

1 BY AUTHORITY

2 ORDINANCE NO. \_\_\_\_\_  
3 SERIES OF \_\_\_\_\_

COUNCIL BILL NO. 11-0851  
COMMITTEE OF REFERENCE:  
Business, Work Force and Sustainability

6 A BILL

7  
8 For an ordinance amending Sections 28-55, 28-135 and 28-205, D.R.M.C. to delete the  
9 provisions that disqualify the relatives of city officials, officers and employees from  
10 eligibility for certification in the MBE, WBE and SBE programs  
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12 WHEREAS, the City ordinances establishing contracting programs for minority  
13 business enterprises (MBEs) and women business enterprises (WBEs) predate the  
14 adoption of the current version of the City's Code of Ethics; and

15 WHEREAS, the MBE and WBE ordinances, as well as the later-adopted small  
16 business enterprise (SBE) ordinance, all contain provisions categorically prohibiting any  
17 business enterprise that is owned or controlled by any city officer or employee or certain  
18 relatives of a city officer or employee from being eligible for certification for participation in  
19 these programs; and

20 WHEREAS, the Charter and Code of Ethics of the City now clearly prohibit any  
21 officer or employee of the city from taking "direct official action" on any matter in which any  
22 member of the "immediate family" of the officer or employee has any "substantial  
23 employment, contractual, or financial interest in that matter;" and

24 WHEREAS, the MBE, WBE and SBE ordinances prevent the relatives of city  
25 officers and employees from participation in the MBE, WBE or SBE programs even when  
26 the officer or employee is not and never would be involved in taking direct official action on  
27 a contract that is awarded under those programs; and

28 WHEREAS, the Code of Ethics effectively prohibits conflicts of interest in city  
29 contracting processes and therefore renders the provisions of the MBE, WBE and SBE  
30 ordinances disqualifying the relatives of city officers and employees from participating in  
31 these programs unnecessary.  
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33 **NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**  
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35 **Section 1.** That paragraph 9 of subsection (c) of section 28-55, D.R.M.C. shall be amended by

1 deleting the language stricken as follows:  
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3 **Sec. 28-55. MBE/WBE Certification; eligibility of applicant business enterprises.**  
4

5 (c) An applicant business enterprise shall be eligible for certification as an MBE or WBE  
6 only if it meets each of the following requirements:  
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8 (9) *City officials, officers and employees, and relatives ineligible.* No applicant business  
9 enterprise shall be eligible to be certified as an MBE or WBE if ownership or control of such business  
10 enterprise is held by a current official, officer or employee of the city ~~or such relatives of such persons~~  
11 ~~as defined in section 2-54 of this Code.~~  
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14 **Section 2.** That paragraph 6 of subsection (c) of section 28-135, D.R.M.C. shall be amended by  
15 deleting the language stricken as follows:  
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17 **Sec. 28-135. - MBE/WBE certification; eligibility of applicant business enterprises.**  
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19 (c) A business enterprise shall be eligible for certification as an MBE or WBE only if it meets each  
20 of the following requirements:  
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22 (6) *City officials, officers and employees, and relatives ineligible.* No business enterprise shall be  
23 eligible to be certified as an MBE or WBE if ownership or control of such business enterprise is held by a  
24 current official, officer or employee of the city ~~or such relatives of such persons as defined in section 2-54~~  
25 ~~of this Code.~~  
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28 **Section 3.** That paragraph 8 of subsection (c) of section 28-205, D.R.M.C. shall be amended by  
29 deleting the language stricken as follows:  
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31 **Sec. 28-205. SBE Certification; eligibility of applicant business enterprises.**  
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33 (c) An applicant business enterprise shall be eligible for certification as an SBE only if it meets  
34 each of the following requirements:

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(8) *City officials, officers and employees, and relatives ineligible.* No applicant business enterprise shall be eligible to be certified as an SBE if ownership or control of such business enterprise is held by a current official, officer or employee of the city ~~or such relatives of such persons as defined in section 2-54 of this Code.~~

COMMITTEE APPROVAL DATE: November 9, 2011.

MAYOR-COUNCIL DATE: \_\_\_\_\_, 2011.

PASSED BY THE COUNCIL \_\_\_\_\_ 2011

\_\_\_\_\_ - PRESIDENT

APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_ 2011

ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
EX-OFFICIO CLERK OF THE  
CITY AND COUNTY OF DENVER

NOTICE PUBLISHED IN THE DAILY JOURNAL \_\_\_\_\_ 2011; \_\_\_\_\_ 2011

PREPARED BY: David W. Broadwell, Asst. City Attorney; DATE: November 10, 2011

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

Douglas J. Friednash  
City Attorney

BY: \_\_\_\_\_, \_\_\_\_\_ City Attorney

DATE: \_\_\_\_\_

SPONSORED BY: Councilman Nevitt