

1 [First Source Hiring Program – expand definitions of "entry level position" and "economically
2 disadvantaged individual"]

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4 **Ordinance amending section 83.4 of the San Francisco Administrative Code by**
5 **expanding the definitions of "economically disadvantaged individual" and "entry level**
6 **position."**

7 Note: Additions are *single-underline italics Times New Roman*;
8 deletions are ~~*strikethrough italics Times New Roman*~~.
9 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

11 Section 1. The San Francisco Administrative Code is hereby amended by amending
12 section 83.4, to read as follows:

13 **SEC. 83.4. DEFINITIONS.**

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

16 (b) "Biotechnology business" shall mean conducting biotechnology research
17 and experimental development, and operating laboratories for biotechnology research and
18 experimental development, using recombinant DNA, cell fusion, and bioprocessing
19 techniques, as well as the application thereof to the development of diagnostic products
20 and/or devices to improve human health, animal health, and agriculture.

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

22 (d) "Commercial activity" shall include but not be limited to, for purposes of
23 this Chapter only, retail sales and services, restaurant, hotel, education, hospital, and office
24 uses, biotechnology business, and any other non-profit or for-profit commercial uses.
25

1 (e) "Contract" shall mean an agreement for public works or improvements to
2 be performed, or for goods or services to be purchased, or grants to be provided, at the
3 expense of the City, or to be paid out of moneys deposited in the Treasury of the City, or out
4 of trust moneys under the control of, or collected by, the City involving an expenditure in
5 excess of \$350,000 for construction contracts, in excess of \$50,000 for goods, or in excess of
6 \$50,000 for services. Contract shall also mean loans or grants in excess of \$50,000 which are
7 awarded by the Mayor's Office of Housing, the Mayor's Office of Community Development,
8 the Mayor's Office of Children, Youth and their Families, or by any other City department for
9 work covered under this Chapter.

10 The requirements of this Chapter shall apply to: (1) entry level positions for work
11 performed by a contractor in the City; (2) entry level positions for work performed on the
12 contract in counties contiguous to the City; and (3) entry level positions for work performed on
13 the contract on property owned by the City.

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

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

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

24 (g) "Developer" shall mean the property owner, agents of the property owner,
25 including but not limited to management companies, person or persons, firm, partnership,

1 corporation, or combination thereof, having the right under the San Francisco Planning Code
2 and/or the San Francisco Building Code to make an application for approval of a commercial
3 activity or residential project.

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

7 (i) "Economically disadvantaged individual" shall mean an individual who is
8 either: (1) eligible for services under the Workforce Investment Act of 1988 (WIA) (29 U.S.C.A.
9 2801 et seq.), as determined by the San Francisco Private Industry Council, or any successor
10 agency; or (2) designated "economically disadvantaged" by the First Source Hiring
11 Administration, as an individual who is at risk of relying upon, or returning to, public
12 assistance, including unemployment benefits. Examples of "economically disadvantaged
13 individuals," for purposes of this subsection, may include, but not be limited to, the following
14 individuals: individuals exiting the criminal justice system; individuals participating in or completing
15 substance abuse treatment; individuals who receive financial aid for the purpose of obtaining an
16 education or other vocational training program; survivors of domestic violence seeking employment;
17 people with disabilities seeking employment; and veterans seeking employment.

18 (j) "Employer" shall mean a contractor, sub-contractor, developer, agents of
19 the developer, tenants or other occupants, or person(s), firm, partnership, corporation, or
20 combination thereof engaged in work performed under a contract, lease, loan, grant, or
21 permit, or engaged in work performed in the City, subject to the requirements of this Chapter.

22 (k) "Entry level position" shall mean a ~~non-managerial~~ position that requires
23 ~~either any of the following~~: (1) no education above a high school diploma or certified
24 equivalency; ~~or~~ (2) less than two years of training or specific preparation; (3) a college and/or
25 post graduate degree; or (4) a license or a permit. "Entry level position" and shall include temporary

1 and permanent jobs, and construction jobs related to the development of a commercial activity
2 or residential project.

3 (l) "First source hiring agreement" shall mean the written agreement entered
4 into by the employer with the City which details the particular first source hiring requirements
5 with which an employer must comply, as further defined in Sections 83.9 and 83.11 of this
6 Chapter.

7 (m) "FSHA" shall mean the First Source Hiring Administration.

8 (n) "Permit" shall mean, during Phase I, as defined in Section 83.4(n) below,
9 either or both of the following: (1) any building permit application for a commercial activity over
10 50,000 square feet in floor area and involving new construction, an addition, or alteration
11 which results in the expansion of entry level positions for a commercial activity; (2) any
12 application which requires discretionary action by the City's Planning Commission relating to a
13 commercial activity over 50,000 square feet including, but not limited to, a conditional use,
14 project authorization under San Francisco Planning Code Section 309, and office
15 development under San Francisco Planning Code Section 320, et seq. During Phase II, as
16 defined Section 83.4(o) below, any or all of the following: (1) any building permit application
17 for a commercial activity over 25,000 square feet in floor area and involving new construction,
18 an addition, or alteration which results in the expansion of entry level positions for a
19 commercial activity; (2) any application which requires discretionary action by the City's
20 Planning Commission relating to a commercial activity over 25,000 square feet including, but
21 not limited to conditional use, project authorization under San Francisco Planning Code
22 Section 309, and office development under San Francisco Planning Code Section 320, et
23 seq., or (3) any building permit application for a residential project as defined herein.

24 The requirements of this Chapter shall apply to entry level positions for work
25 done under a permit authorizing a development project or residential project in the City.

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

6 (p) "Phase II" refers to the second stage of implementation of this Chapter
7 which became operative on April 1, 2001, 24 months after the FSHA adopted a resolution
8 stating that Phase I had been implemented. In addition to the contracts, property contracts,
9 grants or loans referred to in Section 83.4(n), above, Phase II shall apply to contracts for
10 goods in excess of \$50,000, contracts for services in excess of \$50,000, permits issued for
11 commercial activity exceeding 25,000 square feet, grants and loans in excess of \$50,000
12 issued by other City departments, and permits issued for residential projects as defined
13 herein. In addition, Phase II shall apply to any and all work performed in the City by City
14 contractors.

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

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

1 (s) "Qualified" with reference to an economically disadvantaged individual
2 shall mean an individual who meets the minimum bona fide occupational qualifications
3 provided by the prospective employer to the San Francisco Workforce Development System
4 in the job availability notices required by this Chapter.

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

8 (u) "Retention" shall, when used in this Chapter, be construed to apply to the
9 entry level position, not to any particular individual.

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

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

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

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22 By: _____
23 JENNIFER WILLIAMS
24 Deputy City Attorney

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