

1 STACEY FULHORST, Executive Director
City of San Diego Ethics Commission
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5 Petitioner

6
7 **BEFORE THE CITY OF SAN DIEGO**
8 **ETHICS COMMISSION**

9
10 In the Matter of:) Case No.: 2016-02
11 C.B. URBAN DEVELOPMENT,)
12 Respondents.) **STIPULATION, DECISION, AND**
13) **ORDER**
14)
15)

16 **STIPULATION**

17 **THE PARTIES STIPULATE AS FOLLOWS:**

18 1. Petitioner Stacey Fulhorst is the Executive Director of the City of San Diego
19 Ethics Commission [Ethics Commission]. The Ethics Commission is charged with a duty to
20 administer, implement, and enforce local governmental ethics laws contained in the San Diego
21 Municipal Code [SDMC] relating to, among other things, the provisions of the City's
22 Municipal Lobbying Ordinance [Lobbying Ordinance]. SDMC §§ 27.4001, *et seq.*

23 2. At all times mentioned herein, C.B. Urban Development [Respondent] was a
24 consulting firm specializing in the representation of public entities in connection with
25 public/private partnerships.

26 3. This Stipulation will be submitted for consideration by the Ethics Commission at
27 its next scheduled meeting, and the agreements contained herein are contingent upon the
28 approval of the Stipulation and the accompanying Decision and Order by the Ethics

1 Commission.

2 4. This Stipulation resolves all factual and legal issues raised in this matter by the
3 Ethics Commission without the necessity of holding an administrative hearing to determine
4 Respondent's liability.

5 5. Respondent understands and knowingly and voluntarily waives any and all
6 procedural rights under the SDMC including, but not limited to, a determination of probable
7 cause, the issuance and receipt of an administrative complaint, the right to appear personally in
8 any administrative hearing held in this matter, the right to confront and cross-examine
9 witnesses testifying at the hearing, the right to subpoena witnesses to testify at the hearing, and
10 the right to have the Ethics Commission or an impartial hearing officer hear this matter.

11 6. Respondent agrees to hold the City of San Diego harmless from any and all
12 claims or damages resulting from the Ethics Commission's investigation, this Stipulation, or
13 any matter reasonably related thereto. Respondent further agrees that the terms of this
14 Stipulation constitute compliance with the provisions of SDMC section 26.0450 in that the
15 Stipulation includes a recitation of facts, a reference to each violation, and an order.

16 7. Respondent acknowledges that this Stipulation is not binding upon any other law
17 enforcement or government agency and does not preclude the Ethics Commission from
18 referring this matter to, cooperating with, or assisting any other law enforcement or
19 government agency with regard to this or any other related matter.

20 8. The parties agree that in the event the Ethics Commission refuses to accept this
21 Stipulation, it shall become null and void. Respondent further agrees that in the event the
22 Ethics Commission rejects the Stipulation and a full evidentiary hearing before the Ethics
23 Commission becomes necessary, no member of the Ethics Commission or its staff shall be
24 disqualified because of prior consideration of this Stipulation.

25 **Summary of Law and Facts**

26 9. The Lobbying Ordinance requires lobbying firms to register with the City Clerk
27 within ten calendar days of becoming entitled to receive, or actually receiving, any amount of
28 monetary or in-kind compensation to engage in lobbying on behalf of any other person and

1 having at least one direct communication with a City Official for the purpose of influencing a
2 municipal decision. SDMC §§ 27.4002, 27.4007(a).

3 10. The Lobbying Ordinance requires registered lobbying firms to file quarterly
4 disclosure reports for every calendar quarter during which they retain their status as a lobbying
5 firm. Quarterly disclosure reports must be filed no later than the last day of the months of April,
6 July, October, and January covering the preceding calendar quarter. SDMC §§ 27.4015(a),
7 27.4016.

8 11. In late 2014, Respondent was retained by Bosa Development California II, Inc.
9 [Bosa] to provide consulting services in connection with several projects located in the
10 downtown San Diego area.

11 12. Respondent's principal had his first lobbying contact with a City Official on behalf
12 of Bosa on May 5, 2015. Accordingly, Respondent was required to register as a lobbying firm
13 on or before May 15, 2015. On July 1, 2016, Respondent filed its 2015 registration form.

14 13. Respondent's lobbying activities continued through September of 2015.
15 Accordingly, Respondent was required to file a second quarter disclosure report on or before
16 July 31, 2015, and a third quarter disclosure report on or before November 2, 2015 (October 31,
17 2015 fell on a Saturday). On July 1, 2016, Respondent filed quarterly disclosure reports for the
18 second and third quarters of 2015.

19 Counts

20 **Count 1 – Violation of SDMC section 27.4007**

21 14. As discussed above in paragraph 12, Respondent violated SDMC section 27.4007
22 by failing to timely register as a lobbying firm for the 2015 calendar year.

23 **Count 2 – Violations of SDMC section 27.4016**

24 15. As discussed above in paragraph 13, Respondent violated SDMC 27.4016 by
25 failing to timely file disclosure reports for the second and third quarters of 2015.

26 Factors in Mitigation

27 16. Respondent has cooperated fully with the Ethics Commission's investigation.

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1 17. During the course of the investigation, Respondent's principal voluntarily
2 provided information concerning the firm's lobbying activities that was not available from any
3 other source.

4 **Conclusion**

5 18. Respondent agrees to take necessary and prudent precautions to ensure
6 compliance with all provisions of the Lobbying Ordinance in the future.

7 19. Respondent acknowledges that the Ethics Commission may impose increased
8 fines in connection with any future violations of the City's lobbying laws.

9 20. Respondent agrees to pay a fine in the amount of \$1,500 for violating SDMC
10 sections 27.4007 and 27.4016. This amount must be paid by check or money order made
11 payable to the City Treasurer no later than October 7, 2016. The submitted payment will be
12 held pending Ethics Commission approval of this Stipulation and execution of the Decision
13 and Order portion set forth below.

14 [REDACTED]

15 DATED: _____

Stacey Fulhorst, Petitioner
SAN DIEGO ETHICS COMMISSION

17 [REDACTED]

18 DATED: _____

Charles Black, President and CEO
C.B. URBAN DEVELOPMENT, Respondent

21 **DECISION AND ORDER**

22 The Ethics Commission considered the above Stipulation at its meeting on October 13,
23 2016. The Ethics Commission hereby approves the Stipulation and orders that, in accordance
24 with the Stipulation, Respondent pay a fine in the amount of \$1,500.

25 [REDACTED]

26 DATED: _____

Clyde Fuller, Chair
SAN DIEGO ETHICS COMMISSION