



Midpeninsula Regional
Open Space District

R-16-157
Meeting No. 16-31
December 14, 2016

AGENDA ITEM 6

AGENDA ITEM

Board Policy for Distribution of Tickets and Passes

GENERAL MANAGER'S RECOMMENDATION

Approve a new Board Policy, "District Distribution of Tickets and Passes."

SUMMARY

The General Counsel and General Manager recommend that the Board adopt a new policy for handling complimentary admission and invitations to special events that are given as gifts to the District, to ensure that the District complies with conflict of interest laws and to make the process of using these tickets convenient for District officials.

Every year, the District is offered invitations/admittance/complimentary admission and invitations to special events from organizations such as:

- *Sierra Club Loma Prieta Chapter Guardians of Nature Benefit* at the Garden House in Shoup Park
- *Greenbelt Alliance Savor the Greenbelt Event* at the San Francisco War Memorial & Performing Arts Center

A Board policy for "District Distribution of Tickets and Passes" would authorize the General Manager to distribute tickets and passes to District officials and ensure that the appropriate forms are collected, retained, and posted on the District website in accordance with Fair Political Practices Commission Regulation 18944.1.

MEASURE AA

This is not a Measure AA project.

DISCUSSION

The Political Reform Act (Act) requires the disclosure of certain gifts received by a candidate or public official, prohibits the candidate or official from accepting gifts of \$460 or more, and prohibits a public official from making, participating in making or using his or her position to influence the outcome of a decision involving the donor of a gift valued at \$460 or more. A "gift" is defined as "any payment that confers a personal benefit on the recipient to the extent that consideration of equal or greater value is not received." Ordinarily tickets and passes used by agency officials for entertainment, amusement, or recreational events are regarded as gifts.

However, Fair Political Practices Commission (FPPC) Regulation 18944.1 creates an exception from the definition of “gift” for tickets or passes that an agency provides to certain of its officials so long as the agency complies with specified requirements:

- The use of the ticket must further a governmental or public purpose;
- The agency must adopt a distribution policy that contains provisions set forth in the regulation;
- The agency must complete FPPC Form 802 within 45 days of distributing the ticket or pass, maintain Form 802 as a public record, post Form 802 to the agency website, and provide a copy to the FPPC for posting.

Distribution of tickets and passes by a Ticket Administrator allows the District to treat the tickets and passes as resources of the District rather than gifts to individual officials or employees. A recipient of tickets or passes may not transfer them to others; however, it is permissible for the recipient to receive two tickets in order to allow an immediate family member to accompany the official to an event (“Immediate family” means the spouse, domestic partner and/or dependent children of the employee or official).

The Regulation requires the District to designate a Ticket Administrator who would select recipients of tickets and ensure that Form 802 is completed on behalf of the District indicating that the tickets or passes had been used. The form would also be posted to the District’s website and transmitted to the FPPC.

The District occasionally receives or obtains tickets or passes to events relating to the District’s mission, or activities of governmental and non-profit partners aligned with the District’s mission. For example, partners such as POST and the Open Space Council have offered to donate complimentary tickets to their events for use by District personnel. Using these tickets and passes as resources of the District serves important policy objectives of promoting District resources, programs, or facilities, promoting the District’s mission in cooperation with other local organizations who share or further the District’s mission. More specifically, the permissible purposes of distributing tickets are:

- Promotion of intergovernmental relations and/or cooperation and coordination of resources with other governmental agencies and nonprofit entities 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.
- Promotion of District resources and/or facilities available to the public.
- Promotion of District-run, District-sponsored, or District-supported community programs or events.
- Increasing public exposure to, and awareness of, the various recreational, cultural, and educational venues and facilities available to the public within the District.
- Promoting, supporting, and/or showing appreciation for programs or services rendered by charitable and non-profit organizations sharing the District’s mission or benefiting residents within the District and/or locally benefiting the District’s mission.
- Attracting or rewarding volunteer service.

- Attracting and retaining highly qualified employees of the District; recognizing or rewarding meritorious service by a District employee; and/or promoting enhanced employee performance or morale.
- As an incident to the above purposes, allowing for the immediate family of public officials to accompany the official(s) to events to accomplish any of the purposes listed herein.

The proposed policy designates the General Manager or his/her designee as the “Ticket Administrator” responsible for distributing tickets and passes, and specifies the procedure by which the District will collect and post Form 802 in order to disclose the use of the tickets and passes.

FISCAL IMPACT

There is no anticipated fiscal impact related to the Board’s adoption of this policy.

PUBLIC NOTICE

Public notice was provided as required by the Brown Act.

CEQA COMPLIANCE

This item is not a project subject to the California Environmental Quality Act.

NEXT STEPS

The Policy would be incorporated by the District Clerk into the Board’s Policy Manual. The District Clerk would maintain Form 802 as prescribed by FPPC Regulation 18944.1.

Attachment

1. Resolution Adopting Board Policy for Tickets and Passes

Responsible Department Head:
Sheryl Schaffner, General Counsel

Prepared by:
Hilary Stevenson, Assistant General Counsel

RESOLUTION NO. 16-

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
MIDPENINSULA REGIONAL OPEN SPACE DISTRICT
ESTABLISHING A POLICY FOR DISTRIBUTION OF
TICKETS AND PASSES TO DISTRICT OFFICIALS**

WHEREAS, the California Fair Political Practices Commission (FPPC) enacted Regulation 18944.1 regarding the distribution to public officials of certain types of tickets or passes to events, which requires the adoption of a written policy by the Board of Directors; and

WHEREAS, the District may occasionally receive, purchase, generate, or otherwise gain ownership of tickets and passes to events for entertainment, amusement, recreational, or similar purposes, and the Board wishes to avail the District and its officials of the ability to distribute such tickets and passes pursuant to FPPC regulation § 18944.1(c); and

WHEREAS, the District desires to use such tickets or passes to further its governmental and public purposes as specifically described in the policy; and

WHEREAS, as provided in FPPC regulation § 18944.1, such tickets and/or passes distributed in accordance with a duly adopted written policy are, when so distributed, not considered gifts to public officials.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the Midpeninsula Regional Open Space District, as follows:

1. Board Policy No. 6.09 “District Distribution of Tickets and Passes” is set forth in Exhibit A, attached hereto and incorporated herein by this reference;
2. Board Policy No. 6.09 as set out in Exhibit A shall take effect immediately upon its adoption.
3. This Resolution shall be posted on the District website within 30 days of its adoption.

* * * * *

PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on ____, 2016, at a regular meeting thereof, by the following vote:

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

ATTEST:

APPROVED:

Secretary
Board of Directors

President
Board of Directors

APPROVED AS TO FORM:

General Counsel

I, the District Clerk of the Midpeninsula Regional Open Space District, hereby certify that the above is a true and correct copy of a resolution duly adopted by the Board of Directors of the Midpeninsula Regional Open Space District by the above vote at a meeting thereof duly held and called on the above day.

District Clerk

Exhibit A: Board Policy 6.09 "District Distribution of Tickets and Passes"

Midpeninsula Regional Open Space District

Board Policy Manual

District Distribution of Tickets and Passes	Policy 6.09 Chapter 6 – General
Effective Date: 12/14/16	Revised Date: N/A
Prior Versions: N/A	

This policy establishes a procedure for the distribution, use and reporting of tickets or passes, provided to the District, to a facility, event, show or performance for an entertainment, amusement, recreational or similar purpose (hereinafter “Event”) in compliance with Fair Political Practices Commission (FPPC) regulations. FPPC Regulation 18944.1 sets forth circumstances when a public agency’s distribution of tickets or passes, when no consideration of equal or greater value is provided by the public official or employee, does not constitute a gift to the public official or employee. Tickets or passes to an event distributed and accounted for in compliance with this policy and FPPC Regulation 18944.1 will not be considered gifts to the District officials or employees who make use of donated tickets and passes.

The public purposes served by distributing tickets and passes to events include: promoting District resources, programs and facilities, promoting the District’s mission in cooperation with similar local organizations, facilities and programs, and recognizing and retaining District employees.

This policy is subject to all applicable FPPC regulations and the Political Reform Act. Nothing in this policy is intended to alter, amend or otherwise affect the obligations of District officials and employees under the Political Reform Act and its implementing regulations or under any District policy or conflict of interest code.

I. DEFINITIONS

“District official” means every member, officer, employee or consultant of the District as defined in FPPC regulation 18701 and shall include, without limitation, any District Board member or other appointed or official or employee required to file an annual Statement of Economic Interests (FPPC Form 700).

“Face value” means the price of the ticket if the ticket had been sold to the general public by the operator of the venue or the host of the event, exclusive of fees and surcharges.

“Ticket or pass” means admission to a facility, event, show or performance for an entertainment, amusement, recreational or similar purpose.

“Ticket Administrator” means the General Manager of the District or his/her designee(s). The Ticket Administrator has sole discretion to determine who shall receive the tickets.

“Immediate family” means the spouse, domestic partner and/ or dependent children of the employee or official.

II. APPLICABILITY

This policy applies to the following:

- a. tickets that are gratuitously provided to the District by an outside source,
- b. purchased by the District,
- c. received by the District pursuant to the terms of a contract for use of public property or because the District controls the event; or
- d. received and distributed by the District in any other manner.

III. PUBLIC PURPOSE

Any distribution of tickets in accordance with this policy to a District official, or to an individual or organization outside the District at the behest of a District official, is in furtherance of a public purpose are those that share the District’s mission or benefit residents within the District and/or locally benefiting the District’s mission. Public purposes under this policy include, but are not limited to, the following:

- a. Promotion of intergovernmental relations and/or cooperation and coordination of resources with other governmental agencies and nonprofit entities 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.
- b. Promotion of District resources and/or facilities available to the public.
- c. Promotion of District-run, District-sponsored, or District-supported community programs or events.
- d. Increasing public exposure to, and awareness of, the various recreational, cultural, and educational venues and facilities available to the public within the District.
- e. Promoting, supporting, and/or showing appreciation for programs or services rendered by charitable and non-profit organizations
- f. Attracting or rewarding volunteer service.
- g. Attracting and retaining highly qualified employees of the District; recognizing or rewarding meritorious service by a District employee; and/or promoting enhanced employee performance or morale.
- h. As an incident to the above purposes, allowing for the immediate family of public officials to accompany the official(s) to events to accomplish any of the purposes listed herein.

IV. EXEMPTIONS FROM THIS POLICY

- a. Income or Individually Reportable Gift
If the District official treats the tickets as a reportable gift or other income, consistent with federal and state income tax laws, and/or the official reports distribution of the tickets or passes as a gift or income to the official on the FPPC Form 700, the

distribution of tickets is not subject to this policy. (This procedure is applicable for tickets that are donated or provided by an outside source and earmarked for use by a specific District official by the outside source, which are subject to the disclosure and reporting requirements applicable to gifts to an individual.)

b. Reimbursement

If the District official reimburses the District for the face value of the tickets within 30 days of receipt or acceptance of the tickets, as defined in the Political Reform Act, the distribution of tickets is not subject to this policy.

V. PROCEDURES FOR DISTRIBUTION

- a. Tickets received by the District from an outside source without designation as to the specific District official who may use the tickets shall be forwarded to the Ticket Administrator. The Ticket Administrator will determine the face value of the tickets or passes, identify the individuals who may use them, and ensure the distribution is reported as described below.
- b. A District official designated by the Ticket Administrator to use tickets or directed by the Ticket Administrator to distribute them to an individual or organization outside the District, should complete the applicable section of FPPC Form 802 and submit the form to the District Clerk.
- c. A District official who receives tickets or passes distributed to the District according to this policy is prohibited from transferring or giving the tickets or passes to any other person except to members of the District official's immediate family or no more than one guest solely for their attendance at the event. No person receiving a ticket or pass pursuant to this policy shall sell or receive reimbursement for the value of the ticket or pass.

VI. PROCEDURES FOR REPORTING

Tickets distributed to a District official, or to an individual or organization outside the District, shall be documented by the District official on a completed FPPC Form 802 or such other forms as the FPPC may designate.

- a. The Ticket Administrator or designee shall ensure that the completed Form 802 is posted on the District website within 45 days after distribution of the tickets.
- b. The form shall remain posted on the District website for a period of time specified for such purpose by FPPC regulations.
- c. The form shall be kept on file with the District Clerk and maintained as a District record subject to applicable records retention rules.
- d. The District Clerk shall forward a copy of the form to the FPPC in accordance with applicable procedures.