

RESOLUTION NO. 2202-07

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF SAN DIEGO COMMUNITY POWER
ADOPTING A TICKET AND PASS DISTRIBUTION POLICY
PURSUANT TO FAIR POLITICAL PRACTICES COMMISSION
REGULATION 18944.1**

A. San Diego Community Power (“SDCP”) is a joint powers agency formed pursuant to the Joint Exercise of Powers Act, Cal. Gov. Code § 6500 *et seq.*, California Public Utilities Code § 366.2, and a Joint Powers Agreement effective on October 1, 2019, as amended (“JPA Agreement”).

B. Pursuant to Government Code Section 6509 and Section 3.4 of the JPA Agreement, SDCP’s powers are subject to the restrictions upon the manner of exercising power possessed by the City of Encinitas, a general law city.

C. The Fair Political Practices Commission (“FPPC”) has adopted Regulation 18944.1 establishing rules by which tickets distributed by local government agencies to government officials will not constitute reportable gifts under the Political Reform Act (Gov. Code § 81000, *et seq.*). Regulation 18944.1 defines the circumstances under which the receipt of tickets and passes by a public official would need to be disclosed by SDCP and the circumstances in which they would be distributed to public officials and not require disclosure for the purposes of the public official’s Statement of Economic Interests (“Form 700”).

D. Regulation 18944.1 requires that local government agencies adopt a written policy governing distribution of tickets to local government officials in order that receipt of tickets will not necessarily be treated as reportable gifts. Such rules and procedures apply to SDCP as a local public agency.

E. From time to time, SDCP may purchase or receive tickets or passes from third party sources, either public or private, and finds that the receipt of all such purchased, discounted, or free tickets and/or passes are public resources, and SDCP desires to distribute these public resources in a manner that furthers SDCP’s governmental and public purposes as reasonably described in the attached ticket and pass distribution policy.

F. 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 SDCP, provided that the determination is consistent with applicable law.

G. In order to comply with Regulation 18944.1, SDCP desires to adopt the attached Ticket and Pass Distribution Policy to govern the distribution of tickets and passes by SDCP to its officials, officers, employees, and covered consultants.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of San Diego Community Power as follows:

Section 1. The Board of Directors finds that the foregoing recitals are true and correct and are incorporated herein.

Section 2. The Ticket and Pass Distribution Policy attached hereto as Exhibit A is incorporated as though fully set forth herein, and is hereby adopted as the official Ticket and Pass Distribution Policy of SDCP. SDCP shall distribute tickets and passes to designated SDCP officials in accordance with the requirements and procedures set forth in the Ticket and Pass Distribution Policy and with applicable law.

Section 3. The Chief Executive Officer ("CEO") and Chief Financial Officer ("CFO") designated by the CEO are authorized to perform any and all acts necessary to give effect to and comply with the terms and intent of the Ticket and Pass Distribution Policy. The CEO and CFO shall be responsible for the administration of the distribution of tickets and passes pursuant to the Ticket and Pass Distribution Policy.

Section 4. If any provision of this resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the resolution which can be given effect without the invalid provision or application, and to this end the provisions of this resolution are severable. The Board of Directors hereby declares that it would have adopted this resolution irrespective of the invalidity of any particular portion thereof.

Section 5. This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED at a meeting of the Board of Directors of San Diego Community Power held on May 26, 2022.

Joseph M. Mosca

Chair, Board of Directors
San Diego Community Power

ATTEST:

Megan Wiegelman

Secretary, Board of Directors
San Diego Community Power

AYES: Chair Mosca (Encinitas), Director Dedina (Imperial Beach), Director Baber (La Mesa), Director Sotelo-Solis (National City)

NOES: None

ABSTAINED: None

ABSENT: Chula Vista, San Diego, and San Diego County

EXHIBIT A

TICKET AND PASS DISTRIBUTION POLICY

**San Diego Community Power
Ticket and Pass Distribution Policy**

Effective Date: 5/26/2022

SECTION 1. Purpose

The purpose of this Ticket and Pass Distribution Policy ("Policy") is to ensure that all tickets and/or passes provided to San Diego Community Power ("SDCP") are distributed in furtherance of a public purpose as required under Section 18944.1, Title 2, of the California Code of Regulations ("Section 18944.1") and in such a manner that the ticket and/or pass will not constitute a reportable gift under the Political Reform Act, provided that the ticket/pass is distributed pursuant to the provisions of this Policy. The Board of Directors has determined that tickets and passes distributed for the purposes listed in Section 6 of this Policy are distributed for a public purpose.

In addition, the purpose of this Policy is to ensure that tickets and passes distributed by SDCP under this Policy are disclosed on Form 802 and posted to SDCP's website within forty-five days of distribution, as required by Section 18944.1(d).

SECTION 2. Applicability

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

- a. Gratuitously provided to SDCP by an outside source;
- b. Acquired by SDCP by purchase;
- c. Acquired by SDCP as consideration pursuant to the terms of a contract for the use of an SDCP venue; or
- d. Acquired and distributed by SDCP in any other manner.

SECTION 3. Scope

This Policy applies to all Public Officials, as defined below.

SECTION 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 Political Reform Act of 1974 (Government Code section 81000 et seq., as the same may from time to time be amended) and the Fair Political Practices Commission ("FPPC") Regulations (Title 2, California Code of Regulations, section 18110 et seq., as the same may from time to time be amended).

Term	Definition
Public Official	Every member, officer, employee or consultant of SDCP, as defined by Government Code section 82048 and Regulation 18700.3. Such term shall include, without limitation, any Board member, other appointed official, employee, or a consultant required to file an annual Statement of Economic Interests (Form 700).
Immediate family	The Public Official's spouse and dependent children.
Ticket	A "ticket" shall have the meaning set forth in Regulation 18946 and referenced in Regulation 18944.1, as each may be amended. The regulations currently define "ticket" as anything that provides access, entry, or admission to a specific future event or function and for which similar tickets are sold to the public to view, listen to, or otherwise take advantage of the attraction or activity for which the ticket is sold and includes any benefits that the ticket provides.
Pass	A "pass" shall have the meaning set forth in Regulation 18946 and referenced in Regulation 18944.1, as each may be amended. The regulations currently define "pass" as a ticket that provides repeated access, entry, or admission to a facility or series of events and for which similar passes are sold to the public.

SECTION 5. General Provisions

- a. Those in violation of this Policy could be subject to disciplinary action up to and including dismissal and/or termination of contract, as described in further detail under the "Violations" section of this Policy.
- b. All questions regarding the interpretation or applicability of this Policy should be directed to Human Resources for clarification.

- c. The use of complimentary tickets or passes is a privilege extended by SDCP and not the right of any person to which the privilege may from time to time be extended.
- d. Tickets or passes distributed to a Public Official pursuant to this Policy shall not be transferred to any other person, except to members of such Public Official's immediate family solely for their personal use or no more than one guest solely for their attendance at the event.
- e. No person who receives a ticket or pass pursuant to this Policy shall resell or receive compensation for the value of such ticket or pass.
- f. The Chief Executive Officer ("CEO") shall have the authority, in their sole discretion, to establish further procedures for the distribution of tickets or passes in accordance with this Policy or in furtherance of any applicable rule or regulation of the FPPC. All requests for tickets or passes which fall within the scope of this Policy shall be made in accordance with the procedures established by the CEO. The distribution of a ticket or pass by the CEO or their designee shall accomplish one or more of the public purposes set forth in Section 6
- g. The CEO or their designee shall be the "agency head," as that term is used in Section 18944.1, for purposes of implementing the provisions of this Policy under Section 18944.1 and completing and posting the Form 802. In such case, where the CEO desires to obtain a ticket or pass, the Board of Directors authorizes the CEO to exercise SDCP's sole discretion in determining whether the CEO's use or behest of tickets or passes is in accordance with the terms of this Policy.
- h. No ticket or pass gratuitously provided to SDCP by an outside source and distributed to, or at the behest of, a Public Official pursuant to this Policy shall be earmarked by the original source for use by a particular Public Official.
- i. A ticket or pass provided to a Public Official and one guest of the Public Official at which the Public Official performs a ceremonial role, as defined in Regulation 18942.3, on behalf of SDCP must be disclosed on Form 802 as set forth below. Any additional effort by SDCP to either limit or expand permissible ceremonial roles will require that the revised Policy to be forwarded to the FPPC.
- j. The disproportionate use of tickets or passes distributed pursuant to this Policy by a member of the Board of Directors, the CEO, the heads of SDCP departments or divisions, or any appointed officers, is prohibited.
- k. The value of any ticket or pass shall be the fair value of the ticket or pass. The "fair value" is the face value of the ticket or pass, or the price at which the ticket or pass would otherwise be offered for sale to the general public by the operator or host. Where the ticket or pass does not have a face value indicated, or has a face value that is not available to the general public, the fair value of the ticket or pass shall be 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 or pass for public sale. Where the price indicated on the ticket or pass does not reflect the actual cost for a ticket or pass in a luxury box or suite, the face value is determined by dividing the total cost of the box or suite by the number of tickets or passes available for that box or suite

- I. If any paragraph, sentence, clause or phrase of this Policy is held invalid for any reason, said invalidity shall not affect the remaining portions of this Policy.

SECTION 6. Public Purposes

a. Subject to the provisions of this Policy, SDCP shall only provide a ticket and/or pass to a Public Official, or at the behest of a Public Official, to accomplish a public purpose. The following is a list of public purposes SDCP may accomplish through the distribution of tickets or passes. The list is illustrative rather than exhaustive:

- 1) Facilitating the performance of a ceremonial role or function by a Public Official on behalf of SDCP at an event.
- 2) Facilitating the attendance of a Public Official at an event where the job duties of the Public Official require their attendance.
- 3) 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.
- 4) Promotion of local and regional businesses, economic development and tourism activities within SDCP's service area that serve or may potentially serve SDCP's residents, including conventions and conferences.
- 5) Promotion of SDCP-run, sponsored or supported events, activities, or programs.
- 6) Promotion of community programs and resources available to residents within SDCP's service area, including nonprofit organizations and youth programs.
- 7) Marketing promotions highlighting the achievements of local residents and businesses.
- 8) Promotion and marketing of private facilities available for use by residents within SDCP's service area, including charitable and nonprofit facilities.
- 9) Promotion of public facilities available for use by residents within SDCP's service area.

- 10) Promotion of SDCP growth and development, including outreach efforts, energy development, and job creation opportunities.
- 11) Promotion of specific SDCP community events provided by or sponsored by SDCP.
- 12) Promotion of any SDCP owned sites or facilities.
- 13) Exchange programs with foreign officials and dignitaries.
- 14) Promotion of SDCP recognition, visibility, and/or profile on a local, state, national or worldwide scale.
- 15) Promotion of SDCP services on a local, state, national or worldwide scale.
- 16) Promotion of open government and/or community relations by Public Official appearances, participation and/or availability at business or community events.
- 17) Sponsorship agreements involving private events where SDCP specifically seeks to enhance SDCP's reputation both locally and regionally by serving as hosts or sponsors providing the necessary opportunities to meet and greet visitors, dignitaries, and residents.
- 18) All written contracts where SDCP, as a form of consideration, has required that a certain number of tickets or passes be made available for SDCP use.
- 19) Employment retention or recognition programs.
- 20) Special outreach programs for veterans, teachers, emergency services, medical personnel and other civil service occupations.
- 21) Encouraging or rewarding significant academic, athletic, or public service achievements by residents or businesses of SDCP's service area.
- 22) Charitable 501(c)(3) fundraisers for the purpose of networking with other community and civic leaders.
- 23) Promotion of and participation in intergovernmental relations and activities.
- 24) Promoting, supporting and/or showing appreciation for programs or services rendered by charitable and non-profit organizations benefiting residents within SDCP's service area.
- 25) Attracting or rewarding volunteer public service.
- 26) Recognizing or rewarding meritorious service by a SDCP employee.
- 27) Promoting enhanced SDCP employee performance or morale.

- 28) Recognizing contributions made to SDCP by former Board members or SDCP employees.
- 29) Use of a ticket or pass by the spouses of a Public Official in order to accompany them to any of the events listed above.
- 30) Any purpose similar to the above included in any SDCP contract.

b. When a public purpose involves the oversight or inspection of facilities by a Public Official, the Public Official is required to provide a written inspection report and/or recommendation.

c. Subject to the provisions of this Policy, tickets or passes obtained by SDCP pursuant to the terms of a contract or purchased at fair market value may be distributed to Public Officials. Any distribution must accomplish a public purpose in accordance with Section 6(a), above.

d. Any ticket or pass obtained pursuant to Section 6(c) which is distributed to a Public Official, other than an elected official or member of the governing body of SDCP, for the Public 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 or pass distribution shall be disclosed pursuant to Section 7, below. For purposes of this subsection, "personal use" is defined as use by the Public Official, their family, or no more than one guest.

e. Any Public Official, any member of the Public Official's immediate family, or guest of the Public Official may return any unused ticket to SDCP for redistribution pursuant to this Policy.

f. The provisions of this Policy apply only to benefits the Public Official receives that are provided to all members of the public with the same class of ticket.

SECTION 7. Reporting and Disclosure

a. This Policy shall be posted on SDCP's website in a prominent manner. SDCP shall, within 30 days of adoption or amendment, send to the FPPC by email a website link that displays the Policy. It shall be the duty of the CEO or their designee to ensure SDCP's compliance with Section 18944.1(d) pertaining to the reporting of the distribution of tickets by SDCP.

b. Except as provided in subsections (c) and (d) below, tickets or passes distributed by SDCP to any Public Official pursuant to this Policy must be recorded on 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, and be subject to inspection and copying as required under Government Code section 81008(a). Within 45 days of distributing a ticket or pass, SDCP must post these forms on its website and email a website link to the FPPC that displays the form, and the form must contain the information required by Section 18944.1 (d).

c. Tickets or passes distributed by SDCP for which SDCP receives reimbursement from the Public Official within 30 days shall not be subject to this Policy or the disclosure provisions of Section 7(b), and shall not be treated as a gift to the Public Official.

d. Tickets or passes that a Public Official treats as income consistent with applicable federal and state income tax laws shall not be subject to this Policy or the disclosure provisions of Section 7(b), and shall not be treated as a gift to the Public Official.

e. For tickets or passes distributed to a department or other unit of SDCP, and not used by a member of the Board of Directors, the CEO, the head of an SDCP department or division, or an appointed officer, SDCP may report the name of the department or other unit of SDCP and the number of tickets or passes provided to the department or other unit in lieu of posting the name of the individual employee(s) as otherwise required.