CHAPTER 83: - FIRST SOURCE HIRING PROGRAM

SEC. 83.1. - SHORT TITLE.

This Chapter shall be known as the "First Source Hiring Program."

(Added by Ord. 264-98, App. 8/21/98)

SEC. 83.2. - FINDINGS.

(a) In August 1996, a new Federal law, the Personal Responsibility and Work 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 procurement of employment within specified time limits. Approximately 17,350 of San Francisco's children and 7,330 of its adults (3.4 percent of the population) who currently receive Temporary Assistance to Needy Families (TANF), the program formerly known as Aid to Families with Dependent Children (AFDC), will be limited to five cumulative years of aid during their lifetime. This means that within five years, the adult members of these families, unless specifically exempted, must be employed at an economically self-sufficient level. Under the new Federal law, after two years on aid, most recipients must work in order to maintain eligibility for (TANF). As families reach their time limits, there will be no federal or State funding help to support them. Therefore, the creation and retention of adequate employment opportunities within the City is essential to prevent these families from falling into complete destitution.

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

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

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

(e) Since 2000, over 100,000 jobs have been lost, almost three times the job loss rate of the early 1990's.
The WIA also requires the implementation of a One-Stop delivery system that provides services to both job seekers and employers. It requires that the workforce development services in each locality be delivered through a single "One-Stop" delivery system. The WIA gives states and localities flexibility in deciding how to implement the One-Stop system with the condition that a "full service center" be formed in each locality, which provides full access to all services. The WIB, in partnership with the Mayor, oversees the workforce development system for the City.

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

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

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

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

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

Participation in the City's First Source Hiring Program can be economically advantageous to employers. The Program provides a ready supply of qualified workers to employers with hiring needs. There are a variety of City, federal and State tax credits available for hiring qualified economically disadvantaged individuals. Within State-designated "Enterprise Zone" areas of San Francisco, the state offers a hiring tax credit for employers who hire job seekers from targeted groups. Employers can claim up to $31,605.00 in tax credits over a 5 year period when they hire qualified employees. The State of California also allows a hiring tax credit against wages paid qualified economically disadvantaged individuals, and a sales tax credit for equipment purchased for use in designated Enterprise Zones.

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

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

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

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

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

In 2003, the FSHA ordinance was extended for one year, during which time an independent evaluation was conducted on the effectiveness of the program. The final report indicates that the stakeholders view the ordinance as a tool to open doors to jobs for populations that have historically had difficulty gaining access to employment opportunities.
In March 2004, HSA began implementing a business service initiative designed to integrate job posting and placement activities within the One-Stop system. With this new referral system in place, a process exists to connect job seekers with the job opportunities that result from this ordinance.

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

The proposed Market and Octavia Area Plan - consisting of general plan, planning code, and zoning map amendments - is a means for implementing an innovative set of land use controls, urban design guidelines, and public space and transportation system improvements to create a dense, vibrant and transit-oriented neighborhood. The plan rezones the commercial uses in the Plan Area; consequently more jobs will occur in the lower wage industries such as retail, food service, and personal services. Such industries offer employment opportunities to first time and entry level workers especially served by the City's First Source Hiring program and as such special efforts will be made to enlist lower income residents and job seekers in these new employment opportunities. Expanding the provisions of the First Source Hiring Ordinance to the Market and Octavia Area Plan will serve as a pilot project for other areas of the City and is in the best interest of the residents residing in this designated area.

SEC. 83.3. - PURPOSE.

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

This Chapter additionally requires similar first source hiring obligations to be included in permits authorizing construction of certain commercial development and residential projects.

Because of the wide variety of contracts, property contracts, other work performed in the City by the City contractor, and permits issued by, the City, there is no single first source hiring requirement that can be applied and enforced in all such situations. Therefore, specific first source hiring requirements must be tailored to individual contracts, property contracts, work performed in the City by City contractors, and permits for commercial activities and residential projects. An administrative body shall be established by the City to assist in the tailoring of these requirements, and shall be known as the "First Source Hiring Administration (FSHA)" for the purpose of implementing and overseeing the first source hiring requirements under this Chapter.

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

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

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

SEC. 83.4. - DEFINITIONS.

(a)

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

(b)

"Biotechnology business" shall mean conducting biotechnology research and experimental development, and operating laboratories for biotechnology research and experimental development, using recombinant DNA, cell fusion, and bioprocessing techniques, as well as the application thereof to the development of diagnostic products and/or devices to improve human health, animal health, and agriculture.
"City" shall mean the City and County of San Francisco.

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

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

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

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

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

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

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

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

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

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

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

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

"FSHA" shall mean the First Source Hiring Administration.

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

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

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

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

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

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

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

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

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

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

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

SEC. 83.5. - SCOPE.

The requirements of this Chapter shall apply to: (a) entry level positions for work performed by a contractor in the City; (b) entry level positions for work performed on the contract in counties contiguous to the City; (c) entry level positions for work performed on the contract on property owned by the City; and (d) entry level positions for work done under a permit authorization on a development project in the City.

SEC. 83.6. - FIRST SOURCE HIRING ADMINISTRATION.
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 and Workforce Development; (2) the Executive Director of the Human Services Agency, or his/her designee; (3) the Director of the Mayor's Office of Community Development, or his/her designee; (4) the Chair of Workforce Investment San Francisco, 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 (7) other San Francisco governmental agency representatives participating in the First Source Hiring Program and invited by the FSHA. The Department of Economic and Workforce Development shall manage and provide staff for the FSHA.

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:

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;

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

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

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

5. Developing written regulations to implement first source hiring;

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

7. Conducting independent audits of City departmental implementation, monitoring and enforcement of the requirements of this Chapter;

8. Preparing an annual report on the progress of first source hiring for presentation to the Mayor and the Board of Supervisors that will include but not be limited to the status of first source implementation by all City departments, the number of contractors by department subject to first source requirements by department, the number of permittees subject to first source requirements, the number and percent of contractors and permittees with signed first source agreements on file, the number and percent of first source employers posting jobs, the number of jobs posted and the wage data associated with those jobs, the number of job seekers referred to employers, the number of job seekers hired by first source employers, the number and percent of first source employers hiring job seekers, and the length of time that hired individuals remain employed. All contractors and permittees covered by this Chapter shall comply with all reasonable requests for information from the FSHA in its attempt to comply with this subdivision. In addition, the FSHA shall review these data to determine whether, in light of the data, the liquidated damages provision that this ordinance requires continues to reflect a fair estimate of the injury that the City suffers when a contractor fails to comply with its first source referral obligations. If the FSHA determines that the liquidated damages provision can be improved it shall submit to the Board of Supervisors proposed amendments to this Ordinance reflecting those improvements. The Board of Supervisors shall hold a hearing on the report within 45 days of its submission to the Clerk of the Board of Supervisors.

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

10. Developing effective outreach, education, support services for, and recognition of, employers.

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

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

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


SEC. 83.7. - DUTIES OF CITY DEPARTMENTS.

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

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

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


SEC. 83.8. - WORKFORCE DEVELOPMENT ADVISORY COMMITTEE.

There shall be established a Workforce Development Advisory Committee ("Advisory Committee") to advise the FSHA on workforce development, employed needs, program policy, design, implementation, oversight, and monitoring. This advisory committee shall be appointed by the Mayor and shall include representatives of community-based organizations, labor, the business community, educational institutions, and City departments. The members of this advisory committee shall serve at will for a term of one year, and may be reappointed. This advisory committee shall meet at least quarterly.

(Added by Ord. 264-98, App. 8/21/98; amended by Ord. 250-04, File No. 041190, App. 10/14/2004)

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

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

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

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

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

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

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

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

(6) Set the term of the requirements.

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

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

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

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

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

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


SEC. 83.10. - VIOLATION OF FIRST SOURCE HIRING REQUIREMENTS IN CONTRACTS AND PROPERTY CONTRACTS.

(a) Every contract covered by this Chapter shall contain a provision in which the Contractor agrees:

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

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

(3) That the contractor's commitment to comply with this Chapter is a material element of the City's consideration for this contract; that the failure of the contractor to comply with the contract provisions required by this Chapter will cause harm to the City and the public which is significant and substantial but extremely difficult to quantify; that the harm to the City includes not only the financial cost of funding public assistance programs but also the insidious but impossible to quantify harm that this community and its families suffer as a result of unemployment; and that the assessment of liquidated damages of up to $5,000.00 for every notice of a new hire for an entry level position improperly withheld by the contractor from the first source hiring process, as determined by the FSHA during its first investigation of a contractor, does not exceed a fair estimate of the financial and other damages that the City suffers as a result of the contractor's failure to comply with its first source referral contractual obligations.

(4) That the continued failure by a contractor to comply with its first source referral contractual obligations will cause further significant and substantial harm to the City and the public, and that a second assessment of liquidated damages of up to $10,000.00 for each entry level position improperly withheld from the FSHA, from the time of the conclusion of the first investigation forward, does not exceed the financial and other damages that the City suffers as a result of the contractor's continued failure to comply with its first source referral contractual obligations;

(5) That in addition to the cost of investigating alleged violations under this Section, the computation of liquidated damages for purposes of this section is based on the following data:

A. The average length of stay on public assistance in San Francisco's County Adult Assistance Program is approximately 41 months at an average monthly grant of $348.00 per month, totaling approximately $14,379.00; and

B. In 2004, the retention rate of adults placed in employment programs funded under the Workforce Investment Act for at least the first six months of employment was 84.4%. Since qualified individuals under the First Source program face far fewer barriers to employment than their counterparts in programs funded by the Workforce Investment Act, it is reasonable to conclude that the average length of employment for an individual whom the First Source Program refers to an employer and who is hired in an entry level position is at least one year; therefore, liquidated damages that total $5,000.00 for first violations and $10,000.00 for subsequent violations as determined by FSHA constitute a fair, reasonable, and conservative attempt to quantify the harm caused to the City by the failure of a contractor to comply with its first source referral contractual obligations.

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

(b) The FSHA shall promulgate appropriate guidelines or rules for the enforcement of this Chapter. Such guidelines or rules may establish procedures for ensuring fair, efficient, and cost-effective implementation of this Chapter, including mechanisms to monitor contractor compliance with the contract provisions required by this Chapter, and for determining whether a contractor has failed to comply with its first source referral contractual obligations.

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

(1) The factual basis for the determination;

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

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

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

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

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

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

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

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

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

(C) The gravity of the violation;

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

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

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

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

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

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

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

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

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

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

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

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

Liquidated damages obtained under this Chapter shall be deposited in the general fund.

(Added by Ord. 264-98, App. 8/21/98; Ord. 76-06, File No. 060166, App. 4/20/2006; Ord. 32-09, File No. 081512, App. 3/9/2009)

SEC. 83.11. - FIRST SOURCE HIRING REQUIREMENTS FOR PERMITS FOR COMMERCIAL DEVELOPMENT AND RESIDENTIAL PROJECTS.

(a) Developers applying for permits as defined in Section 83.4(o) shall cooperate with the FSHA in establishing first source hiring agreement(s) for the development project. The Planning Commission shall not approve a development project, nor shall any City department issue a permit subject to this Chapter unless the developer or contractor has obtained approval from the FSHA of a first source hiring agreement applicable to the development project or obtained an exemption from the requirements of Chapter 83 pursuant to Section 83.11(d). The FSHA may condition approval of the first source hiring agreement on the City's approval of the development project. In the event the development project approved by the Planning Commission differs substantially from the development project assumed by the FSHA at the time it approved the agreement, the FSHA may approve modifications to the first source hiring agreement if necessary for the agreement to conform to the requirements of this Chapter. Such agreement shall become a condition of the permit, and shall:

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

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

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

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

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

(6) Set the term of the requirements.

(7) Set appropriate enforcement and sanctioning standards consistent with this Chapter.
(8) Provide that the agreement shall be recorded.

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

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

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

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

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


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

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

(2) Every employer covered by this section shall be subject to the procedures governing enforcement of violations of this Chapter. In addition, the failure of an employer to make entry level positions available to the FSHA for referral of economically disadvantaged individuals, as specified in an employer's first source hiring agreement, shall be subject to a penalty of up to $5,000.00 for every notice of a new hire improperly withheld from the FSHA for this purpose.

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

(b) The FSHA shall promulgate appropriate guidelines or rules for the enforcement of this Chapter. Such guidelines or rules may establish procedures for ensuring fair, efficient, and cost-effective implementation of this Chapter, including mechanisms to monitor employer compliance with this Chapter, and for determining whether an employer has failed to comply with its first source referral contractual obligations.

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

(A) The factual basis for the determination;

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

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

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

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

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

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

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

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

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

(C) The gravity of the violation;

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

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

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

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

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

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

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

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

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

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

(8) The failure of the FSHA or the OLSE to comply with the time requirements of this section shall not cause the OLSE to lose jurisdiction over an appeal from the FSHA's determination filed under this section.
If the developer fulfills its obligations as set forth in this Chapter, the developer shall not be held responsible for the failure of an employer to comply with the requirements of this Chapter.

All penalties obtained under this Chapter shall be deposited in the general fund.

(Added by Ord. 264-98, App. 8/21/98; Ord. 76-06, File No. 060166, App. 4/20/2006)

SEC. 83.13. - RECORDS.

The employers subject to provisions of this Chapter shall maintain and provide the FSHA with the records necessary to document compliance with the requirements of this Chapter as determined in the first source agreement.

(Added by Ord. 264-98, App. 8/21/98)

SEC. 83.14. - GENERAL EXCLUSIONS AND LIMITATIONS.

Nothing in this Chapter shall be interpreted to interfere with, or prohibit existing labor agreements, nondiscrimination programs, workforce training programs and agreements, economically disadvantaged hiring and retention goals. This Chapter is to be implemented a manner that does not conflict with applicable federal or State laws.

Nothing in this Chapter shall be interpreted in a manner that would displace an employer's existing workers.

The FSHA may reach agreements with other governmental agencies that have similar programs in order to ensure that requirements imposed pursuant to this Chapter and by other governmental agency authority do not create an undue burden or conflicting obligations on employers, and to make the implementation of the purpose of this Chapter feasible where the City and other jurisdictions have joined together to procure goods, services or public works.

(Added by Ord. 264-98, App. 8/21/98)

SEC. 83.15. - COLLECTIVE BARGAINING AGREEMENTS.

Notwithstanding anything to the contrary in this Chapter, if a first source hiring agreement conflicts with an existing collective bargaining agreement to which an employer is a party, the collective bargaining agreement shall prevail. However, the employer will be obligated to provide workforce needs information to the San Francisco Workforce Development System and the employer will be obligated to make good faith efforts to comply with the requirements of its first source hiring agreement that do not conflict with the collective bargaining agreement.

(Added by Ord. 264-98, App. 8/21/98)

SEC. 83.16. - SEVERABILITY.

If any part or provision of this Chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of this Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Chapter are severable.

(Added by Ord. 264-98, App. 8/21/98)

SEC. 83.17. - LIMITED TO PROMOTION OF GENERAL WELFARE.

In undertaking the adoption and enforcement of this Chapter, the City and County of San Francisco is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its commissions, departments, officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

(Added by Ord. 264-98, App. 8/21/98)

SEC. 83.18. - OPERATIVE DATE AND APPLICATION.

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

FIRST SOURCE HIRING PROGRAM CERTIFICATION

Submit completed and signed certification form with Bid if Bidder’s Total Bid Price and, if applicable, Alternates selected by the City prior to the date of award of the Contract exceeds $50,000. The City may determine that Bidder’s Bid is non-responsive if Bidder’s Total Bid Price and selected Alternates, if applicable, exceeds $50,000 and Bidder fails to submit this certification with its Bid.

I, ________________________________, by affixing my signature hereto, acknowledge that I have read San Francisco Administrative Code chapter 83 and agree to participate in the “First Source Hiring Program” of the City and County of San Francisco, which fosters construction and permanent employment opportunities for Qualified Economically Disadvantaged Individuals, and that I will comply with First Source Program requirements, including but not limited to the following:

1. Provide accurate information to the City’s First Source Hiring Administration about the availability of Entry-Level Positions, as defined in the First Source Program Requirements by completing the First Source “Employer’s projections of Entry Level Positions” and submitting completed form to the First Source Hiring Program;
2. Offer the City’s Workforce Development System the first opportunity to refer qualified job applicants for consideration for such Entry-Level Positions or apprentice positions; and
3. Require my Subcontractors to participate in the First Source Hiring Program.

I understand that in accordance with the First Source Hiring Program the final decision to hire Qualified Economically Disadvantaged Individuals shall be made by Contractor or its Subcontractors.

As a condition precedent to execution of the Contract, I further understand and agree that within 5 working days after the date of award of the contract, I will submit a completed Employer Projection of Job openings form, indicating the total estimated number of Entry-Level Positions or apprentice positions by craft or trade what will be needed for Work under this Contract, including non-craft employees.

During the Contract I will be required to submit, and shall require my Subcontractors to submit, lists of current Entry-Level Positions and apprentice positions and employees currently occupying those Entry-Level Positions or apprentice positions to establish a baseline of potential Entry-Level Positions and apprentice positions.

The City will review Contractor’s activities to verify compliance with the above requirements. I agree to maintain accurate records demonstrating my compliance during the Contract and to provide upon request all information deemed necessary by the City to verify Contractor’s compliance. I further agree that Contractor, or its Subcontractors, who fail to comply with the above requirements may be assessed liquidated damages in the amount of five thousand dollars ($5,000) for every new hire for each Entry-Level Position or apprentice position that is improperly withheld from the First Source Hiring Program.

_________________________________________ _________________________________________
Bidder’s Company Name    Bidder’s Street Address
_________________________________________ _________________________________________
Name and Title of Signer    Bidder’s City, State, Zip
_________________________________________ _________________________________________
Bidder’s Telephone No.
_________________________________________ _________________________________________
Signature of Bidder or Authorized Representative    Date