

A resolution/ordinance by Supervisor Nicholson, creating Section 4.34 of the Milwaukee County Code of General Ordinances to require Workforce Development Labor Market Intermediary Agreements for employers employing people to operate airport concessions at General Mitchell International Airport, by recommending adoption of the following:

### **AN AMENDED RESOLUTION/ORDINANCE**

WHEREAS, Milwaukee County (the County) operates General Mitchell International Airport (GMIA), which derives revenue from the sale of concessions to the public through agreements with concessions operators, under which these concessionaires pay rent to the airport and remit a percentage of gross sales revenue; and

WHEREAS, to protect the proprietary interest in concessions at GMIA, the County deems beneficial measures to ensure the efficient, effective, and uninterrupted operations of concessionaires at the airport; and

WHEREAS, a quality workforce pipeline providing operations personnel labor is essential to the efficient, effective, and uninterrupted operation of concessionaires; and

WHEREAS, the County is aware that the Milwaukee Bucks entered into a community benefits agreement for the new arena and surrounding development zone covering post-construction, end-use employment in the food and beverage service, hospitality, retail and property service sectors, that included, amongst other provisions, a "first source hiring" requirement, and a provision requiring end-use employers to source potential employees through a designated workforce development labor market intermediary organization, or hiring hall, and this agreement can and should be a model and community standard; and

WHEREAS, airport concessions include food and beverage service, hospitality, and retail sector employment similar to that at the new arena and in the surrounding development; and

WHEREAS, the Committee on Transportation, Public Works, and Transit, at its special meeting of March 22, 2018, recommended adoption of File No. 18-259 as amended (vote 2-2), with no recommendation due to tie vote; now, therefore,

BE IT RESOLVED, the Milwaukee County Board of Supervisors hereby amends Chapter 4 of the Milwaukee County Code of General Ordinances by adopting the following:

45 **AN AMENDED ORDINANCE**

46  
47 The County Board of Supervisors of the County of Milwaukee does ordain as follows:

48  
49 **SECTION 1.** Chapter 4 of the Milwaukee County Code of Ordinances is amended as  
50 follows:

51  
52 Section 4.34 – Airport Concessions Workforce Development Labor Market Intermediary  
53 Agreements.

54  
55  
56 4.34.01. – Policy.

57  
58 It shall be the policy of Milwaukee County that in order to promote effective  
59 operation of airport concessions, Milwaukee County shall require certain airport  
60 concessions operators enter into agreements with a workforce development labor  
61 market intermediary.

62  
63 4.34.02. – Definitions.

64  
65 (1) Following definitions shall apply:

- 66 (a) County means the County of Milwaukee, its agencies, its authorities, and any  
67 quasi-public entities, which either receive appropriations from the County,  
68 have entered into continuing contractual or cooperative relationships with the  
69 County including any agreement whereby the County funds an agency's debt  
70 service, or operate under legal authority granted to them by the County of  
71 Milwaukee.
- 72  
73 (b) County airport means any airport owned or operated by the County of  
74 Milwaukee or any airport operating under legal authority granted to them by  
75 the County of Milwaukee.
- 76  
77 (c) Concessions agreement means any agreement between the County of  
78 Milwaukee or the County airport and another party regarding a concession on  
79 the premises of a county airport, including but not limited to food and  
80 beverage service and retail.
- 81  
82 (d) Contractor means any person, corporation, company, association, limited or  
83 general partnership, joint venture, or other business entity party to a  
84 concessions agreement.
- 85  
86 (e) Covered employees means all employees employed as part of a concessions  
87 agreement and/or on the premises of a county airport as part of a  
88 concessions agreement; "Covered Employees" does not include managerial  
89 or supervisory employees.
- 90

- (f) Employer means any person, corporation, company, association, limited or general partnership, joint venture, or other business entity that employs Covered Employees as part of concessions agreement and/or on the premises of a county airport as part of a concessions agreement; "Employer" is deemed to include a Contractor as well as any contractor, subcontractor, lessee, sublessee, or similar business entity that employs Covered Employees as part of a concessions agreement and/or on the premises of a county airport as part of a concessions agreement and successors to, assignees of, and transferees from a Contractor, subcontractor, lessee, sublessee, or similar business entity that employs Covered Employees.
- (g) Workforce development labor market intermediary organization means an organization organized under chapter 501(c)(5) of the Internal Revenue Code which exists for the purpose, in whole or in part, of dealing with employers and employees to facilitate and promote greater efficiency in labor markets.
- (h) Qualified labor market intermediary means a Workforce Development Labor Market Intermediary that registers with the airport director an intention to seek a Workforce Development Labor Market Intermediary Agreement under this ordinance; and, that is party to a current agreement related to workforce or the labor market with another employer or developer employing or causing to be employed within Milwaukee County employees in the food and beverage sector, hospitality sector, retail sector, or some combination of the foregoing; and, that is party to a current agreement related to workforce or the labor market with another employer or developer employing or causing to be employed within Milwaukee County employees to be sourced from a defined geographic area; and, that is party to a current agreement related to workforce or the labor market with another employer or developer employing or causing to be employed within Milwaukee County employees sourced through the Workforce Development Labor Organization.
- (i) Workforce development labor market intermediary agreement means a written agreement between a Contractor and a Qualified Labor Market Intermediary that contains, at a minimum, provisions as specified in this ordinance. The Contractor or Employer and the Qualified Labor Market Intermediary may incorporate additional provisions.

#### 4.34.03. – Workforce Development Labor Market Intermediary Agreement Requirement.

- (1) The County shall require as a material condition in any concessions agreement, for the duration of the concessions agreement, a provision requiring the Contractor enter into a Workforce Development Labor Market Intermediary Agreement with a Qualified Workforce Development Labor Market Intermediary that notifies the Contractor and the airport director it seeks to enter into such agreement; the Contractor shall enter into such agreement within thirty (30) days

of notification by the Labor Organization and prior to the execution by the County of any concessions agreement.

- (2) The County shall require as a condition precedent to execution of any Concessions Agreement that a Contractor produce for the County a sworn affidavit that it shall comply with the requirements of this ordinance for the duration of the concessions agreement, but if a Qualified Workforce Development Labor Market Intermediary has notified the Contractor prior to execution of the Concessions Agreement that it seeks to enter into a Workforce Development Labor Market Intermediary Agreement with the Contractor, the County shall require of the Contractor a copy of the signed Workforce Development Labor Market Intermediary Agreement as required under this ordinance, and the copy shall include the signatures of the duly authorized representatives of the parties including the Contractor and the Qualified Workforce Development Labor Market Intermediary.
- (3) The Contractor shall be required to incorporate the terms of this ordinance into any contract, subcontract, lease, sublease, management or operating agreement, or other similar agreement, giving a right to any Employer to own, manage, or operate any enterprise related to the concessions agreement on the premises of a county airport, or other similar arrangement, which employs Covered Employees on the premises of a county airport, for the duration of the concessions agreement, such that any requirements of the ordinance upon the Contractor shall apply in the same to such Employer.
- (4) The Contractor shall be required to incorporate the terms of the Workforce Development Labor Market Intermediary Agreement into any contract, subcontract, lease, sublease, management or operating agreement, or other similar agreement, giving a right to any Employer to own, manage, or operate any enterprise related to the concessions agreement on the premises of a county airport, or other similar arrangement, which employs Covered Employees on the premises of a county airport, for the duration of the concessions agreement.
- (5) The Contractor shall be required to incorporate the terms of this ordinance into any agreement with a successor, assignee, or transferee, for the duration of the concessions agreement, such that any requirements of the ordinance upon the Contractor shall apply in the same to such successor, assignee, or transferee.
- (6) The Contractor shall be required to incorporate the terms of the Workforce Development Labor Market Intermediary Agreement into any agreement with a successor, assignee, or transferee, for the duration of the concessions agreement.
- (7) A request for proposals or invitation to bid or similar document regarding a concessions agreement or similar arrangement which might be covered by this ordinance shall include a summary description of and reference to this ordinance.

All bidders for a concessions agreement or similar arrangement which might be covered by this ordinance shall provide in their submission(s) a sworn affidavit demonstrating recognition of the requirements of this ordinance and affirming their obligation to comply with its provisions. Failure to include a description or reference to this ordinance shall not exempt a bidder, Contractor, or Employer otherwise subject to the requirements of this ordinance. Failure to provide a sworn affidavit shall disqualify any bid from consideration. In the event that a bidding process has not included reference to this ordinance, the County shall be required still to include the requirement for a Workforce Development Labor Market Intermediary Agreement as a material condition in any concessions agreement. No concessions agreement shall be executed until the Contractor satisfies the requirements of this ordinance, including production for the County of a signed copy of a Workforce Development Labor Market Intermediary Agreement.

(8) The Workforce Development Labor Market Intermediary Agreement shall include, at a minimum, the following provisions:

- (a) *First Source Hiring - Milwaukee County:* A percentage of Wisconsin employees to be hired by the Contractor or Employer for concessions operations at General Mitchell International Airport who reside at the time of hire in a defined set of zip codes within Milwaukee County, which shall be not less than fifty (50) percent. Employees from states other than Wisconsin are excluded when making the calculations set forth in this paragraph.
- (b) *First Source Hiring - Targeted Zip Codes:* A percentage of Wisconsin employees to be hired by the Contractor or Employer for concessions operations at General Mitchell International Airport who reside at the time of hire in a defined set of zip codes within Milwaukee County, identified for high poverty rates, unemployment rates, and underemployment rates, which shall be not less than thirty (30) percent. Employees from states other than Wisconsin are excluded when making the calculations set forth in this paragraph.
- (c) *Hiring Hall:* A binding obligation or requirement that the Contractor or Employer source potential employees through the Qualified Labor Market Intermediary Organization.
- (d) *Monitoring and Enforcement:* The means of monitoring and enforcement by the Qualified Labor Market Intermediary Organization and remedial steps to be taken by the Contractor or Employer in the event the Contractor or Employer cannot or do not comply with the substantive terms of the Workforce Development Labor Market Intermediary Agreement as required under this enforcement.

- 227 (e) Other provisions deemed necessary to implement the Workforce  
228 Development Labor Market Intermediary agreement that are not  
229 unreasonable, and maintain or facilitate efficient, effective, and continuous  
230 operation of airport concessions.  
231 (f) The workforce development labor market intermediary may not restrict the  
232 hiring of employees from states other than Wisconsin.  
233

234 4.34.04. – Other Provisions.  
235

- 236 (1) Contractors and Employers and Qualified Labor Market Intermediary  
237 Organizations are hereby encouraged by Milwaukee County to unify and  
238 standardize the provisions of agreements such as those required under this  
239 ordinance, including but beyond the required Workforce Development Labor  
240 Market Intermediary Agreement, and to unify and combine operations of their  
241 implementation, so as to achieve economies of scale and greatest impact to  
242 bring greater efficiency and effectiveness to sectoral labor markets to the benefit  
243 of employers and employees.
- 244 (2) Any person or organization may file with the County a complaint of  
245 noncompliance with this ordinance. Upon any complaint, the County shall  
246 investigate and take any action necessary to enforce compliance, including but  
247 not limited to instituting a civil action for an injunction and/or specific  
248 performance. In the event the County brings a civil action for enforcement, any  
249 person or organization by or with a direct interest in compliance with this  
250 ordinance may join in that action as a real party in interest.  
251
- 252 (3) A Contractor or Employer that employs fewer than five (5) persons through all  
253 affiliated business entities in the United States shall be exempt from the  
254 provisions of this ordinance, provided they expressly seek and obtain a waiver  
255 from the airport director, or her/his designee, where such a waiver shall not be  
256 unreasonably denied.  
257
- 258 (4) Nothing in this ordinance requires a Contractor or Employer to abide by the  
259 provisions of this ordinance for any employment which is not part of a  
260 concessions agreement.  
261
- 262 (5) This chapter is not intended to, and shall not be interpreted to, enact or express  
263 any generally applicable policy regarding labor relations or to regulate those  
264 relations in any way.  
265
-

266 4.34.05. – Severability.

267  
268 If any section or portion of a section of this ordinance is declared illegal, invalid,  
269 or inoperative, in whole or in part, by any court of competent jurisdiction, the remaining  
270 sections and all portions not declared illegal, invalid, or inoperative shall remain in full  
271 force of effect, and no such determination shall invalidate the remaining sections or  
272 portions of the sections of this ordinance.

273  
274 4.34.06 – Exemption for Collective Bargaining Agreement

275 None of the provisions of this article will be enforced with respect to employment  
276 that is governed by a bona fide collective bargaining agreement that was entered into  
277 prior to [ordinance effective date] and that remains in force on [ordinance effective date].  
278 All of the provisions of this article, or any part of the article, may be waived by a bona  
279 fide collective bargaining agreement, but only if the waiver is explicitly set forth in that  
280 agreement in clear and unambiguous terms. Unilateral implementation of terms and  
281 conditions of employment by either party to a collective bargaining relationship shall not  
282 constitute or be permitted as a waiver of all or any part of the provisions of this article.

283  
284 **SECTION 2.** The provisions of this ordinance shall become effective upon passage and  
285 publication.

286  
287  
288 srb  
289 03/22/18  
290 U:\Committees\2018\Mar\TPWT Special\Resolutions\18-259 GMIA Concessions Workers.docx