

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2019

COUNCIL BILL NO. _____
COMMITTEE OF REFERENCE:
Finance and Governance

6 A BILL

8 **For an ordinance adding additional grounds to the city's debarment ordinance in**
9 **order to further protect the city in its contracting.**
10

11 **WHEREAS**, the debarment ordinance currently contains grounds for debarment related to
12 violations of section 20-76, D.R.M.C. and 20-77, D.R.M.C.;

13 **WHEREAS**, the taxpayers of the city should have additional protections from contractors,
14 subcontractors, and suppliers who violate laws related to business integrity or business honesty, or
15 who willfully fail to perform contracts including requirements related to the payment and treatment of
16 workers mandated by city ordinances, or who have a history of failing to perform contracts with the city
17 and requirements related to the payment and treatment of workers mandated by city ordinances;

18 **WHEREAS**, city council has determined that the debarment ordinance should be amended to
19 add additional grounds for debarment, including conviction of certain crimes or entry of a civil
20 judgment on grounds related to business integrity or business honesty; and

21 **WHEREAS**, city council has determined that the debarment ordinance also should include the
22 ability to temporarily suspend a contractor that is under criminal investigation for crimes related to
23 business integrity or business honesty.

24 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

25 **Section 1.** That section 20-77, D.R.M.C. shall be amended by deleting the language stricken
26 and adding the language underlined, to read as follows:

27 (b)(2) Contractor shall mean a contractor who has contracted with or is seeking to contract with the
28 city or to provide goods or services to or on behalf of the city and a subcontractor or supplier of any
29 tier ~~under a contract~~.

30 * * *

31 (c) Grounds for debarment. As used in this section, "grounds for debarment" shall mean the
32 occurrence within the three (3) years immediately preceding a report as provided in subsection (d) of:

33 * * *

34 (6) Conviction of a criminal offense under local, state, or federal law or entry of a civil judgment

1 for embezzlement, theft, forgery, bribery, falsification or destruction of records, making false
2 statements, tax evasion, receiving stolen property, fraud, unfair trade practices, violation of
3 state or federal antitrust statutes, or other law indicating a lack of business integrity or business
4 honesty by a contractor or an officer, director, partner, manager, key employee, or other
5 principal of a contractor.

6 (7) Conviction of a criminal offense or entry of a civil judgment related to obtaining or
7 attempting to obtain a public or private contract or subcontract, including but not limited to bid
8 rigging or collusion by a contractor or an officer, director, partner, manager, key employee, or
9 other principal of a contractor.

10 (8) Serious violation of the terms of one or more contracts with the city, including willful
11 material failure to perform, following notice of such failure, or a history of material failure to
12 perform, or of materially unsatisfactory performance of one or more contracts with the city.

13 (9) Current debarment by any other governmental entity based upon a settlement agreement
14 or a final administrative or judicial determination issued by a federal, state, or local
15 governmental entity.

16 (10) Any violations of or described in D.R.M.C. section 20-80.

17 (11) Any violations of or described in D.R.M.C. sections 20-82 through 20-84.

18 ~~(6)~~ (12) The term "grounds for debarment" shall not include any isolated or insubstantial
19 violation of law that is promptly corrected by a contractor in accordance with the requirements
20 of the city.

21
22 **Section 2.** That section 20-77, D.R.M.C. shall be further amended by deleting the language
23 stricken and adding the language underlined, to read as follows:

24 (h) *Suspension.* The debarment board, in consultation with the city attorney, may temporarily suspend
25 any contractor because a criminal investigation has commenced or a criminal charge has issued
26 against the contractor or an officer, director, partner, manager, key employee, or other principal of a
27 contractor for an offense under local, state, or federal law for embezzlement, theft, forgery, bribery,
28 falsification or destruction of records, making false statements, tax evasion, receiving stolen property,
29 fraud, unfair trade practices, violation of antitrust statutes, or other law indicating a lack of business
30 integrity or business honesty until the investigation is concluded without charges or the charges are
31 resolved through conviction, plea, dismissal, or other resolution.

32
33 **Section 3.** That section 20-77, D.R.M.C. subsections (h) *Appeals* shall be relettered as
34 subsection (i); subsection (i) *Debarment list* shall be relettered as subsection (j); subsection (j)

1 *Mandatory contract provision* shall be relettered as subsection (k); subsection (k) *Other remedies*
2 *preserved* shall be relettered as subsection (l); and subsection (l) *Guidelines; rules and regulations*
3 shall be relettered as subsection (m).

4
5 COMMITTEE APPROVAL DATE: _____, 2019.

6 MAYOR-COUNCIL DATE: _____, 2019.

7 PASSED BY THE COUNCIL _____
8 _____ - PRESIDENT

9 APPROVED: _____ - MAYOR _____

10 ATTEST: _____ - CLERK AND RECORDER,
11 EX-OFFICIO CLERK OF THE
12 CITY AND COUNTY OF DENVER
13

14 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2019; _____ 2019

15
16 PREPARED BY: Tracy A. Davis, Assistant City Attorney; DATE _____ 2019

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18 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
19 City Attorney. We find no irregularity as to form and have no legal objection to the proposed
20 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to
21 § 3.2.6 of the Charter.
22

23 Kristin M. Bronson, Denver City Attorney

24 BY: _____, _____ City Attorney DATE: _____