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

BEFORE THE CITY OF SAN DIEGO  
ETHICS COMMISSION  

In re the Matter of:  

ROGER TALAMANTEZ,  
Respondent.  

STIPULATION  

THE PARTIES STIPULATE AS FOLLOWS:  

1. Petitioner Stacey Fulhorst is the Executive Director of the City of San Diego Ethics Commission [Ethics Commission]. The Ethics Commission is charged with a duty to administer, implement, and enforce local governmental ethics laws contained in the San Diego Municipal Code [SDMC] relating to, among other things, the provisions of the City’s Ethics Ordinance.  

2. At all times mentioned herein, Roger Talamantez was the President and Chief Executive Officer of San Diego Data Processing Corporation [SDDPC], a public corporation created by the City of San Diego in 1979. Talamantez is referred to herein as “Respondent.”  

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 to hold the City of San Diego harmless from any and all claims or damages resulting from the Commission’s investigation or this stipulated agreement, or any matter reasonably related thereto. Respondent further 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 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.

7. 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

8. As an employee of SDDPC, Talamantez was a City Official within the meaning of SDMC section 27.3503, and was required to abide by all of the provisions in the Ethics Ordinance.

9. The Ethics Ordinance prohibits City Officials from using their positions in any manner intended to induce any person to provide, directly or indirectly, anything of value to the City Official or the City Official’s immediate family. In particular, SDMC section 27.3564

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states that the prohibition applies to “any advantage, benefit, or economic gain, distinct from that enjoyed by members of the public without regard to official status.”

10. Respondent’s personal residence is located within City Council District 2. On August 11, 2003, Respondent received an email from one of his residential neighbors asking Respondent to use his “connection” to Councilmember Zucchet (the former Councilmember for District 2) to have the overhead utility lines on their residential street placed underground. According to the California Public Utilities Commission, the aesthetic benefits of undergrounding increase the value of the properties along the route. On August 12, 2003, Respondent sent an email to Jearl O’Neal, his subordinate and the Director of Intergovernmental Relations for SDDPC, asking O’Neal to work with the Councilmember Zucchet’s office to have the utilities on his residential street placed underground. Respondent sent another email to O’Neal on August 19, 2003, asking if there was any progress on the undergrounding issue. O’Neal responded via email on August 20, 2003, and forwarded a response from a Council Representative in District 2 indicating that Councilmember Zucchet would be prioritizing the undergrounding projects in his district, and that Talamantez’s request “has been noted.” From August 20, 2003, through September 5, 2003, Respondent sent several additional emails to O’Neal asking him to follow-up on his undergrounding request.

Counts

Count 1 – Violation of SDMC section 27.3564

11. Respondent used his position and the power and authority of his office to induce others to provide him with something of value, in violation of SDMC section 27.3564. In particular, Respondent used his position to induce a subordinate employee to convey his undergrounding request to a City Councilmember, and also used his position to induce the Councilmember’s staff to prioritize his request. Because the undergrounding of utility lines serves to enhance the value of residential property, Respondent’s request was intended to provide him with a private economic benefit.
Conclusion

12. Respondent agrees to pay a fine in the amount of $500.00 for violating SDMC section 27.3564. This amount must be paid no later than September 16, 2005, by check or money order made payable to the City Treasurer. The submitted payment will be held pending Commission approval of this Stipulation and execution of the Decision and Order portion set forth below.

DATED:__________________  __________________________________________

STACEY FULHORST, Executive Director
ETHICS COMMISSION, Petitioner

DATED:__________________ __________________________________________

ROGER TALAMANTEZ, Respondent

DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on __________, 2005. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondent pay a fine in the amount of $500.00.

DATED:__________________  _______________________________

Dorothy Leonard, Chair
SAN DIEGO ETHICS COMMISSION