



County of San Francisco

Edwin M. Lee, Mayor

First Source Hiring Program

Office of Economic and Workforce Development
Workforce Development Division

First Source Hiring Agreement Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion Applicant

This First Source Hiring Agreement (“Agreement”), is entered into as of _____, by and between the City and County of San Francisco (the “City”) through its First Source Hiring Administration (“FSHA”) and (“Applicant”).

RECITALS

WHEREAS, Applicant seeks approval of a Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion (“Tax Exclusion”) commencing with tax year _____, and approval of the Tax Exclusion requires the execution of a First Source Hiring Agreement.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

1. DEFINITIONS

For purposes of this Agreement, initially capitalized terms shall be defined as follows:

- a. **Entry Level Position:** A non-managerial position in the Central Market Street and Tenderloin Area, as defined in section 906.3(b)(1) of the Business and Tax Regulations Code, that requires no education above a high school diploma or certified equivalency, or less than two (2) years training or specific preparation, and shall include temporary and permanent jobs.
- b. **Publicize:** Advertise or post available employment information, including participation in job fairs or other forums.
- c. **Qualified Candidate:** An economically disadvantaged individual, as defined in section 83.4 of the San Francisco Administrative Code, who meets the minimum bona fide occupational qualifications provided by Applicant to the System in the job availability notices required under this Agreement.
- d. **System:** The San Francisco Workforce Development System, established by the City and County of San Francisco and managed by the FSHA, that (1) maintains a pool of qualified individuals, and (2) provides the mechanism by which such individuals are certified and

referred to prospective employers covered by the First Source Hiring requirements under San Francisco Administrative Code Chapter 83. For purposes of this Agreement the San Francisco One Stop Centers shall be the access point to the System (“Access Point”) in recruiting, pre-screening, and referring qualified job seekers.

2. PARTICIPATION OF APPLICANT IN THE SYSTEM

- a. Applicant shall provide to the Office of Economic and Workforce Development (“OEWD”) a completed Non-Construction First Source Employer’s Projection of Entry Level Positions form by the first business day of November of the tax year for which the business is initially claiming the Tax Exclusion, and by December 31st of each tax year thereafter. On this form, Applicant must state the number of Entry Level Positions Applicant employs by job title, stating which positions are currently filled and which are vacant and available for system referrals. The form must also project the number of Entry Level Positions that will become available in the next twelve months, and when such positions will become available.
- b. Applicant shall work with assigned Access Point Business Representatives and post every available Entry Level Position with the System. Applicant shall provide the Business Representative 10 calendar days to recruit and refer Qualified Candidates prior to Publicizing the Entry Level Position to the general public.
- c. Applicant shall provide feedback to Access Point Business Representatives on the job seekers interviewed, including name, position title, starting salary and employment start date of those individuals hired by Applicant no later than 3 weeks after the date of interview or hire. Applicant shall also provide constructive feedback on Access Point job seekers not hired.
- d. For reporting purposes, Applicant shall utilize the identified job posting and referral tracking system, currently “HireSF.org.” Applicant shall register on HireSF.org within 90 days of the execution of this Agreement, and post Entry Level Position opportunities at least 10 calendar days prior to Publicizing the jobs. Applicant shall follow instructions provided by the FSHA. Access Point Business Representatives will provide assistance with registration and posting of job opportunities.

3. APPLICANT RETAINS DISCRETION REGARDING HIRING DECISIONS

Applicant agrees to work cooperatively with Access Point Business Representatives to identify effective procedures to recruit, pre-screen and interview Qualified Candidates for employment consideration in Entry Level Positions, subject to any enforceable collective bargaining agreements. Provided Applicant utilizes nondiscriminatory screening criteria, Applicant shall have the sole discretion to interview and hire any System referrals.

4. APPLICANT’S GOOD FAITH EFFORT TO COMPLY WITH ITS OBLIGATIONS HEREUNDER

- a. Applicant will make good faith efforts to comply with its obligations to participate in the System under this Agreement. Determinations of Applicant’s good faith efforts shall be in accordance with the following:

- i. Applicant shall be deemed to have used good faith efforts if it posts every available Entry Level Position with the System prior to Publicizing it to the general public. The Applicant must identify a single point of contact who will be responsible for communicating Entry Level Position openings to the System, and take active steps to ensure continuous communication.
 - ii. Applicant shall be deemed to have used good faith efforts if Applicant accurately completes and submits the “Non-Construction First Source Employer’s Projection of Entry Level Positions” form to OEWD by the first business day of November of the tax year for which the business is initially claiming the Tax Exclusion, and by December 31st of each tax year thereafter, while this Agreement is in effect. Applicant must also provide detailed job descriptions of Entry Level Positions when available, and communicate promptly with FSHA staff as well as with designated Access Point Business Services staff.
 - iii. Applicant shall be deemed to have used good faith efforts if Applicant interviews at least 70% of the System referrals. FSHA, in its sole discretion, will determine whether candidates have been referred by the System.
 - iv. Applicant shall be deemed to have used good faith efforts if Applicant fills at least 50% of open Entry Level Positions with System referrals. FSHA, in its sole discretion, will determine whether candidates have been referred by the System. Specific hiring decisions shall be entirely at the discretion of Applicant.
- b. Applicant’s failure to meet the criteria set forth in paragraphs i. through iv. of subsection a. of this Section 4 does not impute “bad faith,” but shall trigger a review of the referral process and the Applicant’s efforts to comply with this Agreement.
 - c. A material breach of Applicant’s obligations under this Agreement will result in the loss of Applicant’s Tax Exclusion for the preceding year, and Applicant will be liable for any resulting taxes, penalties, and interest.

5. EXCEPTION FOR ESSENTIAL FUNCTIONS

Nothing in this Agreement precludes Applicant from using temporary or reassigned existing employees to perform essential functions of its operation; provided, however, that the obligations of this Agreement to make good faith efforts to fill such vacancies permanently with System referrals remain in effect. For these purposes, “essential functions” means those functions absolutely necessary to remain open for business.

6. APPLICANT’S COMPLIANCE WITH EXISTING EMPLOYMENT AGREEMENTS

Nothing in this Agreement shall be interpreted to prohibit the continuation of existing workforce training agreements or to interfere with consent decrees, collective bargaining agreements, or existing employment contracts. In the event of a conflict between this Agreement and an existing agreement, the terms of the existing agreement shall supersede this Agreement.

7. HIRING GOALS EXCEEDING OBLIGATIONS OF THIS AGREEMENT

Nothing in this Agreement shall be interpreted to prohibit the adoption of hiring and retention goals, First Source hiring and interviewing requirements, notice and job availability requirements, monitoring,

record keeping, and enforcement requirements and procedures which exceed the requirements of this Agreement.

8. DURATION OF THIS AGREEMENT

This Agreement shall be in full force and effect until December 31st of the calendar year following the last year for which Applicant was granted the Tax Exclusion. Upon expiration of the Agreement, or if the Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion is not granted, this Agreement shall terminate and shall be of no further force and effect on the parties hereto.

9. ENTIRE AGREEMENT

This Agreement contains the entire agreement between the parties to this Agreement and shall not be modified in any manner except by an instrument in writing executed by the parties or their respective successors in interest.

10. SEVERABILITY

If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected.

11. COUNTERPARTS

This Agreement may be executed in one or more counterparts. Each shall be deemed an original and all, taken together, shall constitute one and the same instrument.

12. SUCCESSORS

This Agreement shall inure to the benefit of and shall be binding upon the parties to this Agreement and their respective heirs, successors and assigns. If there is more than one person comprising the heirs, successors, and/or assigns, their obligations shall be joint and several.

13. HEADINGS

Section titles and captions contained in this Agreement are inserted as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any of its provisions

14. GOVERNING LAW

This Agreement shall be governed and construed by the laws of the State of California.

IN WITNESS WHEREOF, the following have executed this Agreement as of the date set forth above.

Applicant:

By: _____

Name:

Its:

City and County of San Francisco:

By: _____

**Business Services
Office of Economic and Workforce Development**