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AFL-CIO
HOUSING
INVESTMENT TRUST



AFL-CIO
BUILDING
INVESTMENT TRUST

Stephen Coyle
Chief Executive Officer

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AFL-CIO
HOUSING
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Per our Discussion -

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PENSION Investment

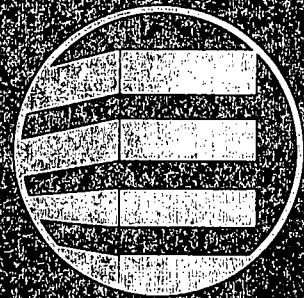
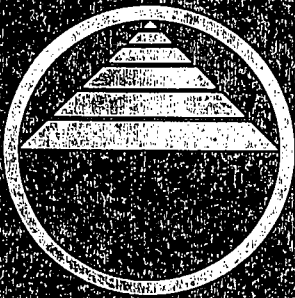
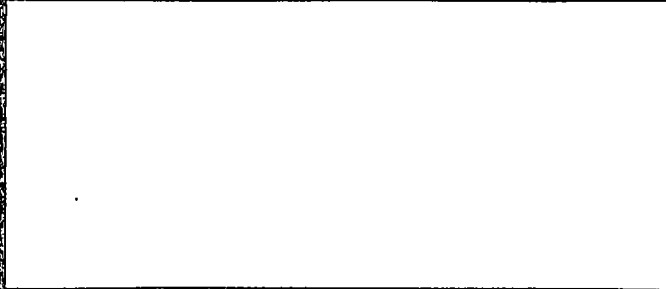
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ABOUT Next steps

Steve.

AFL-CIO

Housing Investment Trust • Building Investment Trust



**NATIONAL PARTNERSHIPS FOR
COMMUNITY INVESTMENT**

NATIONAL PARTNERSHIPS FOR COMMUNITY INVESTMENT

1. Introduction: Left Outside of the Social Contract

The widespread effects of sustained public and private disinvestment in industry, infrastructure, education and human resources threaten the nation's economic future. Nowhere is this reality more acute than in the low income neighborhoods of America's cities. The outbreak of violence in Los Angeles in April of last year was devastating. The extensive loss of life and damage to property shocked the nation. But when the ashes settled a more disturbing awareness emerged: In many American cities, there are large areas that have become unlivable. Largely excluded from the surge of economic investment in the 1980s, they enter this decade threatened by drugs, crime and near omnipresent violence. Entire urban neighborhoods, once the starting point on the American odyssey for many generations are now dead end streets for tens of millions of Americans. These communities have been, as a street worker in Boston observed, "Left outside of the social contract."

While President Clinton has proposed to reverse these trends with a multi-billion dollar program to rebuild America's cities, the federal government's ability to provide this level of investment will have to be reconciled with the constraints imposed by the crippling federal deficit.

In fact, direct federal aid to cities fell from \$44.2 billion in FY 1981 to \$23.4 billion in FY 1993. Revenue from the federal government as a percentage of General Municipal Revenue fell from 11.7% in 1974 to 4.8% in 1990. At the state and local levels, governments are reeling from recession-induced reductions in tax revenues coupled with increasing demands for resources. The National Association of State Budget Officers (NASBO) reported that 29 states were forced to reduce their enacted FY 1991 budgets by more than \$7.5 billion to remain in balance. The impacts of public disinvestment are felt severely in areas of employment and training, affordable housing, education and infrastructure.

Corporations too are retrenching in response to sustained losses. The Congressional Budget Office reports that corporate profits as a percentage of Gross National Product (GNP) fell from 6.9% in 1988 to 5.1% in 1991, and perhaps because of declining profits, the top 500 U.S. industrial corporations failed to add any net new American jobs between 1975 and 1990.

Nor are the private capital sources traditionally relied upon fit for the task. Over the past few years private investment has declined steadily. Gross Private Domestic Investment (GPDI) fell \$112 billion or 15% between 1988 and 1991. As a percentage of Gross Domestic Product (GDP), GPDI fell from a high of 18.3% in 1984 to 13.9% in 1991. The banking industry, just now regaining its balance after a series of stunning failures, is favoring safe investments in government securities while reducing their loans to business. In the first quarter

of 1992, the 3,735 national banks reported their sixth consecutive quarterly decline in lending, providing \$55 billion less credit than in the same period in 1991. The S&L's, once a great source of community-based investment, are all but defunct.

Sustained disinvestment leads to decline and the physical and economic effects of decline are self-fulfilling. As soon as a few businesses close down or leave an area, others soon follow suit. Aging public schools incapable of providing an adequate learning environment are viewed as sunk costs unworthy of further public investment. Roads and other municipal systems in low income areas are left in disrepair. Because of fear of violence, parks and public spaces are abandoned. Poorer communities lose the competition for scarce tax payer dollars and are unable to provide the basic services necessary to attract new job creating investments. The effects of the decline are compounded and become the rationale for continued disinvestment.

2. Renewing America's Cities

Renewing our urban neighborhoods will require new strategies for public and private investment in housing, neighborhood businesses and schools, and major investment in emerging, growth economies that have the potential to create decent jobs for urban residents.

Yet as clear as the need is, it is as apparent that the capital needed to reinvest in urban areas and emerging economies is not currently available through traditional public and private channels. Any hope for success requires that we identify new sources of capital and develop innovative strategies for reinvesting in urban areas and building competitive economies. It will also require strategies that enlist the creative capacities and perseverance of people in America's communities. An ironic and unintended by-product of declining Federal and state economic assistance and private sector disinvestment has been the emergence of new partnerships between public and private groups across the country. Whether it is Community Development Corporations, or CRA officials in banks, minority entrepreneurs or local labor leaders - a diverse cast of new players has entered the local economic development scene. Never before has so much economic development capacity existed at the community level. Combining their talents with new sources of capital must be the cornerstone of an effective urban investment strategy.

3. The Search for New Capital Sources

Capital markets have undergone significant changes in recent years. Pension funds have become a major new force in these markets. Today pension funds total some \$4 trillion. Pension funds now account for one third of the securities market and 40% of the bond market. Pension funds have grown remarkably in recent years and now represent 31% of total U.S. financial assets.

For 1993 pension funds will make about \$1 trillion of new investment decisions. It is worth noting that an increasing amount of these funds will be invested overseas. A 1992 survey of Pension and Investments found that 66% of top 200 U.S. Pension Funds invested \$93.5 billion in foreign securities. In fact, an estimated \$150 billion of U.S. Pension Funds are currently invested in foreign securities. In the global competition for capital, the challenge we face is to develop solid investment opportunities for pension funds in economically distressed communities.

Because pension funds are growing while traditional sources of capital are retrenching, it is not surprising that a number of plans have been put forth calling on pension funds to finance everything from infrastructure to venture capital.

A word of caution is in order. U. S. Pension Funds are not simply investment capital. They are the hard-earned retirement savings of 40 million Americans. Because pension assets are held in trust funds exclusively to serve participants and retirees, they are governed by strict fiduciary rules that require prudent investment, both in the public and private sector. These standards must form the solid foundation of any pension investment strategy.

4. The AFL-CIO's Pension Investment Program

In 1964, long before the potential role of pension funds in the national economy was widely recognized, the AFL-CIO established a pension investment program. The purpose of the program was to provide prudent and competitive

investment opportunities for the vast network of local, state, public and private pension funds - while at the same time creating needed affordable housing and jobs for the men and women of organized labor. The program now operates through the Housing and Building Investment Trusts.

For 30 years the AFL-CIO Pension Investment Program has provided investment opportunities that give safe and competitive returns for its investors. The Housing Investment Trust has financed the construction of more than 30,000 housing units since its inception, including some 2,700 units in 1992. The Building Investment Trust has financed nearly 2.6 million square feet of commercial property since 1988 and made commitments of \$95 million for eight new projects in 1992. The combined program has more than \$900 million in assets, and some 350 investors nationwide, including most major Taft-Hartley Funds and the California and Ohio Public Employee Funds. The AFL-CIO's Pension Investment Program is expected to reach \$1 billion in assets in 1993. Over the next four years the Pension Investment Program hopes to invest between \$200 and \$300 million annually in housing and economic development projects in America's communities.

5. National Partnerships for Community Investment

In the context of economic decline in urban areas and the need for innovative strategies to attract capital to emerging economies, the AFL-CIO proposed the National Partnerships for Community Investment. The central

premise of the initiative is that properly secured, pension funds can play a major role in the rebuilding of America's cities and nurturing new economies. Over the next five years, through the **National Partnerships** initiative, the AFL-CIO Pension Investment Program will target \$500 million of new investments to sixteen metropolitan areas across the country. These investments will leverage a comparable amount of capital from public and private sources - tax syndication, private equity contributions, secondary debt financing, operating subsidies and service dollars - resulting in \$900 million to \$1 billion of total new investment. Approximately 5,000 housing units, 750,000 square feet of commercial investment, and 10,000 to 15,000 jobs will be created directly by the program. The secondary economic effects will be equally dramatic.

Within designated metropolitan areas, **National Partnerships** will foster relationships to identify investment opportunities and build community support. These local partnerships will help integrate the complex variety of federal resources necessary to increase the value of investments for both the community and for pension fund investors. The program not only will increase local access to public and private resources, but it will also lead to an increased local awareness of federal resources that often are under-utilized.

National Partnerships builds upon the success of the AFL-CIO's earlier pension investment programs. Whereas these programs succeeded on a project by project basis, **National Partnerships** will be a framework to create a steady

and predictable pipeline of secure pension fund investment opportunities that also promote economic development, rebuild communities, and create union jobs.

By providing a programmatic framework to foster pension fund investments in government-assisted or insured housing and secured economic development projects, and by doing so in distressed urban areas, the **National Partnership** initiative offers a new model for economic development.

The program will begin in the Spring of 1993. The cities chosen for inclusion in the initiative are:

Atlanta, GA	Dallas, TX
Miami, FL	Philadelphia, PA
Boston, MA	Detroit, MI
Milwaukee, WI	Portland, OR
Chicago, IL	Denver, CO
New York, NY	St. Louis, MO
Columbus, OH	Los Angeles, CA
Oakland, CA	Washington, DC

The cities were chosen based on a number of criteria including; the strength of the local market, expected levels of commitment and experience of the state and local governments in those areas, private sector capacity, local union-initiatives and emerging community leadership.

The AFL-CIO Pension Investment Program will bring private pension capital into a partnership with the federal government, local communities and the private sector to help address three fundamental goals: create good quality jobs, especially for residents of the designated communities; produce decent and affordable housing opportunities; and build stable urban economies. These objectives can be realized without subordinating the interests of the pension fund investors or putting retirement dollars at risk.

6. The Critical Federal Role: Coordination of Resources and Guarantees

Virtually every project will require multiple layers of financing. Sources of funding include conventional debt, subordinate debt, equity, tax based equity, various state and Federal government grant and loan programs, and private foundation grants. In addition, various forms of credit enhancement, guarantees, reserves and escrows are typically required. To accomplish this "layering" the participation and cooperation of numerous players is needed. These players include the project sponsor, lenders, local and state political officials, agencies of local, state and federal governments, local community organizations, secondary-market institutions, equity partners, syndicators and possibly many others. The complicated nature of these transactions require that a "partnership" between parties be established for each and every deal. Because the Federal resources are significant, coordination at the Federal level is critical. Too often

important local initiatives falter or die because of the halting and complex Federal process.

For housing investment, a wide range of guarantees and coinsurance vehicles are needed and are currently available. The principal sources are Federal guarantees from FHA, tax credit equity through the Federal Low Income Housing Tax credit program, credit enhancements from Fannie Mae and Freddie Mac, bond financing from state housing finance agencies and direct Federal subsidies including Community Development Block Grant and the HOME and HOPE programs. For commercial projects, no established secondary market mechanisms exist nor are there significant direct state or Federal subsidies. There are, however, state and local agencies that provide revenue bond financing and subordinated debt, and an emerging universe of special state and local development funds for the equity components. The recent Congressional decision to increase the Section 108 loan guarantee ceiling and the adoption of new procedures, combined with recent innovative uses of the program allows local sponsors to construct contractual equivalents of secondary market enhancements or guarantees for commercial projects on a case basis.

In short, the tools exist to provide pension funds the necessary security against loss of principle and interest and make investment in urban housing and development prudent. Because of the multi-source nature of the project finance, projects often end up with lower loan to value ratios when compared to

conventionally financed enterprises. Consequently, what would at first impression appear to be a high risk investment - affordable housing, a new biotech research or manufacturing facility, a homeless shelter, a repair program for inner city residents - can be designed to provide the necessary financial security to attract pension fund investment. Because debt finance is priced in reference to comparable term Treasury instruments with mark-ups reflecting market-determined risk, the yields provided pension investors for these investments match the market place.

In sum, the **National Partnership Program** will not use pension funds to provide rate advantage financing. Project sponsors can realize rate advantage financing effects by blending pension funds with lower cost funds, grants and cash flow mortgages. Furthermore, by investing through either the Housing Investment Trust or the Building Investment Trust, the pension fund investor is investing in a nationally pooled fund, not a particular project and is purchasing a security, not a particular mortgage instrument. Using this approach allows the investor to diversify the investment and achieve a competitive return in a way that is consistent with ERISA rules while making needed capital available to distressed communities and emerging economies.

7. The Extra Enhancement: Coordinated Social Service Investment

In addition to these various forms of guarantees, credit enhancements and contractual mechanisms, the long-term security and viability of an investment can

be enhanced by the continued strength and stability of the residents or employees and the local community. Investments in human resources, including child care, job training, youth recreation and counseling, health care and drug rehabilitation are essential to ensuring this strength and stability of the communities, which in turn, protect the economic investment.

This extra level of enhancement, the critical investment in human capital is seldom accomplished without extraordinary effort. Much of the difficulty is due to the historic inability to appreciate the direct economic enhancement value of social service investment. Much of the difficulty is bureaucratic in nature and due to the failure of Federal agencies to coordinate their efforts around specific economic objectives. Thus it is possible to create contractual financial enhancements to finance a biotech research lab in Worcester, Massachusetts that a number of banks declined to finance. But, the total beneficial impact of the project would be increased if training programs could be instituted to help unemployed residents of local housing projects qualify for the new jobs. (This was in fact accomplished at the Massachusetts General facility in the Charlestown Navy Yard).

Similarly, it is possible to bring five different financial partners together to transform a series of abandoned Federal housing projects in Florida into decent affordable housing. The long-term viability of the project may depend, however,

on continuous financing of an on premise local police sub-station or an effective child care center and employment training program for residents.

Using existing Federal health, social service and employment training programs to enhance the particular project and host community will give pension investors an extra measure of assurance about the Program's ultimate success and the wisdom of the investment.

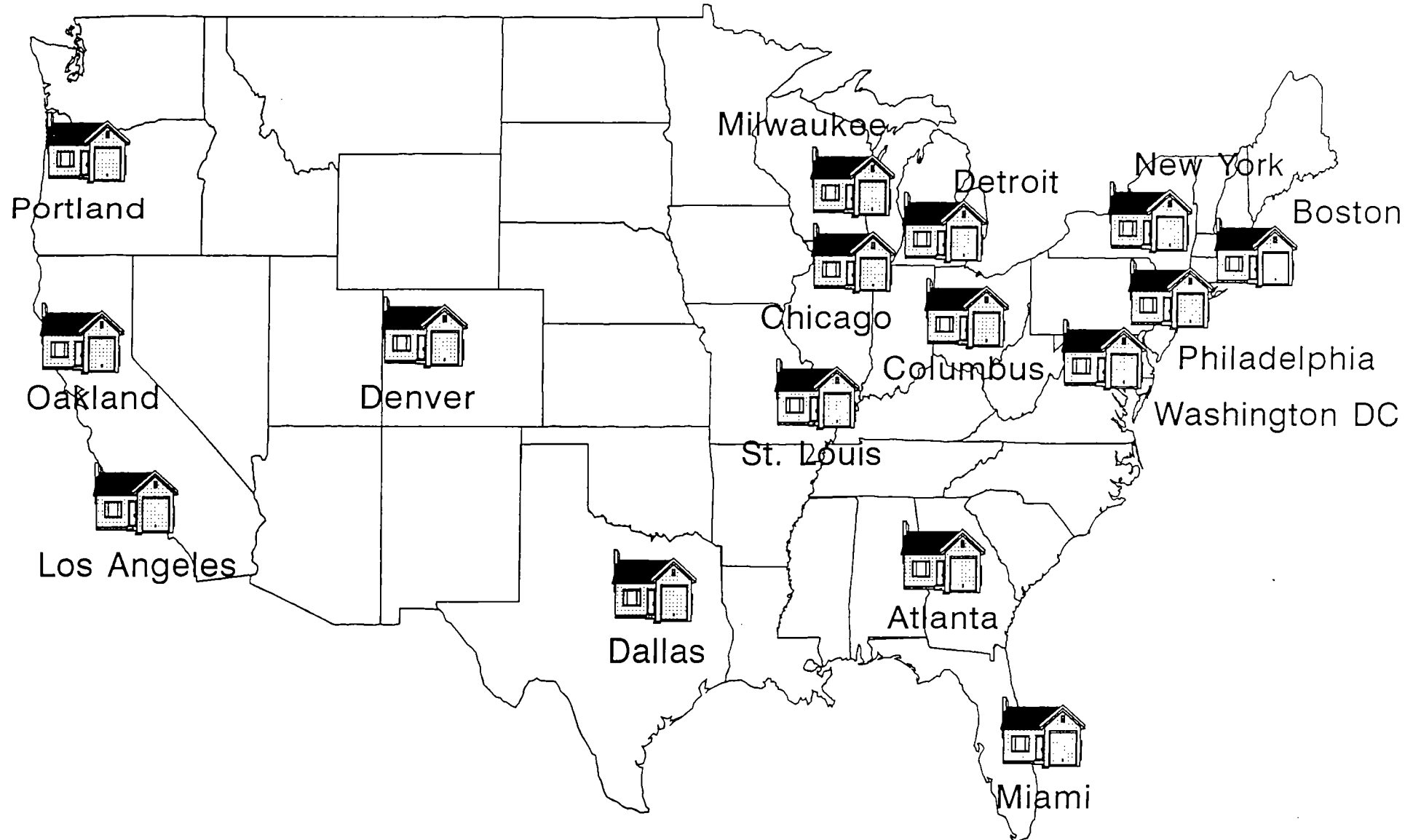
Summary

The AFL-CIO's **National Partnerships for Community Investment** is designed to demonstrate that pension funds can be utilized in ways that provide secure and competitive returns to investors while rebuilding American communities. By enlisting the vast pool of talent and skill found in local communities, the work of integrating and maximizing the value of scarce Federal resources will start at the grass roots level. The coordination of the various Federal partners - Cabinet Departments, Government sponsored enterprises, sub-cabinet agencies - is a daunting task for local sponsors. Only leadership from the new Administration will make the coordination occur in a systematic way.

It is our belief that the necessary resources exist, and sufficient examples of success with these approaches have been realized to establish the **National Partnership** program. The question that remains is whether success on a case by case basis can be translated into a successful national program. If the significant resources of U. S. pension funds can be brought to bear on the

economic problems of urban America, communities now excluded can be brought within the boundaries of the social contract.

Partnerships for Community Investment



TABS

TAB 1: Federal and State Resources Available

TAB 2: Three Case Studies

TAB 3: Financing Offered

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FEDERAL AND STATE RESOURCES AVAILABLE

FEDERAL AGENCIES

The passage of the Cranston Gonzales Affordable Housing Act of 1990 is the first major housing legislation in a decade which supports and broadens a growing dimension in national housing policy - the integration of housing, public welfare and human services at the national state and local levels. Promoting a stable economic and living environment requires coordinating disparate programs among the funding agencies. Below is a list of agencies and examples of housing and community economic development service programs which need to be coordinated with support services for families living in low and moderate income housing. The programs provide loan guarantees, fill financial gaps, provide equity, and enhance the liveability of a project - all requirements for pension funds to make safe and sound investments.

DEPARTMENT OF HOUSING & URBAN DEVELOPMENT

Housing Programs

FHA-Multifamily

The current major HUD multifamily insurance programs are the Section

221(d)(4) and Section 232 program. The Section 221(d)(4) program insures mortgages for new construction and substantial rehabilitation of multifamily rental projects of five or more units. Single Room Occupancy (SRO) projects are also eligible for mortgage insurance under Section 221(d)(4).

FHA-Single Family 203(k) Program

The 203(k) program is a mortgage financing plan that provides acquisition, rehabilitation and permanent financing all in one package. Mortgage loans are eligible for endorsement by HUD as soon as the mortgage proceeds are disbursed and a rehabilitation escrow account is established. The lender or investor (e.g. the Trust) is protected with a fully insured loan.

HOME

The HOME Program was created under Title II of the National Affordable Housing Act of 1990. Eligible activities include: tenant-based rental assistance, assistance to first-time homebuyers and existing homeowners, property acquisition, new construction, reconstruction, moderate or substantial rehabilitation, site improvements, demolition, relocation expenses and other reasonable and necessary expenses related to development of non-luxury housing.

HOPE Program

HOPE (Homeownership and Opportunity for People Everywhere) is a group of three homeownership programs enacted in the Cranston-Gonzalez National Affordable Housing Act of 1990.

- HOPE 1. Programs to enable tenants of public housing or Indian housing projects to buy their apartments.
- HOPE 2. Programs to enable tenants to buy their apartments in multifamily (5+ units) owned, financed, or insured by HUD, Resolution Trust Corporation (RTC), Farmers Home Administration (FmHA), or state or local governments.
- HOPE 3. Programs to market HUD, Veterans Administration, FmHA, or RTC-owned one - to four-family properties to first-time buyers with incomes no higher than 80 percent of the area median.

Community & Economic Development Programs

Community Development Block Grants

The CDBG program provides funds on a formula basis to entitled communities to carry out a wide range of community development activities directed toward neighborhood revitalization, economic development, and improved community facilities and services.

Section 108 Loan Guarantee Program

The Section 108 loan guarantee enables communities to finance large scale housing rehabilitation, economic development and physical improvement projects while conserving scarce CDBG money for other important eligible activities, including additional loans. Under Section 108, cities or urban counties may

borrow up to 5 times their latest CDBG entitlement.

Support Services Programs

Youthbuild

Youthbuild programs combine job training with basic skills, including bilingual and secondary education. Economically disadvantaged youth are trained in construction trades and participate in rehabilitating housing for the homeless, low-income families and transitional housing for disabled or other needy people.

DEPARTMENT OF HEALTH HUMAN SERVICES

Community Services Discretionary Authority

Grants are available to support program activities by community-based organizations to alleviate the causes of poverty in distressed communities; activities that result in direct benefits targeted toward low income people.

Center for Substance Abuse

The Center for Substance Abuse Prevention was created in 1986 to direct the federal government's role in preventing substance abuse, especially among youth and families in high risk environments.

DEPARTMENT OF LABOR

The Job Training Partnership Act provides funding by formula to states.

States then reallocate by formula funds to Private Industry Councils (PICs). PICs are made up of local business, education, labor and government officials who finance local job training activities in their communities.

TREASURY DEPARTMENT

The Low Income Housing Tax Credit (LIHTC) Program

The LIHTC program provides federal tax credits to owners of low-income rental housing projects. To qualify for the Program, a project must include a certain proportion of rent-restricted units to be occupied by tenant households earning not more than 60 percent of the area median income. The amount of tax credit a project can receive depends upon the percentage of its units that meet these Program rent and income restrictions. The LIHTC Program plays a vital role in helping obtain financing for projects in an atmosphere where financing is otherwise near impossible.

FEDERAL HOME LOAN BANK

Created by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), the Affordable Housing Program (AHP) of the Federal Home Loan Banks is a subsidy fund designed to encourage and assist housing finance lenders in the development of affordable housing in their communities.

To facilitate such activities, the Bank provides subsidized advances (loans) or direct subsidies to member institutions engaged in lending for long-term, very-low, low-and moderate-income housing projects.

GOVERNMENT SPONSORED ENTERPRISES

Under its existing Declaration of Trust, the Housing Investment Trust has authority to invest up to 50 percent of its assets in Fannie Mae and Freddie Mac securities. Fannie Mae and Freddie Mac Securities are not explicitly federally insured or guaranteed, but are generally considered the next safest type of mortgage related obligations. Fannie Mae and Freddie Mac are federally chartered corporations engaged principally in providing a secondary market for mortgage obligations. The mortgages backing only Fannie Mae mortgage backed securities or Freddie Mac participation certificates in which the Trust invests will meet Fannie Mae or Freddie Mac standards, as applicable, and will carry competitive yields. The Housing Investment Trust will work with these two government sponsored enterprises as follows:

Fannie Mae

In October 1991, Fannie Mae in partnership with the AFL-CIO Housing Investment Trust announced a \$50 million financing plan to provide affordable rental housing units for low and moderate-income families around the nation. The initiative helps developers using union labor to build and rehabilitate

apartments for low and moderate income families apartments using Federal low-income housing tax credits or other public subsidies. Fannie Mae has agreed to purchase the permanent loans upon completion of construction.

Freddie Mac

In an effort to assist private lenders making affordable multifamily housing loans, in June 1991, Freddie Mac entered into an agreement with LIMAC to provide \$100 million demonstrating program for the purchase and securitization of multifamily permanent loans targeted at low income housing projects. The program calls for risk sharing between LIMAC and Freddie Mac.

STATE HOUSING FINANCE AGENCIES

STATE INSURANCE FUNDS

With the federal government's lagging commitment to housing, the pressures are mounting on state and local governments to become more active in housing development. The Housing Investment Trust recognized that if it were to remain active as a provider of housing capital, it must build new relationships with states and cities. The Trust's charter was amended in 1991 to provide the Trust greater latitude in working with state and local governments.

Specifically, the charter amendments permit investments in single- and

multi-family housing based on specific guarantees or insurance, or on delineated commitments and project criteria.

Generally, the financing the Housing Investment Trust may provide falls into two categories:

A. State Housing Agencies

Allows the Trust to invest in mortgages or mortgage-backed securities (relating to construction loans and permanent loans) guaranteed by state housing finance agencies that are rated "top tier" by at least one nationally recognized statistical rating service. A "top tier" rating is currently held by only 12 agencies nationwide.

B. State - Backed Insurance and Guarantees

Allows the Trust to utilize state-sponsored insurance and guarantee programs that do not carry the "full faith and credit" obligation of the state but which have a previous track record of performance and credit-worthiness, and have at least an "A" rating from either Moody's or Standard and Poor.

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PARADISE at PARKSIDE

Washington, DC

The Challenge:

With a reputation as Washington DC's largest and most violent drug market, Paradise Manor presented an unsavory investment opportunity. Investors were not willing to commit capital until there was evidence that the neighborhood was safe and residents would care for their homes. In addition, the project would not generate significant revenues until after the completion of the multi-stage renovation.

The Response:

Community involvement in every aspect of the development created a comprehensive program that blends private and public resources to address the safety, housing, education and employment training needs of Paradise Manor residents. The successful rehabilitation of Paradise depended on marshalling private and public resources to invest in the 653-unit development. Federal and local agencies contributed a total of \$7.6 million for rehabilitation of Paradise and funded a job training program. Private partners included the developer and the AFL-CIO Housing Investment Trust, which committed \$9 million to a loan guaranteed by Fannie Mae.

Project Summary:

Unable to manage the site that had become famed as a drug market and crime center, surrounded by barracks-style housing, the original owner of Paradise defaulted. A private partnership, formed to renovate the property, acquired the site agreeing that it would be developed for resident ownership. The project coordinator conceived of a multi-stage rehabilitation that included a new design, investment from local businesses and support programs for residents.

The design changes highlight the project's transformation. In the midst of 90-unit clusters, a courtyard was planted. Each courtyard group may eventually become a separate cooperative, as residents become ready to own their homes. By providing community space, including day care centers, a platform stage for performances, a basketball court, laundry facilities and opportunities for retail enterprises, Paradise fosters the development of a healthy, involved neighborhood.

Given the distressed state of the property when the rehabilitation began, it was critical that investors accept flexible repayment schedules. Public sector lenders agreed to allow Paradise to defer some payments during the early stages of rehabilitation. Innovative financing terms contributed to a comprehensive financial program that provides maximum security and a market rate of return to investors and attainable performance by the developer. Fannie Mae, the Federal National Mortgage Association, provided an unprecedented \$1.8 million Venture Capital Fund loan to the project.

Partners' Contributions:

AFL-CIO Housing Investment Trust:

The AFL-CIO Housing Investment Trust committed \$9 million loan guaranteed by Fannie Mae.

Fannie Mae:

Fannie Mae securitized the \$9 million loan, guaranteeing payment to investors. Fannie Mae also invested \$1.8 million as a Venture Capital Fund loan, the first such commitment of capital to an affordable housing project.

Patrician Financial Company:

A qualified Fannie Mae lender, Patrician structured the various financing components, including negotiating the allocation of risk and repayment schedule. Patrician also services the loan.

Washington DC Department of Housing and Community Development:

The Department of Housing and Community Development provided critical political and financial support to Paradise. The Department committed \$3 million in community development block grant funds for rehabilitation. The District of Columbia also agreed to

defer collection of up to \$2.4 million in delinquent taxes and water and sewer charges throughout the renovation.

Department of Housing and Urban Development:

HUD holds the first mortgage on the property, because it insured the original loan under Section 221(d)(3). HUD contributed additional resources to Paradise through numerous programs, including a \$4.5 million below market rate rehabilitation loan and \$3 million in community development block grants. 40% of Paradise tenants will receive Section 8 Rental Assistance. In addition, HUD provided a HOPE 2 (Homeownership and Opportunity for People Everywhere) planning grant to the Greater Washington Mutual Housing Association to assist the Paradise Manor Cooperative develop an appropriate structure for home ownership.

Department of Health and Human Services:

In order to enhance the livability of Paradise, HHS awarded a grant of \$500,000 for the Livelihood job training program and the construction of community space.

Greater Washington Mutual Housing Association:

This nonprofit organization provided technical assistance to the Paradise Manor Cooperative through HUD's HOPE 2 program and operates the Livelihood Program. These efforts are

critical in building a viable enterprise that will address residents' long-term needs.

Paradise Manor Cooperative:

This residents organization is active in developing the structure for eventual resident ownership. The cooperative structure encourages residents' investment in their neighborhood.

Nation of Islam:

Creating a safe and decent living environment depended on eliminating crime and drug-related conflicts. The Nation of Islam has served as security patrol throughout Paradise, contributing to its remarkable transformation from a crime-infested project to an attractive neighborhood.

Developer:

Telesis Corporation, a for-profit developer, served as project administrator. Telesis coordinated the stage-by-stage rehabilitation of Paradise, from site acquisition to design, obtaining financing, negotiating with the management company, construction manager, professional consultants and residents.

Construction Manager:

TCM, an affiliate of Telesis Corporation, managed the construction process. Primarily responsible for ensuring quality of the renovation, TCM negotiated with individual trades throughout the renovation.

Management Agent:

CT Management, an experienced management agent of low-income housing, coordinated the relocation and provision of services throughout the renovation.

Consumers United Insurance Company:

A minority and worker-owned company, CUIC has invested over \$6 million in the Paradise-Parkside neighborhood, including constructing a convenience store in the neighborhood and supporting an academic, cultural and athletic program for youth.

Industrial Bank of Washington:

This minority-owned bank administers rehabilitation funds for the public and private investors.

Building and Construction Trades:

Local unions affiliated with the Washington, DC Building and Construction Trades Council

are performing the renovation of Paradise at Parkside.

FOUR BIOTECH

Worcester, Massachusetts

The Challenge:

Four Biotech was a \$14.1 million project, undertaken by a successful developer in a recessionary climate. The early 1990s signalled failures in the savings and loan industry and the collapse of the Massachusetts real estate market. The City had demonstrated its support for biotechnology enterprises, and needed the employment opportunities the building would create. Nonetheless, traditional investors refused to commit capital to Four Biotech.

The Response:

An innovative use of federal guarantees by the city enabled the AFL-CIO Building Investment Trust to invest \$11.7 million in Four Biotech, structured as a one-year construction loan, which will convert into nine-year permanent financing.

Project Summary:

The Worcester Business Development Corporation (WBDC), a non-profit corporation affiliated with the Worcester Chamber of Commerce, is dedicated to promoting economic growth in the Worcester area. WBDC has developed the 75-acre Massachusetts Biotechnology Research

Park (MBRP) as a center of biotechnology research. Four buildings dedicated to biotechnology research and development of commercial products, which house twelve for-profit companies and seven non-profit enterprises, are located in the Park. In addition, BASF, the German chemical conglomerate, recently completed construction of its 300,000 square foot North American research headquarters there. The City of Worcester has supported the development of biotechnology industry by enacting favorable zoning ordinances and providing additional support to new businesses.

Four Biotech, a 93,000 square foot research facility, was developed by WBDC on behalf of the City of Worcester. WBDC had pre-leased 71% of the building. WBDC estimated the building would create 200 permanent jobs.

Even with the city's commitment to fostering growth in this area and WBDC's strong record in developing successful facilities, WBDC was unable to secure investors for its fourth building. Banks were unwilling to lend money for biotechnology facilities. Simultaneously, as WBDC developed plans for Four Biotech, unemployment in the construction trades in the Worcester area soared to 50%.

The AFL-CIO Building Investment Trust proposed an innovative use of HUD's Section 108 loan guarantee program. The City pledged HUD Title I funds to secure the loan. Throughout the

construction period, escrowed funds match the value of the loan. Following construction, the City will maintain Section 108 funds in escrow to cover 60% of the loan's value. As the building's operation generates additional income, the Section 108 reserve will be reduced, freeing those funds for investment in other Worcester enterprises.

Partners' Contributions:

AFL-CIO Building Investment Trust:

In addition to investing \$11.7 million in Four Biotech, the Trust committed itself to working with the developer, the City and the federal government, to negotiate an effective financing structure. Instead of declining to invest in this innovative enterprise, the Trust designed an innovative security arrangement that enabled it to contribute to Worcester's economic growth and provide a market rate of return to its investors.

City of Worcester:

The City's commitment to economic development, particularly in biotechnology, was critical to the success of this financing. The City demonstrated its commitment by zoning provisions to facilitate the establishment of genetic laboratories and by fostering the development of nonprofit organizations to attract businesses to Worcester. The City Council voted to approve the Section 108 application. An active Chamber of Commerce and dedicated City Manager strengthened the Trust's assessment of the project's value as an

investment.

Developer:

The WBDC, with its strong track record in developing the Park and willingness to negotiate innovative financing, demonstrated its flexibility in accommodating other participants throughout the process. Strong support from the Worcester Chamber of Commerce's membership provided additional comfort.

Department of Housing and Urban Development:

HUD's Section 108 program was established by the Housing and Community Development Act of 1974. Amendments in 1990 expanded the program to increase the length of the loans, the number of eligible entities and the amount of funds available. In FY93, Congress appropriated \$2 billion for Section 108 guarantees.

Building and Construction Trades:

Unions affiliated with the Worcester-Fitchburg Building and Construction Trades Council will perform all the construction work on Four Biotech. In an economy of high construction unemployment, Four Biotech will create significant employment opportunities.

Commonwealth of Massachusetts:

The Massachusetts General Assembly passed legislation enabling WBDC to incorporate as an affiliate of the Worcester Chamber of Commerce.

GARDENS APARTMENTS

Opa-Locka, Florida

The Challenge:

In response to devastating rates of crime and drug activity at Gardens Apartments, the City of Opa-Locka and HUD closed down the project. Soon thereafter, all fixtures had been destroyed, leaving 378 deserted units in an area of great need. The \$20 million rehabilitation of Gardens Apartments was a critical part of the City's plans to revitalize its housing stock and neighborhood, but efforts to obtain conventional financing had failed.

The Response:

A coordinated effort by federal participants such as HUD and Freddie Mac, state and local government entities, such as the Florida Housing Finance Agency and the City and private parties, such as the developer, limited partner and the AFL-CIO Housing Investment Trust resulted in financing the rebirth of Gardens Apartments. The success of this endeavor turned on a new secondary market program that is designed to create a liquid market for affordable rate

mortgages. In addition to providing the \$10 million construction loan, the AFL-CIO Housing Investment Trust invested \$10 million in the permanent financing guaranteed by Freddie Mac. Renovation of Gardens Apartments increased affordable rental housing in Opa-Locka by 10%.

Project Summary:

The five buildings at Gardens Apartments were closed down in the late 1980s, when their presence as one of the worst drug havens in Dade County, Florida threatened to endanger the community. In August 1991, the City purchased the property from HUD. The City had undertaken two unsuccessful efforts to rehabilitate the site. Investors' hesitancy to invest in an area that had been plagued by poverty and crime had thwarted the City's efforts.

Renovating the Gardens Apartments was critical to reviving citizens' sense of hope for Opa-Locka's future. The initial development included 378 rental units. By returning 320 affordable rental units to productive use, this project increased the city's available rental housing by 10%. Most of the units are designed for families, which fostered the project's sense of community spirit. Changes in the project's layout also reduced density, increased safety and created community space and recreation areas.

In December 1991, the City conveyed the property to the developer. The developer guaranteed that the property would be rented to low and moderate income households for at least 15 years. In exchange, HUD agreed to provide a 15-year Housing Assistance Payments (HAP) contract to the developer.

An innovative secondary market program provided the permanent financing. The Local Initiatives Managed Assets Corporation (LIMAC) bought the \$10 million loan from First Housing Development Corporation, a consortium of local banks. LIMAC then passed the loan to the Federal Home Loan Mortgage Corporation (Freddie Mac) under a \$100 million demonstration program. Freddie Mac issued Participation Certificates, which securitized the loan. The AFL-CIO Housing Investment Trust purchased the Participation Certificates (PCs). The AFL-CIO Housing Investment Trust also provided the construction financing. A private investor contributed \$8 million through the purchase of Low-Income Housing Tax Credits.

Partners' Contributions:

City of Opa-Locka:

Despite others' assessment of Gardens Apartments as a hopeless project, the Mayor refused to abandon his vision of providing decent safe housing

at that location. After two unsuccessful attempts to finance the rehabilitation, the City supported this innovative arrangement. As evidence of its commitment to provide a livable environment, the City donated additional land for open space and basketball courts. The City also agreed to locate a police substation on site to enhance residents' safety.

Department of Housing and Urban Development:

In order to make the project financially viable, HUD awarded a 15 year Housing Assistance Program (Section 8) contract, valued at approximately \$30 million, to the developer. HUD also demonstrated its commitment to ensuring the success of Gardens Apartments by pledging annual appropriations for building security personnel.

Consortium of Local Banks:

A consortium of Florida banks established to meet Community Reinvestment Act requirements, First Housing Development Corporation, served as the loan originator. First Housing Development underwrote the loan, which met criteria established by LIMAC and Freddie Mac. The consortium then sold the permanent loan to LIMAC, retaining 20% of the risk.

LIMAC:

LIMAC was created to establish a national secondary mortgage market for low-income housing programs. The \$100 million LIMAC-Freddie Mac demonstration program provides highly rated securities to finance affordable housing. LIMAC purchased the permanent loan from First Housing Development Corporation and sold it to Freddie Mac. LIMAC provided insurance on up to 16% of the value of the loan that it sold to Freddie Mac.

Freddie Mac:

The Federal Home Loan Mortgage Corporation (Freddie Mac) purchased the loan from LIMAC and issued guaranteed PCs. Although Freddie Mac provided the guarantee to investors, if the loan were to fail to perform, Freddie Mac would collect on guarantees from LIMAC and the local banks.

AFL-CIO Housing Investment Trust:

The AFL-CIO Housing Investment Trust provided the construction financing, which was secured by a letter of credit. The Trust also purchased the \$10 million PCs from Freddie Mac, representing the

permanent mortgage.

Developer:

Namisha Construction secured a letter of credit from a bank in order to meet HUD's requirements that developers who purchase vacant housing projects provide security until renovation is complete. Namisha also contributed \$2 million in equity.

Limited Partner:

As a limited partner in the project, Related Capital Corporation provided \$7.8 million from the purchase of Low-Income Housing Tax Credits.

Florida Housing Finance Agency:

The state housing finance agency appropriated \$3 million in HOME funds to Gardens Apartments.

Letter of Credit Bank:

Union Bank of Switzerland provided a Letter of Credit to guarantee the construction period.

Building and Construction Trades Council:

The Miami Building and Construction Trades Council is coordinating the participation of local unions in rehabilitating Opa-Locka.

Clinton Presidential Records Digital Records Marker

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3

Divider Title: _____

PROGRAM FINANCING

Financing for projects sponsored under the **National Partnerships for Community Investment** will be provided by the Investment Program's two funds: the Housing Investment Trust (HIT) and the Building Investment Trust (BIT). These investment funds finance union-built residential, commercial and industrial properties. The HIT provides debt financing and the BIT finances both debt and equity.

The Housing Investment Trust

Through the **National Partnerships for Community Investment**, the HIT will provide financing for seven types of housing activities, assisting communities to provide shelter for a wide spectrum of their citizens.

1. **Single Room Occupancy (SRO) Housing.** SROs provide very low-income, single, often homeless individuals with decent, safe and sanitary housing. For such projects, the HIT can provide permanent financing, secured by a FHA-insured mortgage on the project.

2. **Elderly Housing.** The HIT provides construction and permanent financing for nursing homes and intermediate care facilities. These loans must be insured by FHA under Section 232 of the National Housing Act.

3. **Multifamily Rental Housing - Low and Moderate Income.** The HIT provides construction and permanent financing for low and moderate income, multifamily rental housing. These loans can be placed using FHA insurance under Section 221(d)(3); securitization by Fannie Mae or Freddie Mac under a special AFL-CIO Forward Commitment Program; by "top-tier" state housing finance agencies; or, under very limited circumstances, direct placement in conjunction with strong local government participation.

4. **Multifamily Rental Housing - Market.** The HIT provides construction and permanent financing for market rate, middle income multifamily rental housing, provided that the loans are insured by FHA under Section 221(d)(4).

5. **Construction and Purchase of Single Family Housing.** The HIT also administers the highly successful ProLoan Program. The HIT's ProLoan Program provides financing to eligible individuals to purchase new, union built homes. Under the program, HIT provides fixed-rate mortgages to qualified applicants at a market rate of interest and locks the interest rate for up to 180 days from the date of application to allow time for construction. HIT will finance up to 95% of the purchase price. All ProLoan mortgages must meet Fannie Mae or Freddie Mac underwriting standards. The loans are securitized and guaranteed by Fannie Mae or Freddie Mac. The HIT has already lent over \$125 million under the ProLoan program in the St. Louis area alone. Nationally HIT has lent over \$200 million under this program.

6. **Home Ownership Assistance for Union Workers.** HIT has joined with Union Privilege, an agency of the AFL-CIO, to create the Union Privilege Mortgage Program. This program provides home purchasing assistance for the members of participating local unions, including down payments of as low as 3%, no-point loans, and interest rates at or below the national average. The HIT will provide mortgage financing for the program, and will lock-in interest rates for up to 90 days for existing housing and up to 180 days for newly constructed union built housing.

7. **Home Rehabilitation Loans.** The HIT will also finance the rehabilitation of existing housing under its Home Repair program. Under this program, the HIT will work with local lending institutions and nonprofit groups to provide a source of capital, at competitive interest rates, that will allow homeowners and prospective homeowners to rehabilitate the housing stock in our urban areas. Loans are secured through programs such as HUD's 203(k) or Fannie Mae's HomeStyle Program.

The Building Investment Trust

In addition to the residential programs sponsored by the HIT, the AFL-CIO Pension Investment Program will also promote economic development by financing commercial projects through its BIT fund. Under the **National Partnerships for Community Investment**, the BIT will invest in commercial mortgages, including participating mortgages and construction loans. The fund will also consider acquiring equity interests in improved or to be improved real estate. The types of projects that can be financed under this fund include, office buildings, shopping

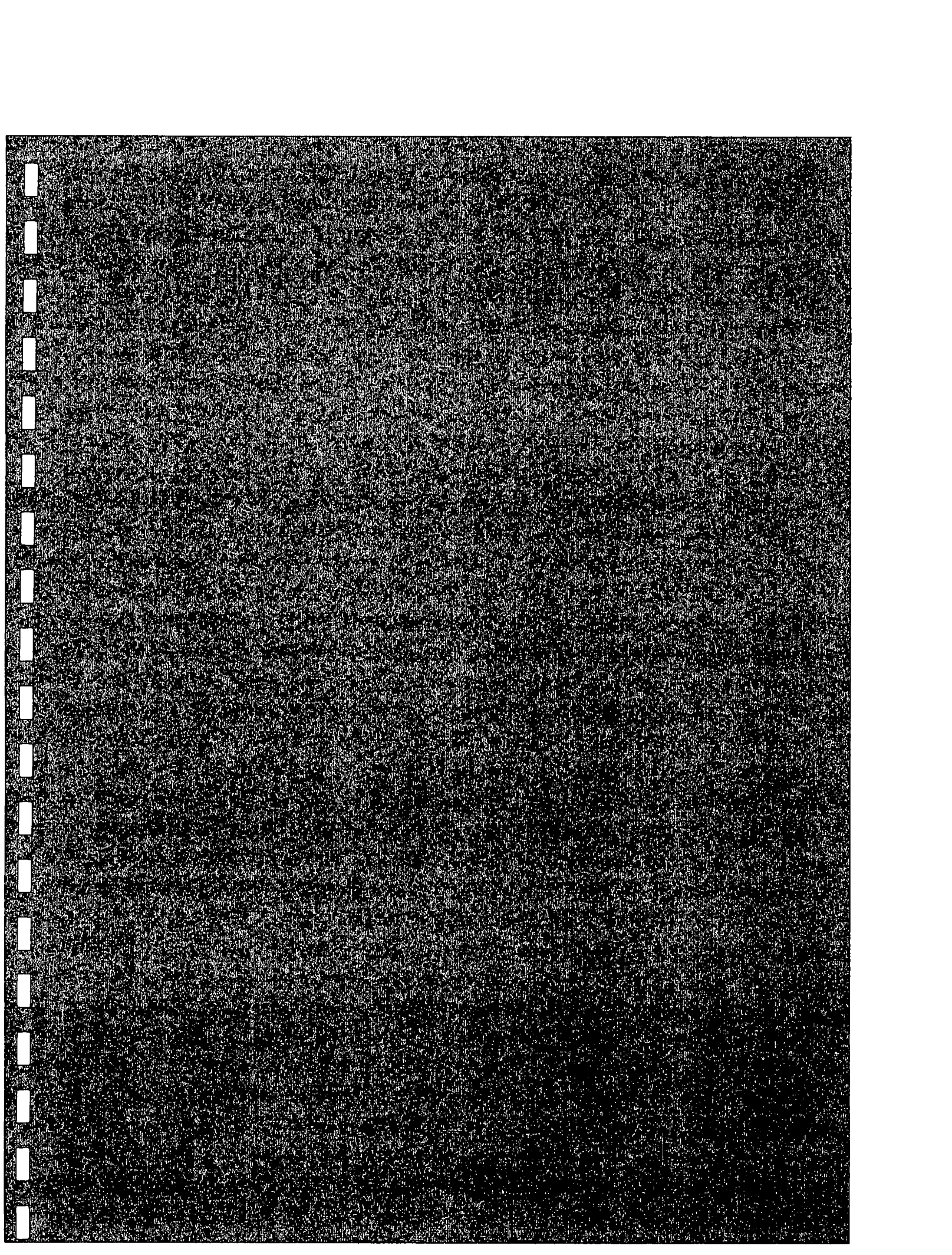
centers, hotels, mixed use residential properties, commercial/industrial warehouse and research facilities and other income producing real estate that meet the Trust's strict underwriting criteria.

Under the **National Partnerships for Community Investment**, the BIT will work closely with states and localities to fund inner city commercial projects secured by a combination of solid tenants and local and federal guaranties and subsidies, such as Section 108 guaranties and commercial developments in emerging industries, such as biotechnology, other medical research facilities and telecommunications projects, which would be secured by a combination of borrower and tenant credit and local and Federal guaranties and subsidies. In addition, the BIT can finance other commercial projects secured by long term leases by creditworthy tenants.

ACKNOWLEDGEMENTS

Special thanks to Karen Ignagni, Director, and Meredith Miller, Associate Director of the AFL-CIO Department of Employee Benefits, for information they supplied that appears in Domestic and International Pension Investment Issues, A Report Prepared for the AFL-CIO Pension Investment Committee, December 1992. Special thanks should also be given to Randy Barber, Director of the Center for Economic Organizing, and Theresa Ghilarducci, University of Notre Dame, for providing information that appears in Pension Funds, Capital Markets, and the Economic Future, a soon-to-be published monograph, and to Al Bilik, President of the AFL-CIO Public Employee Department, and Regina Markey, pension consultant for their assistance. Of course, the staff of the AFL-CIO Pension Investment Program were essential to compiling this report: Marcie Cohen, Director of Affordable Housing; James Campbell, Investment Officer; ElChino Martin, General Counsel; and John Noone, Investment Officer. Also thanks to Rebecca Plaut, a legal intern with the Program, Robin Campbell, and Carole Ridley, consultants, for assistance in research and writing, and to all the Pension Investment Program staff.

Stephen Coyle



THE WHITE HOUSE

WASHINGTON

February 1, 1993

MEMORANDUM FOR ROBERT RUBIN

FROM: Alexis Herman
SUBJECT: AFL-CIO Briefing

Per my conversation with Lane Kirkland this morning, Lane informed me that he will be leaving for Ball Harbor on February 4, not to return to Washington D.C. until February 23.

Lane recommended that we meet with Jim Baker, Executive Assistant to the President, AFL-CIO and Dr. Rudolph (Rudy) Oswald, Director of Economic Research, AFL-CIO for a background briefing on the President's Economic package.

Lane and I also discussed the invitation that they extended to President Clinton to join the AFL-CIO in Florida. I mentioned the difficulty with scheduling a trip at this time, but indicated that I will coordinate with Marsha Hale on the Presidential schedule for a possible meeting before Kirkland departs on February 4.

We can schedule a meeting for the week of February 8th before Baker and Oswald depart for Ball Harbor or, as Howard's memo indicates, have Gene do the briefing in Florida.

Please advise.

cc: Mack McLarty
Rahm Emanuel
Marsha Hale
Bernie Nussbaum
Howard Paster
John Podesta
Robert Reich
George Stephanopoulos

THE WHITE HOUSE

WASHINGTON

January 29, 1993

AMH
file

MEMORANDUM FOR ROBERT RUBIN

FROM: Alexis Herman
SUBJECT: Labor Executive Orders

In background discussions with Lane Kirkland on our January 22, 1993 Executive Orders, Kirkland specifically asked that we follow up on his memorandum dated November 20, 1992.

Per our conversation, I advised Lane Kirkland that we would do a background briefing on the overall economic package. This briefing needs to occur before Labor's annual meeting which is scheduled for mid-February in Bell Harbor.

Please note, Kirkland had submitted a strong statement arguing that Executive Order No. 12818, Executive Order No. 12800, and the Proclamation suspending the Davis-Bacon Act be countermanded.

Secretary Reich has asked that action be taken on Executive Orders 12818 and 12800. This has been approved by OMB and DOJ Legal Counsel. There has been no mention of the Davis-Bacon Act, however.

NEXT STEPS for OPL

- Schedule meeting with Kirkland.
- Clarifying with Reich our position on Davis-Bacon.

CC: Mack McLarty
John Podesta
Bernie Nussbaum
Rahm Emanuel

From the desk of

**LANE KIRKLAND
PRESIDENT, AFL-CIO**

January 22, 1993

Alexis,

Per our telephone conversation
of today.

All the best.

Lane

*WH Counsel
Zenne
cc: Rubin
McCarthy*

American Federation of Labor and Congress of Industrial Organizations



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November 20, 1992

MEMORANDUM

To: Vernon Jordan
From: Lane Kirkland

Enclosed is a more detailed explanation of the hostile Executive Orders and actions directed against labor, for egregious political reasons, by President Bush during the Presidential campaign. We strongly believe that they warrant early action to countermand them by President-elect Clinton.

Enclosure

November 19, 1992

**RE: Executive Order 12800; Executive Order 12818; The
 Presidential Proclamation on the Davis-Bacon Act; and the
 Presidential Directive to Conduct a Landrum-Griffin Act
 Rulemaking**

During the Presidential campaign, the National Right to Work Committee and the Associated Builders and Contractors -- two anti-union organizations that had previously supported President Bush -- used the threat of withholding their support to secure from the President the unilateral imposition of a number of substantial changes in national labor policy. Specifically, the National Right to Work Committee and the Associated Builders and Contractors used their political leverage to gain issuance of two Executive Orders -- Executive Order 12800 (April 13, 1992) and Executive Order 12818 (October 23, 1992) -- one Presidential Proclamation under the Davis-Bacon Act and a presidential directive to the Labor Department to engage in a rulemaking under the Landrum-Griffin Act.

The contemporaneous record makes it plain beyond a reasoned doubt that these Presidential initiatives were the product of pure right-wing Republican politics and had nothing to do with the faithful execution of the laws of the United States. At least equally to the point from our perspective, the core agenda of the Right to Work Committee and the ABC is to undermine the collective bargaining system established by the federal labor laws and to weaken the trade unions freely chosen by working people to represent their interests in that system. Each of the four Presidential actions just noted advances a critical part of the

Right to Work Committee/ABC agenda and in so doing adopts a position repeatedly rejected by both Democratic and Republican Administrations that overturns years of well-established, soundly-based law and practice.

We believe that the Clinton Administration -- as part of its announced program of clearing the books of unilateral executive actions by the Bush Administration that are not in the public interest -- should rescind both Executive Orders and the Presidential Proclamation and should instruct the Labor Department to extend the effective date of its proposed union reporting rules from December 31, 1993, to December 31, 1994, to permit reasoned review of those rules. Because all four of these measures are having present adverse effects, we urge the President-elect to announce his intent to take the actions outlined above as soon as is practicable.

A. THE RIGHT TO WORK INITIATIVES

1. President Bush announced two Right to Work initiatives in an April 13, 1992 Rose Garden ceremony.

First, the President issued Executive Order 12800, which requires unionized government contractors to post one-sided notices informing employees of their National Labor Relations Act ("NLRA") right not to join or support a union without providing any information on the employees' NLRA rights to join and support a union.

Second, the President ordered the Labor Department to promulgate rules that impose complex and onerous cost-accounting

requirements on virtually all private and federal sector unions.

2. The partisan right-wing political origins of these actions are a matter of record.

Two months prior to their announcement, the New York Times reported that President Bush had promised these initiatives to the Right to Work Committee in an effort to prevent erosion on the President's right during the New Hampshire primary. A. Rosenthal, Trick for Bush Is to Run Against the Bush of 1980, N.Y. Times, Feb. 14, 1992. Two weeks prior to the announcement, the Washington Times explained that the Right to Work Committee had formulated these proposals and gained the Administration's support only by threatening to disrupt the Bush reelection campaign operations during the New Hampshire and Georgia primaries unless the proposals were adopted. B. Pascoe, Muscling into Enforce Beck, Washington Times, March 30, 1992.

3. These initiatives show their ideological anti-union origins on their face.

(a) Executive Order 12800

A centerpiece of the April 13, 1992, Rose Garden ceremony was an Executive Order requiring all unionized government contractors to post a notice informing their employees of the right not to join unions and of the right to opt out of paying full union dues.

Direct intervention by the Executive to enforce the National Labor Relations Act is unheard of in the statute's fifty-seven year history. Indeed, Congress' purpose in establishing an independent National Labor Relations Board to administer the Act was to

insulate the development and application of the federal labor laws from immediate political pressures. Against this background, the Johnson Administration, after a full review, chose not to issue an Executive Order debarring government contractors who were repeat labor law violators.

It is, in addition, doubtful that even the NLRB could order the sort of notice posting required by Executive Order 12800. In Teamsters Local 357 v. NLRB, 365 U.S. 667 (1961), the Supreme Court held that the Board lacks authority to impose such posting requirements on unions that operate hiring halls. And the same principle would seem to apply to notice-posting requirements imposed on employers.

At the very least, then, any notice posting requirement imposed directly by the President would have to be carefully considered and evenly balanced. Executive Order 12800 is far from that.

The NLRA guarantees employees rights to form and join unions, to engage in concerted activity and to choose a collective bargaining representative. None of these are mentioned in the notice required by the Executive Order. Instead, employers are required to inform employees of only one narrow right, i.e., to refrain from paying full union dues.

A balanced notice requirement that informed all employees -- both organized and unorganized -- of the full range of NLRA rights would be a different matter. There is, however, no basis for continuing the hastily imposed and one-sided notice requirement

imposed by Executive Order 12800.

(b) Department of Labor Regulations on Union Reporting.

The new Labor Department regulations radically alter the well-understood financial reporting requirements that the Department has administered for more than 30 years. These regulations -- which were promulgated during a supposed regulatory moratorium by an Administration supposedly dedicated to reducing regulatory paperwork -- provide that unions must report all expenditures, not only in the traditional "natural" categories (e.g., salaries, loans, investments, asset purchases, contributions, etc.), but in six novel and ill-defined functional categories as well. The rule, as the Boston Globe observed, will "have [unions] bogged down in a maze of regulations." Boston Globe, April 17, 1992.

Conservative estimates indicate that the new reporting requirements will force a five-fold increase in the time and effort entailed in making Labor Department filings. The information contained in the LM-2/3 forms as presently filed is more than sufficient to allow union members to exercise their rights in an informed manner. To borrow the words uttered by Reagan-appointed Federal Judge Richard Posner in like circumstances, by seeking more detailed financial reporting, "the National Right to Work Foundation [is] merely trying to hamstring the union." Gilpin v. AFSCME, 875 F.2d 1310, 1316 (7th Cir. 1989). The Bush Administration has cheerfully collaborated with the Right to Work Committee in this illegitimate project. That collaboration between the Executive and the Right to Work Committee should cease.

Both the contents and the drafting process that led to the regulations have been denounced by the very Labor Department official who was nominally in charge of the process, former Assistant Secretary of Labor Robert Guttman. In an interview shortly after his resignation, Mr. Guttman explained that, in a rush to do the President's bidding, the Secretary had refused to consult with anyone in the field of labor relations who had actual knowledge of union reporting and accounting practices, instead consulting only with the Right to Work Committee and an unidentified accounting firm. The substance of the proposed rule that resulted was, to use Mr. Guttman's words, "a lot of junk." See "Departing DOL official Doubts Legality of Beck Changes to Union Financial Forms," BNA Daily Labor Report No. 125, pp. A-3-5 (June 29, 1992).

Of the many organizations and accounting firms filing comments on DOL's newly proposed rule, only three supported the new cost-accounting requirements -- the Right to Work Committee (along with its Legal Foundation), the ABC (which has been closely cooperating with the Right to Work Committee), and an heretofore unknown group called "Citizens for a Sound Economy."

In announcing the rulemaking, the President pointed to the Supreme Court's decision in Communications Workers v. Beck, 487 U.S. 735 (1988) -- which interpreted the obligations of unions to nonmembers under the National Labor Relations Act -- as a justifying circumstance. But the Labor Department itself ultimately backed away from this justification and disclaimed any

reliance on Beck -- recognizing that it possesses no enforcement authority under the NLRA and that its proposed requirements had little to do with a union's obligations under Beck. See Statement of October 28, 1992, Part II A1. The Labor Department stresses instead that its new rules are justified from the standpoint of internal union democracy. Id.

It is therefore very much to the point that no union member or group of union members supported the Department's proposed rule. The absence of any support for the rule among union members is not surprising. For the past thirty years, labor unions have been required to file detailed financial reports annually, showing the compensation of officers and staff members, loans, investments, asset purchases, and contributions. Union members are entitled by law to inspect all of the financial records that back up these reports. In addition, union members are protected by the federal law in exercising their rights to adopt any additional reporting or recordkeeping by their organizations that they find advisable. Yet, during that 30 year period, not a single instance has been reported in which a union member has demanded the kind of reporting that the DOL is now requiring.

B. THE CONSTRUCTION INDUSTRY INITIATIVES

The Bush Administration's unilateral executive actions affecting construction industry labor relations are as follows:

First, ten days prior to the election, President Bush issued Executive Order 12818 prohibiting any employer from bidding on a federal construction project if the employer has entered into a

union contracting or subcontracting agreement with its unions, despite the fact that this kind of agreement is commonplace in the industry, and specifically authorized by the NLRA. See 29 U.S.C. §158(e).

Second, President Bush, at roughly the same time, issued a Proclamation suspending the operation of the Davis-Bacon Act -- which requires that federal construction projects conform to prevailing labor standards -- on all federal projects in the areas of Florida, Louisiana and Hawaii that were affected by the recent hurricane disasters, whether or not the project is hurricane-related.

Again, the evolution and substance of these measures demonstrate that both were last minute efforts aimed at gaining President Bush the support of the Associated Builders and Contractors by undermining the legal rights of construction workers.

1. Executive Order 12818

President Bush's Executive Order prohibiting employers who have entered into union contracting and subcontracting agreements from bidding on federal projects, in essence, prohibits the system of collective bargaining that exists throughout the construction industry from operating where the work is federally financed. Thus, the Order constitutes a major frontal attack on unionized construction workers and employers, and a major threat to future collective bargaining and labor relations stability in the industry. A brief summary of the collective bargaining structure

in the construction industry, and the political background of this Order, makes this clear.

(a) For many decades, construction industry collective bargaining agreements have established labor standards for construction work prior to the actual hiring of workers at a particular project and prior to the determination of the particular contractor or subcontractor who will do the particular work. By following this pattern, collective bargaining is able to provide for stable labor relations in an industry in which skilled workers are employed for short terms by many employers and work is often divided pursuant to complex and interdependent contracting and subcontracting arrangements.

In essence, the pattern in unionized construction is that a union and general contractor or construction manager agree that union referred labor will staff the employer's project, that the employer will respect the labor conditions of the agreement and will recognize the union as representing the employees, and that all subsequent contractors and subcontractors will adhere to the same arrangement.

Congress, in enacting NLRA §§8(e) and (f), specifically validated this collective bargaining pattern, finding that these kinds of agreements often furthered the interests of all parties: employees, employers, and developers alike. Employees gain the benefits of union representation and stable employment terms in an otherwise unstable labor market; employers gain continuous access to stable supplies of skilled craft labor at predictable costs; and

developers gain the assurance of labor peace and stability during the course of their projects. Indeed, Congress noted that federal agencies seeking stable and efficient construction work had often encouraged these very arrangements on federal projects.

Despite all of this, President Bush's Order prohibits these arrangements on all future federal projects. Although claiming to protect workers' rights, the order eviscerates the right of construction workers to protect their living standards through effective collective bargaining. Although claiming that the Order protects "free competition" on federal projects in order to further efficiency, it actually protects one set of employers -- those who refuse to recognize unions -- by assuring that they will be able to gain federal work. Other employers -- those who have entered certain lawful collective bargaining arrangements -- will now be precluded from such work.

(b) The history of the Executive Order demonstrates the purely partisan political motives for its adoption. Over the last few years, the ABC brought numerous lawsuits urging that it was unlawful for government purchasers of construction services -- state or federal -- to utilize these kinds of collective bargaining arrangements. The Justice Department, in successfully defending against ABC challenges to agreements on federal projects asserted that such agreements are fully lawful, are commonly used in federal construction, and often serve legitimate government interests in cost-efficient construction and stable labor relations. See Phoenix Engineering v. MK-Ferguson, Sixth Cir. No. 91-5227 (June

11, 1992) (upholding use of project agreements on U.S. Dept. of Energy nuclear project).

On October 15, 1991, the Supreme Court, in the course of determining whether to review a lower court decision in favor of an ABC challenge to the use of a project-wide agreement in the Boston Harbor Project, formally asked for the views of the Solicitor General. The Solicitor General, on April 15, 1992, filed a brief urging the Court to review the case, reject the ABC position, and validate the agreement as lawful. And the Solicitor General explicitly recognized that such agreements often further legitimate government interests in labor stability and cost-efficiency on government projects. After the Court granted review, the Solicitor General repeated this view in a more detailed brief as recently as July 1992. See Building Trades Counsel v. ABC, Supreme Court No. 91-261 ("Boston Harbor Case").

The ABC responded to the Solicitor General's position with a statement of "outrage" and a vow not to endorse President Bush's reelection "unless the Administration's position changes with regard to Boston Harbor." BNA Daily Labor Report (July 28, 1992) at A11-13. ABC also enlisted the support of the Right to Work Committee, which filed a brief to the Supreme Court opposing the Solicitor's view, and began a mail campaign to convince the White House to change its position. In August, ABC demanded "an executive order" prohibiting union contracting agreements on "all federal procurement and federally assisted projects." BNA Const. Labor Report (August 26, 1992).

Ten days before the election, "the Administration's position" changed: the President issued Executive Order 12818, which adopted ABC's last demand; ABC immediately endorsed Bush for reelection; and ABC pledged that the organization and its members would now "throw their full support" behind the Bush campaign.

In the words of a Clinton Campaign Statement, this was "a sharp reversal" of policy involving little more than the "use [of] the power of government to [attempt to] buy an election." The Executive Order should be withdrawn.

2. The Davis-Bacon Proclamation

In the last days of the campaign, the Bush Administration also gave in to the ABC on another significant labor policy issue. Claiming that the hurricane disasters in Florida, Louisiana, and Hawaii justified his action, the President issued a Proclamation suspending the operation of the Davis-Bacon Act -- which assures that all federal construction projects ~~will pay prevailing wages~~ -- in all areas effected by the disasters. Through this action -- which the ABC celebrated as a major victory -- the President opened all federal projects in those areas to non-union employers paying substandard wages and, indeed, gave such employers a competitive advantage.

That the policy of the Proclamation is flawed is made clear by the fact that, within the hurricane-effected areas, those jurisdictions that have their own prevailing wage statutes took no similar actions. For example, in Florida, despite the hurricane and the Bush Proclamation, Dade and Broward Counties have not

relaxed their enforcement of their own prevailing wage statutes. Instead, out of recognition that substandard wages often lead to substandard construction quality, as well as depressed living standards, these jurisdictions have continued to demand that decent wages be paid on their projects.

That the hurricane was more an excuse than a reason for the Proclamation is also demonstrated by the fact that the President's suspension of Davis-Bacon was not limited to federal disaster relief projects. Rather, all federal projects in these areas, no matter how unrelated to the disasters, will now be built under substandard labor conditions.

This is only the third time in history that the Davis-Bacon Act has been suspended by Presidential Proclamation, and it is the first time this was done on less than a nationwide basis and in a response to a situation of less than nationwide magnitude. (The previous suspensions involved the efforts of Presidents Roosevelt and Nixon to administer programs of nationwide wage and price regulation during periods of national economic crisis.) Given that the statute allows for suspension only in the case of a "national emergency," 40 U.S.C. §276a-5, the legal basis of the Proclamation is doubtful.

The Bush Administration has long supported the efforts of groups like the ABC to compete on the basis of substandard wages, and has, accordingly, long opposed the prevailing wage policies of the Davis-Bacon Act. The recent Proclamation is but the latest example of this benighted "low-wage" labor policy.