

MINUTES
ASIAN ART COMMISSION
4:00 p.m., Tuesday, March 26, 2013
200 Larkin Street, San Francisco, California

Commissioners Present: Edwin L. Berkowitz
Kathy Bissinger
Alexander D. Calhoun
Selina Gaw Cha
Joan Danforth
Timothy F. Kahn
C. N. Keating
Tim Kochis
Alexandra Lenehan
Fred M. Levin
Gorretti Lo Lui
James D. Marver
Maura Morey
Anthony Sun, Chair
Judith F. Wilbur
Akiko Yamazaki

Commissioners Absent: Barbara Mathews Brooks
Matt Brooks
Julia K. Cheng
Carmen Colet
Virginia Foo
Bill Kim
Chong-Moon Lee
Leslie Tang Schilling
Jane Chang Tom
Doris Ward

Asian Art Museum Foundation Trustees in Attendance:

Bob Ackerman
Betty Alberts
Ellen Arenson
Ellen Burstein Bauch
Rick Beleson
Eliza Cash
Bob Duffy
Christopher Dupuy
Sally Hambrecht
Pamela Joyner
Phyllis A. Kempner
Kevin McCabe
Constance Miller
Nanci Nishimura
Hiromitsu Ogawa
Suno Kay Osterweis
David Chun-Yee Pong
Merrill Randol Sherwin
Ann Tanenbaum
Douglas A. Tilden
Nicholas Unkovic
Susy Wadsworth

AAM Council Present: Marcie Vu
Salle Yoo

Also Present: Jay Xu
Anne Adams
Dori Sera Bailey
Elizabeth Bacchetti
Nancy Brennan
Deborah Clearwaters
Tim Hallman
Forrest McGill
Mark McLoughlin
Valerie Pechenik
Kim Bush Tomio
Nika Trufanova
Ami Tseng
Jack Wadsworth
Laura Hathhorn

1. Call to Order

Chair Anthony Sun called the meeting to order at 4:15 p.m., a quorum being present.

2. Approval of Minutes

Minutes from the January 29, 2013 full board meeting and the February 24, 2013 board retreat were approved as written.

3. Chair's Report

Mr. Sun welcomed long-time Foundation Trustee, and generous supporter of the museum, David Pong who lives in Hong Kong and whose attendance was greatly appreciated. Tony also welcomed Trustee Hiro Ogawa, attending his first official full board meeting after election to the Foundation on January 29, 2013, and other guests including members of the AAM Council. Tony spoke about the February 24, 2013 full board retreat where approximately 60 people participated, including board members, senior staff, members of the AAM Council and HBS Community Partners, noting the attendees' active participation resulted in dozens of actionable recommendations aimed at further enhancing board effectiveness. He noted *esprit de corp* – a sense of pride for your own organization; sense of brotherhood for your fellow members – had been palpable, making the retreat a rewarding experience. Tony called on Associate Curator of Chinese Art Li He for the Art Hit: *Horse and Chariot Fittings of Early China*.

4. Director's Report

Director Jay Xu also warmly welcomed Trustee David Pong. Preceding his report, focused on highlights since the January meeting, Jay acknowledged the AAM Council whose members— young, professional prospects for future board membership—support the museum in numerous ways, including their forthcoming family event, “Once Upon a Time in Xi’an,” (entirely sold out) and focus on contemporary art. Jay continued his report featuring highlights since the January meeting that included the out-of-the-gate success of Terracotta Warriors and the annual San Francisco Unified School District Arts Festival which was held for the first time at the Asian Art Museum, with congratulations to the museum's exceptional Education Department. Jay welcomed the museum's new Chief Philanthropy Officer Nancy Brennan, noting Nancy would serve as staff lead for Board engagement and fundraising, while Chief Engagement Officer Dori Sera Bailey would serve as staff lead for business plan implementation. Acknowledging the museum's 10th anniversary in its Civic Center location, Jay closed his report with a celebratory video.

5. Finance Report

Treasurer Tim Kahn reported on the current financial forecast and the debt, reviewing annual attendance and admissions revenue going back to 2004, and monthly attendance for FYs 11, 12 and 13 compared to FY 2009, a record attendance year. He discussed financial forecast drivers (attendance and earned revenue, contributed revenue, expenses, and projections for attendance and earned revenue), and looked at the 2013 operating budget and forecast. Tim concluded his report with a comprehensible, expanded presentation on the debt.

6. Education Committee Report

Education Committee Chair Susy Wadsworth's report featured the museum's Education Department. Susy noted, if art exhibitions are the heart the museum then the Education Department is the heartbeat. She listed the Department's achievements, including organizing teacher workshops, creating teacher resources and packets (lesson plans, activities, videos), booking school programs and school visits, coordinating storytelling, celebrations, coordinating wall labels with the curators, creating curriculum around each new exhibit, training docents, getting all the education content into the educational portal and much more, and doing so with a budget of less than \$1 million. Referencing a photograph, Susy introduced the department: Deb Clearwaters, Director of Education and Public Programs, Lizzie Lincoln, Assistant to the Director of Education; Allison Wyckoff, Manager of Public Programs; Marc Mayer, Educator for Public Programs; Caren Gutierrez, Manager of School and Teacher Programs; Monica Butler, Education Assistant, School and teacher Programs; Saly Lee, Manager of School and Teacher Programs; and Lorraine Goodwin, Education Resources Coordinator. Susy encouraged board members who may be interested in joining the committee to contact her.

7. Business Plan Update

Business Plan Committee Co-Chair Akiko Yamazaki reported the draft Business Plan had been presented to the City controller's office the day prior and that the draft plan was ready to share with board members. Akiko explained the process and time that was necessary to achieve the final draft: approximately 10 months of collaborative, intense work among senior staff, Boston-based consulting firm TDC, and the board business plan committee. Thanking all for their diligence, Akiko turned the meeting over to Dori Sera Bailey to talk about the roll-out plan.

8. Branding, Retreat and Business Plan Communications

Chief Engagement Officer Dori Sera Bailey reflected on the museum's rising profile as a result of our brand launch during the fall of 2011. Emphasizing the brand is what the museum is—the product and experience it delivers—Dori surveyed exhibitions since the brand launch, from Maharaja through Terracotta Warriors, regarding exhibition-related occurrences throughout the museum that deliver on our brand promise: Awaken the Past, Inspire the Next. Dori said for every exhibition we push ourselves by asking, how do we deliver the brand in this exhibition? New audiences and broadened audiences have been test driving the brand over the last 18 months and what the business plan team has been talking about in terms of business plan development has been how to continue engaging this group and turning brand infatuation into brand love, which builds brand loyalty. She said the business plan is based on 10 years of experience in this building layered with learning about visitor expectations today versus 10 years ago and what visitor expectations may be in the next five to 10 years. To introduce the business plan, Dori noted the roll out plan would be to conduct a series of workshops for board members, as a start: interactive, two hour sessions in small groups to promote discussion, with several date options from end of April through June. In closing she recapped the February board retreat highlighting some of the recommendations that came out of it and reminded everyone that Chief Philanthropy Officer Nancy Brennan would serve as staff lead for Board engagement and fundraising, while Dori would serve as staff lead for business plan implementation.

9. Next Board Retreat

Tony Sun reminded everyone that the date for the next Board Retreat had been set for Sunday, September 15, 2013, stating the small, interactive workshops would set the stage for a deep dive into the business plan when the full board meets collectively for the September retreat.

10. Consideration and Possible Action Items

a. Acknowledgement 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, In 2009, prompted by the recognition that the financial climate summoned 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, the Commission and Foundation adopted a policy of 100% annual fund participation and a suggested annual contribution amount at individual board members' maximum ability; and

WHEREAS, Annual acknowledgement of the policy by resolution serves as a reminder to Commissioners and Trustees to make an annual fund pledge at maximum ability and to fulfill pledges by fiscal year end, June 30, 2013; now, therefore, be it

RESOLVED, That the Asian Art Commission hereby acknowledges the policy of 100% annual fund participation and a suggested annual contribution at individual board members' maximum ability.

b. Appreciation of Commissioner M. Glenn Vinson

WHEREAS, M. Glenn Vinson has recently resigned from the Asian Art Commission and the Asian Art Museum Foundation having served since 1990; and

WHEREAS, During his 23 year tenure, Glenn served a total of 14.5 years as Treasurer of the Commission and Foundation, and in that role chaired the Budget & Finance Committees; he also served from 2007 to 2010 as chair of the Exhibitions & Publications Committee; now, therefore, be it

RESOLVED, That the members of the Commission express their deepest gratitude to Glenn Vinson for his 23 years of service and association with the Asian Art Museum and the City and County of San Francisco, and for his continued association through the Alumni Society.

c. Renewal of Loan No.: OL1990.02, San Antonio Museum of Art, Two Year Loan from April 1, 2013 through April 1, 2015

WHEREAS, On May 1, 1990 the Asian Art Commission approved Loan No. OL1990.02, a long-term loan of 27 objects to the San Antonio Museum of Art in San Antonio, Texas, renewable annually; and

WHEREAS, Subsequently, the Commission has renewed various aspects of the loan numerous times, the details of which have been tracked by and are on file with the Asian Art Museum's registration office,

WHEREAS, The San Antonio Museum of Art has requested a two year renewal of three remaining objects listed below, which were approved by the Commission on March 27, 2012, Resolution C12-006 for a loan from April 1, 2012 through April 1, 2013, and;

B61S7+

Seated Buddha
India, Bihar, Pala dynasty
Stone
H: 21 in x W: 14 3/8 in

B60S50+

Standing figure of Parvati
India, Vijayanagar dynasty
Stone
H: 41 in x W: 12 in

B65S2

Standing Figure of Uma
Cambodia, Khmer, Angkor Wat style
Sandstone
H: 24 1/2 in x W: 7 1/2 in

WHEREAS, The Director and Chief Curator recommend the renewal extension of the three objects for an additional two years, April 1, 2013 - April 1, 2015, now, therefore, be it

RESOLVED, That the Asian Art Commission approves the extension of Loan No. OL1990.02 to the San Antonio Museum of Art

d. Approval of Loan No.: OL2012.10 to the Smart Museum of Art, University of Chicago Exhibition to be held February 13 through June 8, 2014

WHEREAS, The University of Chicago's Smart Museum of Art has requested to borrow the following four objects for an exhibition entitled Performing Images: Opera in Chinese Visual Culture to be held at the Smart Museum of Art from February 13 through June 8, 2014; and

WHEREAS, The Chief Curator and the Director recommend the loan to the Smart Museum of Art; now, therefore be it

B81M28
TEXTILE
Wall hanging depicting Wang Zhaojun
Slit silk tapestry (kesi)
China
Qing dynasty, approx.. 1800-1900
H:45 1/4 in x W: 43 3/8 in

1992.93.1-.2
DECORATIVE ARTS
Pair of Fans depicting scenes from Romance of the Western Chamber
Ivory, inlaid gemstones, metal hinges
China
Qing dynasty, approx.. 1800-1911
H: 48 in x W: 10 in

2010.426.a-b
DECORATIVE ARTS
Snuff Bottle depicting Demon Queller Zong Kui
Porcelain with underglaze blue
China
Qing dynasty, approx.. 1800-1900
H: 3 1/4 in x Diam: 1 1/8 in

B60P39
CERAMICS
Plate depicting the Yang military family
Porcelain, blue and white
China
Qing dynasty, Reign of the Kangxi Emperor 1662-1722

RESOLVED, That the Asian Art Commission approves Loan No. OL2012.10 to the Smart Museum of Art at the University of Chicago.

e. Purchase for the Permanent Collection, with Thanks to the Donors of Funds

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WHEREAS, The Director and Chief Curator approved the purchase of the following object for the Permanent Collection; and

WHEREAS, The object was fully researched by the Curator and Conservator, and the Chief Curator recommended the object for consideration for the Permanent Collection; and

WHEREAS, The Acquisitions Committee recommends that the Asian Art Commission approve the acquisition of the object for the Permanent Collection; now, therefore, be it

RESOLVED, That the Asian Art Commission accepts the object into the Permanent Collection, with thanks to the Donor of Funds.

R2013.5.3
PAINTING
Krishna and Pradyumna rescue
Arjuna, approx. 1820
India; Kangra, Punjab Hills
Opaque watercolors and gold on paper
H. 12 7/8 in x W. 17 in

Dealer: Shawn Ghassemi/Art
Passages Ltd.
Donor of Funds: Bequest of
George Hopper Fitch
Price: \$55,000

f. 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 1st 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

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museum's web site (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, 2013.

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 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.

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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 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 appraisals, estimates, authentication, identification and statements as to 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 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 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.

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

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. 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. 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 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.

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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

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.

11. 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.

12. Adjournment

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