



**City of
Santa Clara**
The Center of What's Possible

City Attorney's Office
Memorandum

Date: December 5, 2019

To: The Honorable Mayor and Council Members

From: City Attorney

Subject: Prevailing Wage Requirements for Recycling Contracts

Questions have arisen about whether the California Labor Code prevailing wage provisions apply to solid waste disposal and recycle contracts that are entered into by the City of Santa Clara.

State prevailing wage requirements do not apply to such contracts that are issued by cities.

Mention was made of a case called *Kaanaana v. Barrett Business Services*, 29 Cal.App.5th 778 (2d Dist. 2018), review granted 434 P.3d 1108, which was decided by the California Court of Appeal for the Second District. At issue in that case was a contract entered into by Los Angeles County Sanitation Districts with a company to provide employees for two publicly owned and operated recycling facilities. The Court found that under the express provisions of subsection (a)(2) of Labor Code section 1720 prevailing wages must be paid for "work done for irrigation, utility, reclamation, and improvement districts, and other districts of this type." Thus, the determination rested on the **type** of public agency issuing the contract and **not on the type of work** being done. The City of Santa Clara is not a sanitation district; therefore section 1720 (a)(2) does not apply to require state prevailing wages to work under a City recycling contract.

Although state law may not require Santa Clara recycling contractors to pay prevailing wages, the City could choose to require its contractors to pay a certain level of wages to workers who do work for the City.

Please contact me with any questions about this advice.

BRIAN DOYLE
City Attorney

cc: City Manager

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