

RESOLUTION NUMBER R-307446

DATE OF FINAL PASSAGE MAY 15 2012

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO DENYING APPEAL AND UPHOLDING
PERMANENT DEBARMENT OF JERRY L. KRUEGER OF
J. L. KRUEGER LANDSCAPE SERVICES.

WHEREAS, San Diego Municipal code section 22.0801, et seq., provides that debarment is designed to protect the City by ensuring full and open competition by having contractual relationships only with responsible persons; and

WHEREAS, the serious nature of debarment requires that these sanctions be imposed only in the public interest for the City's protection and not for purposes of punishment, and only for the grounds listed in and in accordance with San Diego Municipal code section 22.0801, et seq.; and

WHEREAS, the Director of Administration received a Living Wage Ordinance employee complaint on September 26, 2008 and in response conducted a review of City contracts with J. L. Kreuger Landscape Services; and

WHEREAS, the review identified Living Wage Ordinance violations in addition to failure to pay workers, labor law violations and falsification of documents; and

WHEREAS, the results of the review were forwarded to the San Diego County District Attorney's Insurance Fraud Division and its independent investigation subsequently led to a Grand Jury indictment and felony conviction for insurance and tax fraud, and Jerry L. Kreuger was sentenced on June 17, 2011; and

WHEREAS, the Director of Administration recommended permanent debarment of Jerry L. Kreuger; and

WHEREAS, in accordance with the procedures set forth in the San Diego Municipal Code sections, 22.0801., et seq., Jerry L. Kreuger appeared before a Debarment Hearing Panel on February 9, 2012 and admitted he falsified records, failed to pay wages due and pled guilty to felony insurance and tax fraud; and

WHEREAS, the Debarment Hearing Panel issued a Debarment Decision on March 5, 2012, with a finding of sufficient evidence for permanent debarment in accordance with San Diego Municipal Code sections 22.0807(a) and 22.0807(c); and

WHEREAS, Jerry L. Kreuger requested an appeal of the Debarment Decision to the San Diego City Council in accordance with San Diego Municipal Code section 22.0810; and

WHEREAS, an appeal hearing was held before the San Diego City Council on May 15, 2012; and

WHEREAS, the City Council considered the Hearing Panel's Debarment Decision, the Director of Administration's presentation on the recommendation for denial of the appeal of a permanent debarment, heard testimony from Jerry L. Kreuger, and comments from members of the public supporting the Debarment Decision; and

WHEREAS, the City Council found that the Debarment Hearing was conducted appropriately pursuant to San Diego Municipal Code section 22.0801, et seq., that San Diego Municipal Code section 22.0807 applies to Jerry L. Kreuger's conduct and felony conviction; and

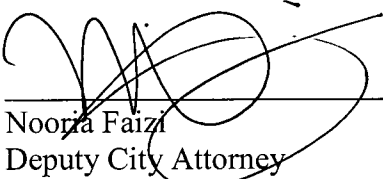
WHEREAS, the City Council supports holding Contractors' accountable for violations of laws and for flawed and weak business practices; and,

WHEREAS, the City Council finds no mitigating circumstances to reduce the debarment, or to reverse the Debarment Hearing Panel's Debarment Decision; and,

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego; that pursuant to San Diego Municipal Code section 22.0801, et seq., and after considering the evidence and testimony, the City Council of the City of San Diego hereby denies the appeal and upholds the permanent debarment of Jerry L. Krueger of J. L. Kreuger Landscape Services.

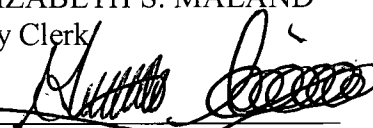
APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Nooria Faizi
Deputy City Attorney

NF:cfq
May 17, 2012
Or.Dept:Administration
Doc. No. 362649

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of MAY 15 2012 .

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk