

DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR
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January 22, 2002

John C. Rinaldo, Purchasing Agent
City of Santa Rosa
Department of Administrative Services
55 Stony Point Road
Santa Rosa, CA 95401

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Department of Industrial Relations

JAN 23 2002

Re: Public Works Case No. 2001-055
Graffiti Removal Project
City of Santa Rosa

Div. of Labor Statistics & Research
Chief's Office

Dear Mr. Rinaldo:

This constitutes the determination of the Director of the Department of Industrial Relations regarding coverage of the above-referenced project under California's prevailing wage laws and is made pursuant to Title 8, California Code of Regulations ("CCR") section 16000(a). Based on my review of the facts of this case and an analysis of the applicable law, it is my determination that the work performed in the graffiti removal project ("Project") for the City of Santa Rosa ("City") is a public work within the meaning of Labor Code sections 1720 and 1771. However, the City of Santa Rosa is a charter city and, in this case, is exempt from the obligation to pay prevailing wages for this Project.

In this case, City desires to contract for the removal of graffiti on buildings and infrastructure located in the public right-of-way. The annual estimated value of the contract is \$130,000. The scope of work includes the following tasks: (a) Surface removal of graffiti by pressure washing and/or application of chemical cleaning agents and solvents; (b) covering over graffiti with paint application; (c) removal of graffiti by scouring, sanding or media blasting; and (d) surface preparation as in (c) followed by paint application.

Labor Code¹ section 1720(a) defines "public works" in relevant part as: "Construction, alteration, demolition, or repair work done under contract and paid for in whole or in part out of public funds." Section 1771 extends the definition of public works to include contracts let for maintenance for projects costing more than \$1,000.

¹ All section references are to the Labor Code unless otherwise indicated.

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Maintenance is defined under 8 CCR section 16000, in relevant part, as: "(1) Routine, recurring and usual work for the preservation, protection and keeping of any publicly owned or publicly operated facility (plant, building, structure, ground facility, utility system or any real property) for its intended purposes in a safe and continually usable condition for which it has been designed, improved, constructed, altered or repaired."

As described in the scope of work, the work on this Project consists of the routine and recurring removal of graffiti for the purpose of keeping the buildings and infrastructure in the public rights-of-way in a safe and continually usable condition. For this reason and consistent with past precedent², the work on this Project falls within the definition of maintenance under 8 CCR section 16000. In addition, the Project is work being done under contract and paid for by public funds. Therefore, this Project is a public work within the meaning of the Labor Code and applicable regulations.

Although the Project is a public work, City is exempt from the general state law requiring the payment of prevailing wages for the Project. Santa Rosa is a charter city under the California Constitution and is exempt from the general state law in matters of purely municipal concern. *Vial v. City of San Diego* (1981) 122 Cal.App.3d 346, 175 Cal.Rptr. 647. Here, the Project is a purely municipal affair because it takes place entirely within the City and is funded by City revenues. There are no facts present that would take the Project outside of the ambit of a municipal affair. Accordingly, City is exempt from the obligation to pay prevailing wages for the Project.

Sincerely,



Stephen J. Smith
Director

² Precedential Public Works Case No. 2001-005, Trash/Debris Removal from Railroad Right-of-Way and Facilities, Los Angeles County MTA, August 8, 2001.