

1 [Expanding the First Source hiring program to apply to contract amendments.]

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3 **Ordinance amending the San Francisco Administrative Code by amending sections**
4 **83.2, 83.4, 83.6, 83.11, and 83.18 to (1) expand the definition of "contract" to include**
5 **"contract amendments;" (2) to define "contract amendments;" and (3) to correct certain**
6 **grammatical and typographical errors.**

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:

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12 Section 1. The San Francisco Administrative Code is hereby amended by amending
13 Sections 83.2, 83.4, 83.6, 83.11, and 83.18 to read as follows:

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15 **SEC. 83.2. FINDINGS.**

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

1 maintain eligibility for (TANF). As families reach their time limits, there will be no federal or
2 State funding help to support them. Therefore, the creation and retention of adequate
3 employment opportunities within the City is essential to prevent these families from falling into
4 complete destitution.

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

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

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

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

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

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

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

20 (j) The concept of "First Source Hiring" under this Chapter contains two essential
21 components: the identification of entry level positions in order to properly allocate training
22 resources, and the availability of the first opportunity for graduates of those training programs
23 to be considered for employment. The City must work with the business community, the
24 service providers, organized labor and schools in identifying workforce needs, developing job
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1 readiness standards, supporting training that creates a new pool of qualified workers, and
2 providing a mechanism by which the business community can draw upon this pool; thereby
3 facilitating and strengthening the relationship between the City, educational institutions,
4 community-based job training, development and place-mended programs, and the private
5 sector. While the City commits to providing the support services necessary to ensure the
6 successful transition to economic self-sufficiency, the business community must be willing to
7 offer these employment opportunities to qualified economically disadvantaged individuals.

8 (k) Participation in the City's First Source Hiring Program can be economically
9 advantageous to employers. The Program provides a ready supply of qualified workers to
10 employers with hiring needs. There ~~is are~~ a variety of City, federal and State tax credits
11 available for hiring qualified economically disadvantaged individuals. Within State-designated
12 "Enterprise Zone" areas of San Francisco, the state offers a hiring tax credit for employers
13 who hire job seekers from targeted groups. Employers can claim up to \$31,605 in tax credits
14 over a 5 year period when they hire qualified employees. The State of California also allows a
15 hiring tax credit against wages paid qualified economically disadvantaged individuals, and a
16 sales tax credit for equipment purchased for use in designated Enterprise Zones.

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

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

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

5 (o) The WIA also requires the implementation of a One-Stop delivery system that
6 provides services to both job seekers and employers. It requires that the workforce
7 development services in each locality be delivered through a single "One-Stop" delivery
8 system. The WIA gives states and localities flexibility in deciding how to implement the One-
9 Stop system with the condition that a "full service center" be formed in each locality, which
10 provides full access to all services. The WIB, in partnership with the Mayor, agreed to have
11 one full service center located on Mission Street, two affiliate centers located in the southeast
12 sector and in the Civic Center area, and a multitude of access points. This structure makes
13 up the foundation of the One-Stop system in San Francisco. The City chose a consortium of
14 agencies to be responsible for the operation of these centers, including the San Francisco
15 Department of Human Services, City College of San Francisco, the National Council on
16 Aging, and the State of California Employment Development Department.

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

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

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

3 (s) Also in 2004, DHS implemented a new data system that tracks the activities of
4 the referral system. Information gathered includes the number of employers notified of first
5 source requirements, the number that comply with first source requirements, the number of
6 jobs posted, and the number of job seekers referred and placed in jobs.

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8 **SEC. 83.4. DEFINITIONS.**

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

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

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

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

20 (e) "Contract" shall mean an agreement for public works or improvements to be
21 performed, or for goods or services to be purchased, or grants to be provided, at the expense
22 of the City, or to be paid out of moneys deposited in the Treasury of the City, or out of trust
23 moneys under the control of, or collected by, the City involving an expenditure in excess of
24 \$350,000 for construction contracts, in excess of \$50,000 for goods, or in excess of \$50,000

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1 for services. Contract shall also mean loans or grants in excess of \$50,000 which are
2 awarded by the Mayor's Office of Housing, the Mayor's Office of Community Development,
3 the Mayor's Office of Children, Youth and their Families, or by any other City department for
4 work covered under this Chapter.

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

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

11 For purposes of this Chapter, "contract" shall include "contract amendments," unless otherwise
12 exempted under this Chapter.

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

18 (f) "Contract Amendment" shall mean a modification to an agreement which extends the
19 term, increases the total amount of payments due from the City (except where such increase is due
20 solely to cost of living adjustments), or modifies the scope of services to be performed by the
21 Contractor; provided that the resulting agreement falls within the definition of "Contract."

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

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

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

9 (j) ~~(i)~~ "Economically disadvantaged individual" shall mean an individual who is either:
10 (1) eligible for services under the Workforce Investment Act of 1988 (WIA) (29 U.S.C.A. 2801
11 et seq.), as determined by the San Francisco Private Industry Council; or (2) designated
12 "economically disadvantaged" by the First Source Hiring Administration, as an individual who
13 is at risk of relying upon, or returning to, public assistance.

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

18 (l) ~~(k)~~ "Entry level position" shall mean a non-managerial position that requires either:
19 (1) no education above a high school diploma or certified equivalency; or (2) less than two
20 years of training or specific preparation; and shall include temporary and permanent jobs, and
21 construction jobs related to the development of a commercial activity or residential project.

22 (m) ~~(l)~~ "First source hiring agreement" shall mean the written agreement entered into
23 by the employer with the City which details the particular first source hiring requirements with
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1 which an employer must comply, as further defined in Sections 83.9 and 83.11 of this
2 Chapter.

3 ~~(n)~~ "FSHA" shall mean the First Source Hiring Administration.

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

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

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

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

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

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

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

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

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

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

18 (a) Establishment and Composition. A First Source Hiring Administration ("FSHA")
19 is hereby established for the purpose set forth in Subsection (b) below. The FSHA shall
20 consist of the following: (1) the Mayor or his/her designee from the Mayor's Office of
21 Economic Development; (2) the Executive Director of the Department of Human Services, or
22 his/her designee; (3) the Director of the Mayor's Office of Community Development, or his/her
23 designee; (4) the President of the Private Industry Council, or his/her designee; (5) the
24 Chancellor of the City College of San Francisco or his/her designee; (6) other City department
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1 representatives appointed by the FSHA as necessary from time to time; and (7) other San
2 Francisco governmental agency representatives participating in the First Source Hiring
3 Program and invited by the FSHA.

4 (b) Powers and Duties. The FSHA shall be responsible for the implementation,
5 oversight, and monitoring of the first source hiring requirements of this Chapter. Its powers
6 and duties shall include:

7 (1) Providing assistance to individual City departments in designing first source
8 hiring implementation and monitoring plans for that department to use in contracts and
9 property contracts, including criteria for assigning particular numerical hiring goals, or
10 reviewing and approving existing Plans. The FSHA shall work with departments to identify
11 those contracts and property contracts that offer available entry level positions in duration and
12 numbers sufficient to justify the additional administrative duties resulting from the
13 implementation of the requirements of this Chapter. To the greatest extent possible, the
14 development of these plans shall utilize the department's existing contract-monitoring
15 procedures and facilitate a coordinated flow of information;

16 (2) Working with the Department of City Planning and the Department of Building
17 Inspection to establish conditions based upon first source hiring agreements for development
18 projects;

19 (3) Working with employers and unions to identify entry level positions for qualified
20 economically disadvantaged individuals, and to set appropriate recruitment, hiring and
21 retention goals;

22 (4) Determining appropriate monitoring and enforcement mechanisms to achieve
23 the purpose of this Chapter, and consistent with Sections 83.10 and 83.12, below;

24 (5) Developing written regulations to implement first source hiring;
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1 (6) Entering into cooperative agreements with other San Francisco governmental
2 agencies, including, but not limited to, the Housing Authority, the Redevelopment Agency, the
3 In-Home Supportive Services Public Authority, and the Parking Authority, consistent with the
4 laws governing such agencies and consistent with the purpose of this Chapter;

5 (7) Conducting independent audits of City departmental implementation, monitoring
6 and enforcement of the requirements of this Chapter;

7 (8) Preparing an annual report on the progress of first source hiring for presentation
8 to the Mayor and the Board of Supervisors that will include but not be limited to the status of
9 first source implementation by all City departments, the number of contractors subject to first
10 source requirements by department, the number and percent of contractors with signed first
11 source agreements on file, the number and percent of first source employers posting jobs, the
12 number of jobs posted and the wage data associated with those jobs, the number of job
13 seekers referred to employers, the number of job seekers hired by first source employers and
14 the number and percent of first source employers hiring job seekers. The Board of
15 Supervisors shall hold a hearing on the report within 45 days of its submission to the Clerk of
16 the Board of Supervisors.

17 (9) Submitting all approved first source hiring implementation and monitoring plans
18 ("approved plan") to the Workforce Development Advisory Committee for review;

19 (10) Developing effective outreach, education, support services for, and recognition
20 of, employers.

21 (c) The FSHA shall phase-in implementation of this Chapter in accordance with
22 Section 83.18, below, and as defined in Sections 83.4(p) (~~n~~) and (q) (~~o~~), above. The FSHA
23 shall first establish a schedule for assisting in the development of, or approving existing first
24 source hiring implementation and monitoring plans by the following City departments: Airport;

1 Department of Building Inspection; Department of Planning; Department of Public Health;
2 Mayor's Office of Children, Youth and Families; Mayor's Office of Community Development;
3 Mayor's Office of Housing; Municipal Railway; Parks and Recreation; Port; Public Works, and
4 Purchasing. The FSHA shall also establish a schedule for the remaining City departments.

5 (d) The FSHA shall exercise its powers and duties in a manner that does not result
6 in delay for contractors or developers subject to this Chapter.

7 (e) The FSHA shall make the final administrative determination as to compliance
8 with the requirements of this Chapter.

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10 **SEC. 83.11. FIRST SOURCE HIRING REQUIREMENTS FOR PERMITS FOR**
11 **COMMERCIAL DEVELOPMENT AND RESIDENTIAL PROJECTS.**

12 (a) Developers applying for permits as defined in Section 83.4(o) (~~m~~) shall
13 cooperate with the FSHA in establishing first source hiring agreement(s) for the development
14 project. The Planning Commission shall not approve a development project, nor shall any
15 City department issue a permit subject to this Chapter unless the developer or contractor has
16 obtained approval from the FSHA of a first source hiring agreement applicable to the
17 development project or obtained an exemption from the requirements of Chapter 83 pursuant
18 to Section 83.11(d). The FSHA may condition approval of the first source hiring agreement on
19 the City's approval of the development project. In the event the development project
20 approved by the Planning Commission differs substantially from the development project
21 assumed by the FSHA at the time it approved the agreement, the FSHA may approve
22 modifications to the first source hiring agreement if necessary for the agreement to conform to
23 the requirements of this Chapter. Such agreement shall become a condition of the permit,
24 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, including residential services. The developer shall agree to require
4 all such employers to achieve these hiring and retention goals, or, if unable to achieve these
5 goals, to establish good faith efforts as to their attempts to do so, as set forth in the
6 agreement. The agreement shall take into consideration the employer's participation in
7 existing job training, referral and/or brokerage programs. Within the discretion of the FSHA,
8 subject to appropriate modifications, participation in such programs may be certified as
9 meeting the requirements of this Chapter. Failure either to achieve the specified goal, or to
10 establish good faith efforts will constitute noncompliance and will subject the employer to the
11 sanctions provided in Section 83.12 of this 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, including residential services, which will provide the San Francisco
15 Workforce Development System with the first opportunity to provide qualified economically
16 disadvantaged individuals for consideration for employment for entry level positions.
17 Employers subject to the agreement shall consider all applications of qualified economically
18 disadvantaged individuals referred by the System for employment; provided however, if the
19 employer utilizes nondiscriminatory screening criteria, the employer shall have the sole
20 discretion to interview and/or hire individuals referred or certified by the San Francisco
21 Workforce Development System as being qualified economically disadvantaged individuals.
22 The duration of the first source interviewing requirement shall be determined by the FSHA and
23 shall be set forth in each agreement but shall not exceed 10 days. During that period, the
24 employer subject to the agreement may publicize the positions in accordance with the
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1 agreement. A need for urgent or temporary hires must be evaluated, and appropriate
2 provisions for such a situation must be made in the agreement.

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

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

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

3 (6) Set the term of the requirements.

4 (7) Set appropriate enforcement and sanctioning standards consistent with this
5 Chapter.

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

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

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

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

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

3 (d) In any situation where the FSHA concludes based upon application by the
4 employer that compliance with this Chapter would cause economic hardship or the burden of
5 compliance would be disproportionate to the impacts of the employer's commercial
6 activity(ies) in the City, the FSHA shall grant an exception to any or all of the requirements of
7 this Chapter.

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

10 Phase I, as defined in 83.4(p) (~~#~~) became operative on October 20, 1998. Phase II, as
11 defined in Section 83.4(q) (~~o~~) of this Chapter, became operative on April 1, 2001, 24 (twenty-
12 four) months after the FSHA adopted a resolution stating that Phase I had been implemented.
13 This Chapter is intended to have prospective effect only, and shall not be interpreted to impair
14 any rights under any existing City contract or property contract or permit. The provisions of
15 this Chapter shall expire on January 1, 2009.

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

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By: FREDERICK P. SHEINFIELD
19 Deputy City Attorney
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