

1 [First Source Hiring Ordinance - Expanding the Chapter to apply to contract modifications;
2 defining OLSE; amending liquidated damages and penalty sections and to provide for
3 administrative review.]

4 **Ordinance amending the San Francisco Administrative Code by amending sections**
5 **83.2, 83.4, 83.6, 83.7, 83.9, 83.10, 83.11, 83.12, and 83.18 of the First Source Hiring**
6 **Program to: 1) correct erroneous grammar and subsection references; 2) change**
7 **"Department of Human Services (DHS)" to "Human Services Agency (HSA);" 3) define**
8 **OLSE; 4) include the OLSE in making the final administrative determination regarding**
9 **compliance with this Chapter; 5) include contract modifications under the definition of**
10 **contracts; 6) amend provision of liquidated damages against contractors who fail to**
11 **comply with this Chapter and to provide for administrative review; and 7) amend**
12 **provision of a penalty against permittees and contractors engaged in non-City work**
13 **performed in San Francisco who fail to comply with this Chapter and to provide for**
14 **administrative review.**

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16 Note: Additions are single-underline italics Times New Roman;
17 deletions are ~~strikethrough italics Times New Roman~~.
18 Board amendment additions are double underlined.
19 Board amendment deletions are ~~strikethrough normal~~.

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

21 Section 1. The San Francisco Administrative Code is hereby amended by amending
22 Sections 83.2, 83.4, 83.6, 83.7, 83.9, 83.10, 83.11, 83.12 and 83.18 as follows:

23 **SEC. 83.2. FINDINGS.**

24 (a) In August 1996, a new federal law, the Personal Responsibility and Work
25 Opportunity Act, also known as "welfare reform," fundamentally changed the nature of public
assistance programs in this country, shifting the focus from the receipt of benefits to

1 procurement of employment within specified time limits. Approximately 17,350 of San
2 Francisco's children and 7,330 of its adults (3.4 percent of the population) who currently
3 receive Temporary Assistance to Needy Families (TANF), the program formerly known as Aid
4 to Families with Dependent Children (AFDC), will be limited to five cumulative years of aid
5 during their lifetime. This means that within five years, the adult members of these families,
6 unless specifically exempted, must be employed at an economically self-sufficient level.
7 Under the new federal law, after two years on aid, most recipients must work in order to
8 maintain eligibility for TANF. As families reach their time limits, there will be no federal or
9 State funding help to support them. Therefore, the creation and retention of adequate
10 employment opportunities within the City is essential to prevent these families from falling into
11 complete destitution.

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

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

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

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

3 (f) The welfare time limits imposed upon families place tremendous pressure on the
4 City to find jobs, provide appropriate training opportunities, and assist economically
5 disadvantaged individuals to find and retain adequate employment. The availability of
6 sufficient employment opportunities is essential to the economic and social well-being of the
7 City. This process of workforce development must be a component of the City's economic
8 development planning.

9 (g) New development and construction of commercial projects tend to increase
10 property values which in turn can displace low-income residents and put a greater burden on
11 the City to assist economically disadvantaged individuals.

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

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

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

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

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

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

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

13 (o) The WIA also requires the implementation of a One-Stop delivery system that
14 provides services to both job seekers and employers. It requires that the workforce
15 development services in each locality be delivered through a single "One-Stop" delivery
16 system. The WIA gives states and localities flexibility in deciding how to implement the One-
17 Stop system with the condition that a "full service center" be formed in each locality, which
18 provides full access to all services. The WIB, in partnership with the Mayor, agreed to have
19 one full service center located on Mission Street, two affiliate centers located in the southeast
20 sector and in the Civic Center area, and a multitude of access points. This structure makes
21 up the foundation of the One-Stop system in San Francisco. The City chose a consortium of
22 agencies to be responsible for the operation of these centers, including the San Francisco
23 ~~Department of Human Services~~Human Services Agency (HSA), City College of San Francisco, the
24 National Council on Aging, and the State of California Employment Development Department.
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1 (p) With the passage of the WIA and the implementation of the One-Stop system,
2 the FSHA has been fully integrated into the delivery of services.

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

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

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

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16 **SEC. 83.4 DEFINITIONS.**

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

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

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

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1 (d) "Commercial Activity" shall include but not be limited to, for purposes of this
2 Chapter only, retail sales and services, restaurant, hotel, education, hospital, and office uses,
3 and any other non-profit or for-profit commercial uses.

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

13 In addition, the term "contract" includes agreements that are amended or modified in either of
14 the following manners:

15 (1) an amendment or modification to a contract, as defined above in this subsection (e), that
16 causes the amount of the expenditure, loan or grant to exceed the applicable threshold amount for
17 "contract" stated above in this subsection (e), or

18 (2) an amendment or modification to a contract as defined above in this subsection (e)
19 involving an expenditure, loan or grant in excess of such applicable threshold amount, but to which this
20 Chapter has not been applied.

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.

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

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

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

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

15 (h) "Development Project" shall mean commercial activity(ies) or a residential
16 project that require a permit that is subject to the requirements of this Chapter.

17 (i) "Economically disadvantaged individual" shall mean an individual who is either:
18 (1) Eligible for services under the Workforce Investment Act of 1998 (WIA) (29 U.S.C.A. 2801
19 et seq.), as determined by the San Francisco Private Industry Council; or (2) designated
20 "economically disadvantaged" by the First Source Hiring Administration, as an individual who
21 is at risk of relying upon, or returning to, public assistance.

22 (j) "Employer" shall mean a contractor, subcontractor, developer, agents of the
23 Developer, tenants or other occupants, or person(s), firm, partnership, corporation, or
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1 combination thereof engaged in work performed under a contract, lease, loan, grant, or
2 permit, or engaged in work performed in the City, subject to the requirements of this Chapter.

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

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

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

12 (n) "OLSE" shall mean the Office of Labor Standards and Enforcement.

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

21 During Phase II, as defined Section 83.4~~(q)~~ below, any or all of the following: (1) any
22 building permit application for a commercial activity over 25,000 square feet in floor area and
23 involving new construction, an addition, or alteration which results in the expansion of entry
24 level positions for a commercial activity; (2) any application which requires discretionary action

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1 by the City's Planning Commission relating to a commercial activity over 25,000 square feet
2 including, but not limited to conditional use, project authorization under San Francisco
3 Planning Code section 309, and office development under San Francisco Planning Code
4 Section 320, et seq., or (3) any building permit application for a residential project as defined
5 herein.

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

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

13 (~~pq~~) "Phase II" refers to the second stage of implementation of this Chapter which
14 became operative on April 1, 2001, 24 months after the FSHA adopted a resolution stating
15 that Phase I had been implemented. In addition to the contracts, property contracts, grants or
16 loans referred to in section 83.4(~~hp~~), above, Phase II shall apply to contracts for goods in
17 excess of \$50,000 contracts for services in excess of \$50,000, permits issued for commercial
18 activity exceeding 25,000 square feet; grants and loans in excess of \$50,000 issued by other
19 City departments, and permits issued for residential projects as defined herein. In addition,
20 Phase II shall apply to any and all work performed in the City by City contractors.

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

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

8 (~~§~~) "Qualified" with reference to an economically disadvantaged individual shall
9 mean an individual who meets the minimum bona fide occupational qualifications provided by
10 the prospective employer to the San Francisco Workforce Development System in the job
11 availability notices required by this Chapter.

12 (~~u~~) "Residential project" shall mean a residential development involving new
13 construction, an addition, a conversion, or substantial rehabilitation that results in the creation
14 or addition of ten or more residential units.

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

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

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

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

2 (a) **Establishment and Composition.** A First Source Hiring Administration (“FSHA”) is hereby established for the purpose set forth in Subsection (b) below. The FSHA shall consist of the following: (1) the Mayor or his/her designee from the Mayor’s Office of Economic Development; (2) the Executive Director of the *Department of Human Services*Human Services Agency, or his/her designee; (3) the Director of the Mayor’s Office of Community Development, or his/her designee; (4) the President of the Private Industry Council, or his/her designee; (5) the Chancellor of the City College of San Francisco or his/her designee; (6) other City department representatives appointed by the FSHA as necessary from time to time; and (67) other San Francisco governmental agency representatives participating in the First Source Hiring Program and invited by the FSHA .

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

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

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

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

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

9 (5) Developing written regulations to implement first source hiring;

10 (6) Entering into cooperative agreements with other San Francisco
11 governmental agencies, including, but not limited to, the Housing Authority, the
12 Redevelopment Agency, the In-Home Supportive Services Public Authority, and the Parking
13 Authority, consistent with the laws governing such agencies and consistent with the purpose
14 of this Chapter;

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

17 (8) Preparing an annual report on the progress of first source hiring for
18 presentation to the Mayor and the Board of Supervisors, that will include but not be limited to
19 the status of first source implementation by all City departments, the number of contractors
20 subject to first source requirements by department, the number and percent of contractors
21 with signed first source agreements on file, the number and percent of first source employers
22 posting jobs, the number of jobs posted and the wage data associated with those jobs, the
23 number of job seekers referred to employers, the number of job seekers hired by first source
24 employers and the number and percent of first source employers hiring job seekers. The
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1 Board of Supervisors shall hold a hearing on the report within 45 days of its submission to the
2 Clerk of the Board of Supervisors.

3 (9) Submitting all approved first source hiring implementation and monitoring
4 plans (“approved plan”) to the Workforce Development Advisory Committee for review;

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

7 (c) The FSHA shall phase-in implementation of this Chapter in accordance with Section
8 83.18, below, and as defined in Sections 83.4 (~~hp~~) and (~~oq~~), above. The FSHA shall first
9 establish a schedule for assisting in the development of, or approving existing first source
10 hiring implementation and monitoring plans by the following City departments: Airport;
11 Department of Building Inspection; Department of Planning; Department of Public Health;
12 Mayor’s Office of Children, Youth and Families; Mayor’s Office of Community Development;
13 Mayor’s Office of Housing; Municipal Railway; Parks and Recreation; Port; Public Works, and
14 Purchasing. The FSHA shall also establish a schedule for the remaining City departments.

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

17 (e) The FSHA, or the OLSE, where appropriate, shall make the final administrative
18 determination as to compliance with the requirements of this Chapter.

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20 **SEC. 83.7. DUTIES OF CITY DEPARTMENTS.**

21 (a) All commissions, departments, officers and employees of the City shall cooperate
22 with the FSHA in connection with their respective duties relative to the award of contracts,
23 property contracts, and the issuance of permits subject to this Chapter.

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1 (b) City departments shall develop an overall first source hiring implementation and
2 monitoring plan (“plan”) with the assistance of the FSHA. Once the FSHA approves the plan
3 (“approved plan”), the department is not required to seek approval from the FSHA for specific
4 contracts, property contracts or permits unless otherwise instructed to do so in the approved
5 plan. If a department is required to comply with federal or state hiring program regulations
6 that meet or exceed the requirements of this Chapter, that department shall submit that
7 information as its plan. Compliance with such regulations shall be deemed to be an
8 “approved plan.” Compliance by a department with the approved plan shall be deemed to be
9 compliance with the requirements of this Chapter. The FSHA may require regular reports by
10 the department as part of the plan.

11 (c) In situations where both the Departments of Building ~~i~~nsp~~e~~ction and Planning grant
12 approval for a development project or residential project, the City’s Department of Planning
13 shall have primary jurisdiction for the conditions imposed on the permit required under this
14 Chapter, and the role of the Department of Building Inspection shall be limited to assisting in
15 enforcement of the first source hiring requirements.

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17 **SEC. 83.9. FIRST SOURCE HIRING REQUIREMENTS FOR CONTRACTS AND**
18 **PROPERTY CONTRACTS, AND OTHER WORK PERFORMED IN THE CITY BY CITY**
19 **CONTRACTORS.**

20 (a) This Chapter applies to all contracts and property contracts, except where the
21 FSHA determines that application of the requirements of this Chapter is not feasible or
22 conflicts with applicable federal or State law. In addition, this Chapter applies to any and all
23 work performed in the City by a City contractor.

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1 (b) As an essential term of, and consideration for, any contract or property contract with
2 the City, not exempted by the FSHA, the contractor shall enter into a first source hiring
3 agreement (“agreement”) with the City, on or before the effective date of the contract or
4 property contract. Contractors shall also enter into an agreement with the City for any other
5 work that it performs in the City. Such agreement shall:

6 (1) Set appropriate hiring and retention goals for entry level positions. The
7 employer shall agree to achieve these hiring and retention goals, or, if unable to achieve
8 these goals, to establish good faith efforts as to its attempts to do so, as set forth in the
9 agreement. The agreement shall take into consideration the employer’s participation in
10 existing job training, referral and/or brokerage programs. Within the discretion of the FSHA,
11 subject to appropriate modifications, participation in such programs may be certified as
12 meeting the requirements of this Chapter. Failure either to achieve the specified goal, or to
13 establish good faith efforts will constitute noncompliance and will subject the employer to the
14 provisions of Section 83.10 of this Chapter.

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

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

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

20 (5) Establish guidelines for employer good faith efforts to comply with the first
21 source hiring requirements of this Chapter. The FSHA will work with City departments to
22 develop employer good faith effort requirements appropriate to the types of contracts and
23 property contracts handled by each department. Employers shall appoint a liaison for dealing
24 with the development and implementation of the employer's agreement. In the event that the
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1 FSHA finds that the employer under a City contract or property contract has taken actions
2 primarily for the purpose of circumventing the requirements of this Chapter, that employer
3 shall be subject to the sanctions set forth in Section 83.10 of this Chapter.

4 (6) Set the term of the requirements.

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

7 (8) 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 (9) Require *the* developer to include notice of the requirements of this Chapter in
11 leases, subleases, and other occupancy contracts.

12 (c) The employer shall make the final determination of whether an economically
13 disadvantaged individual referred by the System is "qualified" for the position. Any qualified
14 economically disadvantaged individual who is hired by the employer shall have the same
15 rights and obligations as all other employees in similar positions. The employer shall not
16 discriminate against any employees on the basis of participation in the First Source Hiring
17 Program. Any such discrimination shall be considered a breach of the employer's "good faith"
18 obligations under the agreement, and shall be subject to the sanctions set forth in Section
19 83.10 of this Chapter.

20 (d) Compliance by an employer with a City department's approved plan shall be
21 deemed to be compliance with the requirements of this Chapter.

22 (e) In any situation where the FSHA concludes based upon application by the employer
23 that compliance with this Chapter would cause economic hardship the FSHA may grant an
24 exception to any or all of the requirements of this Chapter.

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1 **SEC. 83.10. VIOLATION OF FIRST SOURCE HIRING REQUIREMENTS IN CONTRACTS**
2 **AND PROPERTY CONTRACTS.**

3 (a) ~~Violation of the requirements of this Chapter is subject to an assessment of liquidated~~
4 ~~damages as set forth below. Additionally, contractors, except property contractors, may be subject to~~
5 ~~the debarment and monetary penalties set forth in Sections 6.52, 6.58, and/or 6.60 of the San Francisco~~
6 ~~Administrative Code. Every contract covered by this Chapter shall contain a provision in which the~~
7 Contractor agrees:

8 (1) To be liable to the City for liquidated damages as provided in this section;

9 (2) To be subject to the procedures governing enforcement of breaches of contracts based on
10 violations of contract provisions required by this Chapter as set forth in this section;

11 (3) That the contractor's commitment to comply with this Chapter is a material element of the
12 City's consideration for this contract; that the failure of the contractor to comply with the contract
13 provisions required by this Chapter will cause harm to the City and the public which is significant and
14 substantial but extremely difficult to quantify; and that the assessment of liquidated damages of up to
15 \$2,500.00 for every new hire for an entry level position improperly withheld by the contractor from the
16 first source hiring process is a reasonable amount of damages to pay the City for the harm caused by
17 the contractor's failure to comply with the contract provisions required by this Chapter.

18 (4) That the failure of contractors to comply with this Chapter, except property contractors,
19 may be subject to the debarment and monetary penalties set forth in Sections 6.80 et seq. of the San
20 Francisco Administrative Code., as well as any other remedies available under the contract or at law;
21 and

22 (5) That in the event the City is the prevailing party in a civil action to recover liquidated
23 damages for breach of a contract provision required by this Chapter, the contractor will be liable for
24 the City's costs and reasonable attorneys fees.

1 (b) If upon administrative review as provided for in Subsection (e) of this Section, the FSHA
2 determines that entry level positions were not made available to the System for referral of qualified
3 economically disadvantaged individuals as specified in the employer's first source hiring agreement,
4 and the employer does not remedy the violations, that employer shall be assessed liquidated damages
5 in the amount of \$2,070 for every new hire for an entry level position improperly withheld from the first
6 source hiring process. The FSHA shall promulgate appropriate guidelines or rules for the enforcement
7 of this Chapter. Such guidelines or rules may establish procedures for ensuring fair, efficient, and
8 cost-effective implementation of this Chapter, including mechanisms to monitor contractor compliance
9 with the contract provisions required by this Chapter, and for determining whether a contractor has
10 failed to comply with its contract obligation to make entry level positions available to the FSHA for
11 referral of economically disadvantaged individuals as specified in a contractor's first source hiring
12 agreement.

13 (c) The FSHA may investigate possible violations of contract provisions required by this
14 Chapter. Where the FSHA, after providing the contractor with the opportunity to respond to the
15 alleged violation, determines that a contractor failed to make available entry level positions to the
16 FSHA for referral of qualified economically disadvantaged individuals, as required by the applicable
17 first source hiring agreement, the FSHA shall provide written notice to the contractor as follows:

18 (1) the factual basis for the determination;

19 (2) the corrective action that the contractor must take to remedy the violation;

20 (3) the amount of liquidated damages that the FSHA has assessed for the contractor's violation
21 of this Chapter;

22 (4) notice that the contractor has 15 days to either take the required corrective action,
23 including payment of liquidated damages, or to file an appeal consistent with subsection (5), below;

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1 (5) that the contractor has the right to appeal the FSHA's final determination to the OLSE,
2 including the assessment of liquidated damages and the amount assessed, but that any such appeal
3 must be filed in writing with the OLSE within 15 days of the date of the issuance of FSHA's
4 determination and that a contractor must file an appeal with the OLSE in order to exhaust
5 administrative remedies;

6 (6) that if the contractor fails to take the required corrective action or file an appeal in writing
7 with the OLSE within 15 days as set forth above, the FSHA's determination shall be the City's final and
8 binding decision which the City may enforce in a court of law, and

9 (7) that the contractor will be required to comply with the decision within 5 business days of the
10 FSHA's decision becoming final, including payment of liquidated damages, if any, together with simple
11 annual interest of 10% from the date that payment should have been made.

12 (d)(1) While liquidated damages in the maximum amount set forth in this section are a
13 reasonable estimate of harm to the City caused by the contractor's non-compliance with contract
14 provisions required by this Chapter, the FSHA may determine that less than the full amount is
15 warranted depending on the circumstances of each case. The FSHA shall consider the following
16 factors in determining the amount of liquidated damages, if any, to impose against a contractor who
17 fails to comply with contract provisions required by this Chapter:

18 (A) the size of the contractor's business;

19 (B) the contractor's good faith efforts to comply with contract provisions required by this
20 Chapter;

21 (C) the gravity of the violation;

22 (D) whether the contractor has a history of violations of contract provisions required by this
23 Chapter;

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1 (E) whether the contractor has failed to comply with recordkeeping requirements imposed
2 by contract provisions under this Chapter; and

3 (F) whether the imposition of liquidated damages would undermine the purpose of this
4 Chapter by imposing unreasonable financial burdens on the contractor, thereby imperiling the
5 contractor's ability to continue complying with contract provisions required by this Chapter.

6 (e)(1) Within 15 days of receiving an appeal from the FSHA's final determination, the OLSE
7 shall appoint a hearing officer and shall so advise the FSHA and the contractor, and/or their respective
8 counsel or authorized representative.

9 (2) The hearing officer shall promptly set a date for a hearing. The hearing must commence
10 within 45 days of the notification of the appointment of the hearing officer and conclude within 75 days
11 of such notification, not including the issuance of a decision, unless all parties agree to an extended
12 period. If a contractor appeals the FSHA's initial determination but fails to attend a hearing set under
13 this subsection, the FSHA's initial determination shall become final.

14 (3) The FSHA shall have the burden of producing evidence justifying its imposition of
15 liquidated damages under this Chapter, and of the contractor's violation of contract provisions
16 required by this Chapter, and shall have the burden of proving that a violation occurred. The
17 contractor shall have the right to present evidence on its behalf in response to any alleged violation of
18 contract provisions required by this Chapter.

19 (4) Within 30 days of the conclusion of the hearing, the hearing officer shall issue a written
20 decision affirming, modifying, or vacating the FSHA's determination of whether the contractor violated
21 the first source hiring agreement, of what corrective action that the contractor must take to remedy any
22 violation, and of the amount of liquidated damages to be assessed, if any. The hearing officer's
23 decision shall consist of findings and a determination, which shall be the City's final decision.

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1 (5) The contractor shall comply with the hearing officer's decision within 5 business days of
2 service of the decision. Service shall be made by first class mail to the contractor's address of record.
3 If the hearing officer imposed liquidated damages, the contractor shall pay the liquidated damages
4 within 5 business days of the receipt of the decision. Payment of liquidated damages after that day
5 shall be subject to simple annual interest of 10% from the day that such damages were due.

6 (6) The contractor may seek review of the hearing officer's decision only by filing in the San
7 Francisco Superior Court a petition for a writ of mandate under California Code of Civil Procedure,
8 section 1094.5, as may be amended from time to time.

9 (7) When a contractor fails to take corrective action within the time required by the provisions
10 of this section, the City may immediately pursue all available remedies against the contractor for
11 breach of contract, including debarment proceedings where applicable and filing a civil action to
12 recover liquidated damages due under this section.

13 (8) The failure of the FSHA or OLSE to comply with the time requirements of this Section shall
14 not cause the OLSE or the hearing officer to lose jurisdiction over an appeal from the FSHA's
15 determination filed under this Section.

16 ~~(e) Lack of referrals of qualified economically disadvantaged individuals, delay in referrals due~~
17 ~~to causes beyond the reasonable control of the employer, emergency, or other good cause as~~
18 ~~demonstrated by the employer to the FSHA may be a defense to the assessment of liquidated damages~~
19 ~~under this Chapter.~~

20 (d) If the developer fulfills its obligations as set forth in this Chapter, the developer
21 shall not be held responsible for the failure of an employer to comply with the requirements of
22 this Chapter.

23 ~~(e) The assessment of liquidated damages and the evaluation of any defenses or mitigating~~
24 ~~factors, shall be made by the FSHA.~~

1 ~~_____ (j) The FSHA shall establish procedures that allow an employer to respond to any complaints of~~
2 ~~noncompliance made by a City department or other interested party, or any determination of~~
3 ~~noncompliance with this Chapter made by the FSHA, prior to the imposition of any sanctions by the~~
4 ~~City (g) Liquidated damages obtained under this Chapter shall be deposited in the general fund.~~

5
6 **SEC. 83.11. FIRST SOURCE HIRING REQUIREMENTS FOR PERMITS FOR**
7 **COMMERCIAL DEVELOPMENT AND RESIDENTIAL PROJECTS.**

8 (a) Developers applying for permits as defined in Section 83.4(~~no~~) shall cooperate with
9 the FSHA in establishing first source hiring agreement(s) for the development project. The
10 Planning Commission shall not approve a development project, nor shall any City department
11 issue a permit subject to this Chapter unless the developer or contractor has obtained
12 approval from the FSHA of a first source hiring agreement applicable to the development
13 project or obtained an exemption from the requirements of Chapter 83 pursuant to Section
14 83.11(d). The FSHA may condition approval of the first source hiring agreement on the City's
15 approval of the development project. In the event the development project approved by the
16 Planning Commission differs substantially from the development project assumed by the
17 FSHA at the time it approved the agreement, the FSHA may approve modifications to the first
18 source hiring agreement if necessary for the agreement to conform to the requirements of this
19 Chapter. Such agreement shall become a condition of the permit, and shall:

20 (1) Set appropriate hiring and retention goals for entry level positions for all
21 employers engaged in construction work on, and commercial activity(ies) to be conducted in,
22 the development project, including residential services. The developer shall agree to require
23 all such employers to achieve these hiring and retention goals, or, if unable to achieve these
24 goals, to establish good faith efforts as to their attempts to do so, as set forth in the
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1 agreement. The agreement shall take into consideration the employer's participation in
2 existing job training, referral and/or brokerage programs. Within the discretion of the FSHA,
3 subject to appropriate modifications, participation in such programs may be certified as
4 meeting the requirements of this Chapter. Failure either to achieve the specified goal, or to
5 establish good faith efforts will constitute noncompliance and will subject the employer to the
6 sanctions provided in Section 83.12 of this Chapter.

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

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

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

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

22 (6) Set the term of the requirements.

23 (7) Set appropriate enforcement and sanctioning standards consistent with this
24 Chapter.

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

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

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

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

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

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

3
4 **SEC. 83.12. VIOLATION OF FIRST SOURCE HIRING REQUIREMENTS IN PERMITS ~~AND~~**
5 **IN WORK PERFORMED BY A CITY CONTRACTOR ON NON-CITY PROJECTS IN THE CITY.**

6 (a)(1) The sole financial remedy for violation of the requirements of this Chapter ~~is the~~
7 ~~penalty~~ are the penalties set forth below. Additionally, failure to comply with the conditions
8 imposed on ~~the~~ permit may be subject to the provisions of San Francisco Building Code
9 Section 104.2.

10 (2) Every employer covered by this section shall be subject to the procedures governing
11 enforcement of violations of this Chapter. In addition, the failure of an employer to make entry level
12 positions available to the FSHA for referral of economically disadvantaged individuals, as specified in
13 an employer's first source hiring agreement, shall be subject to a penalty of up to \$2,500.00 for every
14 new hire improperly withheld from the FSHA for this purpose.

15 (3) In the event that the City is the prevailing party in a civil action to recover a penalty
16 awarded pursuant to this section, the employer will be liable for the City's costs and reasonable
17 attorneys fees.

18 (b) ~~If upon administrative review, as provided for in Subsection (ef) of this Section, the FSHA~~
19 ~~determines that entry level positions were not made available to the System for referral of qualified~~
20 ~~economically disadvantaged individuals as specified in the employer's first source hiring agreement,~~
21 ~~and the employer does not remedy the violations, that employer shall be assessed a penalty in the~~
22 ~~amount of \$2,070 for every new hire for an entry level position improperly withheld from the first~~
23 ~~source hiring process. The FSHA shall promulgate appropriate guidelines or rules for the enforcement~~
24 ~~of this Chapter. Such guidelines or rules may establish procedures for ensuring fair, efficient, and~~

1 cost-effective implementation of this Chapter, including mechanisms to monitor employer compliance
2 with this Chapter, and for determining whether an employer has failed to comply with its obligation to
3 make entry level positions available to the FSHA for referral of economically disadvantaged
4 individuals as specified in the employer's first source hiring agreement.

5 (c)(1) The FSHA may investigate possible violations of this Chapter. Where the FSHA, after
6 providing an employer with the opportunity to respond to the alleged violation, determines that an
7 employer failed to make available entry level positions to the FSHA for referral of qualified
8 economically disadvantaged individuals, as required by the applicable first source hiring agreement,
9 the FSHA shall provide written notice to the employer as follows:

10 (A) the factual basis for the determination;

11 (B) the corrective action that the employer must take to remedy the violation;

12 (C) the amount of a penalty that the FSHA has assessed for the employer's violation of this
13 Chapter;

14 (D) notice that the employer has 15 days to either take the required corrective action, including
15 payment of the penalty, or to file an appeal consistent with subsection (5), below;

16 (E) that the employer has the right to appeal the FSHA's final determination to the OLSE,
17 including the assessment of a penalty and the amount assessed, but that any such appeal must be filed
18 in writing with the OLSE within 15 days of the date of the issuance of FSHA's determination and that
19 an employer must file an appeal with the OLSE in order to exhaust administrative remedies; and

20 (F) that if the employer fails to take the required corrective action or file an appeal in writing
21 with the OLSE within 15 days as set forth above, the FSHA's determination shall be the City's final and
22 binding decision which the City may enforce in a court of law, and

1 (G) that the employer will be required to comply with the decision within 5 business days of the
2 FSHA's decision becoming final, including payment of the penalty, if any, together with simple annual
3 interest of 10% from the date that payment should have been made.

4 (d)(1) While the maximum amount set forth in this section is a reasonable measure of the
5 harm to the City caused by the employer's non-compliance, the FSHA may determine that less than the
6 full amount is warranted depending on the circumstances of each case. The FSHA shall consider the
7 following factors in determining the amount of the penalty, if any, to impose against an employer who
8 fails to comply with this Chapter:

9 (A) the size of the employer's business;

10 (B) the employer's good faith efforts to comply with this Chapter;

11 (C) the gravity of the violation;

12 (D) whether or not the employer has a history of violations under this Chapter;

13 (E) whether or not the employer has failed to comply with recordkeeping requirements
14 under this Chapter; and

15 (F) whether the imposition of a penalty would undermine the purpose of this Chapter by
16 imposing unreasonable financial burdens on the employer, thereby imperiling the employer's ability to
17 continue complying with the obligations of this Chapter.

18 (e)(1) Within 15 days of receiving an appeal from the FSHA's final determination, the OLSE
19 shall appoint a hearing officer and shall so advise the FSHA and the employer, and/or their respective
20 counsel or authorized representative.

21 (2) The hearing officer shall promptly set a date for a hearing. The hearing must commence
22 within 45 days of the notification of the appointment of the hearing officer and conclude within 75 days
23 of such notification, not including the issuance of a decision, unless all parties agree to an extended
24

1 period. If an employer appeals the FSHA's initial determination but fails to attend a hearing set under
2 this subsection, the FSHA's initial determination shall become final.

3 (3) The FSHA shall have the burden of producing evidence justifying its imposition of a penalty
4 under this Chapter, and of the employer's violation of the requirements of this Chapter, and shall have
5 the burden of proving that a violation occurred. The employer shall have the right to present evidence
6 on its behalf regarding an alleged violation of this Chapter.

7 (4) Within 30 days of the conclusion of the hearing, the hearing officer shall issue a written
8 decision affirming, modifying, or vacating the FSHA's determination of whether the employer violated
9 the first source hiring agreement, of what corrective action that the employer must take to remedy any
10 violation, and of the amount of a penalty to be assessed, if any. The hearing officer's decision shall
11 consist of findings and a determination, which shall be the City's final decision.

12 (5) The employer shall comply with the hearing officer's decision within 5 business days of
13 service of the decision. Service shall be made by first class mail to the employer's address of record. If
14 the hearing officer imposed a penalty, the employer shall pay the penalty within 5 business days of the
15 receipt of the decision. Payment of a penalty after that day shall be subject to simple annual interest of
16 10% from the day that such penalty was due.

17 (6) The employer may seek review of the hearing officer's decision only by filing in the San
18 Francisco Superior Court a petition for a writ of mandate under California Code of Civil Procedure,
19 section 1094.5, as may be amended from time to time.

20 (7) When an employer fails to take corrective action within the time required by the provisions
21 of this section, the City may immediately pursue all available remedies against the employer, including
22 filing a civil action to recover any penalty due under this section.

1 (8) The failure of the FSHA or the OLSE to comply with the time requirements of this section
2 shall not cause the OLSE to lose jurisdiction over an appeal from the FSHA's determination filed under
3 this section.

4 ~~(e) Lack of referrals of qualified economically disadvantaged individuals, delay in referrals due~~
5 ~~to causes beyond the reasonable control of the employer, emergency, or other good cause as~~
6 ~~demonstrated by the employer to the OLSE or to the FSHA may be a defense to the assessment of a~~
7 ~~penalty under this Chapter.~~

8 ~~(d)~~ If the developer fulfills its obligations as set forth in this Chapter, the developer shall
9 not be held responsible for the failure of an employer to comply with the requirements of this
10 Chapter.

11 ~~(e) The assessment of a penalty and the evaluation of any defenses and mitigating factors, shall~~
12 ~~be made by the FSHA.~~

13 ~~———— (f) The FSHA shall establish procedures that allow an employer to respond to any complaints of~~
14 ~~noncompliance made by a City department or other interested party, or any determination of~~
15 ~~noncompliance with this Chapter made by the FSHA, prior to the imposition of any sanctions by the~~

16 ~~City.~~ (g) All penalties obtained under this Chapter shall be deposited in the general fund.

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

2 Phase I, as defined in 83.4(~~hp~~) became operative on October 20, 1998. Phase II, as
3 defined in Section 83.4(~~oq~~) of this Chapter became operative on April 1, 2001, 24 (twenty-
4 four) months after the FSHA adopted a resolution stating that Phase I had been implemented.
5 This Chapter is intended to have prospective effect only, and shall not be interpreted to impair
6 any rights under any existing City contract or property contract or permit. The provisions of
7 this Chapter shall expire on January 1, 2009.

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9 APPROVED AS TO FORM:

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11 DENNIS J. HERRERA, City Attorney

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13 By: _____

14 JENNIFER WILLIAMS

 Deputy City Attorney

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