

# OAKLAND CITY COUNCIL

\_\_\_\_\_  
City Attorney

**RESOLUTION No. \_\_\_\_\_ C.M.S.**

Introduced by Councilmember \_\_\_\_\_

**RESOLUTION RESCINDING AND SUPERCEDING CITY COUNCIL RESOLUTION 82032 WHICH SETS FORTH THE CITY OF OAKLAND’S TICKET DISTRIBUTION POLICY FOR OAKLAND RAIDERS, OAKLAND ATHLETICS, GOLDEN STATE WARRIORS AND OTHER EVENTS AND ESTABLISHING A REVISED TICKET DISTRIBUTION POLICY**

**WHEREAS**, the City of Oakland receives thousands of tickets each year from the Oakland Raiders, Oakland A’s, and Golden State Warriors, in addition to other tickets made available to or from the City for other events (collectively, “City tickets”); and

**WHEREAS**, the distribution of City tickets is governed by the City of Oakland Policy for Receipt and Distribution of Passes and Tickets, adopted as City Council Resolution 75052, C.M.S., on June 15, 1999, and later revised as City Council Resolution 82032, C.M.S., on May 19, 2009; and

**WHEREAS**, the Public Ethics Commission conducted a review of the City’s distribution of City tickets and identified multiple concerns regarding the ethical implications, ticket use and waste, reporting, and management of the ticket distribution process, as well as the public’s access to data on the use of tickets; and

**WHEREAS**, the California Political Reform Act and the Oakland Government Ethics Act provide restrictions on gifts, including a local gift limit of \$250 from a single source in a calendar year, and a lower \$50 limit on gifts from a person doing business with or seeking to do business with the department of the Public Servant receiving the gift or from a person who attempted to influence the Public Servant in any legislative or administrative action within the prior twelve months; and

**WHEREAS**, tickets are generally considered gifts to a Public Servant, unless a specific exception applies pursuant to the California Political Reform Act, including an exception for tickets that are received pursuant to a local agency’s written policy, adopted by that agency’s legislative body, which sets forth the public purposes of the agency for which tickets may be distributed;

**WHEREAS**, City tickets are City resources that are prohibited from being used for personal or non-City purposes not authorized by law, pursuant to California Government Code section 8314 and the Oakland Government Ethics Act; now, therefore be it

**RESOLVED**, that the City needs a policy that describes the allowable public purposes for the use

of City tickets and limits the number of tickets that can be used by any one person in order to put these unique City resources to the best possible use and to assure Oakland residents that these tickets are being distributed in accordance with the highest ethical standards; and be it

**FURTHER RESOLVED**, that tickets should be distributed in a manner that furthers the public purposes of the City's policy and ensures that ticket use and distribution is properly reported according to state and local law and that ticket use data is made available to the public online in an accessible, searchable, and downloadable electronic format (*e.g.*, comma-separated value format); and be it

**FURTHER RESOLVED**, that Oakland Coliseum and Oracle Arena tickets provided to the City pursuant to contracts with the Oakland A's, Oakland Raiders, and Warriors, as well as other event tickets from said facilities, should be delivered to the City Administrator for distribution pursuant to the City's Policy for the Distribution of Tickets, unless the City Council negotiates Oakland Coliseum and Oracle Arena tickets back to one or more of these facilities or teams in exchange for revenue or other benefits to the City; and be it

**FURTHER RESOLVED**, that Resolution No. 82032 is hereby rescinded in its entirety and replaced by the following City of Oakland Policy for the Distribution of City Tickets:

## City of Oakland Policy for the Distribution of City Tickets

### I. Purpose

This policy articulates the City's reasons and process for the distribution of City tickets in order to accomplish the following objectives:

- A. Ensure that the City's distribution of tickets to and at the behest of Public Servants complies with state law exempting such tickets from gift reporting requirements and limits; and
- B. Ensure that tickets, which are City resources, are appropriately used for City purposes.

### II. Scope

This policy applies to all tickets acquired by the City for entertainment, sporting, or recreational purposes, including but not limited to the following types of tickets:

- A. Tickets received by the City from an outside source that did not earmark the tickets for use by a particular official, and the City determines, in its sole discretion, who will receive the ticket;
- B. Tickets received by the City pursuant to the terms of a contract for use of public property, including but not limited to the Oakland-Alameda County Coliseum and Oracle Arena;
- C. Tickets offered by the City to a recipient for a City-controlled event; or
- D. Tickets purchased by the City at fair market value.

### III. Effect

Tickets received and reported by Public Servants pursuant to this policy and properly used for a "public purpose" as described in this policy are considered exempt from the gift reporting and gift limit rules of the California Political Reform Act and Oakland Government Ethics Act. Tickets received by Public Servants in a manner that does not meet all of the requirements of this policy are otherwise subject to state and local gift rules, restrictions, and reporting requirements or may be reported as income on the FPPC Form 700.<sup>1</sup>

Tickets distributed by Public Servants in violation of this policy may be subject to potential penalties for misuse of City resources.<sup>2</sup>

Nothing in this policy prohibits a Public Servant from purchasing a ticket to an event for themselves or for additional guests to attend an event.

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<sup>1</sup> See California Political Reform Act (Gov Code sec. 87100-87500) and the Oakland Government Ethics Act (O.M.C. 2.25) and FPPC Form 700 (Statement of Economic Interests).

<sup>2</sup> See California Government Code section 8314 and the Oakland Government Ethics Act (O.M.C. 2.25.060).

#### **IV. Definitions**

Unless expressly defined in this policy, the words and terms used in this policy have the same meaning as those defined or used in the California Political Reform Act (Government Code Sections 81000, *et seq.*), as amended, and Fair Political Practices Commission Regulations (Title 2, Sections 18110, *et seq.*, of the California Code of Regulations), as amended.

“City” or “City of Oakland” means and includes the City of Oakland and any of its departments, boards, and commissions.

“City ticket” means any ticket obtained by the City as described above.

“City venue” means any facility owned, controlled, or operated by the City of Oakland, including the Oakland-Alameda County Coliseum and Oracle Arena.

“Elected official” means the Mayor, City Councilmembers, the City Attorney, and the City Auditor.

“Immediate family” means a person’s spouse or registered domestic partner and dependent children.

“Public Servant,” as defined by the Oakland Government Ethics Act, includes:

- A. Any elected or appointed officeholder of the City of Oakland, including any such officeholder elected but not yet sworn in, and not including Oakland School Board Directors, and
- B. Any City board or commission member, including the Board of Port Commissioners, and
- C. Any full-time or part-time employee of the City, and
- D. Any consultant of the City who is required to file a Form 700 Statement of Economic Interests pursuant to the City of Oakland Conflict of Interest Code and the California Political Reform Act.

“Ticket” means and includes any form of admission, parking, or other access privilege to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose.

“Ticket Administrator” means the City Administrator or designee, the head of the department receiving or distributing tickets, or the department head’s designee, or any other Ticket Administrator designated in writing by the City Administrator.

#### **V. City Receipt of Tickets**

Tickets received or distributed pursuant to this policy must first be obtained by the Ticket Administrator and logged into a database that reflects the number of tickets, event venue, name and date of the event, and the face value for each ticket. If the ticket does not identify a face value, the Ticket Administrator must identify the price at which the ticket or pass would otherwise be offered for sale to the general public by the operator of the venue or host of the

event who offers the ticket for public sale.

## **VI. Ticket Distribution Process**

The City Administrator's office shall establish a process for ticket distribution that ensures that tickets are tracked and distributed according to the public purposes and limitations of this policy. The process can be electronic and shall include the following:

- A. A form and process for the submission of a request by a Public Servant or a non-City individual or organization; the request form shall include, at a minimum, the following information:
  1. The number and type of tickets requested,
  2. The requestor's name and organization,
  3. The recipients' names, if known and if other than the requestor, or a description of the group receiving the tickets,
  4. The reason for the request and a description of how the tickets will be used,
  5. The public purpose that best describes the reason for the ticket request, from the list provided below, and
  6. A certification by the requestor under penalty of perjury that the statements provided on the form are true and correct.
- B. A process for the proactive distribution of tickets by the administering department or City Administrator's office that ensures the collection of the information required by subsection VI(A).

No City ticket may be distributed to any party without the Ticket Administrator first receiving the information required by the FPPC Form 802.

If any of the information required above changes following the distribution or use of the ticket, the requestor and/or the ticket administrator shall amend the data to accurately reflect the use of the ticket.

## **VII. Reporting of City Ticket Data**

For every City ticket received and distributed under this policy, the Ticket Administrator is responsible for ensuring that all ticket distribution data is complete, properly entered into the City's information management system (*i.e.*, Radar), and maintained as a public record subject to public inspection. Pursuant to State law, all FPPC Form 802 information must be entered into the City's information management system within 45 days of the distribution of any ticket under this policy.

All ticket distribution data entered into the City's information management system under this

policy must be made available to the public online in an accessible, searchable, downloadable electronic format (*e.g.*, comma-separated value format) for public viewing and searching.

### **VIII. Public Purposes**

All City tickets distributed and used pursuant to this policy must be utilized for one or more of the following public purposes:

- A. Furthering the City's work, mission, or duties by performing a role or function as a City representative at the event.
- B. Recognizing or encouraging young people by providing opportunities for youth development, civic engagement, mentoring, or participation in cultural, artistic, educational, recreational, or community activities in the City.
- C. Promoting City-controlled or City-sponsored events, activities, or programs.
- D. Working at or attending the event as part of the Public Servant's job duties for the City.
- E. Promoting or supporting community programs and resources available to City residents.
- F. Supporting or showing appreciation for programs or services rendered by nonprofit 501(c)(3), educational, or government organizations that benefit City residents.
- G. Encouraging or recognizing significant academic, athletic, or public achievements of City residents.
- H. Recognizing the meritorious service of another current or outgoing Public Servant or volunteer, for which such Public Servant or volunteer may receive up to 4 tickets per event, notwithstanding the limitations set forth in section IX.
- I. Promoting local and regional businesses, economic development, local culture, and tourism activities within the City, including conventions, conferences, and job creation opportunities.
- J. Providing opportunities for economically-disadvantaged or underserved residents to engage in cultural, artistic, educational, recreational, or community activities in the City.
- K. Facilitating a Public Servant's familiarity with or ability to carry out City duties related to the management, administration, or care of a City facility or event.
- L. Generating revenue for the City or for a nonprofit 501(c)(3) organization that conducts work that furthers any of the above public purposes.
- M. Donating tickets that would otherwise go unused to a nonprofit 501(c)(3) organization to distribute tickets in a manner that furthers any of the above public purposes (*e.g.* tickets that are unable to be distributed before 5 days in advance of the event).

The above public purposes are intended to ensure that City tickets, which are a City resource, are put to their highest and best use, and that tickets are distributed widely to youth and community groups, nonprofit and civic organizations, and underserved communities as a way to share the

enjoyment of City life with all residents regardless of socio-economic status or personal connection to City officials. Under this approach, tickets should primarily be given to nonprofit or educational organizations, with some going to City staff for employee recognition. Very few tickets – and even fewer, if any, high-value (e.g. playoff game) tickets – should be used by elected or high-level City officials.

**IX. Limits on the Distribution, Use and Transfer of City Tickets**

The Ticket Administrator shall not distribute to any individual, including a Public Servant, City tickets to more than five events per calendar year.

City tickets are intended to be distributed widely to a variety of individuals and organizations; no single organization should be receiving more than its share of City tickets unless such distribution is necessary to effect the public purposes of this policy and results in widespread distribution to specific individuals who do not otherwise receive more than the individual limit of tickets. The goal of this policy is to spread tickets across organizations and not result in favoritism of any one organization unless doing so conforms to the public purposes of this policy. For example, Oakland Unified School District, as an organization, may be a frequent recipient of tickets given the district’s reach and ability to spread tickets widely to many thousands of students.

Except as provided by section VIII(H), a Public Servant may receive no more than two tickets per event: one for his or her personal use under this policy and the other for a guest. No other transfer of a City ticket by a Public Servant is permissible.

A Public Servant may request that City tickets be distributed to other individuals or organizations for a public purpose as provided by this policy, so long as the Public Servant submits the information required by section VI of this policy and meets the public purpose and other requirements of this policy.

A request for a City ticket made by a Public Servant who is an elected official requires approval by the City Administrator or designee.

**X. Education, Advice, and Enforcement**

The Public Ethics Commission (Commission) may enforce the provisions of this policy as part of its existing authority under the Oakland Government Ethics Act gift limit rules and Form 700 Statement of Economic Interests requirements. As such, the Commission may provide education on this policy, issue formal and informal advice to those who are affected by this policy, issue regulations in furtherance of this policy, or impose penalties for violations of this policy pursuant to its enforcement authority prescribed by the Oakland Government Ethics Act.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN,  
AND PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California