

RESOLUTION NO. R.05-2009

**A RESOLUTION OF THE GOVERNING BOARD OF THE
BIG BEAR AREA REGIONAL WASTEWATER AGENCY
REGARDING THE RECEIPT AND DISTRIBUTION
POLICY OF TICKETS AND/OR PASSES IN THE
FURTHERANCE OF THE AGENCY'S REASONABLY
DEFINED PUBLIC PURPOSES**

WHEREAS, from time to time, the Big Bear Area Regional Wastewater Agency ("Agency") receives "tickets or passes" from third party sources, both public and private; and

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

WHEREAS, the Agency finds that the receipt of all such discounted, free or purchased tickets and/or passes are public resources; and

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

WHEREAS, the Agency desires to distribute these public resources in a manner that furthers the Agency's governmental and public purposes as reasonably described herein, such as the promotion of Agency activities, including environmentally friendly wastewater conveyance, treatment and disposal and related statewide and regional water policy issues affecting or involving the Agency; and

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

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

NOW THEREFORE, BE IT RESOLVED, the Governing Board of the Big Bear Area Regional Wastewater Agency, California hereby adopts the following:

BIG BEAR AREA REGIONAL WASTEWATER AGENCY TICKETS AND/OR PASSES DISTRIBUTION POLICY

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

Section 2. Limitations.

a. This Policy shall only apply to the Agency's distribution of tickets and/or passes to, or at the behest of, a public official for which no consideration of equal or greater value is provided by the public official.

b. Consideration of equal or greater value shall be presumed if the tickets and/or passes are distributed pursuant to this policy.

c. Unless exempted otherwise under state law, any ticket and/or pass received or directed for use by an Agency official not in conformance with this policy remains subject to a separate disclosure requirements and the annual gift limit.

d. This policy does not generally apply to political or nonprofit fundraisers which are governed under a separate policy.

e. Tickets and/or passes to events that primarily provide informational material and is provided to assist the Agency official in the performance of his or her official duties or that of his or her elected office being sought is also not generally subject to this policy. As any event becomes more entertainment oriented, this policy as well as Agency counsel should be consulted.

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

Section 4. Public Purpose. Agency may accomplish one or more public purposes of the Agency through the distribution of tickets to, or at the behest of, an Agency official. The following list is illustrative rather than exhaustive, of the public purposes of the Agency that may be served by Agency officials attending events using tickets distributed to them by the Agency.

- a. Promotion of environmentally friendly, wastewater conveyance, treatment and disposal within the Agency, regionally and statewide.
- b. Marketing promotions highlighting the achievements of public agencies, local residents, nonprofits, community groups and businesses in the areas

related to environmentally friendly, wastewater conveyance, treatment and disposal.

- c. Promotion and marketing of Agency facilities and resources available for public use.
- d. Promotion of Agency recognition, visibility, and/or profile on a local, state, national or international scale.
- e. Promotion of Agency issues and interests at events sponsored by other governmental agencies and government related industry groups, and nonprofit organizations.
- f. Sponsorship agreements involving private events where Agency specifically seeks to enhance Agency's reputation both locally and regionally by serving as hosts providing the necessary opportunities to meet and greet visitors, dignitaries, and residents.
- g. All written contracts where Agency as a form of consideration has required that a certain number of tickets or suites be made available for its use.
- h. Employment retention programs.
- i. Charitable 501 (c)(3) fundraisers for the purpose of networking with other community and civic leaders.
- j. Spouses of Agency officials in order to accompany him or her to any of the events listed above.
- k. Any purpose similar to above included in any Agency contract.

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

Section 6. General Manager. The Agency delegates the authority to distribute any tickets and/or passes in accordance with this policy to the General Manager or his or her designee. In such case, where the General Manager desires to obtain a ticket or pass, the Governing Board authorizes the Board Chair to exercise the Agency's sole discretion in determining whether the General Manager's use or behest of tickets and/or passes is in accordance to the terms of this policy.

Section 7. Solicitation of Donated Tickets and/or Passes. The General Manager may authorize Agency staff to approach companies or organizations to request donation of tickets and/or passes to facilitate the achievement of the governmental and public purposes described below.

Section 8. Transfer Prohibition. The transfer by any public official of any tickets and/or passes distributed pursuant to this policy to any other person, except to members of the public official's immediate family for their personal use, is prohibited.

Section 9. Website Posting. This policy shall be posted on the Agency's website in a prominent fashion. These forms shall be posted for 12 months and may be removed at the Agency's discretion anytime thereafter.

Section 10. Website Disclosure. The distribution of a tickets or passes pursuant to this policy shall be posted on the Agency website in a prominent fashion within 30 days after the ticket distribution and shall include all the information as required under Section 18944.1. Any such posting shall use FPPC Form 802 or such alternative form as may be approved or amended from time to time.

ADOPTED this 23rd day of September, 2009.

AYES:

NOES:

ABSENT:

Elizabeth Harris, Chair of the Governing Board
of the Big Bear Area Regional Wastewater Agency

ATTEST:

John Day, Secretary of the Governing Board
of the Big Bear Area Regional Wastewater Agency