

23 **Sec. 26-101. Definitions.**

24 As used in the Living Wage Ordinance, reference to one gender shall include all
25 others; use of the plural shall include the singular; and use of the singular shall include
26 the plural. The following definitions apply unless the context in which the word or phrase
27 is used requires a different meaning:

28 . . .

29 (h) *Covered employee* means:

30 (1) Each individual employed by a service contractor for a minimum of twenty
31 (20) hours per week who, during the employment, is or was involved in
32 providing services pursuant to the service contractor's contract with the
33 County, except where the individual's primary compensation is composed
34 of tips;

35 (2) Each individual employed by an airline service provider who, during the
36 employment, is or was involved in providing covered airport services
37 pursuant to Section 26-101(l). Individuals employed by an airline service
38 provider whose primary compensation is composed of tips are not covered
39 employees, except for wheelchair attendants, skycaps, and employees
40 performing porter assistance services, including curbside check-in, as
41 described in Section 26-101(l)(6); and

42 (3) Each County employee who is in a part-time benefit-eligible or full-time
43 benefit-eligible position, as determined by the County.

44 . . .

45 (o) Security services officer means a covered employee employed by a service
46 contractor that provides security services pursuant to a service contract awarded by the
47 County. For purposes of this definition, security services officer also means security
48 guard.

49 (ø) (p) *Service contractor* means any for profit individual, corporation, partnership,
50 limited liability company, joint venture, or similar entity that:

51 (1) Is paid, whether directly or indirectly, from one (1) or more of the County's
52 general fund, enterprise funds, capital project funds, or any other funds to
53 provide covered services to the County pursuant to a service contract;

54 (2) Contracts with a service contractor as described in Section ~~26-101(ø)(1)~~
55 26-101(p)(1) to provide some of the covered services included in the service
56 contract between that service contractor and the County; or

57 (3) Is a concessionaire.

58 (q) Written declaration means a document that is verified in accordance with
59 Section 92.525, Florida Statutes.

60 Section 2. Section 26-102 of the Broward County Code of Ordinances is hereby
61 amended to read as follows:

62 **Sec. 26-102. Living wage.**

63 (a) *Living wage requirement.*

64 (1) ~~Living Wage Obligation through December 31, 2018. Through~~
65 ~~December 31, 2018, each covered employer shall pay each of its covered~~
66 ~~employees the amount listed in paragraph a. or b. immediately below:~~

67 a. ~~Living wage rate with health care benefits. A living wage of no less~~
68 ~~than Twelve Dollars and Thirty-eight Cents (\$12.38) per hour, in~~
69 ~~addition to health care benefits as described in Section 26-102(d)~~
70 ~~below.~~

71 b. ~~Living wage rate without health care benefits. If a covered employer~~
72 ~~does not offer a covered employee health care benefits, a living wage~~
73 ~~of no less than Twelve Dollars and Thirty-eight Cents (\$12.38) per~~
74 ~~hour, plus an additional wage rate of One Dollar and Sixty-one Cents~~
75 ~~(\$1.61) per hour.~~

76 (2) (1) ~~Living Wage Obligation Effective January 1, 2019, for New Contracts~~
77 ~~Entered Into on or after January 1, 2019~~ 2023. Each covered employer
78 entering into a new service contract on or after January 1, ~~2019~~ 2023, shall
79 pay each of its covered employees the amount listed in paragraph a. or b.
80 immediately below:

81 a. ~~Living wage rate with health care benefits. A living wage of no less~~
82 ~~than Thirteen Dollars and Twenty-seven Cents (\$13.27)~~ Fifteen
83 Dollars (\$15.00) per hour for covered employees other than security
84 services officers, or Seventeen Dollars and Seventeen Cents
85 (\$17.17) per hour for security services officers, adjusted as provided
86 below, in addition to health care benefits as described in
87 Section 26-102(d) below.

88 b. ~~Living wage rate without health care benefits. If a covered employer~~
89 ~~does not offer a covered employee health care benefits, a living wage~~

90

91 of no less than ~~Thirteen Dollars and Twenty-seven Cents (\$13.27)~~
92 Fifteen Dollars (\$15.00) per hour for covered employees other than
93 security services officers, or Seventeen Dollars and Seventeen
94 Cents (\$17.17) per hour for security services officers, plus the health
95 care benefit amount, as defined below in Section 26-102(d)(1),
96 adjusted as provided below.

97 ~~(3)~~ (2) *Living Wage Obligation Effective January 1, 2019, for Contracts Entered*
98 *Into Prior to January 1, 2019* 2023, *Including Renewals, Amendments, and*
99 *Extensions Thereof.* Commencing January 1, ~~2019~~ 2023, each covered
100 employer with a service contract entered into prior to January 1, ~~2019~~ 2023,
101 shall pay each of its covered employees the amount listed in paragraph a.
102 or b. immediately below (a)(1) above, subject to the following conditions
103 precedent ~~stated in paragraph c. immediately below.~~

104 a. ~~Living wage rate with health care benefits.~~ A living wage of no less
105 than ~~Thirteen Dollars and Twenty-seven Cents (\$13.27) per hour,~~
106 ~~adjusted as provided below, in addition to health care benefits as~~
107 ~~described in Section 26-102(d) below.~~

108 b. ~~Living wage rate without health care benefits.~~ If a covered employer
109 does not offer a covered employee health care benefits, a living wage
110 of no less than ~~Thirteen Dollars and Twenty-seven Cents (\$13.27)~~
111 ~~per hour, plus the health care benefit amount, as defined below in~~
112 ~~Section 26-102(d)(1), adjusted as provided below.~~

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e. *Conditions Precedent.*

Notwithstanding anything to the contrary stated in Section 26-102, each covered employer shall continue to pay the living wage rate with health care benefits or the living wage rate without health care benefits, as applicable, that would otherwise be in effect immediately prior to the ~~adoption~~ effective date of this amendment to the Living Wage Ordinance, adjusted as provided in Section ~~26-102(e)~~ 26-102(f), unless and until the condition established in either paragraph 4 a or paragraph ~~2~~ b immediately below occurs:

4. a. The County and the covered employer enter into a written amendment expressly applying to the underlying service contract the higher living wage and health care benefit amount, and any applicable paid time off requirement, established by this amendment to the Living Wage Ordinance. The amendment may provide funding by the County to reasonably mitigate increased costs, if any, resulting from this amendment to the Living Wage Ordinance provided (i) the covered employer certifies in writing that any such funding provided by the County equals or is less than the amount of such increased costs; (ii) the County's contract administrator certifies in writing that, after diligent review of applicable documentation, the contract administrator concurs with the covered employer's certification; and (iii) the County's payment of any such mitigation costs is funded through the same funding source used for payments under the underlying contract (e.g., general fund dollars may only be

136 used to pay mitigation costs in connection with those contracts
137 funded through general fund dollars); or

138 ~~2.~~ b. The covered employer provides written consent and express waiver
139 of any objection or defense to the application of the higher living
140 wage established by this amendment to the Living Wage Ordinance,
141 in form and substance approved by the Office of the County Attorney.

142 On or before ~~April 1, 2019~~ March 1, 2023, the County Administrator, through
143 applicable staff, shall present to the County Commission each affected
144 service contract entered into prior to January 1, ~~2019~~ 2023, as to which
145 neither the condition stated in paragraph 4 a nor the condition stated in
146 paragraph ~~2~~ b has been met, and shall concurrently recommend in writing
147 whether each such contract should be terminated for convenience (if and
148 as permitted under the contract) or continued. For each contract as to which
149 staff is recommending a continuation, staff's recommendation shall state
150 the operational justification for such continuation. The County Commission,
151 after considering staff's recommendations, shall determine the appropriate
152 action to take regarding each contract.

153 With regard to service contracts entered into prior to January 1, ~~2019~~ 2023,
154 as to which neither the condition stated in paragraph 4 a nor the condition
155 stated in paragraph ~~2~~ b has been met, staff may not approve any
156 amendment, renewal, or extension thereof unless the amendment, renewal,
157 or extension includes a commitment by the covered employer to pay, upon
158 the commencement of the amendment, renewal, or extension, the higher

159 living wage established by this amendment to the Living Wage Ordinance
160 and to provide any required paid time off. Any amendment, renewal, or
161 extension that does not include this commitment may be approved only by
162 the County Commission, and any contrary prior delegation of authority to
163 staff is hereby rescinded.

164 (b) *No pass through.* Any increased living wage ~~or~~, health care benefit, or paid
165 time off costs resulting from the Living Wage Ordinance shall not be passed through to
166 the County unless clearly disclosed to and expressly approved by the ~~Board of County~~
167 ~~Commissioners.~~

168 (c) *County employees.* Commencing with the first full pay period after
169 January 1, ~~2019~~ 2023, for part-time benefit-eligible or full-time benefit-eligible County
170 employees under the County pay plan, the County will pay a living wage of no less than
171 ~~Thirteen Dollars and Twenty-seven Cents (\$13.27)~~ Fifteen Dollars (\$15.00) per hour,
172 adjusted as provided below, in addition to health care benefits as hereinafter described.

173 (d) *Health care benefits.*

174 (1) *Health care benefit amount.* The health care benefit amount required by the
175 Living Wage Ordinance shall consist of payment by a covered employer, or
176 by the County for its employees, of an amount ("health care benefit
177 amount") toward the provision of health care benefits for a covered
178 employee and dependents, as follows:

179 a. Effective January 1, 2019, a health care benefit amount of at least
180 One Dollar and Sixty-three Cents (\$1.63) per hour, adjusted as
181 provided below on January 1, 2020.

182 b. Effective January 1, 2021, a health care benefit amount of at least
183 Three Dollars and Forty-four Cents (\$3.44) per hour, adjusted as
184 provided below beginning on January 1, 2022.

185 (2) *Proof of health care benefits.* A covered employer must submit a ~~notarized~~
186 ~~affidavit~~ written declaration of compliance as proof of the provision of health
187 care benefits to qualify to pay the living wage rate for covered employees
188 with health care benefits.

189 . . .

190 (e) *Paid time off.*

191 (1) *Amount of paid time off.* A service contractor shall provide paid time off to
192 its covered employees under either the accrual method or the lump sum
193 method, as described below.

194 a. *Accrual method.* Under the accrual method, each covered employee
195 of a service contractor shall earn at least one (1) hour of paid time
196 off for every thirty (30) hours worked, provided that nothing in this
197 section requires that total accrued paid time off, on an annual basis,
198 exceed forty (40) hours. The covered employee shall begin to accrue
199 paid time off upon the effective date of hire or January 1, 2023,
200 whichever is later.

201 b. *Lump sum method.* Under the lump sum method, the service
202 contractor shall award each covered employee no less than forty (40)
203 hours of paid time off at the beginning of each twelve-month period
204 of employment, which award must occur by ninety (90) days after

205 the covered employee's effective date of hire or January 1, 2023,
206 whichever is later.

207 c. *Limit on paid time off.* A covered employer may not set a limit on the
208 total accrual or award of paid time off at less than forty (40) hours on
209 an annual basis.

210 (2) *Regular wage rate.* Paid time off shall be paid at a covered employee's
211 regular wage rate at the time the paid time off is used.

212 (3) *Use of paid time off.* A covered employee may use paid time off for vacation,
213 personal necessity, or sick leave upon accrual or upon lump sum award, as
214 applicable.

215 (4) *Effective date for paid time off.* Section 26-102(e) shall only apply to
216 (i) service contracts for covered services or concessionaires resulting from
217 solicitations for which the advertisement period includes any date on or after
218 January 1, 2023; (ii) service contracts for covered services or
219 concessionaires in effect on January 1, 2023, including renewals,
220 amendments, and extensions thereof, subject to the requirements and
221 conditions precedent stated in Section 26-102(a)(2); and (iii) new service
222 contracts for covered services or concessionaires entered into after January
223 1, 2023.

224 ~~(e)~~ (f) *Adjusting the living wage and health care benefit amount.* Beginning on
225 January 1, 2020 (or beginning on January 1, 2019, for those service contracts entered
226 into prior to January 1, 2019, as to which the new, higher living wage rate established by
227 this amendment to the Living Wage Ordinance is not in effect as of January 1, 2019) 2023,

228 for the health care benefit amount, and beginning on January 1, 2024, for the living wage
229 amount, and thereafter on January 1 of each year, the living wage and the health care
230 benefit amount shall each be adjusted annually by the lowest of the following three (3)
231 percentages:

232 (1) The percentage increase in the Consumer Price Index for All Urban
233 Consumers (CPI-U), All Items, Miami-Ft. ~~Fort~~ Fort Lauderdale-West Palm
234 Beach, FL, calculated by the United States Department of Labor, for the
235 immediately preceding period of November 1 through October 31;

236 (2) Three percent (3%); or

237 (3) The percentage across-the-board compensation increase provided by the
238 County to unrepresented County employees.

239 ~~(f) (g) *Certification* Written declaration required before ~~payment~~ award. Any and~~
240 ~~all contracts for covered services shall be void, and no funds may be released unless,~~
241 ~~prior to~~ Before entering into any contract with the County for a service contract, the
242 covered employer ~~certifies~~ must submit a written declaration to the County that it will pay
243 each of its covered employees no less than the living wage described in the applicable
244 section above. The ~~certificate~~ written declaration, at a minimum, must include the
245 following:

246 (1) The name, address, and telephone number of the covered employer, a local
247 contact person, and the specific project for which the service contract is
248 sought;

249 (2) The amount of the contract and the applicable County department the
250 contract will serve;

- 251 (3) A brief description of the project or service provided;
- 252 (4) A statement of the wage levels for all covered employees; ~~and~~
- 253 (5) A commitment to pay all covered employees a living wage, as described in
- 254 ~~sub~~Section 26-102(a); ~~and~~
- 255 (6) A commitment to provide paid time off to all covered employees of the
- 256 service contractor in accordance with Section 26-102(e).
- 257 ~~(g)~~ (h) *Observance of other laws.* Every covered employee shall be paid at least
- 258 biweekly, and without subsequent deduction or rebate of any amount (except for such
- 259 payroll deductions as are directed or permitted by law or a collective bargaining
- 260 agreement). The covered employer shall, at a minimum, pay covered employees the
- 261 living wage rates required by the Living Wage Ordinance and shall also comply with
- 262 federal and all other applicable laws and ordinances, such as overtime and other wage
- 263 laws and ordinances.
- 264 ~~(h)~~ (i) *Posting.* A copy of the living wage rate shall be posted by the covered
- 265 employer at the workplace in a prominent place where it can easily be seen by covered
- 266 employees and shall be furnished to a covered employee within a reasonable time after
- 267 a request to do so. A copy of the living wage rate shall be posted by the covered
- 268 employer's subcontractors in a prominent place at ~~the~~ each subcontractor's premises
- 269 where paychecks are distributed and shall also be furnished to a covered employee upon
- 270 request within a reasonable time after the request is made. Additionally, service
- 271 contractors shall forward a copy of the requirements of the Living Wage Ordinance to any
- 272 individual and any entity submitting a bid for a subcontract on any County service contract
- 273 covered by this article. A covered employer shall also provide the following statement to

274 each covered employee with the employee's first paycheck and every six (6) months
275 thereafter: "You are required by Broward County ordinance to be paid at least [insert
276 applicable rate pursuant to the Living Wage Ordinance] dollars an hour. If you are not
277 paid this hourly rate, contact your supervisor or a lawyer." A service contractor shall also
278 provide the following statement to each covered employee with the employee's first
279 paycheck and every six (6) months thereafter: "By Broward County ordinance, you are
280 entitled to accrue paid time off or be awarded forty (40) hours of paid time off on an annual
281 basis." All notices required by this paragraph shall be printed in English, Spanish, and
282 Creole. The statements shall be provided in the manner set forth below:

283 . . .

284 (2) By attaching or endorsing the printed or stamped statements with the
285 covered employee's first paycheck or direct deposit receipt and
286 subsequently providing a ~~notarized compliance affidavit~~ written declaration
287 from the covered employer to the County acknowledging that the
288 statements were provided to the covered employee with his or her first
289 paycheck.

290 . . .

291 Section 3. Section 26-103 of the Broward County Code of Ordinances is hereby
292 amended to read as follows:

293 **Sec. 26-103. Implementation.**

294 (a) *Procurement specifications.*

295 (1) Payment of the living wage and providing paid time off shall be required by
296 the procurement specifications for all County service contracts for covered
297

298 services on which bids or proposals shall be solicited on or after the
299 effective date of this article. Such procurement specifications shall also
300 require each firm that utilizes a subcontractor to inform each subcontractor,
301 prior to the time the subcontractor offers its price to such firm, of its
302 obligation to pay a living wage and to provide paid time off to its covered
303 employees. The procurement specifications for applicable contracts shall
304 include a requirement that service contractors agree to produce all
305 documents and records relating to payroll and that service contractors
306 agree to comply with the obligation to maintain payroll records for covered
307 employees for at least three (3) years from the date of termination of the
308 service contract and to produce such records for inspection and copying
309 upon request from the applicable contract administrator ("contract
310 administrator" shall have the same meaning as set forth in the Broward
311 County Procurement Code) or the County Administrator.

312 . . .

313 (d) *Maintenance of payroll records.* Each covered employer shall maintain
314 payroll records for all covered employees and shall preserve them for a period of three
315 (3) years from the date of termination of any County service contract. The records shall
316 contain:

- 317 (1) The name and address of each covered employee;
- 318 (2) The job title and classification;
- 319 (3) The number of hours worked each day;
- 320 (4) The gross wages earned and deductions made;

- 321 (5) Annual wages paid;
- 322 (6) A copy of the covered employer's social security returns and evidence of
323 payment thereof;
- 324 (7) A record of fringe benefit payments, including covered employee and
325 covered employer contributions to employer-approved plans; ~~and~~
- 326 (8) A record of the number of hours of paid time off each covered employee
327 accrued or was awarded each year; and
- 328 (9) Any other data or information the County Administrator may require from
329 time to time.
- 330 . . .
- 331 (f) *Exemption.* A covered employer who routinely pays the living wage to all of
332 its covered employees that work a minimum of twenty (20) hours per week in a covered
333 services category or for covered airport services may obtain an exemption from the
334 requirement under Section 26-103(d) to report and file payroll records every six (6)
335 months in the manner set forth below. If requested by a covered employer on a form
336 available from the County's Purchasing Division and if the covered employer provides a
337 ~~notarized compliance affidavit~~ written declaration attesting that its wages for covered
338 employees are at least equal to the amount of the living wage, the County's Purchasing
339 Division Director is authorized to grant, in writing, a whole or partial exemption from the
340 requirement to report and file payroll records every six (6) months with the contract
341 administrator as follows:
- 342 . . .

343 Section 4. Severability.

344 If any portion of this Ordinance is determined by any court to be invalid, the invalid
345 portion will be stricken, and such striking will not affect the validity of the remainder of this
346 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
347 legally applied to any individual, group, entity, property, or circumstance, such
348 determination will not affect the applicability of this Ordinance to any other individual,
349 group, entity, property, or circumstance.

350 Section 5. Inclusion in the Broward County Code of Ordinances.

351 It is the intention of the Board of County Commissioners that the provisions of this
352 Ordinance become part of the Broward County Code of Ordinances as of the effective
353 date. The sections of this Ordinance may be renumbered or relettered and the word
354 "ordinance" may be changed to "section," "article," or such other appropriate word or
355 phrase to the extent necessary in order to accomplish such intention.

356 Section 6. Effective Date.

357 This Ordinance is effective on December 31, 2022.

ENACTED October 25, 2022

FILED WITH THE DEPARTMENT OF STATE October 25, 2022

EFFECTIVE October 25, 2022

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By: /s/ Adam M. Katzman 09/28/2022
Adam M. Katzman (date)
Senior Assistant County Attorney

By: /s/ René D. Harrod 09/28/2022
René D. Harrod (date)
Chief Deputy County Attorney

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359 Living Wage Ord Amendments 2022
360 10/25/2022
361 613004_18

Coding: Words ~~stricken~~ are deletions from existing text. Words underlined are additions to existing text.