

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF _____

COUNCIL BILL NO. CB11-0833
COMMITTEE OF REFERENCE:

4 BUSINESS, WORKFORCE & SUSTAINABILITY

5 A BILL

6
7 For an ordinance repealing the provisions of Sections 28-135 and 28-205, D.R.M.C. that
8 disqualify city officers and employees and their families from eligibility for certification in
9 the MBE, WBE and SBE programs
10

11 WHEREAS, the City ordinances establishing contracting programs for minority
12 business enterprises (MBEs) and women business enterprises (WBEs) predate the
13 adoption of the current version of the City's Code of Ethics; and

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

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

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

27 WHEREAS, the Code of Ethics effectively prohibits conflicts of interest in city
28 contracting processes and therefore renders the disqualification provisions of the MBE,
29 WBE and SBE ordinances unnecessary.
30

31 **NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**
32

33 **Section 1.** That paragraph 9 of subsection (c) of section 28-55, D.R.M.C. shall be repealed by
34 deleting the language stricken as follows:
35

1 **Sec. 28-55. MBE/WBE Certification; eligibility of applicant business enterprises.**

2
3 (c) An applicant business enterprise shall be eligible for certification as an MBE or WBE
4 only if it meets each of the following requirements:

5
6 ~~(9) City officials, officers and employees, and relatives ineligible. No applicant business~~
7 ~~enterprise shall be eligible to be certified as an MBE or WBE if ownership or control of such business~~
8 ~~enterprise is held by a current official, officer or employee of the city or such relatives of such persons~~
9 ~~as defined in section 2-54 of this Code.~~

10
11
12 **Section 2.** That paragraph 6 of subsection (c) of section 28-135, D.R.M.C. shall be repealed by
13 deleting the language stricken as follows:

14
15 **Sec. 28-135. - MBE/WBE certification; eligibility of applicant business enterprises.**

16
17 (c) A business enterprise shall be eligible for certification as an MBE or WBE only if it meets each
18 of the following requirements:

19
20 ~~(6) City officials, officers and employees, and relatives ineligible. No business enterprise shall be~~
21 ~~eligible to be certified as an MBE or WBE if ownership or control of such business enterprise is held by a~~
22 ~~current official, officer or employee of the city or such relatives of such persons as defined in section 2-54~~
23 ~~of this Code.~~

24
25
26 **Section 3.** That paragraph 8 of subsection (c) of section 28-205, D.R.M.C. shall be repealed by
27 deleting the language stricken as follows:

28
29 **Sec. 28-205. SBE Certification; eligibility of applicant business enterprises.**

30
31 (c) An applicant business enterprise shall be eligible for certification as an SBE only if it meets
32 each of the following requirements:

33
34 ~~(8) City officials, officers and employees, and relatives ineligible. No applicant business~~

1 ~~enterprise shall be eligible to be certified as an SBE if ownership or control of such business~~
2 ~~enterprise is held by a current official, officer or employee of the city or such relatives of such persons~~
3 ~~as defined in section 2-54 of this Code.~~

4
5 COMMITTEE APPROVAL DATE: _____, 2011.

6 MAYOR-COUNCIL DATE: _____, 2011.

7 PASSED BY THE COUNCIL _____ 2011

8 _____ - PRESIDENT

9 APPROVED: _____ - MAYOR _____ 2011

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 _____ 2011; _____ 2011

15
16 PREPARED BY: David W. Broadwell, Asst. City Attorney; DATE: November 2, 2011
17

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

22 Douglas J. Friednash

23 City Attorney

24
25 BY: _____, _____ City Attorney

26 DATE: _____
27
28
29