1	STACEY FULHORST, Executive Director		
2	City of San Diego Ethics Commission 450 B Street, Suite 780		
3	San Diego, CA 92101 Telephone: (619) 533-3476		
4	Telephone. (019) 333-3470		
5	Petitioner		
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7	BEFORE THE CITY OF SAN DIEGO		
8	ETHICS COMMISSION		
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10	In re the Matter of:) Case No.: 2019-01	
11	RICHARD EUGENE MATTER, JR.,) STIPULATION, DECISION, AND) ORDER	
12	Respondent.)	
13)	
14		_)	
15	STIP	ULATION	
16	THE PARTIES STIPULATE AS FOLLOWS:		
17	Petitioner Stacey Fulhorst is the I	Executive Director of the City of San Diego Ethics	
18	Commission [Ethics Commission]. The Ethics Commission is charged with a duty to administer		
19	implement, and enforce local governmental ethics laws contained in the San Diego Municipal		
20	Code [SDMC] relating to, among other things, the provisions of the City of San Diego Ethics		
21	Ordinance [Ethics Ordinance], SDMC section 27.3501, et seq.		
22	2. At all times mentioned herein, Ric	chard Eugene Matter, Jr. was an unclassified	
23	employee of the City of San Diego. From November of 2014 through January of 2018, he		
24	served as the Assistant Deputy Director in the Transportation and Stormwater Department. From		
25	January of 2018 to the present, he has served as the Assistant Director for the same department.		
26	Matter is referred to herein as "Respondent."		
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STIPULATION, DECISION, AND ORDER

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- 3. This Stipulation will be submitted for consideration by the Ethics Commission at its next scheduled meeting, and the agreements contained herein are contingent upon the approval of the Stipulation and the accompanying Decision and Order by the Ethics Commission.
- 4. This Stipulation resolves all factual and legal issues raised in this matter by the Ethics Commission without the necessity of holding an administrative hearing to determine Respondent's liability.
- 5. Respondent understands and knowingly and voluntarily waives any and all procedural rights under the SDMC including, but not limited to, a determination of probable cause, the issuance and receipt of an administrative complaint, the right to appear personally in any administrative hearing held in this matter, the right to confront and cross-examine witnesses testifying at the hearing, the right to subpoena witnesses to testify at the hearing, and the right to have the Ethics Commission or an impartial hearing officer hear this matter. Respondent agrees that the terms of this Stipulation constitute compliance with the provisions of SDMC section 26.0450 in that the Stipulation includes a recitation of facts, a reference to each violation, and an order.
- 6. Respondent agrees to hold the City of San Diego and the Ethics Commission harmless from any and all claims or damages resulting from the Commission's investigation, this stipulated agreement, or any matter reasonably related thereto.
- 7. Respondent acknowledges that this Stipulation is not binding upon any other law enforcement or government agency and does not preclude the Ethics Commission from referring this matter to, cooperating with, or assisting any other law enforcement or government agency with regard to this or any other related matter.
- 8. The parties agree that in the event the Ethics Commission refuses to accept this Stipulation, it shall become null and void. Respondent further agrees that in the event the Ethics Commission rejects the Stipulation and a full evidentiary hearing before the Ethics Commission becomes necessary, no member of the Ethics Commission or its staff shall be disqualified because of prior consideration of this Stipulation.

Summary of Law and Facts

- 9. As an employee of the Transportation and Stormwater Department, Respondent is a "Local Code Filer" as that term is defined by SDMC section 27.3503 and is required to regularly file a Form 700 Statement of Economic Interests [SEI] in the time and manner set forth in SDMC section 27.3510.
- 10. SDMC section 27.3510 requires that all Local Code Filers file an annual SEI on or before April 1 of each year, covering the period from January 1 through December 31 of the previous calendar year, pursuant to the applicable Conflict of Interest Code adopted by the City Council.
- 11. In 2014, SDMC section 27.3520 prohibited Local Code Filers from accepting gifts from a single source with an aggregate value of more than \$440 if the Local Code Filer would be required to report receipt of the gifts on his or her SEI. (The annual limit has subsequently been adjusted for inflation.)
- 12. In 2014, Respondent received the following gifts (with a total value of approximately \$488) from American Asphalt in connection with Respondent's trip to the Bay Area to attend a December 20, 2014, San Francisco 49ers football game:
 - one night stay at Santa Clara Biltmore (approximate value \$129);
 - Southwest Airlines flights to and from Oakland (approximate value \$184); and,
 - ticket to the football game (value of \$175).
- 13. In accordance with the Conflict of Interest Code adopted by the City Council for the Transportation and Stormwater Department, Respondent was required to disclose gifts from any source located in or doing business with the City. In 2014, American Asphalt was a reportable source for Respondent because it is located in San Diego and was doing business with the City. In particular, it provided services to Respondent's department (although not to the division where Respondent worked).
- 14. On March 31, 2015, Respondent filed his SEI for the 2014 calendar year.

 Respondent did not disclose any gifts on his SEI despite the fact that he had received approximately \$488 in gifts from American Asphalt, as discussed above in paragraph 12.

1	15. On June 6, 2018, Respondent filed an amendment to his 2014 annual SEI to disclose		
2	the gifts from American Asphalt. When doing so, however, Respondent erroneously reported the		
3	\$175 football game ticket as having a value of only \$117.		
4	16. On March 12, 2019, Respondent filed another amendment to his 2014 annual SEI to		
5	disclose the correct value of the football game ticket received from American Asphalt.		
6	<u>Counts</u>		
7	Count 1 – Violation of SDMC section 27.3510		
8	17. Respondent violated SDMC section 27.3510 by failing to timely disclose gifts from		
9	a reportable source on his 2014 annual SEI.		
10	Count 2 – Violation of SDMC section 27.3520		
11	18. Respondent violated SDMC section 27.3520 when he accepted gifts from a		
12	reportable source in excess of the annual gift limit in effect for 2014.		
13	Factors in Mitigation		
14	19. Respondent fully cooperated with the Ethics Commission investigation and		
15	immediately filed the requisite amendment to his 2014 annual SEI after being notified that the		
16	value of the football game ticket had been reported incorrectly.		
17	<u>Conclusion</u>		
18	20. Respondent agrees to take necessary and prudent precautions to ensure compliance		
19	with all provisions of the Ethics Ordinance in the future.		
20	21. Respondent acknowledges that the Ethics Commission may impose increased fines		
21	in connection with any future violations of the City's Ethics Ordinance.		
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1	22. Respondent agrees to pay a fine in the amount of \$500 for violating SDMC section		
2	27.3510 and 27.3520. This amount must be paid no later than April 5, 2019, by check or money		
3	order payable to the City Treasurer. The submitted payment will be held pending Commission		
4	approval of this Stipulation and execution of the Decision and Order portion set forth below.		
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6	DATED.		
7	Stacey Fulhorst, Petitioner SAN DIEGO ETHICS COMMISSION		
8	REDACTED]		
9	D.A. MEED		
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12	DECISION AND ORDER		
13	The Ethics Commission considered the above Stipulation at its meeting on April 11,		
14	2019. The Ethics Commission hereby approves the Stipulation and orders that, in accordance		
15	with the Stipulation, Respondent pay a fine in the amount of \$500.		
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17	DATED.		
18	Deborah Cochran, Chair SAN DIEGO ETHICS COMMISSION		
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