

File No. 140150

Committee Item No. 5

Board Item No. 2

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Sub-Committee

Date March 26, 2014

Board of Supervisors Meeting

Date April 8, 2014

#### Cmte Board

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Completed by: Linda Wong Date March 21, 2014

Completed by: L.W. Date March 29, 2014

1 [Administrative Code - Expansion of First Source Hiring Program]

2  
3 **Ordinance amending the Administrative Code to add First Source Hiring requirements**  
4 **for developers applying for permits for commercial or residential projects to disclose**  
5 **to the City anticipated entry and apprentice level positions for development projects,**  
6 **anticipated local hires, and anticipated wages; and to agree to hiring and retention**  
7 **goals for apprentice level positions.**

8 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
9 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
10 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
11 **Board amendment additions** are in double-underlined Arial font.  
12 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
13 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
14 subsections or parts of tables.

15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. The Administrative Code is hereby amended by revising Sections 83.2,  
17 83.3, 83.4, 83.6, 83.11, and 83.18 to read as follows:

18 **SEC. 83.2. FINDINGS.**

19 (a) In August 1996, a new Federal law, the Personal Responsibility and Work  
20 Opportunity Act, also known as "welfare reform," fundamentally changed the nature of public  
21 assistance programs in this country, shifting the focus from the receipt of benefits to  
22 procurement of employment within specified time limits. Approximately 17,350 of San  
23 Francisco's children and 7,330 of its adults (3.4 percent of the population) who currently  
24 receive Temporary Assistance to Needy Families (TANF), the program formerly known as Aid  
25 to Families with Dependent Children (AFDC), will be limited to five cumulative years of aid  
during their lifetime. This means that within five years, the adult members of these families,

1 unless specifically exempted, must be employed at an economically self-sufficient level.  
2 Under the new Federal law, after two years on aid, most recipients must work in order to  
3 maintain eligibility for (TANF). As families reach their time limits, there will be no federal or  
4 State funding help to support them. Therefore, the creation and retention of adequate  
5 employment opportunities within the City is essential to prevent these families from falling into  
6 complete destitution.

7 (b) The Federal law will penalize states that fail to meet their assigned quotas for  
8 moving individuals from welfare to work by imposing monetary sanctions that will be passed  
9 on to the counties.

10 (c) Many people on welfare and other economically disadvantaged individuals do  
11 not have immediate access to employment opportunities that will bring economic self-  
12 sufficiency. Often, long-term recipients of public benefits are confronted with multiple barriers  
13 to full employment, including lack of education, job-readiness skills and work experience.

14 (d) In San Francisco, there are 9,000 single unemployed adults in the County Adult  
15 Assistance Program (CAAP) who are also in need of programs to move toward self-  
16 sufficiency. Many CAAP clients have chosen an employment track and are pursuing self-  
17 sufficiency through work. Unlike TANF, CAAP is funded solely by County dollars and is not  
18 subsidized by the State or Federal government. While the economy shows signs of  
19 improvement, unemployment rates in San Francisco remain at 5.8 percent.

20 (e) Since 2000, over 100,000 jobs have been lost, almost three times the job loss  
21 rate of the early 1990's.

22 (f) The welfare time limits imposed upon families place tremendous pressure on the  
23 City to find jobs, provide appropriate training opportunities, and assist economically  
24 disadvantaged individuals to find and retain adequate employment. The availability of  
25 sufficient employment opportunities is essential to the economic and social well-being of the

1 City. This process of workforce development must be a component of the City's economic  
2 development planning.

3 (g) New development and construction of commercial projects tend to increase  
4 property values which in turn can displace low-income residents and put a greater burden on  
5 the City to assist economically disadvantaged individuals. Identifying jobs on these projects that  
6 pay wages that permit economic self-sufficiency, and in particular those that pay a Prevailing Wage,  
7 will allow the City to prioritize and allocate its training resources to foster permanent employment  
8 opportunities for qualified economically disadvantaged individuals that permit those individuals to  
9 achieve economic self-sufficiency.

10 (h) Additionally, business expansion places increased demand upon, and reduces  
11 the available pool, of qualified workers. The City's economic health depends upon the  
12 maintenance of that pool. Job training funds are a component of welfare reform and will result  
13 in an increase of available qualified workers. Thus, early identification of entry and apprentice  
14 level positions in new or growing commercial activity allows the City to plan training programs  
15 that will prepare economically disadvantaged individuals to be available for these new jobs.  
16 One of the goals of this Chapter is to create a seamless job referral system.

17 (i) The City, the business community, the service providers, organized labor, the  
18 schools, and the people who must personally meet the challenge of welfare reform are  
19 gathering at a unique historical moment. The time limits on public assistance are a matter of  
20 law, and the only choice is to organize the opportunities so as not to bypass these workers.  
21 The consequences of welfare reform are significant not just for the individuals who must find  
22 economic self-sufficiency, but for the whole economic well-being and commercial activity of  
23 the City and its constituents.

24 (j) The concept of "First Source Hiring" under this Chapter contains two essential  
25 components: (1) the identification of entry and apprentice level positions that pay wages that

1 permit economic self-sufficiency, including in particular those positions that pay a Prevailing Wage,  
2 in order to properly allocate and prioritize training resources to prepare economically  
3 disadvantaged workers, and in particular those that are local residents, for those positions, and (2)  
4 the availability of the first opportunity for graduates of those training programs to be  
5 considered for employment. The City must work with the business community, the service  
6 providers, organized labor and schools in identifying workforce needs, developing job  
7 readiness standards, supporting training that creates a new pool of qualified workers, and  
8 providing a mechanism by which the business community can draw upon this pool; thereby  
9 facilitating and strengthening the relationship between the City, educational institutions,  
10 community-based job training, development and place-mended placement programs, and the  
11 private sector. While the City commits to providing the support services necessary to ensure  
12 the successful transition to economic self-sufficiency, the business community must be willing  
13 to offer these employment opportunities to qualified economically disadvantaged individuals.

14 One of the best opportunities for economically disadvantaged workers to gain economic self-  
15 sufficiency is through enrollment in an apprenticeship program approved by the California Department  
16 of Industrial Relations. The City will seek to promote apprenticeship opportunities in both private and  
17 public construction programs by providing economically disadvantaged workers with the services  
18 needed to prepare to enter such programs. The construction trade unions must be willing to assist  
19 these workers, when qualified under the state-approved apprenticeship standards, to become enrolled  
20 in the construction trade union apprenticeship training programs.

21 (k) Participation in the City's First Source Hiring Program can be economically  
22 advantageous to employers. The Program provides a ready supply of qualified workers to  
23 employers with hiring needs. There are a variety of City, federal and State tax credits  
24 available for hiring qualified economically disadvantaged individuals. Within State-designated  
25 "Enterprise Zone" areas of San Francisco, the state offers a hiring tax credit for employers

1 who hire job seekers from targeted groups. Employers can claim up to \$31,605.00 in tax  
2 credits over a 5 year period when they hire qualified employees. The State of California also  
3 allows a hiring tax credit against wages paid qualified economically disadvantaged individuals,  
4 and a sales tax credit for equipment purchased for use in designated Enterprise Zones.

5 (l) In order to provide financial assistance to employers who hire qualified  
6 economically disadvantaged individuals, the federal government offers the Federal Welfare-  
7 to-Work Credit that provides up to \$8,500 in tax credits per qualified employee and the Work  
8 Opportunity Tax Credit that provides up to \$2,400 in tax credits per qualified employee.

9 (m) The City is committed, in partnership with the Private Industry Council, to  
10 facilitating employer access to tax credit and other financial incentive information regarding  
11 the hiring of qualified economically disadvantaged individuals who meet City, State or federal  
12 program criteria.

13 (n) The Board of Supervisors passed the FSHA before Congress passed the  
14 Workforce Investment Act of 1998 (WIA) (29 U.S.C.A. 2801 et seq.). The WIA mandates the  
15 creation of a Workforce Investment Board (WIB) that, in partnership with the Mayor, oversees  
16 the workforce development system for the City.

17 (o) The WIA also requires the implementation of a One-Stop delivery system that  
18 provides services to both job seekers and employers. It requires that the workforce  
19 development services in each locality be delivered through a single "One-Stop" delivery  
20 system. The WIA gives states and localities flexibility in deciding how to implement the One-  
21 Stop system with the condition that a "full service center" be formed in each locality, which  
22 provides full access to all services. The WIB, in partnership with the Mayor, agreed to have  
23 one full service center located on Mission Street, two affiliate centers located in the southeast  
24 sector and in the Civic Center area, and a multitude of access points. This structure makes up  
25 the foundation of the One-Stop system in San Francisco. The City chose a consortium of

1 agencies to be responsible for the operation of these centers, including the San Francisco  
2 Human Services Agency (HSA), City College of San Francisco, the National Council on  
3 Aging, and the State of California Employment Development Department.

4 (p) With the passage of the WIA and the implementation of the One-Stop system,  
5 the FSHA has been fully integrated into the delivery of services.

6 (q) In 2003, the FSHA ordinance was extended for one year, during which time an  
7 independent evaluation was conducted on the effectiveness of the program. The final report  
8 indicates that the stakeholders view the ordinance as a tool to open doors to jobs for  
9 populations that have historically had difficulty gaining access to employment opportunities.

10 (r) In March 2004, HSA began implementing a business service initiative designed  
11 to integrate job posting and placement activities within the One-Stop system. With this new  
12 referral system in place, a process exists to connect job seekers with the job opportunities that  
13 result from this ordinance.

14 (s) Also in 2004, HSA implemented a new data system that tracks the activities of  
15 the referral system. Information gathered includes the number of employers notified of first  
16 source requirements, the number that comply with first source requirements, the number of  
17 jobs posted, and the number of job seekers referred and placed in jobs.

18 (t) The proposed Market and Octavia Area Plan - consisting of general plan,  
19 planning code, and zoning map amendments - is a means for implementing an innovative set  
20 of land use controls, urban design guidelines, and public space and transportation system  
21 improvements to create a dense, vibrant and transit-oriented neighborhood. The plan rezones  
22 the commercial uses in the Plan Area; consequently more jobs will occur in the lower wage  
23 industries such as retail, food service, and personal services. Such industries offer  
24 employment opportunities to first time and entry level workers especially served by the City's  
25 First Source Hiring program and as such special efforts will be made to enlist lower income

1 residents and job seekers in these new employment opportunities. Expanding the provisions  
2 of the First Source Hiring Ordinance to the Market and Octavia Area Plan will serve as a pilot  
3 project for other areas of the City and is in the best interest of the residents residing in this  
4 designated area.

5 **SEC. 83.3. PURPOSE.**

6 The purpose of this Chapter is to establish a First Source Hiring Program for the City  
7 and County of San Francisco to foster construction and permanent employment opportunities  
8 for qualified economically disadvantaged individuals. Participation in this program shall be  
9 required in City contracts and City property contracts. In addition, participation in this program  
10 is required by City contractors for any and all work performed by the contractor in the City.

11 This Chapter ~~additionally~~ requires similar first source hiring obligations to be included  
12 in permits authorizing construction of certain commercial development and residential projects  
13 and requires that developers applying for those permits meet with the City before submitting a permit  
14 to disclose the estimated number of entry and apprentice level positions to be used on a project, the  
15 anticipated wages for those positions and, if known, the estimated number of local residents to be hired.  
16 The purpose of this disclosure is to allow the City sufficient time and information to identify those  
17 positions that will afford the best opportunity for economic self-sufficiency for economically  
18 disadvantaged individuals, and to prioritize, allocate, and if necessary, redirect its training resources  
19 to programs to maximize those opportunities.

20 Because of the wide variety of contracts, property contracts, other work performed in  
21 the City by the City contractor, and permits issued by the City, there is no single first source  
22 hiring requirement that can be applied and enforced in all such situations. Therefore, specific  
23 first source hiring requirements must be tailored to individual contracts, property contracts,  
24 work performed in the City by City contractors, and permits for commercial activities and  
25 residential projects. An administrative body shall be established by the City to assist in the



1 tailoring of these requirements, and shall be known as the "First Source Hiring Administration  
2 (FSHA)" for the purpose of implementing and overseeing the first source hiring requirements  
3 under this Chapter.

4 This Chapter is intended to authorize and direct the First Source Hiring  
5 Administration, where consistent with the purpose of this Chapter and its assessment of  
6 feasibility, and in a manner that avoids conflicts with applicable federal and State law, to set  
7 *entry level position* hiring and retention goals for contracts, property contracts, other work  
8 performed in the City by City contractors, and permits.

9 Nothing in this Chapter is intended to, nor shall it be interpreted or applied so to  
10 create delay to contractors or developers under permits subject to the requirements of first  
11 source hiring.

12 Three years after the effective date of this Chapter, the Board of Supervisors shall  
13 review the First Source Hiring Program to determine: (1) the number of entry level positions  
14 identified and acquired by qualified economically disadvantaged individuals; (2) whether  
15 participants in the Workforce Development System received appropriate and sufficient  
16 training; (3) whether the requirements of this Chapter are adequate to achieve the goals of the  
17 program; and (4) whether amendments and/or revisions of this Chapter are needed.

18 **SEC. 83.4. DEFINITIONS.**

19 When used in this Chapter, the following terms have the following meanings:

20 "Apprentice level position" shall mean a position that requires a worker who is indentured in  
21 a construction completion of an apprenticeship program approved by the State of California's  
22 Department of Industrial Relations. "Apprentice level position" shall include temporary and  
23 permanent jobs that are construction jobs related to the development of a commercial activity or  
24 residential project.

1           (a)—"Approved plan" shall mean a first source hiring implementation and monitoring  
2 plan developed by a City department and approved by the FSHA.

3           (b)—"Biotechnology business" shall mean conducting biotechnology research and  
4 experimental development, and operating laboratories for biotechnology research and  
5 experimental development, using recombinant DNA, cell fusion, and bioprocessing  
6 techniques, as well as the application thereof to the development of diagnostic products  
7 and/or devices to improve human health, animal health, and agriculture.

8           (c) "City" shall mean the City and County of San Francisco.

9           (d)—"Commercial activity" shall include but not be limited to, for purposes of this  
10 Chapter only, retail sales and services, restaurant, hotel, education, hospital, and office uses,  
11 biotechnology business, and any other non-profit or for-profit commercial uses.

12           (e)—"Contract" shall mean an agreement for public works or improvements to be  
13 performed, or for goods or services to be purchased, or grants to be provided, at the expense  
14 of the City, or to be paid out of moneys deposited in the Treasury of the City, or out of trust  
15 moneys under the control of, or collected by, the City involving an expenditure in excess of  
16 \$350,000 for construction contracts, in excess of \$50,000 for goods, or in excess of \$50,000  
17 for services. Contract shall also mean loans or grants in excess of \$50,000 which are  
18 awarded by the Mayor's Office of Housing, the Mayor's Office of Community Development,  
19 the Mayor's Office of Children, Youth and their Families, or by any other City department for  
20 work covered under this Chapter.

21           The requirements of this Chapter shall apply to: (1) entry level positions for work  
22 performed by a contractor in the City; (2) entry level positions for work performed on the  
23 contract in counties contiguous to the City; ~~and~~ (3) entry level positions for work performed on  
24 the contract on property owned by the City; and (4) positions for work performed on Development  
25 Projects as defined by this Chapter.

1 For purposes of this Chapter, "contract" shall include subcontracts under the  
2 contract subject to first source hiring, unless otherwise exempted under this Chapter.

3 For purposes of this Chapter, "contract" shall not include contracts for urgent  
4 litigation expenses as determined by the City Attorney, emergency contracts under San  
5 Francisco Administrative Code Section 6.30, or Section 21.25, tolling agreements,  
6 cooperative purchasing agreements with other governmental entities or contracts with other  
7 governmental entities.

8 ~~(f)~~ "Contractor" shall mean any person(s), firm, partnership, corporation, or  
9 combination thereof, who enters into a contract or property contract with a department head or  
10 officer empowered by law to enter into contracts or property contracts on the part of the City.

11 ~~(g)~~ "Developer" shall mean the property owner, agents of the property owner,  
12 including but not limited to management companies, person or persons, firm, partnership,  
13 corporation, or combination thereof, having the right under the San Francisco Planning Code  
14 and/or the San Francisco Building Code to make an application for approval of a commercial  
15 activity or residential project.

16 ~~(h)~~ "Development project" shall mean commercial activity(ies) or a residential project  
17 that require a permit that is subject to the requirements of this Chapter, including applicable  
18 permits related to biotechnology business.

19 ~~(i)~~ "Economically disadvantaged individual" shall mean an individual who is either:  
20 (1) eligible for services under the Workforce Investment Act of 1988 (WIA) (29 U.S.C.A. 2801  
21 et seq.), as determined by the San Francisco Private Industry Council, or any successor  
22 agency; or (2) designated "economically disadvantaged" by the First Source Hiring  
23 Administration, as an individual who is at risk of relying upon, or returning to, public  
24 assistance., including unemployment benefits. Examples of "economically disadvantaged  
25 individuals," for purposes of this subsection, may include, but not be limited to, the following

1 individuals: individuals existing the criminal justice system; individuals participating in or  
2 completing substance abuse treatment; individuals who receive financial aid for the purpose  
3 of obtaining an education or other vocational training program; survivors of domestic violence  
4 seeking employment; people with disabilities seeking employment; and veterans seeking  
5 employment.

6 ~~(f)~~ "Employer" shall mean a contractor, sub-contractor, developer, agents of the  
7 developer, tenants or other occupants, or person(s), firm, partnership, corporation, or  
8 combination thereof engaged in work performed under a contract, lease, loan, grant, or  
9 permit, or engaged in work performed in the City, subject to the requirements of this Chapter.

10 ~~(g)~~ "Entry level position" shall mean a position that requires any of the following: (1)  
11 no education above a high school diploma or certified equivalency; (2) less than two years of  
12 training or specific preparation; (3) a college and/or post graduate degree; or (4) a license or a  
13 permit. "Entry level position" shall include temporary and permanent jobs, and construction  
14 jobs related to the development of a commercial activity or residential project.

15 ~~(h)~~ "First source hiring agreement" shall mean the written agreement entered into by  
16 the employer with the City which details the particular first source hiring requirements with  
17 which an employer must comply, as further defined in Sections 83.9 and 83.11 of this  
18 Chapter.

19 ~~(i)~~ "FSHA" shall mean the First Source Hiring Administration.

20 "Local resident" shall mean an individual who is domiciled, as defined by Section 349(b) of the  
21 California Election Code, within the City at least seven (7) days prior to commencing work on a  
22 project.

23 ~~(j)~~ "Permit" shall mean, during Phase I, as defined in this Section 83.4~~(j)~~ below,  
24 either or both of the following: (1) any building permit application for a commercial activity over  
25 50,000 square feet in floor area and involving new construction, an addition, or alteration

1 which results in the expansion of entry or apprentice level positions for a commercial activity;  
2 (2) any application which requires discretionary action by the City's Planning Commission  
3 relating to a commercial activity over 50,000 square feet including, but not limited to, a  
4 conditional use, project authorization under San Francisco Planning Code Section 309, and  
5 office development under San Francisco Planning Code Section 320, et seq. During Phase II,  
6 as defined in this Section 83.4~~(e)~~ below, any or all of the following: (1) any building permit  
7 application for a commercial activity over 25,000 square feet in floor area and involving new  
8 construction, an addition, or alteration which results in the expansion of entry and apprentice  
9 level positions for a commercial activity; (2) any application which requires discretionary action  
10 by the City's Planning Commission relating to a commercial activity over 25,000 square feet  
11 including, but not limited to conditional use, project authorization under San Francisco  
12 Planning Code Section 309, and office development under San Francisco Planning Code  
13 Section 320, et seq., or (3) any building permit application for a residential project as defined  
14 herein.

15 The requirements of this Chapter shall apply to entry and apprentice level positions  
16 for work done under a permit authorizing a development project or residential project in the  
17 City.

18 ~~(e)~~—"Phase I" shall refer to the first stage of implementation of this Article which  
19 became operative on October 20, 1998. Phase I applied to contracts for public works or  
20 improvements to be performed, property contracts, grants or loans issued by the Mayor's  
21 Office of Housing, or by the Mayor's Office of Community Development, and permits issued  
22 for commercial activity over 50,000 square feet.

23 ~~(f)~~—"Phase II" refers to the second stage of implementation of this Chapter which  
24 became operative on April 1, 2001, 24 months after the FSHA adopted a resolution stating  
25 that Phase I had been implemented. In addition to the contracts, property contracts, grants or

1 loans referred to in the definition of Phase I, above, Section 83.4(n), above, Phase II shall apply to  
2 contracts for goods in excess of \$50,000, contracts for services in excess of \$50,000, permits  
3 issued for commercial activity exceeding 25,000 square feet, grants and loans in excess of  
4 \$50,000 issued by other City departments, and permits issued for residential projects as  
5 defined herein. In addition, Phase II shall apply to any and all work performed in the City by  
6 City contractors.

7 "Prevailing Wage" shall mean the highest general prevailing rate of wage plus "per diem  
8 wages" and wages paid for overtime and holiday work paid in private employment in the City and  
9 County where the work is performed of San Francisco for the various crafts and kinds of labor  
10 employed in the performance of any public work or improvement under Chapter 6 of this Code as fixed  
11 by Board of Supervisors pursuant to Administrative Code section 6.22(E)(3). "Per diem wages" are  
12 defined pursuant to Labor Code section 1773.1, as amended from time to time.

13 ~~(g)~~ "Property contract" shall mean a written agreement, including leases,  
14 concessions, franchises and easements, between the City and a private party for the  
15 exclusive use of real property, owned or controlled by the City, for a term exceeding 29 days  
16 in any calendar year (whether by a singular instrument or by cumulative instruments) for the  
17 operation or use of such real property for the operation of a business establishment, that  
18 creates available entry or apprentice level positions. For purposes of this Chapter, "property  
19 contract" does not include an agreement for the City to use or occupy real property owned by  
20 others, or leases, easements or permits entered into by the Public Utilities Commission for  
21 pipeline rights-of-way property and watershed property.

22 ~~(r)~~ "Publicize" shall mean to advertise or post, and shall include participation in job  
23 fairs, or other forums in which employment information is available.

24 ~~(s)~~ "Qualified" with reference to an economically disadvantaged individual shall  
25 mean an individual who meets the minimum bona fide occupational qualifications provided by

1 the prospective employer to the San Francisco Workforce Development System in the job  
2 availability notices required by this Chapter.

3 ~~(t)~~ "Residential project" shall mean a residential development involving new  
4 construction, an addition, a conversion, or substantial rehabilitation that results in the creation  
5 or addition of ten or more residential units.

6 ~~(u)~~ "Retention" shall, when used in this Chapter, be construed to apply to the entry  
7 or apprentice level position, not to any particular individual.

8 ~~(v)~~ "San Francisco Workforce Development System (System)" shall mean the  
9 system established by the City and County of San Francisco, and managed by the FSHA, for  
10 maintaining: (1) a pool of qualified individuals; and (2) the mechanism by which such  
11 individuals are certified and referred to prospective employers covered by the first source  
12 hiring requirements under this Chapter.

13 ~~(w)~~ "Substantial rehabilitation," when used in this Chapter, shall mean rehabilitation  
14 that involves costs in excess of 75 percent of the value of the building after rehabilitation.

15 **SEC. 83.6. FIRST SOURCE HIRING ADMINISTRATION.**

16 \* \* \* \*

17 (c) The FSHA shall phase-in implementation of this Chapter in accordance with  
18 Section 83.18, below, and as defined in Sections 83.4~~(r)~~ and ~~(s)~~, above. The FSHA shall first  
19 establish a schedule for assisting in the development of, or approving existing first source  
20 hiring implementation and monitoring plans by the following City departments: Airport;  
21 Department of Building Inspection; Department of Planning; Department of Public Health;  
22 Mayor's Office of Children, Youth and Families; Mayor's Office of Community Development;  
23 Mayor's Office of Housing; Municipal Railway; Parks and Recreation; Port; Public Works, and  
24 Purchasing. The FSHA shall also establish a schedule for the remaining City departments.

25 \* \* \* \*

1           **SEC. 83.11. FIRST SOURCE HIRING REQUIREMENTS FOR PERMITS FOR**  
2           **COMMERCIAL DEVELOPMENT AND RESIDENTIAL PROJECTS.**

3           (a) Developers applying for a Permit as defined in Section 83.4 shall meet with CityBuild,  
4 the City's construction training workforce program, prior to submitting an application for a Permit for  
5 a development project, and shall provide the estimated number of employees from each trade to be  
6 used on the project, including entry and apprentice level, the anticipated wages for those employees,  
7 whether or not the developer will pay Prevailing Wage for those employees, and, if known, the  
8 estimated number of local residents to be hired. Developers applying for permits as defined in  
9 Section 83.4(e) shall cooperate with the FSHA in establishing first source hiring agreement(s)  
10 for the development project. The Planning Commission shall not approve a development  
11 project, nor shall any City department issue a permit subject to this Chapter unless the  
12 developer or contractor has met with CityBuild to provide the required information and has  
13 obtained approval from the FSHA of a first source hiring agreement applicable to the  
14 development project or obtained an exemption from the requirements of Chapter 83 pursuant  
15 to Section 83.11(d). The FSHA may condition approval of the first source hiring agreement on  
16 the City's approval of the development project. In the event the development project approved  
17 by the Planning Commission differs substantially from the development project assumed by  
18 the FSHA at the time it approved the agreement, the FSHA may approve modifications to the  
19 first source hiring agreement if necessary for the agreement to conform to the requirements of  
20 this Chapter. Such agreement shall become a condition of the permit, and shall:

21           (1) Set appropriate hiring and retention goals for entry level positions and, for each  
22 trade, set appropriate hiring and retention goals for apprentices enrolled in an apprenticeship program  
23 approved by the State of California's Department of Industrial Relations, for all employers engaged  
24 in construction work on, and commercial activity(ies) to be conducted in, the development  
25 project, including residential services. The developer shall agree to require all such employers



1 (7) Set appropriate enforcement and sanctioning standards consistent with this  
2 Chapter.

3 (8) Provide that the agreement shall be recorded.

4 (9) Set forth the City's obligations to develop training programs, job applicant  
5 referrals, technical assistance, and information systems that assist the employer in complying  
6 with this Chapter.

7 (10) Require developer to include notice of the requirements of this Chapter in  
8 leases, subleases, and other occupancy contracts.

9 (b) The employer subject to the agreement shall make the final determination of  
10 whether an economically disadvantaged individual referred by the System is "qualified" for the  
11 position. Any qualified economically disadvantaged individual who is hired by the employer  
12 shall have the same rights and obligations as all other employees in similar positions. The  
13 employer shall not discriminate against any employees on the basis of participation in the First  
14 Source Hiring Program. Any such discrimination shall be considered a breach of the  
15 employer's "good faith" obligations under the agreement, and shall be subject to the sanctions  
16 set forth in Section 83.12 of this Chapter.

17 (c) Compliance by an employer subject to the agreement with a City department's  
18 approved plan shall be deemed to be compliance with the requirements of this Chapter. In  
19 situations where an employer must comply with the requirements of this Chapter as part of a  
20 contract or property contract, and subsequently must apply for permits for the same project  
21 that is the subject of the contract or property contract, the employer will be deemed to be in  
22 compliance with this Chapter.

23 (d) In any situation where the FSHA concludes based upon application by the  
24 employer that compliance with this Chapter would cause economic hardship or the burden of  
25 compliance would be disproportionate to the impacts of the employer's commercial

1 activity(ies) in the City, the FSHA shall grant an exception to any or all of the requirements of  
2 this Chapter.

3 **SEC. 83.18. OPERATIVE DATE AND APPLICATION.**

4 Phase I, as defined in Section 83.4(~~s~~) became operative on October 20, 1998. Phase  
5 II, as defined in Section 83.4(~~s~~) of this Chapter became operative on April 1, 2001, 24 (twenty-  
6 four) months after the FSHA adopted a resolution stating that Phase I had been implemented.  
7 This Chapter is intended to have prospective effect only, and shall not be interpreted to impair  
8 any rights under any existing City contract or property contract or permit.

9 Section 3. Effective Date. This ordinance shall become effective 30 days after  
10 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
11 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
12 of Supervisors overrides the Mayor's veto of the ordinance

13 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
17 additions, and Board amendment deletions in accordance with the "Note" that appears under  
18 the official title of the ordinance.

19  
20 APPROVED AS TO FORM:  
21 DENNIS J. HERRERA, City Attorney

22 By:

  
23 JANA CLARK  
Deputy City Attorney

24 n:\vegana\as2014\1400194\00912434.docx

## LEGISLATIVE DIGEST

[Administrative Code - Expansion of First Source Hiring Program]

**Ordinance amending the Administrative Code to add First Source Hiring requirements for developers applying for permits for commercial or residential projects to disclose to the City anticipated entry and apprentice level positions for development projects, anticipated local hires, and anticipated wages; and to agree to hiring and retention goals for apprentice level positions.**

### Existing Law

The First Source Hiring Ordinance (Administrative Code Chapter 83) requires employers performing work on City contracts and on City property and private developers applying for permits authorizing construction of certain commercial development and residential projects to participate in an administrative program that sets entry level position hiring and retention goals. Covered employers are required to enter into a First Source hiring agreement with the City, which sets interviewing, recruitment and hiring requirements that provide the San Francisco Workforce Development System with the first opportunity to provide qualified economically disadvantaged individuals for consideration for employment for entry level positions.

### Amendments to Current Law

This ordinance would require that private developers applying for permits authorizing construction of certain commercial development and residential projects meet with CityBuild before submitting a permit to disclose the estimated number of entry and apprentice level positions to be used on a project, the anticipated wages for those positions and, if known, the estimated number of local residents to be hired. This ordinance would also require that First Source Hiring agreements with these developers set appropriate hiring and retention goals in each trade for apprentices enrolled in an apprenticeship program approved by the State of California's Department of Industrial Relations.

### Background Information

The First Source Hiring Program seeks to foster construction and permanent employment opportunities for qualified economically disadvantaged individuals. Apprenticeship programs provide an opportunity to prepare for construction industry jobs. Early identification of jobs on projects that pay wages that permit economic self-sufficiency, and in particular those that pay a Prevailing Wage, allows the City sufficient time and information to prioritize, allocate, and if necessary, redirect its training resources to programs to maximize those opportunities.

TO: Supervisor John Avalos  
FROM: Jana Clark  
Deputy City Attorney  
DATE: February 21, 2014  
RE: Administrative Code - Expansion of First Source Hiring Program  
OUR FILE: 1400194

---

Attached please find the original and two copies of the following ordinance and legislative digest:

**Ordinance amending the Administrative Code to add First Source Hiring requirements for developers applying for permits for commercial or residential projects to disclose to the City anticipated entry and apprentice level positions for development projects, anticipated local hires, and anticipated wages; and to agree to hiring and retention goals for apprentice level positions.**

This ordinance amends Administrative Code Chapter 83.

We have also forwarded you an electronic version of the ordinance and legislative digest in Word for submission to the Clerk of the Board upon introduction of this ordinance. Please let me know if you have any questions or would like any additional information.

cc (email only): Jon Givner  
Paul Zarefsky  
Melissa Millsaps  
Allie Fisher

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## MEMORANDUM

TO: Regina Dick-Endrizzi, Director  
**Small Business Commission, City Hall, Room 448**

FROM: Linda Wong, Committee Clerk

DATE: March 4, 2014

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Budget and Finance Committee

The Board of Supervisors Budget and Finance Committee has received the following, which are being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

**File: 140150**

Ordinance amending the Administrative Code to add First Source Hiring requirements for developers applying for permits for commercial or residential projects to disclose to the City anticipated entry and apprentice level positions for development projects, anticipated local hires, and anticipated wages; and agree to hiring and retention goals for apprentice level positions.

**File: 140151**

Ordinance amending the Administrative Code to provide that the City's Local Hiring Policy and Payment of Prevailing Wages apply to construction projects on property owned by the City and County of San Francisco.

Please return this cover sheet with the Commission's response to **Linda Wong, Committee Clerk, Budget and Finance Committee.**

\*\*\*\*\*  
**RESPONSE FROM SMALL BUSINESS COMMISSION - Date: \_\_\_\_\_**

- No Comment**
- Recommendation Attached**

\_\_\_\_\_  
**Chairperson, Small Business Commission**

President, District 3  
BOARD of SUPERVISORS



*El tronically*  
*BOS-11, Aides, COB Dep City Atty*  
City Hall *Leg Dip*  
1 Dr. Carlton B. Goodlett Place, Room 244  
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Tel. No. 554-7450  
Fax No. 554-7454  
TDD/TTY No. 544-5227

DAVID CHIU  
邱信福  
市參事會主席

**PRESIDENTIAL ACTION**

Date: 3/14/2014

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,

Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. 140150, 140151 Avalos  
(Primary Sponsor)

Title. Admin Code - First Source & Local Hire

Transferring (Board Rule No. 3.3)

File No. \_\_\_\_\_  
(Primary Sponsor)

Title. \_\_\_\_\_

From: \_\_\_\_\_ Committee

To: \_\_\_\_\_ Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor \_\_\_\_\_

Replacing Supervisor \_\_\_\_\_

For: \_\_\_\_\_ Meeting  
(Date) (Committee)

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2014 MAR 14 PM 3:51

*David Chiu*

David Chiu, President  
Board of Supervisors

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.  
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission     Youth Commission     Ethics Commission
- Planning Commission     Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative**

**Sponsor(s):**

John Avalos, London Breed, David Campos, David Chiu, Jane Kim, Eric Mar, Scott Wiener, Norman Yee

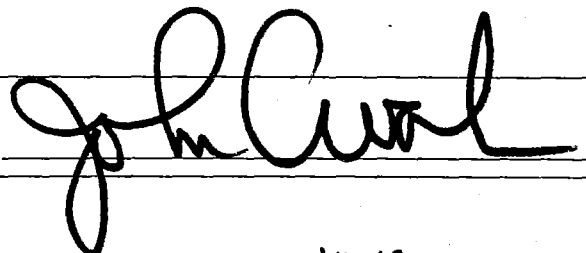
**Subject:**

Ordinance Requiring Disclosure of Apprenticeship and Prevailing Wage Positions, and Anticipated Local Hires on Commercial and Residential Development.

**The text is listed below or attached:**

[Empty box for text listing]

Signature of Sponsoring Supervisor:



For Clerk's Use Only:

140150