

ITEM #26₍₂₎

ADDITIONAL MATERIAL
Public Hearing

DECEMBER 11, 2018

SUBMITTED AT THE REQUEST OF
OFFICE OF THE COUNTY
ATTORNEY

Exhibit A

Row	Issue		Senator Rich	Vice-Mayor Holness	Senator Geller	Commissioner Sharief	County Administration
A	Living Wage Rate (if employer also provides health benefits) effective 1/1/2019		\$13.27	\$13.27	\$13.00 for contracts entered into prior to January 1, 2019 \$13.27 for new contracts or renewals entered into on or after January 1, 2019	\$13.27	
B	Living Wage Rate (if employer does <u>not</u> provide health benefits) effective 1/1/2019		\$15.37	\$15.77	\$14.73 for contracts entered into prior to January 1, 2019 \$15.00 for new contracts and renewals	\$15.00	
C	Health Care Benefits amount	Effective 1/1/2019	\$2.10	\$2.50	\$1.73	\$1.73	
D		Effective 1/1/2020	\$2.77	\$2.97	\$2.12	\$2.12	
E		Effective 1/1/2021	\$3.44	\$3.44	\$2.51	\$2.51	
F	Commencing date for Indexing (adjustment of rate)	Living Wage Rate	January 1, 2020	January 1, 2020	January 1, 2020	January 1, 2020	
		Health Care Benefit Amount	January 1, 2020	January 1, 2022	January 1, 2020	January 1, 2020	
G	Requires Covered Employer to pay the Living Wage Rate Without Provision of Health Benefits (i.e., the higher rate) if Covered Employee declines health benefits and provides proof of other coverage?		Yes, if the employee certifies the alternate health coverage is a qualified health plan under the Affordable Care Act	Yes	With certification of ACA-qualified health plan, the employee receives ___% [TBD] of the health benefit amount, unless CBA covers opt-out payment in which case CBA governs	Yes	
H	<i>Other</i>		Conditions precedent to applying new rates to current contracts (amendments which may include mitigation; or written consent); staff will review each contract within 90 days and recommend action		Lower Living Wage Rate for pre-January 1, 2019 contracts expires January 1, 2020		Delete eligibility period rate (§ 26-102(b)(5))

PROPOSED

ORDINANCE NO. 2018-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO THE BROWARD COUNTY LIVING WAGE ORDINANCE; REPEALING AND REPLACING IN THEIR ENTIRETY SECTIONS 26-100 THROUGH 26-102 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE") TO ESTABLISH A LIVING WAGE AND CORRESPONDING HEALTH CARE BENEFIT AMOUNT; PROVIDING FOR DEFINITIONS; PROVIDING THAT THE LIVING WAGE APPLIES TO ALL NEW AND EXISTING CONTRACTS; PROVIDING FOR THE METHOD TO ADJUST THE LIVING WAGE AND HEALTH CARE BENEFIT AMOUNT; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by Senator Nan H. Rich and
Cosponsored by Vice-Mayor Dale V.C. Holness)

WHEREAS, for reasons including impacts caused by the recession that began in December 2007, the Broward County Living Wage Ordinance, as currently codified, does not ensure that covered employees receive a living wage; and

WHEREAS, the Board of County Commissioners desires, effective January 1, 2019, to increase the living wage hourly rate,

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

Section 1. Sections 26-100 through 26-102 of Article VII of Chapter 26, Broward County Code of Ordinances, are hereby repealed in their entirety and new Sections 26-100 through 26-102 are hereby created as follows:

1 [Underlining omitted]

2 **Sec. 26-100. Title and Legislative Findings.**

3 (a) *Title.*

4 Sections 26-100 through 26-105 of Article VII of Chapter 26, Broward County
5 Code, may be cited as the "Broward County Living Wage Ordinance" or the "Living Wage
6 Ordinance."

7 (b) *Legislative findings.*

8 The County awards contracts and leases County property to private companies to
9 provide services to the County and the public. The County has a proprietary interest in
10 the work performed by employees of County service contractors, airline service providers,
11 subcontractors, and County lessees. The wages paid to these employees are often not
12 enough for them to support and care for their families, thereby inhibiting employee
13 retention and negatively impacting the quantity and quality of services rendered by these
14 employees to the County and the public.

15 **Sec. 26-101. Definitions.**

16 As used in the Living Wage Ordinance, reference to one gender shall include the
17 other; use of the plural shall include the singular; and use of the singular shall include the
18 plural. The following definitions apply unless the context in which the word or phrase is
19 used requires a different meaning:

20 (a) *Airport* means the Fort Lauderdale-Hollywood International Airport.

21 (b) *Airport Terminal Complex* means all passenger terminal buildings located
22 at the Airport, whether now existing or developed in the future.

23
24
Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 (c) *Air Carrier* means a certificated commercial air carrier that has authority
2 from the appropriate regulatory department of the United States of America, or any other
3 competent authority, to operate in and out of the Airport.

4 (d) *Airline service provider* means any for profit individual, corporation,
5 partnership, limited liability company, joint venture, or similar entity that provides covered
6 airport services as authorized by an airline service provider agreement, and any
7 subcontractor of any such individual or entity regarding the subcontractor's provision of
8 covered airport services.

9 (e) *Car Rental Center* means the facility located within the Airport terminal
10 roadway system designated for rental car concession operations and for pick-up and
11 delivery of customers by nonconcessionaire rental car companies and by Airport users,
12 including any future modifications to this facility.

13 (f) *Concessionaire* means a service contractor awarded a County contract at
14 the Airport Terminal Complex or Car Rental Center for the Duty Free Shop, Food and
15 Beverage, News-General Merchandise-Book Store, and Specialty Retail Shops.

16 (g) *County* means Broward County, a political subdivision of the state of
17 Florida.

18 (h) *Covered employee* means:

- 19 (1) Each individual employed by a service contractor for a minimum of twenty
20 (20) hours per week who, during the employment, is or was involved in
21 providing services pursuant to the service contractor's contract with the
22 County, except where the individual's primary compensation is composed
23 of gratuities;

24
Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

- 1 (2) Each individual employed by an airline service provider who, during the
2 employment, is or was involved in providing covered airport services
3 pursuant to Section 26-101(l). Individuals employed by an airline service
4 provider whose primary compensation is composed of gratuities are not
5 covered employees, except for wheelchair attendants as described
6 in Section 26-101(l)(6); and
- 7 (3) Each County employee who is in a part-time benefit eligible or full-time
8 benefit-eligible position, as determined by the County.
- 9 (i) *Covered employer* means all service contractors and all airline service
10 providers.
- 11 (j) *County service contracts* or *service contracts* means:
- 12 (1) Contracts awarded by the County pursuant to the County's Procurement
13 Code or entered into after a waiver of the Procurement Code that are for
14 covered services and where the average annual contract amount exceeds
15 One Hundred Thousand Dollars (\$100,000.00) based on the applicable
16 procurement solicitation document;
- 17 (2) Contracts, regardless of value, at the Airport Terminal Complex or Car
18 Rental Center, awarded to concessionaires, pursuant to Chapter 26,
19 "Operational Policy, Aviation," Parts I and II, of the Broward County
20 Administrative Code, or pursuant to a waiver of the Operational Policy; and
- 21 (3) Contracts entered into by airline service providers to perform covered
22 airport services.
- 23 (k) *Covered services* means the following services purchased by the County:
- 24 (1) Food preparation or distribution;

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

- 1 (2) Security services;
- 2 (3) Routine maintenance services, such as janitorial, cleaning, refuse removal,
3 recycling collections, and other similar services that are needed or that are
4 anticipated to be needed for normal upkeep of facilities during the term of
5 the service contract. Construction and roofing services shall not be
6 considered routine maintenance services;
- 7 (4) Repair or refinishing services for furniture, fixtures, vehicles, machinery, or
8 equipment, including preventative maintenance replacement of parts, and
9 other activities needed to preserve the asset. Construction and roofing
10 services shall not be considered repair or refinishing services;
- 11 (5) Clerical or other nonsupervisory office work, whether by temporary or
12 permanent personnel. Such work includes secretarial, typing, data entry,
13 filing, transcription, specialized billing, sorting or completion of forms, and
14 word, data, and information processing;
- 15 (6) Passenger transportation and automobile parking services. Such services,
16 when provided by or through government entities other than the County,
17 shall not be included in this category;
- 18 (7) Printing and reproduction services; and
- 19 (8) Landscaping, lawn, or agricultural services.
- 20 (l) *Covered airport services* means the following services:
- 21 (1) *Ground Handling or Ramp Services for Air Carrier*. To guide aircraft to a
22 parking position for purposes of loading and unloading passengers,
23 baggage, mail, or cargo from aircraft with required equipment to designated
24 locations on the Airport; accept and process inbound and outbound

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 shipments at designated cargo handling building; and provide lavatory
2 waste services and provisioning of water service for aircraft;

3 (2) *Ground Equipment Provisioning and Maintenance for Air Carrier.* To repair,
4 maintain, and refuel all ground equipment whether owned or leased that is
5 used by an airline service provider or Air Carrier, including, but not limited
6 to, tugs, carts, belt-loaders, aircraft starters, aircraft loading stairs, and air-
7 conditioning units. Such ground equipment shall not include automobiles,
8 trucks, or other vehicles designed for use on public streets, either on or off
9 of the Airport;

10 (3) *Maintenance for Air Carrier.* To provide maintenance to an Air Carrier on
11 the aircraft parking aprons located at the terminal buildings;

12 (4) *In-To-Plane Fuel Service for Air Carrier.* To transfer fuel from the Airport's
13 fuel farm to an Air Carrier, and to uplift fuel into the proper locations on the
14 aircraft;

15 (5) *Passenger Service for Air Carrier.* To provide all documents for Air Carrier
16 passengers, cargo, and baggage as may be required by applicable
17 governmental agencies; to provide and handle passenger ticketing and
18 baggage check-in; to furnish linguists for the assistance of passengers
19 speaking a foreign language; to provide assistance for mishandled luggage;
20 and to provide passenger assistance functions in concourses and customs
21 facilities, including, but not limited to, unaccompanied minor services;

22 (6) *Porter Service for Air Carrier.* To handle and transport passenger baggage
23 and other articles of personal property through the terminal buildings and
24 areas, including the United States Federal Inspections areas and

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 Transportation Security Administration areas. Such service includes, but is
2 not limited to, skycaps, wheelchair attendants, luggage runners, and electric
3 cart drivers. An airline service provider is not required to pay a living wage
4 to a skycap who handles luggage, performs curbside check-in, and works
5 primarily for gratuities;

6 (7) *Janitorial Service for Air Carrier.* To provide personnel, equipment, and
7 material to clean the interior areas of the terminal buildings;

8 (8) *Security Service for Air Carrier.* Security service includes document
9 checkers at security check points, aircraft security, catering security, and
10 private screening of goods and passengers. Security service does not
11 include service provided by the federal government or pursuant to a federal
12 government contract;

13 (9) *Baggage Delivery Service for Air Carrier.* To handle and transport from the
14 Airport misplaced or misrouted baggage or other articles belonging to
15 passengers;

16 (10) *Aircraft Cleaning For Air Carrier.* To clean aircraft interiors and
17 exteriors; and

18 (11) *Operating Private Club for Air Carrier.* To operate a private club in a
19 terminal building exclusively for an Air Carrier's passengers which may
20 serve snacks and beverages and provide other related services.

21 (m) *Health care benefits* means health insurance coverage.

22 (n) *Living wage* means the hourly rate of pay required by this Ordinance.

23 (o) *Service contractor* means any for profit individual, corporation, partnership,

24 limited liability company, joint venture, or similar entity that:

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

- 1 (1) Is paid, whether directly or indirectly, from one (1) or more of the County's
2 general fund, enterprise funds, capital project funds, or any other funds to
3 provide covered services to the County pursuant to a service contract;
4 (2) Contracts with a service contractor as described in Section 26-101(o)(1) to
5 provide some of the covered services included in the service contract
6 between that service contractor and the County; or
7 (3) Is a concessionaire.

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

9 (a) *Living wage requirement.*

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

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

17 b. *Living wage rate without health care benefits.* If a covered employer
18 does not offer a covered employee health care benefits, a living wage
19 of no less than Twelve Dollars and Thirty-eight Cents (\$12.38) per
20 hour, plus an additional wage rate of One Dollar and Sixty-one Cents
21 (\$1.61) per hour.

22 (2) *Living Wage Obligation Effective January 1, 2019, for New Contracts*
23 *Entered Into on or after January 1, 2019.* Each covered employer entering
24 into a new service contract on or after January 1, 2019, shall pay each of

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 its covered employees the amount listed in paragraph a. or b. immediately
2 below:

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

7 b. *Living wage rate without health care benefits.* If a covered employer
8 does not offer a covered employee health care benefits, a living wage
9 of no less than Thirteen Dollars and Twenty-seven Cents (\$13.27)
10 per hour, plus an additional wage rate of One Dollar and Sixty-three
11 Cents (\$1.63) per hour, adjusted as provided below.

12 (3) *Living Wage Obligation Effective January 1, 2019, for Contracts Entered*
13 *Into Prior to January 1, 2019, Including Renewals and Extensions Thereof.*

14 Commencing January 1, 2019, each covered employer with a service
15 contract entered into prior to January 1, 2019, shall pay each of its covered
16 employees the amount listed in paragraph a. or b. immediately below,
17 subject to the timing contingency stated in paragraph c. immediately below:

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

22 b. *Living wage rate without health care benefits.* If a covered employer
23 does not offer a covered employee health care benefits, a living wage
24 of no less than Thirteen Dollars and Twenty-seven Cents (\$13.27)

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 per hour, plus an additional wage rate of One Dollar and Sixty-three
2 Cents (\$1.63) per hour, adjusted as provided below.

3 c. *Timing Contingency.* Each covered employer shall continue to pay
4 the living wage rate established in Section 26-102(a)(1), which on
5 January 1, 2019, is adjusted to the following amounts: (a) Twelve
6 Dollars and Sixty Cents (\$12.60) per hour with health care benefits,
7 or (b) Twelve Dollars and Sixty Cents (\$12.60) per hour without
8 health benefits, plus an additional One Dollar and Sixty-three Cents
9 (\$1.63) per hour. The amount shall continue to be paid through the
10 earlier of July 1, 2019, or the date the County and the covered
11 employer enter into a written amendment providing for the County to
12 reasonably mitigate increased labor costs resulting from the
13 December 2018 enactment of the Living Wage Ordinance. Effective
14 July 1, 2019, or such earlier date on which the County and the
15 covered employer enter into the above-referenced written
16 amendment, the covered employer shall pay the living wage rate
17 established in Section 26-102(a)(2) above. Each covered employer
18 shall also, by no later than July 1, 2019, pay to each covered
19 employee additional wages equaling the differential between the
20 amount the covered employee would have received commencing
21 January 1, 2019, under Section 26-102(a)(2) and the actual amount
22 of wages paid to the covered employee through June 30, 2019.

23 (b) *No pass through.* Any increased living wage or health care benefit costs
24 resulting from the Living Wage Ordinance shall not be passed through to the County

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 unless clearly disclosed to and expressly approved by the Board of County
2 Commissioners.

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

8 (d) *Health care benefits.*

9 (1) *Health care benefit amount.* The health care benefit amount required by
10 the Living Wage Ordinance shall, commencing January 1, 2019, consist of
11 payment by a covered employer, or by the County for its employees, of at
12 least One Dollar and Sixty-three Cents (\$1.63) per hour, adjusted as
13 provided below ("health care benefit amount"), towards the provision of
14 health care benefits for a covered employee and dependents.

15 (2) *Proof of health care benefits.* A covered employer must submit a notarized
16 affidavit of compliance as proof of the provision of health care benefits to
17 qualify to pay the living wage rate for covered employees with health care
18 benefits.

19 (3) The minimum contribution by a covered employer (or the County for its
20 employees) for health care benefits on a per-hour basis shall be calculated
21 based on a forty (40) hour work week. Hours worked by a covered
22 employee in excess of forty (40) hours per week shall not require additional
23 payments towards the provision of health care benefits.

24

1 (4) If a covered employer or the County, as applicable, contributes less than
2 the required amount for its covered employee's health care benefits, the
3 difference shall be paid to the covered employee as an additional hourly
4 wage amount.

5 (5) If the health care benefits plan provided requires an initial period of
6 employment before a new covered employee becomes eligible for the
7 health care benefits ("eligibility period"), the covered employer or the
8 County, as applicable, shall pay the living wage amount and the additional
9 health care benefit amount during a new covered employee's eligibility
10 period. When the new covered employee is provided health care benefits,
11 the covered employee may qualify to pay the living wage rate applicable for
12 covered employees that are provided health care benefits.

13 (6) If the covered employee declines health care benefits, the covered
14 employer may qualify to pay the living wage rate applicable for covered
15 employees that are provided health benefits, provided the covered
16 employer provides to the County written proof of the covered employee's
17 declination.

18 (e) *Adjusting the living wage and health care benefit amount.*

19 Beginning on January 1, 2020, and thereafter on January 1 of each year, the living
20 wage and health care benefits amount shall be adjusted annually by the lowest of the
21 following three (3) percentages:

22 (1) The percentage increase in the Consumer Price Index for All Urban
23 Consumers (CPI-U), All Items, Miami-Ft. Lauderdale-West Palm Beach, FL,
24

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 calculated by the United States Department of Labor, for the immediately
2 preceding period of November 1 through October 31;

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

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

6 (f) *Certification required before payment.* Any and all contracts for covered
7 services shall be void, and no funds may be released unless, prior to entering any contract
8 with the County for a service contract, the covered employer certifies to the County that
9 it will pay each of its covered employees no less than the living wage described in the
10 applicable section above. The certificate, at a minimum, must include the following:

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

14 (2) The amount of the contract and the applicable County department the
15 contract will serve;

16 (3) A brief description of the project or service provided;

17 (4) A statement of the wage levels for all covered employees; and

18 (5) A commitment to pay all covered employees a living wage, as described in
19 subsection (a).

20 (g) *Observance of other laws.* Every covered employee shall be paid at least
21 biweekly, and without subsequent deduction or rebate of any account (except for such
22 payroll deductions as are directed or permitted by law or a collective bargaining
23 agreement). The covered employer shall, at a minimum, pay covered employees the
24 living wage rates required by the Living Wage Ordinance and shall also comply with

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 federal and all other applicable laws and ordinances, such as overtime and other wage
2 laws and ordinances.

3 (h) *Posting.* A copy of the living wage rate shall be posted by the covered
4 employer at the workplace in a prominent place where it can easily be seen by covered
5 employees and shall be furnished to a covered employee within a reasonable time after
6 a request to do so. A copy of the living wage rate shall be posted by the covered
7 employer's subcontractors in a prominent place at the subcontractor's premises where
8 paychecks are distributed and shall also be furnished to a covered employee upon
9 request within a reasonable time after the request is made. Additionally, service
10 contractors shall forward a copy of the requirements of the Living Wage Ordinance to any
11 individual and any entity submitting a bid for a subcontract on any County service contract
12 covered by this article. A covered employer shall also provide the following statement to
13 each covered employee with the employee's first paycheck and every six (6) months
14 thereafter: "You are required by Broward County ordinance to be paid at least [insert
15 applicable rate pursuant to the Living Wage Ordinance] dollars an hour. If you are not
16 paid this hourly rate, contact your supervisor or a lawyer." All notices required by this
17 paragraph shall be printed in English, Spanish, and Creole. The statements shall be
18 provided in the manner set forth below:

- 19 (1) By printing or stamping the statements on the front of the covered
20 employee's first paycheck or, if the covered employee has direct deposit of
21 his or her pay, the covered employer may print or stamp the statements on
22 the inside or outside of the covered employee's first direct receipt; or
23 (2) By attaching or endorsing the printed or stamped statements with the
24 covered employee's first paycheck or direct deposit receipt and

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 subsequently providing a notarized compliance affidavit from the covered
2 employer to the County acknowledging that the statements were provided
3 to the covered employee with his or her first paycheck.

4 (i) *Inconsistency with Applicable Law or Collective Bargaining Agreement.*

5 The provisions of the Living Wage Ordinance shall not be applicable to the extent they
6 conflict with federal or state law. Additionally, nothing in the Living Wage Ordinance shall
7 require the payment of any wage where the applicable covered employee is a member of
8 a collective bargaining unit that has collectively bargained for a higher wage.

9
10 Section 2. Severability.

11 If any portion of this Ordinance is determined by any court to be invalid, the invalid
12 portion will be stricken, and such striking will not affect the validity of the remainder of this
13 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
14 legally applied to any individual, group, entity, property, or circumstance, such
15 determination will not affect the applicability of this Ordinance to any other individual,
16 group, entity, property, or circumstance.

17
18 Section 3. Inclusion in the Broward County Code of Ordinances.

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

24
Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Section 4. Effective Date.

This Ordinance is effective as of the date provided by law.

PROPOSED

ENACTED

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

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

By /s/ Adam Katzman 11/29/18
Adam Katzman (date)
Senior Assistant County Attorney

By /s/ Andrew J. Meyers 11/29/18
Andrew J. Meyers (date)
County Attorney

AMK/mm
11/29/18
Living Wage Ordinance
41026

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

PROPOSED

ORDINANCE NO. 2018-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO THE BROWARD COUNTY LIVING WAGE ORDINANCE; REPEALING AND REPLACING IN THEIR ENTIRETY SECTIONS 26-100 THROUGH 26-102 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE") TO ESTABLISH A LIVING WAGE AND CORRESPONDING HEALTH CARE BENEFIT AMOUNT; PROVIDING FOR DEFINITIONS; PROVIDING THAT THE LIVING WAGE APPLIES TO ALL NEW AND EXISTING CONTRACTS; PROVIDING FOR THE METHOD TO ADJUST THE LIVING WAGE AND HEALTH CARE BENEFIT AMOUNT; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by Senator Steve Geller)

WHEREAS, for reasons including impacts caused by the recession that began in December 2007, the Broward County Living Wage Ordinance, as currently codified, does not ensure that covered employees receive a living wage; and

WHEREAS, the Board of County Commissioners desires, effective January 1, 2019, to increase the living wage hourly rate,

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

Section 1. Sections 26-100 through 26-102 of Article VII of Chapter 26, Broward County Code of Ordinances, are hereby repealed in their entirety and new Sections 26-100 through 26-102 are hereby created as follows:

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 [Underlining omitted]

2 **Sec. 26-100. Title and Legislative Findings.**

3 (a) *Title.*

4 Sections 26-100 through 26-105 of Article VII of Chapter 26, Broward County
5 Code, may be cited as the "Broward County Living Wage Ordinance" or the "Living Wage
6 Ordinance."

7 (b) *Legislative findings.*

8 The County awards contracts and leases County property to private companies to
9 provide services to the County and the public. The County has a proprietary interest in
10 the work performed by employees of County service contractors, airline service providers,
11 subcontractors, and County lessees. The wages paid to these employees are often not
12 enough for them to support and care for their families, thereby inhibiting employee
13 retention and negatively impacting the quantity and quality of services rendered by these
14 employees to the County and the public.

15 **Sec. 26-101. Definitions.**

16 As used in the Living Wage Ordinance, reference to one gender shall include the
17 other; use of the plural shall include the singular; and use of the singular shall include the
18 plural. The following definitions apply unless the context in which the word or phrase is
19 used requires a different meaning:

20 (a) *Airport* means the Fort Lauderdale-Hollywood International Airport.

21 (b) *Airport Terminal Complex* means all passenger terminal buildings located
22 at the Airport, whether now existing or developed in the future.

23
24
Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 (c) *Air Carrier* means a certificated commercial air carrier that has authority
2 from the appropriate regulatory department of the United States of America, or any other
3 competent authority, to operate in and out of the Airport.

4 (d) *Airline service provider* means any for profit individual, corporation,
5 partnership, limited liability company, joint venture, or similar entity that provides covered
6 airport services as authorized by an airline service provider agreement, and any
7 subcontractor of any such individual or entity regarding the subcontractor's provision of
8 covered airport services.

9 (e) *Car Rental Center* means the facility located within the Airport terminal
10 roadway system designated for rental car concession operations and for pick-up and
11 delivery of customers by nonconcessionaire rental car companies and by Airport users,
12 including any future modifications to this facility.

13 (f) *Concessionaire* means a service contractor awarded a County contract at
14 the Airport Terminal Complex or Car Rental Center for the Duty Free Shop, Food and
15 Beverage, News-General Merchandise-Book Store, and Specialty Retail Shops.

16 (g) *County* means Broward County, a political subdivision of the state of
17 Florida.

18 (h) *Covered employee* means:

- 19 (1) Each individual employed by a service contractor for a minimum of twenty
20 (20) hours per week who, during the employment, is or was involved in
21 providing services pursuant to the service contractor's contract with the
22 County, except where the individual's primary compensation is composed
23 of gratuities;

24
Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 (2) Each individual employed by an airline service provider who, during the
2 employment, is or was involved in providing covered airport services
3 pursuant to Section 26-101(I). Individuals employed by an airline service
4 provider whose primary compensation is composed of gratuities are not
5 covered employees, except for wheelchair attendants as described
6 in Section 26-101(I)(6); and

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

9 (i) *Covered employer* means all service contractors and all airline service
10 providers.

11 (j) *County service contracts* or *service contracts* means:

12 (1) Contracts awarded by the County pursuant to the County's Procurement
13 Code or entered into after a waiver of the Procurement Code that are for
14 covered services and where the average annual contract amount exceeds
15 One Hundred Thousand Dollars (\$100,000.00) based on the applicable
16 procurement solicitation document;

17 (2) Contracts, regardless of value, at the Airport Terminal Complex or Car
18 Rental Center, awarded to concessionaires, pursuant to Chapter 26,
19 "Operational Policy, Aviation," Parts I and II, of the Broward County
20 Administrative Code, or pursuant to a waiver of the Operational Policy; and

21 (3) Contracts entered into by airline service providers to perform covered
22 airport services.

23 (k) *Covered services* means the following services purchased by the County:

24 (1) Food preparation or distribution;

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

- 1 (2) Security services;
- 2 (3) Routine maintenance services, such as janitorial, cleaning, refuse removal,
3 recycling collections, and other similar services that are needed or that are
4 anticipated to be needed for normal upkeep of facilities during the term of
5 the service contract. Construction and roofing services shall not be
6 considered routine maintenance services;
- 7 (4) Repair or refinishing services for furniture, fixtures, vehicles, machinery, or
8 equipment, including preventative maintenance replacement of parts, and
9 other activities needed to preserve the asset. Construction and roofing
10 services shall not be considered repair or refinishing services;
- 11 (5) Clerical or other nonsupervisory office work, whether by temporary or
12 permanent personnel. Such work includes secretarial, typing, data entry,
13 filing, transcription, specialized billing, sorting or completion of forms, and
14 word, data, and information processing;
- 15 (6) Passenger transportation and automobile parking services. Such services,
16 when provided by or through government entities other than the County,
17 shall not be included in this category;
- 18 (7) Printing and reproduction services; and
- 19 (8) Landscaping, lawn, or agricultural services.
- 20 (l) *Covered airport services* means the following services:
21 (1) *Ground Handling or Ramp Services for Air Carrier*. To guide aircraft to a
22 parking position for purposes of loading and unloading passengers,
23 baggage, mail, or cargo from aircraft with required equipment to designated
24 locations on the Airport; accept and process inbound and outbound

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 shipments at designated cargo handling building; and provide lavatory
2 waste services and provisioning of water service for aircraft;

3 (2) *Ground Equipment Provisioning and Maintenance for Air Carrier.* To repair,
4 maintain, and refuel all ground equipment whether owned or leased that is
5 used by an airline service provider or Air Carrier, including, but not limited
6 to, tugs, carts, belt-loaders, aircraft starters, aircraft loading stairs, and air-
7 conditioning units. Such ground equipment shall not include automobiles,
8 trucks, or other vehicles designed for use on public streets, either on or off
9 of the Airport;

10 (3) *Maintenance for Air Carrier.* To provide maintenance to an Air Carrier on
11 the aircraft parking aprons located at the terminal buildings;

12 (4) *In-To-Plane Fuel Service for Air Carrier.* To transfer fuel from the Airport's
13 fuel farm to an Air Carrier, and to uplift fuel into the proper locations on the
14 aircraft;

15 (5) *Passenger Service for Air Carrier.* To provide all documents for Air Carrier
16 passengers, cargo, and baggage as may be required by applicable
17 governmental agencies; to provide and handle passenger ticketing and
18 baggage check-in; to furnish linguists for the assistance of passengers
19 speaking a foreign language; to provide assistance for mishandled luggage;
20 and to provide passenger assistance functions in concourses and customs
21 facilities, including, but not limited to, unaccompanied minor services;

22 (6) *Porter Service for Air Carrier.* To handle and transport passenger baggage
23 and other articles of personal property through the terminal buildings and
24 areas, including the United States Federal Inspections areas and

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 Transportation Security Administration areas. Such service includes, but is
2 not limited to, skycaps, wheelchair attendants, luggage runners, and electric
3 cart drivers. An airline service provider is not required to pay a living wage
4 to a skycap who handles luggage, performs curbside check-in, and works
5 primarily for gratuities;

6 (7) *Janitorial Service for Air Carrier.* To provide personnel, equipment, and
7 material to clean the interior areas of the terminal buildings;

8 (8) *Security Service for Air Carrier.* Security service includes document
9 checkers at security check points, aircraft security, catering security, and
10 private screening of goods and passengers. Security service does not
11 include service provided by the federal government or pursuant to a federal
12 government contract;

13 (9) *Baggage Delivery Service for Air Carrier.* To handle and transport from the
14 Airport misplaced or misrouted baggage or other articles belonging to
15 passengers;

16 (10) *Aircraft Cleaning For Air Carrier.* To clean aircraft interiors and
17 exteriors; and

18 (11) *Operating Private Club for Air Carrier.* To operate a private club in a
19 terminal building exclusively for an Air Carrier's passengers which may
20 serve snacks and beverages and provide other related services.

21 (m) *Health care benefits* means health insurance coverage.

22 (n) *Living wage* means the hourly rate of pay required by this Ordinance.

23 (o) *Service contractor* means any for profit individual, corporation, partnership,

24 limited liability company, joint venture, or similar entity that:

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

- 1 (1) Is paid, whether directly or indirectly, from one (1) or more of the County's
2 general fund, enterprise funds, capital project funds, or any other funds to
3 provide covered services to the County pursuant to a service contract;
4 (2) Contracts with a service contractor as described in Section 26-101(o)(1) to
5 provide some of the covered services included in the service contract
6 between that service contractor and the County; or
7 (3) Is a concessionaire.

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

9 (a) *Living wage requirement.*

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

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

17 b. *Living wage rate without health care benefits.* If a covered employer
18 does not offer a covered employee health care benefits, a living wage
19 of no less than Twelve Dollars and Thirty-eight Cents (\$12.38) per
20 hour, plus an additional wage rate of One Dollar and Sixty-one Cents
21 (\$1.61) per hour.

22 (2) *Living Wage Obligation Effective January 1, 2019, for New Contracts and*
23 *Renewals Entered Into on or after January 1, 2019.* Each covered employer
24 entering into a new service contract or renewing a service contract on or

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscoring type are additions.

1 after January 1, 2019, shall pay each of its covered employees the amount
2 listed in paragraph a. or b. immediately below:

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

7 b. *Living wage rate without health care benefits.* If a covered employer
8 does not offer a covered employee health care benefits, a living wage
9 of no less than Thirteen Dollars Twenty-seven Cents (\$13.27) per
10 hour plus an additional wage rate of One Dollar Sixty-three Cents
11 (\$1.63) per hour, adjusted as provided below.

12 c. *Renewals.* Any service contract that is renewed must comply with
13 Section 26-102(a)(2) a. and b. immediately above. Any prior
14 delegation of authority to County staff by the County Commission to
15 renew a service contract is rescinded unless the renewal complies
16 with Section 26-102(a)(2).

17 (3) *Living Wage Obligation Effective January 1, 2019, for Contracts Entered*
18 *Into Prior to January 1, 2019, Including ~~Renewals and Extensions~~ Thereof.*
19 Commencing January 1, 2019, each covered employer with a service
20 contract entered into prior to January 1, 2019, shall pay each of its covered
21 employees the amount listed in paragraph a. or b. immediately below,¹⁷
22 ~~subject to the timing contingency stated in paragraph c. immediately below:~~

23 a. *Living wage rate with health care benefits.* A living wage of no less
24 than ~~Thirteen Dollars and Twenty-seven Cents (\$13.27)~~ Thirteen

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 Dollars (\$13.00) per hour, adjusted as provided below, in addition to
2 health care benefits as described in Section 26-102(d) below.

3 b. *Living wage rate without health care benefits.* If a covered employer
4 does not offer a covered employee health care benefits, a living wage
5 of no less than ~~Thirteen Dollars and Twenty-seven Cents (\$13.27)~~
6 Thirteen Dollars (\$13.00) per hour, plus an additional wage rate of
7 One Dollar and Sixty-three Cents (\$1.63) per hour, adjusted as
8 provided below.

9 c. ~~*Timing Contingency.* Each covered employer shall continue to pay~~
10 ~~the living wage rate established in Section 26-102(a)(1), which on~~
11 ~~January 1, 2019, is adjusted to the following amounts: (a) Twelve~~
12 ~~Dollars and Sixty Cents (\$12.60) per hour with health care benefits,~~
13 ~~or (b) Twelve Dollars and Sixty Cents (\$12.60) per hour without~~
14 ~~health benefits, plus an additional One Dollar and Sixty-three Cents~~
15 ~~(\$1.63) per hour. The amount shall continue to be paid through the~~
16 ~~earlier of July 1, 2019, or the date the County and the covered~~
17 ~~employer enter into a written amendment providing for the County to~~
18 ~~reasonably mitigate increased labor costs resulting from the~~
19 ~~December 2018 enactment of the Living Wage Ordinance. Effective~~
20 ~~July 1, 2019, or such earlier date on which the County and the~~
21 ~~covered employer enter into the above-referenced written~~
22 ~~amendment, the covered employer shall pay the living wage rate~~
23 ~~established in Section 26-102(a)(2) above. Each covered employer~~
24 ~~shall also, by no later than July 1, 2019, pay to each covered~~

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 ~~employee additional wages equaling the differential between the~~
2 ~~amount the covered employee would have received commencing~~
3 ~~January 1, 2019, under Section 26-102(a)(2) and the actual amount~~
4 ~~of wages paid to the covered employee through June 30, 2019.~~

5 (b) *No pass through.* Any increased living wage or health care benefit costs
6 resulting from the Living Wage Ordinance shall not be passed through to the County
7 unless clearly disclosed to and expressly approved by the Board of County
8 Commissioners.

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

14 (d) *Health care benefits.*

15 (1) *Health care benefit amount.* The health care benefit amount required by
16 the Living Wage Ordinance shall, commencing January 1, 2019, consist of
17 payment by a covered employer, or by the County for its employees, of at
18 least One Dollar and Sixty-three Cents (\$1.63) per hour, adjusted as
19 provided below ("health care benefit amount"), towards the provision of
20 health care benefits for a covered employee and dependents.

21 (2) *Proof of health care benefits.* A covered employer must submit a notarized
22 affidavit of compliance as proof of the provision of health care benefits to
23 qualify to pay the living wage rate for covered employees with health care
24 benefits.

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
 underscoring type are additions.

1 (3) The minimum contribution by a covered employer (or the County for its
2 employees) for health care benefits on a per-hour basis shall be calculated
3 based on a forty (40) hour work week. Hours worked by a covered
4 employee in excess of forty (40) hours per week shall not require additional
5 payments towards the provision of health care benefits.

6 (4) If a covered employer or the County, as applicable, contributes less than
7 the required amount for its covered employee's health care benefits, the
8 difference shall be paid to the covered employee as an additional hourly
9 wage amount.

10 (5) If the health care benefits plan provided requires an initial period of
11 employment before a new covered employee becomes eligible for the
12 health care benefits ("eligibility period"), the covered employer or the
13 County, as applicable, shall pay the living wage amount and the additional
14 health care benefit amount during a new covered employee's eligibility
15 period. When the new covered employee is provided health care benefits,
16 the covered employee may qualify to pay the living wage rate applicable for
17 covered employees that are provided health care benefits.

18 (6) If the covered employee declines health care benefits, the covered
19 employer may qualify to pay the living wage rate applicable for covered
20 employees that are provided health benefits, provided the covered
21 employer provides to the County written proof of the covered employee's
22 declination.

23 (7) Within sixty (60) days after enactment of this Ordinance, the Office of the
24 County Administrator shall provide to the County Commission a

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 recommendation for a one-time adjustment to the health care benefits
2 amount based on the condition of both the labor market and health
3 insurance market. Thereafter, adjustments to the health care benefits
4 amount will be addressed as provided in paragraph (e) immediately below.

5 (e) *Adjusting the living wage and health care benefit amount.*

6 Beginning on January 1, 2020, and thereafter on January 1 of each year, the living
7 wage and health care benefits amount shall be adjusted annually by the lowest of the
8 following three (3) percentages:

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

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

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

16 (f) *Certification required before payment.* Any and all contracts for covered
17 services shall be void, and no funds may be released unless, prior to entering any contract
18 with the County for a service contract, the covered employer certifies to the County that
19 it will pay each of its covered employees no less than the living wage described in the
20 applicable section above. The certificate, at a minimum, must include the following:

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

24
Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

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

3 (3) A brief description of the project or service provided;

4 (4) A statement of the wage levels for all covered employees; and

5 (5) A commitment to pay all covered employees a living wage, as described in
6 subsection (a).

7 (g) *Observance of other laws.* Every covered employee shall be paid at least
8 biweekly, and without subsequent deduction or rebate of any account (except for such
9 payroll deductions as are directed or permitted by law or a collective bargaining
10 agreement). The covered employer shall, at a minimum, pay covered employees the
11 living wage rates required by the Living Wage Ordinance and shall also comply with
12 federal and all other applicable laws and ordinances, such as overtime and other wage
13 laws and ordinances.

14 (h) *Posting.* A copy of the living wage rate shall be posted by the covered
15 employer at the workplace in a prominent place where it can easily be seen by covered
16 employees and shall be furnished to a covered employee within a reasonable time after
17 a request to do so. A copy of the living wage rate shall be posted by the covered
18 employer's subcontractors in a prominent place at the subcontractor's premises where
19 paychecks are distributed and shall also be furnished to a covered employee upon
20 request within a reasonable time after the request is made. Additionally, service
21 contractors shall forward a copy of the requirements of the Living Wage Ordinance to any
22 individual and any entity submitting a bid for a subcontract on any County service contract
23 covered by this article. A covered employer shall also provide the following statement to
24 each covered employee with the employee's first paycheck and every six (6) months

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 thereafter: "You are required by Broward County ordinance to be paid at least [insert
2 applicable rate pursuant to the Living Wage Ordinance] dollars an hour. If you are not
3 paid this hourly rate, contact your supervisor or a lawyer." All notices required by this
4 paragraph shall be printed in English, Spanish, and Creole. The statements shall be
5 provided in the manner set forth below:

6 (1) By printing or stamping the statements on the front of the covered
7 employee's first paycheck or, if the covered employee has direct deposit of
8 his or her pay, the covered employer may print or stamp the statements on
9 the inside or outside of the covered employee's first direct receipt; or

10 (2) By attaching or endorsing the printed or stamped statements with the
11 covered employee's first paycheck or direct deposit receipt and
12 subsequently providing a notarized compliance affidavit from the covered
13 employer to the County acknowledging that the statements were provided
14 to the covered employee with his or her first paycheck.

15 (i) *Inconsistency with Applicable Law or Collective Bargaining Agreement.*

16 The provisions of the Living Wage Ordinance shall not be applicable to the extent they
17 conflict with federal or state law. Additionally, nothing in the Living Wage Ordinance shall
18 require the payment of any wage where the applicable covered employee is a member of
19 a collective bargaining unit that has collectively bargained for a higher wage.

20 Section 2. Severability.

21 If any portion of this Ordinance is determined by any court to be invalid, the invalid
22 portion will be stricken, and such striking will not affect the validity of the remainder of this
23 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
24 legally applied to any individual, group, entity, property, or circumstance, such

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 determination will not affect the applicability of this Ordinance to any other individual,
2 group, entity, property, or circumstance.

3 Section 3. Inclusion in the Broward County Code of Ordinances.

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

9 Section 4. Effective Date.

10 This Ordinance is effective as of the date provided by law.

PROPOSED

12 ENACTED

13 FILED WITH THE DEPARTMENT OF STATE

14 EFFECTIVE

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

17
18 By /s/ Adam Katzman 11/08/18
Adam Katzman (date)
19 Senior Assistant County Attorney

20
21 By /s/ Andrew J. Meyers 11/08/18
Andrew J. Meyers (date)
22 County Attorney

23 AMK
24 11/15/18
Living Wage Ordinance
41026

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

ORDINANCE NO. 2018-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO THE BROWARD COUNTY LIVING WAGE ORDINANCE; REPEALING AND REPLACING IN THEIR ENTIRETY SECTIONS 26-100 THROUGH 26-102 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE") TO ESTABLISH A LIVING WAGE AND CORRESPONDING HEALTH CARE BENEFIT AMOUNT; PROVIDING FOR DEFINITIONS; PROVIDING THAT THE LIVING WAGE APPLIES TO ALL NEW AND EXISTING CONTRACTS; PROVIDING FOR THE METHOD TO ADJUST THE LIVING WAGE AND HEALTH CARE BENEFIT AMOUNT; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by Senator Nan H. Rich)

WHEREAS, for reasons including impacts caused by the recession that began in December 2007, the Broward County Living Wage Ordinance, as currently codified, does not ensure that covered employees receive a living wage; and

WHEREAS, the Board of County Commissioners desires, effective January 1, 2019, to increase the living wage hourly rate,

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

Section 1. Sections 26-100 through 26-102 of Article VII of Chapter 26, Broward County Code of Ordinances, are hereby repealed in their entirety and new Sections 26-100 through 26-102 are hereby created as follows:

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 [Underlining omitted]

2 **Sec. 26-100. Title and Legislative Findings.**

3 (a) *Title.*

4 Sections 26-100 through 26-105 of Article VII of Chapter 26, Broward County
5 Code, may be cited as the "Broward County Living Wage Ordinance" or the "Living Wage
6 Ordinance."

7 (b) *Legislative findings.*

8 The County awards contracts and leases County property to private companies to
9 provide services to the County and the public. The County has a proprietary interest in
10 the work performed by employees of County service contractors, airline service providers,
11 subcontractors, and County lessees. The wages paid to these employees are often not
12 enough for them to support and care for their families, thereby inhibiting employee
13 retention and negatively impacting the quantity and quality of services rendered by these
14 employees to the County and the public.

15 **Sec. 26-101. Definitions.**

16 As used in the Living Wage Ordinance, reference to one gender shall include the
17 other; use of the plural shall include the singular; and use of the singular shall include the
18 plural. The following definitions apply unless the context in which the word or phrase is
19 used requires a different meaning:

20 (a) *Airport* means the Fort Lauderdale-Hollywood International Airport.

21 (b) *Airport Terminal Complex* means all passenger terminal buildings located
22 at the Airport, whether now existing or developed in the future.

23
24
Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 (c) *Air Carrier* means a certificated commercial air carrier that has authority
2 from the appropriate regulatory department of the United States of America, or any other
3 competent authority, to operate in and out of the Airport.

4 (d) *Airline service provider* means any for profit individual, corporation,
5 partnership, limited liability company, joint venture, or similar entity that provides covered
6 airport services as authorized by an airline service provider agreement, and any
7 subcontractor of any such individual or entity regarding the subcontractor's provision of
8 covered airport services.

9 (e) *Car Rental Center* means the facility located within the Airport terminal
10 roadway system designated for rental car concession operations and for pick-up and
11 delivery of customers by nonconcessionaire rental car companies and by Airport users,
12 including any future modifications to this facility.

13 (f) *Concessionaire* means a service contractor awarded a County contract at
14 the Airport Terminal Complex or Car Rental Center for the Duty Free Shop, Food and
15 Beverage, News-General Merchandise-Book Store, and Specialty Retail Shops.

16 (g) *County* means Broward County, a political subdivision of the state of
17 Florida.

18 (h) *Covered employee* means:

- 19 (1) Each individual employed by a service contractor for a minimum of twenty
20 (20) hours per week who, during the employment, is or was involved in
21 providing services pursuant to the service contractor's contract with the
22 County, except where the individual's primary compensation is composed
23 of gratuities;

24
Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

- 1 (2) Each individual employed by an airline service provider who, during the
2 employment, is or was involved in providing covered airport services
3 pursuant to Section 26-101(l). Individuals employed by an airline service
4 provider whose primary compensation is composed of gratuities are not
5 covered employees, except for wheelchair attendants as described
6 in Section 26-101(l)(6); and
- 7 (3) Each County employee who is in a part-time benefit eligible or full-time
8 benefit-eligible position, as determined by the County.
- 9 (i) *Covered employer* means all service contractors and all airline service
10 providers.
- 11 (j) *County service contracts* or *service contracts* means:
- 12 (1) Contracts awarded by the County pursuant to the County's Procurement
13 Code or entered into after a waiver of the Procurement Code that are for
14 covered services and where the average annual contract amount exceeds
15 One Hundred Thousand Dollars (\$100,000.00) based on the applicable
16 procurement solicitation document;
- 17 (2) Contracts, regardless of value, at the Airport Terminal Complex or Car
18 Rental Center, awarded to concessionaires, pursuant to Chapter 26,
19 "Operational Policy, Aviation," Parts I and II, of the Broward County
20 Administrative Code, or pursuant to a waiver of the Operational Policy; and
- 21 (3) Contracts entered into by airline service providers to perform covered
22 airport services.
- 23 (k) *Covered services* means the following services purchased by the County:
- 24 (1) Food preparation or distribution;

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

- 1 (2) Security services;
- 2 (3) Routine maintenance services, such as janitorial, cleaning, refuse removal,
- 3 recycling collections, and other similar services that are needed or that are
- 4 anticipated to be needed for normal upkeep of facilities during the term of
- 5 the service contract. Construction and roofing services shall not be
- 6 considered routine maintenance services;
- 7 (4) Repair or refinishing services for furniture, fixtures, vehicles, machinery, or
- 8 equipment, including preventative maintenance replacement of parts, and
- 9 other activities needed to preserve the asset. Construction and roofing
- 10 services shall not be considered repair or refinishing services;
- 11 (5) Clerical or other nonsupervisory office work, whether by temporary or
- 12 permanent personnel. Such work includes secretarial, typing, data entry,
- 13 filing, transcription, specialized billing, sorting or completion of forms, and
- 14 word, data, and information processing;
- 15 (6) Passenger transportation and automobile parking services. Such services,
- 16 when provided by or through government entities other than the County,
- 17 shall not be included in this category;
- 18 (7) Printing and reproduction services; and
- 19 (8) Landscaping, lawn, or agricultural services.
- 20 (l) *Covered airport services* means the following services:
- 21 (1) *Ground Handling or Ramp Services for Air Carrier*. To guide aircraft to a
- 22 parking position for purposes of loading and unloading passengers,
- 23 baggage, mail, or cargo from aircraft with required equipment to designated
- 24 locations on the Airport; accept and process inbound and outbound

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 shipments at designated cargo handling building; and provide lavatory
2 waste services and provisioning of water service for aircraft;

3 (2) *Ground Equipment Provisioning and Maintenance for Air Carrier.* To repair,
4 maintain, and refuel all ground equipment whether owned or leased that is
5 used by an airline service provider or Air Carrier, including, but not limited
6 to, tugs, carts, belt-loaders, aircraft starters, aircraft loading stairs, and air-
7 conditioning units. Such ground equipment shall not include automobiles,
8 trucks, or other vehicles designed for use on public streets, either on or off
9 of the Airport;

10 (3) *Maintenance for Air Carrier.* To provide maintenance to an Air Carrier on
11 the aircraft parking aprons located at the terminal buildings;

12 (4) *In-To-Plane Fuel Service for Air Carrier.* To transfer fuel from the Airport's
13 fuel farm to an Air Carrier, and to uplift fuel into the proper locations on the
14 aircraft;

15 (5) *Passenger Service for Air Carrier.* To provide all documents for Air Carrier
16 passengers, cargo, and baggage as may be required by applicable
17 governmental agencies; to provide and handle passenger ticketing and
18 baggage check-in; to furnish linguists for the assistance of passengers
19 speaking a foreign language; to provide assistance for mishandled luggage;
20 and to provide passenger assistance functions in concourses and customs
21 facilities, including, but not limited to, unaccompanied minor services;

22 (6) *Porter Service for Air Carrier.* To handle and transport passenger baggage
23 and other articles of personal property through the terminal buildings and
24 areas, including the United States Federal Inspections areas and

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 Transportation Security Administration areas. Such service includes, but is
2 not limited to, skycaps, wheelchair attendants, luggage runners, and electric
3 cart drivers. An airline service provider is not required to pay a living wage
4 to a skycap who handles luggage, performs curbside check-in, and works
5 primarily for gratuities;

6 (7) *Janitorial Service for Air Carrier.* To provide personnel, equipment, and
7 material to clean the interior areas of the terminal buildings;

8 (8) *Security Service for Air Carrier.* Security service includes document
9 checkers at security check points, aircraft security, catering security, and
10 private screening of goods and passengers. Security service does not
11 include service provided by the federal government or pursuant to a federal
12 government contract;

13 (9) *Baggage Delivery Service for Air Carrier.* To handle and transport from the
14 Airport misplaced or misrouted baggage or other articles belonging to
15 passengers;

16 (10) *Aircraft Cleaning For Air Carrier.* To clean aircraft interiors and
17 exteriors; and

18 (11) *Operating Private Club for Air Carrier.* To operate a private club in a
19 terminal building exclusively for an Air Carrier's passengers which may
20 serve snacks and beverages and provide other related services.

21 (m) *Health care benefits* means health insurance coverage.

22 (n) *Living wage* means the hourly rate of pay required by this Ordinance.

23 (o) *Service contractor* means any for profit individual, corporation, partnership,

24 limited liability company, joint venture, or similar entity that:

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

- 1 (1) Is paid, whether directly or indirectly, from one (1) or more of the County's
2 general fund, enterprise funds, capital project funds, or any other funds to
3 provide covered services to the County pursuant to a service contract;
4 (2) Contracts with a service contractor as described in Section 26-101(o)(1) to
5 provide some of the covered services included in the service contract
6 between that service contractor and the County; or
7 (3) Is a concessionaire.

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

9 (a) *Living wage requirement.*

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

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

17 b. *Living wage rate without health care benefits.* If a covered employer
18 does not offer a covered employee health care benefits, a living wage
19 of no less than Twelve Dollars and Thirty-eight Cents (\$12.38) per
20 hour, plus an additional wage rate of One Dollar and Sixty-one Cents
21 (\$1.61) per hour.

22 (2) *Living Wage Obligation Effective January 1, 2019, for New Contracts*
23 *Entered Into on or after January 1, 2019.* Each covered employer entering
24 into a new service contract on or after January 1, 2019, shall pay each of

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 its covered employees the amount listed in paragraph a. or b. immediately
2 below:

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

7 b. *Living wage rate without health care benefits.* If a covered employer
8 does not offer a covered employee health care benefits, a living wage
9 of no less than Thirteen Dollars and Twenty-seven Cents (\$13.27)
10 per hour, plus an ~~additional wage rate of One Dollar and Sixty-three~~
11 ~~Cents (\$1.63) per hour~~ the health care benefit amount, as defined
12 below in Section 26-102(d)(1), adjusted as provided below.

13 (3) *Living Wage Obligation Effective January 1, 2019, for Contracts Entered*
14 *Into Prior to January 1, 2019, Including Renewals, Amendments, and*
15 *Extensions Thereof.* Commencing January 1, 2019, each covered
16 employer with a service contract entered into prior to January 1, 2019, shall
17 pay each of its covered employees the amount listed in paragraph a. or b.
18 immediately below, subject to the ~~timing contingency~~ conditions precedent
19 stated in paragraph c. immediately below:

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

24

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 b. *Living wage rate without health care benefits.* If a covered employer
2 does not offer a covered employee health care benefits, a living wage
3 of no less than Thirteen Dollars and Twenty-seven Cents (\$13.27)
4 per hour, plus an ~~additional wage rate of One Dollar and Sixty-three~~
5 ~~Cents (\$1.63) per hour~~ the health care benefit amount, as defined
6 below in Section 26-102(d)(1), adjusted as provided below.

7 c. ~~*Timing Contingency.* Each covered employer shall continue to pay~~
8 ~~the living wage rate established in Section 26-102(a)(1), which on~~
9 ~~January 1, 2019, is adjusted to the following amounts: (a) Twelve~~
10 ~~Dollars and Sixty Cents (\$12.60) per hour with health care benefits,~~
11 ~~or (b) Twelve Dollars and Sixty Cents (\$12.60) per hour without~~
12 ~~health benefits, plus an additional One Dollar and Sixty-three Cents~~
13 ~~(\$1.63) per hour. The amount shall continue to be paid through the~~
14 ~~earlier of July 1, 2019, or the date the County and the covered~~
15 ~~employer enter into a written amendment providing for the County to~~
16 ~~reasonably mitigate increased labor costs resulting from the~~
17 ~~December 2018 enactment of the Living Wage Ordinance. Effective~~
18 ~~July 1, 2019, or such earlier date on which the County and the~~
19 ~~covered employer enter into the above-referenced written~~
20 ~~amendment, the covered employer shall pay the living wage rate~~
21 ~~established in Section 26-102(a)(2) above. Each covered employer~~
22 ~~shall also, by no later than July 1, 2019, pay to each covered~~
23 ~~employee additional wages equaling the differential between the~~
24 ~~amount the covered employee would have received commencing~~

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscoring type are additions.

1 January 1, 2019, under Section 26-102(a)(2) and the actual amount
2 of wages paid to the covered employee through June 30, 2019.

3 Conditions Precedent. Notwithstanding anything to the contrary
4 stated in Section 26-102, each covered employer shall continue to
5 pay the living wage rate with health care benefits or the living wage
6 rate without health care benefits, as applicable, that would otherwise
7 be in effect prior to the adoption of this amendment to the Living
8 Wage Ordinance, adjusted as provided in Section 26-102(e), unless
9 and until the condition established in either paragraph 1 or
10 paragraph 2 immediately below occurs:

- 11 1. The County and the covered employer enter into a written
12 amendment expressly applying to the underlying service
13 contract the higher living wage and health care benefit amount
14 established by this amendment to the Living Wage Ordinance.
15 The amendment may provide funding by the County to
16 reasonably mitigate increased costs, if any, resulting from this
17 amendment to the Living Wage Ordinance provided (i) the
18 covered employer certifies in writing that any such funding
19 provided by the County equals or is less than the amount of
20 such increased costs; and (ii) the County's contract
21 administrator certifies in writing that, after diligent review of
22 applicable documentation, the contract administrator concurs
23 with the covered employer's certification; or
24

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 2. The covered employer provides written consent and express
2 waiver of any objection or defense to the application of the
3 higher living wage and health care benefit amount established
4 by this amendment to the Living Wage Ordinance, in form and
5 substance approved by the Office of the County Attorney.

6 On or before April 1, 2019, the County Administrator, through
7 applicable staff, shall present to the County Commission each
8 affected service contract entered into prior to January 1, 2019, as to
9 which neither the condition stated in paragraph 1 nor the condition
10 stated in paragraph 2 has been met, and shall concurrently
11 recommend in writing whether each such contract should be
12 terminated for convenience (as permitted under the contract) or
13 continued. For each contract as to which staff is recommending a
14 continuation, staff's recommendation shall state the operational
15 justification for such continuation. The County Commission, after
16 considering staff's recommendations, shall determine the
17 appropriate action to take regarding each contract.

18 With regard to service contracts entered into prior to
19 January 1, 2019, as to which neither the condition stated in
20 paragraph 1 nor the condition stated in paragraph 2 has been met,
21 staff may not approve any amendment, renewal, or extension thereof
22 unless the amendment, renewal, or extension includes a
23 commitment by the covered employer to pay, upon the
24 commencement of the amendment, renewal, or extension, the higher

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 living wage and health care benefit amount established by this
2 amendment to the Living Wage Ordinance. Any amendment,
3 renewal, or extension that does not include this commitment may be
4 approved only by the County Commission, and any contrary prior
5 delegation of authority to staff is hereby rescinded.

6 (b) *No pass through.* Any increased living wage or health care benefit costs
7 resulting from the Living Wage Ordinance shall not be passed through to the County
8 unless clearly disclosed to and expressly approved by the Board of County
9 Commissioners.

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

15 (d) *Health care benefits.*

16 (1) *Health care benefit amount.* The health care benefit amount required by
17 the Living Wage Ordinance shall, ~~commencing January 1, 2019,~~ consist of
18 payment by a covered employer, or by the County for its employees, ~~of at~~
19 ~~least One Dollar and Sixty-three Cents (\$1.63) per hour, adjusted as~~
20 ~~provided below~~ of an amount ("health care benefit amount") towards the
21 provision of health care benefits for a covered employee and dependents,
22 as follows:

23 a. Effective January 1, 2019, a health care benefit amount of at least
24 Two Dollars and Ten Cents (\$2.10) per hour.

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 b. Effective January 1, 2020, a health care benefit amount of at least
2 the sum of Two Dollars and Seventy-seven Cents (\$2.77) per hour
3 plus the amount of the adjustment that would have occurred had the
4 \$2.77 rate been in effect on January 1, 2019.

5 c. Effective January 1, 2021, a health care benefit amount of at least
6 the sum of Three Dollars and Forty-four Cents (\$3.44) per hour plus
7 the amount of the adjustment that would have occurred had the
8 \$3.44 rate been in effect on January 1, 2019, adjusted as provided
9 below commencing January 1, 2022.

10 (2) *Proof of health care benefits.*

11 a. A covered employer must submit a notarized affidavit of compliance
12 as proof of the provision of health care benefits to qualify to pay the
13 living wage rate for covered employees with health care benefits.

14 b. If a covered employee declines offered health care benefits in writing,
15 a covered employer shall pay to the covered employee a the
16 applicable living wage of no less than Thirteen Dollars and Twenty-
17 seven Cents (\$13.27) per hour, plus the health care benefit amount,
18 adjusted as provided below, provided the covered employee
19 provides written proof of health insurance coverage to the covered
20 employer and certifies in writing that the health insurance coverage
21 is a qualified plan under the Affordable Care Act.

22 (3) The minimum contribution by a covered employer (or the County for its
23 employees) for health care benefits on a per-hour basis shall be calculated
24 based on a forty (40) hour work week. Hours worked by a covered

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
 underscored type are additions.

1 employee in excess of forty (40) hours per week shall not require additional
2 payments towards the provision of health care benefits.

3 (4) If a covered employer or the County, as applicable, contributes less than
4 the required amount for its covered employee's health care benefits, the
5 difference shall be paid to the covered employee as an additional hourly
6 wage amount.

7 (5) If the health care benefits plan provided requires an initial period of
8 employment before a new covered employee becomes eligible for the
9 health care benefits ("eligibility period"), the covered employer or the
10 County, as applicable, shall pay the living wage amount and the additional
11 health care benefit amount during a new covered employee's eligibility
12 period. When the new covered employee is provided health care benefits,
13 the covered employee may qualify to pay the living wage rate applicable for
14 covered employees that are provided health care benefits.

15 ~~(6) If the covered employee declines health care benefits, the covered~~
16 ~~employer may qualify to pay the living wage rate applicable for covered~~
17 ~~employees that are provided health benefits, provided the covered~~
18 ~~employer provides to the County written proof of the covered employee's~~
19 ~~declination.~~

20 (e) *Adjusting the living wage and health care benefit amount.* Beginning on
21 January 1, 2020, and thereafter on January 1 of each year, the living wage and health
22 care benefits amount shall be adjusted annually by the lowest of the following three (3)
23 percentages:
24

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

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

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

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

8 (f) *Certification required before payment.* Any and all contracts for covered
9 services shall be void, and no funds may be released unless, prior to entering any contract
10 with the County for a service contract, the covered employer certifies to the County that
11 it will pay each of its covered employees no less than the living wage described in the
12 applicable section above. The certificate, at a minimum, must include the following:

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

16 (2) The amount of the contract and the applicable County department the
17 contract will serve;

18 (3) A brief description of the project or service provided;

19 (4) A statement of the wage levels for all covered employees; and

20 (5) A commitment to pay all covered employees a living wage, as described in
21 subsection (a).

22 (g) *Observance of other laws.* Every covered employee shall be paid at least
23 biweekly, and without subsequent deduction or rebate of any account (except for such
24 payroll deductions as are directed or permitted by law or a collective bargaining

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 agreement). The covered employer shall, at a minimum, pay covered employees the
2 living wage rates required by the Living Wage Ordinance and shall also comply with
3 federal and all other applicable laws and ordinances, such as overtime and other wage
4 laws and ordinances.

5 (h) *Posting.* A copy of the living wage rate shall be posted by the covered
6 employer at the workplace in a prominent place where it can easily be seen by covered
7 employees and shall be furnished to a covered employee within a reasonable time after
8 a request to do so. A copy of the living wage rate shall be posted by the covered
9 employer's subcontractors in a prominent place at the subcontractor's premises where
10 paychecks are distributed and shall also be furnished to a covered employee upon
11 request within a reasonable time after the request is made. Additionally, service
12 contractors shall forward a copy of the requirements of the Living Wage Ordinance to any
13 individual and any entity submitting a bid for a subcontract on any County service contract
14 covered by this article. A covered employer shall also provide the following statement to
15 each covered employee with the employee's first paycheck and every six (6) months
16 thereafter: "You are required by Broward County ordinance to be paid at least [insert
17 applicable rate pursuant to the Living Wage Ordinance] dollars an hour. If you are not
18 paid this hourly rate, contact your supervisor or a lawyer." All notices required by this
19 paragraph shall be printed in English, Spanish, and Creole. The statements shall be
20 provided in the manner set forth below:

21 (1) By printing or stamping the statements on the front of the covered
22 employee's first paycheck or, if the covered employee has direct deposit of
23 his or her pay, the covered employer may print or stamp the statements on
24 the inside or outside of the covered employee's first direct receipt; or

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 (2) By attaching or endorsing the printed or stamped statements with the
2 covered employee's first paycheck or direct deposit receipt and
3 subsequently providing a notarized compliance affidavit from the covered
4 employer to the County acknowledging that the statements were provided
5 to the covered employee with his or her first paycheck.

6 (i) *Inconsistency with Applicable Law or Collective Bargaining Agreement.*

7 The provisions of the Living Wage Ordinance shall not be applicable to the extent they
8 conflict with federal or state law. Additionally, nothing in the Living Wage Ordinance shall
9 require the payment of any wage where the applicable covered employee is a member of
10 a collective bargaining unit that has collectively bargained for a higher wage.

11
12 Section 2. Severability.

13 If any portion of this Ordinance is determined by any court to be invalid, the invalid
14 portion will be stricken, and such striking will not affect the validity of the remainder of this
15 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
16 legally applied to any individual, group, entity, property, or circumstance, such
17 determination will not affect the applicability of this Ordinance to any other individual,
18 group, entity, property, or circumstance.

19
20 Section 3. Inclusion in the Broward County Code of Ordinances.

21 It is the intention of the Board of County Commissioners that the provisions of this
22 Ordinance become part of the Broward County Code of Ordinances as of the effective
23 date. The sections of this Ordinance may be renumbered or relettered and the word
24

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 "ordinance" may be changed to "section," "article," or such other appropriate word or
2 phrase to the extent necessary in order to accomplish such intention.

3

4 Section 4. Effective Date.

5 This Ordinance is effective as of the date provided by law.

6

7

8

9 ENACTED

10 FILED WITH THE DEPARTMENT OF STATE

11 EFFECTIVE

12

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

15

16 By /s/ Adam Katzman 12/10/18
17 Adam Katzman (date)
18 Senior Assistant County Attorney

18

19 By /s/ Andrew J. Meyers 12/10/18
20 Andrew J. Meyers (date)
21 County Attorney

21

22

23 AMK/mm
12/10/18
24 Living Wage Ordinance
#398662.1

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

Vice-Mayor Holness proposes the following amendments to the Living Wage Ordinance: Page 11, Lines 8-14, and Page 12, Lines 18-21

Sec. 26-102. Living wage.

...

(d) *Health care benefits.*

(1) *Health care benefit amount.* The health care benefit amount required by the Living Wage Ordinance shall, ~~commencing January 1, 2019,~~ consist of payment by a covered employer, or by the County for its employees, ~~of at least One Dollar and Sixty-three Cents (\$1.63) per hour, adjusted as provided below~~ of an amount ("health care benefit amount") towards the provision of health care benefits for a covered employee and dependents, ~~as follows:~~

a. Effective January 1, 2019, a health care benefit amount of at least Two Dollars and Fifty Cents (\$2.50) per hour.

b. Effective January 1, 2020, a health care benefit amount of at least Two Dollars and Ninety-seven Cents (\$2.97) per hour.

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

...

(e) *Adjusting the living wage and health care benefit amount.* Beginning on January 1, 2020, and thereafter on January 1 of each year, the living wage ~~and health care benefit amount,~~ and beginning on January 1, 2022, and thereafter on January 1 of each year, the health care benefit amount, shall be adjusted annually by the lowest of the following three (3) percentages:

...

Commissioner Sharief proposes the following amendment to the Living Wage Ordinance: Page 11, Lines 8 - 14

Sec. 26-102. Living wage.

...

(d) *Health care benefits.*

(1) *Health care benefit amount.* The health care benefit amount required by the Living Wage Ordinance shall, ~~commencing January 1, 2019,~~ consist of payment by a covered employer, or by the County for its employees, ~~of at least One Dollar and Sixty-three Cents (\$1.63) per hour, adjusted as provided below~~ of an amount ("health care benefit amount") towards the provision of health care benefits for a covered employee and dependents, ~~as follows:~~

a. Effective January 1, 2019, a health care benefit amount of at least One Dollar and Seventy-three Cents (\$1.73) per hour.

b. Effective January 1, 2020, a health care benefit amount of at least the sum of Two Dollars and Twelve Cents (\$2.12) per hour plus the amount of the adjustment that would have occurred had the \$2.12 rate been in effect on January 1, 2019.

c. Effective January 1, 2021, a health care benefit amount of at least the sum of Two Dollars and Fifty-one Cents (\$2.51) per hour plus the amount of the adjustment that would have occurred had the \$2.51 rate been in effect on January 1, 2019, adjusted as provided below commencing January 1, 2022.

...

ORDINANCE NO. 2018-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO THE BROWARD COUNTY LIVING WAGE ORDINANCE; REPEALING AND REPLACING IN THEIR ENTIRETY SECTIONS 26-100 THROUGH 26-102 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE") TO ESTABLISH A LIVING WAGE AND CORRESPONDING HEALTH CARE BENEFIT AMOUNT; PROVIDING FOR DEFINITIONS; PROVIDING THAT THE LIVING WAGE APPLIES TO ALL NEW AND EXISTING CONTRACTS; PROVIDING FOR THE METHOD TO ADJUST THE LIVING WAGE AND HEALTH CARE BENEFIT AMOUNT; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by Senator Steve Geller)

WHEREAS, for reasons including impacts caused by the recession that began in December 2007, the Broward County Living Wage Ordinance, as currently codified, does not ensure that covered employees receive a living wage; and

WHEREAS, the Board of County Commissioners desires, effective January 1, 2019, to increase the living wage hourly rate,

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

Section 1. Sections 26-100 through 26-102 of Article VII of Chapter 26, Broward County Code of Ordinances, are hereby repealed in their entirety and new Sections 26-100 through 26-102 are hereby created as follows:

1 [Underlining omitted]

2 **Sec. 26-100. Title and Legislative Findings.**

3 (a) *Title.*

4 Sections 26-100 through 26-105 of Article VII of Chapter 26, Broward County
5 Code, may be cited as the "Broward County Living Wage Ordinance" or the "Living Wage
6 Ordinance."

7 (b) *Legislative findings.*

8 The County awards contracts and leases County property to private companies to
9 provide services to the County and the public. The County has a proprietary interest in
10 the work performed by employees of County service contractors, airline service providers,
11 subcontractors, and County lessees. The wages paid to these employees are often not
12 enough for them to support and care for their families, thereby inhibiting employee
13 retention and negatively impacting the quantity and quality of services rendered by these
14 employees to the County and the public.

15 **Sec. 26-101. Definitions.**

16 As used in the Living Wage Ordinance, reference to one gender shall include the
17 other; use of the plural shall include the singular; and use of the singular shall include the
18 plural. The following definitions apply unless the context in which the word or phrase is
19 used requires a different meaning:

20 (a) *Airport* means the Fort Lauderdale-Hollywood International Airport.

21 (b) *Airport Terminal Complex* means all passenger terminal buildings located
22 at the Airport, whether now existing or developed in the future.

23
24
Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 (c) *Air Carrier* means a certificated commercial air carrier that has authority
2 from the appropriate regulatory department of the United States of America, or any other
3 competent authority, to operate in and out of the Airport.

4 (d) *Airline service provider* means any for profit individual, corporation,
5 partnership, limited liability company, joint venture, or similar entity that provides covered
6 airport services as authorized by an airline service provider agreement, and any
7 subcontractor of any such individual or entity regarding the subcontractor's provision of
8 covered airport services.

9 (e) *Car Rental Center* means the facility located within the Airport terminal
10 roadway system designated for rental car concession operations and for pick-up and
11 delivery of customers by nonconcessionaire rental car companies and by Airport users,
12 including any future modifications to this facility.

13 (f) *Concessionaire* means a service contractor awarded a County contract at
14 the Airport Terminal Complex or Car Rental Center for the Duty Free Shop, Food and
15 Beverage, News-General Merchandise-Book Store, and Specialty Retail Shops.

16 (g) *County* means Broward County, a political subdivision of the state of
17 Florida.

18 (h) *Covered employee* means:

- 19 (1) Each individual employed by a service contractor for a minimum of twenty
20 (20) hours per week who, during the employment, is or was involved in
21 providing services pursuant to the service contractor's contract with the
22 County, except where the individual's primary compensation is composed
23 of gratuities;

24
Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

- 1 (2) Each individual employed by an airline service provider who, during the
 2 employment, is or was involved in providing covered airport services
 3 pursuant to Section 26-101(l). Individuals employed by an airline service
 4 provider whose primary compensation is composed of gratuities are not
 5 covered employees, except for wheelchair attendants as described
 6 in Section 26-101(l)(6); and
- 7 (3) Each County employee who is in a part-time benefit eligible or full-time
 8 benefit-eligible position, as determined by the County.
- 9 (i) *Covered employer* means all service contractors and all airline service
 10 providers.
- 11 (j) *County service contracts* or *service contracts* means:
- 12 (1) Contracts awarded by the County pursuant to the County's Procurement
 13 Code or entered into after a waiver of the Procurement Code that are for
 14 covered services and where the average annual contract amount exceeds
 15 One Hundred Thousand Dollars (\$100,000.00) based on the applicable
 16 procurement solicitation document;
- 17 (2) Contracts, regardless of value, at the Airport Terminal Complex or Car
 18 Rental Center, awarded to concessionaires, pursuant to Chapter 26,
 19 "Operational Policy, Aviation," Parts I and II, of the Broward County
 20 Administrative Code, or pursuant to a waiver of the Operational Policy; and
- 21 (3) Contracts entered into by airline service providers to perform covered
 22 airport services.
- 23 (k) *Covered services* means the following services purchased by the County:
- 24 (1) Food preparation or distribution;

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

- 1 (2) Security services;
- 2 (3) Routine maintenance services, such as janitorial, cleaning, refuse removal,
- 3 recycling collections, and other similar services that are needed or that are
- 4 anticipated to be needed for normal upkeep of facilities during the term of
- 5 the service contract. Construction and roofing services shall not be
- 6 considered routine maintenance services;
- 7 (4) Repair or refinishing services for furniture, fixtures, vehicles, machinery, or
- 8 equipment, including preventative maintenance replacement of parts, and
- 9 other activities needed to preserve the asset. Construction and roofing
- 10 services shall not be considered repair or refinishing services;
- 11 (5) Clerical or other nonsupervisory office work, whether by temporary or
- 12 permanent personnel. Such work includes secretarial, typing, data entry,
- 13 filing, transcription, specialized billing, sorting or completion of forms, and
- 14 word, data, and information processing;
- 15 (6) Passenger transportation and automobile parking services. Such services,
- 16 when provided by or through government entities other than the County,
- 17 shall not be included in this category;
- 18 (7) Printing and reproduction services; and
- 19 (8) Landscaping, lawn, or agricultural services.
- 20 (l) *Covered airport services* means the following services:
- 21 (1) *Ground Handling or Ramp Services for Air Carrier*. To guide aircraft to a
- 22 parking position for purposes of loading and unloading passengers,
- 23 baggage, mail, or cargo from aircraft with required equipment to designated
- 24 locations on the Airport; accept and process inbound and outbound

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 shipments at designated cargo handling building; and provide lavatory
2 waste services and provisioning of water service for aircraft;

3 (2) *Ground Equipment Provisioning and Maintenance for Air Carrier.* To repair,
4 maintain, and refuel all ground equipment whether owned or leased that is
5 used by an airline service provider or Air Carrier, including, but not limited
6 to, tugs, carts, belt-loaders, aircraft starters, aircraft loading stairs, and air-
7 conditioning units. Such ground equipment shall not include automobiles,
8 trucks, or other vehicles designed for use on public streets, either on or off
9 of the Airport;

10 (3) *Maintenance for Air Carrier.* To provide maintenance to an Air Carrier on
11 the aircraft parking aprons located at the terminal buildings;

12 (4) *In-To-Plane Fuel Service for Air Carrier.* To transfer fuel from the Airport's
13 fuel farm to an Air Carrier, and to uplift fuel into the proper locations on the
14 aircraft;

15 (5) *Passenger Service for Air Carrier.* To provide all documents for Air Carrier
16 passengers, cargo, and baggage as may be required by applicable
17 governmental agencies; to provide and handle passenger ticketing and
18 baggage check-in; to furnish linguists for the assistance of passengers
19 speaking a foreign language; to provide assistance for mishandled luggage;
20 and to provide passenger assistance functions in concourses and customs
21 facilities, including, but not limited to, unaccompanied minor services;

22 (6) *Porter Service for Air Carrier.* To handle and transport passenger baggage
23 and other articles of personal property through the terminal buildings and
24 areas, including the United States Federal Inspections areas and

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 Transportation Security Administration areas. Such service includes, but is
2 not limited to, skycaps, wheelchair attendants, luggage runners, and electric
3 cart drivers. An airline service provider is not required to pay a living wage
4 to a skycap who handles luggage, performs curbside check-in, and works
5 primarily for gratuities;

6 (7) *Janitorial Service for Air Carrier.* To provide personnel, equipment, and
7 material to clean the interior areas of the terminal buildings;

8 (8) *Security Service for Air Carrier.* Security service includes document
9 checkers at security check points, aircraft security, catering security, and
10 private screening of goods and passengers. Security service does not
11 include service provided by the federal government or pursuant to a federal
12 government contract;

13 (9) *Baggage Delivery Service for Air Carrier.* To handle and transport from the
14 Airport misplaced or misrouted baggage or other articles belonging to
15 passengers;

16 (10) *Aircraft Cleaning For Air Carrier.* To clean aircraft interiors and
17 exteriors; and

18 (11) *Operating Private Club for Air Carrier.* To operate a private club in a
19 terminal building exclusively for an Air Carrier's passengers which may
20 serve snacks and beverages and provide other related services.

21 (m) *Health care benefits* means health insurance coverage.

22 (n) *Living wage* means the hourly rate of pay required by this Ordinance.

23 (o) *Service contractor* means any for profit individual, corporation, partnership,

24 limited liability company, joint venture, or similar entity that:

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

- 1 (1) Is paid, whether directly or indirectly, from one (1) or more of the County's
2 general fund, enterprise funds, capital project funds, or any other funds to
3 provide covered services to the County pursuant to a service contract;
4 (2) Contracts with a service contractor as described in Section 26-101(o)(1) to
5 provide some of the covered services included in the service contract
6 between that service contractor and the County; or
7 (3) Is a concessionaire.

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

9 (a) *Living wage requirement.*

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

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

17 b. *Living wage rate without health care benefits.* If a covered employer
18 does not offer a covered employee health care benefits, a living wage
19 of no less than Twelve Dollars and Thirty-eight Cents (\$12.38) per
20 hour, plus an additional wage rate of One Dollar and Sixty-one Cents
21 (\$1.61) per hour.

22 (2) *Living Wage Obligation Effective January 1, 2019, for New Contracts and*
23 *Renewals Entered Into on or after January 1, 2019.* Each covered employer
24 entering into a new service contract or renewing a service contract on or

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscoring type are additions.

1 after January 1, 2019, shall pay each of its covered employees the amount
2 listed in paragraph a. or b. immediately below:

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

7 b. *Living wage rate without health care benefits.* If a covered employer
8 does not offer a covered employee health care benefits, a living wage
9 of no less than Thirteen Dollars Twenty-seven Cents (\$13.27) per
10 hour plus an additional wage rate of One Dollar Sixty-three Cents
11 ~~(\$1.63) per hour~~ the health care benefit amount, as defined below in
12 Section 26-102(d)(1), adjusted as provided below.

13 c. *Renewals.* Any service contract that is renewed must comply with
14 Section 26-102(a)(2) a. and b. immediately above. Any prior
15 delegation of authority to County staff by the County Commission to
16 renew a service contract is rescinded unless the renewal complies
17 with Section 26-102(a)(2).

18 (3) *Living Wage Obligation Effective January 1, 2019, for Contracts Entered*
19 *Into Prior to January 1, 2019, Including ~~Renewals and Extensions~~ Thereof.*
20 ~~Commencing January 1, 2019,~~ EEach covered employer with a service
21 contract entered into prior to January 1, 2019, shall pay each of its covered
22 employees the amount listed in paragraph a. or b. immediately below,
23 subject to the timing contingency stated in paragraph c. immediately below:
24

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 a. *Living wage rate with health care benefits.*

2 1. Effective January 1, 2019, A living wage of no less than
3 ~~Thirteen Dollars and Twenty-seven Cents (\$13.27)~~ Thirteen
4 Dollars (\$13.00) per hour, ~~adjusted as provided below,~~ in
5 addition to health care benefits as described in Section 26-
6 102(d) below.

7 2. Effective January 1, 2020, a living wage of no less than the
8 sum of Thirteen Dollars and Twenty-seven Cents (\$13.27) per
9 hour, plus the adjustment that would have been applied to the
10 living wage if this \$13.27 rate had been in effect on January
11 1, 2019, the total of which is then adjusted commencing
12 January 1, 2020, as provided below, in addition to health care
13 benefits as described in Section 26-102(d) below.

14 b. *Living wage rate without health care benefits.*

15 1. Effective January 1, 2019, ~~if~~ a covered employer does not
16 offer a covered employee health care benefits, a living wage
17 of no less than ~~Thirteen Dollars and Twenty-seven Cents~~
18 ~~(\$13.27)~~ Thirteen Dollars (\$13.00) per hour, plus an additional
19 wage rate of ~~One Dollar and Sixty-three Cents (\$1.63) per~~
20 hour ~~the health care benefit amount, as defined below in~~
21 Section 26-102(d)(1), ~~adjusted as provided below.~~

22 2. Effective January 1, 2020, if a covered employer does not
23 offer a covered employee health care benefits, a living wage
24 of no less than sum of Thirteen Dollars and Twenty-seven

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 Cents (\$13.27) per hour, plus the adjustment that would have
2 been applied to the living wage if this \$13.27 rate had been in
3 effect on January 1, 2019, the total of which is then adjusted
4 commencing January 1, 2020, as provided below, plus the
5 health care benefit amount, as defined below in Section 26-
6 102(d)(1), adjusted as provided below.

7 ~~c. *Timing Contingency.* Each covered employer shall continue to pay~~
8 ~~the living wage rate established in Section 26-102(a)(1), which on~~
9 ~~January 1, 2019, is adjusted to the following amounts: (a) Twelve~~
10 ~~Dollars and Sixty Cents (\$12.60) per hour with health care benefits,~~
11 ~~or (b) Twelve Dollars and Sixty Cents (\$12.60) per hour without~~
12 ~~health benefits, plus an additional One Dollar and Sixty-three Cents~~
13 ~~(\$1.63) per hour. The amount shall continue to be paid through the~~
14 ~~earlier of July 1, 2019, or the date the County and the covered~~
15 ~~employer enter into a written amendment providing for the County to~~
16 ~~reasonably mitigate increased labor costs resulting from the~~
17 ~~December 2018 enactment of the Living Wage Ordinance. Effective~~
18 ~~July 1, 2019, or such earlier date on which the County and the~~
19 ~~covered employer enter into the above-referenced written~~
20 ~~amendment, the covered employer shall pay the living wage rate~~
21 ~~established in Section 26-102(a)(2) above. Each covered employer~~
22 ~~shall also, by no later than July 1, 2019, pay to each covered~~
23 ~~employee additional wages equaling the differential between the~~
24 ~~amount the covered employee would have received commencing~~

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 ~~January 1, 2019, under Section 26-102(a)(2) and the actual amount~~
2 ~~of wages paid to the covered employee through June 30, 2019.~~

3 (b) *No pass through.* Any increased living wage or health care benefit costs
4 resulting from the Living Wage Ordinance shall not be passed through to the County
5 unless clearly disclosed to and expressly approved by the Board of County
6 Commissioners.

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

12 (d) *Health care benefits.*

13 (1) *Health care benefit amount.* The health care benefit amount required by
14 the Living Wage Ordinance shall, ~~commencing January 1, 2019,~~ consist of
15 payment by a covered employer, or by the County for its employees, ~~of at~~
16 ~~least One Dollar and Sixty-three Cents (\$1.63) per hour, adjusted as~~
17 ~~provided below~~ of an amount ("health care benefit amount"), towards the
18 provision of health care benefits for a covered employee and dependents,
19 as follows:

20 a. Effective January 1, 2019, a health care benefit amount of at least
21 One Dollar and Seventy-three Cents (\$1.73) per hour.

22 b. Effective January 1, 2020, a health care benefit amount of at least
23 the sum of Two Dollars and Twelve Cents (\$2.12) per hour, plus the
24

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
 underscoring type are additions.

1 adjustment that would have been applied to the health care benefit
2 amount if this \$2.12 amount had been in effect on January 1, 2019.

3 c. Effective January 1, 2021, a health care benefit amount of at least
4 the sum of Two Dollars and Fifty-one Cents (\$2.51) per hour, plus
5 the adjustment that would have been applied to the health care
6 benefit if this \$2.51 amount had been in effect on January 1, 2019,
7 adjusted in future years as provided below.

8 (2) *Proof of health care benefits.*

9 a. A covered employer must submit a notarized affidavit of compliance
10 as proof of the provision of health care benefits to qualify to pay the
11 living wage rate for covered employees with health care benefits.

12 b. Except as provided in subsection (2)c. below, if a covered employee
13 provides written proof of health insurance coverage to the covered
14 employer and declines in writing the health care benefits offered by
15 the covered employer, a covered employer shall pay to the covered
16 employee the applicable living wage plus ___ percent (___%) of the
17 health care benefit amount, adjusted as provided below. The
18 covered employee must provide written proof of health insurance
19 coverage to the covered employer as follows:

20 1. If the health insurance was obtained through an online exchange,
21 documentation sufficient to demonstrate that the health insurance
22 coverage is a qualified plan under the Affordable Care Act; or

23 2. If the coverage was procured from a licensed person or entity, a
24 written certification from such licensed person or entity that the health

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscoring type are additions.

1 insurance coverage is a qualified health plan under the Affordable
2 Care Act.

3 c. The provisions of subsection (2)b. above shall not apply to any
4 covered employee for which an applicable collective bargaining
5 agreement provides for a monetary payment to the covered
6 employee if the employee declines health care benefits offered by
7 the covered employer.

8 d. Nothing in this subsection precludes the covered employer from
9 paying any covered employee amounts in excess of the amounts
10 otherwise required to be paid under subsection (2)b.

11 (3) The minimum contribution by a covered employer (or the County for its
12 employees) for health care benefits on a per-hour basis shall be calculated
13 based on a forty (40) hour work week. Hours worked by a covered
14 employee in excess of forty (40) hours per week shall not require additional
15 payments towards the provision of health care benefits.

16 (4) If a covered employer or the County, as applicable, contributes less than
17 the required amount for its covered employee's health care benefits, the
18 difference shall be paid to the covered employee as an additional hourly
19 wage amount.

20 (5) If the health care benefits plan provided requires an initial period of
21 employment before a new covered employee becomes eligible for the
22 health care benefits ("eligibility period"), the covered employer or the
23 County, as applicable, shall pay the living wage amount and the additional
24 health care benefit amount during a new covered employee's eligibility

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 period. When the new covered employee is provided health care benefits,
2 the covered employee may qualify to pay the living wage rate applicable for
3 covered employees that are provided health care benefits.

4 ~~(6) If the covered employee declines health care benefits, the covered
5 employer may qualify to pay the living wage rate applicable for covered
6 employees that are provided health benefits, provided the covered
7 employer provides to the County written proof of the covered employee's
8 declination.~~

9 ~~(7) Within sixty (60) days after enactment of this Ordinance, the Office of the
10 County Administrator shall provide to the County Commission a
11 recommendation for a one-time adjustment to the health care benefits
12 amount based on the condition of both the labor market and health
13 insurance market. Thereafter, adjustments to the health care benefits
14 amount will be addressed as provided in paragraph (e) immediately below.~~

15 (e) *Adjusting the living wage and health care benefit amount.*

16 Beginning on January 1, 2020, and thereafter on January 1 of each year, the living
17 wage and health care benefits amount shall be adjusted annually by the lowest of the
18 following three (3) percentages:

- 19 (1) The percentage increase in the Consumer Price Index for All Urban
20 Consumers (CPI-U), All Items, Miami-Ft. Lauderdale-West Palm Beach, FL,
21 calculated by the United States Department of Labor, for the immediately
22 preceding period of November 1 through October 31;
- 23 (2) Three percent (3%); or
- 24

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

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

3 (f) *Certification required before payment.* Any and all contracts for covered
4 services shall be void, and no funds may be released unless, prior to entering any contract
5 with the County for a service contract, the covered employer certifies to the County that
6 it will pay each of its covered employees no less than the living wage described in the
7 applicable section above. The certificate, at a minimum, must include the following:

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

11 (2) The amount of the contract and the applicable County department the
12 contract will serve;

13 (3) A brief description of the project or service provided;

14 (4) A statement of the wage levels for all covered employees; and

15 (5) A commitment to pay all covered employees a living wage, as described in
16 subsection (a).

17 (g) *Observance of other laws.* Every covered employee shall be paid at least
18 biweekly, and without subsequent deduction or rebate of any account (except for such
19 payroll deductions as are directed or permitted by law or a collective bargaining
20 agreement). The covered employer shall, at a minimum, pay covered employees the
21 living wage rates required by the Living Wage Ordinance and shall also comply with
22 federal and all other applicable laws and ordinances, such as overtime and other wage
23 laws and ordinances.

24
Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 (h) *Posting.* A copy of the living wage rate shall be posted by the covered
2 employer at the workplace in a prominent place where it can easily be seen by covered
3 employees and shall be furnished to a covered employee within a reasonable time after
4 a request to do so. A copy of the living wage rate shall be posted by the covered
5 employer's subcontractors in a prominent place at the subcontractor's premises where
6 paychecks are distributed and shall also be furnished to a covered employee upon
7 request within a reasonable time after the request is made. Additionally, service
8 contractors shall forward a copy of the requirements of the Living Wage Ordinance to any
9 individual and any entity submitting a bid for a subcontract on any County service contract
10 covered by this article. A covered employer shall also provide the following statement to
11 each covered employee with the employee's first paycheck and every six (6) months
12 thereafter: "You are required by Broward County ordinance to be paid at least [insert
13 applicable rate pursuant to the Living Wage Ordinance] dollars an hour. If you are not
14 paid this hourly rate, contact your supervisor or a lawyer." All notices required by this
15 paragraph shall be printed in English, Spanish, and Creole. The statements shall be
16 provided in the manner set forth below:

17 (1) By printing or stamping the statements on the front of the covered
18 employee's first paycheck or, if the covered employee has direct deposit of
19 his or her pay, the covered employer may print or stamp the statements on
20 the inside or outside of the covered employee's first direct receipt; or

21 (2) By attaching or endorsing the printed or stamped statements with the
22 covered employee's first paycheck or direct deposit receipt and
23 subsequently providing a notarized compliance affidavit from the covered
24

1 employer to the County acknowledging that the statements were provided
2 to the covered employee with his or her first paycheck.

3 (i) *Inconsistency with Applicable Law or Collective Bargaining Agreement.*

4 The provisions of the Living Wage Ordinance shall not be applicable to the extent they
5 conflict with federal or state law. Additionally, nothing in the Living Wage Ordinance shall
6 require the payment of any wage where the applicable covered employee is a member of
7 a collective bargaining unit that has collectively bargained for a higher wage.

8 Section 2. Severability.

9 If any portion of this Ordinance is determined by any court to be invalid, the invalid
10 portion will be stricken, and such striking will not affect the validity of the remainder of this
11 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
12 legally applied to any individual, group, entity, property, or circumstance, such
13 determination will not affect the applicability of this Ordinance to any other individual,
14 group, entity, property, or circumstance.

15
16 Section 3. Inclusion in the Broward County Code of Ordinances.

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

22
23 Section 4. Effective Date.

24 This Ordinance is effective as of the date provided by law.

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

ENACTED
FILED WITH THE DEPARTMENT OF STATE
EFFECTIVE

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

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

2
3 By /s/ Adam Katzman 12/10/18
4 Adam Katzman (date)
5 Senior Assistant County Attorney

6 By /s/ Andrew J. Meyers 12/10/18
7 Andrew J. Meyers (date)
8 County Attorney

9
10
11
12
13
14
15
16
17
18
19
20
21
22 AMK/mm
23 12/10/18
24 Living Wage Ordinance
41026c:\nrportbl\cao\harrod\399011_4.docx

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

County Administration proposes the following amendments to the Living Wage Ordinance: Page 12, Lines 5-13:

Sec. 26-102. Living wage.

...

(d) *Health care benefits.*

...

~~(5) If the health care benefits plan provided requires an initial period of employment before a new covered employee becomes eligible for the health care benefits ("eligibility period"), the covered employer or the County, as applicable, shall pay the living wage amount and the additional health care benefit amount during a new covered employee's eligibility period. When the new covered employee is provided health care benefits, the covered employee may qualify to pay the living wage rate applicable for covered employees that are provided health care benefits.~~

(6) (5) If the covered employee declines health care benefits, the covered employer may qualify to pay the living wage rate applicable for covered employees that are provided health benefits, provided the covered employer provides to the County written proof of the covered employee's declination.

...