

**PROPOSED**

ORDINANCE NO.

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO THE LIVING WAGE; AMENDING SECTIONS 26-101 THROUGH 26-103 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE"); INCREASING THE LIVING WAGE AND REQUIRING PAID TIME OFF; PROVIDING FOR DEFINITIONS AND OTHER LIVING WAGE REQUIREMENTS; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

WHEREAS, due to the cost of living and other expenses in Broward County ("County"), the Broward County Living Wage Ordinance should be amended to better ensure that covered employees receive a living wage;

WHEREAS, requiring County service contractors to provide paid time off for their employees who work on County service contracts will improve the health and performance of those employees; and

WHEREAS, the Board of County Commissioners desires to increase the living wage hourly rate and to provide a requirement for paid time off,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

Section 1. Section 26-101 of the Broward County Code of Ordinances is hereby amended to read as follows:

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

96 ~~(3)~~ (2) *Living Wage Obligation Effective ~~January 1, 2019~~, for Contracts Entered*  
97 *Into Prior to January 1, 2019 2023, Including Renewals, Amendments, and*  
98 *Extensions Thereof. Commencing January 1, ~~2019~~ 2023, each covered*  
99 *employer with a service contract entered into prior to January 1, ~~2019~~ 2023,*  
100 *shall pay each of its covered employees the amount listed in paragraph a.*  
101 *or b. immediately below (a)(1) above, subject to the following conditions*  
102 *precedent stated in paragraph c. immediately below:*

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

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

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

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

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

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

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

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

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

172 (d) *Health care benefits.*

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

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

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

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

188 . . .

189 (e) *Paid time off.*

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

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

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

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

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

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

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

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

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

227 2023, for the health care benefit amount, and beginning on January 1, 2024, for the living  
228 wage amount, and thereafter on January 1 of each year, the living wage and the health  
229 care benefit amount shall each be adjusted annually by the lowest of the following three  
230 (3) percentages:

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

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

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

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

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

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

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

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

282 . . .

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

289 . . .

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

292 **Sec. 26-103. Implementation.**

293 (a) *Procurement specifications.*

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

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

310 . . .

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

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

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

341 Section 4. Severability.

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

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

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

354 Section 6. Effective Date.

355 This Ordinance is effective on December 31, 2022.

ENACTED

**PROPOSED**

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

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

AMK/jl  
Living Wage Ord Amendments 2022  
09/28/2022  
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Coding: Words ~~stricken~~ are deletions from existing text. Words underlined are additions to existing text.