



NOTICE OF MEETING

22nd District Agricultural Association Board of Directors meeting
October 2, 2024 at 9:30 a.m.

Boardroom

Del Mar Fairgrounds
2260 Jimmy Durante Boulevard
Del Mar, California 92014

While the 22nd District Agricultural Association Board of Director's meeting will be conducted in person, per Government Code section 11133, the 22nd DAA will also provide for remote participation by Board members and members of the public. If you prefer to participate remotely, please check the 22nd DAA's website ([Public Information](#)) for the ZOOM link and/or ZOOM dial-in instructions on how to participate and/or view this meeting.

OUR PURPOSE

We are a timeless community treasure where all can flourish, connect, and interact through year-round exceptional experiences.

OUR MISSION

We connect our community through shared interests, diverse experiences, and service to one another in an inclusive, accessible, and safe place with an emphasis on **entertainment, recreation, agriculture, and education.**

22nd DAA BOARD OF DIRECTORS

Frederick Schenk, President

Michael Gelfand, 1st Vice President

G. Joyce Rowland, 2nd Vice President

Mark Arabo, Director
Lisa Barkett, Director
Phil Blair, Director

Kathlyn Mead, Director
Don Mosier, Director
Sam Nejabat, Director

Secretary-Manager

Carlene Moore
Chief Executive Officer

22nd DAA Counsel

Joshua Caplan
Office of the California Attorney General

OUR GOALS

THE LENS

Treat the campuses of the fairgrounds as one ecosystem where all activities are complementary and aligned with the purpose, mission, vision and values of the San Diego County Fair & Event Center.

BUSINESS PLAN

Acknowledging the short-term need to plan for fiscal recovery and stabilization, create a 5-to-10-year business plan that rebuilds a strong financial base, contemplates new business activities and partnerships, provides program accessibility, and leads to a thriving San Diego County Fair & Event Center.

MASTER PLAN

Create an environmentally and fiscally responsible land use plan for the San Diego County Fair & Event Center, aligning with purpose, mission, vision, and values of the organization.

COMMUNITY ENGAGEMENT

Incorporate community engagement within the Business Plan and Master Plan processes to enhance understanding and expand opportunities.

Persons wishing to attend the meeting and who may require special accommodations pursuant to the provisions of the Americans with Disabilities Act are requested to contact the office of the Chief Executive Officer, (858) 755-1161, at least five working days prior to the meeting to insure proper arrangements can be made.

Items listed on this Agenda may be considered in any order, at the discretion of the chairperson. This Agenda, and all notices required by the California Bagley-Keene Open Meeting Act, are available at www.delmarfairgrounds.com. Public comments on agenda items will be accepted during the meeting as items are addressed.



22nd District Agricultural Association Board of Directors Meeting

AGENDA

October 2, 2024 at 9:30 a.m.

1. **CALL TO ORDER** – PRESIDENT FREDERICK SCHENK
All matters noticed on this agenda, in any category, **may be considered for action as listed**. Any items not so noticed may not be considered. Items listed on this agenda may be considered in any order, at the discretion of the Board President.
2. **ROLL CALL**
3. **CONSENT CALENDAR** [Action Item]
All matters listed under the Consent Calendar are operational matters about which the Board has governing policies, implementation of which is delegated to the CEO. They will be enacted in one motion. There will be no discussion of these items prior to the time the Board of Directors votes on the motion, unless members of the board, staff, or public request specific items to be discussed separately and/or removed from this section. Any member of the public who wishes to discuss Consent Calendar items should notify the Chair of the Board at the time requested and be recognized by invitation of the Chair to address the Board.
 - **Minutes, Regular Meeting – September 10, 2024** 5-9
 - **Contract Awards & Approvals** 10
 - **Standard Agreements Exercising Option Years** 11-13
DAA-21-004-41 AM1 Grandstand Lighting; 22-003 AM2 Fairtime Electrical Services; 23-068 AM1 Strategic Communication
 - **Sponsorship Agreements** 14-18
SPO-25-014 Soleil Communications
4. **PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA**
This item is for public comment on issues **NOT** on the current agenda. No debate by the Board shall be permitted on such public comments and no action will be taken on such public comment items at this time, as law requires formal public notice prior to any action on a docket item. Speaker's time is limited to **two** minutes and may be modified based on the number of public speakers. No speaker may cede their time to another speaker.
5. **GENERAL BUSINESS**
 - A. **Audit & Governance Committee Report** – Sam Nejabat, Chair [Informational] 19-22
 - Introduce draft Bylaws amendments 23-27
 - Introduce draft Ticket Policy revisions 28-123
 - Introduce Board Self-Assessment process, per Policy 3.07
 - B. **DMTC Liaison Committee Report** – Mark Arabo, Chair [Informational] 124
 - C. **Finance Committee Report** – Michael Gelfand, Chair 125-132
 1. Consideration and vote to approve Out of State Travel [Action Item] 133-134
 - D. **Community & Government Relations Committee Report** – Michael Gelfand, Committee Member [Informational] 135-136

6. **EXECUTIVE REPORT** [Informational] – CEO Carlene Moore
 - **Comprehensive Policies Development and Review** 137-138
 - **Operational Announcements** Verbal
 - **Construction Projects & Facilities Updates** Verbal
 - **Industry News & Updates** 139-143
 - **Review of Contracts Executed per CEO Delegation of Authority** 144
 - **Standard Agreements** 145-152
24-047 HVAC Mechanical Engineering Consultant Services; 24-050 Executive Coaching
 - **Individual Project Agreements (IPA) with California Construction Authority (CCA)** 153-154
022-23-046 FCO #1 Funding Change Order for Asphalt Repair Work
 - **Event Agreements**
24-872 San Diego Football Club

7. **CLOSED EXECUTIVE SESSION (NOT OPEN TO THE PUBLIC)**
 Pursuant to the authority of Government Code section 11126(a), (b), and (e) the Board of Directors will meet in closed executive sessions. The purpose of these executive sessions is:
 - A. To confer with and receive advice from legal counsel regarding potential litigation involving the 22nd DAA. Based on existing facts and circumstances, there is significant exposure to litigation against the 22nd DAA. (Govt. Code, § 11126, subd. (e).)
 - B. To confer with and receive advice from legal counsel, regarding potential litigation involving the 22nd DAA. Based on existing facts and circumstances, the Board will decide whether to initiate litigation. (Govt. Code, § 11126, subd. (e).)
 - C. Personnel: The Board will meet in closed session to consider those items authorized under Section 11126 of the Government Code, including but not limited to the evaluation of the performance of the CEO. (Govt. Code, § 11126, subd. (a).)

8. **RECONVENE TO OPEN SESSION**
 Report on actions, if any, taken by the Board in closed executive session.

9. **MATTERS OF INFORMATION**
 - Correspondence 155-156

10. **ADJOURNMENT**



22nd DISTRICT AGRICULTURAL ASSOCIATION

Board of Directors Meeting

Del Mar Fairgrounds
2260 Jimmy Durante Boulevard
Del Mar, CA 92014
September 10, 2024

MINUTES

The following minutes are a summary of the Board action and proceedings. For a full transcript please click on the link below or visit the [delmarfairgrounds.com](https://www.delmarfairgrounds.com) website:

<https://www.delmarfairgrounds.com/p/public-information1>

OFFICERS PRESENT

Michael Gelfand, 1st Vice President
G. Joyce Rowland, 2nd Vice President (via Zoom)

DIRECTORS PRESENT

Mark Arabo
Lisa Barkett
Phil Blair
Kathlyn Mead
Don Mosier
Sam Nejabat

OTHERS PRESENT

Joshua Caplan, Deputy Attorney General
Carlene Moore, Chief Executive Officer
Melinda Carmichael, Chief Administrative Officer
Katie Mueller, Chief Operations Officer
Tristan Hallman, Chief Communications Officer
Donna O'Leary, Office Manager

OFFICERS ABSENT

Frederick Schenk, President

CALL TO ORDER

Vice President Gelfand called the meeting to order at 1:35 p.m. with a quorum present.

ROLL CALL

President Schenk had an excused absence. Vice Presidents Gelfand and Rowland, and Directors Barkett, Mead, Mosier, and Nejabat were present. Directors Arabo and Blair arrived shortly after the meeting began.

CONSENT CALENDAR

PUBLIC COMMENT ON CONSENT CALENDAR (see page 5 of transcript)

None

Director Mead moved to approve the Consent Calendar. Director Barkett seconded the motion. Vice Presidents Gelfand and Rowland, and Directors Barkett, Blair, Mead, and Nejabat were all in favor. Director Mosier abstained. Director Arabo was not present for the vote. The motion carried 6-0.

PUBLIC COMMENT ON NON-AGENDA ITEMS (see pages 8-13 of transcript)

Carla Hayes, Martha Sullivan, Allison Prater

EXECUTIVE REPORT

CEO Moore reported that:

- Scream Zone will not take place this fall due to the timing of the Breeders' Cup, but may return in 2025.
- KAABOO has been postponed until 2025.
- District leadership team met for a week of "Summer School" workshops and training sessions in August.

Dale Harvey of Horsepark operator HITS LLC recapped the Del Mar National Horse Show held this past May.

Chief Operations Officer Katie Mueller and Chief Communications Officer Tristan Hallman presented highlights from the 2024 San Diego County Fair, recapping new food and rides, entertainment, community involvement, marketing efforts, safety initiatives, and lessons learned. No major safety incidents occurred during the Fair. Average daily attendance was down from 2023, but public transportation use, Grandstand concert revenue, and advance sales all increased. The full 2024 Fair recap can be viewed on the Del Mar Fairgrounds Public Meetings page.

PUBLIC COMMENT ON EXECUTIVE REPORT (see pages 104-105 of transcript)

Martha Sullivan

Vice President Gelfand noted that information on construction projects, industry news, and contracts executed per the CEO's delegated authority can be found in the meeting packet on pages 20-69.

GENERAL BUSINESS

Item 6-A: Finance Committee Report

CEO Moore outlined the District's budget planning process, which includes a review by the Finance Committee before the budget is brought to the Board for approval in November.

The five-year installment payment agreement with Nilforushan Equisport Events for the horse show held earlier this year is close to being finalized.

PUBLIC COMMENT ON ITEM 6-A (see page 110 of transcript)

Martha Sullivan

Item 6-B: Fair Operations Committee Report

Director Arabo referred to the report on pages 79-80 of the meeting packet and noted that the Committee's goals include increasing average daily attendance and building on entertainment for the Grandstand and The Sound. CEO Moore reported that the San Diego County Fair has been nominated for Fair/Expo of the Year by the International Entertainment Buyers Association (IEBA).

PUBLIC COMMENT ON ITEM 6-B (see page 121 of transcript)
Martha Sullivan

Item 6-C: DMTC Liaison Committee Report

Director Arabo referred to the report on page 81 of the meeting packet, noting that the Committee discussed the summer race meet, the upcoming fall meet, and the Breeders' Cup return in November.

PUBLIC COMMENT ON ITEM 6-C (see pages 125-131 of transcript)
Martha Sullivan, Allison Prater, Jim Coleman, Oscar de la Torre

Item 6-D: People and Culture Committee Report

Vice President Rowland referred to the report on pages 82-83 of the meeting packet and outlined the Committee's initiatives, including performance appraisal of the District CEO and policy development related to the CEO position.

PUBLIC COMMENT ON ITEM 6-D (see page 135 of transcript)
None

Item 6-E: Strategic Planning Committee Report

CEO Moore reported that she recently met with the CEO of SANDAG regarding the District's strategic planning work and upcoming master site plan initiative and met with representatives from the Cities of Del Mar and Solana Beach to reiterate concerns over a proposal to realign railroad tracks through District property and referred to the report beginning on page 84 of the meeting packet. The plan, known as Alternative A, would cause significant disruption to District operations.

CEO Moore further requested Board approval of the Guiding Principles designed to shape the District's master site plan outreach efforts.

Item 6-E-1: Consideration and vote to adopt a joint resolution with the City of Del Mar, the City of Solana Beach, and the City of San Diego pertaining to the LOSSAN Rail Realignment Project

PUBLIC COMMENT ON ITEM 6-E-1 (see pages 141-142 of transcript)
Carla Hayes

Director Mosier moved to adopt the joint resolution as presented with the City of Del Mar, the City of Solana Beach, and the City of San Diego pertaining to the LOSSAN Rail

Realignment Project. Director Blair seconded the motion. Vice Presidents Gelfand and Rowland, and Directors Arabo, Barkett, Blair, Mead, Mosier, and Nejabat were all in favor and the motion carried 8-0.

Item 6-E-2: Consideration and vote on draft Guiding Principles for the approach to the creation of a new Master Site Plan building on the Outreach and Education Plan adopted by the Board

Vice President Gelfand referred to the draft Guiding Principles beginning on page 90 of the meeting packet.

PUBLIC COMMENT ON ITEM 6-E-2 (see page 144 of transcript)

None

Director Barkett moved to adopt the Guiding Principles for the District's master site planning process. Director Blair seconded the motion. Vice Presidents Gelfand and Rowland, and Directors Arabo, Barkett, Blair, Mead, Mosier, and Nejabat were all in favor and the motion carried 8-0.

Item 6-F: Discuss and vote on whether to approve assignment of Food and Beverage Services Agreement (Agreement No. 12-009/41) by ASM Global to Legends

CEO Moore introduced ASM Global Vice President of Food and Beverage, Shaun Beard, who explained the change in ownership following the acquisition of ASM Global, Premier's parent company, by Legends. The U.S. Department of Justice approved the acquisition in August, and the District needs to update its existing food and beverage services agreement to reflect the changes.

PUBLIC COMMENT ON ITEM 6-F (see page 151 of transcript)

None

Director Mead moved to approve assignment of Food and Beverage Services Agreement (Agreement No. 12-009/41) from ASM Global to Legends. Director Blair seconded the motion. Vice Presidents Gelfand and Rowland, and Directors Arabo, Barkett, Blair, Mead, Mosier, and Nejabat were all in favor and the motion carried 8-0.

MATTERS OF INFORMATION

Correspondence can be found on pages 100-112 of the meeting packet. Vice President Gelfand referred to the new Board committee structure provided in the meeting binders.

RECESS TO CLOSED EXECUTIVE SESSION

The Board recessed to Closed Executive Session at 4:18 p.m.

RECONVENE TO OPEN SESSION

The Board reconvened to Open Session at 5:42 p.m. Vice President Gelfand stated that the District Board of Directors considered the advice of Counsel on the items listed on the Closed Session portion of the agenda and there is nothing to report.

ADJOURNMENT

There being no further business to discuss, Vice President Gelfand adjourned the meeting at 5:43 p.m.

Carlene Moore
Chief Executive Officer

SUBJECT TO BOARD APPROVAL

ITEM 3 – CONSENT CALENDAR

October 2024

Expense Contracts

| Standard Agreements Exercising Option Years | | | | | | |
|---|----------------------|------------------------------|--------------------|-------------|---------------------|---|
| Contract # | Contractor | Purpose | Acquisition Method | Effort Type | Term | Not to Exceed |
| DAA-21-004-41 AM1 | Stage-Tech Inc | Grandstand lighting | RFP | Fair | 4/29/21 – 4/28/26 | \$140,000 AM1 (total contract value = \$350,000) |
| 22-003 AM2 | It's Only Temporary | Fairtime electrical services | RFP | Fair | 3/15/22 – 3/14/26 | \$220,586.75 AM2 (total contract value = \$666,136.75) |
| 23-068 AM1 | Southwest Strategies | Strategic communication | RFP | Year Round | 11/15/23 – 11/14/26 | \$800,000 AM1 (total contract value = \$1,003,111) |

Revenue Contracts over \$250,000 or greater than one year

| Contract # | Contractor | Purpose | Term | Amount |
|------------|-----------------------|--|------------------|---|
| SPO-25-014 | Soleil Communications | Soleil (the marketing arm of Hyatt Vacation Club) has agreed to be a sponsor of the Fair for 2025, 2026, and 2027. Additionally, there is a 2-year option to extend after the 2027 Fair. | 6/1/25 – 7/31/27 | 2025: \$100,000 2026: \$105,000 2027: \$119,250 |

STANDARD AGREEMENT - AMENDMENT

STD 213A (Rev. 4/2020)

☐ CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED _____ PAGES

| AGREEMENT NUMBER | AMENDMENT NUMBER | Purchasing Authority Number |
|------------------|------------------|-----------------------------|
| DAA-21-004-41 | 1 | 600100-40 |

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME
22nd District Agricultural Association (District) / Del Mar Fairgrounds (Fairgrounds)

CONTRACTOR NAME
Stage-Tech, Inc

2. The term of this Agreement is:

START DATE
April 29, 2021

THROUGH END DATE
April 28, 2026

3. The maximum amount of this Agreement after this Amendment is:
\$350,000.00
Three Hundred Fifty Thousand Dollars and Zero Cents

4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

The purpose of this Amendment is to exercise the last and only two-year option, extending the contract term by two (2) years and increasing the Not-To-Exceed dollar amount by \$140,000.00. The maximum amount of this Agreement is hereby amended from \$210,000.00 to \$350,000.00. The Through End Date is hereby amended from April 28, 2024 to April 28, 2026.

Amendment Effective Date: April 28, 2024

All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)
Stage-Tech, Inc

| | | | |
|-----------------------------|------------------|-------|-------|
| CONTRACTOR BUSINESS ADDRESS | CITY | STATE | ZIP |
| 14523 Marquardt Ave | Sante Fe Springs | CA | 90670 |

| | |
|--------------------------------|-----------|
| PRINTED NAME OF PERSON SIGNING | TITLE |
| Charley Guest | President |

| | |
|---------------------------------|-------------|
| CONTRACTOR AUTHORIZED SIGNATURE | DATE SIGNED |
|---------------------------------|-------------|

STANDARD AGREEMENT - AMENDMENT

STD 213A (Rev. 4/2020)

☐ CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED _____ PAGES

AGREEMENT NUMBER

22-003

AMENDMENT NUMBER

2

Purchasing Authority Number

GL #: 600100-10

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

22nd District Agricultural Association (District) / Del Mar Fairgrounds (Fairgrounds)

CONTRACTOR NAME

It's Only Temporary, Inc.

2. The term of this Agreement is:

START DATE

March 15, 2022

THROUGH END DATE

March 14, 2026

3. The maximum amount of this Agreement after this Amendment is:

\$666,136.75

Six Hundred Sixty Six Thousand One Hundred Thirty Six Dollars and Seventy Five Cents

4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

The purpose of this Amendment is to add funding to cover excess usage and anticipated increased usage over original estimates, and to exercise the first one-year option, extending the contract term by one year and increasing the dollar amount by \$220,586.75 (Increase to Initial Term + Original Option Year Total + Increase to Option Year)

\$53,586.75 is hereby added to the initial term amount of \$445,550.00, bringing the new amount for the initial term to \$499,136.75.

\$35,172.50 is hereby added to the Option Year One amount of \$131,827.50, bringing the new amount for Option Year One to \$167,000.

The maximum amount of this Agreement is hereby increased from \$445,550.00 to \$666,136.75. The Through End Date is hereby amended from March 14, 2025 to March 14, 2026.

Amendment Effective Date: October 3, 2024

*All other terms and conditions shall remain the same.***IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.****CONTRACTOR**

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

It's Only Temporary, Inc.

CONTRACTOR BUSINESS ADDRESS

370 Jeremiah Drive, Unit E

CITY

Simi Valley

STATE

CA

ZIP

93065

PRINTED NAME OF PERSON SIGNING

Ronda Jennings

TITLE

President

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

STD 213A (Rev. 4/2020)

☐ CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED _____ PAGES

| AGREEMENT NUMBER | AMENDMENT NUMBER | Purchasing Authority Number |
|------------------|------------------|-----------------------------|
| 23-068 | 1 | 600100-00 |

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME
22nd District Agricultural Association (District) / Del Mar Fairgrounds (Fairgrounds)

CONTRACTOR NAME
Southwest Strategies LLC

2. The term of this Agreement is:

START DATE
November 15, 2023

THROUGH END DATE
November 14, 2026

3. The maximum amount of this Agreement after this Amendment is:
\$1,003,111.00
One Million Three Thousand One Hundred Eleven Dollars and Zero Cents

4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

The purpose of this Amendment is to add funding to cover increased usage over the original contract estimates, and to exercise the first two-year option, extending the contract term by two years and increasing the total dollar amount by \$800,000.00.

\$200,000.00 is hereby added to the initial term amount of \$203,111.00, bringing the new amount for the initial term to 403,111.00.
\$600,000.00 is hereby added to cover the two-year option extension (\$300,000.00 per year).

The maximum amount of this Agreement is hereby amended from \$203,111.00 to \$1,003,111.00. The Through End Date is hereby amended from November 14, 2024 to November 14, 2026.

Amendment Effective Date: November 14, 2024
All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

| | | | |
|---|----------------------------------|-------------|--------------|
| CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.) Southwest Strategies LLC | | | |
| CONTRACTOR BUSINESS ADDRESS 401 B Street #150 | CITY San Diego | STATE CA | ZIP 92101 |
| PRINTED NAME OF PERSON SIGNING Chris Wahl | TITLE Chief Executive Officer | | |
| CONTRACTOR AUTHORIZED SIGNATURE | DATE SIGNED | | |

SPONSORSHIP AGREEMENT

(Rev 10/06)

AGREEMENT NUMBER

SPO-25-014

1. This Agreement is entered into between the State Agency and the Sponsor named below:

STATE AGENCY'S NAME

22nd District Agricultural Association / Division of Fairs & Expositions

SPONSOR'S NAME

Soleil Communications, Inc.

2. The term of this Agreement is: **June 1, 2025 – July 31, 2027**

3. The amount of this Sponsorship Agreement is: **\$324,250.00**

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Sponsorship Terms**Exhibit B – Insurance Requirements**

Please Note: Sponsor agrees to provide a valid Certificate of Insurance indicating a minimum \$1,000,000 coverage for General Liability, Automobile Liability and Workers Compensation, in accordance with Insurance Requirements attached herewith and made part of this Agreement.

Exhibit C – Licensee Handbook

The Licensee Handbook is made part of this agreement. All terms and conditions as set forth in this handbook will apply unless provided for in writing by the Districts' Sponsorship office.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

SPONSOR

SPONSOR'S NAME

Soleil Communications, Inc.**BY (Authorized Signature)**

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

300 Rancheros Drive, Ste. 310, San Marcos, CA 92069**STATE OF CALIFORNIA**

AGENCY NAME

22nd District Agricultural Association**BY (Authorized Signature)**

DATE SIGNED

PRINTED NAME AND TITLE OF PERSON SIGNING

Carlene Moore, CEO/General Manager

ADDRESS

2260 Jimmy Durante Blvd**Del Mar, CA 92014-2216**

SPO-25-014

Soleil Communications, Inc.

Exhibit A - Sponsorship Terms

2025, 2026 & 2027 San Diego County Fairs

1. This sponsorship agreement (“Agreement”) includes the terms and conditions to which Soleil Communications, Inc for Hyatt Vacation Club (“Sponsor”) has agreed in becoming a Sponsor of the 2025, 2026 & 2027 San Diego County Fairs (the “Fair”, “District” or “22nd DAA”), produced by the 22nd District Agricultural Association of the State of California. The total cost of this sponsorship covered by this Agreement is \$324,250.00.
2. A list of privileges and rights afforded to Sponsor are included herein. Sponsor must sign this Agreement and return it to the Del Mar Fairgrounds no later than December 15, 2024.
3. Sponsor shall make payments of the sponsorship on the following schedule:
 - a) May 1, 2025 - \$100,000.00 payment.
 - b) May 1, 2026 - \$105,000.00 payment.
 - c) May 1, 2027 - \$119,250.00 payment.
4. Sponsor shall not enter any third-party promotions at the Fair or Race Meets without prior written authorization from the 22nd DAA.
5. Without the prior written consent of the 22nd DAA, this Agreement shall not be assigned or transferred by Sponsor to any other party either in whole or in part.
6. To the fullest extent permitted by law, Sponsor shall defend, indemnify, and hold harmless the State of California, the 22nd District Agricultural Association aka Del Mar Fairgrounds/ San Diego County Fair, their respective agents, directors, and employees (collectively the “22nd DAA”) from and against all claims, damages, losses, and expenses, of every kind, nature and description (including, but not limited to, reasonable attorneys’ fees, reasonable expert fees, and reasonable costs of suit), directly arising from, or directly related to the performance or nonperformance of breach of this Agreement; by reason of death, injury, property damage, or any claim arising from the alleged violation of any state or federal accessibility law, statute or regulation, (including but not limited to, the Americans With Disabilities Act, and/or any state, local, successor, or comparable provision of law). Provided, however, that in no event shall Sponsor be obligated to defend or indemnify the 22nd DAA with respect to the negligence or willful misconduct of the 22nd DAA, its employees, or agents (excluding the Sponsor herein, or any of its employees or agents.)
7. This Agreement does not constitute a partnership, joint venture, or principal-agent relationship between the parties. The Sponsor, and the agents and employees of Sponsor, in the performance of this agreement shall act in an independent capacity and not as officers or employees or agents of the 22nd DAA or the State of California.
8. Where the terms of this Agreement or 22nd DAA’s documents are more specific, or are inconsistent or in conflict with the provisions, terms, and conditions set forth in a proposal by Sponsor or Sponsor’s documents,

both parties agree that the terms set forth in the 22nd DAA's documents shall supersede and take precedence over Sponsor's proposal or Sponsor's documents.

9. It is agreed by the parties that the laws of the State of California shall govern and in the event of litigation that the proper place of venue is in San Diego, California.
10. It is agreed by the parties that this Agreement constitutes the complete and entire Agreement between the parties. No amendments, alterations, or other variations of the terms of this agreement shall be valid unless made in writing and signed by the parties.
11. In the event the either party breaches the terms of this agreement, the non-breaching party shall be entitled to recover, in addition to any other damages and remedies that they may be entitled to, all reasonable costs incurred in enforcing this agreement, including attorney's fees.
12. Except as expressly authorized herein, the parties agree that this is a non-exclusive agreement. The parties also expressly acknowledge and agree that the 22nd DAA may enter into agreements with other Sponsors offering the same or similar services or products during the term of this Agreement.
13. In all circumstances, Sponsor shall be solely responsible for damage to, or loss of, Sponsor's property, including without limitation all vehicles, equipment, materials, products, and supplies, except to the extent caused by the sole negligence or willful misconduct of the 22nd DAA. Inadequate protection or security cannot be considered negligence of the 22nd DAA.
14. Sponsor and Sponsor's employees shall dress uniformly and shall be courteous, efficient, and neat and clean in appearance always. Identification as Sponsor's employee will be prominently always displayed. Sponsor understands and agrees that 22nd DAA management, at its sole and absolute discretion, may determine that a person or agent utilized by Sponsor in the performance of this Agreement, due to his or her appearance, conduct, or demeanor may be unacceptable to the 22nd DAA, this includes overly aggressive sales tactics, if it is determined that such appearance, conduct, or demeanor is detrimental to 22nd DAA's operations. Sponsor agrees to promptly correct the behavior or remove such person or agent from operations arising out of this Agreement, where the 22nd DAA provides written notice to Sponsor of the same (email is acceptable). Determination by State management regarding these matters shall be final. Sponsor agrees that it will not sell, exchange, or barter, or permit its employees to sell, exchange or barter, any ticket, admission, permit, or license issued by the 22nd DAA to the Sponsor or its employees.
15. Sponsor is authorized to promote only those products or services specifically identified in this Agreement. If Sponsor promotes any product or service not specifically identified in this Agreement, the 22nd DAA will provide written notice to Sponsor (email is acceptable). Sponsor will have three days to correct such erroneous advertising. If Sponsor fails to correct within three days, the 22nd DAA may, in its sole and absolute discretion, terminate this Agreement in accordance with Sections 15 and 16. If, during the performance of this Agreement, a dispute arises between the Sponsor and the 22nd DAA, which cannot be settled by discussion, the Sponsor shall, within three (3) days of the incident, which gave rise to the dispute, submit a written statement to 22nd DAA. A decision by the 22nd DAA, in writing, shall be given to the Sponsor within four hours of receipt of such statement. The Sponsor shall continue to perform the requirements under this Agreement without interruptions during the dispute period. Further, if Sponsor is found by a court of law to be in violation of State or federal law regarding discrimination or harassment, or if Sponsor engages in business practices or activities deemed by 22nd DAA to be inappropriate or detrimental to the interests of the State, it is agreed that the 22nd DAA may immediately terminate this Agreement.

16. The 22nd DAA reserved the sole and exclusive right to terminate this agreement without penalty, with or without cause, upon thirty (30) calendar days written notice to the other during non-Fair or Race meet periods with a prorated refund of any amounts paid. If, during the performance of this agreement while the Fair and/or Race Meets are being conducted, a dispute arises between the Sponsor and the 22nd DAA, which cannot be settled by discussion, the Sponsor shall, within twenty-four hours of the incident giving rise to the dispute, submit a written statement to the 22nd DAA. A decision by the 22nd DAA, in writing, shall be given to the Sponsor within four hours of receipt of such statement, and shall be final and conclusive. The Sponsor shall continue to perform the requirements herein without interruptions during the dispute period.
17. Further, if Sponsor is found by a court of law to be in violation of State or federal law regarding discrimination or harassment, or if Sponsor engages in business practices or activities deemed by 22nd DAA to be inappropriate or detrimental to the interests of the 22nd DAA, it is agreed that the 22nd DAA may immediately terminate this Agreement.
18. It is understood and agreed that neither the 22nd DAA nor Sponsor shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure constitute default or breach of contract, if such delay or failure is caused by "Force Majeure." For purposes of this agreement, Force Majeure includes, but is not limited to, acts of God (such as earthquakes, floods, wildfires, hurricanes, volcanic eruptions, and other natural disasters that render performance impossible), war, riots, acts of public enemy, labor disputes that result in work stoppage, epidemics, pandemics, and governmental restrictions, appropriations, regulations or controls (except those reasonably foreseeable in connection with the uses contemplated by this Agreement) or other cause without fault attributable to and beyond the control of the party obligated to perform (except financial inability). Further, if either 22nd DAA or Sponsor will be delayed or prevented from the performance of any act required hereunder by reason of Force Majeure, performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. If by reason of Force Majeure, performance is rendered impossible even if the period for performance is extended, this Agreement shall terminate. Except for delay or failure in performance caused by "Force Majeure," nothing in this Paragraph shall excuse Sponsor from prompt payment of any rent or any other charge required of Sponsor. Except as otherwise provided in this section or elsewhere in this Agreement or unless due by default of the 22nd DAA, if Sponsor shall for any reason fail to occupy the 22nd DAA, no refund shall be made of any amounts paid by Sponsor to the District hereunder.
19. The parties agree that this Agreement shall be interpreted as if drafted by both parties.
20. The San Diego County Fair is a non-smoking event. Smoking is only allowed in designated areas. Please ensure that all Sponsors' employees, agents, and vendors are informed of this policy.
21. **Responsibilities of Sponsor:**
 - a. Provide examples of all literature, samples and merchandise to be distributed. These items must be pre-approved by the 22nd DAA's Sponsorship offices.
 - b. Provide examples of the booth(s) display. These displays and accompanying signage must be pre-approved by the 22nd DAA's Sponsorship office.
 - c. Provide all Hyatt Vacation Club signage accompanying each display.

- d. Provide Hyatt Vacation Club camera-ready Logo artwork upon request.
- e. Maintain all booth displays associated with this agreement.
- f. The Licensee Handbook is hereby incorporated into this Agreement. Sponsor shall abide by the rules and regulations for all vendors, concessionaires and exhibitors as outlined in the Licensee Handbook for the 2025, 2026 & 2027 San Diego County Fair unless otherwise provided for in writing by the District's Sponsorship office.

22. **Responsibilities of the 22nd DAA:**

- a. Provide an 8' X 10' booth directly on the west side of the O'Brien gate information booth with access to electricity.
- b. Provide a 10' x 10' booth outside the east entrance of Bing Crosby Hall with access to electricity.
- c. Provide two (2) 10' x 40' booths for the touch screens on the north side of O'Brien gate inside the Fair with access to electricity.
- d. Provide logo display on the main parking lot electronic marquees, one message every 15 minutes, 14 hours per day for the duration of the Fair.
- e. Provide a logo sponsor listing in the Fair's Day sheets.
- f. Provided a logo sponsor listing on the Fair's website for the duration of this agreement.
- g. Allow use of a skybox for Hyatt owners or employees on a mutually agreed upon day. The fair will provide one hundred fifty (150) admission tickets and seventy-five (75) single day parking passes. All food and beverage orders for this skybox are the responsibility of Hyatt Vacation Club.
- h. Provide three hundred (300) admission tickets.
- i. Provide forty-five (45) photo ID's for staff, allowing unlimited entry to the Fair.
- j. Provide fifteen (15) season track parking passes valid every day of the Fair.
- k. Provide one hundred (100) single day parking passes valid any day of the Fair (location TBD).

23. **Option to extend:**

- a. At the conclusion of the 2027 fair there will be a 30-day period starting on August 1, 2027 and ending on August 31, 2027. During this period, either party may by serving notice to the other party, they do not want to continue. If neither party sends notice to the other party, then this agreement will continue for two more years. This will cover the 2028 & 2029 San Diego County Fairs.
- b. The fee for these two additional years will be as follows:
 - 1) 2028 - \$114,000.00
 - 2) 2029 - \$117,500.00



Item 5-A, Audit & Governance Committee Report

Background:

The Audit & Governance Committee (Committee) is charged by the Board Chair with:

- Developing recommendations for mitigating risks to the 22nd District Agricultural Association (District);
- Engaging with auditing firms as necessary to ensure District's finances are audited in accordance with best practices and make recommendations to the Board;
- Developing and amending recommended policies for Board consideration; and
- Guiding the Board's annual self-assessment process, including:
 - The Board's progress in relation to the strategic plan.
 - The Board's performance as a body in terms of its capacity to function effectively and collaboratively.
 - The Board's strength of relationship/collaboration with the CEO and other members of the Executive Team.
 - Board Members' individual understanding and support of the organization's mission, values, and ethics, as well as Board-specific responsibilities.

This committee report addresses three subject areas: District's Bylaws, Ticket Policy, and Board Self-Assessment.

Bylaws Amendments

Background:

As identified in the draft Policy 1.01, Policy Framework and Definitions, "Bylaws outline the organizational framework of the District and set forth rules for how the District Board governs the organization" while Policies "set forth requirements ... regarding how the Board, the CEO, and other District employees carry out their individual and shared responsibilities as they work together to serve the community."

District Bylaws were first adopted November 7, 1995, and amended December 12, 2017, and February 9, 2021.

Process/Approach:

In 2023, District embarked on a comprehensive process to review, revise, and develop policies for the District. It is a lengthy process that has involved:

- (1) The solicitation of input from the appropriate Board committees, and
- (2) The presentation and discussion of draft policies to the Board and public during regularly scheduled public meetings.

This work is still underway.

Through this policy development process, it was identified that a thorough review of the Bylaws was in order. The most recent amendment in 2021 was a minor adjustment to Article III Section 1, Officers. As a matter of best governance practices, the Board should conduct a full review of the Bylaws every five years to ensure compliance with laws and regulations.

The attached draft revisions to the Bylaws are presented to the Board at this time for discussion and input at the upcoming duly noticed public meeting. Similar to the review and development of policies, the process for the Bylaws revisions will be:

- 1) Presenting draft revisions to the Board at a duly noticed public meeting for discussion;
- 2) Routing the revisions through the appropriate Board committee or delegate back to the Chief Executive Officer for further consideration of the input received;
- 3) Bringing back the revisions to the Board for additional feedback at a subsequent public meeting; and
- 4) Presenting the revised draft bylaws to the Board for consideration and approval.

Recommendation:

Provide feedback on the Bylaws revisions, as presented.

Ticket Policy

Background

In December 2008, the Fair Political Practices Commission (FPPC) promulgated several new and amended regulations relating to tickets for entertainment, amusement, recreational, or similar events, distributed to public officials or

distributed at the behest of public officials. Distribution of tickets to these types of events could result in a gift to the individuals who attend and be reportable under specific circumstances.

In response to the FPPC's actions, District's Board adopted the Ticket Policy on June 6, 2009, pursuant to the guidelines established by the California Code of Regulations — specifically California Code of Regulations, title 2, section 18944.1 that discusses when and to whom tickets can be distributed. The Ticket Policy was last reviewed by the Board in November 2011. For reference, see attached excerpts of the agenda, minutes, and supporting documents from the June 6, 2009, and November 8, 2011, Board meetings. The Ticket Policy has remained unchanged since then.

So long as any such distribution of a ticket is made pursuant to the Ticket Policy – which lists the permissible public purposes to be accomplished by the distribution(s) – and all necessary reporting requirements are performed by the District, the ticket is not considered a gift subject to dollar limitations. As an organization, District is required to complete and post Form 802 to District's website to disclose detailed information about the distribution of tickets and passes, including the identity of the persons who received the tickets and the public purpose of each ticket distribution.

The Ticket Policy details the process for distribution of all tickets and is applicable to all District Officials, as defined in the Policy.

District cannot advise on individual reporting obligations as the FPPC is the entity that implements the Political Reform Act of 1974 and promulgates and interprets the regulations. Form 700 Filers are encouraged to contact the FPPC directly with any questions.

The Ticket Policy was included in the August Board meeting packet as a matter of information. Since its inception in 2009, the Regulations have been amended to provide for public officials that do not have Immediate Family, as defined in the Regulations, to receive no more than one ticket for a guest.

Other changes to the Ticket Policy being proposed by the Committee at this time are meant to better clarify distribution and behesting of tickets.

Process/Approach

The attached draft revisions to the Ticket Policy originally adopted by the Board on June 6, 2009, are presented in the policy format currently utilized by the District. Redlines indicate the proposed changes.

Recommendation:

The Committee recommends that Board members be invited to participate in a future FPPC training program; that all current policies, including the 22nd DAA Ticket Policy, be provided to all new Board members during the orientation process; and that a quick reference guide of Frequently Asked Questions related to the Ticket Policy be developed as a resource for all District Officials.

Board Self-Assessment**Background**

Board Members are expected to conduct themselves in a manner that cultivates a spirit of cooperative decision-making, shared goals and collective ownership of decisions of the Board of Directors. To ensure cooperative decision-making and effective functions, the Board committed — through Policy 3.07, Board Self-Assessment — to conducting a formal self-assessment of its own performance on an annual basis and in conjunction with the CEO Performance Evaluation.

Process/Approach

Consistent with Policy 3.07, the process will provide the opportunity for each Board member to assess their own performance as an individual Board member and the performance of the Board as a whole. The process also provides an opportunity for the CEO to give direct feedback to the Board relative to the Board General Responsibilities (Policy 3.08), principles of the Board Member Code of Conduct (Policy 3.03), and legal obligations.

As a reminder, the Board is responsible for providing vision and strategic guidance for District, ensuring stability and performance, administering proper oversight, enhancing the organization's public standing, and maintaining accountability.

Recommendation:

The Committee recommends the inaugural Board Self-Assessment process coincide with the CEO Performance Evaluation dates and timeline, as presented by the People & Culture Committee during the September Board meeting.

**BYLAWS FOR THE
22ND DISTRICT AGRICULTURAL ASSOCIATION
DEL MAR, CALIFORNIA**

Article I

SECTION 1 - NAME: The Name of this Association is the name established by law, to-wit: 22nd District Agricultural Association, an ~~agency~~-institution of the State of California.

SECTION 2 - OFFICE: The office for the transaction of the business of the Association is hereby fixed and located at the Fairgrounds, in the City of Del Mar, County of San Diego, State of California. The Board of Directors may change the location of said office within the District.

**Article II
Directors**

SECTION 1 - POWERS: Subject to the limitations of these bylaws and of the statutes of the State of California, all powers shall be exercised by or under the authority of, and the business and affairs of the Association shall be controlled by, the Board of Directors.

SECTION 2 - REGULAR MEETINGS: Regular meetings of the Board will normally be held monthly at the office of the Association ~~at 1:30 p.m. on the second Tuesday, if not a legal holiday. The May meeting will be held the last Tuesday of the month. If a scheduled meeting falls on a legal holiday, then the meeting shall be held on the next succeeding business day.~~ At each November Board meeting, dates for the following year will be determined and approved. Regular meetings will not normally be held during the months of June or July. Notice shall be given in writing at least ten (10) days in advance of ~~the~~-each meeting.

SECTION 3 - EMERGENCY MEETINGS: Emergency meetings of the Board may be called by the President, or, if ~~he/she~~the President is absent or unable or refuses to act, by five Directors. Notice of the time and place of an emergency meeting shall be given to all board members, and to media that have requested notice of meetings, at least one hour prior. Emergency meetings may only be called in response to:

- (a) Work stoppages or other activity that severely impairs the public health, safety, or both.
- (b) Crippling disaster that severely impairs the public health, safety, or both.

- (c) Administrative disciplinary matters concerning consideration of proposed decisions, stipulations, and pending litigation that require immediate attention.

SECTION 4 - ADJOURNED MEETINGS: Any meeting may be adjourned until a stated day and hour and a 10-day written notice given to the public. In the absence of a quorum, a majority of the Directors present at the meeting may so adjourn any meeting.

SECTION 5 - QUORUM: Five Directors shall be necessary to constitute a quorum for the transaction of business. ~~In the event there are seven or fewer Directors appointed to the Board, then a simple majority will constitute a quorum.~~ Every act or decision done or made by a majority of the legal votes cast by Directors at a duly noticed meeting, at which a quorum is present, shall be regarded as the act of the Board, except as hereinafter provided regarding amending the bylaws.

Article III Officers

SECTION 1 - OFFICERS: The officers of the Association shall be President, Vice President(s), Secretary, Treasurer and ~~Manager~~Chief Executive Officer. The Directors shall select a Secretary, a Manager, and a Treasurer from among persons who are not members of the Board. One person may be the Secretary, the Manager, and the Treasurer. The Manager holds office at the pleasure of the Board. If the Manager is not acting as the Secretary and/or Treasurer of the Association, the Board shall fix the salary and duties of Secretary and/or Treasurer.

SECTION 2 - ELECTION: The term of office for President and Vice President shall be for one year and until a successor is elected, unless the officer resigns or shall be removed or otherwise disqualified to serve. For each term of office, the President shall make a recommendation to the Directors on whether the Association should select one (1) or two (2) Vice Presidents to serve as officers of the Association for the upcoming term of office. If the Manager, who sits at the pleasure of the Board, serves as the Secretary and/or Treasurer, the term of those offices shall be at the pleasure of the Board. If the Manager does not serve as the Secretary and/or Treasurer, those offices shall be for a period of one year and until a successor is elected, unless the officer resigns or shall be removed or otherwise disqualified to serve.

SECTION 3 - REMOVAL AND RESIGNATION: Any officer may be removed with or without cause. Five Directors shall be necessary to constitute a quorum for the removal of an officer including the Manager. Dismissal of the Manager must be in accordance with the provisions of the Government Code Section 11126(a), which states: "... As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of

his or her right to have a public hearing, rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a ... meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void. The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body. Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session ...”

Any officer may resign at any time by giving written notice to the Board or to the President of the Association. Any such resignation shall take effect at the date of receipt of such notice or at any later date specified therein. The acceptance of such resignation shall not be necessary to make it effective.

~~Any Director who misses three consecutive regular meetings of the Board without the permission of the Board is deemed to have resigned as a Director.~~

SECTION 4 - VACANCIES: A vacancy in any office, other than of a board member, because of death, resignation, removal, disqualification, or any other cause, shall be filled by the Board for the unexpired portion of the term.

SECTION 5 - PRESIDENT: The President shall preside at all meetings of the Board. ~~and shall be an ex-officio member of all committees.~~ Should the President not be present at any meeting of the Board, the First Vice President shall preside. If during the term of office, there are two (2) Vice Presidents serving the Association and the President is not present at a meeting of the Board, the President shall designate the Vice President that will preside at that meeting. In the absence of the President and Vice President(s), the senior-longest serving Director shall preside. In the absence of the President, Vice President(s), and/or senior Director, a president pro tem may be chosen to preside at such meeting.

SECTION 6 - SECRETARY: The Secretary shall keep or cause to be kept at the office of the Association a book of minutes of all meetings of the Directors. The minutes shall include the time and place of each meeting held, and note how each meeting was noticed as well as list the names of those Directors present at the meeting and give the proceedings thereof.

The Secretary shall give, or cause to be given, the required notice for all meetings of the Board ~~and shall mail copies of all minutes to all Directors within twenty-one (21) days after each meeting.~~

If the Secretary is designated by the President to attend a closed session, the Secretary shall maintain a confidential minute book of the closed session recording topics discussed and decisions made at the meeting. This minute book is not a public record.

SECTION 7 - TREASURER: The Treasurer shall be responsible to keep and maintain, or cause to be kept and maintained, adequate and correct accounts of properties and business transactions of the Association, including accounts of its assets, liabilities, receipts, disbursements, revenues and expenses, gains, losses, and capital expenditures.

The Treasurer shall be responsible for overseeing and ensuring that proper accounting methods and procedures are followed including the appropriate separation of duties.

The Treasurer shall be responsible for the deposit of all moneys and other valuables in the name of and to the credit of the Association with such depositaries as may be designated by the Board and are approved by the Department of ~~Food and Agriculture~~ Finance. The Treasurer shall disburse the funds of the Association as may be ordered by the Board and shall render to the President and Directors, whenever they request it, an account of all transactions as Treasurer and an account of the financial condition of the Association.

Article IV Transaction of Business

SECTION 1 - CHECKS, DRAFTS, ETC.: All checks, drafts, or other orders for the payment of money, notes, or other evidences of indebtedness issued in the name of or payable to the Association shall be signed or endorsed by such person or persons, and in such a manner as determined periodically by resolution of the Board. The Board shall periodically establish by resolution a minimum dollar amount which will require only one signature and all checks above that amount will require two signatures. The resolution shall state the names and positions of each person authorized to sign and the list of accounts affected.

SECTION 2 - REPORT TO DEPARTMENT OF FOOD AND AGRICULTURE: The Board shall make such reports to the Department of Food and Agriculture as such Department may direct, including submittal of the statement of operations. The Manager shall be responsible for and take all necessary steps to ensure the accuracy of any reports submitted to the Department.

SECTION 3 - CONTRACTS, ETC.: The Board may authorize any officer or officers to enter into any contract or execute any instrument in the name of and upon behalf of the Association, and such authority may be general or confined to specific instances. Unless so authorized by the Board, no director, officer, agent, or employee shall have any power or authority to bind the Association by any contract or engagement, to pledge its credit, or to render it liable for any purpose or in any amount.

SECTION 4 - EMPLOYEES: The district is the employer. The Manager is responsible for the employment and management of all the employees of the district.

~~**SECTION 5 - EXPENDITURES:** Directors shall be personally responsible for all expenditures of committees of which they are chairpersons that exceed the budgets for such committees as approved by the Board.~~

SECTION 6 - COMMITTEES: The Board may appoint an executive committee and such other committees as the Board deems necessary. The Board may delegate to the President the responsibility of appointing committees. Meetings of committees shall be

open to the public when any meeting comprises more than two members of the board and proper notice shall be given before the meeting to the public.

SECTION 7 - INSPECTION OF BYLAWS: The Association shall keep in its office the original or a copy of the bylaws, as amended or otherwise altered to date, certified by the Secretary, which shall be open to the inspection of the public during office hours and maintained on the Association's website.

Article V Amendments

SECTION 1 - POWER OF DIRECTORS: These bylaws may be altered, amended, or repealed, and new and additional bylaws adopted at any time by an affirmative vote of five Directors or more at a duly noticed public meeting.

These Bylaws were adopted by the Board of Directors at their regular Board meeting on November 7, 1995
~~December 12, 2017~~ and amended on December 12, 2017 , and February 9, 2021.

President, Board of Directors
22nd District Agricultural Association

Date

Secretary-Manager
22nd District Agricultural Association

Date

**22ND DISTRICT AGRICULTURAL ASSOCIATION
DEL MAR FAIRGROUNDS
BOARD OF DIRECTORS MEETING**

NOVEMBER 8, 2011

1:30 P.M.

AGENDA

Those persons wishing to attend the meeting and who may require special accommodations pursuant to the provisions of the Americans with Disabilities Act are requested to contact the office of the General Manager, (858) 755-1161, at least five working days prior to the meeting to insure the proper arrangements can be made.

This Agenda, and all notices required by the California Bagley-Keene Open Meeting Act, are available on the Internet at: www.delmarfairgrounds.com

I. CALL TO ORDER – PRESIDENT DAY

II. CONSENT CALENDAR

The items on the Consent Calendar will be enacted in accordance with recommended action under one motion unless trailed from the Consent Calendar by the Board. Any member wishing to trail an item from the Consent Calendar should notify the General Manager prior to the meeting. Trailed items will be considered after the motion to approve the Consent Calendar.

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| | <u>Page:</u> |
| A. Minutes, Regular Meeting, October 11, 2011 | 1-4 |
| B. Out of State Travel | 5 |
| C. Contract Approvals | 6 |

III. DIRECTORS REQUEST

| | |
|--|---------|
| A. Presentation on the Del Mar Fairgrounds & Racetrack - History, Challenge/Opportunities, Way Ahead (Informational) | 8-29 |
| B. Ticket Policy Report (Informational/Action Item) | 30-100 |
| C. Public Disclosure Forms (Informational/Action Item) | 101-121 |
| D. Independent Auditor Report(s) (Informational/Action Item) | 122-193 |
| E. California Department of Food & Agriculture Management Report(s) (Informational/Action Item) | 194-221 |
| F. Board Communication (Informational) | 222-228 |

IV. MANAGER'S REPORT

The Board may take approval action on the Manager's Report: 229

| | |
|--|---------|
| A. Have Trunk Will Travel Report (Informational/Action Item) | 230-379 |
| B. Events Report (Informational) | 380-383 |
| C. Scream Zone Report (Informational) | 384 |
| D. Holiday of Lights Update (Informational) | 385-386 |
| E. 2012 Proposed Board Meeting Dates (Action Item) | 387 |
| F. Other (Informational/Action Item) | --- |

V. COMMITTEE REPORTS

The Board may take approval action on Committee Reports and New Committee Assignments:

A. Fair Operations Committee – Ruben Barrales, Acting Chair

1. Committee Report (Informational) 388
2. Additional Fair Dates (Informational/Action Item):
 - a. Restaurant Association Correspondence 389-394
 - b. 2012 San Diego County Fair Traffic Management & Mitigation Plan 395

B. Master Plan Committee – Russ Penniman, Acting Chair

1. Committee Report (Informational) 388
2. Approval of Coast to Crest Trail at Horsepark (Action Item) 396-403

C. DMTC Liaison/Surfside Race Place Committee - Frederick Schenk, Chair

1. Satellite Wagering/Horse Racing Report (Informational) 404-405

D. Community Relations Committee - David Watson, Chair

1. Meeting with Representatives from Del Mar & Solana Beach (Informational) 406

E. Contracts/Food & Beverage Committee – Lisa Barkett, Chair

1. Committee Report (Informational) 406
2. Premier P & L Statement – September 2011 (Informational) 407

F. Budget Committee – Adam Day, Chair

1. 2012 Budget Approval (Action Item) 408-426

VI. PUBLIC COMMENT - Speakers are requested to sign in prior to the start of the meeting and are limited to **three minutes**. Speaker's time may be modified based on the # of public speakers. Public comment is allowed on issues **NOT** on the current Agenda. However, no debate by the Board shall be permitted on such public comments and no action will be taken on such public comment items at this time, as law requires formal public notice prior to any action on a docket item. Comments will be accepted on Agenda items during the meeting. Speakers wishing to address the Board on items on the agenda are requested to sign in prior to the start of the meeting and identify the agenda item(s) on which you desire to address the Board.

VII. EXECUTIVE SESSIONS (NOT OPEN TO THE PUBLIC)

A. Pursuant to the authority of Government Code section 11126(a), (b), and (e), the Board of Directors will meet in closed executive sessions. The purpose of these executive sessions is:

1. To consider possible litigation involving the 22nd District Agricultural Association.
2. To confer with counsel, discuss, and consider the following pending litigation to which the 22nd District Agricultural Association is a party:
 - a. City of Solana Beach, et al. v. 22nd District Agricultural Association, San Diego Superior Court Case No. 37-2011-00091464-CU-WM-CTL

- b. Sierra Club v. 22nd District Agricultural Association, San Diego Superior
Court Case No. 37-2011-00091507-CU-TT-CTL

VIII. FOR YOUR INFORMATION

| | | |
|----|--|---------|
| A. | 22nd DAA Financial Statements | 427-428 |
| B. | Satellite Wagering Operating Statement | 429 |
| C. | RTA & RTLK Financial Reports | 430-432 |

IX. ADJOURNMENT



22nd DISTRICT AGRICULTURAL ASSOCIATION
Board of Directors Meeting
Del Mar Fairgrounds
November 8, 2011

MINUTES

The regularly scheduled meeting of the 22nd District Agricultural Association, Board of Directors met at Surfside Race Place at the Del Mar Fairgrounds on November 8 at 1:34 p.m.

OFFICERS PRESENT:

Adam Day, President
Frederick Schenk, Vice President
Tim Fennell, Manager, Secretary-Treasurer

DIRECTORS PRESENT:

Lisa Barkett, Tom Chino, David Lizerbram, Russ Penniman and David Watson

EXCUSED ABSENCE:

Ruben Barrales

OTHERS PRESENT:

Hayle Peterson, Deputy Attorney General
Carol Squire, Deputy Attorney General
Becky Bartling, Deputy General Manager
Rita Walz, CFO – 22nd DAA
Donna O'Leary, Executive Assistant – 22nd DAA

CALL TO ORDER

President Adam Day called the meeting to order at 1:34 p.m. with a quorum present.

CONSENT CALENDAR

Director Frederick Schenk moved for approval of Items A through C on the Consent Calendar.

- A. Minutes, Regular Meeting, October 11, 2011
- B. Out of State Travel
- C. Contract Approvals

Director David Watson seconded the motion, all were in favor and the motion was adopted.

PUBLIC COMMENT

There were approximately 52 members from the public that spoke regarding keeping or banning the Have Trunk Will Travel Elephant rides.

MANAGER'S REPORT

Have Trunk Will Travel

After three hours of discussion Director Watson made the motion to discontinue any future elephant ride at the San Diego County Fair. Director David Lizerbram seconded the motion. Before the vote there was more discussion in which the Board asked more questions of the Los Angeles Zoo staff member, Dr. Wiedner, the Johnsons and Dr. Murphy from the Maryland Zoo. After discussion a substitute motion was made by Director Frederick Schenk to continue the Elephant rides through 2014 and then revisit the AZA policy and what the industry's position is in 2014. The vote was four to three in favor of continuing the rides through 2014 fair. The vote was as follows, those in favor of the motion were Directors' Russ Penniman, Lisa Barkett, VP Frederick Schenk and President Adam Day; those opposed were Director David Watson, David Lizerbram and Tom Chino.

BUDGET COMMITTEE – Adam Day, Chair

2010 Budget Approval

Rita Walz, Del Mar Fairgrounds CFO, reviewed the budget for the Board. There was a question and answer period amongst the Board. After discussion, Director David Watson motion to approve the budget with a modification to add \$150,000 as seed money for the proposed shuttle program with the cities of Del Mar and Solana Beach. Director Lisa Barkett seconded the motion, all were in favor and the motion was adopted.

DIRECTORS REQUEST

Presentation on the Del Mar Fairgrounds & Racetrack

Director Russ Penniman gave a presentation that gave an overview of the Fairgrounds history, financial position, challenges and the opportunities.

It was suggested by Director Penniman that the name of the Director requesting an item be put on the agenda under Directors Request be listed. All agreed.

Ticket Policy

Deputy General Manager, Becky Bartling explained the 22nd DAA Ticket Policy, describing how it evolved and how it works in conjunction with the FPPC rules.

Public Disclosure Forms

This item was discussed under Ticket Policy.

Independent Auditor Report

CFO Rita Walz explained the Independent Audit process. As part of the bond covenants, the district needs to provide the bondholders with audited financials within 180 days of year end. Deloitte has been performing this audit on an annual basis. President Day explained that the Audit Committee works in conjunction with CDFA, the CEO and staff to prepare the responses and then it is brought to the rest of the Board for approval and or discussion. Discussion followed by the board members. No action was taken.

California Department of Food & Agriculture Management Report

This item was requested by Director David Watson and Director Tom Chino. Director Chino read a prepared statement into the record that included recommendations of his policy positions for future audit responses and his rationale for these recommendations. He also took issue with back up information in the Board packet prepared by staff. The audit management report of 2008/2009 is listed on pages 200 through 220 of the Board Packet. Discussion followed resulting in the forming of two new committees, a Public Transparency Committee which Lisa Barkett and David Watson will represent and an Ad Hoc Sub Committee to specifically review the responses of the Management Report and come back to next month's meeting with a report of findings. Director David Watson, Tom Chino and David Lizerbram were appointed to that committee.

PUBLIC COMMENT

Laura DeMarco spoke to the Board encouraging them to operate in complete transparency as a public entity.

Board Communication

Director Watson would like to see all correspondence that may be of importance in a timely manner so that the Board is not caught off guard. President Day added that he has asked staff that this item be placed on the agenda monthly so that all correspondence can be discussed.

MANAGER'S REPORT continued

Due to time constraints, CEO Tim Fennell deferred to the Board Packet for the rest of his report. Item E of the management report was trailed until the December meeting.

COMMITTEE REPORTS

COMMUNITY RELATIONS

Director David Watson reported that Director Lisa Barkett, CEO Tim Fennell and Deputy General Manager Becky Bartling met with Lesa Heebner, Mayor of Solana Beach, Don Mosier, Mayor of Del Mar, Gretchen, from the City Manager's office in Del Mar, David Ott, City Manager for Solana Beach and Dave Roberts, Council Member from Solana Beach all attended the Community Relations Committee Meeting. Agenda items included the considered mitigation for the extension of the two additional days of the 2012 Fair and the impacts on the business communities. Solutions discussed were to develop a joint marketing and business plan that would benefit both cities and the Fairgrounds; implementing a shuttle service from the Fairgrounds to the respective business districts of the two cities; and the need to work with SANDAG to develop a message as to the best way to get to the Fair using Public Transportation. The last agenda item discussed was to review the existing traffic management plan and make changes if necessary.

FAIR OPERATIONS – Ruben Barrales, Acting Chair

Additional Fair Dates

Director David Watson moved to confirm the addition of two days to the 2012 San Diego County Fair and to work with the local cities to try and implement the items discussed in the Community Relations Committee meeting prior to the 2012 Fair. After input from Vice President Schenk, Director Watson added to his motion that the District work with the Restaurant Association to implement a joint marketing plan. Director David Lizerbram seconded the motion. All were in favor and the motion was adopted.

MASTER PLAN – Russ Penniman, Acting Chair

Approval of Coast to Crest Trail at Horsepark

Director Penniman reviewed the proposal as described on pages 396 through 403 of the Board Packet. Staff is requesting Board approval of the realigned trail segment through Horsepark. The Coastal Commission has approved the realignment. Director Russ Penniman moved to approve; Director David Lizerbram seconded; after discussion all were in favor and the motion was adopted.

DMTC LIAISON/SURFSIDE RACE PLACE – Frederick Schenk, Chair

Director Frederick Schenk referred to the report listed on pages 404 and 405 of the Board packet. He stated that while all tracks nationwide are down 6.5 percent, Surfside Race Place is still doing slightly better than the national trend.

CONTRACTS/FOOD & BEVERAGE – Lisa Barkett, Chair

CEO, Tim Fennell gave report referred to pages 406 and 407 of the Board packet.

PUBLIC COMMENT

- Nate Hausman spoke on behalf of the San Diego chapter of the Sierra Club and submitted a letter for review.
- Bud Emerson gave an overview of the Del Mar Sandpiper new journal and handed out copies to the Board along with Del Mar's response to the Master Plan EIR.
- Tom Lieger welcomed the new board members and offered his services to help.

EXECUTIVE SESSION

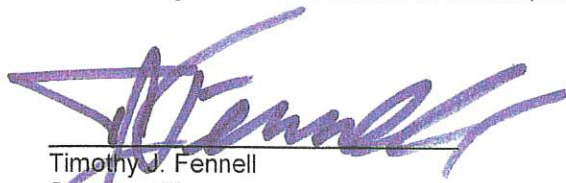
The Board adjourned into executive session at 6:51 p.m. The regular meeting resumed at 7:03 p.m. President Day stated that the Board met with the Attorney General and there are no reportable actions.

FOR YOUR INFORMATION

Director Russ Penniman asked to speak to the Board without staff present except for the Deputy Attorney General and the court reporter. There were no actions taken from the discussion.

ADJOURNMENT

There being no further business to discuss, the meeting adjourned at 7:07 p.m.



Timothy J. Fennell
Secretary/Treasurer
TJF:dmo – 11/8/11
22nd DAA Board meeting

Staff Report

History of the 22nd DAA Ticket Policy

Use of Complimentary Passes

Agricultural code governing distribution of tickets by a District Agricultural Association.

In December 2008, the Fair Political Practices Commission promulgated several new and amended regulations relating to tickets for entertainment, amusement, recreational, or similar events, that are distributed to public officials (or distributed "at the behest of" public officials). As a result, a Ticket Policy was enacted by the 22nd DAA Board of Directors in June of 2009 under the guidelines established by the California Code of Regulations and specifically California Code of Regulations, title 2, section 18944.1.; creating a document that set the parameters for ticket distribution. If any such distribution is made pursuant to the Ticket Policy -- which lists the permissible public purposes to be accomplished by the distribution(s) -- and all necessary reporting requirements are performed (completion and posting of Form 802), then the tickets are not considered gifts subject to dollar limitations and reporting requirements.

Complimentary tickets are distributed to the San Diego County Fair for a multitude of purposes; to market the event, community outreach, promotion of the Fair, business development and much more. As an example, tickets utilized by the Fair Marketing Department are provided to radio stations and other media outlets as trade to promote District events. Promotional plans and partners are numerous for the Fair and the results from an enter to win, call in to win, spin and win, or other ticket give-a-ways provide a great marketing tool with no cash outlay by the 22nd DAA. These efforts are extremely important to the success of the Fair and are a standard practice by all event promoters.

Complimentary tickets have also been distributed through various avenues to individuals in other counties and states such as Arizona and Nevada. The philosophy behind this is by providing a complimentary ticket to someone who would not normally come to the San Diego County Fair you encourage them to attend and the Fair benefits from all the ancillary revenue such as parking, food, beverage, rides and games. Generating revenue that would not normally have been received. One of these successful promotions is called "two fairs for the price of one". A patron who comes to the San Diego County Fair can take their fair ticket and get in free at the Ventura County Fair or Mid-Winter Fair in El Centro. Conversely a patron of these fairs can bring their Fair ticket and get in free to the San Diego County Fair. Creative marketing and unique ticket promotions have helped to make the San Diego County Fair the most financially successful fair in the State.

Complimentary fair tickets are also distributed to members of Chambers of Commerce, public agencies and public figures as additional ways to promote and create awareness and excitement about the fair.

As employees of the San Diego County Fair work long shifts for almost a straight run of 22 days (24 in 1012) they are provided complimentary tickets that allow their family to visit them during the Fair,

possibly to have a meal together or just enjoy a break from a very busy work day. The word of mouth that results from their families visiting the fair also provides a great marketing value.

The 22nd DAA Ticket Policy details the process for ticket distribution, as well as who may receive complimentary tickets and under what circumstances.

The legal justification for distribution of tickets to the San Diego County Fair is provided in the California Food and Agricultural Code sections 3002 – 3003 and 3021 – 3029. Below are these code sections.

3001. Unless the context otherwise requires, the definitions in this article govern the construction of the chapter.

3002. "Courtesy pass admission" means any admission, without payment of the admission charge, to any state, county, district, or citrus fruit fair, except any of the following:

- (a) Credential admission.
- (b) Admission of any child under 12 years of age.
- (c) Admission of any military personnel in uniform.

3003. "Credential admission" means any admission which is authorized by the board of directors of a state, district, or citrus fruit fair, or by the board of supervisors of a county for admission to a fair without payment of the admission charge when a service is rendered by the person who is admitted which is necessary for the conduct of the fair.

3021. Every state, district, county, or citrus fruit fair which receives any money from the State Treasury shall permit the admission without payment of the admission charge of all children 12 years of age or under on at least one day, which is designated by the fair, during each fair period.

3022. If a charge is made for admission to enter a state, district, county, or citrus fruit fair, the following persons may be admitted to such fairgrounds without the payment of the established admission price:

- (a) Persons with credential admissions.
- (b) Persons with courtesy pass admissions.
- (c) Military personnel in uniform.

3023. A credential admission may be issued to any individual, association, or body that does any of the following:

- (a) Prepares or services any educational, commercial, industrial, livestock, agricultural, horticultural, or viticultural display or exhibit.
- (b) Services, maintains, or operates any concession.
- (c) Renders, through agreement with the fair, a service to fair patrons.

- (d) Renders a necessary public service.
- (e) Safeguards health.
- (f) Provides for public safety.
- (g) Participates in any parade or event which is necessary for the conduct of the fair.

3024. Credential admissions may, also, be issued to any of the following persons:

- (a) Representatives of press, radio, and television personally engaged in obtaining and transmitting public information.
- (b) Ambulance drivers.
- (c) Firemen on duty.
- (d) Repairmen who are necessary to service utilities.
- (e) Employees of the fair.
- (f) State officials in the performance of their duty.

3025. The words "credential admission" shall be printed on each ticket which is issued as a credential admission.

3026. The percentage of courtesy pass admissions to any state, county, district, or citrus fruit fair shall not exceed 4 percent of the gross paid admission to the fair in the preceding calendar year.

(As a side note, Ag Code 3022 references a Fairs ability to charge an admission or have a "free" gate. Throughout the years various Fairs within the District Ag. Associations have opted to implement a free gate including the 2011 San Joaquin Fair in Stockton; the 2nd DAA. Some Fairs are also experimenting with a "free gate" for a particular time period during the day)

3027. A courtesy pass admission is not transferable.

3028. Each fair shall maintain complete records of the number of credential and courtesy pass admissions which are issued for each fair period.

3029. Each fair shall make an annual report to the department, as prescribed by the department, of the total number of credential and courtesy pass admissions issued and honored at the fair.

KAMALA D. HARRIS
Attorney General

State of California
DEPARTMENT OF JUSTICE



110 WEST A STREET, SUITE 1100
SAN DIEGO, CA 92101
P.O. BOX 85266
SAN DIEGO, CA 92186-5266

Public: (619) 645-2001
Telephone: (619) 645-2070
Facsimile: (619) 645-2581
E-Mail: deborah.fletcher@doj.ca.gov

October 27, 2011

Adam Day, President of the Board of Directors
Members of the Board of Directors
22nd District Agricultural Association
2260 Jimmy Durante Boulevard
Del Mar, California 92014-2216

RE: *22nd District Agricultural Association*
November 8, 2011 Board of Directors Meeting

Dear President Day and Members of the Board of Directors:

This letter relates to Section III (B) and (C) on the Agenda for the November 2011 meeting of the Board of Directors of the 22nd District Agricultural Association (District) as relevant to the District's Ticket Policy and the related disclosure forms. This letter constitutes an index of the attached documents, and need not be considered a confidential attorney-client communication, but may be publicly distributed. Attached are:

1. The Ticket Policy for the 22nd District Agricultural Association, adopted by the District's Board of Directors in 2009.
2. FPPC Form 802 (blank).
3. California Code of Regulations, title 2, §§ 18944 through 18944.4, inclusive. The agenda for the November 2011 meeting of the Fair Political Practices Commission lists an action item for the proposed amendment and/or repeal of some of these regulations.
4. Fair Political Practices Commission advice letters.

Adam Day, President
Members of the Board of Directors
October 27, 2011
Page 2

All of the attached documents are public records, available on the District's website, or on the website of the Fair Political Practices Commission. The Fair Political Practices Commission is the entity that implements the Political Reform Act of 1974 (Govt. Code, § 8100, *et seq.*) and promulgates and interprets the enabling regulations. (Cal. Code Regs., tit. 2, §§ 18109-18997.)

Sincerely,



DEBORAH FLETCHER
Deputy Attorney General

For KAMALA D. HARRIS
Attorney General

DF:dd

cc: Timothy Fennell, General Manager
Becky Bartling, Deputy General Manager

22nd DISTRICT AGRICULTURAL ASSOCIATION TICKET POLICY

1.0 Application of Policy.

1.1 This Policy applies to tickets which provide admission to a facility or event for an entertainment, amusement, recreational or similar purpose, and are:

- a) Gratuitously provided to the 22nd District Agricultural Association ("District") by an outside source;
- b) Acquired by the District by purchase;
- c) Acquired by the District as consideration pursuant to the terms of a contract for the use of a District venue;
- d) Produced or sponsored by the District; or
- e) Acquired and/or distributed by the District in any other manner.

1.2 This Policy does not apply to any other item of value provided to the District or any District Official, regardless of whether received gratuitously or for which consideration is provided.

1.3 This policy, together with the ticket procedures established pursuant to Section 4.2 below, shall supersede and replace any earlier District policies relating to the distribution to District Officials of tickets for admission to any facilities or events for an entertainment, amusement, recreational, or similar purpose.

1.4 This Policy shall be posted in a prominent place on the District's website:
www.sdfair.com.

2.0 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 Fair Political Practices Commission ("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).

2.1 "District" shall mean and refer to the 22nd District Agricultural Association.

2.2 "District Official" means every Director, officer, employee, or consultant of the District, as defined in Government Code Section 82048 and California Code of Regulations, title 2, section 18701. "District Official" shall include, without limitation, any member of the District's Board of Directors or any other appointed District official or District employee required to file an annual Statement of Economic Interests (FPPC Form 700).

- 2.3 "District Venue" means and includes any facility owned, controlled or operated by the District.
- 2.4 "FPPC" means the California Fair Political Practices Commission.
- 2.5 "Immediate family" means the spouse or registered domestic partner and dependent children, as set forth in Government Code section 82029 and Family Code section 297.5.
- 2.6 "Policy" means this 22nd District Agricultural Association Ticket Policy.
- 2.7 "Ticket" means and includes any form of admission privilege to a facility, event, show, concert, or performance.

3.0 General Provisions.

- 3.1 No Right to Tickets: The use of complimentary tickets is a privilege extended by the District and not the right of any person to which the privilege may from time to time be extended.
- 3.2 Limitation on Transfer of Tickets: Tickets distributed to a District Official pursuant to this Policy shall not be transferred to any other person, except to members of such District Official's immediate family solely for their personal use.
- 3.3 Prohibition Against Sale of or Receipt of Reimbursement for Tickets: No person who receives a ticket pursuant to this Policy shall sell or receive reimbursement for the value of such ticket.
- 3.4 No Earmarking of Tickets to District: No ticket gratuitously provided to the District by an outside source and distributed to, or at the behest of a District Official pursuant to this Policy, shall be earmarked by the original source for distribution to a particular District Official.

4.0 Agency Head.

- 4.1 The District Secretary / General Manager shall be the Agency Head for purposes of implementing the provisions of this Policy. In the absence of the District Secretary / General Manager, the District Deputy General Manager or the Chief Financial Officer shall be the Agency Head for purposes of implementing the provisions of this Policy.
- 4.2 The Agency Head shall have the authority, in his or her sole discretion, to establish procedures for the distribution of tickets in accordance with this Policy. All requests for tickets which fall within the scope of this Policy shall be made in accordance with the procedures established by the Agency Head.

- 4.3 The Agency Head shall determine the face value of tickets distributed by the District for purposes of Sections 5.1, 5.2 and 7.1, subparagraph (d), of this Policy.
- 4.4 The Agency Head, in his or her sole discretion, may revoke or suspend the ticket privileges of any person who violates any provision of this Policy or the procedures established by the Agency Head for the distribution of tickets in accordance with this Policy.
- 4.5 The disclosure forms required by Section 7.0 of this Policy shall be prepared and posted by the Agency Head, or by an individual acting under the Agency Head's authority, supervision, and control.
- 5.0 Conditions Under Which Tickets May Be Distributed: Subject to the provisions of this Policy, complimentary tickets may be distributed to District Officials under any of the following conditions:
- 5.1 The District Official Reimburses the District for the face value of the ticket(s).
- a) Reimbursement shall be made at the time the ticket(s) is/are distributed to the District Official.
 - b) The Agency Head shall, in his or her sole discretion, determine which event tickets, if any, shall be available under this section.
- 5.2 The District Official treats the ticket(s) as income consistent with applicable federal and state income tax laws.
- 5.3 The District Official uses, or behests, such ticket(s) for one or more of the following governmental and/or public purposes:
- a) Performance of a ceremonial role or function representing the District at the event, for which the District Official may receive enough tickets for the District Official and each member of his or her immediate family.
 - b) The official and/or job duties of the District Official require his or her attendance at the event, for which the District Official may receive enough tickets for the District Official and each member of his or her immediate family.
 - c) Economic or business development purposes on behalf of the District, including, but not necessarily limited to: promotion and marketing of the District's resources and facilities available for commercial and other uses; increase of ancillary revenue for food, beverage, parking and related items at interim and District-promoted events; promotion and marketing of District initiated, supported, controlled, or sponsored programs or events,

including but not limited to the annual Fair and Grandstand concert series, Scream Zone, Holiday of Lights, Professional Bull Riders, annual Del Mar race track meet, and the Del Mar National Horse Show; promotion and marketing of interim and year-round events; marketing of sponsorship programs; and, promotion of District recognition, visibility, and/or profile on a local, state, national, or international scale.

- d) Intergovernmental relations purposes, 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.
- e) Community relations.
- f) Attracting or rewarding volunteer public service.
- g) Supporting and/or showing appreciation for programs or services rendered by non-profit organizations benefiting San Diego County residents.
- h) Encouraging or rewarding significant academic, athletic, or public service achievements by San Diego County students, residents or businesses.
- i) Attracting and retaining highly qualified employees in District service, for which such employee may receive no more than four (4) tickets per event.
- j) As special recognition or reward for meritorious service by a District employee, for which such employee may receive no more than four (4) tickets per event.
- k) For use in connection with a District employee competition or drawing, for which there shall be made available no more than (4) tickets per event.
- l) Recognition of contributions made to the District by former members of the Board of Directors, for which such former Director may receive no more than (4) tickets per event.

6.0 Tickets Distributed at the Behest of a District Official.

- 6.1 Only the following District Officials shall have authority to behest tickets: members of the Board of Directors, the Secretary / General Manager, and the Deputy General Manager.
- 6.2 Tickets shall be distributed at the behest of a District Official only for one or more public purposes set forth in Section 5.3 above.
- 6.3 If tickets are distributed at the behest of a District Official, such District Official shall not use one of the tickets so distributed to attend the event.

7.0 Disclosure Requirements.

7.1 Tickets distributed by the District to or at the behest of any District Official (i) which the District Official treats as income pursuant to Section 5.2 above, or (ii) for one or more public purposes described in Section 5.3 above, shall be posted on FPPC Form 802, or any successor form provided by the FPPC, in a prominent fashion on the District's website within thirty (30) days after distribution. Such posting shall include the following information:

- a) The name of the recipient, except that if the recipient is an organization, the District may post the name, address, description of the organization and number of tickets provided to the organization in lieu of posting names of each recipient;
- b) a description of the event;
- c) the date of the event;
- d) the face value of the ticket;
- e) the number of tickets provided to each person;
- f) if the ticket was distributed at the behest of a District Official, the name of the District Official who made such behest; and
- g) a description of the public purpose(s) under which the distribution was made, or, alternatively, that District Official is treating the ticket as income.

7.2 Tickets distributed by the District for which the District receives reimbursement from the District Official as provided under Section 5.1 above shall not be subject to the disclosure provisions of Section 7.1.

A Public Document

2. Function, Event, or Ceremonial Role Information

Face Value of Each Admission \$ _____

Date(s) / / / /

Was the distribution to persons identified below made at the behest of an agency official?

The identity of recipient(s) and the explanation:

| Name (Last, First) or Organization (Name, Address, Description) | Number of Admission(s)/ Ticket(s) | Agency Official | <ul style="list-style-type: none"> • Check the Income box if the agency official claims admission as taxable income. If the agency official performed a ceremonial role, also provide a description. • If not income, describe the public purpose, including ceremonial roles, performed by an agency official, individual, or organization. |
|---|---|---|--|
| | | Yes <input type="checkbox"/> No <input type="checkbox"/> | Income <input type="checkbox"/> |
| | | Yes <input type="checkbox"/> No <input type="checkbox"/> | Income <input type="checkbox"/> |
| | | Yes <input type="checkbox"/> No <input type="checkbox"/> | Income <input type="checkbox"/> |
| | | Yes <input type="checkbox"/> No <input type="checkbox"/> | Income <input type="checkbox"/> |
| | | Yes <input type="checkbox"/> No <input type="checkbox"/> | Income <input type="checkbox"/> |

I have read and understand FPCC Regulations 18944.1 and 18942. I have verified that the distribution of admissions, set forth above, is in accordance with the provisions.

(month, day, year)

Comment: *(Use this space or an attachment for any additional information including amendment explanation.)*

**Agency Report of:
Ceremonial Role Events and
Ticket/Admission Distributions**

California **802**
Form

A Public Document

This form is for use by all state and local government agencies. The form identifies persons that receive admission tickets and passes and describes the public purpose for the distribution. This form was prepared by the Fair Political Practices Commission (FPPC) and is available at www.fppc.ca.gov.

General Information

FPPC Regulation 18944.1 sets out the circumstances under which an agency's distribution of tickets to entertainment events, sporting events and like occasions would not result in a gift to individuals that attend the function. In general, the agency must adopt a policy which identifies the public purpose served in distributing the admissions and then must post the policy on the agency's website. The Form 802 serves to detail each event and the public purpose of each agency distribution. FPPC Regulation 18942 lists exceptions to reportable gifts, including ceremonial events, when listed on this form.

When the regulation procedures are followed, persons who receive admissions are listed on a Form 802. Agency officials do not report the admissions on the official's Statement of Economic Interests, Form 700, and the value of the admission is not subject to the gift limit.

The Form 802 also informs the public as to whether the admissions were made at the behest of an agency official and whether the behested tickets were provided to an organization or specific individuals.

Website Posting

The Form 802 must be posted on the agency's website within 30 days after the distribution. If the agency does not maintain a website, the form must be maintained by the agency as a public record, be available for public inspection and copying, and be forwarded to the FPPC for posting on its website.

Privacy Information Notice

Information requested by the FPPC is required by and used to administer and enforce the Political Reform Act. Failure to provide information may be a violation subject to administrative, criminal, or civil penalties. All reports and statements are public records available for inspection and reproduction. If you have any questions regarding this notice, please contact the FPPC General Counsel at Fair Political Practices Commission 428 J Street, Suite 620 Sacramento, CA 95814 (916) 322-5660.

Instructions

Part 1 Agency Identification:

List the agency's name and street address. Provide a designated agency contact person, their phone number, and e-mail address. Mark the amendment box if changing any information on a previously filed form and include the date of the original filing.

Part 2 Function, Event, or Ceremonial Role Information:

Provide the title of the event, the face value (i.e., the cost to the public) of each admission, a brief description of the event, and the date(s) of the event. Check the box indicating whether the tickets or admissions were provided by the agency. If the answer is no, identify the outside source.

Check the box indicating whether the distribution was made at the behest of an agency official. If the answer is yes, provide the full name and title of the agency official.

In the table, Column 1, identify the recipient of the distributed admissions. The full name is required for individuals. If admission is provided to an organization, individual names are not required but the organization's name, address, and brief description must be identified.

In the table, Column 2, disclose the total number of tickets/admissions distributed.

In the table, Column 3, check the box indicating whether the recipient was an agency official.

In the table, Column 4, if an agency official claims admission as taxable income, mark the income box. A description of a ceremonial role conducted by an agency official must be identified even if the official will claim the ticket as income. Alternatively, provide the public purpose for the distribution that is associated with the agency's policy that is posted on the agency's website.

Part 3 Verification:

The agency head or a designee must sign this form acknowledging that he or she has read, understands, and verifies compliance with FPPC Regulations 18944.1 and 18942.

21

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations)

§ 18944. Gifts to Members of an Official's or Candidate's Family.

(a) Scope of Regulation. This regulation applies when determining whether a gift to a public official's or candidate's family member also constitutes a gift to the public official or candidate for purposes of the Act.

(b) Definitions. For purposes of this regulation, the following definitions apply:

(1) "Official" means a public official as defined in Section 82048 or a candidate as defined in Section 82007.

(2) "Official's family" or "family member" includes any of the following individuals:

(A) An official's spouse.

(B) A "dependent child" of the official as defined in Regulation 18229.1.

(C) An official's child (including an adoptive child or stepchild) who meets all of the following criteria:

(i) Is at least 18 but no more than 23 years old and is a full-time or part-time student.

(ii) Has the same principal place of residence as the official. For purposes of this provision, a place, located away from the official's residence, at which the child resides for the purpose of attending school is not the child's "principal place of residence."

(iii) Does not provide over one-half of his or her own support.

(c) A single gift given to both an official and one or more members of the official's family is a gift to the official for the full value of the gift.

(d) The following applies to a gift given solely to a member of an official's family.

(1) A gift given solely to a member of an official's family is a gift to the official when the gift confers a clear personal benefit on the official. A gift to an official's family member confers a clear personal benefit on the official in any of the following circumstances:

(A) It is reasonably foreseeable at the time the gift is made that the official will enjoy a financial benefit from the gift. A "financial benefit" from a gift includes, but is not limited to, a payment, other than occasional meals, lodging, or local transportation, to fulfill a commitment, obligation, or expense of the type normally paid by a family for the ordinary care and support of one of its members.

(B) It is reasonably foreseeable at the time the gift is made that the official will use the gift, except for a minimal use.

(C) The official exercises discretion and control over who will use or dispose of the gift. Exercising "discretion and control" includes, but is not limited to, when an official, or his or her agent, requests a gift for, or to be used by, the official's family member.

(2) A gift given solely to a member of an official's family and not covered under subdivision (1) is a gift to the official if the gift confers a presumed personal benefit on the official. A gift to an official's family member confers a presumed personal benefit on the official in any of the following circumstances:

(A) The gift is made to a family member of a state agency official who is subject to Section 87200 by a donor who is a lobbyist, lobbying firm, lobbyist employer, or other person required to file reports under Chapter 6 (commencing with Section 86100) of the Act.

(B) The gift is made to a family member of a local government agency official who is subject to Section 87200 by a donor who is or has been directly involved in a governmental

decision, as defined in Regulation 18704.1(a), in which the official will foreseeably participate or has participated in the prior 12-month period.

(3) Exceptions

(A) There is no gift to an official under paragraph (1) if both of the following circumstances apply:

(i) The official can show there is an established working, social, or similar relationship between the donor and the official's family member independent of the relationship between the donor and the official.

(ii) The person who made the gift is not a donor identified in paragraphs (2)(A) or (2)(B).

(B) The official can rebut the presumption in paragraph (2) if he or she can show there is an established working, social, or similar relationship between the donor and the official's family member independent of the relationship between the donor and the official.

(e) This regulation does not apply to the type of gift that, under the Act or other Commission regulations, would not be considered a gift if given directly to the official.

Note: Authority cited: Section 83112, Government Code. Reference: Section 82028, Government Code.

HISTORY

1. Renumbering of former section 18726.2 to section 18944 filed 1-26-94; operative 1-26-94 pursuant to Government Code section 11346.2(d) (Register 94, No. 4).
2. Change without regulatory effect relocating section filed 11-17-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46).
3. Amendment of section heading and section filed 7-24-2006; operative 8-23-2006. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3

Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2006, No. 30).

4. Repealer and new section filed 1-11-2010; operative 2-10-2010. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2010, No. 3).

(Regulations of the Fair Political Practices Commission Title 2, Division 6, California Code of Regulations)

§ 18944.1. Gifts: Tickets or Passes to Events.

For purposes of this regulation "ticket or pass" means admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose.

(a) Ticket or pass provided to official by official's agency.

(1) When an agency provides a ticket or pass to an official of that agency, the ticket or pass is not subject to the provisions of this regulation, provided that the official treats the ticket or pass as income consistent with applicable state and federal income tax laws and the agency reports the distribution of the ticket or pass as income to the official in complying with the provisions of subdivision (c) below.

(2) When an agency provides a ticket or pass to a public official that otherwise meets the definition of gift under Section 82028 and is not exempt under applicable Commission regulations, the official will meet the burden under Section 82028 that equal or greater value has been provided in exchange therefor, provided that all of the following requirements are met:

(A) With respect to a ticket or pass from an outside source provided to an official by the official's agency:

(i) The ticket or pass is not earmarked by the original source for use by the agency official who uses the ticket or pass;

(ii) The agency determines, in its sole discretion, which official may use the ticket or pass.

(iii) The distribution of the ticket or pass by the agency is made in accordance with a policy adopted by the agency in accordance with subdivision (b) below.

(B) With respect to a ticket or pass provided by the official's agency to an agency official, which ticket or pass the agency obtains (i) pursuant to the terms of a contract for use of public property, (ii) because the agency controls the event (such as a state or county fair), or (iii) that is purchased by the agency at fair market value, the distribution of the ticket or pass is made in accordance with subdivision (b) below.

(b) Any distribution of tickets or passes under subdivision (a)(2) by an agency to, or at the behest of, its officials must be made pursuant to a written policy duly adopted by legislative or governing body of the agency that state the public purposes to be accomplished by the agency policy. If the agency maintains a website, the written policy shall be posted on the website in a prominent fashion. The written policy shall contain, at a minimum, the following:

(1) a provision setting forth the public purposes of the agency to be accomplished by the distribution of tickets or passes;

(2) a provision requiring that the distribution of any ticket or pass by the agency to, or at the behest of, an official accomplish a public purpose of the agency; and

(3) a provision prohibiting the transfer by any official of any ticket or pass, distributed to such official pursuant to the agency policy, to any other person, except to members of the official's immediate family solely for their personal use.

(c) The distribution of a ticket or pass pursuant to this regulation, or Regulation 18942(a)(13), including a ticket or pass that is provided to the official under subdivision (a)(1) above, shall be posted, on a form provided by the Commission, in a prominent fashion on the agency's website, within 30 days after the distribution. If the agency does not maintain a website, the form shall be maintained as a public record, be subject to inspection and copying under

Section 81008(a), and be forwarded to the Commission for posting on its website. The posting shall include the following:

(1) the name of the person receiving the ticket or pass, except that if the ticket or pass is distributed to an organization outside the agency, the agency may post the name, address, description of the organization, and the number of tickets or passes provided to the organization in lieu of posting the names of each individual from the organization;

(2) a description of the event;

(3) the date of the event;

(4) the face value of the ticket or pass;

(5) the number of tickets or passes provided to each person;

(6) if the ticket or pass is behested, the name of the official who behested the ticket or pass; and

(7) a description of the public purpose under which the distribution was made or, alternatively, that the ticket or pass was distributed as income to the official.

(d) The Commission recognizes the discretion of the legislative or governing body of an agency to determine whether the distribution of a ticket or pass serves a legitimate public purpose of the agency, provided the determination is consistent with state law.

(e) The provisions of subdivision (a) apply only to the benefits the official receives by the admission and are not applicable to any other benefits the official may receive that are not included with the admission, such as food or beverages, or any other item presented to the official at the event.

NOTE: Authority cited: Section 83112, Government Code. Reference: Section 82028, Government Code.

HISTORY

1. Renumbering of former section 18726.7 to section 18944.1 with amendment of section heading filed 6-22-94; operative 6-22-94 (Register 94, No. 25).
2. Change without regulatory effect relocating section filed 11-17-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46).
3. Amendment of first paragraph and subsections (a)-(b) and (d)-(e) filed 7-25-95; operative 7-25-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 30).
4. Repealer and new section filed 1-8-2009; operative 2-7-2009. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2009, No. 2).
5. Repealer of subsection (a), subsection relettering and amendment of newly designated subsections (a)(1), (a)(2)(A)(iii)-(b), (c) and (e) filed 9-27-2010; operative 10-27-2010. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2010, No. 40).

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations)

§ 18944.2. Gifts to an Agency.

(a) Applicability. This regulation sets forth circumstances under which a payment made to a state or local government agency, that is controlled by the agency and used for official agency business, is not considered a reportable or limited gift to an individual public official, although the official receives a personal benefit from the payment.

(b) Definitions.

(1) "Payment" means a payment as defined in Section 82044 and includes a monetary payment to an agency, a loan, gift, or other transfer, and the payment for, or provision of, goods or services to an agency.

(2) "Agency head" means an individual in whom the ultimate legal authority of an agency is vested, or who has been delegated authority to make determinations by the agency for purposes of this regulation.

(c) Gift to an Agency. A payment, that is otherwise a gift to a public official, as defined in Section 82028, shall be considered a gift to the public official's agency and not a gift to the public official if all of the following requirements are met:

(1) Agency Controls Use of Payment. The agency head, or his or her designee, determines and controls the agency's use of the payment. The donor may identify a purpose for the payment, but the donor may not designate by name, title, class, or otherwise, an official who may use the payment. If the payment will provide a personal benefit to an official, the agency head, or his or her designee, shall select the individual

who will use it. The agency official who determines and controls the agency's use of the payment may not select himself or herself as the individual who will use the payment.

(2) Official Agency Business. The payment must be used for official agency business.

(3) Agency Reports the Gift. Within 30 days after use of the payment, the agency reports the payment on a form prescribed by the Commission that includes the following information:

(A) A description of the payment, the date received, the intended purpose, and the amount of the payment (or the actual or estimated value of the goods or services provided).

(B) The name and address of the donor. If the donor is not an individual, the report shall also describe the business activity, or the nature and interests of the entity. If the donor has raised funds from other persons for the specific purpose of making the payment to the agency, the report shall contain the names of and amounts given by these persons.

(C) The agency's use of the payment, and the name, title, and department of the agency official for whom the payment was used. The report shall include the date(s) and place(s) of travel, and a breakdown of the total expenses for transportation, lodging, meals and other related expenses.

(D) The form is signed by the agency head, or his or her designee, and maintained by the agency as a public record subject to inspection and copying under Section 81008(a).

(E) A state agency shall provide the completed form to the Commission (or in the case of the Commission to the office of the Attorney General), within 30 days after use of the payment, by mail, personal delivery, electronic mail or facsimile. If the state agency maintains a website, the state agency shall also post a copy of the form or the information in the form on its website in a prominent fashion within 30 days after use of the payment. If the state agency does not maintain a website, the Commission shall post a copy of the form or the information in the form on its website.

(F) A local agency shall provide the completed form to the filing officer who receives the agency employees' statements of economic interests, within 30 days after use of the payment, by mail, personal delivery, electronic mail or facsimile. The filing officer shall post a copy of the form or the information in the form on its website, or if it does not maintain a website, shall provide a copy of the form to the Commission which shall post the information on its website.

(G) The individual in the agency who has official custody of these forms is the filing officer for the forms, keeps a log of the forms under both the name of the agency and official receiving the payment, and maintains the forms for a period of not less than four years.

(d) Limitations on Application of this Regulation. The exception provided in subdivision (c) does not apply to the following payments:

(1) A payment for travel, including transportation, lodging, and meals, for a state or local elected officer, as defined in Section 82020, or an official specified in Section 87200.

(2) A payment for travel to the extent that it exceeds the agency's reimbursement rates for travel, meals, and lodging, and other actual and necessary expenses, or if the agency has no standard policy or practice concerning reimbursement rates, the State per diem rates as set forth in applicable sections of the State Administrative Manual and Department of Personnel Administration regulations, or the Internal Revenue Service rates for reimbursement of these expenses as set forth in the U.S. General Service Administration's website under "Per Diem Rates" and Internal Revenue Service Publications 463 and 1542, or their successors.

(3) A payment for travel that the agency head, or his or her designee, has not preapproved in writing in advance of the date of the trip.

(4) Passes or tickets, as described in Regulation 18944.1, which shall be governed by that regulation.

(e) Public Colleges and University Research Projects. Notwithstanding this regulation, a donation to a California public college or university for a specific research project that is received consistent with the requirements of Regulation 18702.4(c) or a meal received in the course of the college's or university's official fundraising activity, which qualifies under federal and state law for a deduction as a charitable contribution for educational purposes, will be deemed a gift to the college or university.

(f) Payments from the Federal Government. Notwithstanding this regulation, a grant, reimbursement, funding, or other payment received by a state or local government agency from a federal government agency for education, training, or other inter-agency programs, will not be considered a gift to the public official who receives a personal benefit from the payment.

(c) Agency Gift Exchanges. When an employee of an agency participates in an employee gift exchange, any item received by the employee in the gift exchange is not a gift so long as the item received is provided by another employee of the agency and the gifts are not substantially disproportionate in value.

(d) This regulation does not apply to passes or tickets of the type described in Regulation 18944.1, which shall be governed by that regulation.

Note: Authority cited: Section 83112, Government Code. Reference: Section 82028, Government Code.

HISTORY

1. New section filed 11-12-2009; operative 12-12-2009. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2009, No. 46).

April 14, 2009

Pamela J. Walls
County Counsel
County of Riverside
3535 Tenth Street, Suite 300
Riverside, CA 92501

RE: Your Request for Informal Assistance
Our File No. I-09-064

Dear Ms. Walls:

This letter responds to your request for advice regarding the gift provisions of the Political Reform Act (the "Act").¹ This letter is based on the facts presented; the Fair Political Practices Commission (the "Commission") does not act as a finder of fact when it renders assistance. (*In re Oglesby* (1975) 1 FPPC Ops. 71.) Because your request seeks general information, we are providing informal assistance.²

QUESTIONS

1. Does a county department providing complimentary tickets or passes to a county event on county property (such as a county fair) to county employees, officials, charitable organizations, or others need to complete and post the Form 802 (and follow the procedures outlined in Regulation 18944.1) on the county department website pursuant to a county policy?
2. If the county owns a stadium box or suite (not a county event or on county property), pursuant to the terms of an agreement, or purchased by the county at fair market value, does the county department providing tickets or passes to the events need to complete the Form 802 (and follow the procedures outlined in Regulation 18944.1) on its website pursuant to a county policy?

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3), copy enclosed).

in order to have the distribution of these tickets to county officials or employees not subject to disclosure and gift limit requirements?

3. If the department distributes the tickets or passes to a charitable organization or someone other than a public official, would a Form 802 need to be completed?

CONCLUSIONS

1. No. Regulation 18944.1 merely provides an option for agencies and does not require any agency to follow its provisions. However, if the agency does not opt to follow the procedure outlined in Regulation 18944.1, the tickets or passes you describe will be considered either income (if the recipient treats it as income) or a gift under the Act, and therefore subject to the Act's reporting and gift limitation provisions.

2. Yes, if the gifts are of the type that are subject to the Act's reporting and limitation provisions.

3. Regulation 18944.1(b)(2)(B) only applies "to a ticket or pass provided by the official's agency to [or behested by] an agency official." If the ticket or pass is provided to a charitable organization or someone other than a public official "at the behest" of an agency official, Regulation 18944.1(2)(2)(C) would apply and the ticket or pass would be considered a gift (or income) to the behesting public official unless the provisions of the regulation were followed, including the posting of the information on a Form 802.

FACTS

You seek clarification on subdivision (b)(2)(B) of Regulation 18944.1 relative to the above questions.

ANALYSIS

Recently, the Commission adopted amendments to Regulation 18944.1. This regulation addresses possible gifts of tickets or passes made by a public agency. It provides a method whereby the agency may set up, and follow, a procedure under which the tickets or passes will not be considered gifts, either because they are treated as income or because pursuant to the terms of the regulation, the "official will meet the burden under Section 82028 that equal or greater value has been provided in exchange therefore . . ." You have asked about the provisions of Regulation 18944.1 (b)(2)(B), which concerns tickets or passes that an agency obtains pursuant to the terms of a contract, or because it controls the events, or because it purchases the tickets at face value. Regulation 18944.1(b)(2)(B) states:

"(b) Ticket or pass provided to official by official's agency.

{ . . }

"(2) When an agency provides a ticket or pass to a public official that otherwise meets the definition of gift under Section 82028 and is not exempt under applicable Commission regulations, the official will meet the burden under Section 82028 that equal or greater value has been provided in exchange therefor, provided that all of the following requirements are met:

{...}

"(B) With respect to a ticket or pass provided by the official's agency to an agency official, which ticket or pass the agency obtains (i) pursuant to the terms of a contract for use of public property, (ii) because the agency controls the event (such as a state or county fair), or (iii) that is purchased by the agency at fair market value, the distribution of the ticket or pass is made in accordance with subdivision (c) below."

Nothing in this regulation requires a state or local agency to follow its provisions. It merely provides an optional procedure for a public agency to use as a method for distributing certain types of tickets or passes to events where the tickets or passes will not be considered gifts because adequate consideration is provided. If the procedure is not followed, and the receipt of the ticket or pass is not treated as income, the receipt of the ticket by a public official will be considered a gift subject to the Act's reporting and limitation provisions.

The procedures to be followed are set forth under subdivisions (c) and (d) are as follows:

"(c) Any distribution of tickets or passes under subdivision (b)(2) by an agency to, or at the behest of, its officials must be made pursuant to a written policy duly adopted by legislative or governing body of the agency that state the public purposes to be accomplished by the agency policy. If the agency maintains a website, the written policy shall be posted on the website in a prominent fashion. The written policy shall contain, at a minimum, the following:

"(1) a provision setting forth the public purposes of the agency to be accomplished by the distribution of tickets or passes;

"(2) a provision requiring that the distribution of any ticket or pass by the agency to, or at the behest of, an official accomplish a public purpose of the agency; and

"(3) a provision prohibiting the transfer by any official of any ticket or pass, distributed to such official pursuant to the agency policy, to any other person, except to members of the official's immediate family solely for their personal use.

"(d) The distribution of a ticket or pass pursuant to this regulation, including a ticket or pass that is provided to the official under subdivision (b)(1) above, shall be posted, on a form provided by the Commission, in a prominent fashion on the agency's website, within 30 days after the distribution. If the agency does not maintain a website, the form shall be maintained as a public record, be subject to

inspection and copying under Section 81008(a), and be forwarded to the Commission for posting on its website. The posting shall include the following:

“(1) the name of the person receiving the ticket or pass, except that if the ticket or pass is distributed to an organization outside the agency, the agency may post the name, address, description of the organization, and the number of tickets or passes provided to the organization in lieu of posting the names of each individual from the organization;

“(2) a description of the event;

“(3) the date of the event;

“(4) the face value of the ticket or pass;

“(5) the number of tickets or passes provided to each person;

“(6) if the ticket or pass is behested, the name of the official who behested the ticket or pass; and

“(7) a description of the public purpose under which the distribution was made or, alternatively, that the ticket or pass was distributed as income to the official.”

Finally you have asked about ticket distribution by an agency when the tickets are distributed to charitable organizations or persons who are not public officials. The Act only regulates gifts made to, or behested by, a public official. If the ticket or passes are given to charitable organizations or anyone who is not a public official, and the distribution of the ticket or pass was not made at the behest of a public official, it is not a gift that is subject to the provisions of the Act.

If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Scott Hallabrin
General Counsel

By: William J. Lenkeit
Senior Counsel, Legal Division

WJL:jgl

Enclosure

April 21, 2009

Deborah M. Fletcher
Deputy Attorney General
110 West A Street, 11th Floor
San Diego, California 92101

Re: Your Request for Advice
Our File No. I-09-050

Dear Ms. Fletcher:

This letter responds to your request for advice regarding the gift provisions of the Political Reform Act (the "Act").¹ Because you seek general guidance, we are providing informal assistance, rather than advice. Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

QUESTIONS

1. Are free admission tickets given to a public official by his or her agency for an event controlled by the agency "gifts" to the public official?
2. If the giving of tickets does not fall within the provisions of Regulation 18944.1, does Regulation 18944.3 operate as an exception to the gift rules?
3. If the tickets are gifts and, instead of receiving the tickets for free the official purchases them at a discount, what is the value of the gift?

CONCLUSIONS

1. The tickets are gifts to the public official unless, under Regulation 18944.1,

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

the tickets (i) are treated by the official and the agency as taxable income or (ii) are distributed under a written policy adopted by the agency and posted on the agency's website that states, among other things, the public purposes to be accomplished by the policy, as described below.

2. Ticket or passes fall within the provisions of Regulation 18944.1. Regulation 18944.3 is not applicable to tickets received by a public official from the official's agency.

3. Assuming the ticket is a gift under Regulation 18944.1, the value of a ticket purchased at a discounted price is the amount of the discount.

FACTS

As a deputy attorney general, you provide counsel to District Agricultural Associations (DAA), state agencies that are governed by a nine-member board of directors appointed by the Governor. These DAAs conduct annual fairs. Often these fairs include entertainment, usually in the form of concerts. Although at times the general public may attend these concerts for the price of admission to the fair, often there is an extra charge to attend these concerts. You indicate that the DAAs do not have written policies governing the distribution of these tickets to board members in accordance with the requirements recently adopted in Regulation 18944.1(b)(2)(B).

On occasion, a DAA will provide its directors with tickets to these extra-charge concerts at no charge to the directors. You believe that some DAAs may offer these tickets to directors at a discounted price. You ask whether these tickets constitute "gifts" under the Regulation 18944.1, Gifts: Tickets or Passes to Events.

ANALYSIS

Question 1. The Act defines a gift as: "any payment that confers a personal benefit on the recipient to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status." (Section 82028(a).) Under the Act, gifts to a public official from a third party are generally limited to \$420 per year per donor (Section 89503), and the official must report any gifts received of \$50 from a single source on his or her yearly statement of economic interests.²

The rules regarding tickets or passes provided to an official by the official's agency were recently changed with the adoption of new Regulation 18944.1. The general

² This discussion presumes that the officials in question are required to report gifts and are subject to the gift limits under the Act because the officials are in positions listed in the agency's conflict of interest code.

rule, absent the provisions of Regulation 18944.1, is that the tickets or passes are a gift, as defined above, to the official.

First, Regulation 18944.1(b)(1) provides that the ticket or pass is not a gift to the official if the official treats the ticket or pass as income consistent with the applicable state and federal income tax laws and the agency reports the distribution of the ticket or pass as income to the official by posting it on the agency's website within thirty days of the distribution. (Regulation 18944.1(d).)

Second, Regulation 18944.1(b)(2)(B) creates a "safe harbor" for an official who must establish that he or she has provided to the agency "consideration of equal or greater value" in exchange for the tickets or passes. If the requirements of Regulation 18944.1(b)(1)(B) and Regulation 18944.1(c) are met, an official is deemed to have paid consideration of equal or greater value for the tickets or passes. Regulation 18944.1(b)(1)(B) states:

"With respect to a ticket or pass provided by the official's agency to an agency official, which ticket or pass the agency obtains
(i) pursuant to the terms of a contract for use of public property,
(ii) because the agency controls the event (such as a state or county fair), or (iii) that is purchased by the agency at fair market value,
the distribution of the ticket or pass is made in accordance with
subdivision (c) below."

Regulation 18944.1(c) states, in pertinent part:

"Any distribution of tickets or passes under subdivision (b)(2) by an agency to, or at the behest of, its officials must be made pursuant to a written policy duly adopted by legislative or governing body of the agency that state the public purposes to be accomplished by the agency policy . . ."

Regulation 18944.1(c) also sets forth provisions that must be in the policy, and Regulation 18944.1(d) imposes duties upon the agency that call for public posting of each distribution of a ticket or pass, including a requirement that the posting describe the public purpose under which the distribution was made.

In summary, under Regulation 18944.1, there are two ways in which an official may receive tickets or passes from the official's agency without the tickets and passes being considered as gifts to the official. Either the official and his or her agency treat the tickets and passes as income as provided by Regulation 18944.1(b)(1), or the official and the agency must follow the procedures described in Regulations 18944.1(c) and 18944.1(d). In either of these instances, since the ticket or pass is in consideration for the official's services to the agency, it would be considered government "salary" (Section

82030(b)(2) and not subject to reporting on the official's Statement of Economic Interests.

Question 2. Tickets or passes fall within the provisions of Regulation 18944.1. Regulation 18944.3 is not applicable to tickets or passes received by a public official.

Question 3. With respect to the valuation of a gift to DAA directors who purchase tickets at a discount, Section 82028 defines gift as ". . . any payment that confers a personal benefit on the recipient, *to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value* unless the rebate or discount is made in the regular course of business to members of the public without regard to official status." (Emphasis added.)³

Thus, the value of the gift is the amount of the discount.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Scott Hallabrin
General Counsel

By: Valentina Joyce
Counsel, Legal Division

VJ:jgl

³ See also *Mattas* Advice Letter, No. A-04-207.

May 11, 2009

Jeffrey G. Scott
Law Offices of Jeffrey G. Scott
16935 West San Bernardo Drive, Suite 170
San Diego, California 92127

RE: Your Request for Informal Assistance
Our File No. I-09-104

Dear Mr. Scott:

This letter responds to your request for advice regarding the gift provisions of the Political Reform Act (the "Act").¹ This letter is based on the facts presented; the Fair Political Practices Commission (the "Commission") does not act as a finder of fact when it renders assistance. (*In re Oglesby* (1975) 1 FPPC Ops. 71.) Because you seek general information, we are treating your request as one for informal assistance.²

QUESTIONS

1. Are tickets and passes provided to an official by an official's agency to charitable events "gifts" to the official under Regulation 18944.1?
2. If a ticket or pass provided to an official by the official's agency for admission to a charitable event is treated as income by the public official, how is the amount of income determined, given that a portion goes to expenses and a portion to charity?
3. Does Regulation 18944.1 apply to events that do not charge admission, but provide food and beverages?
4. If, the charitable event includes only the food and beverages provided to the public official at the luncheon, dinner, or benefit would the payment constitute a gift under Regulation 18944.3? If so, would only the portion that covers the organization's expenses be treated as a gift?

¹ Government Code sections 81000 -- 91014. Commission regulations appear at Title 2, sections 18109-18997, of the California Code of Regulations.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; regulation 18329(c)(3), copy enclosed).

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5. Do the provisions of Regulation 18944.1 also apply to district designated employees?

CONCLUSIONS

1. Tickets and passes to charitable events provided by an agency to an official of that agency are "gifts" to the official under the Act if they provide a personal benefit for which no consideration is provided. However, Regulation 18944.1 provides a method by which certain types of tickets or passes provided to an official by his or her agency will not be considered a gift because the official will meet the burden, under the Act's definition of gift, that equal or greater value has been provided in exchange therefor, as discussed below.

2. For purposes of the Act's definition of income, the ticket or pass is valued at the full face value of the ticket.

3. Regulation 18944.1 only applies to tickets or passes that provide admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose. It does not apply if the only benefit received at the event is food and beverages.

4. If the agency pays for the attendance at the charitable event and the payment by the agency for the agency official to attend the event is a valid expenditure of public moneys, Regulation 18944.3 would apply and the payment is not a gift under the Act. If the payment was made by an outside source, the value is the full face value of the admission, including the charitable donation portion. If the admission is provided directly by the charitable organization, Regulation 18946.4 would apply, and the value of the admission may be reduced under the provisions of that regulation. (See Regulation 18946.4.)

5. Yes, if they are designated in a class that requires reporting of gifts from the particular source.

FACTS

You are general counsel for four healthcare districts located in Southern California. These districts are organized pursuant to the provisions of California Health and Safety Code Section 32000 et. seq. and include the Grossmont Healthcare District in La Mesa, Fallbrook Healthcare District in Fallbrook, Desert Healthcare District in Palm Springs, and the Hi-Desert Healthcare District in Joshua Tree, California.

You seek advice regarding the interpretation of Regulation 18944.1 with respect to how the new provisions impact healthcare districts that provide community services. In furtherance of the mission to support healthcare in the community, healthcare districts commonly provide sponsorship funding to local nonprofit health care related charitable

organizations and foundations and hold fundraising events. These fund-raising events range from luncheons, dinners, charitable balls, golf tournaments, and music festivals. These organizations help further important health care related purposes in the local community, which are not being met and include support to the medically under-served, individuals with physical and mental disabilities, seniors, children, homeless people, and other individuals who have medical needs and are having difficulty accessing health care.

In many cases, the sponsorship includes seats at tables, golf tournament passes, or tickets to a musical event. A portion of the sponsorship covers the organization's expenses for the event, with the remainder going to support the health care related activities of the organization.

The tables, tickets, and passes to these charitable events are made available to public officials who serve on the healthcare district boards and to members of the community. The non-profit organizations typically request that the district board members attend these events and, in many cases, the public officials are recognized at the event, and in some cases awards and plaques are given to the healthcare district for its support of the organization. Moreover, many of these nonprofit organizations indicate that they prefer that the local healthcare district provide a sponsorship rather than a straight grant because supporting the event provides the organization greater notoriety in the community and increases the funding from outside sources.

ANALYSIS

The Act establishes a statutory and regulatory scheme to reduce influences on public officials³ from the receipt of gifts. First, it prohibits certain public officials from accepting large gifts (currently defined as more than \$420) from identified sources. (Section 89503, Regulation 18940.2.) Second, it requires certain public officials to disclose their receipt of any gift of \$50 or more from identified sources, so that the public is made aware of such gifts. (Sections 87207 and 87302.) Finally, it prohibits a public official from using his or her position to influence the outcome of a decision involving the donor of a gift valued at more \$420. (Section 87100, 87103(e), Regulation 18940.2.)

Section 82028 defines gift as:

"any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status."

Your letter requests advice with respect to the gift disclosure provisions of the Act. Public officials who are covered by the Act's gift disclosure provisions are required

³ Section defines "public official" as every member, officer, employee or consultant of a state or local government agency. Employees of SANDAG are public officials.

to disclose gifts from certain specified sources pursuant to the terms of their agency's conflict-of-interest code, formulated in accordance with the Act's provisions.

Question Number One: As is evident from the above definition, tickets and passes to charitable events are "gifts" under the Act if they provide a personal benefit for which no consideration is provided. However, several regulations under the Act may affect how such tickets or passes are valued. For example, Regulation 18946.4 specifically addresses valuation for tickets or passes to charitable events. It provides:

"18946.4: This regulation applies to a single ticket or other admission privilege to a specific fundraising event provided to a public official by a nonprofit or political organization holding its own fundraiser and used solely by the public official.

"(a) Nonprofit Fundraiser. Except as provided in subdivision (b), the value of a gift of a ticket, pass, or other admission privilege to a fundraising event for a nonprofit, tax-exempt organization that is not a committee covered by subdivision (c) is determined as follows:

"(1) Where the ticket clearly states that a portion of the ticket price is a donation to the organization, the value of the gift is the face value of the ticket reduced by the amount of the donation.

"(2) If there is no ticket indicating a face value or the ticket or other admission privilege has no stated price or no stated donation portion, the value of the gift is the pro rata share of the cost of any food, and beverages, plus any other specific item presented to the attendee at the event.

"(b) 501(c)(3) Organization Fundraiser. Where the event is a fundraising event for an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, the organization may provide one ticket per event to an official and that ticket shall be deemed to have no value so long as the cumulative value of the nondeductible portion of the ticket(s), as provided in subdivision (a), received by the official from the same organization during a calendar year, does not exceed the gift limits imposed under Section 89503 and Regulation 18940.2.

{....}"

Under this regulation, an official may receive one ticket to each fundraising event a 501(c)(3) organization holds during a year up to a cumulative value of \$420, and the ticket is not a gift if, and only if, the organization provides the ticket to the official. Additionally, Regulation 18944.1 (copy enclosed) provides certain exceptions to the Act's gift rules when an official receives a ticket or pass to attend an event to perform an

official or ceremonial function related to his or her office, such as accepting an award or plaque, the admission privilege is not a gift to the official. (Regulation 18944.1(a).)⁴

Regulation 18944.1(b) also provides a method by which certain types of tickets or passes provided to an official by his or her agency will not be considered gifts because the official will meet the burden, under the Act's definition of gift, that equal or greater value has been provided in exchange therefor, as discussed below. However, this regulation applies only to tickets or passes provided to the official by his or her agency to an event or facility "for an entertainment, amusement, recreational, or similar purpose." Therefore, the regulation would only apply to tickets or passes provided by your agency to officials in the agency to attend "charitable balls, golf tournaments, and music festivals," but not to the "luncheons and dinners" described in your letter.

Accordingly, if the tickets or passes are provided by your agency to its agency officials to attend charitable events that are "for an entertainment, amusement, recreational, or similar purpose" and do not fall under the provisions of Regulation 18946.4 or other applicable regulations, an agency may apply the provisions of Regulations 18944.1 to the distribution of these tickets.

Question Number 2: For purposes of the Act, Section 82030 defines income as:

"(a) 'Income' means, except as provided in subdivision (b), a payment received, including but not limited to any salary, wage, advance, dividend, interest, rent, proceeds from any sale, gift, including any gift of food or beverage, loan, forgiveness or payment of indebtedness received by the filer, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in the income of a spouse...."

A pass or ticket "shall be valued at the face value of the pass or ticket, provided that the face value is a price that was, or otherwise would have been, offered to the general public." (Regulation 18946.1.) Current Regulation 18946.4 provides that if a nonprofit organization other than a 501(c)(3) organization makes a gift of one ticket to an official, the value is the face value reduced by the amount of the donation, but this provision does not apply to tickets received as income. Accordingly, the value of the ticket or pass is the face value of the ticket or pass if it is treated as income.⁵

⁴ We recognize that your question is directed towards tickets or passes provided by the agency, and that these exceptions would not technically apply to that situation. We have, however, included these provisions in our discussion for informational purposes.

⁵ Regulation 18944.1(b)(1) permits an official to treat a ticket or pass provided to the official by his or her agency as income, and not a gift, if done in a manner consistent with applicable tax laws.

Questions Number 3 and 4:

Regulation 18946(d)(2) defines a ticket or pass as "anything that provides an admission privilege to an event or function and for which similar tickets or passes are offered for sale to the general public." If the event does not charge for admission, there is no "admission privilege" provided, as the "privilege" is free. Therefore, the provisions of Regulation 18944.1(b) do not apply to events that do not charge for admission. For valuation of items provided at an "invitation only" event, see Regulation 18946.2.

In our recent telephone conversation, you further clarified that the events to which you refer are charitable fundraising events where sponsors or individual purchase either a table or a seat for a luncheon or dinner. Even if the "ticket" is provided to the official by the official's agency, Regulation 18944.1 would not apply because, as explained above, the "ticket" is not for an admission to an event or facility "for an entertainment, amusement, recreational, or similar purpose."

With respect to events that provide no benefits other than food and beverages (the luncheon and dinner events) and where the admission is provided by the agency to the officials who are attending the events as part of their agency duties, Regulation 18944.2 or Regulation 18944.3 may apply.

Regulation 18944.2 (copy enclosed) applies to payments, other than tickets and passes, made to an agency from an outside source that are used for the purpose of agency business. If the agency follows the requirements of Regulation 18944.2, there is no gift to the official. Assuming the official is attending a luncheon or dinner on official agency business, Regulation 18944.2 could apply to these charity events.

Additionally, Regulation 18944.3, which is applicable when an agency expends its own resources,⁶ could apply if the agency provides to its officials tickets it purchases from the charitable organization with its own funds. This regulation would apply if the payment for the meal at the event is a lawful expenditure of public moneys, and the official's meal would not be a gift under the Act.

In our telephone conversation, you also mentioned that in many cases, the admissions to the charitable dinners are provided to officials from outside sources that have purchased them directly from the charitable organization. In that case, the value of the ticket is the full face value of the purchase, including the amount of the donation. If the tickets are provided directly from the organization to the officials, Regulation 18946.4 would apply, and the value of the gift of one ticket, and one ticket only, to attend the event could be reduced by either the amount of the charitable donation or the full value of the ticket if the organization is a 501(c)(3) organization.

⁶ Other than tickets to events under Regulation 18944.1.

Question Number 5:

The provisions of Regulation 18944.1 are available to all those who have filing obligations under the Act. This includes both statutory filers under Section 87200 and those agency "designated employees" who file pursuant to an agency conflict-of-interest code.

If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Scott Hallabrin
General Counsel

By: William J. Lenkeit
Senior Counsel, Legal Division

WJL:vll
I:\AdviceLtrs\09-104

November 5, 2009

Jon Givner
City of San Francisco
Office of the City Attorney
1390 Market Street
San Francisco, California 94102

Re: Your Request for Informal Assistance
Our File No. I-09-223

Dear Mr. Givner:

This letter responds to your request for advice on behalf of the City of San Francisco regarding the gift provisions of the Political Reform Act (the "Act")¹, specifically the provisions of Regulation 18944.1 relating to tickets. Our advice is based on the facts presented; the Fair Political Practices Commission (the "Commission") does not act as a finder of fact when it renders advice. (*In re Oglesby* (1975) 1 FPPC Ops. 71.) Nothing in this letter should be construed to evaluate any conduct that has already taken place.

Additionally, our advice is limited to obligations arising under the Act. Because you have requested general information on the operation of the regulation, we are treating your request as one for informal assistance.²

QUESTIONS

1. Does Regulation 18944.1 require agencies to report tickets and passes to all public employees or may reporting be limited to employees and officers subject to Form 700 filing requirements under Government Code 87200 or the city's conflict-of-interest code?

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; regulation 18329(c)(3), copy enclosed).

2. If Regulation 18944.1 does not require the agency to report the distribution of tickets to non-Form 700 filers, does the regulation consider the distribution of any tickets and passes those employees receive to be gifts from the agency to those employees, even if the distribution fulfills a public purpose stated in the agency's ticket distribution policy?

3. When a city department adopts a ticket distribution policy pursuant to Regulation 18944.1 and that policy designates a particular employee within that department to distribute tickets in accordance with the policy, are those distributions made at the behest of the official making the distribution?

4. If an official receives a ticket under the agency distribution policy and, within 30 days, the official gives the ticket to a government agency or a non-profit organization, does the agency still have to report the distribution of the ticket to the official on the Form 802?

5. If an agency distributes tickets to a non-profit organization at the behest of an agency official, does the regulation require the agency to report the distribution on the Form 802?

CONCLUSIONS

1. Regulation 18944.1 does not require any agency to do anything; it merely provides an option that an agency may use, that, if applied properly, eliminates a public official's receipt of a gift under the Act. The Act generally only regulates gifts with respect to public officials who are required to report those gifts or who are prohibited from receiving gifts over an identified limit. Whether an agency wishes to use Regulation 18944.1 to provide an exemption for tickets that would otherwise be considered gifts for employees who are neither prohibited from accepting, nor required to report, these tickets is a choice that the agency may freely make of its own accord.

2. If the procedures outlined in the regulation are not used, and there is no other exception available under the Act and regulations, the payment of tickets without "consideration of equal or greater value" in return would be just like any other payment and would be considered a gift to the employee, although an unreportable gift, inasmuch as non-Form 700 filers are not required to report anything.

3. No. So long as the employee authorized to distribute the tickets as part of his or her job follows the policy, the distribution is not made at his or her behest. Only those distributions that the authorized employee makes in response to a request from another agency official to direct tickets to a third party are made at the behest of an official.

4. & 5. No. If the official donates the ticket to a government agency or a non-profit agency exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, within 30 of receipt, and the tickets are not claimed by the official as a tax deduction, the tickets are not gifts, and the agency does not have to report the distribution on the Form 802.

FACTS

You are the Deputy City Attorney for the City and County of San Francisco (the "City") and the head of the "Ethics Team." Part of the team's duties involves advising City departments and officials regarding compliance with the conflict of interest laws. You seek clarification on the provisions of Regulation 18944.1 with respect to the ticket distribution requirements of that regulation as applied to the official policies developed by these departments pursuant to the regulation.

ANALYSIS

REGULATION 18944.1

The Act defines a gift as any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received. (Section 82028.) The Act also sets up a statutory scheme whereby certain public officials are required to report gifts of \$50 or more from identified sources and are prohibited from receiving gifts valued at more than \$420 during a calendar year.³ (Sections 87200, 87207(a)(1), 87300, 87302, 89503, Regulation 18940.2.)

Last year, Regulation 18944.1 was amended to set up a procedure, among other things, whereby tickets provided to agency officials for certain entertainment events would not be considered a gift, under the Act, to that official if the attendance at the event accomplished some public purpose enumerated under a publicly posted policy adopted by that agency. With respect to tickets provided by an agency to agency officials, Regulation 18944.1 states, in part:

"For purposes of this regulation "ticket or pass" means admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose.

{...}

"(b) Ticket or pass provided to official by official's agency.

"(2) When an agency provides a ticket or pass to a public official that otherwise meets the definition of gift under Section 82028 and is not exempt under applicable Commission regulations, the official will meet the burden under Section 82028 that equal or greater value has been provided in exchange therefor, provided that all of the following requirements are met:

³ Public officials who are required to report gifts and subject to the annual value limitation are either identified in Section 87200 (statutory filers) or designated in an agency's conflict-of-interest code (designated employees or code filers).

“(A) With respect to a ticket or pass from an outside source provided to an official by the official's agency:

“(i) The ticket or pass is not earmarked by the original source for use by the agency official who uses the ticket or pass.

“(ii) The agency determines, in its sole discretion, which official may use the ticket or pass.

“(iii) The distribution of the ticket or pass by the agency is made in accordance with a policy adopted by the agency in accordance with subdivision (c) below.

“(B) With respect to a ticket or pass provided by the official's agency to an agency official, which ticket or pass the agency obtains (i) pursuant to the terms of a contract for use of public property, (ii) because the agency controls the event (such as a state or county fair), or (iii) that is purchased by the agency at fair market value, the distribution of the ticket or pass is made in accordance with subdivision (c) below.

“(c) Any distribution of tickets or passes under subdivision (b)(2) by an agency to, or at the behest of, its officials must be made pursuant to a written policy duly adopted by legislative or governing body of the agency that state the public purposes to be accomplished by the agency policy. If the agency maintains a website, the written policy shall be posted on the website in a prominent fashion. The written policy shall contain, at a minimum, the following:

“(1) a provision setting forth the public purposes of the agency to be accomplished by the distribution of tickets or passes;

“(2) a provision requiring that the distribution of any ticket or pass by the agency to, or at the behest of, an official accomplish a public purpose of the agency; and

“(3) a provision prohibiting the transfer by any official of any ticket or pass, distributed to such official pursuant to the agency policy, to any other person, except to members of the official's immediate family solely for their personal use.

“(d) The distribution of a ticket or pass pursuant to this regulation, including a ticket or pass that is provided to the official under subdivision (b)(1) above, shall be posted, on a form provided by the Commission, in a prominent fashion on the agency's website, within 30 days after the distribution. If the agency does not maintain a website, the form shall be maintained as a public record, be subject to inspection and copying under

Section 81008(a), and be forwarded to the Commission for posting on its website. The posting shall include the following:

“(1) the name of the person receiving the ticket or pass, except that if the ticket or pass is distributed to an organization outside the agency, the agency may post the name, address, description of the organization, and the number of tickets or passes provided to the organization in lieu of posting the names of each individual from the organization;

“(2) a description of the event;

“(3) the date of the event;

“(4) the face value of the ticket or pass;

“(5) the number of tickets or passes provided to each person;

“(6) if the ticket or pass is behested, the name of the official who behested the ticket or pass; and

“(7) a description of the public purpose under which the distribution was made or, alternatively, that the ticket or pass was distributed as income to the official.

{...}”

Questions 1 and 2: The purpose of the regulation was to create an exemption from the definition of gift for certain payments made to accomplish a public purpose. If the payment is made in accordance with the provisions of an agency policy as enumerated in the regulation, the burden under Section 82028 that equal or greater value has been provided in exchange will have been met, and the payment is not considered a gift. Nothing in the regulation requires an agency to follow the procedure outlined therein. It merely provides an option for an agency to consider using so that any payments of tickets that may be used to advance a public purpose will not be considered gifts to an official, even though the official receives a personal benefit from the use of the item.

If the procedure is followed, the exemption will apply. If the procedure is not followed, the exemption will not apply, and the item will be considered a gift, just like any other item when there is no exemption provided. No distinction is made on the basis of who may receive the gift, only on the basis of for what purpose the gift is used (public purpose). So if the provisions of the regulation are followed with respect to non-filers, they will not receive a gift, whereas if the provisions are not followed — they will receive a gift, albeit one that does not have to be reported and is not subject to limits.

Question 3: In adopting Regulation 18944.1, the Commission realized that many of the policies enacted pursuant to the provisions of the regulation would require the

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appointment or designation of a specific position with the duty to effectuate the policy by determining to whom the tickets would be distributed. It was not intended that the person in that position be subject to the "made at the behest of" requirements contained in the regulation by merely carrying out the provisions of the agency policy. Accordingly, so long as the employee authorized to distribute the tickets as part of his or her job follows the policy, the distribution is not made at his or her behest. Only those distributions that the authorized employee makes in response to a request from another agency official to direct tickets to a third party are made at the behest of an official.

Questions 4 and 5: The Act provides that the "term gift does not include" items that are not used and within 30 days or are given to a "nonprofit entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code without being claimed as a charitable deduction" (Section 82028 (b)(2)). Regulation 18943 additionally provides that "a gift is neither accepted nor received" if it "is donated, unused, to a state, local, or federal government, within 30 days of receipt or acceptance." If an official makes such a donation of any tickets received under the agency distribution policy the item will not need to be reported as a gift nor will it count against the yearly gift limit.

Similarly, if an agency distributes tickets directly to a nonprofit organization, so long as the distribution provides no "personal benefit" to a public official and merely provides an organizational benefit to the 501(c)(3), it does not meet the definition of gift under the Act.

As we stated above, Regulation 18944.1 does not require an agency to do anything. It merely provides a safe harbor for an agency to use so that tickets provided to agency officials will not be considered gifts when those tickets are distributed pursuant to the requirements imposed by the regulation. If the tickets do not meet the Act's definition of gift, we leave it up to the agency to decide whether or not it wishes to avail itself of the provisions of a regulation that would exempt the tickets from being gifts.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Scott Hallabrin
General Counsel

By: William J. Lenkeit
Senior Counsel, Legal Division

WJL:jgl

Enclosure

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July 7, 2009

Heather Mahood
Assistant City Attorney
Office of the City Attorney
333 West Ocean Blvd., Eleventh Floor
Long Beach, CA 90802

Re: Your Request for Advice
Our File No. A-09-156

Dear Ms. Mahood:

This letter responds to your request for advice regarding the gift provisions of the Political Reform Act (the "Act").¹ This letter is based on the facts presented; the Fair Political Practices Commission (the "Commission") does not act as a finder of fact when it renders assistance. (*In re Oglesby* (1975) 1 FPPC Ops. 71.)

QUESTION

Does the granting of complimentary greens fees at golf courses owned by the City of Long Beach to members of the Long Beach Municipal Golf Commission (the "Golf Commission") pursuant to a contract between the city and a private company that manages the golf courses accomplish a governmental or public purpose under Regulation 18944.1(b)(2)(B), given the Golf Commission's duties with regard to the operation of the city's golf courses.

CONCLUSION

Under Regulation 18944.1, the Commission generally will defer to the discretion of the legislative or governing body of an agency to determine whether the distribution of a ticket or pass serves a legitimate public purpose of the agency, provided the determination is consistent with state law.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

FACTS

The City of Long Beach owns several golf courses, all of which are operated and managed by a private company, American Golf Corporation, pursuant to a long-term lease agreement. The Golf Commission is an agency created by city ordinance as follows:

"2.42.010 Created. There is created a commission to be known and designated as the Municipal Golf Commission

"2.42.020 Members. The Municipal Golf Commission shall consist of thirteen members. Ten members of the Commission shall represent organized golf clubs at Municipal golf courses, one from each of the following clubs: Recreation Park Men's Golf Club; Recreation Park Women's Golf Club; Recreation Park South Course Men's Golf Club; Recreation Park South Women's Golf Club; Skylinks Men's Golf Club; Skylinks Women's Golf Club; El Dorado Men's Golf Club; El Dorado Women's Golf Club; Heartwell Men's Golf Club; and Heartwell Women's Golf Club. The remaining three members of the Commission shall be designated as members at large.

"2.42.030 Duties. The duties of the Municipal Golf Commission shall be as follows:

"A. Generally to advise the City Manager and Council with reference to all matters concerning the operation of the Municipal golf courses, and the development of facilities for golfing;

"B. To recommend to the City Manager and Council the adoption of specific rules and regulations pertaining to the use of golf courses and to those portions of Municipal club houses used in connection with golf activities;

"C. To recommend the fees to be charged for the use of the golf courses;

"D. To recommend to the City Manager and Council such physical changes or other development of said Municipal golf courses as may, in the opinion of the Commission, be beneficial to their use;

"E. To recommend to the City Manager and Council the appointment of golf professionals and their duties and obligations;

"F. To act in an advisory capacity to the City Manager and Council in all matters pertaining to the proper functioning of Municipal golf courses;

"G. To study and familiarize itself with modern practices employed in the construction, use and maintenance of golfing facilities generally, to the end

that the Municipal golf courses may keep pace with the growth of the City and be representative of the best in such type of Municipal activity;

"H. To perform such other duties relating to the general field of the Commission's duties as may be lawfully required or suggested by the City Manager or Council.

"Nothing in this Section shall be deemed to invest the Commission with any supervisory powers over the actions and duties of City employees engaged in work relating to the construction, improvement, repair, maintenance, or operation of the Municipal golf courses."

Section 2.6 of the lease agreement with American Golf Corporation requires it observe and comply with the city's existing policies concerning use of the golf course, including green fee discounts. For many years the city had a policy that permitted Golf Commission members to receive complimentary greens fees. On June 30, 2009, you confirmed that the members of the Golf Commission were designated employees in the Long Beach Conflict of Interest Code and file Form 700s.

ANALYSIS

Gifts, Generally

Section 82028 defines gift as:

"[A]ny payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status."

The Act imposes several responsibilities on public officials based on the receipt of gifts.

- Pursuant to the Act, every public official must disclose all his or her economic interests that could foreseeably be affected by the exercise of the official's duties. (Sections 81002(c), 87200-87313.) A "public official" is defined broadly to include every natural person who is a member, officer, employee, or consultant of a state or local government agency. (Section 82048; Regulation 18700.) Sections 87207 and 87302 provide that a public official who is required to disclose sources of gifts on his or her statement of economic interests must disclose the name and address of each source of \$50 or more in value, the amount and the date on which the gift was received, and that the official must provide a general description of the business activity of the donor.

- Moreover, Section 87100 prohibits any public official at any level of state or local government from making, participating in making or in any way attempting to use his or her official position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest. (Section 87100.) An official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$420 or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made. (Section 87103(e).)
- And finally, the Act provides gift and honoraria limits with respect to local officials who are required to disclose gifts on their statements of economic interests. The current gift limit is \$420 per source per calendar year. (See Section 89503 and Regulation 18940.2.)

Gift Passes

You have asked about free admission to city-owned golf courses provided to members of the Golf Commission under Regulation 18944.1, which governs gifts of tickets or passes made by a public agency. Recently, the Commission adopted amendments to Regulation 18944.1, which requires that an agency establish, and follow, a procedure under which tickets or passes can be received and not be considered gifts to the official using the pass or ticket. Nothing in this regulation requires a state or local agency to follow its provisions. It merely provides an optional procedure for a public agency to use as a method for distributing certain types of tickets or passes to events where the tickets or passes will not be considered gifts because adequate consideration is provided. If the procedure is not followed, and the receipt of the ticket or pass is not treated as income by the official under applicable tax laws (See Regulation 18944.1(b)(1), the receipt of the ticket by a public official will be considered a gift subject to the Act's reporting and limitation provisions.

You have specifically asked about Regulation 18944.1 (b)(2)(B), which concerns tickets or passes that an agency obtains pursuant to the terms of a contract, or because it controls the events, or because it purchases the tickets at face value. Regulation 18944.1(b)(2)(B) states:

“With respect to a ticket or pass provided by the official's agency to an agency official, which ticket or pass the agency obtains (i) pursuant to the terms of a contract for use of public property, (ii) because the agency controls the event (such as a state or county fair), or (iii) that is purchased by the agency at fair market value, the distribution of the ticket or pass is made in accordance with subdivision (c) below.

“(c) Any distribution of tickets or passes under subdivision (b)(2) by an agency to, or at the behest of, its officials must be made pursuant to a written policy duly adopted by legislative or governing body of the agency

that state the public purposes to be accomplished by the agency policy. If the agency maintains a website, the written policy shall be posted on the website in a prominent fashion. The written policy shall contain, at a minimum, the following:

“(1) A provision setting forth the public purposes of the agency to be accomplished by the distribution of tickets or passes;

“(2) A provision requiring that the distribution of any ticket or pass by the agency to, or at the behest of, an official accomplish a public purpose of the agency; and

“(3) A provision prohibiting the transfer by any official of any ticket or pass, distributed to such official pursuant to the agency policy, to any other person, except to members of the official’s immediate family solely for their personal use.”

You ask specifically whether the granting of complimentary greens fees to members of the Golf Commission accomplishes a governmental or public purpose, given the Golf Commission’s duties with regard to the operation of the city’s golf courses.

Under Regulation 18944.1(e), the Commission generally defers to an agency’s determination of whether its distribution of tickets or passes to its employees serves a legitimate public purpose and thus complies with subdivision (c) of the regulation. However, subdivision (e) also limits the agency’s discretion by requiring the distribution to be “consistent with state law.” Several statutes and court rulings govern the expenditure or use of public resources by state and local agencies. (See, e.g., Sections 8314, 54964 and 85300; Penal Code Section 424; and *Stanson v. Mott* (1976) 17 Cal.3d 206.) Generally, these rules permit agencies to expend or use their resources for public purposes within the express and reasonably implied parameters of their governing statutes but specifically prohibit them from using their resources for private or campaign purposes. The Commission’s intention in adopting subdivision (e) was to essentially treat these tickets as public resources held by the agency and to not question the agency’s expressed policy basis for the distribution unless the distribution is clearly an illegal use of public resources under these authorities. As a consequence, the Commission staff will not offer specific advice to governmental agencies as to whether or not a particular stated policy underlying the agency’s distributions of tickets adequately supports a legitimate public purpose.²

² Nevertheless, the Commission reserves the right to bring an enforcement action for violations of the Act’s gift provisions by public officials who receive passes or tickets distributed by their agencies when, for example, the agency does not comply with the general provisions of Regulation 18944.1, the agency distributes the tickets in a manner inconsistent with the policy adopted pursuant to Regulation 18944.1(c), the policy cited by the agency pursuant to Regulation 18944.1(c) is so vague as to be meaningless or was merely adopted as a pretext to allow distribution of agency assets to certain individuals under the guise of law, a court or a prosecuting authority such as the District Attorney or Attorney General has determined that distribution of the tickets violates the “use of public resources” rules referenced above, or facts beyond the stated policy clearly show that the distribution of tickets does not serve or support that policy in any plausible way.

If you have any other questions regarding this matter, please contact me at
(916) 322-5660.

Sincerely,

Scott Hallabrin
General Counsel

By: John W. Wallace
Assistant General Counsel
Legal Division

JWW:jgl

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February 9, 2010

Shannon Brady
Legislative Assistant
Kaiser Permanente Governmental Relations
1215 K Street, Suite 2030
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-09-269

Dear Ms. Brady:

This letter responds to your request for advice regarding the gift reporting provisions of the Political Reform Act (the "Act").¹

QUESTIONS

1. If Kaiser provides an official a ticket to a nonprofit fundraising event, what is the value of the ticket?
2. If Kaiser provides a ticket to a nonprofit fundraiser to an official's spouse, would the spouse's ticket be a reportable gift to the official?

CONCLUSIONS

1. An official may receive one ticket per event if the ticket is provided to the official by a 501(c)(3) nonprofit *for its own fundraising* and it shall be deemed to have no value so long as the cumulative value of the nondeductible portion of the ticket does not exceed the gift limit.² This ticket is not a gift if, and only if, the nonprofit fundraising organization provides the ticket directly to the official. If, however, the ticket is for a seat at a table provided to Kaiser for a fundraising event for another organization, the value is face value of the ticket.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² The gift limit is currently set at \$420 from a single source in a calendar year.

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2. Kaiser's gift to an official's spouse of tickets to a nonprofit fundraiser would be deemed a reportable gift to the official unless there is a substantive, social or similar relationship between Kaiser and the official's spouse.

FACTS

Kaiser Permanente ("Kaiser"), a nonprofit 501(c)(3) and lobbyist employer, often sponsors nonprofit fundraisers. Kaiser will be given a table, which typically includes a dinner at a nonprofit fundraising event. For example, a typical contribution for Kaiser would be about \$10,000 to sponsor an event. Kaiser is usually given a table at the event that seats about 10 people. You would like clarification regarding how to value tickets to a fundraising event, especially in context of the "no value" rule in Regulation 18946.4. In addition, if Kaiser offers a ticket to a public official and his or her spouse, you would like to know if the ticket given to spouse is a reportable gift to the official.

ANALYSIS

Gifts – Generally:

The Act establishes a statutory and regulatory scheme to reduce influences on public officials from the receipt of gifts.

First, it prohibits certain public officials from accepting large gifts (currently the gift limit is \$420) from identified sources. (Section 89503; Regulation 18940.2.)³

Second, it requires certain public officials to disclose their receipt of gifts of \$50 or more from identified sources, so that the public is made aware of such gifts. (Sections 87207 and 87302.) Finally, it prohibits a public official from using his or her position to influence the outcome of a decision involving the donor of a gift valued at \$420 or more. (Section 87100, 87103(e), Regulation 18940.2.)

Section 82028 defines "gift" as:

"[A]ny payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status."

³ Note that Section 86203 prohibits lobbyists from making or arranging for the making of gifts of more than \$10 in a calendar month to any legislative official and to officials of state agencies the lobbyist attempts to influence.

Tickets Provided By Nonprofits for Their Fundraising Events:

Regulation 18946.4 specifically addresses valuation for tickets or passes provided by a nonprofit or political organization for *its own* fundraising events. It “applies to a *single ticket* or other admission privilege to a specific fundraising event provided to a public official by a nonprofit or political organization holding its *own* fundraiser and *used solely by the public official*.”

Regulation 18946.4 provides in pertinent part:

“(a) Nonprofit Fundraiser. Except as provided in subdivision (b), the value of a gift of a ticket, pass, or other admission privilege to a fundraising event for a nonprofit, tax-exempt organization that is not a committee covered by subdivision (c) is determined as follows:

“(1) Where the ticket clearly states that a portion of the ticket price is a donation to the organization, the value of the gift is the face value of the ticket reduced by the amount of the donation.

“(2) If there is no ticket indicating a face value or the ticket or other admission privilege has no stated price or no stated donation portion, the value of the gift is the pro rata share of the cost of any food, and beverages, plus any other specific item presented to the attendee at the event.

“(b) 501(c)(3) Organization Fundraiser. Where the event is a fundraising event for an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, the organization may provide *one ticket per event to an official* and that ticket shall be deemed to have no value so long as the cumulative value of the nondeductible portion of the ticket(s), as provided in subdivision (a), received by the official from the same organization during a calendar year, does not exceed the gift limits imposed under Section 89503 and Regulation 18940.2. [Emphasis added.]

[...]

Under this regulation, an official may receive one ticket per event provided by a 501(c)(3) nonprofit for its own fundraising during a calendar year up to a cumulative value of \$420,⁴ if, and only if, the organization provides the ticket to the official.

⁴ Regulation 18946.4(a) provides that where the ticket clearly states a portion of the ticket price is a donation to the organization, the value of the gift is the face value of the ticket minus any donation amount. Where there is no face value or the ticket has no stated price or donation portion, the value of the gift is the pro rata share of the cost of any food and beverages, any items provided to the attendee at the event.

Therefore, if Kaiser holds its own charitable fundraiser and provides a ticket directly to an official, the "no value" exception in Regulation 18946.4(a) may apply to the single ticket for the official's own use.

If Kaiser purchases a table for another organization's fundraising event and provides it to an official, then the full face value of the ticket or admission privilege is a reportable gift subject to the official subject to the \$420 gift limit.

Gifts to Official's Family Members

If the official receives two tickets to the fundraising event (one for the official and another for the official's spouse), the value of the second ticket may be attributed to the official under certain circumstances specified under Regulation 18944, which governs gifts to an official's family members. Note the following is based on amendments to Regulation 18944, which were adopted by the Commission in December 2009, and which take effect on February 10, 2010.

Regulation 18944, in pertinent part, provides:

"(c) A single gift given to both an official and one or more members of the official's family is a gift to the official for the full value of the gift.

(d) The following applies to a gift given solely to a member of an official's family:

(1) A gift given solely to a member of an official's family is a gift to the official when the gift confers a clear personal benefit on the official. A gift to an official's family member confers a clear personal benefit on the official in any of the following circumstances:

(A) It is reasonably foreseeable at the time the gift is made that the official will enjoy a financial benefit from the gift. A "financial benefit" from a gift includes, but is not limited to, a payment, other than occasional meals, lodging, or transportation, to fulfill a commitment, obligation, or expense of the type normally paid by a family for the ordinary care and support of one of its members.

(B) It is reasonably foreseeable at the time the gift is made that the official will use the gift, except for a minimal use.

(C) The official exercises discretion and control over who will use or dispose of the gift. Exercising "discretion and control" includes, but is not limited to, when an official, or his or her agent, requests a gift for, or to be used by, the official's family member.

(2) A gift given to a member of an official's family is a gift to the official if the gift confers a presumed personal benefit on the official. A gift to an official's family

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member confers a presumed personal benefit on the official in any of the following circumstances:

(A) The gift is made to a family member of a state agency official who is subject to Section 87200 by a donor who is a lobbyist, lobbying firm, lobbyist employer, or other person 18 required to file reports under Chapter 6 (commencing with Section 86100) of the Act.

(B) The gift is made to a family member of a local government agency official who is 20 subject to Section 87200 by a donor who is or has been directly involved in a governmental 21 decision, as defined in Regulation 18704.1(a), in which the official will foreseeably participate or has participated in the prior 12-month period."

Therefore, if Kaiser provides the two tickets to the official and does not designate one for the official's spouse (or the official provides the second ticket to someone other than his or her spouse) then both tickets are gifts to the official for the full value even if one of the tickets is used by the official's spouse.

If Kaiser provides a ticket solely for the official's spouse and the spouse uses the ticket, the gift must be analyzed in the context of Regulation 18944(d)(1) and (d)(2).

Regulation 18944(d)(1) does not apply in this situation because Kaiser's providing the official's spouse a ticket to a nonprofit fundraising event would *not* confer a "clear personal benefit" on the official. The ticket to a nonprofit fundraiser would not be considered a "financial benefit" to the official because it is not a payment "to fulfill a commitment, obligation or expense of the type normally paid by a family for the ordinary care and support of its members." (Regulation 18944(d)(1)(A).) The ticket, if provided for the spouse, is not a gift that the official will use. (Regulation 18944(d)(1)(B).) Lastly, a ticket provided directly to the spouse would not qualify as a gift to an official unless the official "exercises discretion and control over who will use or dispose of the gift." (Regulation 18944(d)(1)(C).)

However, under Regulation 18944(d)(2), a gift provided to an official's family member is *presumed* to confer a personal "benefit on the official" if: (1) the gift is made to the family member of an official who is subject to Section 87200⁵ and is made by a lobbyist, lobbying firm, lobbyist employer, or (2) the gift is made to the family member of a local government agency official who is subject to Section 87200 by a donor who is directly involved in a governmental decision in which the official will participate or has participated in a 12-month period.

⁵ Positions enumerated in Section 87200 include elected state officers, judges and commissioners of courts of the judicial branch of government, members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, members of the Fair Political Practices Commission, members of the California Coastal Commission, members of planning commissions, members of the board of supervisors, district attorneys, county counsels, county treasurers, and chief administrative officers of counties, mayors, city managers, city attorneys, city treasurers, chief administrative officers and members of city councils of cities, and other public officials who manage public investments, and candidates for any of these offices at any election.

Because Kaiser is a lobbyist employer, the presumption under Regulation 18944(d)(2) applies if the official is subject to Section 87200, or the official is a local government agency official (subject to Section 87200) and Kaiser is directly involved in a governmental decision that the official will participate in, or has participated in, during a 12-month period.

Rebutting the Presumption:

There is no gift to an official under Regulation 18944(d)(2) if the official can show there is an established working, social, or similar relationship between the donor and the official's family member and the donor had no intent to confer a personal benefit directly on the official. (Regulation 18944(d)(3)(B).)

Therefore, under the facts presented, Kaiser's gift to an official's spouse of tickets to a nonprofit fundraiser would be deemed a reportable gift to the official unless there is an established working, social or similar relationship between Kaiser and the official's spouse.

For more information, enclosed please find a fact sheet regarding "Tickets to Nonprofit and Political Fundraisers: FPPC Regulation 18946.4 as Amended," which provides a more detailed explanation.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Scott Hallabrin
General Counsel

By: Emelyn Rodriguez
Counsel, Legal Division

ER:jgl

Enclosure

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March 8, 2010

Pamela J. Walls
Office of County Counsel
County of Riverside
3960 Orange Street, Fifth Floor
Riverside, California 92501-3674

**RE: Your Request for Informal Assistance
Our File No. I-10-011**

Dear Ms. Walls:

This letter responds to your request for advice on behalf of the County of Riverside (the "County") regarding the gift provisions of the Political Reform Act (the "Act").¹ This letter is based on the facts presented; the Fair Political Practices Commission (the "Commission") does not act as a finder of fact when it renders assistance. (*In re Oglesby* (1975) 1 FPPC Ops. 71.) Because you seek general information, we are treating this request as one for informal assistance.²

QUESTION

Are tickets distributed under the county ticket distribution policy developed pursuant to Regulation 18944.1 considered to be distributed at the behest of the employee(s) delegated responsibility under the plan for the distribution of those tickets?

CONCLUSION

No.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; regulation 18329(c)(3), copy enclosed).

FACTS

Complimentary tickets or passes that the County receives or has for a County event or property are distributed through its Economic Development Agency. The County policy delegates responsibility for distribution to the Economic Development Director or his designee. There are two agency employees that have been designated to administer and distribute the complimentary tickets and passes.

You seek clarification on whether the two employees who have been designated to administer the policy and distribute any complimentary tickets or passes on behalf of the Economic Development Agency must complete and post the Form 802 on the agency website in accordance with the policy for all complimentary tickets and passes distributed, where such tickets or passes are not being distributed at the behest of a public official.

ANALYSIS

Regulation 18944.1 sets up a procedure for agencies that provide tickets to their officials that, if utilized, will establish for gift purposes that the official receiving the ticket has met the burden under Section 82028 that equal or greater value has been provided in exchange therefor. Accordingly, under this procedure, no gift will have been received by the official.³ An agency is free to make its own choice whether or not to adopt a policy conforming to the regulation or to treat the tickets as income or gifts to the official and not apply the regulation. (*Givner Advice Letter*, No. I-09-223.)

Tickets distributed under the policy, including tickets distributed at the behest of a public official, must be identified on a Form 802 and posted on the agency's website to meet the terms of the regulation. Tickets distributed by the individual assigned to make the distribution under the agency ticket distribution policy are not distributed at the behest of that individual so long as the individual is following the agency distribution policy and not distributing tickets according to his or her own choosing. Accordingly, that individual need not be identified on the Form 802 for every ticket he or she distributes.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Scott Hallabrin
General Counsel

By: William J. Lenkeit
Senior Counsel, Legal Division

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March 30, 2010

Senator Dennis Hollingsworth
State Capitol, Room 305
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. I-10-024

Dear Senator Hollingsworth:

This letter responds to your request for advice regarding gift reporting provisions of the Political Reform Act (the "Act").¹ Because your letter seeks general information, we are treating your request as one for informal assistance.²

QUESTIONS:

1. Do the amendments made to Regulation 18944 pertaining to gifts made to the spouses and dependent children of public officials and candidates apply to gifts received during the 2009 reporting period?
2. If amendments to Regulation 18944 do not apply to gifts to spouses and dependent children of public officials and candidates, what is the reporting requirement for such gifts?

CONCLUSION

1. No. The most recent amendments to Regulation 18944 became effective February 10, 2010. Therefore, the new rules would apply only to gifts received after the effective date, and

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; regulation 18329(c)(3), copy enclosed).

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any reportable gifts would be reflected on Form 700 required to be filed for periods after that date.

2. For gifts received before February 10, 2010, the rules provided in Regulation 18944 prior to the amendment would be in effect. See discussion below.

FACTS

You seek advice on behalf of the Senate Republican Caucus regarding the implementation of newly amended Regulation 18944, which the Commission approved during its December 2009 hearing. Specifically, you wish to know whether amendments to the regulation apply to gifts received during the 2009 annual reporting period. If the new rules do not apply to gifts received during that period, you wish to know what reporting requirements apply to gifts to spouses and dependent children of public officials and candidates during that period.

ANALYSIS

Gifts

The Act requires specific public officials to disclose on a Statement of Economic Interests ("Form 700") the receipt of any gifts, from certain sources, with an aggregate value of \$50 or more received during the applicable reporting period. (Sections 87207(a)(1) and 87302(b).) Legislators are Section 87200 filers³ and as such are required to disclose reportable gifts from all sources. (Sections 87200 and 87207(a)(1).) Designated employees are required to report gifts from sources identified in their agency's conflict of interest code. (Section 87302(b).)

Section 82028 generally defines a gift as "any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received."

Regulation 18944 states the rules for determining when a gift to an official's family is a gift to the official. The Commission, during its November 24, 2009 meeting, revised its rules for when a gift to a family member of an official constitutes a gift to the official. The revised regulation, which became effective February 10, 2010, did three primary things: (1) expanded the regulation to cover gifts to college-aged children who meet certain criteria; (2) more specifically defined when a gift to a family member confers a "personal benefit," and therefore a gift, on the official; and (3) created a presumption that gifts to family members from certain persons who appear before officials who are Section 87200 filers confer a "personal benefit" on the official.

The prior Regulation 18944, which was in effect for the 2009 annual reporting period, provided that generally a gift given to *both* an official and his or her family is a gift to the official

³ These are public officials specified under Section 87200, which includes elected officials such as state legislators.

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for the full value.⁴ Additionally, a gift given to a member of an official's "immediate family" is considered to be to the official if the official uses the gift, enjoys a direct benefit from it (unless the benefit is nominal), or exercises direction and control over the gift.⁵ (Regulation 18944(b).)

The previous rule provided in pertinent part:

"(b) A gift given to a member or members of an official's immediate family is not a gift to the official unless it confers a personal benefit on the official. A gift given to a member or members of an official's immediate family confers a 'personal benefit' on the official for purposes of this regulation, when any of the following factors apply:

"(1) Benefit: The official enjoys direct benefit from the gift, except for a benefit of nominal value;

"(2) Use: The official uses the gift, and the official's use is not nominal or incidental to the use by the member or members of the official's immediate family;

"(3) Discretion and Control: The official exercises discretion and control over who will use the gift or dispose of the gift."

Under the prior version of Regulation 18944, gifts provided directly to an official's spouse that the official did not use, enjoy benefit from, or exercise direction and control over, would be gifts to the spouse only, and not gifts to the official subject to reporting and gift limitations (so long the official did not solicit the donations expressly for his or her spouse's use). For example, under the prior version, a ticket clearly offered to, or for the use of, a *specified family member* of an official, was not considered a gift to the official, regardless of the source. The same interpretation applied to items such as meals or travel offered to *specified members* of the official's family. Furthermore, under the prior version, a gift not involving an invitation, given directly to the family member, was generally not considered a gift to the official unless there was a clear direct benefit to the official (e.g. golf clubs or skis given to the spouse may not have been considered to gift to the official unless the official actually used the items).⁶

⁴ This rule has not changed. However, please note there are special rules with regard to tickets or passes. A pass or ticket has no value unless it is ultimately used or transferred to another person. (Regulation 18946.1.)

⁵ This rule has changed due to recent amendments to Regulation 18944.

⁶ Amendments to Regulation 18944 would change this analysis in significant ways, particularly for those officials whose positions are specified under Section 87200 (including state and local elected officials). The primary change is that the revised regulation created a presumption that gifts to family members from certain persons who appear before an official confer a "personal benefit" on the official, unless "the official can show there is a substantive working, social, or similar relationship between the donor and the official's family member independent of the relationship between the donor and the official." (Regulation 18944(d)(3)(B).) If you have a specific question about the revised regulation, you may wish to contact us for further advice.

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We, of course, cannot cover every possible application of the prior version of Regulation 18944 in this letter, but hope that these examples are helpful.

If you have other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Scott Hallabrin
General Counsel

By: Emelyn Rodriguez
Counsel, Legal Division

ER:jgl

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October 27, 2010

William D. McMinn
Deputy Port Attorney
San Diego Unified Port District
3165 Pacific Avenue
P.O. Box 120488
San Diego, California 92112-0488

**Re: Your Request for Advice
Our File No. A-10-151**

Dear Mr. McMinn:

This letter responds to your request for advice on behalf of the district clerk for the San Diego Port District (the "District") and its commissioner regarding the gift reporting provisions of the Political Reform Act (the "Act").¹ Our advice is based on the facts presented; the Fair Political Practices Commission (the "Commission") does not act as a finder of fact when it renders advice. (*In re Oglesby* (1975) 1 FPPC Ops. 71.) Nothing in this letter should be construed to evaluate any conduct that has already taken place. Finally, our advice is limited to the provisions of the Act.

QUESTION

1. Are tickets that are provided to employees of the District for attendance at the events described below required to be disclosed on the Commission's Form 802?

CONCLUSION

1. No. For the reasons provided herein, the described events are either not subject to the provisions of Regulation 18944.1 or the tickets provided to the event that are subject to the regulation's provisions are not gifts under the Act.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

FACTS

The District is a public agency governed by a Board of Port Commissioners (the "Board") having jurisdiction over the tidelands surrounding San Diego Bay (the "Bay"), submerged lands in the Bay, and other lands acquired by the District. You seek advice as to whether tickets provided to District employees to the following described events are subject to the reporting provisions of Regulation 18944.1.² We assume that the District is using its own assets to pay for each of the first three events.³

1. Annual Swearing-In-Luncheon honoring the incoming officers and the outgoing Chairman of the Board of Port Commissioners (the "Chairman"). This is a luncheon, followed by an informal program with a tribute to the outgoing Chairman, a staff award presented by the outgoing Chairman, swearing in of officers, and a speech by the incoming Chairman. Invitees are determined by the outgoing Chairman, the incoming Chairman, and executive staff.

2. Holiday Dinner. Each year the District hosts a holiday party for the commissioners and the executive staff. The purpose is to recognize departing commissioners and to allow the commissioners and staff the get to know each other in a less formal setting. This is purely a social dinner. Those attending are invited guests.

3. Reception hosted by the Port at a conference put on by another entity. As an example, the Maritime Administration, an agency of the Department of Transportation, put on a conference at a hotel in San Diego. The District hosts a business reception during the conference, which is open to all registrants of the conference. The guest list is controlled by the Maritime Administration. The District sends staff to represent the District at the reception. District staff attendees are determined by the executive staff.

4. Harbor Police Guard performance at Padres⁴ Games. Harbor Police Officers attend Padres baseball games on behalf of the District as part of the District's Honor Guard. The Honor Guard performs at the game. Each officer who participates as part of the Honor Guard receives a ticket for attendance to the game.

ANALYSIS

Regulation 18944.1 provides a procedure by which tickets given to public officials for their attendance at certain events will not be treated as gifts under the Act if the attendance at the event by the official serves a specified public purpose under a policy adopted by the agency.

² You have not asked about reporting on the Statement of Economic Interest (Form 700) so we do not address that issue.

³ If an entity or individual other than the District is paying for the event, our analysis may be different, and these payments may be gifts to the attending District officials.

⁴ The San Diego Padres is a Major League Baseball® baseball team and a member of the National League, which they joined in 1969 in the league's second expansion. They play in the league's Western Division.

For purposes of Regulation 18944.1, a "ticket or pass" means admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose." Regulation 18946 defines a ticket as anything that provides admission to an event and for which similar tickets are sold to the public.

Under the facts provided, admission to the luncheon, dinner, and reception is not provided by a ticket, but by invitation. Regulation 18944.1 only applies to ticketed events. Furthermore, the luncheon, dinner, and reception as described herein are not events that provide an "entertainment, amusement, recreational, or similar purpose."

Accordingly, the first three events you have described do not meet the provisions of Regulation 18944.1 and would not be appropriate for Form 802 reporting. Furthermore, assuming the District is paying for the cost of these events from its own assets, there is no gift from the District to its officials if their attendance is part of their official duties. (See Regulation 18943.3.)

With respect to the Padres games attendance by the Harbor Police Honor Guard, the officers are performing a "ceremonial role" under Regulation 18942 (a)(13). Therefore, the tickets provided for this purpose are not gifts under the Act.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Scott Hallabrin
General Counsel

By: William J. Lenkeit
Senior Counsel, Legal Division

WJL:jgl

December 13, 2010

Christine Lally
Deputy Director of Development
The California Museum
1020 O Street
Sacramento, California 95814

**Re: Your Request for Informal Assistance
Our File No. I-10-201**

Dear Ms. Lally:

This letter responds to your request for advice regarding the gift provisions of the Political Reform Act (the "Act").¹ Our advice is based on the facts presented; the Fair Political Practices Commission (the "Commission") does not act as a finder of fact when it renders advice. (*In re Oglesby* (1975) 1 FPPC Ops. 71.) Nothing in this letter should be construed to evaluate any conduct that has already taken place.

Additionally, our advice is limited to obligations arising under the Act. Because you have requested general information, we are treating your request as one for informal assistance.²

QUESTION

Is the value of the benefits received by elected officials and their spouses who attend the California Museum's "2010 California Hall of Fame Gala" reportable by the officials as gifts under the Act?

CONCLUSION

Assuming the value of the ticket used by an elected official for his or her individual attendance at the event is \$420 or less, there is no gift to the official for that ticket under

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; regulation 18329(c)(3), copy enclosed).

ax

Regulation 18946.2. That regulation provides that one admission, valued within the Act's gift limit, provided to an official by a 501(c)(3) organization for attendance at its fundraising event shall be deemed to have no value. In addition, the tickets provided for and used by the officials' spouses are not gifts to the officials because they were offered for the spouses and not for the discretionary use of the officials.

FACTS

In 2006, First Lady Maria Shriver launched the *California Hall of Fame* to recognize individuals and families who embody California's innovative spirit. Inductees come from all walks of life and are people who have made remarkable achievements across many fields. This is a prestigious annual award bestowed in an intimate ceremony held at the California Museum.

The California Museum is a 501(c)(3) organization. The Governor and First Lady serve as co-chairs of the California Museum. Inductees to the Hall of Fame receive this award from the Governor. Elected officials are invited to the induction ceremony in their capacities as statewide representatives, to help the Governor honor the inductees. Sponsors of the Hall of Fame event and exhibit receive admission to the induction ceremony as one of the benefits of their sponsorship of the fundraising event. All other guests — elected officials and their spouses, friends of the museum, etc. — are by invitation only. No individual tickets are sold before the event or on the night of the ceremony.

Hors d'oeuvres, beverages, and service labor at the Hall of Fame event reception are donated. The event is to be held on December 14, 2010.

ANALYSIS

Public officials are required to perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interest of others. Toward that end, the Act establishes certain reporting obligations for public officials who are engaged in decision making.

Public officials who are required to file statements of economic interests are either identified in Section 87200 (statutory filers) or designated in an agency's conflict-of-interest code (designated employees or code filers). (See §§ 87300 and 87302.) Elected state officials are statutory filers under Section 87200 and are required to file Statements of Economic Interest pursuant to that section. Section 87203 requires every person who holds an office specified in 87200 to file an annual statement of economic interest "disclosing his [or her] investments, his [or her] interest in real property and his [or her] income . . ."

Section 87207 sets forth the requirement for disclosure of income including gifts:

"(a) When income is required to be reported under this article, the statement shall contain, except as provided in subdivision (b):

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"(1) The name and address of each source of income aggregating five hundred dollars (\$500) or more in value, *or fifty dollars (\$50) or more in value if the income was a gift*, and a general description of the business activity, if any, of each source.

"(2) A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was at least five hundred dollars (\$500) but did not exceed one thousand dollars (\$1,000), whether it was in excess of one thousand dollars (\$1,000) but was not greater than ten thousand dollars (\$10,000), whether it was greater than ten thousand dollars (\$10,000) but not greater than one hundred thousand dollars (\$100,000), or whether it was greater than one hundred thousand dollars (\$100,000).

"(3) A description of the consideration, if any, for which the income was received.

"(4) *In the case of a gift*, the amount and the date on which the gift was received.

{...}" (Emphasis added.)

Also, under Section 89503 and Regulation 18940.2, unless an exception applies, state elected officials cannot currently receive gifts from any source cumulating to more than \$420 in a calendar year.

Section 82028 defines "Gift" as:

"any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status . . ."

Regulation 18946.2(a), provides a special valuation rule for events that are fundraisers for nonprofit organizations. Under that rule, an official attending a fundraising event for a 501(c)(3) organization may receive one admission provided directly from the organization "and that ticket shall be deemed to have no value so long as the cumulative value of the nondeductible portion of the ticket(s); as provided in subdivision (a), received by the official from the same organization during a calendar year, does not exceed the gift limits."³ Accordingly, a ticket offered and used by an official for attending the event is not a gift to the official, assuming the value of the ticket did not exceed the current gift limit of \$420.

³ In this case, the nondeductible portion would be equal to the pro rata share of the cost of the event.

In addition, Regulation 18944 sets forth criteria to determine when gifts made to members of an official's family are deemed gifts to the official. Under that regulation, a gift offered to the spouse of a public official is not a gift to the official when the gift does not confer a clear personal benefit on the official and, for state officials, the gift is not made by a lobbyist, lobbying firm, lobbyist employer or other person regulated under the Act's lobbying provisions. (See Regulation 18944(d).) Here, we presume that the California Museum is not a lobbying entity regulated under the Act. Furthermore, since the tickets provided to the officials' spouses were offered for their use and not for the officials' discretionary use, there is no "clear personal benefit" to the official under Regulation 18944(d)(1). Accordingly the tickets offered for and used by the officials' spouses are also not gifts to the officials.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Scott Hallabrin
General Counsel

By: William J. Lenkeit
Senior Counsel, Legal Division

WJL:jgl

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22nd District Agricultural Association Policies

Policy ~~[Policy Number.Subset]~~6.01: Event Ticket Policy

Date Adopted/Last Revised: June 6, 2009

Note: Capitalized terms not otherwise defined in this Policy have the meanings set forth in the Definitions section of Policy 1.01. Should any provision in this Policy contradict any provision of California law, California law shall control.

Purpose

1.0 Application of Policy

- 1.1 This Policy applies to Tickets which provide admission to a facility or event for an entertainment, amusement, recreational or similar purpose, and are:
 - a) Gratuitously provided to the 22nd District Agricultural Association ("District") by an outside source;
 - b) Acquired by the District by purchase;
 - c) Acquired by the District as consideration pursuant to the terms of a contract for the use of a District Venue;
 - d) Produced or sponsored by the District; or
 - e) Acquired and/or distributed by the District in any other manner.
- 1.2 This Policy does not apply to any other item of value provided to the District or any District Official, regardless of whether received gratuitously or for which consideration is provided.
- 1.3 This Policy, together with the Ticket procedures established pursuant to Section 4.2 below, shall supersede and replace any earlier District policies relating to the distribution to District Officials of Tickets for admission to any facilities or events for an entertainment, amusement, recreational, or similar purpose.

- 1.4 This Policy shall be posted in a prominent place on the District's website: www.delmarfairgrounds.com, www.sdfair.com.

Definitions

- 2.0 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 Fair Political Practices Commission ("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).
- 2.1 "District" shall mean and refer to the 22nd District Agricultural Association.
- 2.2 "District Official" means every Director, officer, employee, or consultant of the District, as defined in Government Code Section 82048 ~~and California Code of Regulations, title 2, section 18701~~. "District Official" shall include, without limitation, any member of the District's Board of Directors or any other appointed District official or District employee required to file an annual Statement of Economic Interests (FPPC Form 700).
- 2.3 "District Venue" means and includes any facility owned, controlled or operated by the District.
- 2.4 "FPPC" means the California Fair Political Practices Commission.
- 2.5 "Immediate Family" means the spouse or registered domestic partner and dependent children, as set forth in Government Code section 82029 and Family Code section 297.5.
- 2.6 "Policy" means this 22nd District Agricultural Association Ticket Policy.
- 2.7 "Ticket" means and includes any form of admission privilege to a facility, event, show, concert, or performance.

Policy

- 3.0 General Provisions

- 3.1 No Right to Tickets: The use of complimentary Tickets is a privilege extended by the District and not the right of any person to which the privilege may from time to time be extended.
- 3.2 Limitation on Transfer of Tickets: Tickets distributed to a District Official pursuant to this Policy shall not be transferred to any other person, except to members of such District Official's Immediate Family, or, if the District Official has no Immediate Family, to no more than one guest, solely for their personal use.
- 3.3 Prohibition Against Sale of or Receipt of Reimbursement for Tickets: No person who receives a Ticket pursuant to this Policy shall sell or receive reimbursement for the value of such Ticket.
- 3.4 No Earmarking of Tickets to District: No Ticket gratuitously provided to the District by an outside source and distributed to, or at the behest of a District Official pursuant to this Policy, shall be earmarked by the original source for distribution to a particular District Official.

4.0 Agency Head

- 4.1 The District Secretary-~~Manager~~ / ~~General Manager~~Chief Executive Officer shall be the Agency Head for purposes of implementing the provisions of this Policy. In the absence of the District Secretary-~~Manager~~ / ~~General Manager~~Chief Executive Officer, the District ~~Deputy General Manager~~Career Executive Assignment (C.E.A.) / Chief Administrative Officer~~or the Chief Financial Officer~~ shall be the Agency Head for purposes of implementing the provisions of this Policy.
- 4.2 The Agency Head shall have the authority, in ~~his or her~~their sole discretion, to establish procedures for the distribution of Tickets in accordance with this Policy. All requests for Tickets which fall within the scope of this Policy shall be made in accordance with the procedures established by the Agency Head.
- 4.3 The Agency Head shall determine the face value of Tickets distributed by the District for purposes of Sections 5.1, 5.2 and 7.1, subparagraph (d), of this Policy.
- 4.4 The Agency Head, in ~~his or her~~their sole discretion, may revoke or suspend the Ticket privileges of any person who violates any provision of this Policy or the procedures established by the Agency Head for the distribution of Tickets in accordance with this Policy.

4.5 The disclosure forms required by Section 7.0 of this Policy shall be prepared and posted by the Agency Head, or by an individual acting under the Agency Head's authority, supervision, and control.

5.0 Conditions Under Which Tickets May Be Distributed: Subject to the provisions of this Policy, the District may distribute complimentary Tickets ~~may be distributed~~ to District Officials under any of the following conditions:

5.1 The District Official Reimburses the District for the face value of the Ticket(s).

- a) Reimbursement shall be made at the time the Ticket(s) is/are distributed to the District Official.
- b) The Agency Head shall, in ~~his or her~~their sole discretion, determine which event Tickets, if any, shall be available under this section.

5.2 The District Official treats the Ticket(s) as income consistent with applicable federal and state income tax laws.

5.3 The District Official and (a) the District Official's Immediate Family, or (b) if the District Official has no Immediate Family, no more than one guest, uses the Ticket(s) for their own personal use.

5.43 The District Official ~~uses, or~~ behests, such Ticket(s) for one or more in accordance with Section 6 below. ~~of the following governmental and/or public purposes:~~

~~Performance of a ceremonial role or function representing the District at the event, for which the District Official may receive enough Tickets for the District Official and each member of his or her Immediate Family.~~

~~The official and/or job duties of the District Official require his or her attendance at the event, for which the District Official may receive enough Tickets for the District Official and each member of his or her Immediate Family.~~

~~Economic or business development purposes on behalf of the District, including, but not necessarily limited to: promotion and marketing of the District's resources and facilities available for commercial and other uses; increase of ancillary revenue for food, beverage, parking and related items at interim and District promoted events; promotion and marketing of District initiated, supported, controlled, or sponsored programs or events, including but not limited to the annual Fair and Grandstand concert series, Scream Zone, Holiday of Lights, Professional Bull Riders, annual Del Mar race track meet, and the Del Mar National Horse Show; promotion and marketing of interim and year-round events; marketing of sponsorship programs; and, promotion of District~~

~~recognition, visibility, and/or profile on a local, state, national, or international scale.~~

~~Intergovernmental relations purposes, 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.~~

~~Community relations.~~

~~Attracting or rewarding volunteer public service.~~

~~Supporting and/or showing appreciation for programs or services rendered by non-profit organizations benefiting San Diego County residents.~~

~~Encouraging or rewarding significant academic, athletic, or public service achievements by San Diego County students, residents or businesses.~~

~~Attracting and retaining highly qualified employees in District service, for which such employee may receive no more than four (4) Tickets per event.~~

~~As special recognition or reward for meritorious service by a District employee, for which such employee may receive no more than four (4) Tickets per event.~~

~~For use in connection with a District employee competition or drawing, for which there shall be made available no more than (4) Tickets per event.~~

~~Recognition of contributions made to the District by former members of the Board of Directors, for which such former Director may receive no more than (4) Tickets per event.~~

6.0 Tickets Distributed at the Behest of a District Official

6.1 Only the following District Officials shall have authority to behest Tickets: members of the Board of Directors, the Secretary-~~Manager~~ / ~~General Manager~~Chief Executive Officer, and the ~~Deputy General Manager~~Career Executive Appointment (C.E.A.) / Chief Administrative Officer.

6.2 Tickets shall be distributed by the District at the behest of a District Official, only for one or more of the following governmental and/or public purposes:

a) Performance of a ceremonial role or function representing the District at the event, for which the District Official may receive enough Tickets for the District Official and each member of his or her~~their~~ Immediate Family.

- b) The official and/or job duties of the District Official require his or her [their](#) attendance at the event, for which the District Official may receive enough Tickets for the District Official and each member of his or her [their](#) Immediate Family.
 - c) Economic or business development purposes on behalf of the District, including, but not necessarily limited to: promotion and marketing of the District's resources and facilities available for commercial and other uses; increase of ancillary revenue for food, beverage, parking and related items at interim and District-promoted events; promotion and marketing of District initiated, supported, controlled, or sponsored programs or events, including but not limited to the annual Fair and Grandstand concert series, [Scream Zone](#), [Holiday of Lights](#), [Professional Bull Riders](#), [The Sound](#), annual Del Mar race track meets, [Breeders' Cup](#), and the Del Mar National Horse Show; promotion and marketing of interim and year-round events; marketing of sponsorship programs; and, promotion of District recognition, visibility, and/or profile on a local, state, national, or international scale.
 - d) Intergovernmental relations purposes, 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.
 - e) Community relations.
 - f) Attracting or rewarding volunteer public service.
 - g) Supporting and/or showing appreciation for programs or services rendered by non-profit organizations benefiting San Diego County residents.
 - h) Encouraging or rewarding significant academic, athletic, or public service achievements by San Diego County students, residents or businesses.
 - i) Attracting and retaining highly qualified employees in District service, for which such employee may receive no more than four (4) Tickets per event.
 - j) As special recognition or reward for meritorious service by a District employee, for which such employee may receive no more than four (4) Tickets per event.
 - k) For use in connection with a District employee competition or drawing, for which there shall be made available no more than (4) Tickets per event.
 - l) Recognition of contributions made to the District by former members of the Board of Directors, for which such former Director may receive no more than (4) Tickets per event.
- [public purposes set forth in Section 5.3 above.](#)

6.3 If Tickets are distributed by the District at the behest of a District Official, such District Official shall not (a) use one of the Tickets so distributed to attend the event, or (b) use any of the Ticket(s) so distributed for the District Official's Immediate Family, or, if the District Official has no Immediate Family, for no more than one guest of that District Official, to attend the event.

7.0 Disclosure Requirements

7.1 Tickets distributed by the District to or at the behest of any District Official (i) which the District Official treats as income pursuant to Section 5.2 above, or (ii) for one or more public purposes described in Section ~~5-36.2~~ above, shall be posted on FPPC Form 802 by the District, or any successor form provided by the FPPC, in a prominent fashion on the District's website within thirty (30) days after distribution. Such posting shall include the following information:

- a) The name of the recipient, except that if the recipient is an organization, the District may post the name, address, description of the organization and number of Tickets provided to the organization in lieu of posting names of each recipient;
- b) a description of the event;
- c) the date of the event;
- d) the face value of the Ticket;
- e) the number of Tickets provided to each person;
- f) if the Ticket was distributed at the behest of a District Official, the name of the District Official who made such behest; and
- g) a description of the public purpose(s) under which the distribution was made, or, alternatively, that District Official is treating the Ticket as income.

7.2 Tickets distributed by the District for which the District receives reimbursement from the District Official as provided under Section 5.1 above shall not be subject to the disclosure provisions of Section 7.1.

**22ND DISTRICT AGRICULTURAL ASSOCIATION
DEL MAR FAIRGROUNDS
BOARD OF DIRECTORS MEETING
JUNE 9, 2009
1:30 P.M.
AGENDA**

Those persons wishing to attend the meeting and who may require special accommodations pursuant to the provisions of the Americans with Disabilities Act are requested to contact the office of the General Manager, (858) 755-1161, at least five working days prior to the meeting to insure the proper arrangements can be made.

This Agenda, and all notices required by the California Bagley-Keene Open Meeting Act, are available on the Internet at: www.sdfair.com

I. CALL TO ORDER – PRESIDENT BURT

- II. PUBLIC COMMENT** - Speakers are requested to sign in prior to the start of the meeting and are limited to **three minutes**. Public comment is allowed on issues **NOT** on the current Agenda. However, no debate by the Board shall be permitted on such public comments and no action will be taken on such public comment items at this time, as law requires formal public notice prior to any action on a docket item. Comments will be accepted on Agenda items during the meeting. Speakers wishing to address the Board on items on the agenda are requested to sign in prior to the start of the meeting and identify the agenda item(s) on which you desire to address the Board.

III. CONSENT CALENDAR

The items on the Consent Calendar will be enacted in accordance with recommended action under one motion unless trailed from the Consent Calendar by the Board. Any member wishing to trail an item from the Consent Calendar should notify the General Manager prior to the meeting. Trailed items will be considered after the motion to approve the Consent Calendar.

| | <u>Page:</u> |
|---|--------------|
| A. Minutes, Regular Meeting, May 12, 2009 | 1 |
| B. Out of State Travel | 4 |
| C. 2009 San Diego County Fair Exhibits Judges Agreements | 5 |
| D. 2009 San Diego County Fair – San Diego Pavilion Agreements | 6 |
| E. 2009 San Diego County Fair Sponsorship Agreements | 7 |
| F. Insurance Renewals | 8 |
| G. Contract Approvals | 10 |

IV. MANAGER'S REPORT

The Board may take approval action on the Manager's Report:

| | |
|---|----|
| A. Events Report (Informational) | 11 |
| B. Don Diego Fund Update (Informational) | 11 |
| C. Notice of Next Board Meeting – August 11, 2009 (Informational) | 11 |
| D. Other (Informational/Action Item) | 11 |

V. COMMITTEE REPORTS

The Board may take approval action on Committee Reports:

- A. Master Plan Committee – Barry Nussbaum, Chair
 - 1. Committee Report (Informational) 17
- B. Fair Operations Committee – Barry Nussbaum, Chair 17
 - 1. 2009 San Diego County Fair “Music Mania” Update (Informational) 18
 - 2. 2009 San Diego County Fair Theme Exhibit Overview (Informational) 17
 - 3. 2009 San Diego County Fair Merchandise (Informational) 17
 - 4. 2009 Grounds Entertainment Contracts (Action Item) 20
 - 5. Approval of 22nd DAA Ticket Policy (Action Item) 21
- C. DMTC Liaison/Surfside Race Place Committee – Michael Alpert, Chair 17
 - 1. Satellite Wagering/Horse Racing Report (Informational) 26
- D. Community Relations Committee – Ann Davies, Chair
 - 1. Meeting with Representatives from Del Mar & Solana Beach (Informational) 17
- E. Contracts/Food & Beverage Committee – Michael Alpert/Vivian Hardage, Chair
 - 1. Committee Report (Informational) 29
 - 2. Premier P & L Statement – April 2009 (Informational) 30
- F. Horse Show/Horsepark Committee – Russ Penniman, Chair 29
 - 1. Professional Bull Riding Event (Informational) 31

VI. EXECUTIVE SESSION

- A. Pursuant to the authority of Government Code section 11126(a) and (b), the Board of Directors will meet in closed executive session. The purpose of this executive session is to consider staff performance, employment, and appointment.

VII. FOR YOUR INFORMATION

- A. 22nd DAA Financial Statements 32
- B. Satellite Wagering Operating Statement 34
- C. RTA & RTLK Financial Reports 35

VIII. ADJOURNMENT

MASTER PLAN/REAL ESTATE COMMITTEE

Director Barry Nussbaum, Chair will review the following:

1. Committee Report

Informational: Staff will provide a verbal update.

FAIR OPERATIONS COMMITTEE

Director Barry Nussbaum, Chair will review the following:

1. 2009 San Diego County Fair "Music Mania" Update

Informational: Staff will provide a power point presentation (see attached information, pages 18 - 19).

2. 2009 San Diego County Fair Theme Exhibit Overview

Informational: Staff will provide a power point presentation.

3. 2009 San Diego County Fair Merchandise

Informational: Staff will display Fair merchandise that will be on sale at gift shops during the Fair.

4. 2009 Grounds Entertainment Contracts

Action: Attached (page 20) is a list of 2009 San Diego County Fair - grounds entertainment contracts for board review/approval.

5. Approval of 22nd DAA Ticket Policy

Action: Staff is requesting board review & approval of the attached 22nd DAA Ticket Policy (pages 21 - 25) to comply with FPPC regulations.

DMTC LIAISON/SURFSIDE RACE PLACE COMMITTEE

Director Michael Alpert, Chair, will provide a review of the following:

1. Satellite Wagering/Horse Racing Report

Informational: See attached report (pages 26 - 28).

COMMUNITY RELATIONS COMMITTEE

1. Meeting with Representatives from Del Mar & Solana Beach

Informational: Director Ann Davies, Chair, will provide a verbal report.

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22nd DISTRICT AGRICULTURAL ASSOCIATION TICKET POLICY

1.0 Application of Policy.

1.1 This Policy applies to tickets which provide admission to a facility or event for an entertainment, amusement, recreational or similar purpose, and are:

- a) Gratuitously provided to the 22nd District Agricultural Association ("District") by an outside source;
- b) Acquired by the District by purchase;
- c) Acquired by the District as consideration pursuant to the terms of a contract for the use of a District venue;
- d) Produced or sponsored by the District; or
- e) Acquired and/or distributed by the District in any other manner.

1.2 This Policy does not apply to any other item of value provided to the District or any District Official, regardless of whether received gratuitously or for which consideration is provided.

1.3 This policy, together with the ticket procedures established pursuant to Section 4.2 below, shall supersede and replace any earlier District policies relating to the distribution to District Officials of tickets for admission to any facilities or events for an entertainment, amusement, recreational, or similar purpose.

1.4 This Policy shall be posted in a prominent place on the District's website: www.sdfair.com.

2.0 **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 Fair Political Practices Commission ("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).

2.1 "District" shall mean and refer to the 22nd District Agricultural Association.

2.2 "District Official" means every Director, officer, employee, or consultant of the District, as defined in Government Code Section 82048 and California Code of Regulations, title 2, section 18701. "District Official" shall include, without limitation, any member of the District's Board of Directors or any other appointed District official or District employee required to file an annual Statement of Economic Interests (FPPC Form 700).

- 2.3 “District Venue” means and includes any facility owned, controlled or operated by the District.
 - 2.4 “FPPC” means the California Fair Political Practices Commission.
 - 2.5 “Immediate family” means the spouse or registered domestic partner and dependent children, as set forth in Government Code section 82029 and Family Code section 297.5.
 - 2.6 “Policy” means this 22nd District Agricultural Association Ticket Policy.
 - 2.7 “Ticket” means and includes any form of admission privilege to a facility, event, show, concert, or performance.
- 3.0 General Provisions.
- 3.1 No Right to Tickets: The use of complimentary tickets is a privilege extended by the District and not the right of any person to which the privilege may from time to time be extended.
 - 3.2 Limitation on Transfer of Tickets: Tickets distributed to a District Official pursuant to this Policy shall not be transferred to any other person, except to members of such District Official’s immediate family solely for their personal use.
 - 3.3 Prohibition Against Sale of or Receipt of Reimbursement for Tickets: No person who receives a ticket pursuant to this Policy shall sell or receive reimbursement for the value of such ticket.
 - 3.4 No Earmarking of Tickets to District: No ticket gratuitously provided to the District by an outside source and distributed to, or at the behest of a District Official pursuant to this Policy, shall be earmarked by the original source for distribution to a particular District Official.
- 4.0 Agency Head.
- 4.1 The District Secretary / General Manager shall be the Agency Head for purposes of implementing the provisions of this Policy. In the absence of the District Secretary / General Manager, the District Deputy General Manager or the Chief Financial Officer shall be the Agency Head for purposes of implementing the provisions of this Policy.
 - 4.2 The Agency Head shall have the authority, in his or her sole discretion, to establish procedures for the distribution of tickets in accordance with this Policy. All requests for tickets which fall within the scope of this Policy shall be made in accordance with the procedures established by the Agency Head.

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- 4.3 The Agency Head shall determine the face value of tickets distributed by the District for purposes of Sections 5.1, 5.2 and 7.1, subparagraph (d), of this Policy.
- 4.4 The Agency Head, in his or her sole discretion, may revoke or suspend the ticket privileges of any person who violates any provision of this Policy or the procedures established by the Agency Head for the distribution of tickets in accordance with this Policy.
- 4.5 The disclosure forms required by Section 7.0 of this Policy shall be prepared and posted by the Agency Head, or by an individual acting under the Agency Head's authority, supervision, and control.
- 5.0 Conditions Under Which Tickets May Be Distributed: Subject to the provisions of this Policy, complimentary tickets may be distributed to District Officials under any of the following conditions:
 - 5.1 The District Official Reimburses the District for the face value of the ticket(s).
 - a) Reimbursement shall be made at the time the ticket(s) is/are distributed to the District Official.
 - b) The Agency Head shall, in his or her sole discretion, determine which event tickets, if any, shall be available under this section.
 - 5.2 The District Official treats the ticket(s) as income consistent with applicable federal and state income tax laws.
 - 5.3 The District Official uses, or behests, such ticket(s) for one or more of the following governmental and/or public purposes:
 - a) Performance of a ceremonial role or function representing the District at the event, for which the District Official may receive enough tickets for the District Official and each member of his or her immediate family.
 - b) The official and/or job duties of the District Official require his or her attendance at the event, for which the District Official may receive enough tickets for the District Official and each member of his or her immediate family.
 - c) Economic or business development purposes on behalf of the District, including, but not necessarily limited to: promotion and marketing of the District's resources and facilities available for commercial and other uses; increase of ancillary revenue for food, beverage, parking and related items at interim and District-promoted events; promotion and marketing of District initiated, supported, controlled, or sponsored programs or events,

including but not limited to the annual Fair and Grandstand concert series, Scream Zone, Holiday of Lights, Professional Bull Riders, annual Del Mar race track meet, and the Del Mar National Horse Show; promotion and marketing of interim and year-round events; marketing of sponsorship programs; and, promotion of District recognition, visibility, and/or profile on a local, state, national, or international scale.

- d) Intergovernmental relations purposes, 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.
- e) Community relations.
- f) Attracting or rewarding volunteer public service.
- g) Supporting and/or showing appreciation for programs or services rendered by non-profit organizations benefiting San Diego County residents.
- h) Encouraging or rewarding significant academic, athletic, or public service achievements by San Diego County students, residents or businesses.
- i) Attracting and retaining highly qualified employees in District service, for which such employee may receive no more than four (4) tickets per event.
- j) As special recognition or reward for meritorious service by a District employee, for which such employee may receive no more than four (4) tickets per event.
- k) For use in connection with a District employee competition or drawing, for which there shall be made available no more than (4) tickets per event.
- l) Recognition of contributions made to the District by former members of the Board of Directors, for which such former Director may receive no more than (4) tickets per event.

6.0 Tickets Distributed at the Behest of a District Official.

- 6.1 Only the following District Officials shall have authority to behest tickets: members of the Board of Directors, the Secretary / General Manager, and the Deputy General Manager.
- 6.2 Tickets shall be distributed at the behest of a District Official only for one or more public purposes set forth in Section 5.3 above.
- 6.3 If tickets are distributed at the behest of a District Official, such District Official shall not use one of the tickets so distributed to attend the event.

7.0 Disclosure Requirements.

- 7.1 Tickets distributed by the District to or at the behest of any District Official (i) which the District Official treats as income pursuant to Section 5.2 above, or (ii) for one or more public purposes described in Section 5.3 above, shall be posted on FPPC Form 802, or any successor form provided by the FPPC, in a prominent fashion on the District's website within thirty (30) days after distribution. Such posting shall include the following information:
- a) The name of the recipient, except that if the recipient is an organization, the District may post the name, address, description of the organization and number of tickets provided to the organization in lieu of posting names of each recipient;
 - b) a description of the event;
 - c) the date of the event;
 - d) the face value of the ticket;
 - e) the number of tickets provided to each person;
 - f) if the ticket was distributed at the behest of a District Official, the name of the District Official who made such behest; and
 - g) a description of the public purpose(s) under which the distribution was made, or, alternatively, that District Official is treating the ticket as income.
- 7.2 Tickets distributed by the District for which the District receives reimbursement from the District Official as provided under Section 5.1 above shall not be subject to the disclosure provisions of Section 7.1.



22nd DISTRICT AGRICULTURAL ASSOCIATION
Board of Directors Meeting
Del Mar Fairgrounds
June 9, 2009
1:30 p.m.

SUBJECT TO BOARD APPROVAL

MINUTES

The regularly scheduled meeting of the 22nd District Agricultural Association, Board of Directors met in the Boardroom at the Del Mar Fairgrounds on June 9, 2009 at 1:35 p.m.

OFFICERS PRESENT:

Kelly Burt, President
Barry Nussbaum, Vice President
Tim Fennell, Manager, Secretary-Treasurer

DIRECTORS PRESENT:

Michael Alpert, Ruben Barrales, Adam Day, Ann Davies, Kim Fletcher, Vivian Hardage
Russ Penniman

EXCUSED ABSENCE:

None

OTHERS PRESENT:

Deborah Fletcher, Counsel
Becky Bartling, COO – 22nd DAA
Rita Walz, CFO – 22nd DAA
Donna M. O'Leary, Executive Assistant – 22nd DAA

CALL TO ORDER

President Kelly Burt called the meeting to order at 1:30 p.m. with a quorum present and let the public know that they would be taking some items out of order due to some Board members possible early departure from the meeting.

CONSENT CALENDAR

Director Kim Fletcher moved for approval of items A through G on the Consent Calendar.

- A. Minutes, Regular Meeting, May 12, 2009
- B. Out of State Travel
- C. 2009 San Diego County Fair Exhibits Judges Agreements
- D. 2009 San Diego County Fair – San Diego Pavilion Agreements
- E. 2009 San Diego County Fair Sponsorship Agreements
- F. Insurance Renewals
- G. Contract Approvals

Director Ann Davies seconded the motion, all were in favor and the motion carried.

FAIR OPERATIONS – Barry Nussbaum, Chair

2009 Special Events Grounds Entertainment Contracts

VP Barry Nussbaum moved for approval of the grounds stage entertainment contracts listed on pages 20 of the Board packet. Director Russ Penniman seconded the motion, all were in favor and the motion carried.

Approval of 22nd DAA Ticket Policy

VP Nussbaum motioned to approve the proposed draft ticket policy which was required by state statute to implement a policy regarding ticket distribution for affiliates of the district. The proposal is listed on pages 21 through 25 of the Board packet. Director Davies seconded the motion, all were in favor and the motion carried.

MANAGER'S REPORT

Don Diego Fund Update

Former 22nd DAA Board President and current Don Diego Board Chairman spoke about how the Don Diego Fund, which provides college scholarships to high school seniors, is in need of financial support and invited everyone to the Don Diego Gala on July 2 where the scholarships will be presented to the deserving students.

PUBLIC COMMENT

Forty members of the public showed up to speak on behalf of the Fairgrounds. All 40 spoke about how they were opposed to the sale of the Fairgrounds. No one in attendance supported selling the Fairgrounds.

MANAGER'S REPORT continued

CEO presented Katie Phillips, Exhibit Manager and VP Nussbaum with a ten year service pin.

Events Report

CEO Fennell reviewed the events scheduled for June and July 2009 as listed on pages 12 and 13 of the Board packet. Some of the highlights included The 2009 San Diego County Fair scheduled for June 12 through July 5. This year's theme is "Music Mania" and on July 22 live thoroughbred horse racing begins.

CEO Fennell reminded everyone that the next Board meeting will be held on August 11, 2009.

COMMITTEE REPORTS

MASTER PLAN – Barry Nussbaum, Chair

VP Nussbaum said there was nothing to report.

FAIR OPERATIONS continued– Barry Nussbaum, Chair

Katie Phillips presented a power point presentation regarding all the great programs planned this year in the Exhibit Department. She also reported that entries are up over previous years. Holly Baker, Theme Exhibit coordinator, gave a theme exhibit overview; Cathy Mordente, Special Events Manager, reviewed the theme contest "Musicpalooza". Ms. Mordente reported that there are over 450 performance groups booked supplying 2500 hours of entertainment on eight stages; and Donna Ruhm, Concessions Manager, reviewed what's new regarding Fair merchandise and the new food. This year there are no new rides to report. There are over 100 food stands on the grounds which generate about \$10 million in revenue.

DMTC LIAISON/SURFSIDE RACE PLACE – Michael Alpert, Chair

Director Michael Alpert referred to the financials listed on page 26 of the Board packet for Surfside Raceplace.

COMMUNITY RELATIONS – Ann Davies, Chair

Director Ann Davies reported that the main agenda item was the Governor's proposal to sell the Fairgrounds. The meeting went well.

CONTRACTS/FOOD & BEVERAGE – Vivian Hardage, Chair

Director Vivian Hardage reported that April food service revenues were \$397,000 compared to \$457,000 for the previous year. Year to date distribution is a negative 24 percent and the budgeted year-to-date was a negative 22 percent. These numbers will change for the better following the Fair and race meet.

HORSE SHOW/HORSE PARK – Russ Penniman, Chair

Director Russ Penniman spoke about the upcoming Professional Bull Riding event scheduled in the newly covered arena on July 25 and 26.

EXECUTIVE SESSION

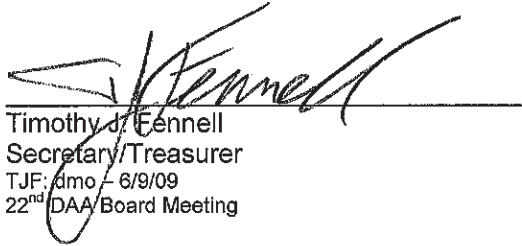
There was no executive session.

FOR YOUR INFORMATION

CEO Tim Fennell added that even though revenue is down the district operating expenses are also down. The bottom line is we are ahead of budget even in this tough economy.

ADJOURNMENT

There being no further business for the 22nd District Agricultural Association Board of Directors to discuss, Director Ann Davies moved to adjourn, it was seconded by Director Russ Penniman, all were in favor and the meeting was adjourned at 3:53 p.m.



Timothy J. Fennell
Secretary/Treasurer
TJF:dmo - 6/9/09
22nd DAA Board Meeting



Item 5-B, DMTC Liaison Committee Report

Background:

The DMTC Liaison Committee (the Committee) met recently to discuss ideas for potential involvement of the 22nd District Agricultural Association (District) Board of Directors in DMTC-operated activities and events during future horse racing seasons. The Committee also discussed the application of District's Ticket Policy to DMTC-operated activities and events and encourages enhanced education about the application of the existing Ticket Policy to those DMTC events for all Board members, including as part of the new Board member onboarding process.

The summer racing season began this year on Saturday, July 20, and ended on Sunday, September 8. Representatives from the Del Mar Thoroughbred Club (DMTC) will provide a recap of the summer race meet and a preview of the fall race meet at the October 2, 2024 Board meeting.

As a reminder, the fall season will resume in November, beginning with the return of the Breeders' Cup World Championships, November 1 and 2, 2024. The Breeders' Cup will also be returning to the Del Mar Fairgrounds and Race Track in 2025. Previously, the Del Mar Fairgrounds and Race Track hosted the Breeders Cup in 2017 and 2021.



Item 5-C, Finance Committee Report

Background

The included preliminary financial reports for 2024 are through August 31 and are subject to change as the 22nd District Agricultural Association (District) works to review and close out the month.

The Balance Sheet is consolidated and inclusive of District, State Race Track Leasing Commission (SRTLCL), and Del Mar Race Track Authority (RTA). The Income Statement is inclusive of District programs and operations only.

As has previously been discussed, due to the proximity of the Board meeting dates to the end of the month immediately prior, there is approximately a six (6)-week lag between the financial report presentation and current activity. Therefore, the Committee reviews and presents financial reports to the Board from two months prior (March financials in May, April financials in June, etc.).

Meeting monthly, the Finance Committee (the Committee) monitors detailed financial information and activities, including accounts receivable and payable aging and income statements for business operations including The Sound and Premier Food Services. The Committee also reviews and recommends rates and fees for services and activities and the operating and capital improvement budgets.

Executive Summary

Balance Sheet:

Data for fiscal years 2022 and 2023 are included for comparison purposes to the current year, 2024.

- **Assets:**
 - **Total Cash and Cash Equivalents:** District's unrestricted cash position continued to remain strong through the month of August. As a reminder, District began reinvesting back into facility maintenance and upgrades in 2024 — including asphalt, workspace renovations, escalator modifications, and roof repairs — which may result in a reduction in Cash position by the year's end. As of the beginning of the year, District has funded \$3,194,000 toward various capital projects within District.
 - **Restricted Cash JLA:** In 2024, JLA auction proceeds were processed and paid in the month August.
 - **Restricted Cash RTA:** This reflects the cash available for the Race Track Authority bond obligations. This includes:

- 1) maintaining a reserve fund held in trust equivalent to one year's debt obligation;
- 2) the current year's debt obligation;
- 3) the minimum cash balance requirement for District (the equivalent of one year's debt obligation); and
- 4) when applicable, surplus funds contributed that revert to District.

As a reminder, Net Horse Racing Revenues and/or Net Concession Revenues are transferred to the trustee by January 15 each year. The trustee makes withdrawals in April and October for the payment of the current year debt.

- **Liabilities:**

- **Deferred Revenue:** This consists of advance payments received for scheduled activities in the future, such as event rentals and the San Diego County Fair. As each event occurs, the revenue is realized in the same month as the event.
- **Accrued Employee Leave Liabilities:** This reflects the current value of the leave balances due to employees upon separation from District. Balances continue to be managed to remain within the state-mandated thresholds.
- **Long-Term and Short Term-Debt:** During the month of August, District paid its semiannual debt service obligation to the California Infrastructure and Economic Development Bank, including \$635,358 in principal and interest for The Sound and \$537,118 in principal and interest for the Water Quality Improvement project. Looking ahead for the month of October, RTA will make a payment in the amount of \$2,391,875 in principal and interest toward its existing revenue bond obligation. In November, District is scheduled to make a debt service payment to the Department of General Services in the amount of \$258,268 for principal and interest toward its Energy Efficiency improvement loan obligation.

- **Footnotes:**

- **Footnote 7** reflects approximate balances of Long-Term Debt obligations. This information is updated as payments are made.

Income Statement (All Programs & Operations):

Revenues are recognized in the month in which they are earned while expenses are recognized in the month incurred. For example, revenues for the San Diego County Fair were reflected in the June and July financial reports, while expenses for producing and preparing for the Fair are reflected in the months leading up to and after the Fair.

The first three columns of figures represent the month's activity — Actual, Budget, and Variance of Actual vs. Budget. The middle grouping of columns represents the year-to-date activity, while the last column presents the complete 2024 Operating Budget goals.

The Net Income activity for the month of August was in line with the forecast. The 2024 San Diego County Fair was mostly operating during the month of June and in part in the month of July.

Seven events were produced at The Sound in August, exceeding the monthly forecast by three events. For the first eight months of the year, The Sound is trending behind the forecasted number of shows, 27 actual versus 43 forecast, but due to the popularity of the shows held, the Year-to-Date Net Income is within \$92,000 of budget. Awareness of the venue is growing among artists, agents, and promoters. Though Belly Up will not achieve the number of shows for the year anticipated in the budget (80), the shows produced so far have been well attended, and expectations are that the venue will operate near District's financial goals for the year.

Overall activity for the year through August has exceeded forecasts, in large part, due to the amount of cost savings that have mitigated revenue shortfalls, and by receiving the New Fair Funds (AB1499) in the amount of \$1,484,500 in January. The New Fair Funds were unanticipated at the time the budget was developed and approved and District is utilizing the New Fair Funds for a portion of the capital expenditure items this year.

- **Revenues:**

- **Total Operating Revenues** for the month were lower than expectations by 4%, or about \$284,000. Through August, total operating revenues are lower than forecast by about 9% or \$6,066,000, in large part due to actual revenue earned versus what was anticipated during the budget process for the Fair, The Sound, and the Summer Race Meet. As a reminder, during the original budget process, staff was challenged to beat its initial fair-time revenue estimates by \$1,457,000 (Admission \$525,000, Parking \$160,000, and carnival \$772,000).
 - **Concessions Revenues:** Food and Beverage sales fell short of expectations for the month of August by 5%, or nearly \$354,000.
 - **Facility Rentals Revenues:** Through the first eight months of the year, this category is higher than forecast by nearly 23%, or \$1,282,000. For the month of August, this element exceeded the forecast by nearly 23% or \$37,000.
 - **Parking Revenues** for the month of August exceeded the

forecast by nearly 148% or \$43,000 due to three more shows at The Sound than expected. For the year, this element fell short of the forecast by nearly 8%, or \$503,000.

- **Total Revenue** through the first eight months of the year is \$4,543,000, or 6%, lower than originally anticipated.

- **Expenses:**

- **Total Operating Expenses** were lower than expected by 2%, or \$164,000 for the month. Through the first eight months of the year, total operating expenses were lower than forecast by nearly 14% or \$8,550,000, which may be due to timing differences between amounts budgeted and actual services performed or anticipated expenses that may not materialize.
 - **Payroll & Related Expenses** are indicative of the ability to fill full-time, civil service vacancies within any given month as well as actual hours incurred versus those anticipated for temporary employees working during events. For the month, District is trending lower than the budgeted amount by 15%, or \$181,000. Through the eight months of the year, this element is lower than the budget by 9%, or \$1,339,000.
 - **Professional Services** consists of a multitude of services, the largest being food and beverage. The actual timing of expenditures in this category may differ from the budgeted amounts, resulting in variances between the months during the year. For the month of August, this category is trending lower than forecast by 5%, or \$279,000. Through the first eight months of the year, this category is lower than the budget by nearly 18%, or \$4,635,000. At least 50% of the savings through the first eight months of the year will be realized as a few services for the Fair came in below budgeted amounts such as shuttles, trash, and janitorial.
 - **Food and Beverage Expenses** are trending near budget estimate by 1%, or \$50,000, for the month. Through the first eight months of the year, this element is lower than the budget by 8% or \$1,131,000. This savings can be attributed to the lower than anticipated Food and Beverage Revenues above.
 - **Facility Related Expenses** for the month have exceeded budget amount by nearly \$305,000 due to differences between anticipated utility costs and the actual amounts

incurred. For the year, this category is lower than expectation by 3%, or \$148,000.

Summary

Overall, through the first eight months of the year, District operations are performing better than expected by nearly \$3,781,000. To mitigate the shortfall in revenues for the year, a total savings of \$4,780,000 were achieved from reduced Payroll & Related Expense amounting to \$1,339,000 and Professional Services equaling \$3,441,000 for the year.

Other Work by the Committee:

2025-2027 Budget Process and Timeline:

As previously discussed, the Finance Committee intends to bring forward the 2025 Operating and Capital Improvement budgets for Board approval at the November meeting. As District continues to transition from year-to-year planning to multi-year planning and forecasting, so will the budget process. This year's approach will be to present the 2025 Operating Budget and Capital Improvement Budget as well as forecasts for 2026 and 2027 based on key assumptions.

Financial Policies:

As District undergoes this multi-year financial planning process this Fall, particular attention will also be given to the development of financial policies that strategically develop "rainy day," reserves, and capital improvement funds and to bring those policies forward with the budgets in November.

Installment Payment Agreement:

The Installment Payment Agreement with Nilforushan Equisport Events, LLC has been executed in the amount of \$297,950 principal financed at 5% interest over five years.

UNAUDITED FINANCIAL STATEMENTS

Unaudited Financial Statements

22nd DAA Consolidated Balance Sheet (DAA, RTA, RTLC) As of August 31, 2024

| | 2024 | 2023 | 2022 |
|--|-----------------------|-----------------------|-----------------------|
| Assets | | | |
| Cash | \$ 39,815,478 | \$ 41,687,727 | \$ 39,658,344 |
| Restricted Cash - JLA | 91,757 | 58,693 | 64,396 |
| 1 Restricted Cash - F&B Equipment Fund | 51,157 | 46,467 | 304,550 |
| 2 Restricted Cash - RTA | 11,531,941 | 12,634,344 | 11,951,658 |
| Total Cash and Cash Equivalents | 51,490,332 | 54,427,232 | 51,978,948 |
| Accounts Receivable | 1,034,875 | 841,201 | 1,373,003 |
| Prepaid Expenses | 561,908 | 719,485 | 780,892 |
| 3 Deferred Outflows Pension | 5,298,571 | 5,298,571 | 5,298,571 |
| Total Current Assets | 6,895,355 | 6,859,257 | 7,452,466 |
| Land | 45,166,113 | 45,208,317 | 35,011,899 |
| Building and Improvements | 217,564,033 | 217,564,033 | 196,936,242 |
| Equipment | 39,118,900 | 38,665,466 | 38,094,295 |
| Capital Projects in Process | 4,748,323 | 1,816,615 | 30,832,235 |
| Accumulated Depreciation | (191,722,134) | (188,271,817) | (178,801,728) |
| Total Capital Assets | 114,875,236 | 114,982,613 | 122,072,943 |
| Total Assets | \$ 173,260,922 | \$ 176,269,101 | \$ 181,504,358 |
| Liabilities | | | |
| Accounts Payable | 7,776,736 | 10,517,852 | 11,559,225 |
| Payroll Liabilities | 1,200,959 | 646,045 | 341,580 |
| Accrued Liabilities | 1,725,404 | 1,885,970 | 2,007,892 |
| Other Current Liabilities | (39,573) | (28,888) | 2,142,550 |
| 5 Deferred Revenue | 1,766,600 | 1,038,039 | 1,411,107 |
| 4 Current Long Term Debt | 1,921,583 | 2,537,472 | 3,054,255 |
| 6 Accrued Employees Leave Liabilities | 1,513,959 | 1,333,456 | 1,237,002 |
| 7 Long Term Debt | 56,210,122 | 59,733,477 | 63,226,928 |
| Reserve - F&B Equipment Fund | 233,268 | 154,733 | 545,945 |
| Reserve - JLA | 43,292 | 36,607 | 16,305 |
| 3 Pension Liability | 40,273,092 | 40,072,573 | 39,859,506 |
| 3 Deferred Inflows - Pension | 1,754,199 | 1,754,199 | 1,754,199 |
| Total Liabilities | 114,379,640 | 119,681,536 | 127,156,493 |
| Net Resources | | | |
| Contributed Capital | 78,877,171 | 78,877,171 | 78,877,171 |
| Less Contributed Capital to RTA | (34,358,470) | (34,358,470) | (34,358,470) |
| Net Resources - Unrestricted | 11,515,553 | 11,783,919 | (5,921,909) |
| Investment in Capital Assets | (3,891,786) | (3,891,786) | (3,891,786) |
| | 52,142,468 | 52,410,834 | 34,705,006 |
| Net Proceeds from Operations | 6,738,814 | 4,176,732 | 19,016,295 |
| Total Net Resources | 58,881,282 | 56,587,566 | 53,721,301 |
| Total Liabilities and Net Resources | \$ 173,260,922 | \$ 176,269,101 | \$ 180,877,794 |

- 1- Per Food & Beverage Services agreement, 1.50% of all Gross Revenues for unexpected or emergency expenses, including repair and maintenance of equipment.
- 2- Per bond Pledge Agreement, maintain Reserve account and District cash separately equal to at least Maximum Annual Debt Service.
- 3- Information provided by CDFA/State Controllers Office; results from changes in components of net pension liability; applicable to a future reporting period.
- 4- Current portion of long-term debt due within the next 12 months.
- 5- Advance payments for events/activities in the future.
- 6- Due to employees at time of separation for paid leave balances.
- 7- RTA Bonds \$30.7M; Ibank WQI \$6.2M; Ibank Sound \$13.0M; Premier \$1.5M; Energy Efficiency \$3.3M; CalPers SB84 \$1.5M.

UNAUDITED FINANCIAL STATEMENTS

22nd DAA Income Statement For the Period Ending August 31, 2024 DAA

| | August 2024 | | | Year-to-Date | | | Full 2024 |
|-------------------------------------|------------------|------------------|------------------|-------------------|-------------------|--------------------|-------------------|
| | Actual | Budget | Variance | Actual | Budget | Variance | Budget |
| REVENUES | | | | | | | |
| Admissions Revenue | 0 | 0 | 0 | 11,722,499 | 13,649,053 | (1,926,554) | 13,649,053 |
| Gates | 0 | 0 | 0 | 11,722,499 | 13,649,053 | (1,926,554) | 13,649,053 |
| Concessions Revenue | 6,596,408 | 6,950,619 | (354,211) | 38,178,667 | 43,172,654 | (4,993,987) | 53,102,000 |
| Food & Beverage Contra | 6,596,408 | 6,950,619 | (354,211) | 15,502,426 | 18,115,309 | (2,612,883) | 27,994,405 |
| Other Food & Beverage | 0 | 0 | 0 | 4,612,594 | 4,944,911 | (332,317) | 4,944,911 |
| Midway | 0 | 0 | 0 | 17,954,074 | 20,060,139 | (2,106,065) | 20,060,139 |
| Facility Rentals Revenue | 201,238 | 164,158 | 37,080 | 6,901,151 | 5,619,514 | 1,281,637 | 8,896,646 |
| Commercial | 0 | 0 | 0 | 3,593,970 | 2,501,590 | 1,092,380 | 2,501,590 |
| Surf & Turf | 115,685 | | | 936,836 | | | |
| Leases Revenue | 49,168 | 48,412 | 756 | 371,568 | 383,096 | (11,528) | 577,851 |
| Program Revenues | 102,289 | 69,900 | 32,389 | 6,427,140 | 6,842,146 | (415,006) | 8,149,861 |
| JLA | 0 | 0 | 0 | 44,391 | 22,500 | 21,891 | 22,500 |
| Parking | 72,050 | 29,100 | 42,950 | 5,621,266 | 6,124,546 | (503,280) | 7,303,861 |
| Participation Fees | 0 | 15,000 | (15,000) | 339,885 | 300,000 | 39,885 | 335,000 |
| Satellite Wagering | 30,239 | 25,800 | 4,439 | 421,599 | 395,100 | 26,499 | 488,500 |
| OPERATING REVENUE TOTALS | 6,949,103 | 7,233,089 | (283,986) | 63,601,025 | 69,666,463 | (6,065,438) | 84,375,411 |
| Contributions | 3,900 | 4,600 | (700) | 3,788,375 | 2,798,710 | 989,665 | 2,273,110 |
| Government Funding | 0 | 0 | 0 | 1,484,500 | 0 | 1,484,500 | 0 |
| Sponsorships | 3,900 | 4,600 | (700) | 2,289,870 | 2,795,210 | (505,340) | 2,269,610 |
| Other Non-Operating Revenue | 13,243 | 13,506 | (263) | 1,101,176 | 709,398 | 391,778 | 1,258,512 |
| Interest Earnings | 0 | 0 | 0 | 752,925 | 510,000 | 242,925 | 1,020,000 |
| Reimbursed Costs | 75,108 | 21,337 | 53,771 | 538,430 | 440,116 | 98,314 | 1,412,314 |
| Prior Year Revenue | 0 | 0 | 0 | 42,450 | 0 | 42,450 | 0 |
| NON-OPERATING REVENUE TOTALS | 92,251 | 39,443 | 52,808 | 5,470,431 | 3,948,224 | 1,522,207 | 4,943,936 |
| TOTAL REVENUE | 7,041,354 | 7,272,532 | (231,178) | 69,071,456 | 73,614,687 | (4,543,231) | 89,319,347 |
| EXPENSES | | | | | | | |
| Payroll & Related Expense | 1,024,663 | 1,205,702 | 181,039 | 13,515,908 | 14,855,280 | 1,339,372 | 20,021,458 |
| Professional Developmer | 549 | 19,100 | 18,551 | 104,726 | 283,962 | 179,236 | 354,509 |
| Professional Services Expense | 4,884,115 | 5,163,319 | 279,204 | 21,145,038 | 25,784,267 | 4,639,229 | 35,271,131 |
| Food & Beverage Expens | 4,800,624 | 4,850,679 | 50,055 | 12,667,064 | 13,798,115 | 1,131,051 | 21,081,505 |
| Insurance Expense | 164,509 | 125,586 | (38,923) | 1,291,169 | 1,300,213 | 9,044 | 1,877,804 |
| Facility & Related Expense | 614,976 | 312,029 | (302,947) | 5,378,779 | 5,527,103 | 148,324 | 6,967,696 |
| Equipment & Small Ware | 0 | 0 | 0 | 137,580 | 324,000 | 186,420 | 330,000 |
| Telephone & Internet | 6,095 | 8,634 | 2,539 | 62,735 | 67,192 | 4,457 | 101,998 |
| Repairs & Maintenance | 3,162 | 45,941 | 42,779 | 981,997 | 548,128 | (433,869) | 748,456 |
| Utilities | 602,347 | 249,000 | (353,347) | 3,024,868 | 2,867,000 | (157,868) | 4,020,000 |
| - Electricity | 11,409 | - | - | 1,497,845 | - | - | - |
| - Water | 0 | - | - | 126,673 | - | - | - |
| Supplies Expense | 12,366 | 35,550 | 23,184 | 1,331,883 | 1,600,884 | 269,001 | 1,740,934 |
| Marketing & Related Expense | 0 | 7,000 | 7,000 | 1,234,899 | 1,464,150 | 229,251 | 1,499,150 |
| Program Expenses | 18,004 | 26,331 | 8,327 | 15,342,083 | 16,841,680 | 1,499,597 | 16,939,508 |
| Prizes & Premiums | 0 | 0 | 0 | 18,197 | 0 | (18,197) | 0 |
| Artists & Entertainment | 0 | 0 | 0 | 5,020,791 | 5,411,350 | 390,559 | 5,411,350 |
| Midway Operator Expen. | 0 | 0 | 0 | 10,020,194 | 11,117,754 | 1,097,560 | 11,117,754 |
| Other Operating Expense | 75,672 | 82,422 | 6,750 | 2,188,111 | 2,603,465 | 415,354 | 2,937,616 |
| Bank & Service Fees | 4,841 | 11,457 | 6,616 | 1,543,441 | 2,004,245 | 460,804 | 2,064,546 |
| Interest Expense | 70,832 | 70,965 | 133 | 566,653 | 567,220 | 1,067 | 841,570 |
| OPERATING EXPENSE TOTALS | 6,794,304 | 6,957,939 | 163,635 | 61,427,869 | 69,977,042 | 8,549,173 | 87,255,297 |
| Other Non-Operating Expense | | | | | | | |
| Prior Year Expense | 5,837 | 0 | (5,837) | 224,758 | 0 | (224,758) | 0 |
| NON-OPERATING EXPENSE TOTALS | 5,837 | 0 | (5,837) | 224,758 | 0 | (224,758) | 0 |
| TOTAL EXPENSE | 6,800,141 | 6,957,939 | 157,798 | 61,652,627 | 69,977,042 | 8,324,415 | 87,255,297 |
| NET INCOME (LOSS) | 241,212 | 314,593 | (73,381) | 7,418,828 | 3,637,645 | 3,781,183 | 2,064,050 |

Note: Positive variances in this report denote better than expected results for that element.

Note1: Government funding of AB-1499 was unanticipated; these funds are reserved for CAPX.

Food & Beverage Report Aug-24

August 2024 Food Service Revenues were \$6,629,820. Budgeted Revenues for August 2024 were \$6,883,158

Net distribution to the District for August 2024 was \$1,791,198 or 27.0%. Budgeted distribution for August 2024 was \$2,032,479 or 29.5%.

Year-to-date 2024 distribution to the District is \$2,888,462 or 18.5%. The budgeted distribution for YTD 2024 was \$4,174,569 or 23.3%.

| Aug-24 | 2024 ACTUAL | % | 2024 BUDGET | % | 2023 ACTUAL | % |
|---------------------|------------------------|----------|------------------------|----------|------------------------|----------|
| TOTAL REVENUE | 6,629,820 | 100.0% | 6,883,158 | 100.0% | 5,369,668 | 100.0% |
| TOTAL COGS | 1,776,320 | 26.8% | 1,621,540 | 23.6% | 1,022,757 | 19.0% |
| GROSS MARGIN | 4,853,500 | 73.2% | 5,261,618 | 76.4% | 4,346,911 | 81.0% |
| TOTAL PAYROLL | 2,284,776 | 34.5% | 2,360,977 | 34.3% | 1,859,806 | 34.6% |
| OPERATING EXPENSES | 521,641 | 7.9% | 577,808 | 8.4% | 497,402 | 9.3% |
| NET PROFIT | 2,047,083 | 30.9% | 2,322,833 | 33.7% | 1,989,703 | 37.1% |
| CLIENT DISTRIBUTION | 1,791,198 | 27.0% | 2,032,479 | 29.5% | 1,740,990 | 32.4% |

| YTD | 2024 ACTUAL | % | 2024 BUDGET | % | 2023 ACTUAL | % |
|---------------------------|------------------------|----------|------------------------|----------|------------------------|----------|
| TOTAL REVENUE | 15,637,898 | 100.0% | 17,950,684 | 100.0% | 15,313,180 | 100.0% |
| TOTAL COGS | 3,907,003 | 25.0% | 3,909,516 | 21.8% | 3,341,495 | 21.8% |
| GROSS MARGIN | 11,730,895 | 75.0% | 14,041,168 | 78.2% | 11,971,685 | 78.2% |
| TOTAL PAYROLL | 6,629,210 | 42.4% | 7,216,997 | 40.2% | 5,831,153 | 38.1% |
| OPERATING EXPENSES | 1,800,586 | 11.5% | 2,053,235 | 11.4% | 1,805,942 | 11.8% |
| NET PROFIT | 3,301,099 | 21.1% | 4,770,936 | 26.6% | 4,334,590 | 28.3% |
| Y-T-D CLIENT DISTRIBUTION | 2,888,462 | 18.5% | 4,174,569 | 23.3% | 3,792,766 | 24.8% |



Item 5-C-1, Finance Committee Report: Out-of-State Travel

Background:

On September 13, 2023, Governor Newsom signed SB 447 into law authorizing GO-BIZ to establish the Building and Reinforcing Inclusive, Diverse, Gender-Supportive Equity Project (BRIDGE Project) to promote social equity, civil rights, and antidiscrimination through marketing and advertising campaigns, thus repealing AB 1887 which previously prohibited state-sponsored travel to states with laws that discriminate against individuals on their sexual orientation and gender expression.

The California Department of Food and Agriculture requires board approval for work-related out of state travel.

Request:

This request is for the Board to authorize staff's Out-of-State Travel for:

- The Adobe Max conference from October 14-16, 2024, in Miami Beach, Florida.
- A Prepare2Respond program summit from November 10-13, 2024, in Olympia, Washington.

Process/Approach

Adobe Max

The Adobe MAX conference, often referred to as "The Creativity Conference," is an annual event hosted by Adobe Inc., the producers of software such as Adobe Acrobat, Photoshop, InDesign, Illustrator, and Light Room. The conference is a major gathering for creative professionals from around the world, offering a mix of inspiration, learning, and networking opportunities. This year, the three-day conference will also feature several sessions on using human-centered Artificial Intelligence to assist with the creative process.

Participating in the conference will help the District stay abreast of these ever-evolving technologies to spearhead the graphic initiatives of the District, which include development and execution of the annual Fair theme branding and marketing collateral, various Fair exhibitions, and annual reports.

Travel and conference expenses for a staff member were included in the 2024 Operating Budget, but the announcement regarding the location for the Adobe Max conference was not made until mid-February, after the Board's approval for a slate of out-of-state travel opportunities for 2024.

Prepare2Respond Summit

District received an invitation from International Association of Fairs and Expositions (IAFE) Chair Marla Calico to participate in a grant-funded project called Prepare2Respond.

Prepare2Respond is funded through a National Animal Disease Preparedness and Response Program grant that was awarded to Washington State University Extension, University of Nevada-Reno, and University of Wisconsin-Madison. The program is seeking fair industry expertise to assist with expansion of the program by participating in a writing summit that will create a new communications module for the program. Prepare2Respond will help those in the fair industry prepare for a potential animal disease outbreak during a fair and offer the tools that will allow the industry to mitigate the disease and its impact.

The summit is happening in Olympia, Washington, and all travel, lodging and meals will be paid for by the grant.

Recommendations:

The Committee recommends Board approval for the proposed out-of-state travel.

If approved for travel, CEO Carlene Moore will make the final determination of employee(s) that will participate in each opportunity, taking into consideration the operational needs and financial resources of the District.



Item 5-D, Community & Government Relations Committee Report

Background:

The Community & Government Relations Committee ("the Committee") of the 22nd District Agricultural Association ("District") provided a venue for joint discussions between District officials and the cities of Del Mar, Solana Beach, and San Diego, as well as staff for State Senator Catherine Blakespear, State Assemblymember Tasha Boerner, County Board of Supervisors Terra Lawson-Remer, and the San Dieguito Riverpark Joint Powers Authority. However, attendance at these meetings has varied, and the discussion has most often focused on matters related to the cities of Del Mar and Solana Beach.

Past committee meetings featured discussions about District's operational issues, such as event dates and times and traffic plans of various activities at the Fairgrounds, Del Mar Horsepark, and Surf & Turf Recreation Center. In recent years, these conversations have at times included regional issues, such as District's strategic planning work and initiatives related to affordable housing, master site planning, environmental stewardship, and the potential return of the KAABOO music festival. However, these conversations were frequently limited because the planning work usually fell under other District committees' purviews. This required staff to tread lightly in such conversations during meetings of the Committee.

In September, Board President Frederick Schenk restructured District's Committees to better align them with strategic objectives, especially components of the master site planning process. The new committees are designed to more neatly divvy up duties and topics relevant to District and its neighbors.

As a result of this restructuring process, the Community & Government Relations Committee was to be disbanded following its final meeting in September.

Discussion:

The Committee notified the invited guests of the changes to District's committee structure. Elected officials expressed concern for a potential drop-

off in communications with District. However, the Committee informed the officials that there would be opportunities to continue meeting and discussing relevant topics through other committees, especially through the new Regulatory & Governmental Affairs Committee. The guests and District agreed to explore other means of consistent communication about basic operational matters of mutual interest and of relevance to surrounding communities.

During the meeting, representatives of the cities of Solana Beach and Del Mar also provided updates on the Value Analysis process relating to the LOSSAN Rail Realignment project, the planned seasonal rail platform at the Fairgrounds and the joint resolution regarding the LOSSAN Rail Realignment Project, which was approved by District's Board and the city councils of the respective cities.

The cities' representatives also voiced their general concerns about homelessness in and around their jurisdictions.

Next Steps:

CEO Carlene Moore plans to meet monthly with the city managers from Del Mar and Solana Beach to discuss and address operational matters.

Broader governance topics will now fall to other committees, including the Regulatory & Governmental Affairs Committee. The CEO also agreed to explore other ways to remain in good communication with the city and state representatives on issues of relevance.

22nd District Agricultural Association

Policies – Table of Contents

Status as of 10/2/2024

Introduction

Draft

Section 1

1.01 – Policy Framework and Definitions

Draft

Section 2: Organization Ethics

2.01 – Institutional Values

Adopted

2.02 – Code of Ethics

Adopted

2.03 – Conflicts of Interest

Adopted

2.04 – Discrimination and Harassment Prevention

Adopted

2.05 – Reporting Wrongdoing

Adopted

Section 3: Board Governance

3.01 – Board Composition and Officers

Adopted

3.02 – Board Committees

Adopted

3.03 – Board Member Code of Conduct

Adopted

3.04 – Board Member Conflict Resolution

Adopted

3.05 – Board Meetings and Agendas

Adopted

3.06 – Board Member Orientation and Training

Adopted

3.07 – Board Self-Assessment

Adopted

3.08 – Board General Responsibilities

Adopted

3.09 – Organizational Planning

Adopted

3.10 – Risk Management

Adopted

Section 4: Board Oversight

4.01 – Public Records Act Requests

Adopted

4.02 – Records Management

Adopted

4.03 – Contracts and Procurement

Adopted

4.03.1 – Sponsorship Acquisition

Adopted

4.04 - Financial Stewardship

Draft

4.05 - Financial Reserves

Draft

Section 5: Board-Management Delegation

Section 6: Administrative Policies

6.01 – Event Ticket

Draft

STATE FAIR OF TEXAS


State Fair's Business Class for Concessions Hopefuls Helps Keep Fried Food Flowing



A months-long business course is helping prepare the next generation of Texas State Fair vendors.

By Emma Ruby | September 10, 2024



The Big Tex Business Class was started in 2017 as part of the fair's business development outreach program. **The State Fair of Texas**

Listen to the article now 
Audio by Carbonatix

 1.0x 



For six years Tony Bednar applied to be a concessionaire at the **State Fair of Texas**. And for five of those years, his phone never rang. September arrived, the fair opened and he resumed driving food trucks around North Texas alongside his wife.

Then, after his sixth time applying, he received a call.

“They said they weren't giving me a contract, but they wanted to try my food. And that to me was just as good,” Bednar told the *Observer*. “My wife, she literally thought I won the lotto, because I was screaming outside.”

Bednar, who specialized in taco plates served with rice and beans, was invited into the opening taste test panel of the state fair's Big Tex Business Masterclass. The class was started in 2017 as a way for state fair hopefuls to bolster their businesses applications, and Bednar is one of the class's success stories.

He joined the 2019 cohort, attending night classes for the months leading up to the fair. Classes cover everything from human-resource management to building a menu. Bednar walked away having learned how to do his sales taxes and balance the books. After months of classes, each person spends the 24 days that the state fair runs at an established booth where they are mentored by an experienced concessionaire.

After his program, Bednar was invited to run Tony's Taco Shop on the fairgrounds. Four years later, he runs two locations and was named a **Big Tex Choice Awards finalist** for his "Drowning Taquitos." His wife, Terry, has already rolled 20,000 taquitos in advance of the state fair's opening on Sept. 27.

And, this year, he will serve as a mentor for another fair hopeful.

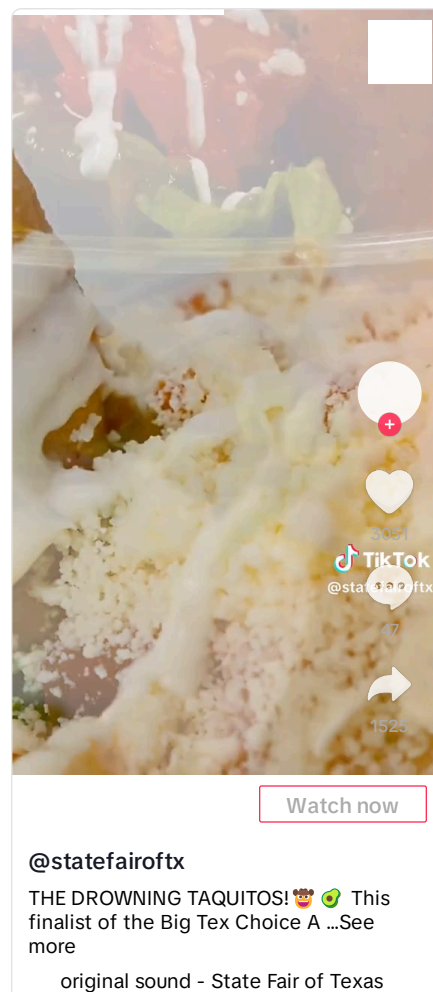
"It does not matter your background. When we step into the fair, we're all family," Bednar said. "We're all just folks."

Building a Business-Minded Community

In the late 2010s, the state fair started to notice something missing from a growing number of applications submitted by concessionaire hopefuls. Whether the applicant hadn't finished their menu, didn't have the business chops to handle the economics aspect or hadn't raised enough capital, fair officials saw an opportunity to grow their business development outreach.

The Big Tex Business Class was born. It's a bootcamp to bring family-run establishments up to the speed of the largest state fair in the country. The program almost stalled out after the COVID-19 pandemic, but Jessica Vitela, a community relations manager for the fair, refused to let that happen.

"I told myself, there's absolutely no way we're going to stop this program. It's needed," Vitela told the *Observer*. "I've seen what it does to businesses."



Last week, during the final meeting of the 2024 business class cohort, four of the nine panelists giving the class advice were graduates of the program who went on to join the fair. Bednar was on the panel, alongside his cohort classmate Heather Perkins, who received a thunderous applause after announcing herself as a Big Tex Choice Award winner for this year.

Planning food for a state fair crowd is nuanced and something that can be done only with boots-on-the-ground experience. Some years it rains every day, and business is a snail's crawl. Other years, the

final day of the fair happens to fall on a Sunday when the Cowboys aren't playing. If that happens, you better hope you ordered triple the amount of food you'd think you need.

The crowds of Grambling State University and Prairie View A&M fans who attend the State Fair Classic want to eat, and they'll start overwhelming the fairgrounds as soon as the halftime performance is over. The Red River Rivalry crowd on the other hand, shows up at 7 a.m. to drink beer.

Business class participants get the opportunity to see it all for themselves during their 24-day internship shadowing a concessionaire. After their program ends, the state fair hosts a graduation ceremony and offers continued, free mentorship from industry consultants and professionals.

Many of the individuals who graduated from the program come back to mentor, Vitela said.

"They've been in the same spots, those chairs, they know the struggles. They are always willing," she said. "This program is changing the trajectory of a person's life, of their families lives."

Investing in the Next Wave of State Fair Foods

Antonio Guevara and Tiffany Swulius became friends 12 years ago while working at **Lakewood Landing**. They shared a passion for food; Guevara excels in Tex-Mex-inspired barbecue, and Swulius is a state fair ribbon-winning baker. They both cook gluten-free dishes and applied for a booth at the fair this year because it has "always been a part of their lives," Swulius said.

"There's this other level of being creative [at the state fair]," Swulius said. "You may not be able to sell an awesome fried concoction at your restaurant every day, but at the fair, you can give that a shot."

When the duo was invited into the Big Tex Master Class they weren't totally sure what they'd been invited into, but they were "wide-eyed" at the opportunity. They decided to attend the opening taste test panel, where they received promising feedback.

"I feel like they saw something in us they could build up," Guevara said. "They're investing in their own people."

While many business class attendees finish their on-the-ground internship and go on to join the fair as official concessionaires, some realize it's not the scene for them. But Guevara and Swulius grew up visiting the fair and think they know what to expect.

No sleep. Sore feet. Fried food. More fried food.

They'll be mentored by Bednar, marking a full circle moment for him.

"We're all trying to make this place more beautiful. It's a privilege," Bednar said. "This has been a very beautiful ride"



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EMMA RUBY is a staff writer at the *Dallas Observer* where she covers local news. Before joining the *Observer* in April 2024, Emma was the editor of the *Oak Cliff Advocate*. She was the news editor of Loyola University's student newspaper, *The Maroon*, and interned with the *Dallas Morning News* and WVUE-TV in New Orleans while in college. Emma also worked as a media coordinator for Tulane University Athletics, and interviewed Coach K after Duke's 2022 Final Four loss.

CONTACT: Emma Ruby

FOLLOW: Twitter: @emmaeruby

Educational Farm Coming To Alameda County Fairgrounds

Community Corner

Alameda County Fairgrounds is breaking ground on The Farm, which will be devoted to teaching about agriculture and sustainability.



Michael Wittner, Patch Staff



Posted Tue, Sep 17, 2024 at 5:35 pm PT|Updated Tue, Sep 17, 2024 at 5:36 pm PT



Located in the heart of the fairgrounds, the two-acre facility will offer students and the public immersive, hands-on experiences with crops, livestock, and agriculture ecosystems. (Alameda County Fairgrounds)

PLEASANTON, CA — The Alameda County Fairgrounds are often thought of as a place of concerts and Ferris wheels, but soon, it will also be a place to learn about the wonders of the natural world.

On Wednesday, the Alameda County Fairgrounds will break ground on phase one of a new state-of-the-art agricultural education facility known as The Farm. Located in the heart of the fairgrounds, the two-acre facility will offer students and the public immersive, hands-on experiences with crops, livestock, and agriculture ecosystems. It will feature a modern barn, cows, hens, a horse paddock, pollinator

gardens, a greenhouse, indoor classrooms with a kitchen, and outdoor kitchen and dining area, solar canopies, and more. Students and visitors will be able to learn about animal and plant science, the latest advancements in agriculture technology, engineering and innovation, renewable energy, water conservation, and more.

At 11 a.m. Wednesday, Alameda County Agricultural Fair Association CEO Jerome Hoban will speak, along with the Alameda County Fair Board President and several supporters.

Find out what's happening in Pleasanton with free, real-time updates from Patch.

The Fair Foundation has already raised over \$2 million to kickstart phase one, and the project has been sponsored by Safeway, Fremont Bank, Butler Amusements, Black Tie Transportation Worldwide, Rotary Club of Livermore, Hayward Rotary Club, the Wentz Family, and several Alameda County District Supervisors.

"Breaking ground on The Farm is a meaningful milestone for all of our supporters," Valerie Shirk, Executive Director of the Alameda County Fair Foundation, said in a statement. "We've received major gifts and contributions from many local organizations and individuals, but we are not stopping now. Phase two of the project will focus on important components of The Farm, including ways to showcase local crops and an outdoor kitchen and gathering space."

Find out what's happening in Pleasanton with free, real-time updates from Patch.

To learn more and donate, visit alamedacountyfair.com/the-farm.

RELATED:

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ITEM 6 – EXECUTIVE REPORT

October 2024

Expense Contracts Executed per Delegated Authority

| Standard Agreements up to \$50,000 | | | | | | |
|------------------------------------|-------------------------------|---|-----------------------|-------------|-------------------|---------------|
| Contract # | Contractor | Purpose | Acquisition Method | Effort Type | Term | Not to Exceed |
| 24-047 | Flores Mechanical Engineering | HVAC mechanical engineering consultant services | Categorical Exemption | Year Round | 9/9/24 – 12/9/24 | \$10,000.00 |
| 24-050 | Jag Tag Enterprises | Executive coaching | Categorical Exemption | Year Round | 7/1/24 – 12/31/24 | \$5,400.00 |

| Individual Project Agreements (IPA) with California Construction Authority (CCA) | | |
|--|--|----------------|
| Contract # | Purpose | Not to Exceed |
| 022-23-046, FCO #1 | Funding Change Order for asphalt repair work | \$1,397,000.00 |

Revenue Contracts Executed per Delegated Authority

| Event Agreements | | | | |
|------------------|-------------------------|------------------|---------|------------|
| Contract # | Licensee | Event Name | Term | Rental Fee |
| 24-872 | San Diego Football Club | Chrome Ball Tour | 9/21/24 | \$4,840.00 |

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

24-047

GL ACCOUNT NUMBER (If Applicable)

600100-10

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

22nd District Agricultural Association (District) / Del Mar Fairgrounds (Fairgrounds)

CONTRACTOR NAME

Flores Mechanical Engineering Inc.

2. The term of this Agreement is:

START DATE

September 9, 2024

THROUGH END DATE

December 9, 2024

3. The maximum amount of this Agreement is:

\$10,000.00**Ten Thousand Dollars and Zero Cents.**

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

| Exhibits | Title | Pages |
|----------------------------|---|-------|
| Exhibit A | Scope of Work | 4 |
| Exhibit B | Budget Detail and Payment Provisions | 1 |
| Exhibit C* | General Terms and Conditions (April 2017) | 4 |
| Exhibit D | Special Terms & Conditions | 5 |
| Exhibit D, Attachment I | Insurance Requirements | 4 |
| Exhibit E | Preventing Storm Water Pollution | 1 |
| Exhibit F | 22nd DAA Resource Conservation Policy | 1 |

Items shown with an asterisk (), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>*

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

Flores Mechanical Engineering Inc.

CONTRACTOR BUSINESS ADDRESS

722 Munevar Rd.

CITY

Cardiff

STATE

CA

ZIP

92007

PRINTED NAME OF PERSON SIGNING

Esteban Flores

TITLE

President

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

EXHIBIT A SCOPE OF WORK

1. SERVICES OVERVIEW

- A. Flores Mechanical Engineering (FME) (hereinafter referred to as the Contractor) agrees to provide to the 22nd District Agricultural Association ("District") (22nd DAA) / Del Mar Fairgrounds ("Fairgrounds") with services as described herein:

Hacienda Room HVAC Project: The Contractor shall provide complete construction documents to provide heating and cooling (HVAC) and plumbing plans for the Hacienda Room in the Grandstands. The Hacienda Room operates year-round and houses the District's Off-Track Betting.

The Sound Boiler Replacement Project: The Contractor shall provide complete construction documents to provide Boiler replacement for heating at the District's music venue, The Sound.

- B. The services shall be performed remotely, at the Contractor's location: 531 Encinitas Blvd Ste 104 Encinitas, CA 92024.
- C. The services shall be provided during normal working hours, Monday through Friday 8:00am – 5:00pm.
- D. The Project Representatives during the term of this Agreement will be:

| | |
|--|--|
| 22 nd District Agricultural Association | Flores Mechanical Engineering (FME) |
| Name: Brad Mason, Facilities Director | Name: Esteban Flores, PE |
| Address: 2260 Jimmy Durante Boulevard Del Mar, CA 92014 | Address: 531 Encinitas Blvd Ste 104 Encinitas, CA 92024 |
| Phone: (858) 308-2215 | Phone: (760) 505-2045 |
| e-mail: bmason@sdfair.com | e-mail: esteban@floresmechanical.me |

The parties may change their Project Representative upon providing ten (10) business days written notice to the other party. Said changes shall not require an Amendment to this Agreement.

2. WORK TO BE PERFORMED BY CONTRACTOR

A. Tasks and Deliverables

I. Project Management and Administration

The Contractor shall be responsible for the performance of tasks, and for the preparation of deliverables as specified in this Exhibit.

- a. The Contractor shall provide all technical and administrative services as needed for Agreement completion, including monitoring, supervising, and reviewing all work performed pertaining to Construction documents only (no Construction management). In addition, the Contractor shall coordinate budgeting and scheduling to ensure that the Agreement is completed within

EXHIBIT A
SCOPE OF WORK

budget, on schedule, and in accordance with approved procedures, applicable laws, and regulations throughout Agreement term as it pertains to Construction documents (does not include Construction process, material budgeting, scheduling, etc.).

- b. The Contractor shall ensure that the Agreement requirements are met through completion of progress reports submitted to the District, and through regular communication with the District. The progress reports shall describe activities undertaken and accomplishments of each task, milestones achieved, and any problems encountered in the performance of the work under this Agreement.

II. Hacienda Room HVAC Project

The Contractor shall:

- a. Participate in (1) design review meeting at the project site and weekly meetings via conference calls. Scope of work is limited to specifying new direct expansion (DX) split systems serving new offtrack betting offices per site investigation and preliminary correspondence.
- b. Provide applicable HVAC load and plumbing system calculations. Provide 2022 California Title 24 Compliance reports for commercial construction, mechanical and plumbing as applicable (existing building).
- c. Provide complete construction documents including mechanical (HVAC), electrical, and plumbing plans for plan check/ mechanical permit. Respond to plan check comments in a timely manner. Contractor shall also provide applicable documents to the health department and FOG/ industrial waste department to obtain permits.
- d. Provide mechanical design including HVAC plans (floor and roof plans) with equipment schedules, air distribution layout, equipment locations, installation/ mounting details, controls, and sheet specifications for mechanical systems and equipment.
- e. Provide plumbing design as applicable for HVAC rough-ins (condensate only - waste/sewer/vent).
- f. Coordinate with architect, engineers, site utilities (civil) engineer, and applicable consultants.
- g. Provide construction support after permit approval to include RFI review and responses, and MP equipment submittal review.

III. The Sound Boiler Project

- a. Participate in (1) design review meeting at the project site and weekly meetings via conference calls. Scope of work is limited to boiler replacement per site investigation and preliminary correspondence.

EXHIBIT A SCOPE OF WORK

- b. Provide applicable HVAC load and plumbing system calculations. Provide 2022 California Title 24 Compliance reports for commercial construction, mechanical and plumbing as applicable (existing building).
- c. Provide complete construction documents including mechanical (HVAC), electrical, and plumbing plans for plan check/ mechanical permit. Respond to plan check comments in a timely manner. Contractor shall also provide applicable documents to the health department and FOG/ industrial waste department to obtain permits.
- d. Provide mechanical design including HVAC plans (floor and roof plans) with equipment schedule, equipment layout showing connections to existing piping, installation/ mounting details, controls, and sheet specifications for boiler replacement.
- e. Provide plumbing design as applicable regarding boiler replacement design.
- f. Coordinate with architect, engineers, site utilities (civil) engineer, and applicable consultants.
- g. Provide construction support after permit approval to include RFI review and responses, and MP equipment submittal review.

B. Tasks and Deliverables Schedule

| Tasks | Deliverables | Due Dates |
|----------------|--|--------------------------------|
| I.b | Progress Reports | Weekly |
| II and III | Hacienda Room HVAC and Sound Boiler Projects: | |
| II.b and III.b | HVAC Load and Plumbing System Calculations | One month after contract start |
| II.b and III.b | 2022 California Title 24 Compliance Reports | One month after contract start |
| II.c and III.c | Complete Construction Documents (mechanical, electrical, and plumbing plans) | One month after contract start |
| II.d and III.d | Mechanical Design including HVAC plans | One month after contract start |
| II.e and III.e | Plumbing design | One month after contract start |

EXHIBIT A
SCOPE OF WORK

C. Reimbursable Expenses

The following expenses, if incurred and paid by Contractor while rendering services under this Agreement shall be reimbursed at cost. Contractor shall obtain approval from the District prior to making any purchases in order to be reimbursed.

- Postage, shipping, and handling of any requested expedited delivery. Outside services or consultants as required and approved in advance.
- Plots or sets of drawings requested during DD and CD phases will be charged at a rate of approximately \$100.00.
- Other such expenses as may be approved in advance (i.e. mileage/travel).

D. Unanticipated Services

Should the need for additional services not anticipated at the time of this Agreement be identified, approval by the District is required prior to the commencement of any services not included in this Agreement. Fees for additional services shall be negotiated due to scope changes prior to commencement of work based upon an hourly rate of \$150.00 per hour. Additional tasks and projects will be added to this Agreement via formal amendment.

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

24-050

GL ACCOUNT NUMBER (If Applicable)

600100-00

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

22nd District Agricultural Association (District) / Del Mar Fairgrounds (Fairgrounds)

CONTRACTOR NAME

Jag Tag Enterprises, Inc.

2. The term of this Agreement is:

START DATE

July 1, 2024

THROUGH END DATE

December 31, 2024

3. The maximum amount of this Agreement is:

\$5,400.00

Five Thousand Four Hundred Dollars and Zero Cents

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

| Exhibits | Title | Pages |
|------------|---|-------|
| Exhibit A | Scope of Work | 2 |
| Exhibit B | Budget Detail and Payment Provisions | 1 |
| Exhibit C* | General Terms and Conditions (April 2017) | 4 |
| Exhibit D | Special Terms & Conditions | 5 |
| Exhibit E | Preventing Storm Water Pollution | 1 |
| Exhibit F | 22nd DAA Resource Conservation Policy | 1 |

Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

Jag Tag Enterprises, Inc.

CONTRACTOR BUSINESS ADDRESS
2110 Artesia Boulevard, B404CITY
Redondo BeachSTATE
CAZIP
90278PRINTED NAME OF PERSON SIGNING
Jacqueline DevlinTITLE
Chief Executive Officer/ Director

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

EXHIBIT A SCOPE OF WORK

1. SERVICES OVERVIEW

- A. Jag Tag Enterprises, Inc., hereinafter referred to as the Contractor, agrees to provide to the 22nd District Agricultural Association / Del Mar Fairgrounds, hereinafter referred to as District, with services as described herein:

The Contractor shall provide facilitation of the performance, learning, and development of the Executive Leadership Team.

- B. Services shall be performed at the Del Mar Fairgrounds located at 2260 Jimmy Durante Boulevard, Del Mar, CA 92014.
- C. Services shall be provided during regular business hours, Monday through Friday.
- D. The Project Representatives during the term of this Agreement will be:

| | |
|--|--|
| 22 nd District Agricultural Association | Jag Tag Enterprises, Inc. |
| Name: Carlene Moore, Chief Executive Officer | Name: Jacqueline Devlin, Owner |
| Address: 2260 Jimmy Durante Boulevard Del Mar, CA 92014 | Address: 2110 Artesia Boulevard, B404 Redondo Beach, CA 90278 |
| Phone: 858-755-1161 | Phone: 310-344-8163 |
| e-mail: cmoore@sdfair.com | e-mail: jnason@msn.com |

The parties may change their Project Representative upon providing ten (10) business days written notice to the other party. Said changes shall not require an Amendment to this Agreement.

2. CONTRACTOR RESPONSIBILITIES:

- Facilitate approximately six (6) one-hour coaching sessions per Executive via telephone or video conference that focus on individual strength, weakness, opportunity, and threat analysis; understanding of confidentiality between Executive, District, and coach; goal setting and action plans; highest priority objectives and alignment with goals; and responsibility, accountability, and ethics the Executive can count on from the coach.
- Prior to the first session, email each Executive a pre-assessment to be completed prior to the first coaching meeting to facilitate goal creation and to identify coaching areas needed. Goals will be developed based on input from the CEO and other Executive Team members.
- For new Executive Team Members provide a complimentary Initial Coaching Call to see if Coach and Executive are a good fit, up to 30 minutes.
- Facilitate up to four (4) group coaching sessions with the Executive Leadership Team.
- Focus coaching on these four core competencies as identified by District CEO: Leading Change; Developing Emotional Intelligence; Demonstrating Integrity, Honesty, and Ethical Considerations; and Building a Learning Organization
- Utilize the Hudson Institute Methodology for this commitment.
- Provide each Executive the tools to be consistently authentic and highly effective, improve the ability to build trust and connection in all relationships, and deliver feedback

EXHIBIT A SCOPE OF WORK

more effectively than before the coaching.

- Provide progressive review and feedback by ensuring that each Executive provides an informal review of the coaching process to District CEO after four (4) sessions to share progress, outline areas still in need of improvement and ask for support, gain feedback from the CEO, discuss solutions to meet the coaching objectives, and provide feedback on the coaching program and success with the coach.
- Provide a mid-point and end of coaching evaluation to District CEO to examine the overall effectiveness of the coaching engagement and to develop future goals for continued progress.
- Follow-up call or meeting three months after the last coaching session to check-in and see how the process is going.
- Support District's core values of Fun, A+ Quality, Integrity, Respect and Service.

3. DISTRICT RESPONSIBILITIES:

- To identify key stakeholders that will provide ongoing support for the coaching program. Each key stakeholder will:
 - Show public support for the coaching program.
 - Understand their specific roles in the coaching engagement.
 - Be extra attentive to the coaching participant's growth and talent development.
 - Be actively involved and demonstrate commitment to the coaching program, the coach, and the participant.
- To ensure that all members of the Executive Leadership Team complete the pre-assessment work prior to their first coaching session.
- Ensure Executives attend all meetings and coaching sessions as scheduled. Meetings may be cancelled or rescheduled under extenuating circumstances, as agreed upon by Contractor and District. If there is a last-minute cancellation that does not fit these circumstances, District will be billed for the full cost of the session.

**FCO #001**

California Construction Authority
1776 Tribute Road Suite 220
Sacramento, California 95815
Phone: (916) 263-6100

Project: 022-23-046 - Del Mar Asphalt Repair
2260 Jimmy Durante Blvd.
Del Mar, California 92014

Funding Change Order #001: Asphalt Repair

| | | | |
|-----------------------------|--|---|--|
| TO: | 22nd District Agricultural Association 2260 Jimmy Durante Blvd. Del Mar, California 92014 | FROM: | California Construction Authority 1776 Tribute Road, Suite 220 Sacramento, California 95815 |
| DATE CREATED: | 8/29/2024 | CREATED BY: | Krystal Toledo (California Construction Authority) |
| CONTRACT STATUS: | Approved | REVISION: | 0 |
| DESIGNATED REVIEWER: | Kristie Riddlesperger (California Construction Authority) | REVIEWED BY: | |
| DUE DATE: | 08/29/2024 | REVIEW DATE: | 09/12/2024 |
| INVOICED DATE: | | PAID DATE: | |
| SCHEDULE IMPACT: | | EXECUTED: | No |
| | | SIGNED CHANGE ORDER RECEIVED DATE: | |
| CONTRACT FOR: | 1:Funding Agreement - Asphalt Repair | TOTAL AMOUNT: | \$1,397,000.00 |

DESCRIPTION:

This is a Funding Change Order for the Asphalt Repair Project at the Del Mar Fairground in the amount of **One Million Three Hundred Ninety-Seven Thousand and 0/100 (\$1,397,000.00)**.

The additional funds requested in this Funding Agreement CO is to allocate for the cost of repairing and replacing the Asphalt with Slurry Seal - double painted lines. Asphalt repair square footage is spread between two areas for Phase III at the Main Lot & Stable Gate entrance. This Phase III will include striping, ADA signage, and curbs.

Due to the current remaining amount in the budget, the payment to be remitted will be in the amount of **One Million Ninety thousand and 0/100 and \$1,090,000.00**.

All other aspects of original contract remain the same.

ATTACHMENTS:

[Del Mar Asphalt \(Phase 3\) #022-23-046.pdf](#), [RE_ Asphalt Phase 3_two.pdf](#), [RE_ Asphalt Phase 3.pdf](#), [022-23-046 IPA Executed \(2\).pdf](#)

POTENTIAL CHANGE ORDERS IN THIS CHANGE ORDER:

| PCO # | Title | Schedule Impact | Amount |
|---------------|---|-----------------|----------------|
| 001 | CE #007 - Funding Change Order 1 - Asphalt Repair | | \$1,397,000.00 |
| Total: | | | \$1,397,000.00 |

CHANGE ORDER LINE ITEMS:**PCO # 001: CE #007 - Funding Change Order 1 - Asphalt Repair**

| # | Budget Code | Description | Amount |
|---|---|--------------------------------|-------------|
| 1 | 01-240-50.3. BD Misc.3. Bid Development | Printing/Misc. Office Supplies | \$2,750.00 |
| 2 | 01-240-10.3. BD Travel.3. Bid Development | Travel | \$5,500.00 |
| 3 | 01-200-10.3. BD Architect.3. Bid Development | Professional Services | \$5,500.00 |
| 4 | 01-110-10.3. BD Design Contingency.3. Bid Development | Bidding Process Contingency | \$5,500.00 |
| 5 | 01-140-10.3. BD Construction Project Management Fees (%).3. Bid Development | Project Management | \$11,000.00 |
| 6 | 01-240-50.4. CON Misc.4. Construction | Printing/Misc. Office Supplies | \$2,750.00 |
| 7 | 01-240-10.4. CON Travel.4. Construction | Travel | \$11,000.00 |



FCO #001

| # | Budget Code | Description | Amount |
|--------------|---|----------------------------------|----------------|
| 8 | 01-200-10.4. CON Architect.4. Construction | Professional Services | \$22,000.00 |
| 9 | 01-100.4. CON Construction Contract.4. Construction | Construction Contract | \$1,100,000.00 |
| 10 | 01-110-20.4. CON Construction Contingency.4. Construction | Construction Project Contingency | \$110,000.00 |
| 11 | 01-230-30.4. CON Inspections - Construction.4. Construction | Inspections | \$22,000.00 |
| 12 | 01-140-10.4. CON Construction Project Management Fees (%).4. Construction | Project Management | \$77,000.00 |
| 13 | 01-230-40.4. CON Inspections - Special.4. Construction | Special Inspections | \$22,000.00 |
| Grand Total: | | | \$1,397,000.00 |

| | |
|--|----------------|
| The original (Contract Sum) | \$1,100,000.00 |
| Net change by previously authorized Change Orders | \$0.00 |
| The contract sum prior to this Change Order was | \$1,100,000.00 |
| The contract sum will be increased by this Change Order in the amount of | \$1,397,000.00 |
| The new contract sum including this Change Order will be | \$2,497,000.00 |
| The contract time will not be changed by this Change Order. | |

Initial

BM

DS

MC

22nd District Agricultural Association
2260 Jimmy Durante Blvd.
Del Mar, California 92014

California Construction Authority
1776 Tribute Road, Suite 220
Sacramento, California 95815

Signed by:
Michael Gelfand
9/16/2024
89001FF7EAB64E1...

SIGNATUREDATE

Signed by:
Carlene F. Moore
9/12/2024
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SIGNATUREDATE

DocuSigned by:
Randy Crabtree
9/16/2024
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SIGNATUREDATE



COUNCIL PRESIDENT PRO TEM JOE LACAVA
FIRST COUNCIL DISTRICT

September 24, 2024

Mario Orso
San Diego Association of Governments (SANDAG)
401 B Street, #800
San Diego, CA 92101

Re: SANDAG San Diego LOSSAN Rail Realignment Project

Dear Mr. Orso,

The San Diego LOSSAN Rail Realignment (SDLRR) project has the potential to be one of the most significant public infrastructure works in the San Diego region's history. The removal of the existing train tracks off the coastal bluff is vital for our economy, passenger transportation, national defense, and achieving climate and resiliency goals. As the Councilmember representing the portion of the City of San Diego directly affected by the alternative alignments (that is, currently identified Alternatives A, B, C) and other potential alignments that may emerge, establishing mutually agreed upon goals and objectives for the SDLRR project are of great interest to me and my constituents.

Local stakeholders – residents, businesses, habitat managers, conservationists – know this area and the potential impacts better than anyone. I appreciate SANDAG's ongoing engagement with the communities that are impacted and including their perspectives to the maximum extent possible throughout the process. A project of this magnitude will have potentially adverse impacts on many interests, during construction as well as the ultimate alignment. The Notice of Preparation public process that closed on July 19, 2024, highlighted the complexity of this project and reminded all those involved that no simple solution exists. For this reason, public input, environmental considerations, operational efficiencies, and the technical feasibility of alignments must continue to drive the project.

September 24, 2024

Page 2 of 2

Consistent with the resolutions adopted by the City of Del Mar, the City of Solana Beach, and the 22nd District Agricultural Association, I request SANDAG undertake a more detailed engagement with the affected jurisdictions to develop mutually agreed upon project goals and objectives, identify a clear project description, and determine new or modified rail realignment options. Throughout the planning, analysis, and design of this project, SANDAG should take into consideration how to minimize or, if possible, avoid negative or adverse impacts as outlined by the parties above. Decision making should be based on documentation that is accessible to the public and derived from research, engineering, and technical evaluations, including but not limited to selection of the proposed project and alternatives, attainment of the majority of defined key project objectives, and determinations of significance under CEQA for issue areas, environmentally preferred alternative, and statement of overriding considerations.

This is a *process in progress*. Alignments can be refined, processes can be optimized, and impacts can be mitigated. The best local and regional outcome requires a rigorous evaluation of the environmental impacts associated with the proposed alignment alternatives, and those that might be introduced. I am appreciative of SANDAG's engagement with the residents, businesses, and community organizations within the City of San Diego community. I remain committed to working with SANDAG, our neighboring cities, and affiliated agencies throughout this process.

Sincerely,



Joe LaCava
Council President Pro Tem

cc:

Mayor David Druker, City of Del Mar

Mayor Lesa Heebner, City of Solana Beach

Carlene Moore, Chief Executive Officer, 22nd District Agricultural Association