



## SAN FRANCISCO FIRE DEPARTMENT CITY AND COUNTY OF SAN FRANCISCO

### SAN FRANCISCO FIRE DEPARTMENT AND FIRE COMMISSION STATEMENT OF INCOMPATIBLE ACTIVITIES

#### I. INTRODUCTION

This Statement of Incompatible Activities is intended to guide the officers and employees of the San Francisco Fire Department (“Department”) and the San Francisco Fire 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, “Commissioners” shall mean the members of the Fire Commission, “Chief” shall mean the Chief of the Fire Department, “officers” shall mean a Commissioner or the Chief; and “employees” shall mean all employee of the Department.

This Statement is adopted under the provisions of San Francisco Campaign and Governmental Conduct Code (“C&GC Code) section 3.218. Engaging in the activities that are prohibited by this Statement may subject an officer or employee 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 officer or employee is subjected to discipline or penalties for violation of this Statement, the officer or employee 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 or officer’s collective bargaining agreement.

In addition to this Statement, officers and employees are subject to Department policies and State and local laws and rules governing the conduct of public officers and employees, 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; and
- Applicable Civil Service Rules.

Nothing in this Statement shall exempt any officer or employee 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 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's 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 employee should direct the questions to the employee's supervisor or to the Chief. Similarly, an employee should direct questions about other applicable laws governing the conduct of public employees to the employee's supervisor or the Chief, although the supervisor or Chief 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 an officer has questions about this Statement, the officer should direct the questions to the officer's appointing authority, the Ethics Commission or the City Attorney.

## **II. MISSION OF THE FIRE DEPARTMENT AND FIRE COMMISSION**

*The mission of the Fire Department is to protect the lives and property of the people of San Francisco from fires, natural disasters, and hazardous materials incidents; to save lives by providing emergency medical services; to prevent fires through prevention and education programs; and to provide a work environment that values health, wellness and diversity and is free of harassment and discrimination.*

*The Fire Commission is responsible for formulating, evaluating and approving goals, objectives, plans and programs for the Fire Department, and for setting Department policies consistent with the overall objectives of the City and County, as established by the Mayor and the Board of Supervisors through the adoption of City legislation. The Commission is further empowered by the Charter to set and enforce reasonable rules and regulations that it deems necessary to provide for the efficiency of the Department. In furtherance of its Charter obligations, the Commission will:*

- 1. Set policy and support the Department administration to accomplish the mission of the Fire Department;*
- 2. Support the administration's efforts to enhance and support the collaborative work of Department membership and public stakeholders in the delivery of fire suppression, fire prevention and emergency medical services with the focus upon the common public good;*
- 3. Encourage and support the administration to develop and implement systems to improve fiscal responsibility to enhance the budgeting process while maintaining and protecting essential public services including fire protection, fire prevention and emergency medical services;*
- 4. Encourage and support the administration to develop an effective physical fitness and wellness program to promote the health, safety and welfare of the members of the Department and the public;*
- 5. Encourage and support the administration to develop as part of its overall strategic planning effective career development and promotion opportunities for the membership;*
- 6. Actively encourage and support recruitment and education in the communities to bring highly qualified applicants to the Department who truly reflect the City's rich diversity;*

7. *Continue to work with the administration and City Attorney's Office to review and, where necessary, revise official Departmental Policy and Procedures; and*
8. *Contribute to the common good by conducting open meetings regularly and convening such additional meetings as deemed necessary to inform and educate the general public of the work of the Commission and Department.*

### **III. RESTRICTIONS ON INCOMPATIBLE ACTIVITIES**

This section prohibits outside activities, including self-employment, that are incompatible with the mission of the Department and Commission. Under subsection C, an officer or employee 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 Chief 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 Chief.

*For purposes of this section, "family member" is defined as an officer's or employee's spouse, registered domestic partner, parent, grandparent, child, grandchild, sibling, the child of a sibling, aunt, uncle and the child of an aunt or uncle, the spouse or registered domestic partner of such individual, and the same family members of the officer's or employee's spouse or registered domestic partner. This definition shall include any biological relationship; step-relationship formed as a result of marriage or domestic partnership; or relationship formed by adoption, legal guardianship, foster parenting or other operation of law.*

*For purposes of this section, the phrase "fire activity" shall mean any duty performed by the Fire Department, including but not limited to: fire suppression; fire prevention; protection from explosion and hazardous materials incidents; emergency responses to natural disasters, terrorism, and other threats to persons or property; arson investigations; permitting; building inspections; plan review; emergency medical services; and training and preparations for such activities.*

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

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

No officer or employee 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 officer or employee to perform the duties of his or her City position is materially impaired. Outside activities that materially impair the ability of an officer or employee to perform his or her City duties include, but are not limited to, activities that disqualify the officer or employee 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 officer or employee may enter into a contract with or receive a grant from the Department or Commission. This prohibition includes contracts and grants with the officer or employee directly, or with any legal entity, including a non-profit entity (except the SFFD Historical Society), where the officer or employee is an officer or executive director of the entity or where the officer or employee would perform or supervise persons performing the work under the contract or grant.*

*b. No officer or employee may receive or accept anything of value from anyone other than the City for services as an expert witness regarding (1) the cause of fires in the City and County of San Francisco, (2) any fire activity of the Fire Department, or (3) any policies, procedures or processes of the Fire Department. Any officer or employee who*

*wishes to provide services as an expert witness regarding the cause of fires or other fire activity in another jurisdiction must receive an advance written determination approving the activity, pursuant to section III.C below.*

*c. No officer or employee may represent any party in a civil matter where the City is also a party and the case involves fire activity or any acts or omissions by the Fire Department, or in a criminal matter where the Department conducted the investigation. This prohibition does not apply to administrative matters related to employee rights, such as disciplinary matters, or to negotiations or grievances related to any applicable collective bargaining agreement or the terms and conditions of employment between any applicable bargaining units and the City.*

*d. Other than in the course of rendering emergency aid, no officer or employee may treat, evaluate or provide an industrial disability rating for other Department employees for industrial injuries sustained in the course of their employment with the Department. This prohibition does not apply to staff in the Physician's Office providing such services within the scope of their official duties.*

*e. The Chief and Department employees are prohibited from working in any other employment, except military service, where the rules and regulations of the other employer require the employee to respond in catastrophic emergencies, or where the other employment allows for mandatory holdover or recall.*

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

Neither the Chief nor any employee may engage in outside activity (regardless of whether the activity is compensated) that would cause the Chief 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 Chief's 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 officer or employee 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 the Fire Department or Fire Commission on behalf of oneself; filing or otherwise pursuing claims against the City on one's own behalf; running for City elective office; making a public records disclosure request pursuant to the Sunshine Ordinance or Public Records Act; or owning or renting property subject to inspection by the Department. The following activities are expressly prohibited by this section:

a. Assistance in Responding to City Bids, RFQs and RFPs. No officer or employee 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 officer or employee 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 officer or employee 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. Except as within the scope of their official duties, the Chief and Department employees are prohibited from assisting private individuals or entities in obtaining or attempting to obtain a permit, inspection, or other service from the Fire Department. Notwithstanding the above prohibition, nothing in this section prohibits the Chief or an employee from providing general advice or information about the Department's permitting, inspection or other services that is available to any member of the public, as long as the Chief or employee does not receive anything of value for the advice or information. In addition, nothing in this section prohibits the Chief or an employee from obtaining or seeking to obtain a permit, inspection or other service from the Department concerning real property owned or occupied by the Chief or employee, or from assisting a family member in obtaining or attempting to obtain a permit, inspection or other services on real property owned and actually occupied by a family member of the Chief or employee. Commissioners are prohibited from using or attempting to use their position as a Commissioner to influence the Chief or any Department employee for the purpose of obtaining or attempting to obtain a permit, inspection or other service from the Department.*

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

In addition to the restrictions that apply to all officers and employees of the Department, and except as provided in subsection C of this section, the following activities are incompatible for individual employees holding specific positions.

### **1. BUREAU OF FIRE PREVENTION EMPLOYEES**

*a. No employee assigned to the Bureau of Fire Prevention may participate, directly or indirectly, in the design, layout, drafting, checking, or similar plan preparation or review for structures to be constructed, altered or remodeled within the jurisdiction of the Fire Department. Nothing in this section prohibits an employee assigned to the Bureau of Fire Prevention from participating in such activities concerning real property owned or occupied by the employee, or real property owned and actually occupied by a family member of the employee.*

*b. No employee assigned to the Bureau of Fire Prevention may consult or give advice (regardless of whether the employee is compensated) regarding San Francisco Building or Fire Codes, conduct plan review for plans that will be approved by the City and County, or engage in or assist in obtaining fire or building permits, including permit expediting, in the City and County, except within the scope of his or her official duties. Nothing in this section prohibits an employee assigned to the Bureau of Fire Prevention from participating in such activities concerning real property owned or occupied by the employee, or real property owned and actually occupied by a family member of the employee.*

*c. No employee assigned to the Bureau of Fire Prevention may be employed by, or provide services in exchange for compensation or anything of value from, an individual or entity, other than a family member, that presently has an application or matter under review before the Fire Department or has had an application or matter under review before the Fire Department in the preceding 12-month period. Individuals and entities include, but are not limited to, architects, designers, developers, engineers, contractors, permit expeditors, and associations of such individuals or entities. Compensation and things of value include, but are not limited to, construction materials (new and salvage), a loan or below-market rental of construction tools or equipment, and free or below-market-rate services from an*

*architect, designer, developer, engineer, contractor, permit expediter, real estate agent or other individual or entity that is regulated by the Fire Department.*

*d. No employee assigned to the Bureau of Fire Prevention may provide services, advice or information to any individual or entity if the services, advice or information are not available to other members of the public on the same terms (regardless of whether the services, advice or information are provided in exchange for compensation or any thing of value or any material benefit).*

*e. No employee assigned to the Bureau of Fire Prevention may utilize non-public information, obtained through the course of his or her public duties, to purchase or invest in real property located within the City and County of San Francisco.*

*f. No employee assigned to the Bureau of Fire Prevention may purchase real property in San Francisco if he or she was involved in a code enforcement action currently under review by the Fire Department on the property or if the property has had a code enforcement action that the employee was involved in within the past 12 months. For the purposes of this section, a “code enforcement action” is defined as the issuance of a Notice of Violation.*

*g. No employee assigned to the Bureau of Fire Prevention may purchase real property in San Francisco if that employee has provided direct services for that property address within the past 12 months. For the purposes of this section, “direct services” include performing plan check services, field inspections, pre-application assistance, representation before the Board of Appeals, and clerical duties such as report preparation or code enforcement file processing.*

*h. No employee assigned to the Bureau of Fire Prevention may intentionally use another individual or entity, including but not limited to a Limited Liability Company, a Partnership, a Limited Partnership, or a Corporation, to engage in any activity prohibited by Section III.B.1.a-g.*

## **2. EMPLOYEES WHO ARE ARSON INVESTIGATORS**

*a. Employees who are Arson Investigators may not work for any other employer or agency in a peace officer capacity.*

*b. Employees who are Arson Investigators may not act as private investigators for any investigations related to fire activity in San Francisco other than in their official capacity.*

*c. Employees who are Arson Investigators may not engage in the business of collecting debts in San Francisco.*

## **C. ADVANCE WRITTEN DETERMINATION**

As set forth below, an employee of the Department, the Chief or a Commissioner 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 or the Commission, imposes excessive time demands, is subject to review by the Department or Commission, 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 (except Fire Commission Secretary and Department Physician): An employee of the Department (except the Fire Commission Secretary and the Department Physician) may seek an advance written determination from the Chief or his or her designee. The Chief or his or her designee will be deemed the decision-maker for the employee's request.

Decision-maker for request by Fire Commission Secretary and Department Physician: The Fire Commission Secretary and Department Physician may seek an advance written determination from the Fire Commission, which will be deemed the decision-maker for any request by these employees.  
Decision-maker for request by the Chief: The Chief may seek an advance written determination from his or her appointing authority. The appointing authority will be deemed the decision-maker for the Chief's request.

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

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 based on changed facts or circumstances or other good cause, by providing advance written notice to the employee. The written notice shall specify the changed facts or circumstances or other good cause that warrants revocation of the advance written determination.

#### **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 officer or employee 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 officer or employee 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 officer or employee 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 officer or employee 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 officer or employee 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 officer or employee 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 officer or employee may use his or her City business cards for any purpose that may lead the recipient of the card to think that the officer or employee is acting in an official capacity when the officer or employee 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 officer or employee 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 officer or employee is acting in an official capacity when the officer or employee 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 officer or employee is contesting a parking ticket. The officer or employee 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 officer or employee may hold himself or herself out as a representative of the Department or Commission, or as an agent acting on behalf of the Department or Commission, 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 officer or employee may receive or accept gifts from anyone other than the City for the performance of a specific service or act the officer or employee 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 officer's or employee'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 officer or employee to a 501(c)(3) organization or federal, state or local government without the officer or employee 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**

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.