions and conferences.
- ii. Promotion of City-controlled or sponsored events, activities, or programs.
- iii. Promotion of community programs and resources available to City residents, including non-profit organizations and youth programs.
- iv. Highlighting the achievements of local businesses.
- v. Promotion of private facilities available to City residents, including charitable and non-profit facilities.
- vi. Promotion of public facilities available to City residents.
- vii. Promotion of City growth and development, including economic development and job creation opportunities.
- viii. Promotion of City landmarks and community events.
- ix. Promotion of special events conducted pursuant to a contract to which the City is party.
- x. Promotion of the City on a local, regional, state, or national scale.
- xi. Promotion of open government by participation of public officials at business or community events.
- xii. Sponsorship agreements involving private events by which the City 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, and residents.
- xiii. Implementation of written contracts under which tickets or passes are required to be made available for City use.
- xiv. Employment retention programs.
- xv. Encouraging or rewarding significant academic, athletic, or public or volunteer service achievements by City students, residents, or businesses.
- xvi. Attracting and retaining highly qualified employees in the City service.
- xvii. Special outreach programs for veterans, teachers, emergency services, medical personnel, and other civil service occupations.
- xviii. Spouses of or immediate dependants of public officials in order to accompany or represent him or her to any of the items listed above.
- xix. Any similar purpose included in any City Contract.

6. Transfer of tickets or passes distributed to an official pursuant to this policy to any other person, except to members of the official's immediate family for their personal use, is prohibited.

7. Distribution of a ticket pursuant to this policy shall be posted on a form

provided by the FPPC (Form 802) on the City's website within thirty (30) days of distribution. The posting shall include the following:

- a. Name of the person or organization receiving the ticket or pass
- b. Date and description of the event
- c. Face value of the ticket or pass
- d. Number of tickets provided to each person
- e. Name of the official who requested the ticket, if so requested
- f. Description of the public purpose under which the distribution was made or, alternatively, that the ticket or pass was distributed as income to the official.

8. This policy shall be prominently posted on the City website.

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Adopted this 1st day of March, 2010, by the following vote to wit:

AYES:	COUNCILMEMBERS:	Morris, Calloway, Valdez, Cruz and McNeil
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None

ATTEST:

APPROVED:

/s/ Ted J. Denney
Ted J. Denney, City Clerk

/s/ Leonard R. McNeil
Leonard R. McNeil, Mayor