

ORDINANCE NUMBER O- 21193 (NEW SERIES)

DATE OF FINAL PASSAGE JUN 04 2020

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 2, DIVISION 8 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 22.0803, 22.0805, 22.0807, AND 22.0809, RELATING TO DEBARMENT BASED ON VIOLATIONS OF SAN DIEGO CHARTER SECTION 97

WHEREAS, it is in the public's interest to ensure that the City of San Diego (City) only awards contracts to, and does business with, responsible businesses; and

WHEREAS, the San Diego City Council (City Council) adopted ordinance O-20714 on September 9, 2016, codified in Chapter 2, Article 2, Division 8 of the San Diego Municipal Code, setting forth the grounds and process for debarment and suspension of bidders and contractors (Debarment Ordinance); and

WHEREAS, independent hearing officers hear all recommendations for permanent debarment and their decisions on debarment are final; and

WHEREAS, San Diego Charter (Charter) section 97 provides that City Council must permanently debar a party or parties found guilty of collusion; and

WHEREAS, the City wishes to amend the Debarment Ordinance to clarify that if an independent hearing officer determines a party or parties are guilty of collusion, it must be referred to the City Council; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 2, Article 2, Division 8 of the San Diego Municipal Code is amended by amending sections 22.0803, 22.0805, 22.0807, and 22.0809, to read as follows:

**§22.0803 Scope of Division**

- (a) through (b) [No change in text.]
- (c) The City Manager shall adopt procedures and regulations to implement this Division, including procedures for the conduct of *debarment* hearings, *suspension* meetings, and appeals of *final performance evaluations*.

**§22.0805 Suspension While Debarment Proceedings are Pending**

- (a) through (c) [No change in text.]
- (d) The *suspension* is effective until a final *debarment* decision is issued.

**§22.0807 Grounds for Debarment**

- (a) Grounds for Permanent Debarment
  - (1) through (6) [No change in text.]
  - (7) The *person* has committed an act or omission so serious or compelling in nature that it affects the present responsibility of the *bidder* or *contractor* to be awarded a *contract* or to participate as a *subcontractor*.
- (b) through (d) [No change in text.]

**§22.0809 Debarment Proceedings before an Independent Hearing Officer**

- (a) through (e) [No change in text.]
- (f) Notwithstanding (d) and (e), any decision by an independent hearing officer that *debars* a *bidder* or *contractor* based on collusion is not final and shall be referred to the City Council to permanently *debar* that *bidder* or *contractor* in accordance with Charter section 97. The City Council may adopt or deny the independent hearing officer's finding of collusion. The City Council's decision is final.

Section 2. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 3. That this Ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

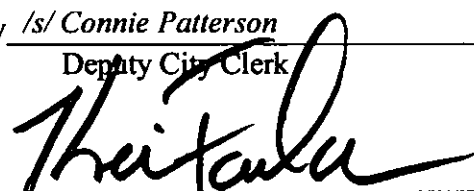
APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Jill S. Cristich  
Jill S. Cristich  
Deputy City Attorney

JSC:hm:jdf  
05/22/19  
Or.Dept:PW  
Doc. No.: 1895737\_2

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of 06/02/2020.

ELIZABETH S. MALAND  
City Clerk

By /s/ Connie Patterson  
Deputy City Clerk  
  
KEVIN L. FAULCONER, Mayor

Approved: 6/3/2020  
(date)

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

**STRIKEOUT ORDINANCE**

**OLD LANGUAGE: ~~Struck Out~~**

**NEW LANGUAGE: Double Underline**

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AN ORDINANCE AMENDING CHAPTER 2 ARTICLE 2, DIVISION 8 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 22.0803, 22.0805, 22.0807, AND 22.0809, RELATING TO DEBARMENT BASED ON VIOLATIONS OF SAN DIEGO CHARTER SECTION 97.

**Article 2: Administrative Code**

**Division 8: Debarment**

**§22.0803 Scope of Division**

(a) through (b) [No change in text.]

~~(e) This Division provides that a list of *debarred and suspended persons* is to be created and maintained by the City Manager. It further spells out the consequences of a *person's debarment and suspension*.~~

~~(d)~~(c) The City Manager shall adopt procedures and regulations to implement this Division, including procedures for the conduct of *debarment* hearings, *suspension* meetings, and appeals of *final performance evaluations*.

**§22.0805 Suspension While Debarment Proceedings are Pending**

(a) through (c) [No change in text.]

(d) The *suspension* is effective until ~~the Debarment Hearing Board makes a final *debarment* decision is issued on the proposed debarment, until there has been a final ruling by an independent hearing officer in accordance~~

~~with section 22.0809, or until a bidder or contractor is debarred under section 22.0811(e).~~

**§22.0807 Grounds for Debarment**

(a) Grounds for Permanent Debarment

(1) through (6) [No change in text.]

(7) The ~~person~~person has committed an act or omission so serious or compelling in nature that it affects the present responsibility of the *bidder* or *contractor* to be awarded a *contract* or to participate as a *subcontractor*.

(b) through (d) [No change in text.]

**§22.0809 Debarment Proceedings before an Independent Hearing Officer**

(a) through (e) [No change in text.]

(f) Notwithstanding (d) and (e), any decision by an independent hearing officer that *debars a bidder or contractor* based on collusion is not final and shall be referred to the City Council to permanently *debar that bidder or contractor* in accordance with Charter section 97. The City Council may adopt or deny the independent hearing officer's finding of collusion. The City Council's decision is final.

JSC:hm:jdf  
05/22/19  
Or.Dept:PW  
Doc. No.: 1895696\_2

Passed by the Council of The City of San Diego on JUN 02 2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 04 2020.

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.  
By Connie Patterson, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

MAY 12 2020, and on JUN 04 2020.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.  
By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California

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