

**MINUTES**  
**ASIAN ART COMMISSION and/or**  
**SPECIAL EXECUTIVE COMMITTEE MEETING**  
**4:00 p.m., Tuesday, March 22, 2011**  
**200 Larkin Street, San Francisco, California**

**Commissioners Present:** Edwin L. Berkowitz  
Kathy Bissinger  
Alexander D. Calhoun  
Julia K. Cheng  
Kenneth G. Docter  
Timothy F. Kahn  
C. N. Keating  
Doris Shoong Lee  
Fred Levin  
Maura Morey  
Leslie Tang Schilling  
Anthony Sun, Chair  
Glenn Vinson  
Akiko Yamazaki

**Commissioners Absent:** Asim Abdullah  
Barbara Mathews Brooks  
Selina Gaw Cha  
Carmen Colet  
Dixon R. Doll  
Vickie Johnston  
Bill S. Kim  
Chong Moon Lee  
Gorretti Lo Lui  
Jane Chang Tom  
Doris M. Ward  
Judith F. Wilbur

**Asian Art Museum Foundation Trustees in Attendance:**

Betty Alberts  
Ellen Burstein Bauch  
Richard Beleson  
Eliza Cash  
Jane Dalisay, Ex Officio  
Joan Danforth  
Bob Duffy  
Sally Hambrecht  
Joyce Hsu  
Michael Kim  
Tim Kochis  
Shyam Lal (phone)  
Alexandra Lenehan (phone)  
Gina Lin-Chu  
James D. Marver  
Kevin McCabe  
Constance Miller  
Suno Kay Osterweis  
Merrill Randol Sherwin  
Ehler Spliedt, Ex Officio  
Ann Tanenbaum

**Asian Art Museum Council in Attendance:**

Marjory Graue

**Also Present:**

Dori Sear Bailey  
Deb Clearwaters  
Robin Groesbeck  
Tim Hallman  
Forrest McGill  
Mark McLoughlin  
Masashi Oka  
Kristin Gelder Paine  
Valerie Pechenik  
Amory Sharpe  
Jay Xu  
Laura Furney Hathhorn

**1. Call to Order**

Chair Anthony Sun called the meeting to order at 4:10 p.m. a quorum being present. Mr. Sun welcomed Gina Lin Chu and Ann Tanenbaum, two trustees who joined the Foundation in January and were attending their first official meeting as voting members that day. He also welcomed Foundation Trustee-elect, Masashi Oka, and AAM Council member Marjorie Graue.

**2. Approval of Minutes**

Minutes from the January 25, 2011 Foundation Meeting were approved as written.

**3. Chair's Report**

In his chair's remarks, Tony talked about the boards' committees and the important role they play in the governance of the museum. Tony encouraged everyone to stay after the meeting for the connoisseurship presentation by Curator of Korean Art Hyonjeong Kim Han on "New Finding of a Korean Painting: Draft Portrait of SONG Siyeol (1607-1689)." Tony then called on Director of Education Deborah Clearwaters to present the Art Hit – Public Programs for *Bali: Art, Ritual, Performance*. Next, Development Committee Chair Fred Levin gave a brief update on ticket sales for the Maharaja Gala in October, noting the event will accommodate approximately 600 people and to date, sales approached 450.

**4. Director's Report**

Director Jay Xu offered thoughts and prayers for everyone impacted by the earthquake and tsunami in Japan. He reviewed news and events since the January 25, 2011 full board meeting as well as projects in the works and forthcoming. The major focus of Jay's report was on the recent organizational restructuring, and he introduced the museum's new Chief Engagement Officer Doris Sera Bailey, who was in attendance although May 2 was to be her official start date, and he formally announced Robin Groesbeck's new role of Deputy Director of Art and Programs.

**5. Finance Report**

COO Mark McLoughlin reviewed attendance materials recapping attendance since 2003, a detailed operating statement, and a snapshot on the museum's performance portfolio. Mark and Treasurer Ken Docter presented the FY 11 operating budget that had previously been vetted and approved by the Budget & Finance and Executive Committees, noting a resolution would be presented later in the meeting requesting the full board's acknowledgement of the executive committee's approval of the FY 11 operating budget. Ken Docter reviewed the timing on the FY11 budget approval process and also noted finance reports going forward would be more in depth, as per request recent requests.

**6. Investment Committee Report**

Foundation Investment Committee Chair Tim Kochis spoke briefly about the museum's investment portfolio history, present and future. He discussed portfolio performance, asset allocation, and restricted and unrestricted investment pools. In service of the museum's fiduciary responsibility and best practices, Tim noted the committee would embark on an investment portfolio manager review in the coming weeks with the goal of completion by July 1, 2011. In addition to Tim, Investment Committee members include Bob Ackerman, Tom Bauch, Ed Berkowitz, Bill Bowes, Michael Kim and Jim Marver.

**7. Consideration and Possible Action Items**

**a. Election of James D. Marver to the Asian Art Commission**

**WHEREAS**, The Nominating Committee has recommended the election of James D. Marver to the Asian Art Commission; now, therefore, be it

**RESOLVED**, That the Commission hereby endorses Mr. Marver's nomination.

**James D. Marver** is Co-Founder and Managing Partner at VantagePoint Venture Partners, Inc., which has \$4.5 billion under management. Prior to co-founding VantagePoint in 1996, Marver was a Senior Managing Director and Head of the Global Technology Group at Bear Stearns for eight years, where he was responsible for the firm's worldwide technology practice. In addition, as Head of Investment Banking in the San Francisco Office of Bear Stearns, he had further responsibility for all corporate finance activities in Silicon Valley and the Northwestern United States. Prior to joining Bear Stearns, Marver was a Managing Director, Co-Head of Technology, and Head of the San Francisco corporate finance office at L.F. Rothschild, Unterberg, Towbin. Earlier in his career, he was an investment banker with Goldman Sachs, and before that he spent five years as a Senior Consultant at SRI International. Marver has served as a Consultant to the National Academy of Sciences/National Research Council and is Vice Chairman and Trustee of San Francisco Ballet, where he co-chaired San Francisco Ballet's recent capital campaign. Marver is Chairman of the Board of Advisors at Goldman School of Public Policy at the University of California at Berkeley. He has written, lectured, and consulted frequently on financing entrepreneurial companies, R&D, IPOs, and public policy. Marver also serves on the boards of several private companies. He holds a B.A. from Williams College, cum laude, Phi Beta Kappa and an M.P.P. and Ph.D. from the University of California at Berkeley. Mr. Marver joined the Asian Art Museum Foundation June 17, 2008 and serves on the Acquisitions and Development committees.

**b. Acknowledgement of the Commission Executive Committee's Approval of Combined City and Foundation Operating Budget for Fiscal Year Ending June 30, 2011**

**WHEREAS**, Members of the Commission and Foundation Budget & Finance Committees reviewed the combined City and Foundation operating budget, exclusive of investment income and debt service, for the fiscal year ending June 30, 2011; and

**WHEREAS**, The committee recommended that the budget be presented to the Commission and Foundation for approval; and

**WHEREAS**, The Commission Executive Committee, at its February 23, 2011 meeting approved the combined City and Foundation operating budget for the fiscal year ending June 30, 2011, a copy of which is on file with the finance department, subject to final City budget approval; now, therefore, be it

**RESOLVED**, That the Commission acknowledges, with thanks, the Executive Committee's action.

**c. Approval of Asian Art Museum Policy Expectation for 100% Annual Fund Participation**

**WHEREAS**, Asian Art Commissioners and Asian Art Museum Foundation Trustees are entrusted to act for the benefit of the institution; and

**WHEREAS**, The current financial climate summons a broadened fiduciary stance and declaration of commitment in support of the institution, collection and staff to change from an unwritten standard goal of 100% annual fund participation to an agreed upon written policy expectation of 100% annual fund participation; now, therefore, be it

**RESOLVED**, That the Asian Art Commission hereby adopts a policy of 100% annual fund

participation and a suggested annual contribution amount at individual board members' maximum ability.

**d. In Compliance with San Francisco Campaign and Governmental Conduct Code Section 3.218(e), Asian Art Commission Acknowledgement of the Annual Distribution of the Museum's Statement of Incompatible Activities on or before April 1**

**WHEREAS**, In November 2003, the voters of San Francisco adopted Proposition E, which revised and updated the City's conflict of interest laws in order to implement a provision of State law, California Government Code section 1126, which prohibits local employees from engaging in activities that are "incompatible" with their City duties; and

**WHEREAS**, Proposition E, as codified in Section 3.218 of San Francisco's Campaign and Governmental Conduct Code required City departments, boards and commissions, including the Asian Art Commission, to develop a statement identifying the activities that are incompatible with particular positions; and

**WHEREAS**, In compliance with its obligations under Section 3.218, the Asian Art Commission approved a Statement of Incompatible Activities at its August 30, 2004 meeting and submitted that Statement to the Ethics Commission; and

**WHEREAS**, On October 21, 2008 the Asian Art Commission approved Resolution C08-048 acknowledging finalization and distribution of a "Statement of Incompatible Activities" as overseen by the San Francisco Ethics Commission in consultation with the City Attorney; now, therefore, be it

**RESOLVED**, In compliance with Section 3.218(e) of the Campaign and Governmental Conduct Code whereby every department, board, commission or agency of the City and County of San Francisco shall annually on April 1<sup>st</sup> provide to its officers and employees its Statement of Incompatible Activities, the Asian Art Commission hereby acknowledges that the Asian Art Museum's Statement of Incompatible Activities (AAM SIA) (i) continues to be posted on the museum's web site ([www.asianart.org](http://www.asianart.org)), (ii) continues to be posted within the museum's offices in the same places that other legal notices are posted by the museum's human resources department; and (iii) will be distributed to board and staff by hard copy, email attachment and/or website link on or before April 1, 2011.

**ASIAN ART MUSEUM OF SAN FRANCISCO**  
**STATEMENT OF INCOMPATIBLE ACTIVITIES**

**I. INTRODUCTION**

This Statement of Incompatible Activities is intended to guide officers and employees of the Asian Art Museum of San Francisco ("AAMSF" or "Department") and Asian Art Commission ("Commission") about the kinds of activities that are incompatible with their public duties and therefore prohibited. For the purposes of this Statement, and except where otherwise provided, "officer" shall mean the executive director ("director") and a member of the Commission; and "employee" shall mean all employees of the Department.

This Statement is adopted under the provisions of San Francisco Campaign & Governmental Conduct Code ("C&GC Code") section 3.218. Engaging in the activities that are prohibited by this Statement may

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subject an employee or officer to discipline, including possible termination of employment or removal from office, as well as to monetary fines and penalties. (C&GC Code § 3.242; Charter § 15.105.) Before an employee or officer is subjected to discipline or penalties for violation of this Statement, the employee or officer will have an opportunity to explain why the activity should not be deemed to be incompatible with his or her City duties. (C&GC Code § 3.218.) Nothing in this document shall modify or reduce any due process rights provided pursuant to the employee's collective bargaining agreement.

In addition to this Statement, employees and officers are subject to Department policies and State and local laws and rules governing the conduct of public employees and officers, including but not limited to:

- The Political Reform Act, California Government Code § 87100 *et seq.*;
- California Government Code § 1090;
- The San Francisco Charter;
- San Francisco Campaign and Governmental Conduct Code;
- San Francisco Sunshine Ordinance;
- Applicable Civil Service Rules; and
- *Code of Ethics for the Asian Art Museum of San Francisco.*

Nothing in this Statement shall exempt any employee or officer from applicable provisions of law, or limit his or her liability for violations of law. Examples provided in this Statement are for illustration purposes only, and are not intended to limit application of this Statement. Nothing in this Statement shall interfere with the rights of employees under a collective bargaining agreement or Memorandum of Understanding applicable to that employee.

Nothing in this Statement shall be construed to prohibit or discourage any City officer or employee from bringing to the City's and/or public's attention matters of actual or perceived malfeasance or misappropriation in the conduct of City business, or from filing a complaint alleging that a City officer or employee has engaged in improper governmental activity by violating local campaign finance, lobbying, conflicts of interest or governmental ethics laws, regulations or rules; violating the California Penal Code by misusing City resources; creating a specified and substantial danger to public health or safety by failing to perform duties required by the officer or employee's City position; or abusing his or her City position to advance a private interest.

No amendment to any statement of incompatible activities shall become operative until the City and County has satisfied the meet and confer requirements of State law and the collective bargaining agreement.

If an employee has questions about this Statement, the questions should be directed to the employee's supervisor or to the director. Similarly, questions about other applicable laws governing the conduct of public employees should be directed to the employee's supervisor or the director, although the supervisor or director may determine that the question must be addressed to the Ethics Commission or City Attorney. Employees may also contact their unions for advice or information about their rights and responsibilities under these and other laws. \_

If a City officer has questions about this Statement, the questions should be directed to the officer's appointing authority, the Ethics Commission or the City Attorney.

## **II. MISSION OF THE ASIAN ART MUSEUM OF SAN FRANCISCO**

*Under Section 5.101 of the San Francisco Charter, AAMSF is a Charitable Trust Department of the City and County of San Francisco. Under Section 5.104 of the San Francisco Charter, the Asian Art Commission shall (i) develop and administer the museum, (ii) control and manage the City and County's Asian art with the Avery Brundage Collection as its nucleus, consistent with the conditions applicable to the Brundage Collection and other gifts, (iii) maintain a charitable foundation or other legal entity for the purpose of developing the Asian Art Museum, (iv) promote, establish and develop*

*an acquisition fund for Asian art objects; and (v) collaborate with other groups and institutions to extend and deepen the activities necessary to establish the Asian Art Museum as the outstanding center of Asian art and culture in the western world.*

### III. RESTRICTIONS ON INCOMPATIBLE ACTIVITIES

This section prohibits outside activities, including self-employment, that are incompatible with the mission of the Department. Under subsection C, an employee or officer may seek an advance written determination whether a proposed outside activity that is not expressly prohibited by subsections A or B of this section is incompatible and therefore prohibited by this Statement. Outside activities other than those expressly identified here may be determined to be incompatible and therefore prohibited. For an advance written determination request from an employee, if the director delegates the decision-making to a designee and if the designee determines that the proposed activity is incompatible under this Statement, the employee may appeal that determination to the director.

#### A. RESTRICTIONS THAT APPLY TO ALL EMPLOYEES AND OFFICERS

##### 1. ACTIVITIES THAT CONFLICT WITH OFFICIAL DUTIES.

No employee or officer may engage in an outside activity (regardless of whether the activity is compensated) that conflicts with his or her City duties. An outside activity conflicts with City duties when the ability of the employee or officer to perform the duties of his or her City position is materially impaired. Outside activities that materially impair the ability of an employee or officer to perform his or her City duties include, but are not limited to, activities that disqualify the employee or officer from City assignments or responsibilities on a regular basis. Unless otherwise noted or permitted under subsection C, the following activities are expressly prohibited by this subsection.

*a. No employee, ~~including~~ or the director, may receive or accept any compensation from private parties for appraisals or estimates of the values of works of art or objects that are not the property of the Department or the City. This prohibition ~~shall not apply to~~ does not preclude appraisals, estimates, authentication, identification and statements as to the monetary value of objects prepared by employees for internal use by the Department or the City, such as for insurance valuations, potential gifts or loans or objects temporarily in the custody of the Department or on loan to other institutions. This prohibition also shall not apply to Nor does this preclude authentication and identification provided by employees of the Department as part of an authentication and identification service or program approved by the director. This prohibition does not apply to employment of or compensation received by an employee's or the director's spouse or registered domestic partner.*

*b. No employee, ~~including~~ or the director, may invest in or have any other relationship of personal financial benefit with any art gallery, auction house or other business entity that manufactures or sells supplies, books, machinery or equipment to the Department or which provides services to the Department. This prohibition does not apply to employment of or compensation received by an employee's or the director's spouse or registered domestic partner.*

##### 2. ACTIVITIES WITH EXCESSIVE TIME DEMANDS.

Neither the director nor any employee may engage in outside activity (regardless of whether the activity is compensated) that would cause the director or employee to be absent from his or her assignments on a regular basis, or otherwise require a time commitment that is demonstrated to interfere with the director or employee's performance of his or her City duties.

*Example.* An employee who works at the Department's front desk answering questions from the public wants to take time off every Tuesday and Thursday from 2:00 to 5:00 to coach soccer. Because the employee's duties require the employee to be at the Department's front desk during regular business hours, and because this outside activity would require the employee to be absent from the office during regular business hours on a regular basis, the director or his/her designee may, pursuant to subsection C, determine that the employee may not engage in this activity.

### **3. ACTIVITIES THAT ARE SUBJECT TO REVIEW BY THE DEPARTMENT**

No employee or officer may engage in an outside activity (regardless of whether the activity is compensated) that is subject to the control, inspection, review, audit or enforcement of the Department. In addition to any activity permitted pursuant to subsection C, nothing in this subsection prohibits the following activities: appearing before one's own department or commission on behalf of oneself; filing or otherwise pursuing claims against the City on one's own behalf; running for City elective office; or making a public records disclosure request pursuant to the Sunshine Ordinance or Public Records Act. The following activities are expressly prohibited by this section:

Assistance with City Bids, RFQs and RFPs. No employee or officer may knowingly provide selective assistance (i.e., assistance that is not generally available to all competitors) to individuals or entities in a manner that confers a competitive advantage on a bidder or proposer who is competing for a City contract. Nothing in this Statement prohibits an employee or officer from providing general information about a bid for a City contract, a Department Request for Qualifications or Request for Proposals or corresponding application process that is available to any member of the public. Nothing in this Statement prohibits an employee or officer from speaking to or meeting with individual applicants regarding the individual's application, provided that such assistance is provided on an impartial basis to all applicants who request it.

#### **B. RESTRICTIONS THAT APPLY TO EMPLOYEES IN SPECIFIED POSITIONS**

[RESERVED.]

#### **C. ADVANCE WRITTEN DETERMINATION**

As set forth below, an employee of the Department or the director or a member of the Commission may seek an advance written determination whether a proposed outside activity that is not expressly prohibited by subsections A or B of this section, if any, conflicts with the mission of the Department, imposes excessive time demands, is subject to review by the Department, or is otherwise incompatible and therefore prohibited by section III of this Statement. For the purposes of this section, an employee or other person seeking an advance written determination shall be called "the requestor"; the individual or entity that provides an advance written determination shall be called "the decision-maker."

##### **1. PURPOSE**

This subsection permits an officer or employee to seek an advance written determination regarding his or her obligations under subsections A or B of this section. A written determination by the decision-maker that an activity is not incompatible under subsection A or B provides the requestor immunity from any subsequent enforcement action for a violation of this Statement if the material facts are as presented in the requestor's written submission. A written determination cannot exempt the requestor from any applicable law or authorize the requestor to engage in an activity expressly prohibited by this Statement. If an individual has not requested or received an advance written determination as to whether an activity is incompatible with this Statement and engages in that activity, the individual will not be immune from any

subsequent enforcement action brought pursuant to this Statement.

In addition to the advance written determination process set forth below, the San Francisco Charter also permits any person to seek a written opinion from the Ethics Commission with respect to that person's duties under provisions of the Charter or any City ordinance relating to conflicts of interest and governmental ethics. Any person who acts in good faith on an opinion issued by the Commission and concurred in by the City Attorney and District Attorney is immune from criminal or civil penalties for so acting, provided that the material facts are as stated in the opinion request. Nothing in this subsection precludes a person from requesting a written opinion from the Ethics Commission regarding that person's duties under this Statement.

## **2. THE DECISION-MAKER**

Decision-maker for request by an employee: An employee of the Department may seek an advance written determination from the director or his or her designee. The director or his or her designee will be deemed the decision-maker for the employee's request.

Decision-maker for request by the director: The director may seek an advance written determination from his or her appointing authority. The appointing authority will be deemed the decision-maker for the director's request.

Decision-maker for request by a member of the Commission: A member of the Commission may seek an advance written determination from his or her appointing authority or from his or her commission, or the Ethics Commission. The appointing authority, Commission or Ethics Commission will be deemed the decision-maker for the member's request.

## **3. THE PROCESS**

The requestor must provide, in writing, a description of the proposed activity and an explanation of why the activity is not incompatible under this Statement. The written material must describe the proposed activity in sufficient detail for the decision-maker to make a fully informed determination whether it is incompatible under this Statement.

When making a determination under this subsection, the decision-maker may consider any relevant factors including, but not limited to, the impact on the requestor's ability to perform his or her job, the impact upon the Department as a whole, compliance with applicable laws and rules and the spirit and intent of this Statement. The decision-maker shall consider all relevant written materials submitted by the requestor. The decision-maker shall also consider whether the written material provided by the requestor is sufficiently specific and detailed to enable the decision-maker to make a fully informed determination. The decision-maker may request additional information from the requestor if the decision-maker deems such information necessary. For an advance written determination request from an employee, if the director delegates the decision-making to a designee and if the designee determines that the proposed activity is incompatible under this Statement, the employee may appeal that determination to the director.

The decision-maker shall respond to the request by providing a written determination to the requestor by mail, email, personal delivery, or other reliable means. For a request by an employee, the decision-maker shall provide the determination within a reasonable period of time depending on the circumstances and the complexity of the request, but not later than 20 working days from the date of the request. If the decision-maker does not provide a written determination to the employee within 20 working days from the date of the employee's request, the decision-maker shall be deemed to have determined that the proposed activity does not violate this Statement.



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The decision-maker may revoke the written determination at any time by written notice, based on changed facts or circumstances or other good cause.

**4. DETERMINATIONS ARE PUBLIC RECORDS**

To assure that these rules are enforced equally, requests for advance written determinations and written determinations, including approvals and denials, are public records to the extent permitted by law.

**IV. RESTRICTIONS ON USE OF CITY RESOURCES, CITY WORK-PRODUCT AND PRESTIGE**

**A. USE OF CITY RESOURCES**

No employee or officer may use City resources, including, without limitation, facilities, telephone, computer, copier, fax machine, e-mail, internet access, stationery and supplies, for any non-City purpose, including any political activity or personal purpose. No employee or officer may allow any other person to use City resources, including, without limitation, facilities, telephone, computer, copier, fax machine, e-mail, internet access, stationery and supplies, for any non-City purpose, including any political activity or personal purpose. Notwithstanding these general prohibitions, any incidental and minimal use of City resources does not constitute a violation of this section. Nothing in this subsection shall be interpreted or applied to interfere with, restrict or supersede any rights or entitlements of employees, recognized employee organizations, or their members under state law or regulation or pursuant to provisions of a collective bargaining agreement to use City facilities, equipment or resources, as defined herein.

*Example.* An employee or officer may use the telephone to make occasional calls to arrange medical appointments or speak with a child care provider, because this is an incidental and minimal use of City resources for a personal purpose.

Nothing in this Statement shall exempt any employee or officer from complying with more restrictive policies of the Department regarding use of City resources, including, without limitation, the Department's e-mail policy.

**B. USE OF CITY WORK-PRODUCT**

No employee or officer may, in exchange for anything of value and without appropriate authorization, sell, publish or otherwise use any materials that were prepared on City time or while using City facilities, property (including without limitation, intellectual property), equipment and/or materials. For the purpose of this prohibition, appropriate authorization includes authorization granted by law, including the Sunshine Ordinance, California Public Records Act, the Ralph M. Brown Act as well as whistleblower and improper government activities provisions, or by a supervisor of the officer or employee, including but not limited to the officer or employee's appointing authority. Nothing in this subsection shall be interpreted or applied to interfere with, restrict or supersede any rights or entitlements of employees, recognized employee organizations, or their members under state law or regulation or pursuant to provisions of a collective bargaining agreement to use public materials for collective bargaining agreement negotiations.

**C. USE OF PRESTIGE OF THE OFFICE**

No employee or officer may use his or her City title or designation in any communication for any private gain or advantage. The following activities are expressly prohibited by this section.

**1. USING CITY BUSINESS CARDS**

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No employee or officer may use his or her City business cards for any purpose that may lead the recipient of the card to think that the employee or officer is acting in an official capacity when the employee or officer is not.

*Example of inappropriate use.* An employee's friend is having a dispute with his new neighbor who is constructing a fence that the friend believes encroaches on his property. The friend invites the employee over to view the disputed fence. When the neighbor introduces herself, the employee should not hand the neighbor her business card while suggesting that she could help resolve the dispute. Use of a City business card under these circumstances might lead a member of the public to believe that the employee was acting in an official capacity.

*Example of acceptable use.* An employee is at a party and runs into an old friend who has just moved to town. The friend suggests meeting for dinner and asks how to get in touch with the employee to set up a meeting time. The employee hands the friend the employee's business card and says that he can be reached at the number on the card. Use of a City business card under these circumstances would not lead a member of the public to believe that the employee was acting in an official capacity. Nor would use of the telephone to set up a meeting time constitute a misuse of resources under subsection A, above.

**2. USING CITY LETTERHEAD, CITY TITLE, OR E-MAIL**

No employee or officer may use City letterhead, City title, City e-mail, or any other City resource, for any communication that may lead the recipient of the communication to think that the employee or officer is acting in an official capacity when the employee or officer is not. (Use of e-mail or letterhead in violation of this section could also violate subsection A of this section, which prohibits use of these resources for any non-City purpose.)

*Example.* An employee or officer is contesting a parking ticket. The employee or officer should not send a letter on City letterhead to the office that issued the ticket contesting the legal basis for the ticket.

**3. HOLDING ONESELF OUT, WITHOUT AUTHORIZATION, AS A REPRESENTATIVE OF THE DEPARTMENT**

No employee or officer may hold himself or herself out as a representative of the Department, or as an agent acting on behalf of the Department, unless authorized to do so.

*Example.* An employee who lives in San Francisco wants to attend a public meeting of a Commission that is considering a land use matter that will affect the employee's neighborhood. The employee may attend the meeting and speak during public comment, but should make clear that he is speaking in his private capacity and not as a representative of the Department.

**V. PROHIBITION ON GIFTS FOR ASSISTANCE WITH CITY SERVICES**

State and local law place monetary limits on the value of gifts an officer or employee may accept in a calendar year. (Political Reform Act, Gov't Code § 89503, C&GC Code §§ 3.1-101 and 3.216). This section imposes additional limits by prohibiting an officer or employee from accepting any gift that is given in exchange for doing the officer or employee's City job.

No employee or officer may receive or accept gifts from anyone other than the City for the performance

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of a specific service or act the employee or officer would be expected to render or perform in the regular course of his or her City duties; or for advice about the processes of the City directly related to the employee's or officer's duties and responsibilities, or the processes of the entity they serve.

*Example.* A member of the public who regularly works with and receives assistance from the Department owns season tickets to the Giants and sends a pair of tickets to an employee of the Department in appreciation for the employee's work. Because the gift is given for the performance of a service the employee is expected to perform in the regular course of City duties, the employee is not permitted to accept the tickets.

*Example.* A member of the public requests assistance in resolving an issue or complaint that is related to the City and County of San Francisco, but that does not directly involve the Department. The employee directs the member of the public to the appropriate department and officer to resolve the matter. The member of the public offers the employee a gift in appreciation for this assistance. The employee may not accept the gift, or anything of value from anyone other than the City, for providing this kind of assistance with City services.

As used in this statement, the term gift has the same meaning as under the Political Reform Act, including the Act's exceptions to the gift limit. (See Gov't Code §§ 82028, 89503; 2 Cal. Code Regs. §§ 18940-18950.4.) For example, under the Act, a gift that, within 30 days of receipt, is returned, or donated by the employee or officer to a 501(c)(3) organization or federal, state or local government without the employee or officer taking a tax deduction for the donation, will not be deemed to have been accepted. In addition to the exceptions contained in the Act, nothing in this Statement shall preclude an employee's receipt of a bona fide award, or free admission to a testimonial dinner or similar event, to recognize exceptional service by that employee, and which is not provided in return for the rendering of service in a particular matter. Such awards are subject to the limitation on gifts imposed by the Political Reform Act and local law.

In addition, the following gifts are de minimis and therefore exempt from the restrictions on gifts imposed by section V of this Statement:

- i. Gifts, other than cash, with an aggregate value of \$25 or less per occasion; and
- ii. gifts such as food and drink, without regard to value, to be shared in the office among employees or officers.

*Example.* A member of the public who regularly works with and receives assistance from the Department sends a \$15 basket of fruit to an employee as a holiday gift. Although the fruit may in fact be offered in exchange for performing services that the employee is expected to perform in the regular course of City duties, the employee may accept the fruit because the value is de minimis. (Because the reporting requirement is cumulative, an employee may be required to report even de minimis gifts on his or her Statement of Economic Interests if, over the course of a year, the gifts equal or exceed \$50.)

*Example.* A member of the public who regularly works with and receives assistance from the Department sends a \$150 basket of fruit to the Department as a holiday gift. Although the fruit may in fact be offered in exchange for performing services that the Department is expected to perform in the regular course of City duties, the Department may accept the fruit basket because it is a gift to the office to be shared among employees and officers.

**VI. AMENDMENT OF STATEMENT**

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Once a Statement of Incompatible Activities is approved by the Ethics Commission, the Department may, subject to the approval of the Ethics Commission, amend the Statement. C&GC Code § 3.218(b). In addition, the Ethics Commission may at any time amend the Statement on its own initiative. No statement of incompatible activities or any amendment thereto shall become operative until the City and County of San Francisco has satisfied the meet and confer requirements of State law and the collective bargaining agreement.

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**8. Public Comment**

Members of the public were invited to address the Commission on items that were within the subject matter jurisdiction of the Asian Art Commission. The public may address the Commission for up to three minutes and the Chair may limit total testimony to thirty minutes. Members of the public present did not wish to comment. There being no outside members of the public present, no public comment was made.

**9. Adjournment**

There being no further business to discuss, the meeting was adjourned at 6:00 p.m.