

LEGISLATIVE POLICY MEMORANDUM

NUMBER: LPM# 2018-01

DATE: March 14, 2018

APPROVED BY CITY MANAGER: Marlene Best

APPROVED BY CITY ATTORNEY: Shawn Hagerty

ADOPTED BY CITY COUNCIL: March 14, 2018

INITIATED BY: Peggy Johns, MMC, Interim City Clerk

**SUBJECT: UPDATED LEGISLATIVE POLICY RECEIPT AND
DISTRIBUTION OF TICKETS AND PASSES – FORM 802 FILING**

PURPOSE

Public officials and employees and consultants designated in the City's Conflict of Interest Code are required to report gifts aggregating \$50 or more from a single source during a calendar year on their Form 700 Statements of Economic Interests. (Gov. Code § 87210.) In addition, public officials and designated employees and consultants are prohibited from accepting gifts aggregating \$470 or more from a single source in any calendar year. (Gov. Code § 89503.)

Fair Political Practices Commission ("FPPC") Regulation 18944.1 (2 CCR 18944.1) provides that reporting requirements and the gift limit will not apply to a gift of tickets or passes distributed to a public official or designated employee or consultant by his or her agency if certain procedures are followed. Regulation 18944.1 also requires the City to adopt a policy with certain minimum contents in order to distribute tickets or passes to public officials or designated employees or consultants under the provisions of that Regulation. The policy must be posted on the City's website.

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

Nothing in this policy supersedes State law or FPPC regulations. City officials and employees are encouraged to review the appropriate regulations for specific information related to the City Conflict of Interest Code and the filing of Form 700s.

POLICY

The City of Santee adopts the following policy regarding the receipt of Tickets.

Section A - Applicability. This Policy applies to Tickets which provide admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose, and are either:

1. Gratuitously provided to the City by an outside source;
2. Acquired by the City by purchase;
3. Acquired by the City as consideration pursuant to the terms of a contract for the use of City property; or
4. Acquired and distributed by the City in any other manner.
5. This Policy shall only apply to the City's distribution of Tickets to, or at the behest of, a City Official.

This Policy, together with the procedures established pursuant to Section D (4) below, shall supersede and replace any prior City policy governing Tickets to which this Policy applies.

Section B - Scope.

This Policy applies to all elected and appointed officials, as well as all designated City employees.

Section C - 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 the same may from time to time be amended) and the FPPC Regulations (Title 2, Division 6 of the California Code of Regulations, Sections 18110 et seq., as the same may from time to time be amended).

“City” shall mean and include the City of Santee and any other affiliated agency created or activated by the City Council, and any departments, boards and commissions thereof.

“City Official” shall mean and refer to the City’s “public officials,” as that term is defined by Government Code Section 82048 and FPPC Regulation 18701. Such term shall include, without limitation, any City board or committee member or other appointed official or designated employee required to file a Statement of Economic Interests (FPPC Form 700).

“Immediate family” shall mean and refer to the spouse and dependent children.

“Policy” shall mean and refer to this Legislative Policy Memorandum.

“Ticket” shall mean and refer to a “ticket” or “pass” as those terms are defined in FPPC Regulation 18946 and referenced in FPPC Regulation 18944.1, both Regulations as being amended from time to time, but which currently define a “ticket” or “pass” as anything that provides access to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose.

Section D – General Provisions.

1. The use of complimentary Tickets is a privilege extended by City and not the right of any person to which the privilege may from time to time be extended.
2. 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 to no more than one guest solely for their attendance at the event.
3. No person who receives a Ticket pursuant to this Policy shall resell or receive compensation for the value of such Ticket.
4. The City Manager shall have the authority, in his or her sole discretion, to establish procedures for the distribution of Tickets in accordance with this Policy. All requests for Tickets which fall within the scope of this Policy shall be made in accordance with the procedures established by the City Manager.
5. The City Manager or his or her designee shall be the "Agency Head" for purposes of implementing the provisions of this Policy and completing and posting the FPPC Form 802. In such case where the City Manager desires to obtain a Ticket, the City Council authorizes the City Manager to exercise the City's sole discretion in determining whether the City Manager's use or behest of Tickets is in accordance with the terms of this Policy.
6. No Ticket gratuitously provided to the City by an outside source and distributed 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.
7. A Ticket provided to a City Official and one guest of the official at which the official performs a ceremonial role, as defined in FPPC Regulation 18942.3, on behalf of the City must be disclosed on Form 802 as set forth below. Any additional effort by the City to either limit or expand permissible ceremonial roles will require that the revised policy be forwarded to the FPPC.
8. The value of any Ticket shall be the face value of the Ticket.

Section E - Conditions Under Which Tickets May be Distributed.

Subject to the provisions of this Policy, complimentary Tickets may be distributed under the following separate conditions:

1. If the distribution is to a City Official, the City Official reimburses the City for the face value of the Ticket(s).
2. If the distribution is to a City Official, the City Official treats the Ticket(s) as income consistent with applicable federal and state income tax laws and the City complies with the reporting requirements of Section F below.
3. If the distribution is to a City Official or is at the behest of a City Official, such distribution accomplishes a governmental and/or public purpose. The following is a list of governmental and/or public purposes the City may accomplish through the distribution of Tickets. The list is illustrative rather than exhaustive:
 - a. Facilitating the performance of a ceremonial role or function by a City Official on behalf of the City at an event.
 - b. 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.
 - c. Promotion of intergovernmental 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.
 - d. Promotion of City resources and/or facilities available to City service area residents.
 - e. Promotion of City-run, sponsored or supported community programs or events.
 - f. Promoting, supporting and/or showing appreciation for programs or services rendered by charitable and non-profit organizations benefiting City service area residents.
 - g. Promotion of business activity and development within the City.
 - h. Promotion of City services on a local, state, national or worldwide scale.
 - i. Promotion of City recognition, visibility, and/or profile on a local, state, national or worldwide scale.
 - j. Promotion of open government by City official appearances, participation and/or availability at business and/or community events.

- k. Increasing public exposure to, and awareness of, the various recreational, cultural, and educational venues and facilities available to the public within the City.
 - l. Attracting or rewarding volunteer public service.
 - m. Encouraging or rewarding significant academic, athletic, or public service achievements by residents or businesses of the City service area.
 - n. Attracting and retaining highly qualified employees in the City service.
 - o. Recognizing or rewarding meritorious service by a City employee.
 - p. Promoting enhanced City employee performance or morale.
 - q. Recognizing contributions made to the City by former Board of Directors Members or City employees.
- 4. If the distribution is to an organization outside of the City, such distribution is done pursuant to a public purpose outlined in Section E (3).
 - 5. Subject to the provisions of this Policy, Tickets obtained by the City pursuant to terms of a contract for use of public property because the City controls the event, or, by purchase at fair market value, may be distributed to City Officials. Any distribution must accomplish a governmental and/or public purpose in accordance with Section E (3) above.
 - 6. Any Ticket obtained pursuant to Section E (5) which is distributed to a City official, other than an elected official or member of the governing body of the City, for the official's personal use, to support general employee morale, retention, or to reward public service is also deemed to serve a public purpose. Such Ticket distribution shall be disclosed pursuant to Section F. For purposes of this subsection, "personal use" is defined as use by the official, his or her family, or no more than one guest.
 - 7. Any City Official, any member of the public official's immediate family, or guest of the public official may return any unused ticket to the City for redistribution pursuant to this Policy.
 - 8. The FPPC recognizes the discretion of the Board of Directors to determine whether the distribution of a Ticket serves a legitimate public purpose of the City, provided the determination is consistent with state law.

9. The provisions of this Policy apply only to benefits the City Official receives that are provided to all members of the public with the same class of Ticket.

Section F – Disclosure Requirements.

1. This Policy shall be posted on the City's website in a prominent fashion. City shall, within 30 days of adoption or amendment, send to the FPPC by email a website link that displays the Policy.
2. Tickets distributed by the City to any City Official which the City Official treats as income pursuant to Section E (2) above, or, which are distributed for one or more public purposes described in Section E (3) above, must be recorded on FPPC California Form 802 or, on such alternative form(s) as may from time to time be designated by the FPPC. This form must be maintained as a public record, be subject to inspection and copying as required under Government Code section 81008 (a). Within 45 days City must post these forms on its website and email a website link to the FPPC that displays the Form.
3. Tickets distributed by the City for which the City receives reimbursement from the City Official as provided under Section E (1) above shall not be subject to the disclosure provisions of Section F (2).
4. Tickets distributed by the City to any City official other than an elected official or member of the governing body of the City, for the official's personal use, defined as use by the official, his or her family, or no more than one guest, to support general employee morale, retention, or to reward public service is also deemed to serve a public purpose, as described in Section E (5), shall be disclosed in accordance with Section F (2).
5. For Tickets distributed pursuant to this Policy, the City may post the name of the department or other unit of the City and the number of Tickets provided to the department or other unit in lieu of posting the name of the individual employee(s) as otherwise required.
6. Tickets distributed to an organization outside of the City pursuant to Section E (4), shall be disclosed in accordance with Section F (2) above, but, may be done by posting the name, address, description of the organization, and the number of tickets or passes provided to the organization in lieu of posting the names of each individual from the organization as otherwise required.

Section G – Effective Date.

This Policy shall be in effect as of the date of its adoption.