

**ORDINANCE No. 2022-12**

**AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AMENDING ARTICLE V, “PURCHASING AND PROCUREMENT,” IN CHAPTER 2, “ADMINISTRATION,” OF THE CITY’S CODE OF ORDINANCES BY CREATING SECTION 2-340, “DEBARMENT AND SUSPENSIONS”; AMENDING THE PROCEDURES FOR COMPANIES THAT HAVE VIOLATED PROCUREMENT GUIDELINES TO BE DEBARRED OR SUSPENDED FOR ANY FUTURE BIDS FOR THE CITY; PROVIDING FOR INCORPORATION INTO THE CODE; PROVIDING SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, Article V of Chapter 2 of the City of Doral’s (the “City”) Code of Ordinances (the “Code”) provides, for the rules and procedures, regarding our Procurement Department; and

**WHEREAS**, as stewards of taxpayer’s resources and to protect the city’s interests, the city is required to award contracts to responsible vendors that are determined to be reliable; and

**WHEREAS**, when a company or vendor has violated the procurement actions, the city currently does not have a process to reprimand and / or suspend the company to prohibit any future solicitation to be submitted from said company; and

**WHEREAS**, creating a section of debarment and suspensions provides guidelines and a mechanism for the city to ban any company or vendor that has violated the procurement process and allow the City to proceed and award contracts to responsible vendors.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL AS FOLLOWS:**

**Section 1. Recitals.** The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance upon adoption hereof.

**Section 2. Code Amended.** Chapter 2 of the City of Doral Code of Ordinances is hereby amended as follows:

CHAPTER 2. ADMINISTRATION

ARTICLE V. PURCHASING AND PROCUREMENT

DIVISION 2. RESOLUTION OR PROTESTED SOLICITATIONS AND AWARDS

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2-340. – Debarment and Suspensions

(a) Authority and requirement to debar and suspend. After reasonable notice to an actual or prospective contractual party, and after reasonable opportunity for such party to be heard, the city manager, after consultation with the chief procurement officer and the city attorney, shall have the authority to suspend or debar a contractual party, for the causes listed below, from consideration for award of city contracts. The suspension shall be for a period of not fewer than two (2) years. The city manager shall also have the authority to suspend a contractual party from consideration for award of city contracts if there is probable cause for debarment, pending the debarment determination. The city manager may consider past acts of the contractual party that occurred prior to the effective date of this ordinance. The authority to debar and suspend contractors shall be exercised in accordance with regulations which shall be issued by the chief procurement officer after approval by the city manager, the city attorney, and the city council.

(b) Suspension. Causes for suspension include the following:

- (1) Violation of contract provisions, which is regarded by the chief procurement officer to be indicative of non-responsibility. Such violation may include failure without good cause to perform in accordance with the terms and conditions of a contract or to perform within the time limits provided in a contract, provided that failure to perform caused by acts beyond the control of a party shall not be considered a basis for debarment or suspension.
- (2) Debarment or suspension of the contractual party by any federal, state or other governmental entity.
- (3) False certifications including but not limited to certifications under paragraphs (d) and (e) below.

- (4) Found in violation of a city ordinance or regulation and for which the violation remains noncompliant.
  - (5) Found in violation of a city ordinance or regulation and for which a civil penalty or fine is due and owing to the city.
  - (6) A contractual party who has defaulted under the terms of a contract with the city or any of its boards, agencies, trusts, authorities, or committees and has failed to cure such default.
  - (7) Vendor and the city are engaged in an adversarial proceeding (court proceeding, arbitration or administrative proceeding) arising from or relating to the vendor's performance of a contract with the city
  - (8) Any other cause judged by the city manager to be so serious and compelling as to affect the responsibility or integrity of the contractual party performing city contracts.
- (c) *Debarment.* Causes for permanent debarment include the following:
- (1) Conviction for commission of a criminal offense incident to obtaining or attempting to obtain a public or private contract or subcontract, or incident to the performance of such contract or subcontract.
  - (2) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification, or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty.
  - (3) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals.
  - (4) Default or failure to fully comply with the conditions, specifications, drawings or terms of a bid, proposal, or contract with the city twice in any three-year period.
- (d) *Certification.* All contracts for goods and services, sales, and leases by the city shall contain a certification that neither the contractual party nor any of its principal owners or personnel have been convicted of any of the violations set forth above or debarred or suspended as set forth in paragraph (b)(2).
- (e) *Non-Collusion Affidavit.* All bids for goods and services shall contain a certification that neither the undersigned bidder or agent nor any of its principal owners or personnel entered into any combination, collusion or agreement with any person submitting a bid.
- (f) *Debarment and suspension decisions.* Subject to the provisions of paragraph (a), the city manager shall render a written decision stating the reasons for the debarment or suspension. A copy of the decision shall be provided promptly to the contractual party, along with a notice of said party's right to appeal the decision.

**Sec. 2-341. Appeal of decision.**

The suspension or debarment shall be final and conclusive, unless the suspended or debarred party appeals the decision of the city manager to the city council, in the manner provided for appeals of administrative decisions of this Code of Ordinances. An appeal must be filed within twenty-one (21) days of the rendition of the order.

**Section 3. Implementation.** The City Manager, City Clerk, and City Attorney are hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions as may be appropriate by their position to execute the purpose of this Ordinance.

**Section 4. Incorporation into the Code.** The provisions of this Ordinance, to the extent appropriate, shall become and be made a part of the Code of Ordinances of the City of Doral. The City Clerk is authorized to take all actions necessary to incorporate the provisions of this Ordinance into the Code of Ordinances, including, but not limited to, renumbering or relettering sections and to change the word “ordinance” to “section,” “article,” or such other appropriate word or phrase in order to accomplish such intention.

**Section 5. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 6. Conflicts.** All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

**Section 7. Effective Date.** This Ordinance shall become effective immediately upon passage by the City Council on second reading.

The foregoing Ordinance was offered by Councilmember Cabrera who moved its adoption. The motion was seconded by Councilmember Mariaca upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Digna Cabral	Yes
Councilman Pete Cabrera	Yes
Councilwoman Claudia Mariaca	Yes
Councilman Oscar Puig-Corve	Yes

PASSED AND ADOPTED on FIRST READING this 13 day of April, 2022.

PASSED AND ADOPTED on SECOND READING this 11 day of May, 2022.

  
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JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:

  
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CONNIE DIAZ, MMC  
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY  
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:

  
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LUIS FIGUEREDO, ESQ.  
CITY ATTORNEY