

BY AUTHORITY

1
2 ORDINANCE NO. _____
3 SERIES OF 2013

COUNCIL BILL NO. CB13-0256
COMMITTEE OF REFERENCE:

4 Business, Workforce and Sustainability Committee

5 **A B I L L**

6 **For an ordinance amending Sections 28-83 and 28-234 of the Revised Municipal**
7 **Code to extend the enactment of, respectively, Division 3 of Article III of Chapter**
8 **28 (the Minority and Women Business Enterprise (MBE/WBE) Ordinance) and**
9 **Article VII of Chapter 28 (the Small Business Enterprise (SBE) Ordinance) for an**
10 **additional six (6) months.**

11 **WHEREAS**, in 2006, the City Council enacted Ordinance No. 760, Series of 2006,
12 establishing an ordinance for a Minority and Women Business Enterprise (MBE/WBE) contracting
13 ordinance in furtherance of nondiscrimination in city contracts for construction, reconstruction and
14 remodeling and professional design and construction services and for the utilization of Small
15 Business Enterprises (SBE) in City contracting and concessions; and

16 **WHEREAS**, passage of Ordinance No. 760, Series of 2006, was based, in part, on a study
17 of availability and utilization of woman- and minority-owned business enterprises in construction,
18 reconstruction and remodeling, and professional design and construction services; and

19 **WHEREAS**, the City has now commissioned another study to determine if the conditions
20 originally justifying the enactment of the MBE/WBE and SBE programs, pursuant to Ordinance No.
21 760, Series of 2006, still exist; and

22 **WHEREAS**, under the current sunset provision of the Minority Business Enterprise and
23 Women Business Enterprise ordinance (codified at Section 28-83(b) of the Revised Municipal
24 Code), the MBE/WBE program is set to expire on June 30, 2013; and

25 **WHEREAS**, under the current sunset provision of the SBE ordinance (codified at Section
26 28-234(b) of the Revised Municipal Code), the SBE program is set to expire on June 30, 2013; and

27 **WHEREAS**, the City has commissioned another study to determine if the conditions
28 originally justifying the enactment of the MBE/WBE and SBE programs, pursuant to Ordinance No.
29 760, Series of 2006, still exist; and

30 **WHEREAS**, a temporary extension of the respective sunset periods for an additional six (6)

1 months is necessary to complete the additional studies and an administrative review of these
2 programs, and to make a determination of whether any reauthorizations, adjustments or revisions
3 to Division 3 of Article III or Article VII of Chapter 28 are necessary; and

4 **WHEREAS**, this periodic review and sunseting of such ordinances is supported by
5 *Concrete Works of Colorado, Inc. v. City and County of Denver*, 823 F.Supp. 821, 843 (D.Colo.
6 1993), *rev'd on other grounds*, 36 F.3d 1513 (10th Cir. 2003); and *Adarand Constructors, Inc. v.*
7 *Slater*, 228 F.3d 1147, 1179 (10th Cir. 2000) (quoting *U.S. v. Paradise*, 480 U.S. 149, 178 (1987));

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

9 **SECTION 1.** That Subsection (b) of Section 28-83, D.R.M.C. will be amended by deleting
10 the language stricken and adding the language underlined to read as follows:

11 **Sec. 28-83. Review and sunset.**

12 (b) This division 3 will be repealed effective ~~June 30, 2013~~ January 1, 2014.

13 **SECTION 2.** That Subsection (b) of Section 28-234, D.R.M.C. will be amended by deleting
14 the language stricken and adding the language underlined to read as follows:

15 **Sec. 28-234. Review and sunset.**

16 (b) This division 3 will be repealed effective ~~June 30, 2013~~ January 1, 2014.

17 COMMITTEE CONSENT APPROVAL DATE: April 18, 2013 by Consent

18 MAYOR-COUNCIL DATE: April 23, 2013

19 PASSED BY THE COUNCIL: _____, 2013

20 _____ - PRESIDENT

21 APPROVED: _____ - MAYOR _____, 2013

22 ATTEST: _____ - CLERK AND RECORDER,
23 EX-OFFICIO CLERK OF THE
24 CITY AND COUNTY OF DENVER

25 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____, 2013; _____, 2013

26 PREPARED BY: Deanne R. Durfee - ASSISTANT CITY ATTORNEY – April 25, 2013

27 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
28 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
29 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to
30 §3.2.6 of the Charter.

31 Douglas J. Friednash, Denver City Attorney

32 BY: _____, Assistant City Attorney DATE: _____, 2013