



## AGENDA MEMORANDUM

First Reading Ordinance for the City Council Meeting of May 12, 2015  
Second Reading Ordinance for the City Council Meeting of June 16, 2015

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**DATE:** June 3, 2015  
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<b>Capital Programs Debarment Ordinance</b>
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**CAPTION:**

Ordinance amending the Code of Ordinances by adding Chapter 41 titled "Public Works"; adding provisions related to contractor debarment; adding provisions related to the effective administration of the procurement of public works contracts; providing for severance; and providing for an effective date.

**PURPOSE:**

The purpose of this Agenda Item is to amend the Code of Ordinances to add Chapter 41, Public Works, and certain provisions designed to protect the City's interest in awarding Public Works, to ensure proper and effective administration of the public works contracts, to codify certain processes performed by the City in the normal course of business, and to ensure that the City deals only with contractors who are responsible in fulfilling their legal and contractual obligations.

## **BACKGROUND AND FINDINGS:**

This ordinance adds a new chapter titled “Public Works” to Chapter 41 of the Code of Ordinances. The chapter layout is as follows:

### CHAPTER 41 PUBLIC WORKS

Article I. In General.

Article II. Procurement of Public Works Contracts.

Article III. Reserved.

Article IV. Contractor Debarment

Article V. Reserved.

- **Article I** is reserved for general public works provisions.
- **Article II** related to procurement of public works contracts, and includes provisions relating to the City’s **right to reject all bids**, provides for the City Council’s delegation of authority to reject any and all bids or proposals in certain circumstances; and codifies certain processes related to **determinations of bid responsiveness and bidder responsibility** that are performed in the **normal course of business**.
- **Article III** is reserved
- **Article IV** relates to **debarment** of a contractor for a fixed period of time, with provisions that **provide the contractor with due process**.

Regarding debarment, the City spends millions of dollars on public works contracts. Section 252.043 of the Local Government Code requires the City to award contracts to the lowest responsible bidder without any guidelines on what constitutes a “responsible” bidder. Debarment is a process whereby the City can deem a contractor “not responsible” based on the contractor’s past performance. This process will help protect the City’s interests and taxpayer money from being awarded to contractors who have a history of not fulfilling their contractual obligations, safety issues or ethical violations. Debarment helps to ensure that the City deals only with contractors who are responsible in fulfilling their legal and contractual obligations to prevent waste of public funds.

## **ALTERNATIVES:**

1. Authorize amending the Code of Ordinances.
2. Do not authorize amending the Code of Ordinances. (Not Recommended)

## **OTHER CONSIDERATIONS:**

N/A

## **CONFORMITY TO CITY POLICY:**

Complies with statutes regarding construction procurement criteria and the City’s Code of

Ordinances.

**EMERGENCY / NON-EMERGENCY:**

Not applicable

**DEPARTMENTAL CLEARANCES:**

Legal Department

**FINANCIAL IMPACT:**

Operating       Revenue       Capital       Not applicable

<b>Fiscal Year: 2014-2015</b>	<b>Project to Date Expenditures (CIP only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Line Item Budget				
Encumbered / Expended Amount				
This item				
BALANCE				

Fund(s):

**RECOMMENDATION:**

City staff recommends amending the Code of Ordinances by adding 41, Public Works to provide for policies related to procurement of construction services for Public Works projects; authorizing the City Manager or designee to make and implement rules necessary to carry out the stated goals; providing for severance; providing for penalty; providing for an effective date; and providing for publication.

**LIST OF SUPPORTING DOCUMENTS:**

Ordinance  
Debarment Flowchart  
Debarment Procedures  
Debarment – Frequently Asked Questions