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Office of the City Clerk

City Council Document Tracking Sheet

Meeting Date:	10/5/2011
Sponsor(s):	Ervin, Jason C (28)
Type:	Ordinance
Title:	Amendment of Chapter 2-92 of Municipal Code concerning workforce contracts at airports
Committee(s) Assignment:	Committee on Workforce Development and Audit

Workforce Development + Audit

ORDINANCE

WHEREAS, O'Hare International Airport and Midway International Airport are the major gateways to the City of Chicago; and

WHEREAS, the City of Chicago has a financial and proprietary interest in the success of contractors doing business at O'Hare International Airport and Midway International Airport; and

WHEREAS, passengers and others using the Airports need and deserve uninterrupted access to concessions at the Airports; and

WHEREAS, work disruptions at the Airports can lead to unnecessary and costly delays for the traveling public and a loss of revenue for the City; and

WHEREAS, the City wishes to shield itself, its citizens, and visitors from any impact that labor disputes may have to the extent legally permissible; and

WHEREAS, the City is dedicated to exceptional customer service; and

WHEREAS, incumbent employees have invaluable knowledge and experience regarding Airport operations and the professional handling of conditions peculiar to an airport such as sudden influxes of customers at odd hours and intervals; and

WHEREAS, the City of Chicago in 1998 adopted the Chicago Jobs and Living Wage Ordinance to ensure that employees of City contractors receive a minimum wage that keeps them out of poverty; and

WHEREAS, thousands of employees of City contractors working in airport concessions O'Hare International Airport and Midway International Airport have been excluded from the City's living wage; and

WHEREAS, the City finds that concession contracts should not be carved out of City minimum wage requirements applying to other City contracts; and

WHEREAS, a number of airports around the country have adopted policies to protect concessions revenue from disruptions, ensure workforce stability during contractor transitions, or set a minimum wage for contracted workers including Los Angeles International Airport, John F Kennedy International Airport, Miami International Airport, LaGuardia International Airport, Newark International Airport, San Francisco International Airport, Cleveland Hopkins International Airport, Norman Y Mineta (San Jose) International Airport, TF Green (Providence) International Airport, Seattle-Tacoma International Airport, Phoenix Sky Harbor International Airport and San Diego International Airport, among others; and

WHEREAS, the City finds that provisions protecting the City from labor disruptions and ensuring workforce stability during contractor transitions at the Airports should be included in all future contracts with airport contractors,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The above recitals are expressly incorporated herein and made part hereof as though fully set forth herein.

SECTION 2. Chapter 2-92 of the Municipal Code of the City of Chicago is hereby amended by inserting a new section 2-92-615 as follows:

2-92-615 Workforce stability during transitions at airports

A. All Contracts as defined in Municipal Code Section 2-92-610(A)(1) at O'Hare International Airport and Midway International Airport, and Requests for Proposals and Requests for Qualifications for such Contracts, shall require that incoming Contractors retain for a ninety (90) work day trial period those employees of Incumbent Contractors who wish to continue working for the incoming contractors. "Contractors" for the purposes of this section means businesses awarded Contracts as defined in Municipal Code Section 2-92-610(A)(1) at O'Hare International Airport and Midway International Airport. "Incumbent Contractors" includes not only contractors operating at the time of the RFP or RFQ providing a similar service, but also any prior Contractor at that airport providing a similar service. The City will provide the incoming Contractors with a list to the best of its knowledge of the incumbent employees' names, addresses, dates of hire and employment classifications who are interested in continued employment. Employees may not be discharged without just cause during the trial period of ninety (90) workdays. A determination of "just cause" under a collectively-bargained grievance procedure if any shall be binding under this provision. If the incoming Contractors determine that fewer employees are required than were required by the previous Contractors, the incoming Contractors shall retain Employees by seniority within each job classification, and those not rehired at that time shall be placed on a preferential rehire list to be used by the incoming Contractor to hire any additional employees needed in the future. All such Contracts shall state that employees are intended beneficiaries of this provision and have a private right of action to enforce this provision, including the right to recover legal fees and expenses from the employer should they prevail in a suit enforcing this provision.

B. Nothing herein shall be construed to provide any right of action for damages against the City.

SECTION 3. Chapter 2-92 of the Municipal Code of the City of Chicago is hereby amended by inserting a new section 2-92-615 as follows:

2-92-616 Protection from disruptions at airports

All agreements with concessionaires or concessions developers to operate or develop food or retail concessions at O'Hare International Airport or Midway International Airport and all agreements with any contractor, subcontractor, tenant, or subtenant thereof operating such a concession and all Requests for Proposals and Requests for Qualifications for such contracts shall require that proposers provide an assurance of labor peace in order to protect the City's proprietary interest in the uninterrupted receipt of revenues and provision of services from the risk of labor disruptions. Each Proposer shall include in its response evidence that it is signatory to an enforceable agreement with each labor organization that represents or seeks to represent concession employees at O'Hare International Airport or Midway International Airport which contains a provision prohibiting the labor organization and its members from picketing, work stoppages, boycotts or other economic interference with the City's proprietary interests in such concession for the duration of the contract with the City for such concession. The term "agreements" herein includes any agreement between a City concessionaire or developer and any of its subconcessionaires, tenants, subtenants, contractors or subcontractors operating food or retail concessions at O'Hare International Airport or Midway International Airport. The labor peace assurance shall become a material part of these agreements Such agreements shall also provide that in the event of a material breach of the labor peace assurance, the City shall have the right to terminate the agreement in addition to all other remedies contained in the contract or otherwise available, and that the Contractor shall reimburse the City's legal fees and expenses if the City prevails in any action brought to enforce these provisions.

SECTION 4. Chapter 2-92 of the Municipal Code of the City of Chicago is hereby amended by inserting the language underscored as follows:

2-92-610 Contracts requiring a base wage.

(Omitted text is unaffected by this ordinance.)

A. Definitions. For the purpose of this section only, the following terms shall have the following meanings:

1. "Contract" means any written agreement whereby the city is committed to expend or does expend funds in connection with any contract or subcontract which requires in the performance thereof the employment of full-time non-city employed security guards, parking attendants, day laborers, home and health care workers, cashiers, elevator operators, custodial workers, and clerical

workers, except the term "contract" shall not include contracts with not-for-profit organizations. "Contract" shall also mean any agreement with a concessionaire or developer to operate food or retail concessions at O'Hare International Airport or Midway International Airport or any contractor, subcontractor, tenant, or subtenant thereof operating such a concession.

(Omitted text is unaffected by this ordinance.)

3. "Eligible contractors" means any person awarded by the city of Chicago or agency thereof a contract which requires in the performance thereof the employment of 25 or more full-time non-city employed security guards, the employment of non-city employed parking attendants, the employment of non-city employed day laborers, the employment of non-city employed home and health care workers, the employment of non-city employed cashiers, the employment of non-city employed elevator operators, the employment of non-city employed custodial workers, and the employment of non-city employed clerical workers, "eligible contractors" as used in this section shall not include any person or entity with fewer than 25 full-time employees. "Eligible contractors" shall also mean any business operating a food or retail concession at O'Hare International Airport or Midway International Airport or developing such concessions using in the performance thereof 25 or more directly employed or subcontracted employees, and "subcontractor" shall also include any tenant, subtenant, or subconcessionaire.

(Omitted text is unaffected by this ordinance.)

F. Every Airport concessionaire employer of servers and bartenders for whom gratuities have customarily and usually constituted and have been recognized as part of the remuneration for employment purposes is entitled to an allowance for gratuities for those employees as part of the base wage rate provided in Section (A)(5) in an amount not to exceed 40% of the applicable minimum wage rate. The chief procurement officer shall require each employer desiring an allowance for gratuities to provide substantial evidence that the amount claimed, which may not exceed 40% of the applicable minimum wage rate, was received by the employee in the period for which the claim of exemption is made, and no part thereof was returned to the employer.

G. All Contracts shall state that employees are intended beneficiaries of the contract provisions inserted pursuant to this Section with a private right of action to enforce such provisions, and that employees be awarded appropriate legal fees from the employer if they prevail in a suit enforcing such provision.

H. Nothing in this Section shall be construed to provide a right of action against the City for wages or damages.

SECTION 5. This ordinance shall be in full force and effect upon its passage and publication, and shall apply to all contracts signed after such date irrespective of the contents of requests for proposals or requests for qualifications issued prior thereto.

Alderman Jason C. Ervin

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