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DIR Offers Favorable Decision on On-/Off-Hauling

AGC is pleased to inform its members that the Department of Industrial Relations (DIR) has recently issued “clarifications” to its January 23, 2006 decision on when and to what extent prevailing wage requirements apply to operators hauling material on or off a public works site. This clarification centers around the towboat operators on three Bay Area bridges and the San Diego West Mission Bay Drive Bridge Retrofit projects.

When the January 2006 determination was issued, AGC requested clarification on the portion of the decision that concluded haulers involved in “immediately incorporating materials into the public works site” were required to be paid prevailing wages. The clarification on the “Tow Boat ruling” came on the heels of AGC’s October 2005 filing a coverage determination for on-/off-haul trucking.

Based on the close proximity of the requests, the DIR decided to treat AGC’s request for clarification as an appeal on the Tow Boat ruling and combined it with other appeals filed on the case. A copy of the decision can be found at: <http://www.agc-ca.org/PDF/DIR-AdminAppeal8-02-06.pdf>.

Basically, the DIR agreed with AGC that the hauling between a dedicated site and a public works site is only covered by prevailing wage requirements if the site is adjacent to the site of the public works. The DIR decision states that when the two sites are adjacent, then hauling between the dedicated site and the public work site is to be treated as if it were hauling done on a single public works construction project. In addition to the clarification relative to the DIR ruling, which referenced “immediately into the public works” the DIR narrowly applied the definition to the site of construction, and made it clear that the Department will review the decision, if requested, on a case by case basis. The recent decision cited two cases that AGC was instrumental in achieving favorable decisions on as a basis for interpretation, the Alameda Corridor decision and the case involving Zim Mixer.

According to AGC’s CEO, Tom Holsman, “this decision represents more than two years of work with the Department and Caltrans. DIR’s clarification demonstrates the Department continues to move forward.”

The Associated General Contractors of California is the largest statewide construction trade association in California. Founded in 1920, AGC represents more than 1,100 leading firms of general contractors, specialty-contracting, service providers and suppliers. Visit the AGC of California web site at www.agc-ca.org.

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