



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

STAFF
September 4, 2007

Honorable Members of the
Law and Legislation Committee

**Title: City Code Amendment Relating to Payment of Prevailing Wages to
Volunteers on Public Projects**

Location/Council District: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee approve and forward to the full City Council an ordinance amending Sacramento City Code Section 3.60.010 and adding Section 3.60.195 to Chapter 3.60 of the Sacramento City Code relating to payment of prevailing wages to volunteers on public projects.

Contact: J.P. Tindell, Park Planning & Development Manager, 808-1955

Presenters: J.P. Tindell, Park Planning & Development Manager, 808-1955

Department: Parks and Recreation

Division: Park Planning & Development Services

Organization No: 4727

Description/Analysis

Issue: Staff has been requested to bring forward an ordinance amending the City's prevailing wage requirements to encourage the people of Sacramento to volunteer their time, expertise, and talents to City public projects and programs. By utilizing volunteers, the City not only gains the advantage of a broad source of expertise, talent, and manpower for City programs and projects, but it also provides an avenue for people to participate in their local government. Volunteers benefit by gaining a greater understanding and appreciation of their local government while strengthening the community's bond.

However, currently in some instances, volunteers cannot contribute their services because the City Code requires volunteers to be paid prevailing wages on certain public projects. Requiring volunteers to be paid prevailing wages contradicts the spirit and intent of volunteer service and inhibits the City's goal of encouraging the utilization of volunteers in public projects and programs. This ordinance

encourages citizen initiative and volunteer action in City service by eliminating disincentives and impediments to volunteering on public projects. The State of California made the same change to the Labor Code; therefore, this ordinance will also ensure that the Sacramento City Code is consistent with state law regarding payment of prevailing wages to volunteers.

Policy Considerations: The Sacramento City Code currently requires volunteers to be paid prevailing wages on certain public projects. The anticipation is that this ordinance will eliminate this disincentive and impediment to volunteering on public projects.

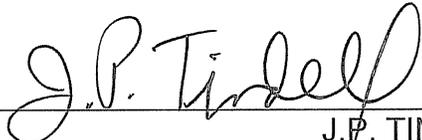
Environmental Considerations: This report concerns administrative activities that will not have a significant effect on the environment, and does not constitute a "project" as defined by the California Environmental Quality Act (CEQA) [CEQA Guidelines Sections 15061(b)(3); 15378(b)(2)].

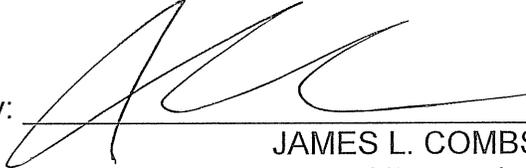
Committee/Commission Action: Not applicable.

Rationale for Recommendation: By utilizing volunteers, the City not only gains the advantage of a broad source of expertise, talent, and manpower for City programs and projects, but it also provides an avenue for people to participate in their local government. Volunteers benefit by gaining a greater understanding and appreciation of their local government while strengthening the community's bond. However, requiring volunteers to be paid prevailing wages contradicts the spirit and intent of volunteer service and inhibits the City's goal of encouraging the utilization of volunteers in public projects and programs. Therefore, it is requested that the City Code be amended to remove impediments to volunteerism.

Financial Considerations: None.

Emerging Small Business Development (ESBD): There are no ESBD considerations with this report.

Respectfully submitted by: 
J.P. TINDELL
Park Planning and Development Manager

Approved by: 
JAMES L. COMBS
Director, Parks and Recreation

Recommendation Approved:

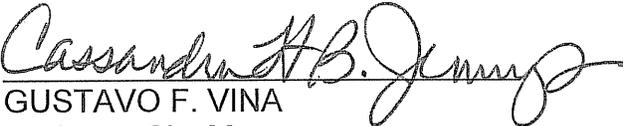

GUSTAVO F. VINA
Assistant City Manager

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Ordinance - Redline

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

**AN ORDINANCE AMENDING SECTION 3.60.010 AND
ADDING SECTION 3.60.195 TO CHAPTER 3.60 OF THE
SACRAMENTO CITY CODE RELATING TO WAGES PAID
UNDER CONTRACTS FOR PUBLIC PROJECTS, AND
DECLARING THE ORDINANCE TO BE AN EMERGENCY
MEASURE TO TAKE EFFECT IMMEDIATELY**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

The City Council finds and determines that:

- A. The City of Sacramento encourages the people of Sacramento to volunteer their time, expertise, and talents to the City in various ways including providing assistance with animal care, gardening, tours, arts and crafts, child development, special events and park projects.
- B. By utilizing volunteers, the City not only gains the advantage of a broad source of expertise, talent, and manpower for City programs and projects, but it also provides an avenue for people to participate in their local government. Volunteers benefit by gaining a greater understanding and appreciation of their local government while strengthening the community's bond.
- C. The City is committed to maintaining a close relationship between community volunteers and the City government. In some instances, however, volunteers cannot perform their services because a provision of the City Code requires volunteers to be paid prevailing wages on certain public projects.
- D. Requiring volunteers to be paid prevailing wages contradicts the spirit and intent of volunteer service and inhibits the City's goal of encouraging the utilization of volunteers in public projects and programs.
- E. The City Code should be amended to remove impediments to volunteerism.

SECTION 2.

Section 3.60.010 of Title 3 of the Sacramento City Code is amended to read as follows:

3.60.010 Definitions.

The following words and phrases whenever used in this chapter shall be construed as defined in this section.

“City manager” means the city manager of the city of Sacramento or an official specifically designated to act for the city manager. Authorization not specified in this chapter shall be made in writing by the city manager and filed with the city clerk.

“Maintenance” means recurrent, periodical, or scheduled work required to preserve a facility. It includes:

1. Work required to restore components which have deteriorated from wear and tear; and
2. Other work on a facility to prevent damage or deterioration to that facility which otherwise would be more costly to restore.

“Public project” means and includes the following:

1. A project for the erection, improvement, and remodeling of public buildings and works;
2. Work in or about streams, bays, waterfronts, embankments or other work for protection against overflow;
3. Street, sewer or water work except maintenance or repair;
4. Furnishing supplies or materials for any such projects.

~~“Public project” shall not include any work which meets all of the following conditions:~~

- ~~1. The work is performed entirely by volunteer labor.~~
- ~~2. The work involves facilities or structures which are, or will be, used exclusively by, or primarily for or on behalf of, private nonprofit community organizations including, but not limited to, charitable, youth, service, veterans, and sport groups or associations.~~
- ~~3. The work will not have an adverse impact on city wide employment. The city manager or designated representative, shall determine whether or not the work will have an adverse impact on employment within the city, through a survey of business establishments performing work of the type proposed. This survey shall be performed not more than ninety (90) days before the start of the project.~~

~~4. The work is approved by the city manager as meeting the requirements of this section.~~

“Remodel” means alteration or conversion work on an existing facility to change its use, function, or layout.

“Repair” means restoration of a facility or components to such condition that it may be used effectively for its designated purpose, by overhaul, or replacement of constituent parts or materials that have deteriorated by action of the elements, vandalism, wear and tear which cannot be corrected through maintenance. Repair includes restoring or replacing components of facilities damaged by fire, storm, explosions, the elements, and other such disasters.

SECTION 3.

Section 3.60.195 is added to Title 3 of the Sacramento City Code to read as follows:

3.60.195 Volunteers.

A. Section 3.60.180 shall not apply to any of the following work:

1. Any work performed by a volunteer. For purposes of this section, "volunteer" means an individual who performs work for civic, charitable, or humanitarian reasons for a public agency or corporation qualified under Section 501(c)(3) of the Internal Revenue Code 1 as a tax-exempt organization, without promise, expectation, or receipt of any compensation for work performed.

a. An individual shall be considered a volunteer only when his or her services are offered freely and without pressure and coercion, direct or implied, from an employer.

b. An individual may receive reasonable meals, lodging, transportation, and incidental expenses or nominal nonmonetary awards without losing volunteer status if, in the entire context of the situation, those benefits and payments are not a substitute form of compensation for work performed.

c. An individual shall not be considered a volunteer if the person is otherwise employed for compensation at any time (a) in the construction, alteration, demolition, installation, repair, or maintenance work on the same project, or (b) by a contractor, other than a corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, that is receiving payment to perform construction, alteration, demolition, installation, repair, or maintenance work on the same project.

2. Any work performed by a volunteer coordinator. For purposes of this section, "volunteer coordinator" means an individual paid by a corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, to

oversee or supervise volunteers. An individual may be considered a volunteer coordinator even if the individual performs some nonsupervisory work on a project alongside the volunteers, so long as the individual's primary responsibility on the project is to oversee or supervise the volunteers rather than to perform nonsupervisory work.

3. Any work performed by members of the California Conservation Corps or members of Community Conservation Corps certified by the California Conservation Corps pursuant to Section 14507.5 of the Public Resources Code.

B. This section shall apply retroactively to otherwise covered work concluded on or after August 1, 2007.

Adopted by the City of Sacramento City Council on _____ by the following vote:

Ayes:

Noes:

Abstain:

Absent:

MAYOR

Attest:

City Clerk

Passed for Publication:

Published:

Effective:

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c. An individual shall not be considered a volunteer if the person is otherwise employed for compensation at any time (a) in the construction, alteration, demolition, installation, repair, or maintenance work on the same project, or (b) by a contractor, other than a corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, that is receiving payment to perform construction, alteration, demolition, installation, repair, or maintenance work on the same project.

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