

RESOLUTION NO. 2009-022

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, RESCINDING RESOLUTION 2009-011 AND RESTATING THE CITY'S TICKETS AND/OR PASSES RECEIPT AND DISTRIBUTION POLICY

WHEREAS, every California city by and through its governing body and other public officials, is empowered to exercise all powers necessary or appropriate to a municipal corporation for the general welfare of its inhabitants which are not prohibited by the California Constitution; and

WHEREAS, the City of Ontario operates in a highly-competitive environment to grow and maintain its reputation as a vibrant place to live, work and do business and as a desirable visitor destination center and therefore, the City must take proactive steps to attract private and public investment in a matter that best maximizes the City's investment of public resources; and

WHEREAS, as part of the City's development and marketing strategies, the City Council cultivates opportunities to showcase the City's unique attributes including, but not limited to the City's business development climate, local tourism base, its highly trained workforce, open government and its diverse array of local attractions, cultural and civic events; and

WHEREAS, from time to time, the City receives "tickets or passes" from third party sources, both public and private; and

WHEREAS, under Title 2 of the California Code of Regulations, Section 18944.1 ("Section 18944.1") these tickets and/or passes are defined as an admission to a facility, event, show or performance for an entertainment, amusement, recreational, or similar purpose; and

WHEREAS, on December 11, 2008, the Fair Political Practices Commission ("FPPC") adopted new regulations that set up the circumstances under which the receipt of tickets and passes by a public official would need to be disclosed by the City and the circumstances they would be distributed to public officials and not trigger disclosure requirements for the purposes of the public official's Statement of Economic Interests ("Form 700"); and

WHEREAS, the City finds that the receipt of all such tickets and/or passes are public resources; and

WHEREAS, the City desires to distribute these public resources in a manner that furthers the City's governmental and public purposes as reasonably described herein, such as the promotion of local businesses, community resources, programs and facilities; and

WHEREAS, according to Section 18944.1 these tickets and/or passes are not gifts to public officials if City distributes these tickets and/or passes in accordance with a duly adopted written policy, when distributed under Section 18944.1, subdivision (b)(2); and

WHEREAS, the ("FPPC") has clearly stated that it recognizes the discretion of the legislative or governing body of an agency to determine whether the distribution of tickets and/or passes serves a legitimate public purpose of the City, provided that the determination is consistent with state law.

NOW THEREFORE, BE IT RESOLVED, the City Council of the City of Ontario, California hereby rescinds Resolution No. 2009-011 in its entirety and adopts following restating the:

CITY OF ONTARIO TICKETS AND/OR PASSES DISTRIBUTION POLICY

SECTION 1. Purpose of Policy. The purpose of this policy is to ensure that all tickets and/or passes provided to the City shall be distributed in furtherance of governmental and/or public purposes as required under Section 18944.1.

SECTION 2. Limitation. This Policy shall only apply to the City's distribution of tickets and/or passes to, a public official or at the request of a public official, for which no consideration of equal or greater value is provided by the public official. Consideration of equal or greater value shall be presumed if the tickets and/or passes are distributed pursuant to this policy.

SECTION 3. Official Duties; Ceremonial Roles. Tickets provided to public officials as part of their official duties, or tickets provided so that the public official may perform a ceremonial role or function on behalf of the City shall not be subject to this Tickets and/or Passes Distribution Policy. These tickets are exempt from any disclosure or reporting requirements.

SECTION 4. Public Purpose. The City shall only provide a ticket and/or pass to or at the request of a public official, under any of the following City public and governmental purposes:

- a. Promotion of local and regional businesses, economic development and tourism activities within the City, including conventions and conferences.
- b. Promotion of City-controlled or sponsored events, activities, or programs.
- c. Promotion of community programs and resources available to City residents, including nonprofit organizations and youth programs.

- d. Marketing promotions highlighting the achievements of local residents and businesses.
- e. Promotion and marketing of private facilities available for City resident use, including charitable and nonprofit facilities.
- f. Promotion of public facilities available for City residents and other public use.
- g. Promotion of City growth and development, including economic development and job creation opportunities.
- h. Promotion of City landmarks and/or community events.
- i. Promotion of special events in accordance with any City contract.
- j. Exchange programs with foreign officials and dignitaries.
- k. Promotion of City recognition, visibility, and/or profile on a local, state, national or worldwide scale.
- l. Promotion of open government by public official appearances, participation and/or availability at business or community events.
- m. Sponsorship agreements involving private events where the City specifically seeks to enhance the City's reputation both locally and regionally by serving as hosts providing the necessary opportunities to meet and greet visitors, dignitaries, public officials, residents, and their guests.
- n. All written contracts where the City as a form of consideration has required that a certain number of tickets or suites be made available for City use.
- o. Employment retention programs.
- p. Special outreach programs for veterans, teachers, emergency services, medical personnel and other civil service occupations.
- q. Spouses of or immediate dependants of public officials in order to accompany or represent him or her to any of the items listed above.
- r. Any purpose similar to above included in any City contract.

SECTION 5. Return of Tickets and/or Passes. Any public official or any member of the public official's immediate family may return any ticket and/or pass unused to the City for redistribution pursuant to this policy. Government Code Section 82029 has defined immediate family to mean spouse and dependent children. Under no circumstances may either the public official or a member of his or her immediate family sell or further transfer any ticket and/or pass provided under this policy.

SECTION 6. City Manager. The City delegates the authority to distribute any tickets and/or passes in accordance with this policy to the City Manager or his or her designee. In such case, where the City Manager desires to obtain a ticket or pass, 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 and/or passes is in accordance to the terms of this policy.

SECTION 7. Transfer Prohibition. The transfer by any public official of any tickets and/or passes distributed pursuant to this policy to any other person, except to members of the public official's immediate family for their personal use, is prohibited. Government Code Section 82029 has defined immediate family to mean spouse and dependent children.

SECTION 8. Website Posting. This policy shall be posted on the City's website in a prominent fashion. These forms shall be posted for 12 months and may be removed at the City's discretion anytime thereafter.

SECTION 9. Website Disclosure. The distribution of tickets or passes pursuant to this policy shall be posted on the City's website in a prominent fashion within 30 days after the ticket distribution and shall include all the information as required under Section 18944.1. Any such posting shall use FPPC Form 802 or such alternative form as may be approved or amended from time to time.

SECTION 10. Citizen's Business Bank Arena. Tickets and/or passes received under the Operating Agreement between the City of Ontario and AEG Ontario, LLC are subject to this policy. However, City desires that such tickets and/or passes be distributed in the following manner:

(i) Each member of the City Council and the City Manager shall receive two (2) tickets and/or passes per event, for use by them and one (1) member of his or her immediate family. The Council Members and City Manager must return any unused ticket(s) to the City Manager. Government Code Section 82029 has defined immediate family to mean spouse and dependent children.

(ii) Council Members and the City Manager may receive up to two (2) additional tickets and/or passes per event, for use by them and up to two (2) additional members of his or her immediate family. The Council Members and the City Manager must return any unused ticket(s) to the City Manager. Government Code Section 82029 has defined immediate family to mean spouse and dependent children.

(iii) The City Manager shall distribute any remaining tickets to City employees, local business people, economic development prospects, City Commissioners, members of other governmental entities, or third parties only in accordance with this policy.

SECTION 11. Effective Date. The Mayor shall sign this Resolution and the City Clerk shall attest hereto, and this Resolution shall take effect and be in force on the date of its adoption.


APPROVED AND ADOPTED at a Special Meeting this 11th day of March, 2009 by the following vote:

AYES: Mayor P. Leon, Council Members J. Bowman, A. Wapner, S. Mautz and D. Dorst-Porada.

NOES: None.

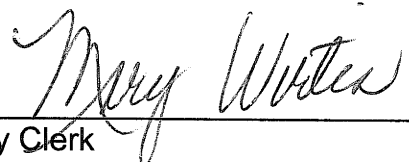
ABSTAIN: None.

ABSENT: None.




Paul S. Leon, Mayor

ATTEST:



City Clerk

APPROVED AS TO LEGAL FORM:



Best Best & Krieger LLP
City Attorney