

EXHIBIT CC

Prevailing Wage Policy

[ATTACHED]

RESOLUTION NO. 327-85

(Adopted November 12, 1985)

APPROVING AGENCY LABOR STANDARDS PROVISIONS FOR
INCLUSION IN ALL FUTURE AGREEMENTS FOR DISPOSITION
OF LAND FOR PRIVATE DEVELOPMENT (ALL PROJECTS)

WHEREAS, construction contracts awarded by the Redevelopment Agency of the City and County of San Francisco contain Federal and State Labor Standards Provisions, such as the Copeland Act, the Davis-Bacon Act and the Shelley-Maloney Apprentice Labor Standards Act of 1939; and

WHEREAS, Agency agreements for the disposition of land for private development never have contained Labor Standards; and

WHEREAS, some contractors engaged in constructing medium size buildings on land purchased from the Agency, have paid their employees as little as 50 percent of the prevailing wage; and

WHEREAS, HUD uses 12 or more dwelling units as the threshold for imposing the Federal Labor Standards Provisions when the Agency administers rehabilitation loans under Section 312 of the Housing Act of 1964; and

WHEREAS, the Agency has determined that it is appropriate to require developers of land purchased from the Agency for commercial, industrial and larger residential developments to insure the payment of the prevailing wages and the adherence to a reasonable level of labor standards; now, therefore, be it

RESOLVED, by the Redevelopment Agency of the City and County of San Francisco that the Agency Labor Standards Provisions attached hereto are approved; and be it further

RESOLVED, by the Redevelopment Agency of the City and County of San Francisco that, effective December 1, 1985, the Executive Director shall include, or cause inclusion of the attached Agency Labor Standards Provisions in (1) any future LDA (agreement for the disposition of land for private development), and (2) any LDA negotiations or bidder's packet whether such negotiations or bidder's packet are participated in or prepared by the Executive Director, or any other person on the Executive Director's behalf, provided that any or all of the proposed Improvements will be for commercial or industrial uses, or construction of 12 or more dwelling units regardless of the number of units in any one construction phase.

APPROVED AS TO FORM:



Leo E. Borregard
Agency General Counsel

ARTICLE 11

AGENCY LABOR STANDARDS PROVISIONS11.01. Applicability

These Agency Labor Standards Provisions (hereinafter referred to as "Labor Standards") apply to all construction of the Improvements as defined in the Agreement for Disposition of Land for Private Development (this "Agreement") between the Developer and the Redevelopment Agency of the City and County of San Francisco (the "Agency") dated _____, 198___, of which these Labor Standards are a part. The terms "contract" and "Agreement" are used interchangeably. The word "contractor" as used in these Labor Standards shall include any contractor as well as any subcontractor or lower tier subcontractor having a contract or subcontract that exceeds \$10,000, and who employs laborers and mechanics to perform construction of the Improvements and these Labor Standards shall apply to each such contractor and subcontractor.

11.02. Non-liability of the Agency

The Developer and the contractor by proceeding with construction expressly waive and are deemed to have waived any and all claims against the Agency for damages, direct or indirect, including but not limited to claims relative to the commencement, continuance and completion of construction. The Developer and the contractor acknowledge and agree that the procedures hereinafter set forth for dealing with breaches of these Labor Standards are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids for the construction of the Improvements, in determining the time for commencement and completion of construction and in proceeding with construction work.

11.03. Prevailing Wage

- (a) All laborers and mechanics employed in the construction of the Improvements will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by Section 11.04) the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at the time of payment computed at rates not less than those contained in the General Prevailing Wage Determination made by the Director of Industrial Relations pursuant to California Labor Code Part 7, Chapter 1, Article 2, Sections 1770, 1773 and 1773.1, a copy of which Determination is on file in the office of the Agency at the time escrow closes, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits for the classification of work actually performed, without regard to skill. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein provided that the contractor's payroll records accurately set forth the time spent in each classification in which work is performed.

- (b) The terms "laborers" and "mechanics" include working foremen and security guards. A working foreman is one who, in addition to his or her supervisory duties, performs the work of a laborer or mechanic during at least 20 percent of the work week.

- (c) Whenever the wage rate prescribed in the aforesaid General Prevailing Wage Determination for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit in the manner as stated therein i.e. the vacation plan, the health benefit program, the pension plan and the apprenticeship program, or shall pay an hourly cash equivalent thereof.
- (d) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the aforesaid General Prevailing Wage Determination, provided that the Executive Director of the Agency has found, upon the written request of the contractor, that the intent of the Labor Standards have been met. The Executive Director of the Agency may require the Developer to set aside in a separate interest bearing account with a member of the Federal Deposit Insurance Corporation, assets for the meeting of obligations under the plan or program referred to above in subsection (c) of this Section 11.03. The interest shall be accumulated and shall be paid as determined by the Agency acting at its sole discretion.
- (e) Regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

11.04. Permissible Payroll Deductions. The following payroll deductions may

be made without requesting approval:

- (a) Any withholding made in compliance with the requirements of Federal, State or local income tax laws, and the Federal social security tax.
- (b) Any repayment of sums previously advanced to the employee as a bona fide prepayment of wages when such prepayment is made without discount or interest. A "bona fide prepayment of wages" is considered to have been made only when cash or its equivalent has been advanced to the person employed in such manner as to give him or her complete freedom of disposition of the advanced funds.
- (c) Any garnishment, unless it is in favor of the contractor or any affiliated person, or when collusion or collaboration exists.
- (d) Any contribution on behalf of the person employed, to funds established by the employer, representatives of employees or both, for the purpose of providing from principal, income or both, medical or hospital care, pensions or annuities on retirement, death benefits, compensation for injuries, illness, accidents, sickness or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts or similar payments for the benefit of employees, their families and dependents provided, however, that the following standards are met: (1) The deduction is not otherwise prohibited by law: (2) it is either: (i) voluntarily consented to by the employee in writing and in

advance of the period in which the work is to be done and such consent is not a condition either for obtaining of or for the continuation of employment, or (ii) provided for in a bona fide collective bargaining agreement between the contractor and representatives of its employees; (3) no profit or other benefit is otherwise obtained, directly or indirectly, by the contractor or any affiliated person in the form of commission, dividend or otherwise; and (4) the deduction shall serve the convenience and interest of the employee.

- (e) Any authorized purchase of United States Savings Bonds for the employee.
- (f) Any voluntarily authorized repayment of loans from or the purchase of shares in credit unions organized and operated in accordance with Federal and State credit union statutes.
- (g) Any contribution voluntarily authorized by the employee for the American Red Cross, the United Crusade and similar charitable organizations.
- (h) Any payment of regular union initiation fees and membership dues, but not including fines or special assessments provided, however, that a collective bargaining agreement between the contractor and representatives of its employees provides for such payment and the deductions are not otherwise prohibited by law.

11.05. Payrolls and Basic Records

- (a) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of one year thereafter for all laborers and mechanics employed in the construction of the Improvements. Such records shall contain the name, address and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for fringe benefits or cash equivalents thereof), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program, the contractor shall maintain records which show the costs anticipated or the actual cost incurred in providing such benefits and that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage prescribed in the applicable programs or the aforesaid General Prevailing Wage Determination.
- (b) (i) The contractor shall submit to the Agency on each Wednesday at noon a copy of the payrolls for the previous week in which any contract work was performed. The

payrolls submitted shall set out accurately and completely all of the information required by Optional Form WH-347, which may be purchased from the Superintendent of Documents, Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of certified payrolls by all subcontractors.

(ii) Each weekly payroll shall be accompanied by the certification set forth on the reverse side of Optional Form WH-347 properly executed by the contractor or his or her agent, who pays or supervises the payment of the persons employed under the contract.

(c) The contractor shall make the records required under this Section 11.05 available for inspection or xerographing by authorized representatives of the Agency, and shall permit such representatives to interview employees during working hours on the job. If the contractor fails to submit the required records or to make them available, the Developer shall, after written notice by the Agency to the Developer and the contractor, take such action as may be necessary to cause the suspension of any further payment, advance or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for suspension of the breaching contractor's contract or subcontract.

11.06. Apprentices and Trainees

Apprentices and trainees will be permitted to work at less than the mechanic's rate for the work they perform when they are employed pursuant to and individually registered in an apprenticeship or trainee program registered with the U. S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training ("BAT") or with the California Department of Industrial Relations, Division of Apprenticeship Standards ("DAS") or if a person is employed in his or her first 90 days of probationary employment as an apprentice or trainee in such a program, who is not individually registered in the program, but who has been certified by BAT or DAS to be eligible for probationary employment. Any worker listed on a payroll at an apprentice or trainee wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate for a mechanic. Every apprentice or trainee must be paid at not less than the rate specified in the registered program for the employee's level of progress, expressed as a percentage of a mechanic's hourly rate as specified in the aforesaid General Prevailing Wage Determination. Apprentices or trainees shall be paid fringe benefits in accordance with the provisions of the respective program. If the program does not specify fringe benefits, employees must be paid the full amount of fringe benefits listed in the aforesaid General Prevailing Wage Determination.

11.07. Overtime

No contractor contracting for any part of the work which may require or involve the employment of laborers or mechanics shall

require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, whichever is greater.

11.08. Violation and Enforcement

- (a) Breach; liability for unpaid wages. The contractor shall be liable to the employee for the unpaid wages, overtime wages and benefits.
- (b) Withholding for unpaid wages. In the event of failure to pay any laborer or mechanic (including any apprentice, trainee or helper) employed in the construction of the Improvements, all or part of the wages required by this Agreement, the Developer shall, after written notice to the contractor upon its own action or upon written demand of the Executive Director of the Agency withhold or cause to be withheld from any moneys payable on account of work performed by a contractor an amount as may be considered necessary to pay laborers and mechanics employed by such contractor, the full amount of wages, overtime wages and benefits required by these Labor Standards. Not less than ten business days later the Developer shall, after written notice to the contractor, disburse such amounts withheld

for and on account of the contractor to the respective employees to whom they are due. If the employee cannot be found to satisfy the unpaid wages, unpaid overtime wages and benefits, such sums shall be remitted to the Agency's general fund.

- (c) In the event that the Developer fails to enforce the provisions contained herein, or cause the contractor to enforce the provisions contained herein, the Agency may withhold any or all certification of completion of the Improvements in accordance with this Agreement until any and all breaches of the provisions contained herein have been cured.

11.09. Health and Safety

No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by CAL-OSHA.

11.10. Affirmative Action Program

The utilization of apprentices, trainees, laborers and mechanics under this part shall be in conformity with the affirmative action program set forth in Attachment No. 7 of the Agreement including Schedules A through G. Any conflicts between the language contained in these Labor Standards and Attachment No. 7 shall be resolved in favor of the language set forth in Attachment No. 7.

11.11. Nondiscrimination Against Employees

No laborer or mechanic to whom the wage, salary, or other Labor Standards of this Agreement are applicable shall be discharged or in any other manner discriminated against by the contractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to these Labor Standards.

11.12. Posting of Notice to Employees

A copy of the wage rate referred to above in subsection (a) of Section 11.03 together with a copy of a "Notice to Employees", which Notice shall be prepared by the Agency, shall be given to the Developer at the close of escrow and authorization to start construction. The Notice and the wage rate shall be posted by the contractor in a prominent place readily accessible to the workers employed in the construction of the Improvements.

11.13. Arbitration of Disputes

(a) Any dispute regarding these Labor Standards shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Rules and Regulations of the AAA then applicable, but subject to the further provisions thereof.

- (b) All persons or entities who have a contractual relationship affected by the dispute shall be made a party to the arbitration. Any such person or entity not made a party in the demand for arbitration may intervene as a party and in turn may name any such person or entity as a party.
- (c) The arbitration shall take place in the City and County of San Francisco unless all the parties thereto agree otherwise.
- (d) Arbitration may be demanded by the Agency, the Developer or the contractor.
- (e) With the demand for arbitration, there must be enclosed a copy of these Labor Standards, and a copy of the demand must be mailed to the Agency and the Developer, or as appropriate to one or the other if the Developer or the Agency is demanding arbitration.
- (f) One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators of the AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the parties fail to select an arbitrator, the AAA shall appoint the arbitrator.
- (g) Any party to the arbitration whether they participate in the arbitration or not shall be bound by the decision of the arbitrator whose decision shall be binding on all the parties;

Provided however the decision of the arbitrator shall be of no force or effect unless there has been compliance with the provision of subsection (e) of this Section 11.13.

11.14. All Contracts and Subcontracts shall contain the Labor Standards
All contracts and subcontracts regardless of tier relating to the construction of the Improvements shall contain the foregoing Labor Standards and the Developer shall have the responsibility to assure that all such contracts and subcontracts contain these Standards. If for any reason said Labor Standards are not so included, the Standards shall nevertheless apply.

SAN
FRANCISCO
REDEVELOPMENT
AGENCY

NOTICE TO EMPLOYEES

PREVAILING
WAGE

You must be paid not less than the wage rate posted with this Notice for the kind of work you perform.

OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 8 a day or 40 a week, whichever is greater.

APPRENTICES

Apprentice rates apply only to employees registered under an apprenticeship or trainee program approved by the Bureau of Apprenticeship and Training or the California Division of Apprenticeship Standards.

PROPER
PAY

If you do not receive proper pay, write

San Francisco Redevelopment Agency
939 Ellis Street, 3/F
San Francisco, CA 94109

or call

771-8800, Ext. _____

and ask for

M. _____