

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 Sections 26-100 through 26-102 of Article VII of Chapter 26, Broward County Code of Ordinances, are hereby repealed in their entirety and new Sections 26-100 through 26-102 are hereby created as follows:

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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.

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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;

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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;

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- 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

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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

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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:

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- 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

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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,
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

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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~~

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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.

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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

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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;

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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

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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

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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

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24 Living Wage Ordinance
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