

RESOLUTION NO. 5953

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA HABRA, CALIFORNIA, AMENDING RESOLUTION NO. 5774 BY ADOPTING CERTAIN REVISIONS TO ITS POLICY FOR THE DISTRIBUTION OF TICKETS AND/OR PASSES TO CONFORM TO SECTION 18944.1 OF TITLE 2 OF THE CALIFORNIA CODE OF REGULATIONS

WHEREAS, on or about November 10, 2011, the Fair Political Practices Commission (“FPPC”) amended Section 18944.1 of Title 2 of the California Code of Regulations (“Regulation 18944.1”) sets forth the circumstances under which the City of La Habra’s (“City”) distribution of certain tickets and passes to a public official would need to be disclosed by the City and not trigger a disclosure requirement for the purposes of the public official’s Statement of Economic Interest Form 700; and

WHEREAS, tickets or passes subject to Regulation 18944.1 are defined as an admission to a facility, event, show or performance for an entertainment, amusement, recreational, or similar purpose; and

WHEREAS, Regulation 18944.1 provides that tickets or passes that are distributed by the City to public officials in accordance with a duly adopted policy are not gifts to the public officials as defined by Government Code section 82028; and

WHEREAS, the FPPC recognizes the discretion of the legislative or governing body of an agency to determine whether the City’s distribution of tickets and/or passes to City officials serves a legitimate public purpose of the City, provided that the determination is consistent with state law; and

WHEREAS, from time to time, the City may receive complimentary or discounted tickets or passes from outside sources, or receive tickets or passes pursuant to the City’s co-sponsorship of an event, or receive tickets or passes pursuant to a contract for the use of City property, or receive tickets or passes pursuant to City ownership or control of a venue, or may purchase tickets or passes for both public and private events for distribution to City officials; and

WHEREAS, the distribution to, and use of such tickets and passes by, public officials frequently serves legitimate governmental and/or public purposes; and

WHEREAS, based on such practice and in conformance to the requirements of Regulation 18944.1, the City Council on August 2, 2010, adopted Resolution No. 5430, which adopted a policy regarding the distribution of tickets and/or passes pursuant to Regulation 18944.1; and On October 17, 2016, adopted Resolution No. 5774, which amended the policy; and

WHEREAS, the City Council desires to amend Resolution No. 5774 and policy regarding the distribution of tickets and/or passes pursuant to Regulations 18944.1 by adopting this resolution;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LA HABRA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the Ticket Distribution Policy attached hereto as "Attachment A," and incorporated herein by this reference, is hereby adopted.

SECTION 2. That the City Clerk shall certify to the passage and adoption of this resolution. This Resolution shall become effective immediately from and after its passage.

PASSED, APPROVED AND ADOPTED this 15th day of June, 2020.

Tom Beamish, Mayor

Attest:

Laurie Swindell, CMC
City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF LA HABRA)

I, Laurie Swindell, City Clerk of the City of La Habra, do hereby certify that the above and foregoing is a true and correct copy of Resolution No. 5953 passed at a regular meeting of the City Council of the City of La Habra held on the 15th day of June, 2020, by the following vote:

AYES: COUNCILMEMBERS: Beamish, Espinoza, Gomez, Medrano, Shaw
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: None
ABSTAIN: COUNCILMEMBERS: None

Witness my hand and the official seal of the City of La Habra this 15th day of June, 2020.

Laurie Swindell, CMC
City Clerk

	City of La Habra Policies and Procedures	Approved by:	City Council
		Date Approved:	June 15, 2020
Ticket Distribution		Effective Date:	August 2, 2010
		Last Revision:	October 17, 2016
<u>Scope:</u>	Applies to all City Officials who use tickets or passes which are: 1) given free to the City by an outside organization; 2) received by the City pursuant to a City contract for use of public property; 3) received pursuant to City ownership or control of a venue; or 4) purchased by the City at fair market value and then given to City Officials.		
<u>Purpose:</u>	To ensure that all tickets the City receives from public and private entities and individuals are distributed in furtherance of governmental, ceremonial and/or public purposes, as mandated by recent regulations promulgated by the Fair Political Practices Commission (FPPC), which require that any distribution of tickets received by the City be made pursuant to a written policy.		
<u>Summary:</u>	Section 18944.1 governs the distribution of tickets and/or passes by a local agency to its employees and elected officials. In 2012, Section 18944.1 was modified to accordingly: 1.) relocation of “ceremonial exception” to Section 18942; 2.) a public purpose exception for the morale, retention or to reward public service of City employees, 3.) permitting a city official to transfer tickets to one guest that will accompany an immediate family member, 4.) making the Form 802 available as a public record without requiring the city to post the form to its website, mandating disclosure of organizations receiving tickets under this policy; and 5.) authorizing the City to limit disclosure of names of City employees receiving tickets. The policy set forth below reflects those changes		

I. Definitions:

- A. **“City”**: shall mean and refer to the City of La Habra.
- B. **“City Official”**: shall mean and refer to the City’s “public officials,” as that term is defined by Government Code section 82048 and Fair Political Practices Commission Regulation 18701. Such term shall include, without limitation, any City board, commission, or committee member or other appointed official or employee required to file an annual Statement of Economic Interests (FPPC Form 700).
- C. **“FPPC”**: shall mean and refer to the California Fair Political Practices Commission.

- D. **“Immediate family”** shall mean and refer to the spouse and dependent children.
- E. **“Policy”**: shall mean and refer to this Ticket Distribution Policy.
- F. **“Ticket” or “ticket”**: shall mean and refer to 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.
- G. **“Ticket Administrator”** shall mean and refer to the City Manager or his or her designee; and is the person who determines who receives tickets or passes.

II. Purpose of Policy:

The purpose of this Policy is to ensure that all tickets the City receives from public and private entities and individuals are distributed in furtherance of governmental and/or public purposes.

III. Limitation:

This Policy shall only apply to the City’s distribution of tickets to, or at the behest of, a City Official and to any employee or other officer of the City who is required to file an annual Statement of Economic Interests.

IV. Ticket Distribution Public Purposes:

The City may accomplish one or more of the following governmental, ceremonial, and/or public purposes through the distribution of tickets to, or at the behest of, a City Official. The following list is illustrative rather than exhaustive:

1. Promotion of business activity within the City;
2. Promotion of City-owned businesses;
3. Promotion of community resources available to City residents, including charitable and nonprofit organization resources;
4. Promotion of City resources available to City residents;
5. Promotion of community programs available to City residents; including charitable and nonprofit organization programs;
6. Promotion of City-run, sponsored or supported community programs;
7. Promotion of private facilities available for City resident use, including charitable and nonprofit organization facilities;
8. Promotion of City facilities available for City resident use;
9. Promotion of City growth and development;
10. Promotion of events sponsored by the City;
11. Promotion of City tourism 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. Promotion of open government by City Official appearances, participation and/or availability at business and/or community events; and
14. Increasing public exposure to, and awareness of, the various public recreational, cultural, community and education facilities available to the public within the City of La Habra.
15. Promoting the improvement of intergovernmental relations by encouraging City Officials to attend functions and events with the public officials of other entities, thereby fostering an open dialogue and better understanding of intergovernmental issues.
16. Promoting general employee morale, retention, or to reward public service to City employees.

V. Public Purpose Requirement:

The distribution of any ticket by the City to, or at the behest of, a City official shall accomplish a governmental, ceremonial, and/or public purpose.

VI. Transfer Prohibition:

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 this City Official's immediate family or no more than one guest solely for their personal use attendance at the event, is prohibited. If a City Official is provided a ticket for use by immediate family, that ticket must be used by the immediate family and no more than one guest; if it is not, it must be returned to the City.

VII. 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, the Ticket.

VIII. No Earmarking of Ticket Given to City:

No Ticket gratuitously provided to the City by an outside source and distributed by the City to, or at the behest of, a City Official pursuant to this Policy shall be earmarked by the original source for provision to a particular City Official.

IX. Website Posting:

- A. This Policy shall be posted on the City website in a prominent fashion. Form 802, or a summary of the information on Form 802, shall be posted on the City website. City shall send to the FPPC by email the City website link that displays the Policy and Form 802 so that the FPPC may post a website link.

X. Website Disclosure:

The distribution of a ticket or tickets pursuant to this Policy shall be completed on FPPC California Form 802 or such alternative form as from time to time the FPPC may designate and must be maintained as a public record. FPPC California Form 802 shall be posted on the City's website in a prominent fashion within forty five

(45) days after the ticket distribution. Such posting shall use FPPC California Form 802 or such alternate form as from time to time the FPPC may designate.

XI. Designation of Ticket Administrator:

- A. For the purpose of implementing this policy, and completing, filing, and posting the FPPC Form 802 within 45 days of the distribution of the tickets or passes, the City Manager or his designee shall be the "Ticket Administrator."
- B. Only the following City Officials shall have authority to behest tickets as authorized in Section IV: City Council Members and the City Manager.
- 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.

XII. Limitation on Number of Tickets:

- A. The number of tickets that can be provided to a City Official is limited to a ticket or pass for the City Official and a ticket or pass for the Official's immediate family or no more than one guest, solely for their attendance at the event.
- B. The disproportionate use of tickets or passes by a City Council Member, political appointee, department head, or chief administrative officer of the City is prohibited.

XIII. Ceremonial Role:

- A. A ticket or pass 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 is not a gift to the City Official, provided that the City Official discloses the receipt of that ticket to the FPPC that is posted on the FPPC's website

XIV. Other Benefits:

- A. While the distribution of a complimentary ticket or pass to a City Official may not a gift to the City Official, other benefits, such as food or beverage or gifts received by the City Official "that are not included with the admission," may be subject to the annual gift limit and reporting requirements

XV. Disclosure Required:

- A. The name of the recipient,
 - (i) except that if the ticket or pass is distributed to a city employee, the agency may post the name of the department or other unit of the agency;
 - (ii) except that if the recipient is an organization, the City shall 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;
- B. Description of the event;
- C. Date of the event;

- D. the fair value of the ticket;
- E. the number of tickets provided to each person;
- F. if the ticket was distributed at the behest of a City Official, the name of the City Official who made such behest;
- G. if the ticket or pass was transferred to a person, the immediate family relationship of the transferee; and
- H. a description of the public purpose(s) and/or ceremonial function under which the distribution was made, or, alternatively, that City Official is treating the ticket as income.

XVI. Tickets Exempt from Gift Limits

- A. Distribution of a ticket or pass to a City Official does not have to be reported as a gift and is not subject to the annual gift limit if one or more of the following exemptions apply:
 - 1. *Tickets Given to City.* (a) the ticket is distributed consistent with the current ticket Policy; (b) the ticket is properly reported within 45 days on FPPC Form 802; (c) the original source of the ticket or pass has been not earmarked it for use by particular City Official; and (d) the Ticket Administrator determines in its sole discretion who may use the ticket or pass.
 - 2. *Tickets Given to City Employees.* If the ticket or pass acquired under this exemption is distributed to a City Official other than an elected official, political appointee, department head, chief administrative officer, or member of the City Council, the ticket or pass is not a gift if it was distributed to support general employee morale, retention or to reward public service.
 - 3. *Taxable Income to City Official.* If the ticket or pass is treated as income by the official consistent with applicable state and federal income tax laws.
 - 4. *Reimbursed.* If the City Official reimburses the City for the ticket within 30 days of receipt.

XVII. Related or Referenced Policies:

None.