

RESOLUTION NO. 2019-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
ADOPTING A POLICY FOR THE DISTRIBUTION
OF TICKETS AND PASSES IN ACCORDANCE
WITH SECTION 18944.1 OF TITLE 2 OF THE
CALIFORNIA CODE OF REGULATIONS, AS
AMENDED BY THE FAIR POLITICAL
PRACTICES COMMISSION**

WHEREAS, the California Fair Political Practices Commission (“FPPC”) amended Section 18944.1 of Title 2 of the California Code of Regulations that sets forth the circumstances under which the City’s 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 (FPPC Form 700); and

WHEREAS, tickets and passes subject to Regulation 18944.1 apply solely to 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 and passes that are distributed by the City to public officials in accordance with a duly adopted policy are not gifts to the public official(s); and

WHEREAS, from time to time, the City of Merced may receive complimentary or discounted tickets and passes from public and private sources or pursuant to co-sponsorship of event(s) 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 officials may serve legitimate governmental and/or public purposes. FPPC Regulation 18944.1 provides for the circumstances and procedures for receipt and distribution of such tickets and passes; and

WHEREAS, in accordance with the FPPC Regulation Section 18944.1, the City Council wants to use such tickets and passes to further public purposes such as for the promotion of city’s business, resources, programs and facilities, and the furtherance of said public purposes may require the distribution to “public

officials” as defined in Government Code Section 82048 and FPPC Regulation 18701; and,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCED DOES HEREBY RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:

SECTION 1. That certain document entitled, “City of Merced Ticket Policy Adopted Pursuant to the Requirements of FPPC Regulation, Section 18944.1 of Title 2 of the California Code of Regulations,” attached as Exhibit “A” is hereby adopted as the official policy of the City of Merced for the distribution of tickets and passes regulated under Section 18944.1.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2019, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

Frederic A. Munn 1-28-19
City Attorney Date

**CITY OF MERCED TICKET POLICY ADOPTED PURSUANT TO THE
REQUIREMENTS OF FAIR POLITICAL PRACTICES COMMISSION
REGULATIONS, SECTION 18944.1 OF TITLE 2 OF THE CALIFORNIA
CODE OF REGULATIONS**

1. Purpose.

1.1 To ensure that tickets and passes received and distributed by the City are in furtherance of a governmental and/or public purpose as required under Regulation 18944.1 and this Policy.

1.2 To ensure that tickets and passes distributed by the City under Regulation 18944.1 and this Policy are disclosed on FPPC Form 802 and posted to the City's website within forty-five (45) days of distribution as required by Regulation 18944.1

2. Application of Policy.

2.1 This policy applies to tickets and passes that provide admission to a facility, event, show or performance for an entertainment, amusement, recreational, or other similar purpose, and are either:

- 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
- d. Acquired and distributed by the City in any other manner

3. Limitation.

3.1 This policy shall only apply to the City's distribution of tickets and passes to, or at the behest of, a city official.

4. 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 ("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).

4.1 "City" or "City of Merced" shall mean and include the City of Merced and any other affiliated agency created or activated by the Merced City Council or the City Charter, and any departments, boards, and commissions thereof.

4.2 "City Official" shall mean and refer to every member, elected officer, appointed officer, employee or consultant of the City, as defined in Government Code Section 82048 and FPPC Regulation 18701. This 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).

4.3 "City Venue" shall mean and refer to any facility, building or real property owned, controlled, or operated by the City of Merced at which events, shows or performances for an entertainment, amusement, recreational, or similar purpose are held, performed or conducted.

4.4 "Immediate Family" shall mean and refer to the spouse (including the registered domestic partner) and dependent children of a City Official.

4.5 "Policy" shall mean and refer to this Policy for the distribution of tickets and/or passes.

4.6 "Ticket" or "Pass" shall mean and refer to a ticket or pass as those terms are defined in FPPC Regulation 18944.1, as may be amended from time to time. (As of the adoption of this Policy, the term "ticket" or "pass" means admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose).

4.7 "Ticket Administrator" means the City Manager of the City of Merced or his/her designee.

5. General Provisions.

5.1 No Right to Tickets. The use of tickets is a privilege extended by the City and is not the right of any person to which the privilege may from time to time be extended.

5.2 Limitation on Transfer of City Tickets. Tickets distributed to a City Official pursuant to this Policy shall not be transferred to any other person except to a member 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.

5.3 Sale of or Receiving Compensation for Tickets Prohibited. No person who receives a ticket pursuant to this policy shall sell or receive any form of compensation or reimbursement for the value of the ticket(s).

5.4 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 provisions to a particular City Official.

6. Procedures for Distributing Tickets.

6.1 The Ticket Administrator has the sole authority, in his or her discretion, to establish procedures for the distribution of tickets supplemental to and in accordance with this Policy. All requests for tickets from City Officials which fall within the scope of this Policy shall be made in accordance with the procedures established by the Ticket Administrator.

6.2 If the ticket does not have a stated face value, the Ticket Administrator will determine the face value of tickets distributed by the City for purposes of this policy.

6.3 The Ticket Administrator, in his or her sole discretion, may revoke or suspend the ticket privileges of any City Official or person who violates any provision of this Policy or the procedures established by the Ticket Administrator for the distribution of City tickets in accordance with this Policy.

7. Conditions Under Which Tickets May Be Distributed Subject to the Provisions of this Policy, Complimentary Tickets may be Distributed to City Officials by the Ticket Administrator Under Either of the Following Conditions:

7.1 The City Official reimburses the City for the established face value of the ticket(s) as follows:

- a. Reimbursement shall be made at the time the tickets are distributed to the City Official.
- b. The Ticket Administrator shall, in his or her sole discretion, determine which event tickets, if any, shall be available under this section.

7.2 In accepting the ticket(s), the City Official acknowledges that the value of the tickets will be treated as income in a manner consistent with applicable federal and state income tax laws; or

7.3 The City Official expressly acknowledges to the Ticket Administrator that such ticket(s) will be used for one or more of the following governmental/public purposes:

- a. In connection with the Official's performance of a ceremonial role or function representing the City at the event, for which the City Official may receive enough tickets for the City Official and each member of his or her immediate family.
- b. The job duties of the City Official require his or her attendance at an event which has been financially sponsored or supported by the City (whether in whole or in part) and the Official will provide a report to the City Administrator or City Council on whether the City's goals in sponsoring the event appear to have been fulfilled - for which the City Official may receive enough tickets for the City Official and each member of his or her immediate family.
- c. For purposes of fostering positive intergovernmental relations 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. Rewarding volunteer public service by a City employee.
- e. Supporting or showing appreciation for programs or services rendered to the community by non-profit organizations which programs or services have benefited Merced residents.
- f. Encouraging or rewarding significant academic, athletic, or public service achievements by Merced students, residents, or businesses.
- g. As special recognition for meritorious service by a City employee - for which such employee may receive no more than four (4) tickets per event.
- h. For use in connection with a City employee competition or drawing, for which there shall be made available no more than (4) tickets per event.

8. Tickets Received by a City Official or City Employee other than Through the City Ticket Administrator.

8.1 Only the Ticket Administrator shall have authority to receive and accept a gift of tickets given or donated to the City.

8.2 Any City Official/employee who receives an offer to donate tickets to the City shall refer the donor to the City Manager's Office.

9. Public Disclosure Requirements.

9.1 Tickets distributed by the Ticket Administrator to any City Official pursuant to this policy shall be disclosed on FPPC Agency Report of Ticket Distributions (Form 802) to be posted in a prominent fashion on the City's website and shall be sent to the FPPC within thirty (30) days after distribution, and shall include the following information:

- a. The name of the Ticket recipient or City Department, if applicable;
- b. The date of the event and a description of it;

- c. The face value of the ticket or, if none, the value of the ticket as determined by the Ticket Administrator;
- d. The number of tickets provided to each person;
- e. If the tickets were distributed to another person at the request of a City Official, the name of the City Official who made such request and;
- f. A description of the public purpose(s) (as described in Section 7.3 above) under which the distribution was made, or, alternatively, that the City Official is treating the ticket as income (as described in Section 7.2 above).

9.2 Tickets distributed by the City for which the City receives reimbursement from the City Official as provided under Section 7.1 above are not subject to the disclosure requirement.

10. Posting to Website.

10.1 This Policy shall be posted on the City's website in a prominent fashion and the link shall be submitted to the FPPC for posting on the FPPC website.

10.2 The distribution of a ticket(s) or pass(es) pursuant to this Policy shall be posted on the City's website within forty-five (45) days after the ticket distribution. Such posting shall use FPPC Form 802 or such alternate form as the FPPC may designate from time to time.