Ordinance amending Administrative Code section 83.4 to define and include biotechnology business as a "commercial activity" and a "development project" for purposes of the First Source Hiring Program.

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

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

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

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. Once a department's overall plan has been approved by the FSHA, the department is not required to seek authorization from the FSHA for individual Contracts, Property Contracts or Permits unless otherwise instructed to do so in the Approved Plan.

(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.

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

(de) "Commercial Activity" shall include retail sales and services, restaurant, hotel, office uses, biotechnology business, and other commercial uses.
(ced) "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, and in excess of $200,000 for services. Contract shall also mean loans or grants in excess of $200,000 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.

The requirements of this Chapter shall apply to: (1) Entry Level Positions for work performed on the Contract 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 §6.30, or §21.25, sole source contracts, tolling agreements, cooperative purchasing agreements with other governmental entities or contracts with other governmental entities.

(fé) "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.

“Development Project” shall mean Commercial Activity(ies) that requires 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 Job Training Partnership Act, 29 U.S.C. §1503, as determined by the San Francisco Private Industry Council; 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.

“Employer” shall mean a Contractor, subcontractor, Developer, agents of the Developer, tenants or other occupants, or person(s), firm, partnership, corporation, or combination thereof engaged in the Commercial Activity(ies) in the Development Project, who is subject to the requirements of this Chapter.

“Entry Level Position” shall mean a non-managerial position that requires either:

1. No education above a high school diploma or certified equivalency; or
2. Less than two years of training or specific preparation; and shall include temporary and permanent jobs, and construction jobs related to the development of a Commercial Activity.

“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 § 309, and office development
under San Francisco Planning Code § 320, et seq.

During Phase II, as defined Section 83.4(o) below, either or both 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 § 309, and office development under San Francisco Planning
Code § 320, et seq.

The requirements of this Chapter shall apply to Entry Level Positions for work done
under a Permit authorizing a Development Project in the City.

"Phase I" shall refer to the first stage of implementation of this Article which shall
become operative 30 days after the ordinance adopting this Chapter becomes effective, and
shall apply 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.

(Phase II) “Phase II” shall refer to the second stage of implementation of this Chapter which shall become operative 24 (twenty four) months after the adoption of a resolution by the FSHA that Phase I has been implemented, and shall apply to Contracts for services in the amount of $200,000, Contracts for the procurement of goods, materials equipment or supplies as determined by the Purchaser under Section 83.7(d) of this Chapter, Permits issued for Commercial Activity exceeding 25,000 square feet; and grants and loans in excess of $200,000 issued by other City departments.

(Property Contract) “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.

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

(Qualified) “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.

(1) "Retention" shall, when used in this Chapter, be construed to apply to the Entry Level Position, not to any particular individual.

(2) "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.

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

By: Jennifer Williams
Deputy City Attorney

Supervisor Maxwell
BOARD OF SUPERVISORS
Ordinance amending Administrative Code section 83.4 to define and include biotechnology business as a "commercial activity" and a "development project" for purposes of the First Source Hiring Program.

July 20, 2004  Board of Supervisors — PASSED ON FIRST READING
   Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Gonzalez, Hall, Ma, Maxwell, McGoldrick, Peskin, Sandoval

July 27, 2004  Board of Supervisors — FINALLY PASSED
   Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Gonzalez, Hall, Ma, Maxwell, McGoldrick, Peskin, Sandoval
I hereby certify that the foregoing Ordinance was FINALLY PASSED on July 27, 2004 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board

Mayor Gavin Newsom