



CITY COUNCIL STAFF REPORT

DATE: MARCH 25, 2009 CONSENT CALENDAR

SUBJECT: ADOPTION OF POLICY PERTAINING TICKETS DISTRIBUTED BY THE CITY PURSUANT CALIFORNIA CODE OF REGULATIONS 18944.1

FROM: David H. Ready, City Manager

BY: James Thompson, City Clerk

SUMMARY

The City Council will consider the adoption of policy concerning the disbursement of tickets to and from the City which are used by public officials, pursuant to amended FPPC Regulation 18944.1.

RECOMMENDATION:

Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADOPTING A TICKET DISTRIBUTION POLICY PURSUANT TO FAIR POLITICAL PRACTICES COMMISSION REVISED REGULATION 18944.1."

STAFF ANALYSIS:

The Fair Political Practices Commission (FPPC) amended the California regulations pertaining to the disbursement of tickets or passes that allow admission to facilities, events, shows or performances for entertainment, amusement, recreational or similar purposes, used by City officers and officials.

The new regulation starts with the assumption that a public official who obtains tickets for admission from their own public agency receives a personal benefit that constitutes a gift. Notwithstanding such, the regulation sets out the circumstances under which an agency's distribution of tickets or passes does not result in a gift to official. Subsequently, the City must disclose the distribution of tickets, and the official does not have to disclose the distribution on his/her Statement of Economic Interests as a gift on his/her individual Form 700.

In order for the tickets not to constitute a gift, the regulations require the City to adopt a policy designating a specific governmental or public purpose for the distribution of

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tickets or passes used by individual public officials. The regulation provides four exceptions from the classification of such tickets as a gift:

1. When a public agency provides tickets to an agency official as part of the official's government salary for the positions, the tickets are not gifts. Under this exemption the City must treat the tickets as income subject to tax laws.

2. If a ticket is provided by an outside source, and the official performs a ceremonial role on behalf of the City, the ticket is not a gift to the official.

3. If a ticket is provided from an outside source directly to the City, and the City provides the ticket to a City official, the ticket is not a gift to the official if: a) the ticket is not earmarked by the source for use by a certain official; b) the City chooses which official will use the ticket; and c) the use of the ticket by the official furthers a specific governmental or public purpose.

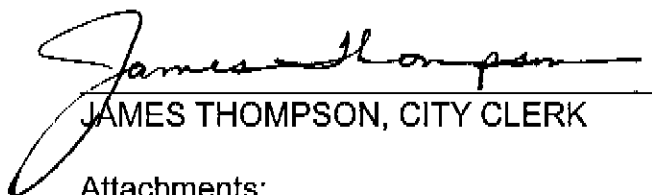
4. When the City obtains tickets pursuant to the terms of a contract, or the City purchases tickets at fair market value, distribution to an official is not a gift if use of the ticket by the official furthers a specific governmental or public purpose.

The proposed policy requires the City Manager to attend all events for which the City retains tickets, unless the City Manager is not available to do so, without stating this policy, the City Manager would otherwise be prohibited from distributing a ticket to himself, and provides that the City Manager shall distribute tickets in the possession of the City in such a manner as will best serve the City's interest and governmental or public purpose.

Additionally, the regulations provide that the City (City Manager) file FPPC Form 802 *Ticket Provided by Agency Report* within 30-days of the distribution, and requires the Filing Officer (City Clerk) to log and make the report available for public inspection and copying, along with posting the filed forms on the City's website for a reasonable amount of time. The City is also required to post the written policy "prominently and continuously" on the City's website.

FISCAL IMPACT:

None.


JAMES THOMPSON, CITY CLERK


DAVID H. READY, CITY MANAGER

Attachments:
Proposed Resolution
FPPC Form 802

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADOPTING A TICKET DISTRIBUTION POLICY PURSUANT TO THE FAIR POLITICAL PRACTICES COMMISSION REVISED REGULATION 18944.1.

The City Council of the City Palm Springs finds:

A The Fair Political Practices Commission ("FPPC") has adopted revised Regulation 18944.1 establishing rules by which tickets distributed by local government agencies to government officials will not constitute reportable gifts under the state Political Reform Act, and

B. Regulation 18944.1 requires that local government agencies adopt a written policy governing distribution of tickets to local government officials in order that receipt of tickets will not necessarily be treated as reportable gifts.

Now therefore, the City Council of the City of Palm Springs adopts the "City of Palm Springs Ticket Distribution Policy" governing distribution of tickets by the City to designated city officials:

SECTION 1. Purpose and Findings.

(a) The purpose of this policy is to implement FPPC Regulation 18944.1 by establishing a framework by which City owned or controlled tickets and passes may be distributed to City Officials in such manner that the ticket will not constitute a reportable gift under the Political Reform Act, providing that the ticket/pass is distributed pursuant to the provisions of this policy.

(b) The City of Palm Springs is located in the Coachella Valley, a multi-jurisdictional region that attracts tourism from the southern California region, the entire State of California, and worldwide. The promotion of tourism within the City and the Coachella Valley is critical to the financial health, cultural vitality, and general welfare of this city government and to the citizens of the City of Palm Springs.

(c) The City of Palm Springs is one of the oldest, best established, and tradition-rich communities in Southern California and has qualities that make it a unique and ideal venue for local, regional, and even national events and festivals, inclusive of many forms of entertainment, cultural enrichment, and recreation.

(c) Coachella Valley communities, including Palm Springs, possess an inter-dependent character through cooperation as evidenced by such efforts through the Coachella Valley Association of Governments and the Palm Springs Desert Resort Communities Convention and Visitors Authority. City official attendance at events within the City and the Coachella Valley area offer an important opportunity to interact, speak,

and engage residents, community leaders, commercial entrepreneurs, and other business owners and officials from other jurisdictions.

(d) The City Council finds that City Official attendance at such events serves one or more of the following public purposes having the effect of:

- (i) Promoting business activity, growth, development, which in turn increases sales and real property tax revenue to the City;
- (ii) Promotion of City-owned businesses or enterprises.
- (iii) Promotion of City, or City sponsored or supported community programs and/or resources that are available to City residents, such programs and resources to include volunteer services and charitable/nonprofit organization programs.
- (iv) Promotion of private facilities available for City resident use, including facilities of charitable/nonprofit organizations.
- (v) Promotion of City facilities available for City resident use.
- (vi) Promotion of City tourism on a local, state, national or worldwide scale.
- (vii) Promotion of City recognition, visibility, and/or profile on a local, state, national or worldwide scale.
- (viii) Promotion of open, visible and accessible government by City Official appearances, participation and/or availability at an Event.
- (ix) Promotion of inter-governmental relations, *i.e.*, cooperation and coordination of resources between the City and other government agencies or entities in the Coachella Valley.
- (x) Promotion of City attraction and retention of highly qualified employees, for which any such employee or prospective employee may receive no more than four (4) Tickets per Event.
- (xi) Promotion of public exposure to, and awareness of, the various the recreational, cultural, and educational venues and facilities available to the public within the City.
- (xii) Meeting and greeting residents and visitors at city held or sponsored events, and to make observations and suggestions as to the conduct and operation of city held events. The City Council therefore finds that city official attendance at city events inherently serves the public purpose of assisting in the enhancement of a City run event program.

(e) The City Council finds that City official attendance at the following Events, and similarly situated events, will in fact serve one or more public purposes as set forth in subsection (d) of this Section: Palm Springs International Film Festival, Native American Film Festival, the Dinner in the Canyon sponsored by the Agua Caliente Band of Cahuilla Indians, Palm Springs Chamber of Commerce Athena Luncheon and State of the City Address, Palm Springs Air Museum Gala, Desert AIDS Project Steve Chase Dinner, Palm Springs Police Officers Association Annual Golf Tournament, Palm Springs Modernism Week Gala and related events, Riverside County Fair and National Date Festival, the International Tamale Festival, the Coachella and Stagecoach concerts, the Southwest Arts Festival, the Bob Hope Classic, the Indian Wells Professional Tennis Tournament, Empire Polo Club concerts, and community benefit golf tournaments.

SECTION 2. Tickets/Passes 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 City;
- (d) Distributed by the City in any other manner.

SECTION 3. Role of Agency Head/Covered City Officials; Limitations.

(a) For the purpose of implementing this policy under Regulation 18944.1, the City Manager shall be the "Agency Head" as that term is used in Regulation 18944.1. The City Manager shall attend each Event, as time may allow, and receive a ticket to attend each such Event. The City Manager shall have the authority to establish further specific procedures for distribution of Tickets in accordance with this policy or in furtherance of any applicable rule or regulation of the California Fair Political Practices Commission. Further, the distribution of a ticket or pass by the City Manager, or his/her designee, to, or at the behest of, a City Official shall accomplish one or more of the public purposes set forth in Section 1(d).

(b) This policy applies to City distribution of tickets to, or at the behest of, a City Official. Only the following City Officials shall have the authority to make a behest of tickets/passes: Councilmembers and Commissioners, the City Manager, Assistant City Manager, and Department Heads.

(c) Nothing in this Policy shall be construed to:

- (i) limit or in any way change the legal definition of a "Gift" or modify the applicability of all FPPC regulations to City Officials, including but not limited to Title 2 of the California Code of Regulations, Section 18946.4;

- (ii) limit or in any way modify the accountability of City Officials for the funding and support that the City contributes to any Event;
- (iii) apply to any item of value provided to a City Official upon or incident to an admission or entry *via* a particular Ticket, regardless of whether the City Official received said item of value gratuitously or in exchange for consideration;
- (iv) apply to a Ticket purchased by a City Official from a third party or non-City entity presenting or hosting an Event upon payment by the City Official in question of that Ticket's full value per FPPC regulations;
- (v) apply to a Ticket that is obtained by a City Official per this Policy when the City Official reimburses the City for that Ticket's full value per FPPC regulations; or
- (vi) apply to a Ticket to an Event received by a City Official from a third party or non-City entity presenting or hosting an Event at which the City Official receiving the Ticket performs a ceremonial role or function on behalf of the City.

SECTION 4. When Tickets/Passes Are Not A Reportable Gift.

In addition to the specific events described in Section 1(e) of this Policy, Tickets distributed to City Officials shall not constitute a Gift under the following situations:

- (a) **Ceremonial Function.** A Ticket or pass to an Official wherein the Official performs a ceremonial function or role on behalf of the City;
- (b) **Ticket as Taxable Income.** A Ticket or pass is treated by the Official as taxable income, and the City reports the item as reportable income.
- (c) **Official Pays Face Value for Ticket.** If the City Official elects to pay face value for ticket at the time of city distribution of the ticket to the official, the ticket shall not constitute gift. In this instance, a disclosure of the ticket on the website is not required.
- (d) **Distribution of Ticket pursuant to City Policy/Public Purpose served.** Distribution of a Ticket to a City Official when advancing a public purpose under this policy shall not constitute a gift, provided the following requirements are met:
 - (i) Where the Ticket is from an outside source, the source has not designated which official may use the ticket; the Agency Head determines which official may use the ticket; and the distribution falls within any of the Events described in Section 1, or is otherwise found by the City Manager to promote a public purpose.
 - (ii) Where the City Ticket derives from a contract for use of City property because City controls the event, or is otherwise purchased by City, then

distribution of the ticket falls within any of the events described in Section 1, or is otherwise found by the City Manager to promote a public purpose.

SECTION 5. Transfer of Tickets/Passes Prohibited.

A City Official receiving a ticket or pass from the City for which the Official will be advancing a public purpose pursuant to Section 1 is prohibited from transferring or giving such Ticket to any other person, excepting members of the Official's Immediate family solely for their personal use.

SECTION 6. Policy Limited to Just Tickets/Passes.

Pursuant to FPPC Regulation 18944.1(f), this policy applies only to tickets and is not applicable to any other benefits received as a part of admission, such as food and beverages.

SECTION 7. Reporting and Disclosure.

- (a) This policy shall be prominently posted on the City Website;
- (b) It shall be the duty of the City Manager or his/her designee to ensure the City's compliance with Subsection (d) of Section 18944.1 of the California Code of Regulations pertaining to the reporting of the distribution of tickets by the City. The City Manager shall timely file completed reports with the City Clerk.
- (c) The City Clerk shall make all filed reports available for public review and inspection during posted business hours for a period of two (2) years, and shall cause such reports to be posted on the City's Website for a period of at least 30 days, unless a specific duration is otherwise provided for, and shall include the information required under Regulation 19844.1(d).

SECTION 8. Definitions.

- (a) "City" shall mean the City of Palm Springs, the Redevelopment Agency of the City of Palm Springs, and any other affiliated agency created or activated by the City Council of the City of Palm Springs.
- (b) "City Manager" means the City Manager of the City of Palm Springs or the City Manager's designee. The term "City Manager" shall be the same as "Agency Head" as such term is used in Regulation 19844.1.
- (b) "City Official" shall mean the City's "public officials" as that term is defined by Government Code section 82048 and Title 2 of the California Code of Regulations, section 18701.
- (c) "Event" shall mean local, regional, national, and worldwide events and festivals, inclusive of any form of entertainment, cultural enrichment, and recreation.

(d) "Gift" shall mean "gifts" as that term is defined by Government Code section 82028 and applicable FPPC regulations.

(e) "Immediate family" means the spouse, registered domestic partner, and/or dependent children of a City Official.

(f) "Ticket" or "tickets" means any ticket, pass, or form of admission privilege that entitles a holder to attend, enter, or participate in an Event.

ADOPTED THIS 25TH DAY OF MARCH, 2009

David H. Ready, City Manager

ATTEST:

James Thompson, City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on March 25, 2009, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California

Tickets Provided by Agency Report

A Public Document

TICKETS PROVIDED BY AGENCY REPORT

1. Agency Name		Date Stamp	California Form 802 For Official Use Only
Division, Department, or Region (if applicable)			
Street Address		<input type="checkbox"/> Amendment (Must explain in Part 5) Date of Original Filing: _____ <small>(month, day, year)</small>	
Area Code/Phone Number	E-mail		
Agency Contact (name and title)			

2. Event For Which Tickets Were Distributed

Date(s) of Event: ____/____/____ Description of Event: _____
 ____/____/____ Face Value of Ticket: \$ _____

Agency Event Yes No (Identify source of tickets below.)

Name of Outside Source of Ticket(s) Provided to Agency: _____

Number of Tickets Received: _____ Ticket(s) Provided to Agency: Gratuitously Pursuant to Contract

3. Agency Official(s) Receiving Ticket(s) (use a continuation sheet for additional names)

Name of Official (Last, First)	Number of Tickets	State Whether the Distribution is Income to the Official or Describe the Public Purpose for the Distribution

4. Individual or Organization Receiving Ticket(s) (Provided at the behest of an agency official.)

Name of Behesting Agency Official: _____

Name of Individual or Organization: _____ Number of Tickets: _____

Description of Organization: _____

Address of Organization: _____
Number and Street City State Zip Code

Purpose for Distribution: (Describe the public purpose for the distribution to the organization.)

5. Verification

I have determined that the distribution of tickets set forth above is in accordance with the provisions of FPPC Regulation 18944.1.

Signature of Agency Head or Designee Print Name Title (month, day, year)

Comment: (Use this space or an attachment for any additional information including amendment explanation.)
