

1 [First source hiring agreements]

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3 **Ordinance amending San Francisco Administrative Code Chapter 83.11 by requiring a**
4 **developer to obtain approval of a first source hiring agreement prior to Planning**
5 **Commission approval of a development project authorization.**

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

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

10 Section 1. The San Francisco Administrative Code is hereby amended by amending
11 Section 83.11, to read as follows:

12 Sec. SEC. 83.11. FIRST SOURCE HIRING REQUIREMENTS FOR PERMITS FOR
13 COMMERCIAL DEVELOPMENT.

14 (a) Developers applying for permits as defined in Section 83.4(m) shall
15 cooperate with the FSHA in establishing first source hiring agreement(s) for the development
16 project. The Planning Commission shall not approve a development project subject to this Chapter
17 unless the developer has obtained approval from the FSHA of a first source hiring agreement
18 applicable to the development project or obtained an exemption from the requirements of Chapter 83
19 pursuant to Section 83.11(d). The FSHA may condition approval of the first source hiring agreement
20 on the City's approval of the development project. In the event the development project approved by the
21 Planning Commission differs substantially from the development project assumed by the FSHA at the
22 time it approved the agreement, the FSHA may approve modifications to the first source hiring
23 agreement if necessary for the agreement to conform to the requirements of this Chapter. Such
24 agreement shall become a condition of the permit, and shall:
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1 (1) Set appropriate hiring and retention goals for entry level positions for all
2 employers engaged in construction work on, and commercial activity(ies) to be conducted in,
3 the development project. The developer shall agree to require all such employers to achieve
4 these hiring and retention goals, or, if unable to achieve these goals, to establish good faith
5 efforts as to their attempts to do so, as set forth in the agreement. The agreement shall take
6 into consideration the employer's participation in existing job training, referral and/or
7 brokerage programs. Within the discretion of the FSHA, subject to appropriate modifications,
8 participation in such programs may be certified as meeting the requirements of this Chapter.
9 Failure either to achieve the specified goal, or to establish good faith efforts will constitute
10 noncompliance and will subject the employer to the sanctions provided in Section 83.12 of this
11 Chapter.

12 (2) Set first source interviewing, recruitment and hiring requirements for all
13 employers engaged in construction work on, and commercial activity(ies) to be conducted in,
14 the development project, which will provide the San Francisco Workforce Development
15 System with the first opportunity to provide qualified economically disadvantaged individuals
16 for consideration for employment for entry level positions. Employers subject to the agreement
17 shall consider all applications of qualified economically disadvantaged individuals referred by
18 the System for employment; provided however, if the employer utilizes nondiscriminatory
19 screening criteria, the employer shall have the sole discretion to interview and/or hire
20 individuals referred or certified by the San Francisco Workforce Development System as
21 being qualified economically disadvantaged individuals. The duration of the first source
22 interviewing requirement shall be set forth in each agreement but shall not exceed 10 days.
23 During that period, the employer subject to the agreement may publicize the positions in
24 accordance with the agreement. A need for urgent or temporary hires must be evaluated, and
25 appropriate provisions for such a situation must be made in the agreement.

1 (3) Set appropriate requirements for providing notification of available entry
2 level positions to the San Francisco Workforce Development System so that the System may
3 train and refer an adequate pool of qualified economically disadvantaged individuals to
4 employers subject to the agreement. Notification should include such information as
5 employment needs by occupational title, skills, and/or experience required, the hours
6 required, wage scale and duration of employment, identification of entry level and training
7 positions, identification of English language proficiency requirements, or absence thereof, and
8 the projected schedule and procedures for hiring for each occupation. Employers subject to
9 the agreement should provide both long-term job need projections, and notice before initiating
10 the interviewing and hiring process. These notification requirements will take into
11 consideration any need to protect the employer's proprietary information.

12 (4) Set appropriate record keeping and monitoring requirements. The First
13 Source Hiring Administration shall develop easy to use forms and record keeping
14 requirements for documenting compliance with the agreement. To the greatest extent
15 possible, these requirements shall utilize the employer's existing record keeping systems, be
16 nonduplicative, and facilitate a coordinated flow of information and referrals.

17 (5) Establish guidelines for employer good faith efforts to comply with the first
18 source hiring requirements of this Chapter. The FSHA will work with City departments to
19 develop employer good faith effort requirements appropriate to the types of permits handled
20 by each department. Employers shall appoint a liaison for dealing with the development and
21 implementation of the employer's agreement. In the event that the FSHA finds that the
22 employer has taken actions primarily for purpose of circumventing the requirements of this
23 Chapter, that employer shall be subject to the sanctions set forth in Section 83.12 of this
24 Chapter.

25 (6) Set the term of the requirements.

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

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

23 (d) In any situation where the FSHA concludes based upon application by
24 the employer that compliance with this Chapter would cause economic hardship or the burden
25 of 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. (Added by Ord. 264-98, App. 8/21/98)

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5 APPROVED AS TO FORM:
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8 By: _____
9 Elaine C. Warren
10 Deputy City Attorney

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