

1 SHARON SPIVAK, Executive Director
City of San Diego Ethics Commission
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4

5 Petitioner
6

7 **BEFORE THE CITY OF SAN DIEGO**
8 **ETHICS COMMISSION**
9

10 In re the Matter of:) Case No.: 2023-08
11 MIDWAY VILLAGE PLUS, LLC,) **STIPULATION, DECISION, AND**
12 Respondent.) **ORDER**
13)
14)
15)

16 **STIPULATION**

17 **THE PARTIES STIPULATE AS FOLLOWS:**

- 18 1. Petitioner Sharon Spivak is the Executive Director of the City of San Diego
19 Ethics Commission (Ethics Commission). The Ethics Commission is charged with
20 administering, implementing, and enforcing local governmental ethics laws in the
21 San Diego Municipal Code (SDMC), including the Municipal Lobbying Ordinance,
22 SDMC sections 27.4001, *et seq.*
- 23 2. At all times referenced in this Stipulation, Midway Village Plus, LLC
24 (Respondent) was a development team in a bid process for selection by the Mayor and
25 San Diego City Council to redevelop what is known as the Sports Arena site. The site
26 encompasses approximately 48.5 acres in the Midway-Pacific Highway area of
27 San Diego.

1 necessary, no member of the Ethics Commission or its staff shall be disqualified
2 because of their prior consideration of this Stipulation.

3 **Summary of Law and Facts**

4 9. “Expenditure lobbyist” is defined in SDMC section 27.4002 as “any *person*
5 who makes expenditures for public relations, media relations, advertising, public
6 outreach, research, investigation, reports, analyses, studies, or similar activities
7 designed to influence one or more *municipal decisions*, to the extent that such
8 *payments* total \$5,000 or more within a calendar quarter.” (Emphasis in original).

9 10. Between July 1, 2021 and September 30, 2021, Respondent made \$9,500
10 in lobbying expenditures to support its bid to redevelop the Sports Arena property.
11 These payments were made to Manolatos Public Affairs (Manolatos) for strategic
12 communication services and IVC Media (IVC) for branding. As Respondent spent more
13 than \$5,000 during the calendar quarter on indirect lobbying methods, Respondent met
14 the definition of “expenditure lobbyist” during the third quarter of 2021.

15 11. Between October 1, 2021 and December 31, 2021, Respondent made
16 \$25,870.54 in lobbying expenditures in support of its bid to redevelop the Sports Arena
17 property. These payments were made to Manolatos for strategic communication
18 services and IVC for a website and email. As Respondent spent more than \$5,000
19 during the calendar quarter on indirect lobbying methods, Respondent met the definition
20 of “expenditure lobbyist” during the fourth quarter of 2021.

21 12. Between January 1, 2022, and March 31, 2022, Respondent made \$25,750
22 in lobbying expenditures in support of its bid to redevelop the Sports Arena property.
23 These payments were made to Manolatos for strategic communication services and IVC
24 for website blog capabilities and social media. As Respondent spent more than \$5,000
25 during the calendar quarter on indirect lobbying methods, Respondent met the definition
26 of “expenditure lobbyist” during the first quarter of 2022.

1 19. Respondent filed a disclosure report for the first quarter of 2022 on
2 October 3, 2023. The filing was 522 days late; it had been due April 30, 2022.

3 20. Respondent filed a disclosure report for the second quarter of 2022 on
4 October 3, 2023. The filing was 430 days late; it had been due July 31, 2022.

5 21. Respondent filed a disclosure report for the third quarter of 2022 on
6 October 3, 2023. The filing was 338 days late; it had been due October 31, 2022.

7 Counts

8 **Counts 1 through 5 – Violations of SDMC sections 27.4015 and 27.4016**

9 22. The Respondent violated SDMC sections 27.4015 and 27.4016 by failing to
10 file five expenditure lobbyist disclosure reports due quarterly in a timely manner, as
11 outlined in paragraphs 17 through 21 above.

12 Factors in Mitigation

13 23. Respondent fully cooperated with the Commission's investigation.

14 24. Respondent has now filed all outstanding expenditure lobbying reports.

15 25. Respondent was not selected as the redevelopment team for the Sports
16 Arena property.

17 Factors in Aggravation

18 26. The following timeline shows major milestones for the Sports Arena
19 redevelopment project. Respondent's forms were filed after the following actions were
20 taken. At each milestone, the public, other bidders, and City officials were denied, but
21 could have benefitted from, having information contained in the disclosure forms.

22 A) October 4, 2021 – The City issues a notice of availability (NOA) for
23 the property after the City Council previously passed a resolution to declare the land
24 "surplus."

25 *October 31, 2021 – third quarter 2021 (July through September 2021)*
26 *disclosure report was due.*

1 J) September 8, 2022 – At a LUHC meeting, DREAM recommends
2 that Midway Rising be selected as the redevelopment team. LUHC votes 3-0 (with
3 Councilmember Vivian Moreno absent) to move staff’s recommendation with additional
4 requirements.

5 K) September 13, 2022 – The City Council votes to select Midway
6 Rising as the redevelopment team for the Sports Arena project.

7 *October 31, 2022 – third quarter 2022 (July through September 2022)*
8 *disclosure report was due.*

9 L) Respondent filed its five late disclosure reports on October 3, 2023,
10 well after the selection of the winning bidder.

11 **Conclusion**

12 27. Respondent agrees to take necessary and prudent precautions to ensure
13 compliance with all provisions of the City’s Lobbying Ordinance in the future.

14 28. Respondent acknowledges that the Ethics Commission may impose
15 increased fines concerning future violations of the City’s lobbying laws.

16 29. Respondent agrees to pay a fine in the amount of \$7,500 for violating
17 SDMC sections 27.4015 and 27.4016. This amount must be paid by check or money
18 order made payable to the City Treasurer by January 2, 2024. The payment will be held
19 pending Commission approval of this Stipulation and execution of the Decision and
20 Order portion set forth below.

21 DATED: _____

[REDACTED]

22 _____
23 Sharon Spivak, Petitioner
24 SAN DIEGO ETHICS COMMISSION

25 DATED: _____

24 [REDACTED]

25 _____
26 David Smith, Project Executive
27 MIDWAY VILLAGE PLUS, LLC

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DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on January 11, 2024. The Ethics Commission hereby approves the Stipulation and orders that, per the Stipulation, the Respondent pay a fine in the amount of \$7,500.

[REDACTED]

DATED: _____

Caridad Sanchez, Chair
SAN DIEGO ETHICS COMMISSION